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**THE NATIONAL ASSEMBLY
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024**

**DIRECTORATE OF DEPARTMENTAL COMMITTEES
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION**

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**REPORT OF THE DEPARTMENTAL COMMITTEE ON SOCIAL
PROTECTION ON ITS CONSIDERATION OF
THE BREASTFEEDING MOTHERS BILL, 2024,
(NATIONAL ASSEMBLY BILL NO. 8 OF 2024)**

**CLERKS CHAMBERS
DIRECTORATE OF DEPARTMENTAL COMMITTEES
PARLIAMENT BUILDINGS
NAIROBI**

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 NOV 2024	
DAY: Thur	
TABLED BY:	Hon. Alice Ngunjiri, CBS, MP Chairperson, DC on Social Protection
THE TABLE:	Virian Wambui

November 2024

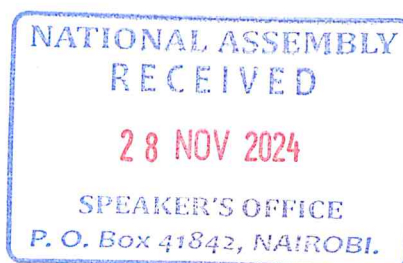


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LIST OF ABBREVIATIONS AND ACRONYMS

BMS	Breast Milk Substitutes
CAMFEB	Career Mothers for Exclusive Breastfeeding
CD	Certified-Birth Doula
CLC	Certified Lactation Counsellor
DONA	DONA International
KAB	Kenya Association for Breastfeeding
KBA	Kenya Bankers Association
KDHS	Kenya Demographic and Health Survey
KEPSA	Kenya Private Sector Alliance
LCCE	Lamaze-Certified Childbirth Educator
LEC	Lactation Education Consultants
UCDP	Uhuru Community Development Project
UoN	The University of Nairobi

LIST OF ANNEXURES

1. Report Adoption Schedule
2. Committee Minutes
3. Copy of the newspaper advertisement on public participation
4. Letters inviting stakeholders to meetings with the Committee
5. Stakeholders' submissions

CHAIRPERSON'S FOREWORD

This report contains proceedings of the Departmental Committee on Social Protection on its consideration of the Breastfeeding Mothers Bill, 2024 (National Assembly Bill No. 8 of 2024), a Bill sponsored by the Hon. Sabina Chege, MP. The Bill underwent First Reading on 2nd May 2024 and was thereafter committed to the Departmental Committee on Social Protection for consideration and reporting to the House pursuant to the provision of Standing Order 127(1).

The Bill seeks to make provision for breastfeeding mothers; to provide for employers' obligations towards breastfeeding working mothers in the workplace; to provide for baby changing facilities for use by the public and for connected purposes.

Following placement of advertisements in the print media on 16th May 2024 seeking public and stakeholders' views on the Bill pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Departmental Committee on Social Protection received memoranda from Ms. Esther Kimani who is a lactation professional Dr. Walter Owen Omony, the Kenya Association for Breastfeeding, the Career Mothers for Exclusive Breastfeeding, the Kenya Private Sector Alliance, Dr. Davies Okombo of the Uhuru Community Development Project, Professor Ali Abdirahman Maalim, the African Women Studies Research Centre of the University of Nairobi, Mr. Collins Michael N of Policy and Governance Kenya, the Care Network, the Kenya Bankers Association, the Ministry of Labour and Social Protection

The Committee also held physical meetings with the Kenya Association for Breastfeeding, the Career Mothers for Exclusive Breastfeeding, Hon. Sabina Chege, MP, as well as the Ministry of Labour and Social Protection.

The Committee is grateful to the Offices of the Speaker and the Clerk of the National Assembly for the logistical and technical support accorded to it during its sittings. The Committee further wishes to thank the Principal Secretary, State Department for Social Protection and Senior Citizens Affairs and the Mover of the Bill, Hon. Sabina Chege who made their respective submissions on the Bill. Finally, I wish to express my appreciation to the Honourable Members of the Committee and the Committee Secretariat who made valuable input during consideration of the Bill and production of this report.

On behalf of the Departmental Committee on Social Protection and pursuant to provisions of Standing Order 199(6), it is my pleasant privilege and honour to present to this House the Report of the Committee on its consideration of The Breastfeeding Mothers Bill, 2024.

I thus wish to table this Report on The Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024) in this Honourable House, with the recommendation that the Bill **be approved with amendments** as reported by the Committee, which are contained in this Report.



The Hon. Alice Wambui Ng'ang'a, CBS, M.P.

Chairperson, Departmental Committee on Social Protection

PART ONE

1 PREFACE

1.1 ESTABLISHMENT OF THE COMMITTEE

1. The Departmental Committee on Social Protection is one of the twenty Departmental Committees of the National Assembly established under **Standing Order 216** whose mandate pursuant to the **Standing Order 216 (5)** is as follows:

- i. *To investigate, inquire into, and report on all matters relating to the mandate, management, activities, administration, operations and estimates of the assigned ministries and departments;*
- ii. *To study the programme and policy objectives of Ministries and departments and the effectiveness of their implementation;*
- iii. *On a quarterly basis, monitor and report on the implementation of the national budget in respect of its mandate;*
- iv. ***To study and review all the legislation referred to it;***
- v. *To study, assess and analyse the relative success of the Ministries and departments as measured by the results obtained as compared with their stated objectives;*
- vi. *To investigate and inquire into all matters relating to the assigned Ministries and departments as they may deem necessary, and as may be referred to them by the House;*
- vii. *To vet and report on all appointments where the Constitution or any law requires the National Assembly to approve, except those under Standing Order 204 (Committee on appointments);*
- viii. *To examine treaties, agreements and conventions;*
- ix. *To make reports and recommendations to the House as often as possible, including recommendation of proposed legislation;*
- x. *To consider reports of Commissions and Independent Offices submitted to the House pursuant to the provisions of Article 254 of the Constitution; and*
- xi. *To examine any questions raised by Members on a matter within its mandate.*

1.2 MANDATE OF THE COMMITTEE

2. In accordance with the Second Schedule to the Standing Orders, the Committee is mandated to consider, social welfare and security, pension matters, gender affairs, equality and affirmative action, affairs of children, youth, persons with disability and senior citizens.
3. In executing its mandate, the Committee oversees the following State departments and Commission;
 - i. The State Department for Social Protection and Senior Citizen Affairs
 - ii. The State Department for Gender and Affirmative Action
 - iii. The State Department for Youth Affairs and Creative Economy
 - iv. The State Department for Public Service (NYS)
 - v. The National Gender and Equality Commission (NGEC)

1.3 COMMITTEE MEMBERSHIP

4. The Departmental Committee on Social Protection was constituted by the House on 27th October 2022 and comprises of the following Honourable Members:

Chairperson

Hon. Alice Wambui Ng'ang'a, CBS, MP
Thika Town Constituency

UDA Party

Vice-Chairperson

Hon. Hillary Kiplang'at Koskei, MP
Kipkelion West Constituency

UDA Party

Hon. (Dr.) James Wambura Nyikal, MP
Seme Constituency

ODM Party

Hon. Sulekha Hulbale Harun, MP
Nominated Member

UDM Party

Hon. Timothy Wanyonyi Wetangula, MP
Westlands Constituency

ODM Party

Hon. Amina Abdullahi Dika, MP
Tana River County

KANU PARTY

Hon. (Dr.) Lilian Achieng Gogo, MP
Rangwe Constituency

ODM Party

Hon. Hussein Abdi Barre, MP
Tarbaj Constituency

UDA Party

Hon. Mark Ogolla Nyamita, MP
Uriri Constituency

ODM Party

Hon. Susan Nduyo Ngugi, MP
Tharaka Nithi County

TSP PARTY

Hon. Edith Vethi Nyenze, MP
Kitui West Constituency

WDM-K PARTY

Hon. Agnes Mantaine Pareiyo, MP
Narok North Constituency

JUBILEE PARTY

Hon. Betty Njeri Maina, MP
Murang'a County

UDA PARTY

Hon. Linet T. Chepkorir, MP
Bomet County

UDA PARTY

Hon. Michael Wambugu Wainaina, MP
Othaya Constituency

UDA Party

1.4 COMMITTEE SECRETARIAT

5. The Committee is facilitated by the following staff:

Mr. Finlay Muriuki
Lead Clerk/ Head of Secretariat

Mr. Ahmednoor Hassan
Clerk Assistant III

Ms. Jemimah Waigwa
Legal Counsel

Mr. Adan Ahmed Abdi
Fiscal Analyst II

Ms. Grace Maneno
Research Officer III

Mr. Benjamin Ochutsi
Hansard Officer III

Ms. Naomi Onsomu
Public Communications Officer

Mr. Derrick Kathurima
Media Relations Officer

Mr. Cosmas Akhonya
Audio Recording Officer

Ms. Eva Kaare
Serjeant-At-Arms

Ms. Fiona Musili
Research Officer

PART TWO

3 OVERVIEW OF THE BREASTFEEDING BILL, 2024 (NATIONAL ASSEMBLY BILL NO. 8 OF 2024)

3.1 INTRODUCTION

6. The Breastfeeding Bill, 2024 (National Assembly Bill No. 8 of 2024) is a Bill sponsored by Hon. Sabina Chege, MP and was committed to the Committee for public participation in accordance with Standing Order 127.
7. The Bill, which was read a First Time on 2nd May 2024, seeks to make provision for breastfeeding mothers; to provide for employers' obligations towards breastfeeding working mothers in the workplace; to provide for baby changing facilities for use by the public; and for connected purposes.
8. The following is a summary of the Bill as proposed by the Hon. Member:

Clause 1 of the Bill is the short title and provides that the Act may be cited as the Breastfeeding Mothers Act, 2024 and shall come into operation upon the expiry of one year from the date of its publication.

Clause 2 of the Bill provides for the definition clause. Clause 2 defines various terms including:

"lactation place" which means private, clean, sanitary, and well ventilated rooms or areas in the workplace or public places where breastfeeding mothers can wash up, breastfeed or express their milk comfortably;

"workplace" which means work premises, whether private enterprises or government agencies, including their subdivisions;

Clause 3 of the Bill provides for breastfeeding at work and stipulates that a woman who has a baby may breastfeed or express breast milk at a lactation place in the work place.

Clause 4 of the Bill provides for the lactation place. The clause stipulates that every employer shall establish a lactation place in the manner prescribed under the Act. The clause further provides that a lactation place shall—

- (a) be shielded from view and be free from intrusion from co-workers;
- (b) be clean, quiet, private and warm;
- (c) not be a bathroom or toilet;
- (d) have a lockable door;
- (e) have a wash basin;
- (f) have a fridge for storing expressed milk;
- (g) have a provision for an electric outlet and lighting; and
- (h) have a chair, table and a clean space to store equipment.

The clause further obligates the employers to provide a physical environment that is safe for the baby that meets the requirements under the relevant law; and provide appropriate programs that develop a baby's cognitive, emotional, social and language abilities.

The clause also creates an offence against employers who fail to comply with the Act by providing that any employer who does not comply with the section commits an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to an imprisonment for a term not exceeding one year, or to both.

Clause 5 of the Bill provides for breastfeeding time. The clause stipulates that a breastfeeding mother shall only use the lactation place during working hours for breastfeeding or expressing milk. The clause further provides that an employer shall provide a reasonable break time to a breastfeeding mother for purposes of breastfeeding the baby or expressing breast milk for the baby. The break time provided for breastfeeding and expressing milk under subsection (2) shall—

- (a) be considered within working hours; and
- (b) not exceed forty minutes in every four hours worked.

Where circumstances require a baby to be breastfeed for a long period exceeding the time prescribed under this Act, the mother may with the written instructions from a registered medical practitioner breastfeed the baby for a longer period.

Clause 6 of the Bill provides for flexible working hours. The clause provides a breastfeeding mother may in the prescribed manner apply for a flexible work arrangement from the employer for the purposes of breastfeeding or expressing breast milk for the baby. The flexible work arrangement under subsection (1) shall stipulate—

- (a) the number of hours the employee is to work;
- (b) the type and number of work assignments; and
- (c) the exact location of where the employee is to work.

The clause further provides for applications for flexible working arrangements to be made by breastfeeding mothers to the employers. The clause also stipulates that where the employer rejects the application, the employer shall give a written statement. A flexible working arrangement may be revoked where—

- (a) there is abuse of the terms of the agreement; or
- (b) either party decision to terminate the agreement.

A revocation of grant of a flexible working arrangement shall be in writing.

Clause 7 of the Bill provides for freedom from discrimination against women. The clause provides that a person shall not discriminate a woman on any ground including pregnancy, childbirth, breastfeeding, or any other maternity related condition, in accessing employment opportunities or benefits.

Clause 8 of the Bill provides for baby changing facilities and stipulates that a person who owns, leases, or rents a public or private building accessible to the public, which has a minimum occupancy capacity of fifty persons, shall install a baby changing facility.

Clause 9 of the Bill provides for the right of every woman to breastfeed in public. The Bill provides that a woman may breastfeed her child in public and the act of a woman breastfeeding child in public shall not be construed to amount to an indecent act.

Clause 10 of the Bill provides for the general penalty. The clause stipulates that a person convicted of an offence under the Act shall, on conviction, be liable to a fine not exceeding one million shillings or to an imprisonment for a term not exceeding one year, or to both.

Where an offence is a continuing offence, the person convicted shall, in addition to the penalty prescribed, be liable to a fine of ten thousand shillings for each day during which the offence continues.

Clause 11 of the Bill prescribes the power of the Cabinet Secretary for Labour in consultation with the Ministry of Health to make regulations generally for the better carrying out of the provisions of the Act including by prescribing the requisite standards and contents of the rooms or buildings contemplated under the Act and the manner and conduct of promoting the public awareness on breastfeeding mothers at the workplace.

PART THREE

4 PUBLIC PARTICIPATION/STAKEHOLDERS CONSULTATION

9. Following the call for memoranda from the public through placement of adverts in the print media on 14th May 2024 and vide letters dated 1st November 2024 inviting stakeholders for meetings, the Committee received memoranda from the following stakeholders:
- i. The Kenya Association for Breastfeeding
 - ii. Career Mothers for Exclusive Breastfeeding;
 - iii. Ms. Esther Kimani (CLC; CD(DONA) LCCE Lactation Professional ;
 - iv. Mr. Collins Michael N. of Policy and Governance Kenya;
 - v. The Care Network comprised of Oxfam, Youth Alive Kenya, Association of Women in Agriculture, Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA), Teenseed Africa, Bunge Mashinani and other organizations advancing the principles of Unpaid Care and Domestic Work (UCDW);
 - vi. The State Department for Social Protection and Senior Citizens Affairs;
 - vii. Dr. Walter Owen Ogony;
 - viii. Dr. Davies Okombo;
 - ix. The Kenya Association of Bankers;
 - x. Professor Ali Abdirahman Maalim;
 - xi. The University of Nairobi's African Women's Studies Research Centre -Women's Economic Empowerment Hub;
 - xii. Hon. Sabina Chege.
 - xiii. The Journal of Nutrition Community and International Nutrition "*Access to workplace supports is positively associated with exclusive breastfeeding*" was also submitted to the Committee.
10. Further, the Committee held meetings with the Kenya Association for Breastfeeding and the Career Mothers for Exclusive Breastfeeding on 7th November 2024 as well as with Hon. Sabina Chege, MP and the Ministry of Labour and Social Protection on 14th November 2024. The analysis of the submissions made by the stakeholders are contained hereunder.

4.1 Submissions by the Stakeholders

Submissions by Dr. Walter Owen Ogony

11. Noting the country has poor public transport, poor garbage collection structures and the possible additional costs to employers, the most feasible approach is for employers to give flexible working times to enable mothers to breastfeed from home until the end of 6 months after delivery.
12. The Committee took note of Dr. Ogony's submissions, which were progressive despite the implementation constraint therein.

Submissions by Dr. Davies Okombo

13. The title of the Bill should be inclusive to enhance gender equality, and include men who may be directly responsible for feeding the babies in the absence or death of the mothers. They they should enjoy the rights contemplated herein.
14. In Part II, Section 4, sub section 2 insert the following clauses:

- (i) have an electric kettle
 - (j) have no CCTV surveillance
15. Further, in Part II Section 5, delete the sub-section. The break time provided for breastfeeding and expressing milk under subsection (2) shall be prescribed by the Cabinet Secretary in regulations and insert the following: The break time provided for breastfeeding and expressing milk under subsection (2) shall be 30 minutes twice or 1 hour a day.
 16. In Part II, Section 6, delete sub section 2(a) the number of hours the employee is to work and insert the following: the number of hours the employee is to work without pay loss.
 17. In Part II, Section 8 insert the following sub sections:
 - (e) shall be free of charge
 - (f) shall have baby diapers and wipes

The Committee took note of Dr. Okombo's submissions, which were progressive particularly in barring use of CCTV surveillance despite the implementation constraint therein with regard to some of the proposals.

Submissions by the Career Mothers for Exclusive Breastfeeding (CAMFEB), led by Ms. Martha Mugi

Section 4: Employer Requirement to Provide Lactation Facilities

18. Current Provision: Section 4 (1) Every employer shall establish a lactation place in the manner prescribed under this Act;

Proposed Amendment: CAMFEB recommends that this section explicitly allow for flexible or mobile lactation solutions as a viable alternative for workplaces with limited space or resources. Many organizations, particularly in smaller offices or rural settings, may face challenges in establishing a permanent lactation room. Mobile lactation pods/units, such as those designed by CAMFEB, offer a cost-effective and accessible solution that can be moved as needed, providing privacy and functionality in compliance with lactation support standards.

Rationale: Integrating mobile solutions will broaden the accessibility of lactation support, particularly for employers in underserved areas, enhancing compliance with minimal infrastructural constraints.

Section 4: Reasonable Proximity of Lactation Rooms

19. Current Provision: Section 4 (i) Every employer shall establish a lactation place in a manner prescribed under this Act (i) have any other requirement as may prescribed by the Cabinet Secretary in regulations.

Proposed Amendment: CAMFEB recommends that Section 4 include a provision specifying that lactation rooms should be located within the same building as the primary work area of breastfeeding employees whenever possible. This addition would ensure that the lactation space is

reasonably accessible to encourage regular use and avoid time constraints for breastfeeding employees.

Rationale: Having the lactation room within the same building makes it more convenient and accessible for breastfeeding employees, which is essential for the timely expression of milk. Close proximity will also reduce the time required to access the facility, allowing breastfeeding mothers to better manage their work responsibilities and breastfeeding needs. This approach not only supports mothers but promotes a positive workplace culture that values family- friendly practices and the well-being of employees.

Section 5 & 6: Flexibility in Work Arrangements for Breastfeeding Mothers

20. Current Provision: Section 5(1) & 6 (1) (2) (a,b,c) 5. (1) A breastfeeding mother shall only use the Breastfeeding lactation place during working hours for breastfeeding or expressing milk. Section 6. (1) A breastfeeding mother may, in the prescribed manner, apply for a flexible work arrangement from the employer for the purposes of breastfeeding or expressing breast milk for the baby. (2) The flexible work arrangement under subsection (1) shall specify— (a) the number of hours the employee is to work; (b) the type and number of work assignments; and (c) the exact location of where the employee is to work.

Proposed Amendment: CAMFEB supports this provision but recommends additional language clarifying the process and timeframe for employees to request flexible work arrangements, including options for remote work where feasible.

Rationale: Clearer guidance will benefit both employers and employees, providing a standardized process for requesting and approving flexible arrangements, reducing administrative burdens, and ensuring that mothers receive timely support.

Section 8: Baby-Changing and Lactation Facilities in Public Spaces.

21. Current Provision: Section 8 (1) A person who owns, leases or rents a public or private building accessible to the public, which has a minimum occupancy capacity of fifty persons, shall install a baby changing facility.

Proposed Amendment: CAMFEB proposes including an allowance for portable lactation pods as an alternative for public facilities facing space or structural constraints.

Rationale: Portable lactation pods meet the privacy, sanitation, and accessibility needs of mothers expressing breastmilk and can be quickly deployed in public locations such as shopping centers, transportation hubs, and healthcare facilities, ensuring mothers have reliable spaces to express milk.

Section 11: Public Education on Breastfeeding Rights

22. Current Provision 11 (2) (d): Without prejudice to the generality of subsection (1), the Cabinet Secretary, in consultation with the Ministry of Health may, make regulations prescribing— (d) the manner and conduct of promoting the public awareness on breastfeeding mothers at the workplace;

Proposed Amendment: CAMFEB recommends incorporating collaboration with breastfeeding advocacy organizations like CAMFEB in public education initiatives, which would help strengthen the reach and impact of these campaigns through established networks and resources.

Rationale: By partnering with organizations dedicated to breastfeeding support, public awareness efforts will benefit from expert insights and increased outreach, fostering a culture that fully supports breastfeeding.

Section 11: Inspection and Certification of Lactation Rooms as Mother-Baby Friendly

23. Current Provision Summary: Section 11 (2) (g) Without prejudice to the generality of subsection (1), the Cabinet Secretary, in consultation with the Ministry of Health may, make regulations prescribing - (g) the manner and conduct of inspection and certification of lactation rooms as mother baby friendly.

Proposed Amendment: CAMFEB proposes the establishment of a dedicated certifying body responsible for the inspection and certification of lactation rooms across workplaces and public facilities. This body should comprise representatives from relevant government agencies, healthcare professionals, breastfeeding advocacy organizations, and stakeholders from both private and public sectors. CAMFEB recommends that the body be tasked with developing and regularly updating guidelines and standards for mother-baby-friendly facilities, providing inspections, and issuing certifications.

Rationale: A dedicated certifying body would ensure consistent standards and quality control across all lactation rooms, improving the reliability and accessibility of these facilities. With representatives from diverse backgrounds, this body could draw on expertise from breastfeeding advocacy, healthcare, and industry to adapt certification guidelines to various workplace and public facility contexts.

Additional Recommendations

24. Compliance Support and Resources: CAMFEB proposes that the Bill include a section on compliance support for small and medium enterprises (SMEs) and resource-constrained organizations. CAMFEB is prepared to collaborate on guidance documents, resources, and training to help these employers meet the Bill's requirements.
25. Monitoring and Accountability: CAMFEB recommends establishing an accountability mechanism that involves regular audits of employer compliance, with a focus on workplace support of breastfeeding mothers.
26. The Committee agreed with a number of CAMFEB's proposals, while others were deemed as having implementation constraints.
27. CAMFEB proposed two lactation designs as illustrated hereinunder:

Mobile Lactation Spaces Options:

Option 1: Lactation Pod - Size: 16 Square ft by 7 feet

Cost of this mobile lactation unit is Shs175,000



Lactation pod proposed by Career Mothers for Exclusive Breastfeeding (CAMFEB)



CAMFEB
CAREER MOTHERS FOR
EXCLUSIVE BREASTFEEDING®

+254 759 086 466 / +254 723 428 527

P.O. Box 56644 – 00200

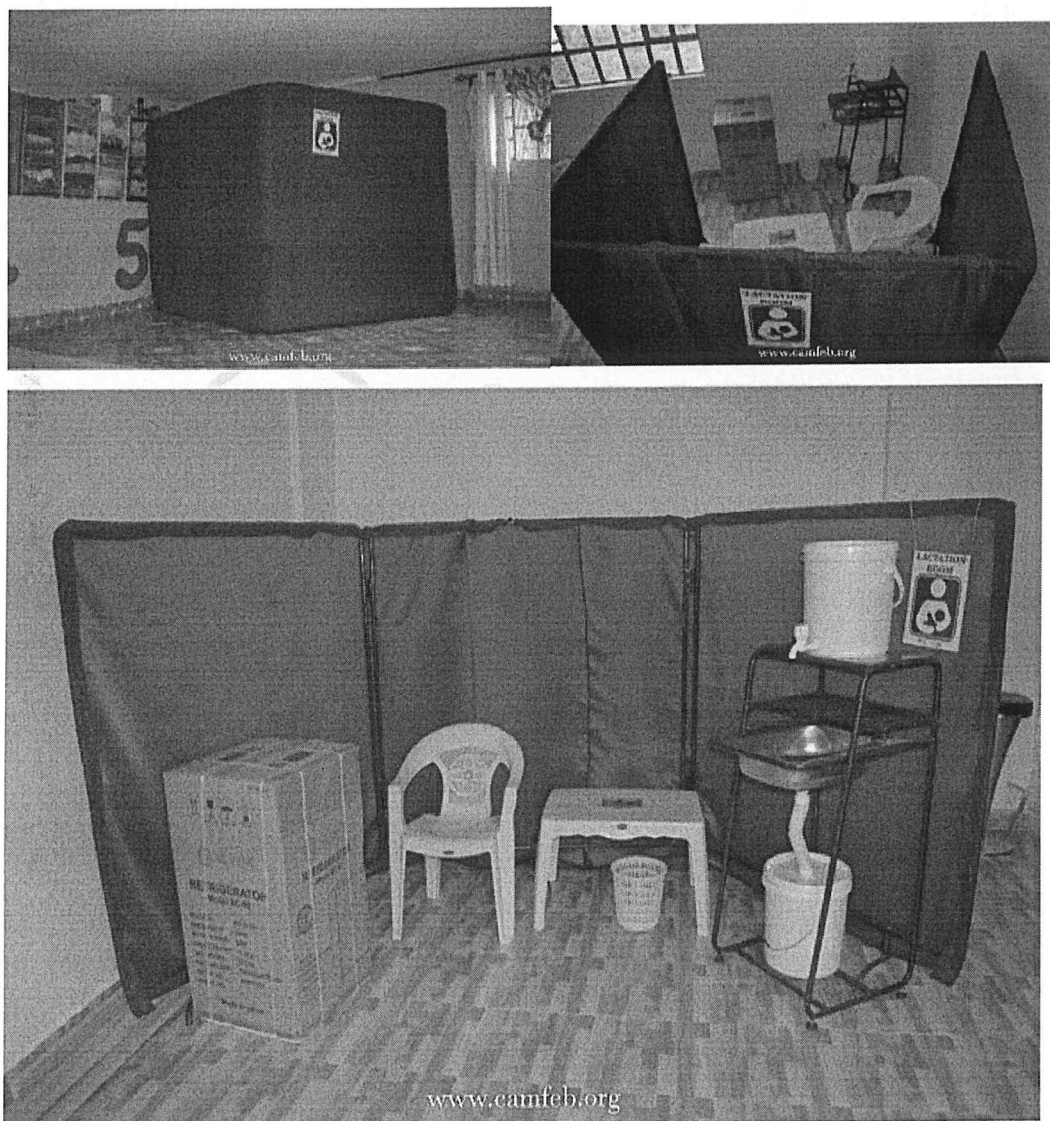
info@camfeb.org

www.camfeb.org

Option 2: Mobile Lactation Unit – 3-Fold screen

Size: 5 Feet by 5 Feet by 5 Feet

Cost per unit is Shs75,000



Mobile Lactation Unit proposed by the Career Women for Exclusive Breastfeeding (CAMFEB)

Submissions by Ms. Esther Kimani (CLC; CD(DONA) LCCE Lactation Professional

28. A breastfeeding-friendly policy with clear operating guidelines in the workplace is critical to sustaining breastfeeding. The Bill should be passed in its entirety to further protect the rights of children and our mothers and provide a clear legal framework on how this can be done in the Republic of Kenya.
29. The Committee agreed with the views by Ms. Kimani.

Submissions by the Kenya Association for Breastfeeding, led by Ms. Josphine Munene, Executive Committee Member

30. The Bill will provide numerous benefits, including: Improved Maternal and Child Health: Enhanced breastfeeding duration can lead to better health outcomes for mothers, including lower risk of ovarian and breast cancer amongst other non-communicable diseases; and in children prolonged breastfeeding lowers the rates of infections and chronic conditions.
31. Employee Retention and Satisfaction: Supporting breastfeeding mothers can lead to higher job satisfaction and lower turnover rates.
32. Economic Benefits: Reduced absenteeism and healthcare costs associated with healthier infants and mothers.

Legal and Financial Implications:

33. The Bill will require employers and relevant stakeholders to allocate resources for lactation rooms and break times. However, these costs can be offset by the aforementioned benefits such as improved employee morale and reduced healthcare costs. We also suggest offering financial incentives or tax benefits to employers who comply with these requirements.

Proposed Amendments to the Bill to Enhance Feasibility, Impact and Sustainability:

34. Prohibition of Promotion, Marketing or Selling of Breast Milk Substitutes (BMS):
35. Include a clause in Section 4 similar to Section 71 (3) of the Health Act 2017, preventing any promotion, marketing or selling of infant formula and designated BMS products within lactation spaces. Additionally, lactation spaces should not be funded by BMS manufacturers.

Flexibility in Physical Environment Requirements:

36. Amend Sections 4(3) (a) and 4(3) (b) to make physical environments and programs like crèches optional based on employee needs. Although the intention of the section is to minimize the separation of lactating employees from their babies during working hours, it might not be feasible for employers whose lactating employees are not permanently based at a single location.
37. Encourage partnerships with registered daycare centres near workplaces. Current research conducted in Kenya suggests that lactating employees who have access to daycares at or near workplaces are more likely to practice exclusive breastfeeding compared to those who do not have a daycare in proximity or those who use community or home-based childcare.

Breastfeeding Workplace Policies:

38. Include a clause compelling employers to develop policies that address the needs of lactating employees, including facilities, protected and compensable time, evidence-based information, and

professional breastfeeding support in line with the 'Guidelines for Securing a Breastfeeding Friendly Environment at the Workplace' (MoH, 2018).

Protected Break Time:

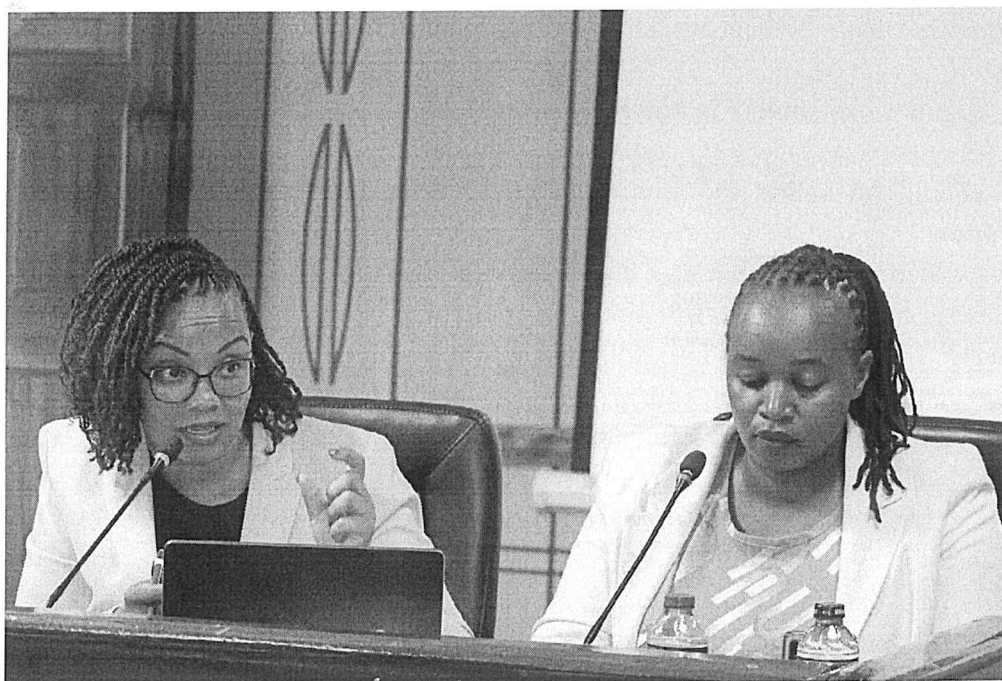
39. Clarify that break time referred to in Section 5(2) and 5(3) is additional to regular breaks and is protected and compensable.
40. Ensure the minimum time allocated for breastfeeding or expressing aligns with Section 72 (2) of the Health Act 2017 thus allowing lactating employees to breastfeed or express milk every 3 – 4 hours.

Lactation Spaces in Multi-tenant Buildings and Tertiary Education Institutions:

41. Amend Section 8 to mandate lactation spaces in multi-tenant buildings to support employees working for micro and small enterprises, and self-employed women. Data from the KDHS 2022 report indicates that 21% and 26% of women work in service/shops/sales and elementary occupations respectively, which is a significant proportion of the female workforce. Building owners/landlords can use the service charge collected to set up and maintain the lactation rooms in their buildings.

Designated Lactation Spaces by County Governments:

42. Amend Section 9 to include designated lactation spaces in public areas, provided for by County governments, particularly for women in elementary occupations who need to express their breast milk regularly and do not have access to private, hygienic physical spaces.
- 43.



Ms. Josephine Munene of the Kenya Association for Breastfeeding (KAB) and Ms. Martha Mugi of the Career Mothers for Exclusive Breastfeeding (CAMFEB) making submissions before the Social Protection Committee on November 7, 2024

The Committee agreed with most of the Association's proposals, and resolved to consider their implementation feasibility.

Submissions by the Kenya Association of Bankers

44. Based on the objects of the Act, it appears that the provisions of the Breastfeeding Mothers Bill should be incorporated into the Employment Act under the rights and duties in employment which include, the basic minimum conditions of employment such as working hours, annual leave, maternity, leave, paternity leave, sick leave, pre- adoptive leave, housing, water, food, and medical attention.
45. The long title infringes on Art. 31 & 40 of the Constitution on the right to privacy and enjoy property acquired by allowing the public to access and use private property.
46. The definition of a baby is inelegantly done. 'within' should be replaced by 'between.'
47. Section 4(3) which provides that an employer, who establishes a lactation place for breastfeeding purposes, should be deleted. This may not be practical for most workplaces given the likelihood of dangerous substances among other occupational hazards. The provision of these services goes beyond the scope of the parties' employment relationship i.e., exchange of labour for a wage/salary.
48. The current mandatory 3 months paid maternity in addition to annual leave is already costly for most employers, this provision will create additional costs and increase the cost of doing business.
49. It is ambiguous and may pose a risk because it will be subject to interpretation. Section (b) imposes an additional burden to employers to have day cares. There is need to make consideration for organizations that have Hybrid working arrangements. The Economy is struggling, and business are closing.
50. Sections 4, 5 and 6 are similar to the provisions in Sections 71 & 72 of the Health Act which are under the Cabinet Secretary (CS) responsible for matters relating to health. For good order, the provisions should be under the ambit of one Cabinet Secretary for good order and effective implementation.
51. Section 4(4) which provides that any employer who does not comply with the section commits an offence. This section is punitive to employers and there is no rationale why the fine and sentence are that severe. It must be considered that the mother is an employee already earning a salary from the employer and that what the bill proposes is an additional benefit to an employee. It will be double tragedy to an employer to suffer penalties for not providing an additional benefit to existing employees.
52. Section 5(1) which provides that a breastfeeding mother shall only use the lactation place during working hours for breastfeeding or expressing milk should be amended to remove the words "for breastfeeding or". The inclusion of the term breastfeeding means that babies will be allowed in the workplace, which may not be conducive for babies for various reasons e.g., Safety, biohazards etc.
53. Section 5(3) which provides for the breaktime provided for breastfeeding or expressing milk will limit the employer's power to set out working hours.
54. On flexible working arrangements, there is a possibility that having a child so close could be distracting, a mother's frequent visits can impact work productivity and concentration.
55. Clause 7 which provides for freedom from discrimination will influence employment of female gender more so in times of AI and mechanization. Demographic effect on female gender as

employers will prefer to employ female past childbearing age and comply with gender rule. The implementation of these provisions is as of right.

56. Clause 8 which provides that a person who owns, leases or rents a public or private building accessible to the public shall install baby changing facilities should be deleted. The clause has implications on employers because it requires them to incur the expense of redesigning their work premises to include baby changing facilities.
57. On clause 11 on regulations making powers of the Cabinet Secretary, there is need for employers to develop a policy on breastfeeding. Further, the penalties provided for in the Bill are too punitive.
58. The Committee agreed with some of Kenya Bankers' Associations' proposals.

Submissions by Prof. Ali Abdirahman Maalim

59. If a child survives and the mum dies in a hospital the infant should be allowed to be breast fed by any woman who had a child in a nearby hospital. The Cabinet Secretary, National Treasury should pay a wage through the relevant ministry to such mothers until the child can be looked after by their blood relatives for a period of six to one year. The wage will cease when the child stops breast feeding. This is for the purpose building a strong immune system for the young republican. However, if the child needs to be adopted then the social services will have to look after the child through the procedure in place already.
60. Prof. Maalim's proposals were viewed as logical and progressive by the Committee.

Submissions by the State Department for Social Protection

Clause 1 on short title and commencement

61. Delete "...and shall come into operation upon the expiry of one year from the date of its publication." Operationalization of the Act should not form part of the short title as Article 116(2) of the Constitution of Kenya, 2010 declares that an Act comes into force on the 14th day after its publication in the Gazette, unless the Act stipulates a different date on or time at which it will come into force. Such a date/time is captured as the commencement date and not under the short title.

Clause 2 on definition of baby Extend the period to 36 months of age.

62. Article 43(1)(c) of the Constitution of Kenya guarantees the right to be free from hunger and to have adequate food of acceptable quality. On the strength of this provision of the Constitution, the State Department in conjunction with the Ministry of Health have developed a policy on Early Childhood Development which has taken an evidence-based approach demonstrating that the first 1000 days of a child's life are the most critical in its development. It entails exclusive breastfeeding for the first 6 months and proper nutrition/diet for the breastfeeding mother.

Clause 2 on definition of Breastfeeding

63. There are mothers who cannot produce milk hence rely on baby formulas. Such mothers may be locked out of the flexible working arrangement as defined in Clause 2.
64. In the circumstances, it is proposed that a definition on feeding/baby feeding be provided to cater for such instances.

Clause 3 on breastfeeding at work.

65. Introduce a clause to include: “any breastfeeding woman seeking service in the workplace, both private and public, shall be allowed to access the lactation place at the workplace.”
66. This will consider breastfeeding mothers who are not necessarily employees but are in need of such services.

Clause 4(3) on lactation place

67. Introduce clause 4(3)(c) to provide a caregiver at the facility to provide care for the children kept at the lactation place. This provision will ensure that a breastfeeding mother who is an employee is able to actively participate in the work activities as the baby is in the hands of a caregiver.

Clause 7 on freedom from discrimination

68. Amend to read: “A person shall not discriminate a breastfeeding mother in accessing employment opportunities or benefits.” The provision under Clause 7 as is goes beyond the object of the Bill which is on breastfeeding mothers.

Clause 11(2)(g) on Regulations

69. Amend to read: “The manner and conduct of inspection, certification and monitoring of lactation rooms as mother baby friendly; and The Children Act (Cap 141) Laws of Kenya, addresses child safety primarily through general provisions related to child protection, welfare, and safeguarding, often in the context of family, custody, and care environments. The Bill on the other hand focuses on specific issues such as breastfeeding in safe public or workplace environments, which can contribute to a broader understanding of safety by ensuring that children and mothers are not exposed to discomfort or harm in those settings.

General recommendations

70. The provisions of the Bill focus on formal employment to the disadvantage of mothers who work in the informal sector and hence may not benefit from certain provisions such as the lactation place and baby changing facility.
71. The Bill should make consideration for child minders/caregivers so that mothers with infants under 6 months can actively ensure that their performance in the work place is not affected.
72. The Bill should include a provision for foster mothers, adoptive parents, guardians and single fathers who care for children under the age of 24 months.
73. The Committee agreed with most of the State Department’s submissions.

Submissions by the University of Nairobi African Women’s Studies Research Centre - Women’s Economic Empowerment Hub.

74. The long title of the Bill be amended to read “Breastfeeding and Substitute Feeding of Babies by Mothers in the Workplace Act, 2019’ and shall come into force..... This incorporates the modern idea of feeding of babies through other means other than directly from the breast.
75. The definition of the term “Lactation place” be redefined to mean private, clean, sanitary, and well-ventilated rooms or areas in the workplace or public places where mothers can: breastfeed or cup-

- feed their babies; wash up; or express milk comfortably and hygienically preserve it. The definition includes mothers who cup feed their babies.
76. Redefine the term “workplace” to mean any premise or site where a contract of service is undertaken. Expands the restricted sense in which the word workplace as used connotes i.e., formal workspaces. Most women work in the informal sector in Kenya.
 77. The Bill has not defined the term breast milk. Introduce a new definition to define breast milk as milk developed within the mammary glands of a female following gestation and made available to an infant whether directly through breastfeeding or indirectly through cup-feeding of expressed breast milk. has not been implemented. Expands the idea of breast milk away from only that produced by a specific mother to her specific child to that which may be obtained through cup-feeding from another mother or milk bank provided it emanated from the human breast.
 78. Introduce the definition of the term feeding a baby to mean feeding a baby with milk directly from the mother’s breast OR cup feeding of expressed breast milk OR feeding a baby with nonhuman milk. This definition considers the various ways in which a baby can access milk rather than only directly from the breast or from human beings. Does not define ‘Substitute Milk’ Substitute Milk has the meaning of milk suitable for babies and derived from non-human breast sources. (Includes animal milk and infant formula which despite discouragement of its use is still the only option available to some mothers).
 79. Define the term substitute milk. Substitute Milk has the meaning of milk suitable for babies and derived from non-human breast sources. (Includes animal milk and infant formula which despite discouragement of its use is still the only option available to some mothers). This definition factors in babies who take non-breast derived milk for various reasons.
 80. The Bill does not define the term ‘mother’. Define the term to mean the biological or adoptive mother. This definition expands the meaning of the word to include non-biological adoptive mothers.
 81. The Bill does not define mother’s assistant which means the individual authorized by the mother to bring her baby to the work place for feeding purposes in the absence of there being a creche that is well staffed with persons to look after infants while the mother is at work. A mother of a baby will require assistance with her baby being brought to work or remaining at work in an appropriate room.
 82. Amend the Bill to make provision made for the mother’s assistant. An employer shall facilitate the entry of a mother’s assistant with the baby into the workplace with ease for the purpose of accessing the baby care room. Need to make provision for mother’s assistant to access the work place during working hours in order to give the baby to the mother for the purposes of feeding.
 83. The Bill does not define ‘Baby Care Room’. Amend to define ‘Baby care room’ as a comfortable designated space for mothers’ assistants’ to hand over babies to their mothers for the purpose of feeding and for purposes connected to ensuring the comfort and soothing of babies as well as changing of babies’ diapers.

84. The Bill does not define 'Protected time'. Include a definition as follows: 'Protected time' means the period prescribed for a mother to feed her baby in the workplace or other circumstance without consequence to her status, including remuneration, other lawful breaks, or any other benefit due to the mother. Buttresses the compensable time a mother takes to feed her baby and which ought not to invite any consequences to her.
85. For the proper administration of the Bill it is essential that a Directorate under a relevant Ministry be set up to superintend employers with respect to the Act to ensure compliance and/or progressive implementation.
86. Define "flexible working arrangement" to mean a modification of an employee's terms and conditions of employment to facilitate the responsibilities of breastfeeding. This includes changes in work hours, duties, or work location to support the breastfeeding needs of the employee. Revising the "flexible working arrangement" definition aims to enhance clarity and understanding. The revised definition provides a more transparent and straightforward explanation, ensuring that employers and employees understand the term precisely.
87. Define the term "Lactation place" to mean private, clean, sanitary, and well-ventilated rooms or designated areas within the workplace or public places. The proposed amendment to the "lactation place" definition aims to enhance clarity and ensure explicit requirements for such spaces.
88. Define the term "firm". A firm's definition encompasses private and public sector employers and is subject to labour laws and regulations governing the treatment, rights, and obligations of employees and employers.
89. Amend the Bill to provide that a woman with a baby has the right to breastfeed or express breast milk at a designated Crechê lactation place in the workplace. Framing this provision as a right provides clear legal protection for breastfeeding mothers.
90. Delete provision 5 (a) as employers might exploit these arrangements by making unreasonable demands or altering work expectations to their disadvantage.
91. Amend clause 6(1) to read: A breastfeeding mother shall in the prescribed manner, apply for a flexible work arrangement from the employer for the purposes of breastfeeding or expressing breast milk for the baby, and the employer shall reasonably accommodate such requests, taking into consideration the needs of the mother and the operational requirements of the business.
92. The proposed amendment to allow breastfeeding mothers to apply for flexible work arrangements is justified as it supports maternal health, promotes gender equality, enhances employee satisfaction and retention, improves workplace productivity, ensures legal compliance, creates a family-friendly work environment, and aligns with public health recommendations.
93. Amend clause 6(6) to read as follows: A revocation of the grant of a flexible working arrangement shall be in writing and must adhere to the following requirements to ensure a fair and lawful process:
- (a) The employer shall provide a written notice of the revocation at least 15 days prior to the effective date.
 - (b) The written notice must include a clear and detailed explanation of the reasons for the revocation, citing specific instances or patterns of abuse of the terms of the agreement.

- (c) The notice must inform the employee of their right to appeal the decision, including the timeframe for submitting an appeal and the procedure for its review.
 - (d) Prior to revocation, the employer must engage in a consultation process with the employee to discuss the concerns and seek mutually agreeable solutions.
 - (e) Documentation of this consultation must be included in the written notice.
 - (f) The revocation must be applied consistently and not in a discriminatory manner, ensuring all employees are treated equally under similar circumstances.
 - (g) The process must comply with all relevant labour laws and regulations to protect the rights of protect both the employer and the employee.
94. The amendment to clause 6(6) is necessary to establish a fair and lawful process for the revocation of flexible working arrangements, ensuring transparency, consistency, and protection of employee rights.
95. Amend clause 7 to provide as follows: “A person or firm shall not discriminate against a woman on any ground, including pregnancy, childbirth, breastfeeding, or another maternity-related condition, in accessing employment opportunities or benefits”. It is more inclusive by explicitly extending the non-discrimination mandate to all types of business entities, ensuring broader coverage across various employment contexts.
- The Committee would consider the feasibility of including the various definitions as proposed by the stakeholder.

Submissions by the Sponsor of the Bill (Hon. Sabina Chege, MP)

96. The principal object of this Bill is to provide a legal framework on mothers who may wish to breastfeed their children at the work place. The Bill provides for the right of a mother to breastfeed freely or express milk for her infant. The Bill further requires employers to provide breastfeeding employees with lactation rooms to either breast feed or express their milk for their children.
97. Breastfeeding is the first preventive health measure that can be given to a child at birth and it also enhances mother infant relationship. It is nature’s first immunization, enabling the infant to fight potential serious infection and it contains growth factors that enhance the maturation of an infant’s organ systems. Kenya is a signatory to treaties that provide for the right of an infant to exclusive breastfeeding for six months.
98. The government should therefore promote and encourage breastfeeding and provide the specific measures that would present opportunities for working mothers to continue expressing their milk and breastfeeding their infant or young child. Furthermore, the practice of breastfeeding may save the country’s valuable foreign exchange that may otherwise be used for milk importation.
99. Presently, female employees exit the work force or stop breastfeeding in order to secure their job security. No woman should be forced to compromise the health of her child in order to make a living.
100. Part I (Clauses 1-2) of the Bill provides for preliminary matters including the title of the Bill and the interpretation of terms used in the proposed Act.
101. Part II (Clauses 3-10) of the Bill provides for the fundamental principles and rights at work for a breastfeeding mother. It provides for the right to freely breast feed or express one’s milk for the baby . It also places an obligation on the employers to provide breastfeeding working mothers with rooms to either breastfeed or express their milk . It also provides for the standards of such

rooms. The Bill further provides for baby changing tables. This is important because the greater majority (public) finds it unsanitary to change a baby in a public setting such as a restaurant.

102. This provision will also cater for persons who are travelling long distances in the accompaniment of babies, ensuring that in each public restroom a baby changing facility is provided. This part also provides for a general for offences under the Act.

103. Part III (Clause 11-12) of the Bill provides for the power of the Cabinet Secretary to make regulations for the better carrying out of the proposed Act.



Submissions by the Principal Secretary for the State Department for Social Protection and Senior Citizens Affairs, Mr. Joseph Motari, MBS, on the Bill



Submissions by Hon. Sabina Chege, MP, the Sponsor of the Breastfeeding Mothers Bill, 2024

Submissions by Mr. Collins Michael N. of Policy and Governance Kenya

104. The Bill should emphasize creating a supportive environment for breastfeeding mothers in all public and private spaces, including workplaces, educational institutions and healthcare facilities.
105. There should be provisions for public awareness campaigns to educate the public about the benefits of breastfeeding and the rights of breastfeeding mothers.
106. Section 5: Right to Breastfeed: This section should ensure that that breastfeeding mothers have the right to breastfeed their children in any public or private location without discrimination or harassment.
107. Section 10: Workplace Support: Employers should be required to provide adequate facilities and time for breastfeeding mothers to express milk or breastfeed during working hours. This should include a private, hygienic space and sufficient breaks.
108. Section 15: Healthcare Support: Healthcare facilities should be mandated to provide breastfeeding support and counselling to new mothers. This should include training healthcare workers on breastfeeding techniques and benefits.
109. Section 20: Enforcements and Penalties: There should be clear enforcement mechanisms and penalties for non-compliance with the provisions of the bill to ensure that the rights of breastfeeding mothers are protected.
110. The Committee noted that the submissions by Mr. Michael were primarily policy guidelines and not specific amendments, but nonetheless appreciated his memoranda.

Submissions by The Care Network comprised of Oxfam, Youth Alive Kenya, Association of Women in Agriculture, Kenya Union of Domestic, Hotels, Educational Institutions, Hospitals and Allied Workers (KUDHEIHA), Teenseed, Bunge Mashinani and other organizations advancing the principles of Unpaid Care and Domestic Work (UCDW), as submitted by Mr. Lawrence Gatenjwa;

<i>Sec.</i>	<i>Current Provision</i>	<i>Proposals for Amendment</i>
Sec .2	None	Introduce a definition of “public transport” to mean transportation by respective vessels through road, rail, water and air
	This Act may be cited as the Breastfeeding Mothers Act, 2024 and shall come into force....	This Act may be cited as the ‘Breastfeeding and Substitute Feeding of Babies by Mothers in the Workplace Act, 2024’
	Definition of “workplace”- Means work premises, whether private enterprises or government agencies, including their subdivisions.	“Workplace” means any premise or site where contract of service is undertaken.
	Does not define ‘mother’	Mother means biological or adoptive mother.

Sec. 4(2)	Sec. 4(1) Every employer shall establish a Lactation place in the manner prescribed under this Act. (2) A lactation place shall _____	Sec. 4(1) Every employer shall establish a Lactation place in the manner prescribed in this Act. (2) A Lactation place shall _____ (j) be friendly and accessible to persons with disability
Sec. 4	None	Confer a duty to national and county governments to set up lactation units in all public facilities.
Sec. 4(3)	Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2)____	Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2)____ (c) Provide a caregiver or daycare services.
Sec. 4(3)	Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2)____	Sec.4(3) An employer, who establishes a lactation place for breastfeeding purposes, shall in addition to the requirements provided for under subsection (2) _____ (d) Have a well-equipped first aid kit.
Sec. 5(2)	Sec. 5(2) An employer shall provide a reasonable break time to a breastfeeding mother for purposes of breastfeeding the baby or expressing breast milk for the baby.	Sec. 5(2) An employer shall provide a reasonable break time to a breastfeeding mother for purposes of breastfeeding the baby or expressing breast milk for the baby. The time so allocated should not interfere with the breastfeeding mother's normal official break time enjoyed by all other employees.
Sec. 6(3)	Sec. 6(3) Where an application is made under subsection (1), the employer shall respond in writing within fourteen days of receipt of such application.	Sec. 6(3) Where an application is made under subsection (1), the employer shall respond in writing within seven days of receipt of such application.
Sec. 9	Sec. 9(1) A woman may breastfeed her child in public. (2) The Act of a woman Breastfeeding in public shall not be construed to amount to an indecent act.	Sec. 9(1) A woman may breastfeed her child in public. (2) The Act of a woman Breastfeeding in public shall not be construed to amount to an indecent act. (3) Long distance public transport operators shall ensure that there are baby changing facilities in their stop-over offices to cater to the needs of the

111. The Committee noted that the submissions by the Care Network, and, notwithstanding the implementation technicalities and other policy considerations regarding some of the proposals, took up a number of the amendments on board.

Observations

112. The object of the Bill is limited to making provision for breastfeeding mothers; to provide for employers' obligations towards breastfeeding working mothers in the workplace; to provide for baby changing facilities for use by the public; and for connected purposes. The Bill does not cover other gender considerations including foster mothers, adoptive parents, guardians and single fathers who care for children under the age of 24 months. However, the Committee noted that noting the provisions of Standing Order 133, the amendments to effect the same would expand the scope of the Bill and further offend the public participation requirements.
113. The definition of the term workplace includes persons working both in public and private sector.
114. Clause 4(2)(i) of the Bill provides for inclusion of other requirements that may be necessary for a lactation place including its location and other related matters, as may be prescribed through regulations. Clause 11 further provides that the Cabinet Secretary shall prescribe in regulations the requisite standards and contents of the rooms or buildings contemplated under the Act.
115. The breaktime to be given to a breast-feeding mother (clause 5(2) and (3)) are to be prescribed in regulations to allow flexibility.
116. Clauses 6 and 8(2) provide clarity on the flexible working arrangements and standards of a baby changing facility. Provision of diapers and wipes should not be an obligation of the employer.
117. Clause 9 of the Bill provides for the right of a woman to breast feed a child in public.
118. There is need to amend the definition of the term baby to mean a child between zero and thirty-six months of age.
119. On the issue of promoting public awareness on breastfeeding mothers at the workplace, clause 11 of the Bill provides that the Cabinet Secretary shall prescribe regulations on the manner and conduct of promoting public awareness.
120. The Ministries of Labour and Health are the implementing Ministries and hence there is no need to create a different body to oversee the implementation of the Act. Additionally, the Cabinet Secretary is mandated to prescribe through regulations the manner and conduct of inspection and certification of lactation rooms as mother baby friendly.
121. On the concerns that the Bill is punitive to employers and will encourage discrimination against female employees, the Committee observed noting the significance of breastfeeding to a child at birth, there was need to create legislative safeguards to promote exclusive breastfeeding. The Committee further noted that the Bill allow flexible working arrangements to be agreed upon an employer and employee on reasonable standards. The freedom from discrimination is already a fundamental human right under Article 27 of the Constitution and hence the Bill further ringfences this under clause 7 to guard against any form of discrimination on grounds of pregnancy or breast feeding. The offences created under the Bill prescribed penalties based on the gravity of the offences and are geared towards ensuring compliance with the Bill.

122. Clause 4(3) of the Bill which described the lactation place should be amended to obligate employers to a caregiver at the facility to provide care for the children kept at the lactation place.
123. The Bill has defined with clarity the terms flexible working arrangements, workplace, employer and breastfeeding.
124. Noting the amendments for provision of a care giver there is no need for amendments on mother assistants and baby care rooms.
125. Clause 11(2)(f) provides that the Cabinet Secretary shall prescribe regulations on the conduct and obligations of an employer at the workplace. This may include the obligations of an employer in revoking a working arrangement. Additionally, clause 6 of the Bill already obligates the employers to respond in writing on an application for a working arrangement and further to provide written statement stating reasons for any rejection.
126. Clause 1 of the Bill on the short title aligns with the provisions of Article 116 of the Constitution and is geared towards creating a transitional period of one year to allow employers to comply with the provisions of the Act. There is thus no need to amend it.
127. Whereas the Committee appreciates all the submissions made by the different stakeholders, it was acknowledged that not all the proposals could be effected or incorporated into the Bill due to constraints of resources, practicality, possibility of extending the scope of the Bill, policy framework, existence of other provisions in law, or general feasibility. This notwithstanding, these and other proposals will inform future improvements on the law, if enacted, particularly after the one year of compliance grace-period, and also serve as source material for policy guidelines and the attendant Regulations that shall emanate from the Breastfeeding Mothers Act upon enactment.

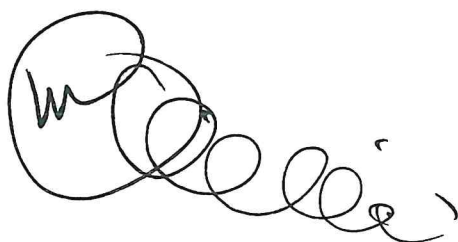


The Chairperson, Vice Chairperson and Members of the Social Protection Committee undertaking consideration of the Breastfeeding Mothers Bill, 2024

PART FIVE

COMMITTEE RECOMMENDATION

Pursuant to Standing Order 127, the Committee recommends that the National Assembly **APPROVES** the Breastfeeding Mothers Bill (National Assembly Bill No. 8 of 2024) **with** amendments as proposed in the Schedule of Amendments under Part Six of this Report.




28/11/2024

SIGNED: DATE.....

HON. ALICE WAMBUI NG'ANG'A, CBS, M.P.

(CHAIRPERSON, DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION)

 THE NATIONAL ASSEMBLY PAPERS LAID	
DATE: 28 NOV 2024	
DAY: Thur	
TABLED BY:	Hon. Alice Ng'ang'a, CBS, MP Chairperson, DC on Social Protection
CLERK-AT-THE-TABLE:	Vivian Wambui

PART SIX

SCHEDULE OF AMENDMENTS

The Committee proposes the following amendments to be considered by the National Assembly in the Committee of the Whole House stage:

CLAUSE 2

THAT, clause 2 of the Bill be amended in the definition of the term baby **by deleting the words “within zero to twenty-four months” and substitute therefore the words “within zero to thirty-six months”**.

Justification

Article 43(1)(c) of the Constitution of Kenya guarantees the right to be free from hunger and to have adequate food of acceptable quality. On the strength of this provision of the Constitution, the State Department in conjunction with the Ministry of Health have developed a policy on Early Childhood Development which has taken an evidence-based approach demonstrating that the first 1000 days of a child's life are the most critical in its development. It entails exclusive breastfeeding for the first 6 months and proper nutrition/diet for the breastfeeding mother. hence the need to extend the baby's age definition to 3 years (that is, 36 months)

CLAUSE 4

THAT, clause 4(3) of the Bill be amended by inserting the following new paragraph immediately after paragraph (b)—

(c) provide for a care giver to take care babies at the lactation place;

Justification

This provision will ensure that a breastfeeding mother who is an employee is able to actively participate in her regular work activities as her baby is in the hands of a caregiver.

CLAUSE 11

THAT, clause 11(2)(g) of the Bill be amended by **deleting the words “and certification” and substituting therefor the words “certification and monitoring”**.

Justification

The Regulations by the Cabinet Secretary responsible for Labour ought to include monitoring of lactations rooms, in addition to inspection and certification

