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EARLY CHILDHOOD EDUCATION ACT

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NO. 3 OF 2021

EARLY CHILDHOOD EDUCATION ACT

[Date of assent: 22nd March, 2021.]

[Date of commencement: 9th April, 2021.]

AN ACT of Parliament to provide a framework for the establishment of systems for the administration of early childhood education within a County, and for connected purposes.

[Act No. 3 of 2021.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Early Childhood Education Act, 2021.

2. Interpretation

In this Act, unless the context otherwise requires—

"board of management" means the board of management of an education centre;

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to early childhood education;

"child" has the meaning assigned to it under the Children Act (No. 8 of 2001);

"children with special needs" means a child in need of special needs education;

"County Education Board" means the County Education Board established under section 17 of the Basic Education Act, (No. 14 of 2013) in each county;

"county executive committee member" means the county executive committee member responsible for matters relating to education within each county;

"curriculum" means all approved subjects taught or programmes offered in an education centre which are approved by the Kenya Institute of Curriculum Development;

"department" means the department of education headed by the county executive committee member responsible for education at the county level of government;

"Education Appeals Tribunal" means the Appeals Tribunal established under section 93 of the Basic Education Act, (No. 14 of 2013);

"education centre" means a public or private early childhood education centre or facility used for conducting early childhood education and training;

"early childhood education" means the pre-primary educational programmes imparted to a child in an education centre;

"Education Standards and Quality Assurance Council" means the Education Standards and Quality Assurance Council established under section 64 of the Basic Education Act, (No. 14 of 2013);

"head teacher" means the lead educator or administrator in an education centre who is responsible for the implementation of policy guidelines and professional practice in the education centre;

"Kenya Institute of Curriculum Development" means the Kenya Institute of Curriculum Development established under section 3 of the Kenya Institute of Curriculum Development Act, (No. 4 of 2013);

"learner" has the meaning assigned to it in the Teachers Service Commission Act, (No. 20 of 2012);

"mobile school" has the meaning assigned to it under the Basic Education Act, (No. 14 of 2013);

"public education centre" includes a sponsored public education centre";

"special needs education" has the meaning assigned to it in the Basic Education Act, (No. 14 of 2013);

"sponsor" has the meaning assigned to it under the Basic Education Act, (No. 14 of 2013);

"teacher" has the meaning assigned to it under the Teachers Service Commission Act, (No. 20 of 2012); and

"Teachers Service Commission" means the Teachers Service Commission established under Article 237(1) of the Constitution.

"village administrator" means the office of a village administrator established in section 52 of the County Governments Act, (No. 17 of 2012).

3. Objects

The objects of this Act are to -

- (a) provide a framework for the establishment of a comprehensive early childhood development and education system by the county governments;
- (b) provide a framework for the establishment of the infrastructure necessary to support the provision of quality education in the early childhood education system within a county;
- (c) promote the delivery of quality early childhood education and provide a framework that enhances the quality and efficiency of early childhood education in the counties; and
- (d) provide a framework for the establishment of—
 - (i) a developmentally, culturally and linguistically appropriate early childhood care and education system including the implementation of program models, standards and curriculum based on research and best practices; and
 - (ii) a partnership between the National government, the county governments, private persons and other relevant stakeholders with an interest or expertise in early childhood care and education.

4. Guiding principles

All entities in this Act shall, in performing their functions under this Act, be guided by the following principles—

- (a) the right to free and compulsory basic education enshrined under Article 53 of the Constitution;
- (b) coordinated public participation in the implementation, monitoring and evaluation of policies and plans related to the implementation of early childhood development and education in the county;
- (c) a holistic approach towards meeting the education and other development needs of the child to ensure that their full potential is realised;
- (d) empowerment and capacity building as a means of facilitating the right to early childhood education;
- (e) recognition of the parents and family of the child as the primary care givers and the role of the community in providing an alternative support system to the parents and an environment that ensures the realization of the right to early childhood education and development;
- (f) equality, equity and non-discrimination in the provision of early childhood education and the recognition of children with disabilities;
- (g) transparency in the implementation of programmes and activities relating to early childhood education and the allocation and utilization of public and private resources;
- (h) ensuring that interventions are based on objective information and methods and that monitoring mechanisms and regular evaluations are established, thus ensuring transparency in the public management, social audit and taking into account the needs of the population;
- (i) accountability through developmentally appropriate methods of measuring, reporting and tracking the growth and development of a child and the improvement of the early childhood education systems and programs;
- (j) collaboration and co-operation with the National government and relevant stakeholders in the implementation of activities necessary for ensuring the actualization of the right to early childhood education; and
- (k) the identification and prioritization of communities most at risk while striving to make the system universally available to all those who wish to participate.

PART II – RIGHT TO EARLY CHILDHOOD EDUCATION**5. Right to early childhood education**

(1) Every child has the right to free and compulsory early childhood education in a public education centre.

(2) The right to early childhood education shall be enjoyed without discrimination, exclusion or restriction on the basis of sex, race, colour, ethnic origin, tribe, birth, creed or religion, social or economic standing, political or other opinion, property, disability or other status.

(3) For the enjoyment of the right to early childhood education, the county government shall—

- (a) respect, protect, promote, monitor, supervise and evaluate the right to early childhood education and guarantee mechanisms for its enforcement;
- (b) refrain from actions that undermine access to early childhood education;
- (c) ensure the availability and accessibility of early childhood education by all children within the county irrespective of their economic, social or religious background by making provision for sufficient access to resources, funding and support and maintaining an enabling environment in which children can attain early childhood education;
- (d) provide an opportunity for the public to develop their understanding on the need to support the implementation of early childhood education and for public participation in the formulation and implementation of any service or programme interventions towards early childhood education;
- (e) ensure the development of skills and capacity building necessary for achieving an equitable and effective early childhood education system in the county; and
- (f) provide and maintain a sustainable early childhood education system and protect the right to early childhood education from encroachment by any public authority or any person.

6. Obligations of county governments in promoting the right to early childhood education

Each county government shall, in promoting the right to early childhood education—

- (a) provide free and compulsory early childhood education in public education centres within the county;
- (b) establish such public education centres as may be necessary for the provision of free and compulsory early childhood education within the county;
- (c) formulate programmes and plans and implement policies for the realisation of the right to early childhood education;
- (d) implement, in consultation with the relevant stakeholders, curriculum programs that promote positive culture and the holistic development of the child;
- (e) provide the necessary infrastructure and funds necessary for the development of education centres and for the administration of early childhood education within the county;
- (f) identify and undertake an assessment of children with disabilities in the county and put in place special programmes targeting such children in the provision of early childhood education;
- (g) ensure that children belonging to marginalized, vulnerable or disadvantaged groups within the county are not discriminated against and prevented from pursuing and completing early childhood education;
- (h) carry out public awareness and advocacy programmes in relation to early childhood development and education;

- (i) ensure the provision of, and support investment in human resource, infrastructural facilities and learning resources to facilitate the provision of early childhood education;
- (j) establish and maintain relationships with international, national and local institutions within the county involved in the provision of early childhood education;
- (k) promote the circulation of and access to up-to-date and timely information on early childhood education and development; and
- (l) develop a best classroom model for early childhood education centres within the respective county in accordance with the specifications set out in the First Schedule.

7. Duty of parents or guardians

(1) Every parent or guardian shall cause to be presented for admission or cause to be admitted his or her child, as the case may be, to an education centre.

(2) A parent or guardian who fails to comply with subsection (1) commits an offence and is liable on conviction, to a fine not exceeding ten thousand shillings.

(3) Where a person convicted of an offence under subsection (2) is unable to pay the fine, that person is liable to imprisonment for a term not exceeding one year or to such penalty including community service as the Court shall consider fit to impose.

8. Duty of head teacher

(1) Where a learner admitted in an education centre fails to attend the education centre, the head teacher shall, in collaboration with the village administrator, cause an investigation of the circumstances of the learner's absence from school.

(2) Where the head teacher finds that there are no reasonable grounds for the learner's failure to attend school, the head teacher shall—

- (a) issue a written notice to the parent of the learner requiring that parent to comply with the provisions of this Act; and
- (b) submit a report on the learner to the County Education Board.

(3) A parent who without reasonable cause and after a written notice from the head teacher, fails to comply with a notice under subsection (2) commits an offence and shall be liable, on conviction, to a fine not exceeding ten thousand shillings or imprisonment for a term not exceeding one year, or to both.

9. Children with special needs

(1) The county executive committee member shall put in place such infrastructure as may be necessary to ensure that children with special needs have access to, and are provided with early childhood education.

(2) In performing the functions under subsection (1), the county executive committee member shall—

- (a) ensure that screening tools for early identification of children with special needs and disabilities are developed and distributed for use;
- (b) ensure early identification, assessment and interventions of children with special needs and disabilities;
- (c) ensure training of personnel working with children with special needs and disabilities on use of screening tools for early interventions;

- (d) facilitate development of programmes for training and professional development for all pre-primary education providers and personnel in special needs education;
- (e) ensure that children with special needs and disabilities have equal access to recreational sporting facilities within and outside pre-primary school programmes to nurture talents;
- (f) ensure that teachers and other staff in integrated pre-primary schools plan and implement an integrated individualized education programme for the purpose of monitoring the progress of an individual child with special needs and disabilities;
- (g) liaise with other professionals and stakeholders to provide psychosocial support to learners with special needs and disabilities;
- (h) facilitate provision of teacher aids to pre-primary schools to support teachers handling children with special needs and disabilities; and
- (i) ensure that children with disabilities are provided with any other necessary support.

**PART III – ESTABLISHMENT AND REGISTRATION
OF EARLY CHILDHOOD EDUCATION CENTRES**

10. Establishment of public education centres

Subject to the Constitution and this Act, the county governments shall establish and maintain such early childhood education centres as they may consider necessary to meet the obligation set out under Article 53 of the Constitution.

11. Register of education centres

(1) The County Education Board shall keep and maintain a register of—

- (a) all education centres registered to provide early childhood education services within the respective county;
- (b) all education centres whose registration has been cancelled; and
- (c) such other particulars as the County Education Board may from time to time determine to be necessary.

(2) Any person may inspect the register and obtain a copy of, or an extract of the register from the Registrar.

12. Requirement for registration of education centres

(1) A person shall not offer early childhood education services or establish or maintain an education centre unless that person is registered in accordance with this Act.

(2) A person who fails to comply with subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years, or to both.

13. Application for registration

(1) A person who intends to offer early childhood education and development services shall submit an application for registration to the County Education Board in the prescribed form.

(2) An applicant under subsection (1) shall submit together with the application

- (a) a certificate of registration or in the case of a company, a copy of the memorandum and articles of association of the company;
- (b) duly completed and signed application forms for the management of the education centre in the prescribed form;
- (c) duly completed and signed application forms for the head teacher of the education centre in the prescribed form;
- (d) an education centre inspection report by the Sub-County Education office;
- (e) a public health or sanitary inspection report;
- (f) the Title Deed, allotment letter or a valid lease agreement covering a period not less than five years;
- (g) certified copies of professional and academic certificates of all teachers and the head teacher;
- (h) certified copies of registration certificates issued to the teachers in the education centre by the Teachers Service Commission;
- (i) supporting records signed by the relevant authorities showing existing facilities and future development or extension plans where applicable; and
- (j) the prescribed fees.

14. Registration of existing schools to offer early childhood education

Where a person who or an entity which is registered to offer basic education under the Basic Education Act, (No. 14 of 2013) intends to offer early childhood education, such person or entity shall apply, subject to section 66, for registration to offer early childhood education in the prescribed manner.

15. Provisional registration

(1) The County Education Board shall, where an applicant under section 13 and section 14 meets the criteria for registration, provisionally register the applicant if it is satisfied that the education centre or proposed education centre meets the criteria for registration as an education centre.

(2) Provisional registration of an education centre or proposed education centre shall be for a period of twelve months, unless earlier revoked or such other period as the County Education Board may specify.

(3) The County Education Board may renew the provisional registration of an education centre only once, for such period as it may specify, if it is satisfied that exceptional circumstances exist in relation to the education centre.

(4) The County Education Board may undertake further investigations of the education centre, in addition to the review required under section 16, of an education centre that has its provisional registration renewed under subsection (3).

16. Review of registration

(1) As soon as practicable after provisionally registering an education centre under section 15, the County Education Board shall inform the county executive committee member of the provisional registration.

(2) The county executive committee member shall cause the county early childhood quality assurance committee to review any education centre that is provisionally registered under section 15 either—

- (a) between six and twelve months after the provisional registration of the education centre or proposed education centre; or
- (b) a period earlier than that specified in paragraph (a) if in the opinion of the County Executive Committee member, a shorter time is necessary.

(3) The county executive committee member shall cause a further review of an education centre to be conducted upon the request of the County Education Board.

(4) The county executive committee member shall submit the findings of a review under this section to the County Education Board and to the head teacher of the education centre for implementation.

(5) The findings submitted under subsection (4) shall include—

- (a) information on whether the education centre meets the criteria for registration as an education centre; and
- (b) information on the areas where improvement is required, if it does not meet the criteria.

17. Criteria for registration as a private education centre

The County Education Board shall not approve an application for registration of a private institution as an education centre unless the institution—

- (a) is situated in a premises that meets the requirements of a suitable premises under section 19;
- (b) has the capacity to care and provide early childhood education to at least ten children;
- (c) has adequate and qualified staffing that would ensure that the education imparted to the children is suitable according to the age range and level of development of the children, the curriculum taught at the education centre and the size of the education centre;
- (d) has equipment that is suitable for the curriculum being delivered or to be delivered at the education centre;
- (e) meets the standards prescribed under this Act; and
- (f) has a head teacher who meets the qualifications prescribed under this Act.

18. Registration

Where the County Education Board is satisfied that an education centre that is provisionally registered meets the criteria for registration as an education centre, it shall grant full registration to the centre and issue to the centre, a certificate of registration.

19. Suitable premises

(1) In determining whether the premises of an education centre are suitable for the administration of early childhood education, the County Education Board shall take into account the criteria specified under the First Schedule.

(2) Subsection (1) shall apply to all premises used by the education centre for the regular delivery of courses, whether or not the proprietor of the centre owns or leases the premises for the education centre.

(3) The compound in which an education centre is situated shall not be less than one acre in measurement.

20. Change of premises

(1) The board of management shall not change the location of the centre nor acquire additional premises for the purpose of running the education centre unless it has applied to, and obtained the approval of the County Education Board.

(2) In determining whether to grant approval under subsection (1), the County Education Board shall take into account the criteria specified under section 17.

(3) The board of management of an education centre shall notify the County Education Board of any change in the location of the education centre including—

- (a) the acquisition of premises that are in addition to its current premises; or
- (b) the relocation of the education centre to a different premise from that currently occupied by the education centre.

21. Mobile schools

(1) A County Government may establish such mobile schools as it considers necessary to facilitate access to early childhood education within the county.

(2) The provisions of this Part shall, subject to subsection (3), apply with necessary modification to the registration of mobile schools.

(3) The Cabinet Secretary may, in consultation with the County Education Board prescribe the requirements for the establishment of a mobile school within the county.

22. Obligations of a private education centre

A private early childhood education provider registered under this Act shall—

- (a) establish the structures necessary for the management and administration of education within the centre;
- (b) recruit persons who are qualified and registered by the Teachers Service Commission to administer the early childhood education curriculum in the education centre;
- (c) administer a curriculum that adheres to the early childhood education policy and this Act;
- (d) maintain premises in a manner that ensures that it meets the requirements of the occupational health, safety regulations and building standards;
- (e) maintain necessary teaching and learning materials and equipment;
- (f) maintain a data bank on learners admitted in the education centre and submit to the county executive committee member; and meet such other requirements as the county executive committee member, in consultation with the County Education Board, may consider necessary for the delivery of quality early childhood education services within the county.

23. Action by the County Education Board where centre fails to comply with Act

(1) The County Education Board may take any action specified under subsection (2) with regard to a private education centre where—

- (a) it considers that the education centre has not met any or all of the criteria for registration as an education centre;

- (b) a review conducted under section 16 indicates that the education centre does not, or is not likely to, meet all or any of the criteria for registration as a private education centre;
- (c) the head teacher of the education centre has breached or is breaching his or her statutory duties in relation to the education centre under this Act or any other written law; or
- (d) it has reasonable grounds to believe that serious criminal activity has or is occurring in the education centre.

(2) Where the County Education Board is satisfied that any ground specified under subsection (1) exists in relation to an education centre registered under section 18, it may—

- (a) issue the head teacher of the education centre with a notice to comply in the prescribed form;
- (b) require the head teacher of the education centre to inform parents of the learners in the centre that the centre is not meeting the criteria for registration as a private education centre;
- (c) impose conditions on the continued registration of the education centre;
- (d) take any action specified under paragraphs (a) to (c), and suspend the education centre's registration; or
- (e) cancel the education centre's registration in accordance with section 25.

(3) Any action taken by the County Education Board under subsection (2)—

- (a) shall be proportionate to the seriousness of the action or inaction by the education centre; and
- (b) is in addition to any fine incurred or other penalty imposed under this Act, or under any other written law.

24. Suspension of registration where welfare learners is at risk

(1) The County Education Board may at any time suspend the registration of an education centre registered under section 18 if it has reasonable grounds to believe that the welfare of the learners at the education centre is at risk, and—

- (a) that it is unlikely that the risk can be managed by any practicable means other than by suspension of the registration; or
- (b) that, although the risk could be managed by means other than by suspension of the registration, the amount of time necessary to do so is likely, in the opinion of the County Education Board, to be excessive.

(2) An education centre shall remain suspended under subsection (1) until the County Education Board—

- (a) is satisfied that the head teacher has complied with all requirements imposed by it; or
- (b) cancels the registration of the education centre in accordance with section 25.

(3) A suspension under subsection (1) shall continue in force until the County Education Board—

- (a) is satisfied that the welfare of the learners in the education centre is no longer at risk; or

- (b) cancels the registration of the education centre in accordance with section 25, after issuing the head teacher of the education centre with a notice to comply in accordance with section 23.

25. Cancellation of registration

(1) The County Education Board may cancel the registration of an education centre if, following an action taken under paragraphs (a) to (d) of section 23(2),—

- (a) the education centre—
 - (i) does not improve sufficiently to meet the criteria for registration under section 17; and
 - (ii) is not, in the opinion of the County Education Board, likely to meet the criteria, within a further reasonable time;
- (b) the head teacher of the education centre is continuing in breach of the statutory duties in relation to the centre; or
- (c) serious criminal activity has or continues to occur in the education centre.

(2) Before cancelling the registration certificate of an education centre under subsection (1), the County Education Board shall—

- (a) take reasonable steps to obtain and consider any relevant information, including any report by a review committee appointed by the County Education Board for that purpose;
- (b) give written notice to the board of management of the education centre that it is considering cancelling the registration of the education centre, and give reasons; and
- (c) give the board of management of the education centre a reasonable opportunity to respond to the notice.

26. Appeal from decision of the County Education Board

(1) A person who is aggrieved by the decision of the County Education Board under this Part may, within thirty days of being notified of the decision, appeal to the Education Appeals Tribunal established under section 93 of the Basic Education Act, (No. 14 of 2013).

(2) The Appeal shall be in such form as the Cabinet Secretary may prescribe.

(3) The appeal shall be determined in such manner as the Cabinet Secretary shall, under section 93(3) of the Basic Education Act, No. 14 of 2013) prescribe.

27. Categories of education centres

(1) Education centres shall be categorized as—

- (a) private education centres established, owned or operated by private persons; and
- (b) public education centres established, owned or operated by the county government.

(2) A public education centre shall not be converted to a private education centre or to any other private status without consultation with the County Education Board and approval by the county executive committee member.

28. Sponsors

(1) A public education centre may be sponsored by a private person including a religious institution.

(2) A sponsorship entered into under subsection (1) shall be used to enhance the educational programmes in an education centre and contribute directly or indirectly to the quality of education administered in an education centre under this Act.

(3) A sponsor shall not influence the curriculum administered in an education centre, compromise the implementation of any written law applicable to the education centre or compromise the professional standards and ethics of teachers in the early education centre.

(4) Despite the generality of subsection (2), the role of the sponsor under subsection (1) shall be to—

- (a) participate and make recommendations of review of syllabus, curriculum, books and other teaching aids; and
- (b) offer financial, infrastructural and spiritual support to the education centre.

(5) Despite the fact that the sponsor of an education centre is a faith-based institution, the curriculum in the education centre shall be as set and approved by the Kenya Institute of Curriculum Development.

PART IV – MANAGEMENT OF EARLY CHILDHOOD EDUCATION CENTRES

29. Management board of an early childhood education centre

(1) There is established in every public education centre, a board of management.

(2) The board of management shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts for the proper performance of its functions under this Act which may be lawfully done or performed by a body corporate.

(3) In the performance of its functions under paragraphs (b) and (c) of subsection (2), the board of management shall first seek the approval of the County Education Board.

30. Composition of board of management

(1) The board of management shall consist of—

- (a) one person elected by the parents from each level within the education centre to represent parents of learners in the education centre;
- (b) one representative of the teaching staff in the education centre nominated by the teachers;
- (c) two persons with experience in matters of nutrition and social work relating to early childhood development and education nominated by the County Governor on the recommendation of the County Education Board;

- (d) one public officer nominated by the county executive committee member within the county;
- (e) one person living with disability to represent children with disabilities;
- (f) the head teacher of the education centre, who shall be an *ex officio* member; and
- (g) in the case of a sponsored education centre, one person nominated by the sponsor.

(2) A person is qualified for nomination to the board of management if the person holds at least a Kenya Certificate of Secondary Education.

(3) The head teacher to the education centre shall be the secretary to the board of management.

(4) The board of management shall report to the County Education Board on the performance of its functions under this Act.

(5) The members of the board of management shall, at their first meeting convened on such date as the County Education Board shall determine, appoint from amongst themselves, a person who shall be the chairperson of the board of management.

(6) The board of management may co-opt such persons not exceeding two in number to sit in the committee of the board, whose knowledge and skills are found necessary for the performance of the functions of the board.

(7) The board of management shall conduct its affairs in accordance with the provisions of the Second Schedule.

(8) Except as provided in the Second Schedule, the board of management may regulate its own procedure.

31. Functions of the board of management

The functions of the board of management are to—

- (a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting these needs;
- (b) mobilize the parents and local communities to initiate and sustain education centres and support early education programmes;
- (c) manage the early education programme in the centre in ensuring the provision of quality early childhood education;
- (d) identify local resources necessary to equip the education centre and identify sources for, and undertake fundraising activities to raise funds for the education centre;
- (e) ensure the provision of quality early education services in the education centre in accordance with the standards prescribed under this Act and by the County Education Board;
- (f) ensure the provision of adequate equipment and facilities within the education centre that such equipment and facilities are well maintained;
- (g) carry out advocacy in relation to the needs and the rights of the child in relation to early childhood education; and
- (h) carry out such other functions as may be necessary for the implementation of this Act within the education centre.

32. Committees of the board of management

The board of management of an early childhood education centre may establish such committees as the board of management may consider appropriate to perform the functions and discharge the responsibilities as the board of management may deem necessary.

33. Parents Teachers Association

(1) There shall be a Parents Teachers Association for every public and private school consisting of—

- (a) every parent with a learner in the education centre; and
- (b) a representative of the teachers in the education centre.

(2) There shall be an Executive Committee of the Parents Teachers Association consisting of representatives of parents with learners in each level within the education centre and a teacher.

(3) The members of the Executive Committee of Parents Teachers Association shall be elected during an annual general meeting of parents and teachers.

(4) The Parents Teachers Association shall, at its first meeting, elect a chairperson from amongst the persons elected under subsection (3).

(5) The chairperson of the Parents Teachers Association shall be co-opted to the board of management.

(6) The head teacher shall be the Secretary to the Parents Teachers Association.

(7) The functions of the Parents Teachers Association are to—

- (a) promote quality care, nutritional and health status of the learners;
- (b) maintain good working relationship between teachers and parents;
- (c) discuss, explore and advise the parents on ways to raise funds for the physical development and maintenance;
- (d) explore ways to motivate the teachers and learners to improve their performance in academic and co-curricular activities;
- (e) discuss and approve charges to be levied on learners or parents;
- (f) assist the school management in the monitoring, guidance, counselling and disciplining of learners; and
- (g) discuss and recommend measures for the welfare of staff and learners.

34. Annual report on governance

Every public education centre shall submit an annual report to the County Education Board.

35. Record keeping requirements

Every education centre shall keep, and make available to the County Education Board on request—

- (a) a register of the learners who attend or have attended the early childhood education centre, specifying the date of birth of each learner;
- (b) a record of the attendance of learners at the education centre;

- (c) a record of all fees and other charges paid in respect of learners' attendance at the education centre;
- (d) academic progress assessment reports in relation to each learner who is registered in the education centre;
- (e) a record of the immunizations administered with respect to each learner who is registered in the education centre; and
- (f) such other records that are necessary to enable the centre's performance to be monitored adequately.

36. Teaching staff

(1) A person is qualified for employment as an early childhood education teacher if the person is registered as a teacher by the Teachers Service Commission.

(2) A person is qualified for employment as a head teacher in an education centre if the person—

- (a) meets the requirements of subsection (1); and
- (b) has at least two years' experience in matters of early childhood education.

PART V – ADMINISTRATION OF THE
EARLY CHILDHOOD EDUCATION SYSTEM

37. Management of early childhood education within a county

(1) Each county government shall be responsible for the overall governance and management of early childhood education centres within the respective county.

(2) The county executive committee member in each County shall, in consultation with the County Education Board, determine the early childhood education resource and infrastructure requirements within the County.

38. Recruitment of early childhood teachers

(1) The county government shall be responsible for the—

- (a) recruitment and professional development of early childhood education teachers in public education centres within the county; and
- (b) maintenance of a register of early childhood education teachers recruited by it under paragraph (a).

(2) The county government shall pay to early childhood education teachers employed in public education centres within the county, such remuneration as it shall, in consultation with the Salaries and Remuneration Commission, determine.

39. Free admission into public education centre

(1) A person shall not charge or collect any fee for the purpose of admitting a child into any public education centre.

(2) Despite subsection (1), admission fees may be payable by persons who are not Kenyan citizens.

40. Period of admission

(1) A child shall be admitted in an education centre at the commencement of the academic year or within such other extended period as may be prescribed by an education centre.

(2) The person responsible for admission of children in an education centre shall not discriminate against any child seeking admission on any ground including ethnicity, gender, religion, race, age, disability, language or culture.

41. Age of admission

(1) A child who has attained the age of four years and who is not more than six years of age is eligible for admission in an education centre.

(2) Despite the provisions of subsection (1), the head teacher of an education centre may, where the head teacher considers it appropriate, admit a child who is more than six years of age.

(3) For purposes of subsection (1), the head teacher of an education centre may, in determining the age of a child, use the immunization card or birth certificate, passport or any other recognized identification document of the child.

(4) A child shall not be denied admission in an early childhood education centre for lack of proof of age.

42. Prohibition of administration of exams for purposes of admission

An education centre under this Act shall not administer examinations for the purpose of determining admission into the education centre.

43. Prohibition from holding back and expulsion

A learner admitted in an education centre shall not be held back in any class or expelled from the centre without the approval of the County Education Board.

44. Standards of education in a private education centre

A private education centre shall comply with and follow the curriculum approved by the Kenya Institute of Curriculum Development.

45. Framework of curriculum

(1) The Kenya Institute of Curriculum Development shall be responsible for the development of the early childhood education curricula to be applied by counties.

(2) The Kenya Institute of Curriculum Development shall review the curriculum framework to be administered by all licensed education centres within the county in consultation with the relevant stakeholders including the national and county quality assurance bodies—

- (a) within a period of five years after the development of the curriculum under subsection (1); and
- (b) subsequently every five years after each review.

(3) The Kenya Institute of Curriculum Development shall, in carrying out the review under subsection (2), take into account the specific or special needs of children within the respective county.

(4) In reviewing the curriculum under subsection (1), the Kenya Institute of Curriculum Development shall ensure that the curriculum adheres to the policy and guidelines on curricula developed by the Cabinet Secretary under the Basic Education Act, (No. 14 of 2013).

(5) As soon as practicable after reviewing the curriculum framework, the Kenya Institute of Curriculum Development shall publish by notice in the *Gazette*—

- (a) the curriculum framework that has been prescribed or, as the case may be, reviewed; and

- (b) the curriculum framework or the amendment to the curriculum framework in its entirety, or a notice as to the manner in which a copy of the curriculum framework or the amendment to the curriculum framework can be obtained by members of the public.

(6) If a curriculum framework is reviewed under this section, every service provider for a registered education centre and to whom that curriculum framework applies, shall implement that curriculum framework in accordance with any requirements prescribed in regulations made under this Act.

46. Free tuition

(1) A public childhood education centre shall not charge or cause any parent or guardian to pay tuition fee for or on behalf of any learner in the education centre.

(2) Despite subsection (1), a public education centre may charge tuition fees for the education of children who are not citizens of Kenya.

(3) A head teacher or a member of the board of management of a public education centre who imposes a charge or causes any parent or guardian to pay tuition fees commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months, or to both.

47. Education centre programmes.

In administering early childhood education, an education centre shall—

- (a) provide appropriate and adequate learning and play materials;
- (b) emphasize and carry out activities aimed at enhancing creativity amongst the children and use of learning materials; and
- (c) emphasize the child centred approach in individual learning for the development of each individual child.

48. Prohibition of holiday tuition

An education centre shall not undertake early childhood education services nor offer tuition during school holidays, on weekends or on a day declared to be a public holiday under the Constitution or the Public Holidays Act, (Cap. 110).

49. Teacher to child ratio

The teacher to child ratio in an early childhood education centre under this Act shall be as prescribed by the Cabinet Secretary in consultation with the Teachers Service Commission and the County Education Board.

50. Prohibition of education centres offering foreign curriculums

An education centre under this Act shall not offer boarding facilities unless the centre is a child care centre and is registered in accordance with the law regulating child care facilities.

PART VI – ACCREDITATION

51. Accreditation of education centres offering foreign curriculums

An education centre administering or intending to administer a foreign curriculum shall apply to the County Education Board for accreditation in the manner specified under this Part.

52. Application for accreditation

(1) An education centre which intends to apply for accreditation shall make an application to the County Education Board in the prescribed form.

(2) An education centre shall submit the application made under subsection (1) together with a certificate from the Kenya Institute of Curriculum Development containing a statement that the foreign curriculum adheres to the set curriculum for early childhood education.

53. Consideration of application

Upon receipt of an application under section 52, the County Education Board shall—

- (a) acknowledge receipt within a period of seven days of receipt of the application;
- (b) consider the application to determine if the applicant has submitted the required information; and
- (c) carry out a site visit to the education centre.

54. Evaluation of applicant for accreditation

(1) The County Education Board shall carry out a site visit of the education centre within a period of sixty days from the date of the application for accreditation.

(2) The County Education Board shall, in carrying out a site visit, authenticate the information submitted by the education centre and evaluate the institution to determine whether it meets the standards for the registration of an education centre under this Act.

55. Interim accreditation

(1) The County Education Board may, in consultation with the county executive committee member grant to an applicant a certificate of interim accreditation where the County Education Board is not satisfied that the education centre complies with the prescribed accreditation standards.

(2) An education centre to which a certificate of interim accreditation is issued under subsection (1) shall address areas of non-compliance within such a period as may be specified by the County Education Board not exceeding twelve months from the date on which the certificate is issued and on compliance, resubmit an application to the County Education Board for full accreditation.

(3) The certificate of interim accreditation is deemed to have expired if an education centre fails to meet the accreditation standards within the period specified by the County Education Board.

56. Grant of accreditation

(1) The County Education Board in consultation with the county executive committee member, may—

- (a) grant to an applicant a certificate of accreditation upon satisfaction that the education centre complies with the prescribed accreditation standards and meets the requirements under this Act; or
- (b) reject the application and give written reasons for the rejection.

(2) The certificate of accreditation shall be valid for a period of five years and renewable subject to the education centre meeting the prescribed conditions.

(3) The County Education Board may defer its decision on an application for accreditation and require the applicant to submit additional information or take such measures as the County Education Board may consider necessary.

57. Renewal of accreditation

(1) An education centre may make an application for renewal of its accreditation to the County Education Board in the prescribed form.

(2) An application for renewal of accreditation shall be submitted at least ninety days before the expiry of the certificate of accreditation.

(3) The County Education Board in consultation with the county executive committee member shall consider an application for renewal of accreditation.

58. Adherence to conditions for accreditation

An education centre to which a certificate of accreditation is issued shall—

- (a) adhere to the standards and conditions for accreditation; and
- (b) ensure that the curriculum administered in the centre meets the standards as may be determined under this Act.

59. Suspension of a certificate of accreditation

(1) The County Education Board may, in consultation with the county executive committee member suspend a certificate of accreditation issued to an education centre for a specified period where the centre fails to comply with the standards of accreditation until the standards are met.

(2) The County Education Board shall communicate a decision made under subsection (1) to the education centre specifying the reasons for the decision, the non-compliance noted and the action required to be taken by the education centre.

60. Revocation of accreditation

(1) The County Education Board may, in consultation with the county executive committee member, revoke a certificate of accreditation granted to an education centre where such centre—

- (a) fails to comply with a standard of accreditation; or
- (b) fails to correct any deficiency noted and communicated to the institution by the County Education Board.

(2) The County Education Board shall not revoke a certificate of accreditation unless it grants the education centre, a right to be heard on the revocation.

(3) An education centre whose certificate has been revoked may apply for accreditation after a period of not less than twelve months from the date of revocation of accreditation.

61. Appeal against decision of the County Education Board to revoke accreditation

An education centre which is aggrieved by the decision of the County Education Board may appeal to the Education Appeals Tribunal within a period of fourteen days from the date of the decision of the County Education Board.

62. Register of accredited education centres

(1) The County Education Board shall establish and maintain a register of accredited education centres.

(2) The register established and maintained under subsection (1) shall be open to the public for inspection.

PART VII – QUALITY ASSURANCE

63. Quality assurance

(1) There is established a committee known as the early childhood quality assurance committee which shall consist of—

- (a) two persons of either gender, not being public officers, appointed by the Governor by notice in the *County Gazette* and who have knowledge and at least ten years' experience in matters relating to early childhood education or education quality assurance;
- (b) the county executive committee member responsible for education or a representative nominated by the county executive committee member in writing;
- (c) one public officer in the department responsible for health, nominated by the respective county executive committee member responsible for matters relating to health;
- (d) one representative of the quality assurance body established under the Basic Education Act, (No. 14 of 2013);
- (e) one person with knowledge and experience in matters relating to education nominated by the County Education Board; and
- (f) one person representing persons with disabilities nominated by the National Council for Persons with Disabilities.

(2) The appointments under subsections 1(a) and 1(e) shall be for a term of three years renewable for one further term.

(3) The Committee shall at its first meeting elect a chairperson.

(4) The county executive committee member responsible for education shall establish a secretariat to support the Committee.

(5) The quality assurance committee, in consultation with the Education Standards and Quality Assurance Council, shall—

- (a) ensure the implementation and adherence to standards and guidelines on quality assurance in education centres in the County in accordance with the national standards developed by the Education, Standards and Quality Assurance Council;
- (b) ensure that the standards and quality of education offered in education centres under this Act and under any other written law are adhered to and maintained; and
- (c) monitor and evaluate and where appropriate, make proposals for and review of the standards and guidelines on quality assurance in the county.

PART VIII – SAFETY AND PROTECTION
OF CHILDREN IN AN EDUCATION CENTRE

64. Safety equipment

(1) The board of management in each education centre under this Act shall-

- (a) maintain premises that meet the requirements of the occupational health, safety regulations and building standards;

- (b) ensure the welfare and safety of the learners, teachers, non-teaching staff and other persons within the institution; and
- (c) put in place fire fighting equipment, first aid and other emergency equipment and non-prescription medicine as the county executive committee member may prescribe.

(2) In providing the equipment specified under subsection (1)(c), the centre shall ensure that such equipment is accessible during an emergency.

(3) The equipment and medicine under subsection (1) shall be maintained or kept by a centre in such manner as to ensure that it is out of the reach of children and ensures that the safety of the children is not compromised.

(4) The Cabinet Secretary shall prescribe minimum standards for the health and safety of learners and for a satisfactory environment for education.

65. Prohibition of corporal punishment

(1) No teacher or any staff of an education centre shall administer corporal punishment.

(2) A child in an education centre shall not be subject to emotional or psychological abuse.

(3) A person who contravenes subsection (1) commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand or to imprisonment for a term not exceeding four years, or to both.

PART IX – TRANSITIONAL PROVISIONS

66. Existing education centres

(1) Subject to subsections (2), (3) and (6), every education centre that, immediately before the commencement of this Act, was registered as an education centre shall be deemed to be registered as an education centre under this Act, and continues to be so licensed for a period of one year after the commencement of this Act subject to such conditions of registration as may be imposed under this Act.

(2) Despite subsection (1), the County Education Board may give written notice to the registered owner of an education centre registered under subsection (1), requiring the service provider who operates that centre to apply for registration under section 14 within three months of the date of that notice, and—

- (a) if that service provider fails to apply for registration within the specified period, the centre ceases to be registered under subsection (1) at the end of that period; or
- (b) if the service provider makes an application within the required period, the centre continues to be registered under subsection (1) until that application is determined.

(3) Despite subsection (1), if subsection (4) applies, the County Education Board may, by written notice to the service provider who operates an education centre that is deemed to be registered under subsection (1), declare that the centre is no longer registered under subsection (1) and the notice has effect accordingly.

(4) The County Education Board may give a notice under subsection (3) only if it is satisfied that the service provider or the centre—

- (a) has failed to comply with this Act on the requirements of registration; or
- (b) fails to comply with any conditions for registration.

(5) The County Education Board may, despite the fact that the centre concerned does not meet the minimum requirements for registration under section 13 or 17, issue to the service provider operating the centre a transitional certificate in such manner as the county executive committee member may prescribe and subject to such conditions as he or she may impose.

(6) Where the County Education Board is not satisfied that the conditions specified in a certificate issued under [subsection (5) are being complied with, the County Education Board may, by written notice to the service provider operating the centre, cancel the certificate.

(7) Every notice under subsection (3) or subsection (6) shall set out the reasons for the action taken.

(8) Subsections (1) to (6) shall not limit any powers to cancel or suspend the registration of an education centre in the manner prescribed by the county executive committee member.

67. Qualified persons

A person employed as an early childhood teacher at the commencement of this Act and does not possess the minimum requirements as stated under section 36(1) shall continue to qualify for employment as an early childhood teacher if that person obtains the necessary qualifications within four years of the commencement of this Act.

PART X – MISCELLANEOUS PROVISIONS

68. Regulations

(1) The Cabinet Secretary may, in consultation with the Council of County Governors, make regulations generally for the better carrying out of the provisions of this Act.

(2) The Cabinet Secretary shall, in consultation with the Teachers Service Commission and the Council of County Governors, prescribe minimum standards relating to schemes of service for early childhood teachers within one year of enactment of this Act.

(3) Without prejudice to the generality of subsection (1), the Cabinet Secretary may—

- (a) prescribe minimum standards relating to the following matters—
 - (i) premises and facilities;
 - (ii) programmes of education;
 - (iii) practices in relation to children's learning and development;
 - (iv) staffing and parental or caregiver participation;
 - (v) health and safety;
 - (vi) implementation of the curriculum framework;
 - (vii) communication and consultation with parents;
 - (viii) the operation or administration of early childhood education services in a manner that ensures the health, comfort, care, education, and safety of children attending licensed early childhood services;
- (b) limit or regulate the numbers of children who may attend a registered education centre;

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- (c) provide for the grant, duration, expiry, renewal, suspension, transfer, reclassification, and cancellation of registration certificates of one or more specified kinds for service providers for each kind of early childhood service;
 - (d) prescribe the conditions subject to which such registration certificates may be granted, renewed or transferred and the fees payable in respect of the grant, renewal, and transfer of such certificates;
 - (e) prescribe conditions governing, or that may be imposed in respect of, registered education centres and the duties of their service providers;
 - (f) prescribe the records to be kept by education centres in respect of children attending registered centres; and
 - (g) prescribe fees required to be paid under this Act.
- (4) Regulations made under subsection (2) may prescribe different standards and other requirements—
- (a) for early childhood services of different types or descriptions; and
 - (b) in respect of different kinds of registrations.
- (5) For the purposes of Article 94(6) of the Constitution—
- (a) the authority of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
 - (b) the principles and standards set out under the Interpretation and General Provisions Act, (Cap. 2) and the Statutory Instruments Act, (No. 23 of 2013) in relation to subsidiary legislation shall apply to regulations made under this Act.

69. General penalty

A person who contravenes any provision of this Act for which no penalty is specifically provided commits Early Childhood Education an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

70. Amendments to No. 14 of 2013

The Basic Education Act, (No. 14 of 2013) is amended—

- (a) in section 2 by—
 - (i) deleting the words "pre-primary education institutions and" and substituting therefor the words "early childhood education" in the definition of the word "basic education";
 - (ii) inserting the following new definition immediately after the definition of the expression "Duksi"—
 - (iii) "early childhood education" has the meaning assigned to it under the law relating to early childhood education;"
 - (iv) deleting the definition of "pre-primary education";
 - (v) deleting the words "pre-primary education and substituting therefor the words "early childhood education" in the definition of "primary education";
- (b) in section 4(g) by deleting the word "pre-primary" and substituting therefor the words "early childhood";

- (c) in section 18(1) by deleting the word "pre-primary" and substituting therefor the words "early childhood";
- (d) in section 26(1) by deleting the word "pre-primary" and substituting therefor the words "early childhood";
- (e) by deleting the word "pre-primary" appearing in section 28(2)(a) and substituting therefor the words "early childhood";
- (f) in section 41(1) by deleting the word "pre-primary" and substituting therefor the words "early childhood";
- (g) by deleting the word "pre-primary," appearing in section 44(2) and substituting therefor the words "early childhood";
- (h) by deleting paragraph (a) of section 55(1);
- (i) by repealing section 58; and
- (j) by deleting the word "pre-primary" appearing in section 76(4).

FIRST SCHEDULE

[section 6, section 19]

**CRITERIA FOR DETERMINING THE SUITABILITY OF PREMISES
FOR THE CONDUCT OF EARLY CHILDHOOD EDUCATION**

1. The number of children admitted into the education centre.
2. The size of the classrooms which shall not be less than 8m x 6m and which shall hold not more than forty children.
3. Condition of the premises.
4. Adequate ventilation.
5. Lockable doors and windows and the existence of emergency exits.
6. Ablution blocks suitable for use by children.
7. Adequate furniture suitable for use by children.
8. Existence of play or psychomotor materials and teaching materials.

SECOND SCHEDULE

[section 30]

**CONDUCT OF AFFAIRS OF BOARD OF MANAGEMENT
OF EARLY CHILDHOOD EDUCATION CENTRE**

1. Meeting of the Board
 - (1) The board of management shall meet at least once in every three months to conduct its business.
 - (2) The first meeting of the board shall be convened by the chairperson and the board shall meet subsequently at such a time and place as it shall determine.
 - (3) Notwithstanding the provisions of sub-paragraph (1), the chairperson shall, upon a written request by at least five members of the board, convene a special meeting of the board at any time where he considers it expedient for the transaction of the business of the board.

- (4) The members of the board shall elect a vice-chairperson from among themselves—
- (a) at the first sitting of the board; and
 - (b) whenever it is necessary to fill the vacancy in the office of the vice-chairperson.

(5) A meeting shall be presided over by the chairperson or in his absence by the vice-chairperson.

(6) The board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the board.

(7) The proceedings of the board shall not be invalidated by reason of a vacancy within its membership.

2. Quorum

- (1) Subject to sub-paragraph (2), the quorum of a meeting the board shall not be less than half of the members.
- (2) Where there is a vacancy in the board, the quorum of the meeting shall not be less than three appointed members.
- (3) Unless a unanimous decision is reached, a decision on any matter before the board shall be by a simple majority of the votes of the members present and voting and in the case of an equality of votes, the chairperson or person presiding over the meeting shall have a casting vote.

3. Conflict of interest

- (1) A member of the board who has a direct or indirect personal interest in any matter being considered or to be considered by the board shall, upon the relevant facts concerning the matter having come to his knowledge, disclose the nature of his interest to the board.
- (2) A disclosure of interest made by a member of the board under sub-section (1) shall be recorded in the minutes of the meeting of the board and the member shall not, unless the board otherwise determines—
 - (a) be present during the deliberation on the matter by the board; or
 - (b) take part in the decision of the board on the matter.
- (3) A member of the board who makes a disclosure under sub-section (1) shall not—
 - (a) be present in the meeting of the board held to determine whether or not the member should take part in the deliberations or decision of the board in relation to the matter; or
 - (b) influence any other member of the board in arriving at a particular decision in relation to the matter.
- (4) No member of the board shall transact any business or trade with the education centre.

4. Rules of Procedure and minutes

- (1) Subject to provisions of this Schedule, the board may determine its own procedure and the procedure for any committee of the board.
- (2) The board shall cause the minutes of all proceedings of its meetings to be, recorded and kept, and the minutes of each meeting shall be confirmed by

the board at the next meeting of the board and signed by the chairperson or the person presiding at the meeting.
