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The Gazette of the Democratic Socialist Republic of Sri Lanka

EXTRAORDINARY

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PART IV (A) – PROVINCIAL COUNCILS

Provincial Councils Notifications

**SOUTHERN PROVINCIAL COUNCIL OF THE
DEMOCRATIC SOCIALIST REPUBLIC OF SRI LANKA**

Daycare Center Draft Statute No. of 2019

I, Hewa Gampalage Manoj Sirisena, Southern Provincial Council Minister of Sports, hereby notify that the Daycare Center Draft Statute No. of 2019 of the Southern Provincial Council will be presented to the Southern Provincial Council after two weeks of the publication of this notice in the *Gazette*. If anyone wishes to make any representation regarding this statute they should be forwarded to me, within two weeks of publication of this notice.

H. G. MANOJ SIRISENA,
Minister of Sport and Youth Affairs,
Rural Development, Cultural and Arts Affairs,
Social Welfare, Probation and Childcare Services,
Women Affairs and Home Economic Promotion,
Housing and Construction and Man power
and Employment.

Southern Provincial Council Ministry of Sports.
01st day of February, 2019.



Daycare Centre Draft Statute No. of 2019

A draft statute to provide for the registration, supervision, development and administration of the day care Centres of the Southern Province and provide for other matters connected therewith or incidental thereto.

Be it enacted by the Southern Provincial Council of the Democratic Socialist Republic of Sri Lanka:

Short Title
and date of
operation.

01. This draft statute may be cited as the Daycare Centre Draft Statute No. of 2019 of the Southern Provincial Council and it (hereinafter referred to as the date of operation) shall come into operation on such date as the Governor of the Southern Province may give his consent thereto.

Objective of the
Statute.

02. The Objectives of this statute shall be as follows:
- (a) To carry out full supervision in respect of the daycare centres of the province which helps parents with their children's care and growth by providing care during any period of time of the day outside their homes for children from four months to twelve years, and to undertake the full responsibility of the children during the time when children spend in the Centre.
 - (b) To create an environment conducive to the children's physical and mental development of the Daycare Centres within the province.

Part I

The
Establishment of
steering board.

Establishment of steering board and its powers and functions.

03. There shall be established a steering board (hereinafter referred to as the board) for the purpose of implementing the functions of the statute.

Composition
and term of
office of the
board.

04. (1) The board shall consist of –
- (a) The ex-office members, namely -
 - (i) The Secretary of the Ministry in Charge of the subject of Social Welfare, Probation and Childcare Services of the Province to be the Chairmen;
 - (ii) The Commissioner of the Department of Social Welfare, Probation and Childcare Services of the Province to be the Secretary;
 - (iii) The Commissioner of the Local Government of the Province;
 - (iv) The Director of Health Services of the Province;
 - (v) The Director of Education of the Province;
 - (vi) The Deputy/Assistant Commissioner of the Probation and Childcare Services;
 - (vii) The Deputy/Assistant Director of Social Welfare;
 - (viii) Three Senior Probation Officers of Galle, Matara, Hambantota;
 - (ix) Three child right promotion officers of Galle, Matara, Hambantota;
 - (x) District childcare officers of the three District of Galle, Matara, Hambantota;
 - (b) Three persons to be appointed by the Minister in Charge of the subject in the Province (hereinafter referred to as appointed members);
- (2) A person shall be disqualified from being appointed or continuing as a member of the board if –
- (a) he is or become a member of Parliament or a Provincial Council or a local authority;
 - (b) he is under any law in force in Sri Lanka or in another Country found or declared to be of unsound mind;
 - (c) he is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or any other country;

- (d) he has been declared to be an insolvent or undischarged bankrupt under any law in force in Sri Lanka or in any other country; or
 - (e) he has any financial or other interest as is likely to affect prejudicially the discharge by him of functions as a member of the board.
- (3) Every appointed member shall hold the office of the board as long as he holds the office in accordance with which he becomes a member of the board.
- (4) (a) Every appointed member of the board shall unless he vacates office earlier by death, resignation or removal, hold office for three years from the date of his appointment and shall, unless he has been removed from office be, eligible for reappointment.
- (b) The Minister may, where he considers it suitable to do so, for reasons assigned, remove an appointed member from office.
- (c) Any appointed member may at any time resign his office as such member by a letter in that behalf addressed to the Minister by registered post.
- (d) Where any appointed member vacates his office by reason of death, resignation or removal, the Minister may having regard to the provisions of paragraph (b), appoint any other member to succeed that member. A member appointed so shall hold office for the unexpired period of the term of office of the member whom he succeeds.
- (5) No act or decision or proceeding of the board shall be invalidated by reason only of the existence of a vacancy among its members or any defect in the appointment of a member thereof.
- (6) Member of the board may be paid such remuneration as may be determined with the approval of the Governor.
- (7) 1. Meetings of the board shall be held at least once in every three months. However, the Minister or at least seven members of the board may request the Secretary of the board to call a special meeting of the board, and he shall summon a special meeting of the board within seven days from the date of the request.
2. The Secretary of the board shall give every member seven days prior notice of the meeting in writing.
3. The quorum for every meeting shall be seven members.
4. The chairman shall preside at every meeting of the board, in the absence of the chairman from any such meeting the members present at the meeting shall elect from among themselves an ex-officio member to preside at that meeting.
5. Where, at a meeting of a board, voting results in a tie, the person presiding at such meeting shall, in addition to his own vote, have a casting vote.
6. Subject to the provisions of this statute, the board may regulate the procedure in regard to meetings and the transactions of business of such meetings.
- (8) The board shall discharge the following functions.
- (a) To provide guidelines and assistance for the improvement of the standards of daycare centers.
 - (b) To require by rules, minimum standards for daycare centers.
 - (c) To require by rules, minimum educational and vocational qualifications which the staff of the daycare centre should have.

Any act not to be invalid due to vacancies

Remuneration of members of the board meetings of the board

Functions of the board

- (d) To require by rules, such standards as may be necessary for providing care for children with special needs.
- (e) To make such rules, as may be necessary for achieving the objectives of this statute.

Part II

Establishment of daycare centres -

Applications for
Registration of
Daycare
Centres

- (9) 1. The Secretary of a Daycare centre hereinafter defined shall make an application to the commissioner on a prescribed form for the registration of that daycare centres.
- 2. The Commissioner may request from the applicant such information or documents as he may considers to be necessary for the purpose of looking into whether the daycare centre for which an application for registration is made is subject to the terms and conditions of this statute.

Requirement for
Registration

- (10) 1. There shall be a governing body (hereinafter referred to as the committee) consisting of Chairman, Vice Chairman, Secretary, Treasurer for the purpose of maintaining a daycare centre.
 - (a) a person shall be disqualified from being appointed or continuing as a member of the committee, if he
 - (i) is or becomes a member of parliament or any provincial council or any local authority,
 - (ii) is an officer appointed for duties in respect of child affairs by Judicial Service Commission or an officer or police officer of a Ministry, Department, Institution or Authority engaged in supervision or duties in respect of childcare services, or
 - (iii) is under any law in force in Sri Lanka or any other country, found or declared to be of unsound mind, or
 - (iv) is serving or has served a sentence of imprisonment imposed by any court in Sri Lanka or any other country, or
 - (v) is a person who has not been acquitted and discharged after trial by a court in respect of child abuse and delinquency, or
 - (vi) is a person who has been declared an insolvent or undischarged bankrupt under any law in force in Sri Lanka or any other country, or
 - (vii) Has any financial or other interest as is likely to affect prejudicially the discharge by him of his functions as a member of the committee.
 - (b) The Chairman, Secretary and Treasurer shall be citizens of Sri Lanka, and at least three persons of the members shall be residents in the Divisional Secretary's Division in which the daycare Centre is situated.
 - (c) At least three persons of the members of the committee shall be parents whose children attend the daycare Centre, and the chief matron of the daycare Centre shall be the Secretary of the committee.
- 2. Activities of the daycare Centre shall be carried out in accordance with such standards as may be prescribed by the board by such rules as may be referred to in Para (b), (c) and (d) of Section 8.

Reports

- (11) Where the commissioner receives an application or a complaint to the effect that a daycare Centre is operated without approval, a probation officer or any other officer authorized by the commissioner shall be required to submit a report on following facts within four weeks.

- (a) Whether that Daycare Centre provides the maximum welfare of its children; and
 - (b) Whether that Daycare Centre has acted in accordance with the terms and conditions stipulated under Sub section (10).1 and (10).2.
 - (i) At Least Fifty percent of the standards imposed under Subsection (10).2 shall be completed.
 - (ii) The Secretary shall enter into an agreement with the Commissioner with regard to the fact that the balance of the standards requirement is completed before expiry of two years from the date of registration of the said Daycare Centre.
- (12) Where the report under Section 11 is received, the Commissioner or any other Officer Authorized by him may enter that Daycare Centre at any time to inspect whether that Daycare Centre provide the services for the Welfare and Protection of the Children of that Daycare Centre and whether that Daycare Center acts in accordance with the expected standards. Inspections
- (13) The Commissioner shall take action to register that Daycare Centre within Six months from the date of submission of the application if the Commissioner reasonably satisfies himself after the inspection under the section 12. Registration
- (14) (1) The Commissioner shall issue to the Secretary of the Daycare Centre a certificate of registration in the prescribed form for the Registration of the Daycare Centre after the prescribed fee is paid. Such certificate of registration shall be valid for a period two years. Issue of the certificate of registration.
- (2) Where an agreement is entered into under Sub paragraph (11)(b).i, a provisional certificate of registration which is valid for only Six month shall be issued.
- (3) Any certificate of registration issued under Sub sections (1) and (2) cannot be transferred to any person, and accordingly such a transfer is *null and void*.
- (4) Every certificate issued under Sub sections (1) and (2) shall be exhibited on the head office or the complex of the Daycare Centre at all times by the person authorized by that certificate.
- (5) The commissioner shall maintain a register in the prescribed form consisting of the name, address, registration number and date of the Daycare Centre and such other information as the commissioner may consider necessary in respect of the Daycare Centre which are registered by issuing certificates by the Commissioner.
- (6) The Commissioner shall, where necessary submit to the meetings of the board a report in respect of the Daycare Centres which he has registered under Subsections (1) and (2).
- (15) Any Person holding a certificate issued under this statute, shall within 30 days of such change inform the Commissioner of any change of any particulars in the application for registration under this statute. The commissioner to be informed of any change in information in the application for registration
- (16) 1. (a) An application shall be made to the Commissioner in a prescribed form for renewal of registration three calendar months prior to the expiry of validity period of a certificate of registration issued under this statute out - lining, if any alterations to the information provided for the registration of the expiring certificate of registration. Renewal of certificates.

- (b) If the commissioner is satisfied that the prescribed standard are met, he shall renew the registration after payment of the prescribed fee.
- (2) (a) An application is made to the commissioner in a prescribed form for registration a calendar month prior to the expiry of the provisional certificate of registration issued under this statute out lining, if any alterations the to the information provided for the registration of the expiring certificate of registration.
- (b) If the Commissioner is satisfied that such factors as may be necessary to comply with the stipulated standards is making progress towards completion, the provisional registration shall be renewed as valid for six months. Action shall be taken to get the provisional registration renewed once in every Six month until the end of contractual period.
- Power of the Commissioner.
- (17) (1) The Commissioner shall have the following powers in respect of the Daycare Centre which he has registered.
- (a) To enter and inspect at any reasonable time of the day the places within which Daycare Centres are operated.
- (b) To require the Secretary of any Daycare centers within the province to provides records and information.
- (c) To register Daycare Centres operated in the province.
- (d) To provide assistance for the maintenance of Daycare Centres, if the Commissioner reasonable satisfy himself.
- (e) To implement seminars, workshops and training programs for matrons of the Daycare Centre.
- (2) Where the Commissioner considers it necessary to delegate to any officer performing duties under him any of his powers conferred by this statute for the efficient implementation of provisions of the statute; the Commissioner may delegate any of such power to the said officer.
- A Daycare Centre not to be operated without a certificate of registration.
- (18) (1) No person shall establish or operates a Daycare Centre except under the authority of a certificate of registration issued under this statute and in conformity with terms and conditions thereof from the date of commencement of this statute or thereafter.
- (2) Any person who operates a Daycare Centre prior to the date of implementation of this statute may operate it for a period of Six months from the date on which this statute comes into effect and but an application is made for registration and a certificate shall be obtained under the provision this statute.
- Rejection of registration
- (19) Where it is revealed by the inspection done under section 12 on receipt of the report under section II that the requirements in paras under sub section (10) 1. And (10) 2. and sub paras has not been met, the Commissioner shall inform the Secretary of the committee that the Daycare Centre cannot be registered.
- An appeal to be submitted to the secretary of the Ministry
- (20) Where the Secretary of the Daycare Centre who is not satisfied with the notice to reject the registration issued by the Commissioner shall submit an appeal to the secretary (hereinafter referred to as secretary of the Ministry) of the Minister in charge of the subject in the province within fourteen days from the date of that notice.
- Decision by the secretary of the Minister with regard to appeals
- (21) (1) The Secretary of the Ministry or body of persons consisting of Three officers holding posts comparable or superior to the post of the Commissioner or three pensioners holding such posts appointed by the Secretary of the Minsitry shall hold an inquiry.

- (2) The decision of the inquiry shall be as follows.
- (a) To inform the secretary of the daycare Centre in writing of reasons to reject the registration of the daycare Centre.
 - (b) To advise the commissioner to take necessary action to register the daycare Centre.
 - (c) To provide concessionary period not more than a year under paragraphs and sub paragraphs of sub section (10). 1, and (10). 2 and to advise the commissioner to approve the registration of the daycare Centre if it is so fulfilled.
- (22) Any party which is not satisfied with a decision given under section 21 may submit an appeal to the Minister within fourteen days from the date of the decision. Appeals may be submitted to the Minister
- (23) Where an appeal is received under Section 22, a body of persons consisting of three public officers holding posts comparable or superior to the post of the secretary of the Ministry of three retired officers holding such posts shall hold an inquiry with regard to the appeal and the Minister shall give his decision in accordance with sub sections 21 (22) (a), (b) or (c) and the report of the inquiry. The decision by the Minister in respect of appeals
- (24) The secretary of the daycare Centre shall be the only person capable of acting with the department with regard to all matters of the daycare Centre. Secretary to act for the committee

Part III

Administration of the daycare Centre and other matters relevant thereto.

- (25) The secretary, committee and staff of the daycare Centre shall follow or implement such instruction or orders as the commissioner or any officer authorized by him may give in respect of the welfare of the children of daycare Centre or respect of its administration. Instruction to be followed and orders to be carried out
- (26) 1. The commissioner or such other officer as may be authorized by him may by notice in writing require the secretary of a daycare Centre to provide any information or returns within the time specified in such notice. Information and returns to be provided
2. Where such information or returns are provided by the secretary of the daycare Centre he shall avoid providing incorrect or false information.

Part IV

Cancellation of the registration of a daycare Centre

- (27) If the commissioner reasonably satisfies himself after an inquiry held by him in the following occasions, he may cancel a certificate of registration issued under this statute. Cancellation of registration
- (a) On an occasion when a resolution in respect of which the daycare Centre cannot be carried on is passed and the commissioner has been informed thereof.
 - (b) After the holder of a certificate is given an opportunity to shows causes where the commissioner is satisfied that the holder of a certificate or the committee or the staff of a daycare Centre has contravened any order or rule or provision or has defaulted on the implementation of instructions or orders given by the commissioner or any officer authorized by him or has defaulted the provision of Information or returns prescribed or has provided incorrect or false information.

- (c) On an occasion when intended standards are not met even though the contractual period with the commissioner has expired where provisional certificate of registration has been issued under above Sub section (14). 2
- Notice to cancel registration.
- (28) Where the commissioner decides to cancel registration of a daycare Centre under paras 27(a), (b) and (c), he shall inform the secretary of a daycare Centre thereof within thirty days from the date of that decision.
- Appeals to be made to the secretary of the Ministry.
- (29) Where the secretary of a daycare Centre who is not satisfied with the notice of the cancellation of registration issued by the commissioner may make appeal to the secretary of the Ministry within seven days from the date of the notice.
- Decision of the secretary with regard to the appeal.
- (30) 1. Where the secretary of the Ministry receives an appeal under section 29 the secretary of the Ministry shall follow the one of the following processes after an inquiry held by him or a body of three persons appointed by him consisting of three public officers holding such posts as may be comparable or superior to the post of the commissioner or three retired officers who held such posts.
- (a) To confirm the cancellation of registration.
- (b) To annul the decision of the commissioner in respects of the cancellation of registration.
2. The secretary of a daycare Centre shall be informed of the decision of the secretary of the Ministry with a copy to the commissioner within a month of the receipt of the appeal.
- An appeal may be made to the Minister.
- (31) A party which is not satisfied with a decision given under Sub section (30). 1. may within seven days from the date of that decision, make an appeal to the Minister for the final decision.
- Decision of the Minister with regard to an appeal.
- (32) Where an appeal is received under Sub section (31), a board of three public officers holding posts comparable or superior to the posts of the secretary of the Ministry or three retired public officers who held such posts shall hold an inquiry into the appeal and the Minister shall, in accordance with the report of that inquiry inform the secretary of the daycare Centre in writing of his decision under Para (30). (a) or (b) with a copy to the commissioner within a month from the date of the receipt of the appeal.

Part V

To prescribe standards for daycare Centres.

- The board to make rules in respect of standards.
- (33) The board shall make rules for prescribing relevant standards in respect of opening hours of the daycare Centre, physical facilities of the daycare Centre activity plan for the children, minimum staff and such other matters as may be considered to be necessary.
- Qualifications of the staff.
- (34) No person shall be qualified for the appointment for a post of a daycare Centre except with such minimum standards as may be prescribed by rules for each post of the staff of the daycare Centre.
- A register to be maintained for the staff.
- (35) The commissioner shall maintain for the staff of a daycare Centre a register with names and qualifications.
- An institute conducting training courses for staffs to be maintained.
- (36) The commissioner shall maintain an institute under him to conduct courses or training programs for the staffs of daycare Centres.

- (37) The commissioner shall maintain a register to enter names and course details of private educational institutes conducting such courses and training programs as the board may consider to be suitable for the members of staffs of daycare Centre to follow for or in addition to the courses conducted by the institute established under section 3. b.

A register to be maintained in respect of private educational institute conducting Training programs for staffs.

Part VI

Offences and penalties

- (38) Where a person or a committee has
- (a) Contravened the provisions of this statute, used funds contrary to the objectives of this statute; or misused funds;
- (b) Has neglected to furnish any information or returns to be submitted in accordance with an order made under this statute.
- (c) Knowingly included false information in such information or returns to be provided;
- (d) has neglected to comply with the provisions this statute or any direction or order given there under,
- such person or each member of such committee has committed an offence.
- (39) A person who commits any offence under this statute shall be guilty of an offence and on conviction after summary trial before a magistrate be liable to a fine not exceeding Rupees Twenty Five Thousand or to a imprisonment of either description for a period not exceeding three months or to both such fine and imprisonment.

Offences.

Penalties

Part VII

- (40) (a) The Minister may make regulations to implement and enforce any provisions of this statute.
- (b) Every regulation made by the Minister shall be published in the *Gazette* and shall come into operation on the date of such publication on such later date as may be specified in the regulation.
- (c) Every regulation made by the Minister shall be brought before the Provincial Council. Any such regulation which is not so approved shall be deemed to be rescinded as from the date of its disapproval, but without prejudice to anything previously done thereunder.
- (41) (a) The board may make rules in respect of all matters required by this statute to be prescribed or in respect of which rules are authorized by this statute to be made.
- (b) The rules made by the board shall be published in the *Gazette* by the Minister, and shall come into force on the date of its publication in the *Gazette* or any such later date as may be specified in such publication.
- (42) In this statute, unless the context otherwise requires -
- “Governor” means the Governor of the Southern Province;
 - “Minister” means the Minister in charge of the subject of Social Welfare, Probation and Childcare Services of the Provincial Council;
 - “Secretary of the Ministry” means the Secretary of the Ministry of the minister in charge of the subject of Social Welfare, Probation and Childcare Services of the Provincial Council.
 - “Commissioner” means the Commissioner of the Department of Social Welfare, Probation and Childcare Services of the Provincial Council.

Power of the Minister to make orders

Power of the committee to make rules

- “Department” means the Department of Social Welfare, Probation and Childcare Services of the Provincial Council.
- “Province” means the Southern Province of the Democratic Socialist Republic of Sri Lanka.
- “Provincial Council” means the Southern Provincial Council established under the Provincial Councils Act, No. 42 of 1987.
- “Child ” means persons from four (4) months to twelve (12) years of age;
- “Child with special needs ” means a persons from four (4) months to twelve (12) years of age who has turned into the position referred to in the meaning given to the person with disabilities in the Act, No. 28 of 1996 for the registration of persons with disabilities.
- “Prescribed ” means prescribed by regulations made under this statute.

Sinhala text
to prevail in
case of
inconsistency

- (43) In the event of inconsistency between the Sinhala and Tamil text of this statute, the Sinhala text shall prevail.