



LAWS OF MALAYSIA

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Act 308

CHILD CARE CENTRE ACT 1984

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CHILD CARE CENTRE ACT 1984

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LAWS OF MALAYSIA

Act 308

CHILD CARE CENTRE ACT 1984

An Act to provide for the registration, control and inspection of child care centres and for purposes connected therewith.

*[Federal Territory Kuala Lumpur — 1 March 1985,
P.U. (B) 101/1985;
Selangor — 1 March 1985,
P.U. (B) 101/1985;
Other States — 1 February 1986,
P.U. (B) 55/1985]*

BE IT ENACTED by the Seri Paduka Baginda Yang di-Pertuan Agong with the advice and consent of the Dewan Negara and Dewan Rakyat in Parliament assembled, and by the authority of the same, as follows:

PART I

PRELIMINARY

Short title, commencement and application

1. This Act may be cited as the Child Care Centre Act 1984 and shall come into force on such date as the Minister may, by notification in the *Gazette*, appoint and the Minister may appoint different dates for the coming into force of different parts or provisions and for different parts of Malaysia.

Interpretation

2. In this Act, unless the context otherwise requires—

“authorized officer” means an officer appointed under section 13;

“child care centre” means any premises at which four or more children under the age of four years from more than one household are received to be looked after for reward;

“Director General” means the Director General of Social Welfare;

“register” means any register required to be kept under the provisions of this Act;

“registered child care centre” means a child care centre registered under section 7;

“relative” means a grandparent, brother, sister, uncle or aunt related by consanguinity;

“State Director” means the Director of Social Welfare of a State and includes the Director of Social Welfare of the Federal Territory of Kuala Lumpur, the Federal Territory of Labuan and the Federal Territory of Putrajaya respectively;

Exemptions

3. (1) This Act shall not apply to—

- (a) any government hospital or private hospital licensed under the Private Healthcare Facilities and Services Act 1998 [*Act 586*];
- (b) any institution exempted from the provisions of this Act by the Director General;

- (c) any kindergarten or nursery school which is registered under the Education Act 1996 [Act 550];
- (d) any child care centre or any children's home established or run by the Federal Government or a State Government.

(2) This Act shall not apply to the reception of a child by a relative.

PART II

REGISTRATION OF CHILD CARE CENTRES

All child care centres to be registered

4. Subject to the provisions of this Act, every child care centre shall be registered under this Act.

Categories of child care centres

5. There shall be four categories of child care centres as follows:

- (a) home based child care centre which is a child care centre which receives less than ten children into the homes of the person registered under section 7;
- (b) work place based child care centre which is a child care centre at a work place which receives ten or more children.
- (c) community based child care centre which is a child care centre which receives ten or more children in a particular area and which receives aid from the Federal Government or a State Government; and

- (d) institution based child care centre which is a child care centre other than a child care centre under paragraphs (a), (b) and (c) which receives ten or more children.

Prohibition of unregistered child care centres

6. (1) No person shall operate or take part in the management of a child care centre which is not registered under the provisions of this Act.

(2) Any person who contravenes subsection (1) shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both and in the case of a second or subsequent offence, to a fine not exceeding twenty thousand ringgit or to imprisonment for a term not exceeding five years or to both.

Registration

7. (1) Application for registration in respect of a child care centre shall be made to the Director General in the prescribed form.

(2) The Director General may in his discretion register or refuse to register the applicant in respect of the child care centre named in the application.

(3) The Director General may in his discretion register or refuse to register any child care centre.

Terms and conditions to be imposed

8. The Director General may register any child care centre subject to the following—

- (a) limiting the number of children who may be received in such child care centre at any one time;
- (b) ensuring that the applicant or any other person he employs at the child care centre is a fit and proper person, whether by reason of age or otherwise, to operate, take part in the management of or be employed at the child care centre;
- (c) ensuring that such child care centre shall be adequately staffed, both as regards the number and the qualifications or experience of the persons employed therein or taking part in the conduct thereof;
- (d) ensuring that such child care centre shall be adequately and suitably equipped and maintained;
- (e) ensuring that, where any children are received in any child care centre and remain there for a continuous period exceeding four hours in any one day, there shall be adequate and suitable arrangement for feedings, resting and recreation for such children and that adequate and balanced diet shall be provided;
- (f) complying with any requirement relating to the structure, fire precautions, health, sanitation and safety;
- (g) any other conditions which the Director General deems fit and proper.

Register to be kept

9. (1) The Director General shall cause to be kept, in such form as he may specify, a register of child care centres registered under this Act containing—

- (a) the name and address of every person registered in respect of any child care centre;
- (b) the name and address of every registered child care centre; and
- (c) such other particulars as the Director General thinks fit.

(2) A copy of an entry in the register purporting to be certified under the hand of the Director General shall, until the contrary is proved, be admitted in evidence as proof of the facts stated therein as at the date of such certified copy.

Inspection of register kept

10. Any person may, on application in writing to the Director General and on payment of a prescribed fee, inspect the register kept under section 9 during office hours.

Certificate of registration

11. (1) Where any child care centre is registered, the Director General shall upon payment of a prescribed fee issue a certificate of registration in the prescribed form in respect of such child care centre, and such certificate shall specify the address of the child care centre to which the registration relates and also any conditions imposed under the provisions of this Act.

(2) A certificate of registration shall be issued to, and in the name of the person who made the application therefor, and shall not be transferable to any other person.

(3) Every certificate of registration issued under the provision of this section shall be valid for sixty calendar months.

(4) Where any change occurs in any of the circumstances particulars of which are specified in a certificate issued under the provisions of this section, the person to whom such certificate was issued shall, within fourteen days, notify the Director General in writing accordingly, and the Director General shall issue an amended certificate in lieu of the original certificate.

(5) A copy of the certificate of registration issued by the Director General under this section shall be exhibited in a conspicuous place in the premises specified in the certificate of registration.

(6) Upon ceasing to operate a child care centre, the person to whom the certificate of registration has been issued shall surrender the certificate to the Director General within one month from the date of such cessation.

Interpretation

11A. For the purposes of this Part, the Director General includes the State Director.

PART III

CANCELLATION OF REGISTRATION

Cancellation of registration

12. The Director General may cancel the registration made under section 7—

- (a) wherever there has been any contravention of or non-compliance with any conditions imposed in respect of any registration made under this Act;

- (b) where there has been any failure to notify any change of circumstances in accordance with the provisions of subsection 11(4);
- (c) on the ground that the person to whom the certificate of registration has been issued has been convicted of any offence under this Act or any offence involving moral turpitude;
- (d) if it appears to him that—
 - (i) the child care centre has ceased to be operated as such or to exist; or
 - (ii) such person has ceased to operate that child care centre.

PART IV

APPOINTMENT OF AUTHORIZED OFFICERS

Appointment of officers

13. The Minister may by notification in the *Gazette* appoint such number of officers as he may consider necessary for the purposes of this Act.

Powers of the Director General and authorized officers

14. The Director General and any authorized officer may from time to time enter and inspect any premises used for the purposes of a child care centre for the purpose of ensuring that—

- (a) the health and well-being of the children or employees therein are satisfactory;

- (b) the registers, records, time-tables, menus, books of accounts are properly maintained;
- (c) adequate and suitable equipment are provided therein;
- (d) the structure, hygiene and sanitation are maintained;
- (e) adequate precautions are taken against fire or other peril likely to endanger the lives or health of children cared for therein.

PART IV

MISCELLANEOUS

Director General to give written directions

15. (1) The Director General may, in respect of any registered child care centre, give such directions in writing as he thinks necessary to ensure that—

- (a) the centre is operated and managed satisfactorily;
 - (b) the welfare of the children attending the centre is promoted in a proper manner;
 - (c) adequate apparatus and equipment necessary as safeguards against fire are provided therein; and
 - (d) the provisions of this Act are complied with.
- (2) A direction under subsection (1) —
- (a) shall be served upon the person registered in respect of the child care centre; and

- (b) shall specify a period of time within which the directions shall be complied with.

Order for temporary closure of child care centres

16. (1) The Director General may—

- (a) if it appears to him that there is any danger or risk of danger to persons in any premises of a registered child care centre; or
- (b) if, in respect of any such premises a direction given under section 15 is not complied with within the period of time specified in the notice served thereunder,

by order in writing direct that the premises shall cease to be used as a child care centre for such period as he thinks fit or until further notice.

(2) Any order under this section shall be served on the person registered in respect of the child care centre, and shall take effect from the date of service thereof.

(3) It shall be sufficient service of any order under this section if—

- (a) it is delivered personally to the person on whom it is served;
- (b) it is sent by registered post to the last known address of that person; or
- (c) a copy thereof is posted in a conspicuous place upon or in the premises to which it relates.

Offences and penalties**17. Any person who—**

- (a) operates or takes part in the management of a child care centre in any premises other than premises specified in the certificate of registration of the child care centre;
- (b) in or in connection with any application under this Act makes any statement or furnishes information, whether such statement be oral or written, which is false in any material particular and which he knows or reasonably ought to know is false in such particular;
- (c) obstructs the Director General or any authorized officer in the exercise of any of his powers under this Act;
- (d) refuses to produce any book, document or other article upon being so required under section 20, or, when so required, furnishes information which is false in material particular and which he knows or reasonably ought to know is false in such particular;
- (e) operates or takes part in the management of a child care centre which is operated in any name other than the name in which it is registered;
- (f) fails to comply with an order served on him under section 16;
- (g) fails to notify the Director General of any change that occurs in any of the circumstances particulars of which are specified in the certificate in accordance with subsection 11(4);
- (h) fails to cause a copy of the certificate of registration to be exhibited in accordance with subsection 11(5); or

- (i) fails to surrender the certificate of registration upon ceasing to operate a child care centre in accordance with subsection 11(6),

shall be guilty of an offence and shall on conviction be liable to a fine not exceeding ten thousand ringgit or to imprisonment for a term not exceeding two years or to both.

Offences by body corporate, etc

17A. Where an offence under this Act or any regulations made under this Act has been committed by a body corporate, partnership or society—

- (a) in the case of a body corporate, any person who was a director, manager, secretary or other similar officer of the body corporate at the time of the commission of the offence;
- (b) in the case of a partnership, every partner in the partnership at the time of the commission of the offence; or
- (c) in the case of a society, every office-bearer of the society at the time of the commission of the offence,

maybe charged severally or jointly in the same proceedings as the body corporate, partnership or society and shall be deemed to have committed the offence unless he proves that the offence was committed without his knowledge or connivance or that he had taken all reasonable precautions or that he had exercised due diligence to prevent the commission of the offence.

Presumption

18. In any prosecution for any offence under this Act, if it is proved that any person did any act in connection with the organization or

operation of a child care centre, it shall be presumed, until the contrary is proved, that such person took part in the management of such child care centre.

Existing child care centres

19. Any person who manages or maintains a child care centre at the date of coming into force of this Act shall within a period of six months from the date of such commencement apply to the Director General in the prescribed form for the issue of a certificate of registration.

Power to enter and inspect premises

20. (1) The Director General or any authorized officer shall have power to enter at any reasonable time any premises reasonably suspected of being used for the purpose of a child care centre without registration or where he has any reasonable grounds for believing that there has been contravention of the provisions of this Act and shall inspect such premises to make any inquiry which he considers necessary.

(2) In the course of inspection under this section the Director General or any authorized officer may—

- (a) put questions concerning the management of the child care centre to the person registered under this Act and to any other person in charge of the child care centre whose evidence he may consider necessary, and all such persons shall be legally bound to answer such questions truthfully to the best of their ability;
- (b) require the person in charge to produce before him all or any of the records required to be kept under this Act; and

- (c) seize or take copies of any record produced before him under paragraph (b).

(3) Any person may refuse to comply with any demand or order by an authorized officer acting or purporting to act under this Act if such officer refuses on demand to declare his identity or produce a letter of authorization, as the case may be.

Power to seal

20A. (1) Where the Director General or any authorized officer has reasonable cause to believe that any house, building, premise or other place is being used as a child care centre which is not registered under the provisions of this Act the Director General or the authorized officer may take such steps as he may deem necessary or by any means seal such child care centre.

(2) The person using the house, building, premise or place as a child care centre which has been sealed shall—

- (a) within twenty-one days of such seal produce to the Director General or the authorized officer the certificate of registration of the child care centre; and
- (b) bear any cost incurred arising out of such action.

(3) The seal shall be removed if—

- (a) such person complies with the requirement of subsection (2); or
- (b) an order of the court is obtained against such person for him to cease using the house, building, premise or place as a child care centre,

whichever is the earlier.

(4) The Director General or the authorized officer acting under this section shall not be liable for any cost arising out of such action or damages to the house, building, premise or place sealed under this section unless such damage was wilfully done.

(5) Any action taken under this section in respect of any house, building, premise or other place shall not prohibit the prosecution of any person using such house, building, premise or place as a child care centre in contravention of this Act.

Institution of prosecution

21. No prosecution for an offence under this Act or any regulations made under this Act shall be instituted except by or with the written consent of the Public Prosecutor.

Compounding of offences

21A. (1) The Director General may, with the consent of the Public Prosecutor, compound any offence committed by any person against this Act or any regulations made under this Act by making a written offer, in the form as may be prescribed, to the person reasonably suspected of having committed the offence to compound the offence upon payment to the Director General of an amount of money not exceeding fifty per centum of the amount of maximum fine for that offence within the time specified in the offer.

(2) An offer under subsection (1) may be made at any time after the offence has been committed, but before any prosecution for it has been instituted, and where the amount specified in the offer is not paid within the time as specified in the offer, or within such extended period as the Director General may grant, prosecution for the offence may be instituted at any time after that against the person to whom the offer was made.

(3) Where the offence has been compounded under subsection (1), no prosecution shall be instituted in respect of the offence against the person to whom the offer to compound was made.

Appeal

22. Any person aggrieved by the decision of the Director General under this Act shall within thirty days of the notification of such decision appeal in writing to the Minister whose decision shall be final and shall not be questioned in any court of law on any ground.

Regulations

23. (1) The Minister may make regulations to carry out the purposes of this Act.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for all or any of the following matters:

- (a) the operation, management and supervision of child care centres;
- (b) the duties and responsibilities of persons registered in respect of child care centres;
- (c) the qualifications, experience, appointment, duties, responsibilities and discipline of persons for the purposes of the operation, management and supervision of child care centres;
- (d) the health and nutrition care of the children cared for in child care centres;
- (e) the registration of child minders employed in

child care centres;

- (f) the keeping and maintenance of such registers pertaining to children, in such form as the Minister deems fit;
- (g) the prescribing of the minimum requirements for child care centres to be used for the reception of children and to provide for the minimum sanitary requirements, water supplies and other matters pertaining to health in respect of such buildings;
- (h) the prescribing of the minimum equipment;
- (i) the prescribing of forms to be used and the information to be furnished for any of the purposes of this Act;
- (j) the granting of certificates and the issue of copies of the certificates in the case of the certificates being lost or destroyed;
- (k) the fees to be paid under this Act;
- (l) the prescription of anything which is required to be or which may be prescribed under the Act.

Provision to allow reception of children above the age of four years

24. Notwithstanding anything contained in this Act the Director General may, on the application of the person registered in respect of a child care centre, allow that the said child care centre receive children above the age of four years, subject to such further terms and conditions which the Director General may deem necessary.

LAWS OF MALAYSIA

Act 308

CHILD CARE CENTRE ACT 1984

LIST OF AMENDMENTS

Amending law	Short Title	In force from
Act A1285	Child Care Centre (Amendment) Act 2007	01-08-2008

LAWS OF MALAYSIA**Act 308****CHILD CARE CENTRE ACT 1984****LIST OF SECTIONS AMENDED**

Section	Amending authority	In force from
2	Act A1285	01-08-2008
3	Act A1285	01-08-2008
5	Act A1285	01-08-2008
6	Act A1285	01-08-2008
11	Act A1285	01-08-2008
11A	Act A1285	01-08-2008
14	Act A1285	01-08-2008
17	Act A1285	01-08-2008
17A	Act A1285	01-08-2008
20A	Act A1285	01-08-2008
21	Act A1285	01-08-2008
21A	Act A1285	01-08-2008
