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THE LAMU COUNTY PRE-PRIMARY AND EARLY CHILDHOOD EDUCATION BILL, 2016

A Bill for

AN ACT of County Assembly of Lamu to give effect to paragraph 9 of part 2 of the Fourth Schedule of the *Constitution*, to provide for Pre-Primary and Early Childhood Education and for other connected purposes.

ENACTED by the County Assembly of Lamu as follows—

PART I — PRELIMINARY

Citation.

1. This Act may be cited as the **Lamu County Pre-Primary and Early Childhood Education Act, 2016**, and shall come into operation on a date appointed by the executive committee member responsible for education by notice in the County and or *Kenya Gazette*, which date shall not be later than ninety days from the date of its publication.

Interpretation & Objects

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

“early childhood” means the age between three and five years of a child;

“County Education Board” means the County Education Board established under the Basic Education Act, 2013;

No. 14 of 2013.

“Unit” means the Early Childhood Development Unit established under section 5;

“pre-primary” means the period of age between four and six years before the child joins level one in a primary school.

(2) The objects and the purpose of this Act are—

(a) to give effect to paragraph 9 of part 2 of the Fourth Schedule of the *Constitution*;

(b) to provide a framework for Pre-Primary and Early Childhood Education establishments.

**PART II— RESPONSIBILITIES RELATING
TO PRE-PRIMARY AND EARLY CHILDHOOD
EDUCATION**

Responsibilities of
the Governor.

3. (1) The governor shall promote the establishment of pre-primary and early childhood schools, centres and institutions in the county to ensure pre-primary education and development for all children below the age of six years before they proceed to the compulsory basic primary education.

No. 14 of 2013.

(2) The governor shall organise the pre-primary and early childhood education system in the County and be responsible for the general progress, development and co-ordination of the system and its activities in accordance with the Basic Education Act, 2013.

Executive
committee to
issue guidelines
on minimum
standards.

4. The County Executive Committee shall, in consultation with the County Education Board established under the Basic Education Act—

- (a) provide the curriculum, guidelines on minimum standards for school buildings, equipment and other relevant facilities for pre-primary and early childhood schools, centres and institutions;
- (b) provide the curriculum for the training of pre-primary and early childhood teachers and ensure that the teachers who teach in the schools, centres and institutions have the necessary qualifications; and
- (c) ensure that all pre-primary and early childhood schools, centres and institutions are licensed, registered and regularly inspected by government education inspectors.

Early Childhood
Development Unit.

5. (1) There shall be a Unit of Early Childhood Development within the County Department responsible for education.

(2) The principal functions of the Early Childhood Development Unit shall be to—

- (a) advise the Governor and the Executive Committee on all matters relating to pre-primary and early childhood education;
- (b) facilitate the raising and obtaining of funds for the promotion and development of pre-primary and early childhood education;
- (c) initiate guidelines on the establishment of pre-primary and early childhood schools centres and institutions for approval by the Executive Committee;
- (d) register pre-primary and early childhood schools, centres and institutions;
- (e) carry out any other function for the effective provision of pre-primary and early childhood education.

Head of Early
Childhood
Development
Unit.

6. (1) The Early Childhood Development Unit shall be headed by a public officer competitively appointed by the County Public Service Board.

(2) A person is qualified for appointment as head of the Early Childhood Development Unit if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree in education from a recognised university;
- (c) has knowledge and relevant experience in primary or pre-primary education or social work; and
- (d) meets the requirements of leadership and integrity set out in chapter six of the *Constitution*.

(3) A person shall not be qualified for appointment as the head of the Early Childhood Development Unit under subsection (2) if that person—

- (a) is a member of Parliament or the County Assembly;
- (b) is declared to be of unsound mind;
- (c) is an un-discharged bankrupt; or
- (d) has been removed from office for contravening the provisions of the *Constitution* or any other written law.

Other officers and staff of the Unit.

7. (1) The County Public Service Board may appoint other officers, technical staff and other employees as may be necessary for the proper discharge of the functions of the Unit under this Act, and upon such terms and conditions of service as the County Public Service Board may determine.

(2) The Unit may have such consultants or experts as may be necessary for the discharge of its functions.

Annual and other reports.

8. (1) The Unit shall prepare and submit an annual report to the governor and may submit to the County Education Board including the number of schools, centres or institutions established and registered in that year and the general status of the pre-primary and early childhood education system in the County.

(2) Notwithstanding subsection (1), the governor or County Executive Member responsible for education may at any time, require a report from the Unit on any particular matter under the responsibility of the Unit.

(3) A report submitted under subsection (1) or (2) shall be tabled in the County Assembly.

PART III — REGISTRATION OF SCHOOLS, CENTRES AND INSTITUTIONS

School, centre or institution to be registered.

9. (1) A person shall not operate a pre-primary or early childhood school, centre or institution unless it is registered under this Act.

(2) A person shall not use any premises or facility to provide pre-primary or early childhood education unless the premises or facility of the school, centre or institution has undergone a quality review and approved in accordance with the guidelines and standards issued under section 4 of this Act.

(3) Any person who operates a pre-primary or early childhood school, centre or institution which is not registered under this Act commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings.

Application for registration.

10. (1) An application for registration of a school, centre or institution under this Act shall be in a form prescribed by the executive committee member responsible for education.

(2) An application for registration of a school, centre or institution under this Act shall be submitted to the Unit.

(3) Within seven working days after receipt of an application under subsection (1), the Unit shall forward a copy of the application to the County Education Board.

(4) The County Education Board shall, within fifteen working days after receiving the application under subsection (3)—

- (a) visit and conduct an inspection of the proposed premises for the school, centre or institution; and
- (b) conduct an interview with the applicant to assess the suitability of the equipment and the persons proposed to be employed in the school, centre or institution.

(5) The County Education Board shall within a period of fifteen working days after the inspection and interview forward its recommendation to the Unit for the registration of the school, centre or institution or to take such other action as the Unit may deem fit.

Applicant to pay prescribed fee.

11. Any person making an application for registration of a pre-primary or early childhood school, centre or institution shall pay the prescribed fees to the Unit.

Publication of the application.

12. The Unit shall, upon receipt and after forwarding the application for the registration of a pre-primary or early childhood school, centre or institution to the County Education Board, publish the application in the *County Gazette*.

Registration of a school, centre or institution.

13. (1) The Unit shall register a pre-primary or early childhood school, centre or institution if the Unit is satisfied, based upon the written report of the County Education Board, that—

- (a) the applicant is an adult and a fit and proper person to operate the school centre or institution;
- (b) the applicant has not been convicted of an offence under the Psychotropic and Dangerous Drugs Act, or the Children’s Act, or an offence involving fraud, dishonesty or moral turpitude;
- (c) where the applicant is a company, firm or other organisation, none of its directors or members, has been convicted of an offence mentioned in paragraph (b);
- (d) none of the persons to be employed by the applicant in the operation of the institution has been convicted of an offence mentioned in paragraph (b).
- (e) the applicant or a person to be employed by the applicant in the operation of the institution is not, by reason of any infirmity of mind or body or otherwise, incapable of operating or being employed in the institution.

No. 8 of 2001.

(2) Any person aggrieved by the decision of the Unit under this section may, within thirty days of being notified of the decision, appeal against the decision to the Education Appeals Tribunal established under the Basic Education Act.

Permit to operate prior to registration.

14. (1) The Unit may, upon recommendation by the County Education Board, issue to the applicant for registration of a school, centre or institution, a permit to operate pending the fulfilment of the conditions required by the Board for the determination of the application.

(2) A permit under subsection (1) shall cease to operate upon—

- (a) the delivery of a certificate of registration to the applicant; or
- (b) the expiry of twenty-four hours after receipt of the notice of refusal of registration or such longer period as the Unit may specify in the notice.

(3) As a condition of the grant of a permit under this section, the Unit may prescribe a period within which the applicant must fulfill the conditions required by the Board for the improvements of the operation or the premises of the school, centre or institution.

(4) A permit issued under this section shall be in the form prescribed by the executive committee member responsible for education.

(5) The holder of a permit under this section shall allow an inspector to enter the premises of the school, centre or institution, at all reasonable hours, for the purpose of carrying out any inspection to ascertain whether or not the school, centre or institution is in compliance with the conditions of the permit.

Registration certificate.

15. (1) The Unit shall, on registration of a pre-primary or early childhood school, centre or institution, issue a registration certificate to the applicant.

(2) A registration certificate shall be valid for a period of five years from the date of issue and may be renewed on application by the operator of the pre-primary or early childhood school, centre or institution, in accordance with this Act.

Registration certificate to be displayed.

16. The registration certificate issued under section 15 shall be displayed, by the operator, in a conspicuous place on the premises of the pre-primary or early childhood school, centre or institution.

Register of schools etc. to be Kept.

17. The Unit shall keep a register of all pre-primary and early childhood schools, centres and institutions operating in the County and shall include in the register name of the schools, centres or institution and such other particulars as the executive committee member responsible for education may be prescribed.

PART IV — MISCELLANEOUS PROVISIONS

Administrative and technical costs.

No. 18 of 2012.

Public may institute complaint.

18. The annual estimates of the County Department of Education in accordance with the Public Finance Management Act, 2012, make provision for the administrative and technical costs of the Unit.

19. (1) A person may make a complaint in writing to the Unit if that person has reason to believe that—

- (a) a pre-primary or early childhood school, centre or institution is operating illegally or is contravening any provision of this Act; or
- (b) a child at any pre-primary or early childhood school, centre or institution has been abused or has suffered injury or harm as a result of the act or negligence of the operator, a person acting as an agent, or any person employed in the school, centre or institution.

(2) Upon receiving a complaint under subsection (1), the Unit shall refer the complaint to a police inspector in the area of the school, centre or institution and notify the County Education Board of the complaint.

(3) The police officer shall, subject to subsection (4), make such inquiries as may be appropriate and may conduct discussions with the complaining party, the operator of the school, centre or institution and any employee involved in the complaint.

(4) The police officer shall submit to the department a report containing the following information—

- (a) the grounds of the complaint, noting any facts in dispute between the relevant parties;
- (b) whether, in the opinion of the police inspector, the matter can be remedied;
- (c) if the police officer is of the opinion that the matter can be remedied, the measures recommended by the inspector to effect the remedy; and
- (d) the time period that the police officer considers to be reasonably sufficient to effect the remedy.

(5) Upon receiving a report under subsection (4), the Unit shall constitute a committee to consider the report and shall—

- (a) give notice in writing to the operator, the complaining party and any other party referred to in the report, of the constitution of a committee to consider the report;
- (b) specify the date, being not less than seven days from the date on which the parties receive the notice, when the parties may attend before the committee to make representations on the complaint.

(6) Any person who attends before the committee under subsection (5) shall be entitled to legal representation.

(7) After consideration of the report, the committee shall submit its recommendation to the head of the Unit who, taking the recommendation into consideration, may—

- (a) dismiss the complaint; or
- (b) direct the implementation of the recommendations in the report, subject to such variations as he or she may deem appropriate;
- (c) inform the County Education Board of the decision made.

(8) Any person aggrieved by the decision of the Head of the Unit under this section may, within thirty days of being notified of the decision, appeal against the decision to the Education Appeals Tribunal established under the Basic Education Act.

(9) This section is without prejudice to any other proceedings that may be lawfully instituted against the operator, employee or other relevant party.

Publication of matters of concern to the community.

20. The Unit shall cause any matter of concern to the community in the County relating to pre-primary and early childhood schools, centres and institutions to be published—

- (a) by fixing a copy of the document comprising the matter in a conspicuous place on or near the outer door of its offices;
- (b) by including the document comprising the matter as a supplement to an official local publication, if any; or
- (c) in any other manner as is customary published in the area.

Regulations.

21. (1) The executive committee member responsible for education may, in consultation with the executive committee, make regulations generally for the better carrying out of the purposes and provisions of this Act,

(2) The executive committee member responsible for education shall cause a draft of the Regulations proposed to be made under sub-section (1) to be laid before the Assembly for approval before publication in the *County Gazette*.

MEMORANDUM OF OBJECTS AND REASONS

This Bill is to give effect to paragraph 9 of part 2 of the Fourth Schedule of the *Constitution*, to provide for Pre-Primary and Early Childhood Education.

PART I of the Bill provides for preliminary matters including citation of the Bill and the interpretation of words and expressions used in the Bill.

PART II of the Bill, Sections 3 – 8 provides for the responsibility of the governor, executive committee, established early childhood development unit and its functions.

PART III of the Bill, Sections 9 – 17 provides for registration of pre-primary schools, centres and institutions;

PART IV of the Bill, Sections 18 – 21 provides for miscellaneous including administrative costs, public complaints, publication and regulations.

This is not a money Bill.

Dated this 4th day of January 2016.

MCA AMINA KALE LOO
Chair—Education, Culture & Social Welfare Committee