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THE NATIONAL ASSEMBLY  
THIRTEENTH PARLIAMENT – THIRD SESSION – 2024

DIRECTORATE OF DEPARTMENTAL COMMITTEES  
DEPARTMENTAL COMMITTEE ON SOCIAL PROTECTION

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

 <b>THE NATIONAL ASSEMBLY PAPERS LAID</b>			
<b>DATE:</b> 28 NOV 2024			
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<b>TABLED BY:</b>	Hon. Alice Ng'ang'a, CBS, MP Chairperson, DC on Social Protection		
<b>THE TABLE:</b>	Vivian Kambui		

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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 2<sup>nd</sup> 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.

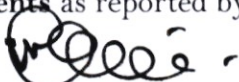
Following placement of advertisements in the print media on 16<sup>th</sup> May 2024 seeking public and stakeholders' views on the Bill pursuant to Article 118(1)(b) of the Constitution and Standing Order 127(3), the Departmental Committee on Social Protection received memoranda from Ms. Esther Kimani 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 27<sup>th</sup> 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 2<sup>nd</sup> 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 breastfed 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 14<sup>th</sup> May 2024 and vide letters dated 1<sup>st</sup> 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 7<sup>th</sup> November 2024 as well as with Hon. Sabina Chege, MP and the Ministry of Labour and Social Protection on 14<sup>th</sup> 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