

Zambia

Day Nurseries Act, 1957

Chapter 313

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Contents

1. Short title	1
2. Interpretation	1
3. Exemptions, etc.	1
4. Appointments by local authorities	2
5. Registers to be kept	2
6. Application for registration and renewal of certificates	2
7. Imposition of conditions	3
8. Certificate of registration	4
9. Cancellation of registration	4
10. Appeals, etc.	4
11. Closing order	5
12. Inspection of day nurseries	5
13. Penalties for failing to register	6
14. Rules	6

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Day Nurseries Act, 1957

Chapter 313

Commenced on 1 May 1958

[This is the version of this document at 31 December 1996.]

[Repealed by [Day Nurseries \(Repeal\) Act, 2011 \(Act 11 of 2011\)](#) on 18 April 2011]

[63 of 1957; 54 of 1960; 47 of 1963; 69 of 1965; 13 of 1994]

An Act to provide for the registration and regulation of day nurseries; and to provide for matters connected therewith and incidental thereto.

1. Short title

This Act may be cited as the Day Nurseries Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"**authorised person**" means the Commissioner, any person who is a juveniles inspector under or by virtue of the provisions of section six of the Juveniles Act, and any person appointed under the provisions of section four;

[Cap. 53]

"**child**" means a person who has not attained the age of seven years;

"**Commissioner**" means the Commissioner for Juvenile Welfare appointed under the provisions of section five of the Juveniles Act;

[Cap. 53]

"**day nursery**" means any premises where more than two children from more than one household are received to be looked after for reward for periods exceeding two consecutive hours in any one day;

"**local authority**" means—

- (a) in an urban area the Council established under the Local Government Act

[Cap. 281]

- (b) in any other area, the District Executive Secretary for the District in which such area is situate;

"**relative**" means a grandparent, brother, sister, uncle or aunt, whether by consanguinity or affinity, or in consequence of adoption; and in respect of an illegitimate child includes any person who would be so related if the child were legitimate.

[As amended by No. 47 of 1963 and No. 69 of 1965]

3. Exemptions, etc.

- (1) Nothing in this Act shall apply to—

- (a) any hospital, nursing home or convalescent home; or
(b) any institution exempted from the provisions of this Act by the Commissioner; or

- (c) any school registered under the provisions of Part IV of the Education Act; or
[Cap. 134]
 - (d) the reception of children in any such hospital, home, institution or school; or
 - (e) the reception of a child by a relative.
- (2) Where a person receives children into any premises in such circumstances that, apart from the provisions of this section, he would be required to register such premises under the provisions of this Act, then so long as provision for entry and inspection of such premises is made by or under the provisions of any other Act in respect of those children, or any of them, or in respect of any other infant—
- (a) sections twelve and thirteen shall not apply to such premises; and
 - (b) the provisions for entry and inspection shall apply in relation to all the children aforesaid.
- [As amended by Act [No. 13 of 1994](#)]

4. Appointments by local authorities

A local authority may appoint any person to exercise, within the area of jurisdiction of such local authority, any or all of the powers conferred by this Act upon an authorised person.

5. Registers to be kept

Every local authority shall keep a register of all day nurseries situated within its area, and all such registers shall be open to inspection by the Commissioner or his duly authorised representative at all reasonable times.

6. Application for registration and renewal of certificates

- (1) Any person receiving or proposing to receive any children in a day nursery shall make application in the prescribed form to the local authority within whose area such day nursery is situated for registration under the provisions of this Act, and, upon receipt of such application, such local authority shall, subject to the provisions of this Act, register the day nursery to which such application refers.
- (2) Any person to whom a certificate of registration has been issued under the provisions of section eight may make application for the renewal thereof in the prescribed form to the local authority concerned on or before the 30th November of the year in which such certificate is due to expire, and, upon receipt of such application, such local authority shall, subject to the provisions of this Act, renew such certificate:

Provided that where a certificate of registration is issued after the 30th November in any year, application for the renewal thereof may be made at any time before the expiry of such certificate.
- (3) Every application for registration, or for the renewal of a certificate of registration, shall be accompanied by such fee, not exceeding seven hundred and fifty penalty units, as the local authority concerned may from time to time prescribe, and such fee shall, where the application is granted, be paid into the revenue of the local authority or, where such application is refused or abandoned, shall be refunded to the applicant.
- (4) A local authority may, by order, refuse to register, or to renew the certificate of registration of a day nursery if it is satisfied that the person making the application concerned, or any other person who has or proposes to have the care of any of the children received or proposed to be received in such day nursery, is not a fit and proper person to have the care and control of such children, or

that the premises concerned are not fit, whether because of the condition thereof, or for any reason connected with other persons therein, to be used for the purposes of a day nursery.

[As amended by No. 54 of 1960 and Act [No. 13 of 1994](#)]

7. Imposition of conditions

- (1) If a local authority does not intend to exercise the powers conferred by subsection (4) of section six in relation to an application made under subsection (1) of section six, it may determine that the day nursery concerned shall only be registered subject to such conditions—
 - (a) limiting the number of children, or the number of children in any specified age group or age groups, which may be received in such day nursery at any one time;
 - (b) for ensuring that such day nursery shall be adequately staffed, both as regards the number and as regards the qualifications or experience of the persons employed therein or taking part in the conduct thereof;
 - (c) for ensuring that such day nursery shall be adequately equipped and maintained;
 - (d) for ensuring that, where any children are received in such day nursery and remain there for a continuous period exceeding five hours in any one day, there shall be adequate arrangements for feeding and resting such children and that an adequate and suitable diet shall be provided for them;
 - (e) for ensuring that persons regularly engaged or employed in the care of children in a day nursery undergo regular medical examination;
 - (f) providing for the keeping, in relation to the children received in such day nursery, of such records containing such particulars as may be specified;
 - (g) generally for protecting the health and securing the well-being of children received in such day nursery;as the local authority may deem necessary.
- (2) Where a local authority determines to impose any condition upon the registration of a day nursery, it shall, within seven days of such determination, give notice to the applicant for such registration of its intention in that behalf.
- (3) An applicant who receives a notice under subsection (2) shall, within seven days of the receipt thereof, inform the local authority, in writing, that—
 - (a) he agrees to the imposition of such conditions; or
 - (b) that he does not so agree and that—
 - (i) he intends to appeal under the provisions of section ten; or
 - (ii) he abandons his application.
- (4) Where a local authority has determined to impose conditions upon the registration of a day nursery, it shall not proceed to register such nursery until—
 - (a) the applicant has informed it that he agrees to the imposition of such conditions; or
 - (b) the determination of an appeal brought by such applicant:

Provided that, if an applicant who has informed a local authority of his intention to appeal does not enter such appeal within the time limited by subsection (4) of section ten, his application shall be deemed to have been abandoned.

- (5) A local authority may, by order, vary, add to or revoke any condition imposed upon the registration of a day nursery.

[No. 54 of 1960]

8. Certificate of registration

- (1) Where any day nursery is registered, or a certificate of registration is renewed, under the provisions of this Act, the local authority concerned shall issue a certificate of registration in the prescribed form in respect of such day nursery, and such certificate shall specify the situation of the day nursery to which the registration relates and also any conditions imposed under the provisions of section seven.
- (2) A certificate of registration issued under the provisions of this section shall be issued to, and in the name of, the person who made application therefor, and shall not be transferable to any other person.
- (3) Where any change occurs in any of the circumstances of which particulars are specified in a certificate issued under the provisions of this section, the person to whom such certificate was issued shall, within seven days, notify in writing the local authority concerned accordingly, and such local authority shall issue an amended certificate in lieu of the original certificate.
- (4) A certificate issued by a local authority under the provisions of this section shall be kept available for inspection by any authorised person, and any such person may demand the production of such certificate at the day nursery concerned at any time when there are children being kept therein for reward.
- (5) Every certificate of registration issued under the provisions of this section shall expire on the 31st December next after the issue thereof.

[As amended by No. 54 of 1960]

9. Cancellation of registration

Whenever—

- (a) there has been any contravention of or non-compliance with any condition imposed under the provisions of section seven in respect of any registration made under the provisions of this Act; or
- (b) it appears to a local authority that there exist any circumstances in respect of any day nursery which has been so registered by such local authority which would justify a refusal under the provisions of subsection (4) of section six; or
- (c) there has been any failure to notify any change of circumstances in accordance with the provisions of subsection (3) of section eight; or
- (d) any person has been convicted of an offence against the provisions of this Act in respect of any day nursery;

the local authority may, by order, cancel the registration of the day nursery concerned, and thereupon the person by whom such registration was obtained shall surrender the certificate of registration of such day nursery to such local authority within seven days after such order takes effect.

10. Appeals, etc.

- (1) Not less than fourteen days before making an order under the provisions of this Act refusing an application for registration or an application for the renewal of a certificate of registration, or cancelling any registration or varying or adding to any condition, a local authority shall give to the person concerned notice of intention to make such an order.

- (2) Every notice given under the provisions of subsection (1) shall state the grounds on which the local authority intends to make the order concerned, and shall contain an intimation that if, within fourteen days after the receipt of such notice, the person to whom the notice is given informs the local authority in writing of his desire to show cause, in person or by a representative, why the order should not be made, the local authority shall, before making the order, afford him an opportunity so to do.
- (3) If a local authority, after complying with the provisions of subsections (1) and (2), decides to refuse an application, cancel a registration or vary or add to a condition, as the case may be, it shall make an order to that effect and shall give a copy of such order to the person concerned.
- (4) Any person aggrieved by an order made under the provisions of subsection (3) or by a determination under the provisions of subsection (1) of section seven may, within twenty-eight days after the date of such order or of the notification to him of such determination, as the case may be, appeal against the making thereof to a subordinate court of the first class having jurisdiction in the place where the day nursery concerned is situated; an order cancelling the registration of a day nursery, or refusing an application for the renewal of a certificate of registration, or varying or adding to any condition imposed upon the registration of a day nursery, shall not take effect until the expiration of the time within which an appeal may be brought under the provisions of this subsection or, where such appeal is brought, before the determination thereof.
- (5) The decision of a subordinate court in any appeal brought under the provisions of this section shall be final.
- (6) Any notice or copy of an order required to be given under the provisions of this section may be so given by sending it to the person concerned by prepaid registered post.

[As amended by No. 54 of 1960]

11. Closing order

- (1) Notwithstanding any other provision contained in this Act, a magistrate may, if satisfied on the application of a medical officer of health or a juveniles inspector that it would be in the interests of the welfare of the children attending a day nursery, order the closure of such nursery:

Provided that no such order shall be made unless the person for the time being in charge of such nursery has been given four days' notice of the intention to make an application for such an order.

- (2) On the making of an order under this section, the registration of the day nursery concerned shall be cancelled and thereupon the person by whom such registration was obtained shall surrender the certificate of registration to the local authority concerned within seven days of the date of such order.

[No. 54 of 1960]

12. Inspection of day nurseries

- (1) Any authorised person may, at all reasonable times, enter any day nursery and may inspect such nursery and the children therein, the arrangements for their welfare and any records kept in pursuance of the provisions of this Act.
- (2) If any authorised person is refused admission to any day nursery, he may apply to a magistrate, and, if such magistrate is satisfied by information on oath that such admission has been refused, he may grant a warrant authorising such person to enter the day nursery concerned for the purpose of exercising any of the powers conferred upon him.
- (3) Any authorised person who proposes to exercise any power of entry and inspection shall, if so required, produce some document showing his authority to exercise such power.

- (4) Any person who refuses admission to a day nursery to an inspector or who obstructs the exercise of any power conferred by this section shall be liable to a fine not exceeding seven hundred and fifty penalty units.

[As amended by Act [No. 13 of 1994](#)]

13. Penalties for failing to register

If at any time after the expiration of three months from the commencement of this Act, children are received in any day nursery which is not registered under the provisions of section six, or if any condition imposed under the provisions of section seven is contravened or not complied with, the occupier of the premises upon which such day nursery is kept shall be liable, in the case of a first offence, to a fine not exceeding one thousand five hundred penalty units, and in the case of a second or subsequent offence, to a fine not exceeding three thousand penalty units or to imprisonment for a period not exceeding six months, or to both.

[As amended by Act [No. 13 of 1994](#)]

14. Rules

The Commissioner may, by statutory instrument, make rules prescribing the forms—

- (a) of registers to be kept under the provisions of section five;
- (b) of application for registration or renewal of registration under the provisions of section six;
- (c) of certificates issued under the provisions of section eight.

[As amended by No. 54 of 1960]