

**THE ISIOLO COUNTY EARLY CHILDHOOD EDUCATION BILL, 2014**

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**A Bill for**

**An Act of the County Assembly of Isiolo to provide for early childhood education in Isiolo County and for other connected purposes.**

**Enacted** by the County Assembly of Isiolo County as follows—

**PART I—PRELIMINARY**

Short title and commencement

1. This Act may be cited as the Isiolo County Early Childhood Education Act, 2014 and shall come into operation upon publication in the county Gazette.

Interpretation

2. In this Act—

“centre” means an early childhood education centre and includes an institution offering pre-primary education;

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

“early childhood education” means the education of children below the age of six years and includes pre-primary education;

“early childhood” means any age below six years;

“Executive Committee Member” means the county Executive Committee Member responsible for matters relating to education and cultural services;

“inspector” means inspector of schools appointed under the Basic Education Act, 2013;

“early childhood education centre” means an early childhood education centre registered under this Act;

“service provider” means a person who operates an early childhood education centre.

Meaning of early childhood education centre

3. An early childhood education centre means premises used regularly for the education of three or more children by the day or part of a day to—

(a) children under the age of six who do not belong to the person providing the education; but

(b) not for any continuous period of more than seven days; and

(2) Subject to subsection (3), the following premises are not early childhood education centres—

- (a) a school;
- (b) a child care facility;
- (c) a hostel;
- (d) a residence;
- (e) a hospital; and
- (f) premises where all the children present are members of the same family in the care of a member of the family or members of the same family in the care of a caregiver who is not acting for gain or reward;

(3) A centre may be operated within the premises of a registered school and its status as a centre is not affected by the fact that it is being operated within those premises.

(4) A centre includes one offering pre-primary education.

## **PART II—RESPONSIBILITIES RELATING TO EARLY CHILDHOOD EDUCATION**

Obligation of the county government

- 4.** (1) The county government shall progressively establish and maintain in each ward centres to ensure the education and development for all children below the age of six years before they proceed to the compulsory basic primary education.

Duties of the Executive Committee Member

- 5.** (1) The Executive Committee Member shall organize the early childhood education system in the county and be responsible for the general progress, development and co-ordination of the system.

No. 14 of 2013

(2) The Executive Committee Member shall, in consultation with the County Education Board established under the Basic Education Act—

- (a) provide the guidelines on minimum standards for buildings, equipment and other relevant facilities for the centres;
- (b) provide the curriculum for the training of early childhood education teachers;

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- (c) ensure that the teachers who teach in the centres have the necessary qualifications; and
  - (d) ensure that all centres are registered and regularly inspected by government education inspectors and health inspectors.
- Directorate of Early Childhood Education
6. There shall be an Early Childhood Education Directorate within the Department responsible for education in the county.
- Functions of the Directorate
7. The Directorate shall—
- (a) advise the Governor and the Executive Committee on all matters relating to early childhood education;
  - (b) facilitate the raising and obtaining of funds for the promotion and development of early childhood education;
  - (c) initiate guidelines on the establishment of centres for approval by the Executive Committee;
  - (d) register centres; and
  - (e) carry out any other activity relating to centres that may be necessary or assigned by any national or county legislation.
- Powers of the Directorate
8. The Directorate shall have all powers necessary for the proper performance of its functions under this Act.
- Head of Directorate of early childhood education
9. (1) The Directorate of Early Childhood Education 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 Directorate of Early Childhood Education if that person—
- (a) is a citizen of Kenya;
  - (b) holds a degree in education from a recognized 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 Directorate of Early Childhood Education under subsection (2) if that

person—

- (a) is declared to be of unsound mind;
- (b) is an undischarged bankrupt; or
- (c) has been removed from office for contravening the provisions of the Constitution or any other written law.

Other officers and staff  
of the Directorate

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

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

Register of centres to  
be maintained

**11.** The Directorate shall maintain a register of all centres operating in the county and shall include in the register names of the centres and such other particulars as the Executive Committee Member may require.

Administrative  
requirements

**12.** The service provider of every registered centre shall keep, and avail to the Directorate on request—

- (a) a register of the children who attend or have attended the service, specifying the date of birth of each child; and
- (b) a record of the attendance of children at the centre; and
- (c) a record of all fees and other charges paid in respect of children's attendance at the service; and
- (d) any other records that are necessary to enable the service's performance to be monitored adequately.

### **PART III—REGISTRATION OF EARLY CHILDHOOD EDUCATION CENTRES**

Early childhood  
education centres to be  
registered

**13.** (1) A person shall not operate a centre unless it is registered under this Act.

(2) A person shall not use any premises to provide early childhood education unless the premises has undergone quality review and has been approved in accordance with the guidelines and standards issued under section 5 of this Act.

(3) A person who operates a centre 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

**14.** (1) An application for registration of a centre shall be in a form prescribed by the Executive Committee Member and shall be submitted to the Directorate.

(2) Within fifteen working days after receipt of an application under subsection (1), the Directorate shall—

(a) visit and conduct an inspection of the proposed premises for the centre; and

(b) conduct an interview with the applicant to assess the suitability of the equipment and the persons proposed to be employed in the centre.

(3) The Directorate shall, within a reasonable period after the inspection and interview, forward its recommendation to the Directorate for the registration of the centre or take such other action as it deems fit.

Applicant to pay prescribed fee

**15.** A person making an application for registration of a centre shall pay the prescribed fees to the Directorate.

Publication of the application

**16.** The Directorate shall, upon receipt of the application for the registration of a centre, publish the application in the county Gazette.

Registration of a centre

**17.** (1) The Directorate shall register a centre if it is satisfied that—

(a) the applicant is a fit and proper person to operate the centre;

(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 organization, 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 centre has been convicted of an offence mentioned in paragraph (b); or

(e) the applicant or a person to be employed by the applicant in the operation of the centre is not, by reason of any infirmity of mind or body or otherwise, incapable of operating or being

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employed in the centre.

(2) A person aggrieved by the decision of the Directorate under this section may, within thirty days of being notified of the decision, appeal against the decision to the County Education Board.

Permit to operate prior to registration

**18.** (1) The Directorate may, issue to the applicant for registration of a centre, 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 the—

(a) delivery of a certificate of registration to the applicant; or

(b) expiry of twenty-four hours after receipt of the notice of refusal of registration or such longer period as the Directorate may specify in the notice.

(3) As a condition of the grant of a permit under this section, the Directorate may prescribe a period within which the applicant must fulfil the conditions for the improvements of the centre.

(4) A permit issued under this section shall be in the form prescribed by the Executive Committee Member.

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

Registration certificate

**19.** (1) The Directorate shall, on registration of a centre, 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 centre, in accordance with this Act.

Registration certificate to be displayed

**20.** The registration certificate issued under section 20 shall be displayed, by the operator, in a conspicuous place on the premises of the centre.

#### **PART IV—POWERS OF ENTRY AND INSPECTION**

Parent's right of entry

**21.** A parent or guardian of a child has a right of entry to a registered centre whenever their child is at the centre, except if the parent or guardian—

(a) is subject to an order of a court that prohibits access to, or contact with, the child, either generally or with respect to the

child while, or at a time when the child is, attending the centre or service; or

(b) is suffering from a contagious or infectious disease likely to have a detrimental effect on the children if passed on to them; or

(c) is, in the opinion of a person responsible for the operation of the centre, under the influence of alcohol or any other substance that has a detrimental effect on the functioning or behaviour of the person; or

(d) is, in the opinion of a person responsible for the operation of the centre, exhibiting behaviour that is or is likely to be disruptive to the effective operation of the centre.

Powers of entry and inspection without warrant

**22.** (1) A person holding an authorisation under subsection (3) may, for the purpose of ensuring that the provisions of this Act, or the conditions of any licence or grant issued or made under any of those provisions, are being complied with, or for the purpose of conducting an audit, at any reasonable time—

(a) enter and inspect any premises that are or contain a registered centre;

(b) inspect, photocopy, print out, or copy any documents, whether held in electronic or paper form, that the person believes on reasonable grounds to be those of the registered centre;

(c) remove any document described in paragraph (b), whether in its original form or in an electronic form or as a paper copy.

(2) If a document is removed from the premises under subsection (1)(c), the person who removes it shall—

(a) leave at the premises a list of the documents removed; and

(b) return the documents, or a copy of them, to the premises as soon as practicable, unless to do so would prejudice any investigation being or to be carried out by the government.

(3) The Executive Committee Member may authorise, in writing, any person who, in the opinion of the Executive Committee Member, is suitably qualified and trained in the exercise of powers under subsection (1), to exercise those powers.

(4) An authorisation under subsection (3) shall contain—

- (a) a reference to this section; and
- (b) the full name of the person authorised; and
- (c) a statement of the powers conferred on that person by this section.

(5) A person exercising a power under subsection (1) shall have the appropriate written authorisation, and evidence of identity, and shall produce them to the person in charge of the premises concerned or, as the case may be, the person having possession or control of the documents concerned—

- (a) on first entering the premises; and
- (b) whenever subsequently reasonably required to do so by the person in charge.

(6) For the purposes of this section and section 24, inspection, in relation to any premises, includes observing any children present in the centre.

Powers of entry and inspection with warrant

**23.** (1) A person authorised by section 25(3) who has reasonable grounds to believe that any premises are being used as a centre in contravention of this Act, may apply, in writing, and on oath to court for a warrant.

(2) If the magistrate to whom the application is made is satisfied that there are reasonable grounds to believe that the premises are being so used, they may issue a warrant directed to the person by name authorising the person to enter and inspect the premises.

(3) A warrant issued under subsection (2) shall contain—

- (a) a reference to this section; and
- (b) the full name of the person authorised;
- (c) a description of the premises concerned; and
- (d) the date on which it was issued and the date on which it expires.

(4) A warrant issued under subsection (2) shall authorise the person

named in it, at any reasonable time within four weeks after the date on which it is issued, to—

(a) enter the premises described in the warrant; and

(b) do, on those premises, anything necessary to ascertain whether those premises are being used as a centre, in contravention of this Act.

(5) A person exercising any power under subsection (4) shall have the appropriate warrant and proof of identity and shall produce them to the occupier of the premises concerned—

(a) on first entering the premises; and

(b) whenever subsequently reasonably required to do so by the occupier.

(6) Each warrant issued under subsection (2) expires on the earlier of the following dates—

(a) the date when the purpose for which it was issued has been satisfied; or

(b) the date specified as the date of expiry under subsection (3)(d).

#### **PART V—PROVISIONS ON FUNDING**

Administrative and technical costs

No. 18 of 2012

Funding of certain early childhood education services

**24.** The annual estimates of the Directorate shall, in accordance with the Public Finance Management Act, 2012, make provision for the administrative and technical costs of the Directorate.

**25.** In every year, out of money appropriated by the County Assembly—

(a) the service provider for every registered centre may be paid a grant; and

(b) the management of a body corporate that fulfils the requirements prescribed by regulations may be paid a discretionary grant for the purpose of establishing a registered early childhood education service.

(2) The amount of every grant shall be determined by the Executive Committee Member.

(3) The Executive Committee Member may, from time to time,

determine the means by which the amounts of grants may be calculated or ascertained; and—

- (a) different means may be determined in respect of—
  - (i) grants of different classes or descriptions; and
  - (ii) registered early childhood education services of different classes or descriptions; and
- (b) the amount of a grant may be determined accordingly; but
- (c) nothing in this subsection limits or affects the Executive Committee Member's power under subsection (2) to determine the amount of any grant.

(4) A grant—

- (a) may be paid unconditionally, or subject to any conditions the Executive Committee Member may specify in writing when the grant is paid or earlier; and
- (b) may be paid to be used for any purpose the service provider considers appropriate, or for only such purposes as the Executive Committee Member specifies in writing when the grant is paid or earlier; and
- (c) may be withheld in whole or in part if the service provider fails to comply with any regulations made under this Act.

(5) The service provider shall ensure that—

- (a) where a grant has been paid subject to conditions, the conditions are complied with; and
- (b) if a grant has been paid to be used only for purposes specified by the Executive Committee Member under subsection (4)(b), the grant is used only for those purposes.

Annual report

**26.** (1) The Directorate shall prepare and submit an annual report to the Executive Committee Member.

(2) The report referred to in subsection (1) shall include the number of centres established and registered in that year and the general status of the early childhood education system in the county.

(3) Despite subsection (1), the Executive Committee Member may at any time, require a report from the Directorate on any particular matter under the responsibility of the Directorate.

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

## **PART VI—MISCELLANEOUS PROVISIONS**

Offences relating to ceasing operation of a centre

**27.** (1) A service provider who operates a centre commits an offence if the service provider ceases to operate it, in circumstances other than an emergency, without first informing the Directorate that it shall stop operating the centre.

(2) A service provider who commits an offence under subsection (1) is liable, on conviction, to a fine not exceeding fifty thousand shillings.

(3) A service provider who operates a centre commits an offence if the service provider ceases to operate it, in circumstances involving an emergency, and fails to tell the Directorate as soon as is reasonably practicable after the closure.

(4) A service provider who commits an offence under subsection (3) is liable, on conviction, to a fine not exceeding thirty thousand shillings.

Offence of insulting, abusing, or intimidating staff

**28.** A person who intentionally insults, abuses, or intimidates a teacher or member of staff of a centre commits an offence, and is liable, on conviction, to a fine not exceeding twenty thousand shillings.

Offence of obstructing power of entry

**29.** A person who obstructs, hinders, resists, or deceives any person exercising or attempting to exercise a power of entry conferred under this Act commits an offence, and is liable, on conviction, to a fine not exceeding one hundred thousand shillings.

Publication of matters of concern to the community

**30.** The Directorate shall cause any matter of concern to the community in the county relating to centres 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; or

(b) by including the document comprising the matter as a supplement to an official local publication, if any.

Protection from personal liability

**31.** No action or omission by the Executive Committee Member or staff of the Directorate or any person carrying out a function under this Act

shall, if the act was done in good faith for the purpose of carrying out the provision of this Act or any other law, subject the person to any liability, action, claim or demand.

Regulations

**32.** (1) The Executive Committee Member may make regulations for the better carrying into effect of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such regulations may provide for—

- (a) the application form for registration;
- (b) any fees to be charged under this Act; and
- (c) any other matter the Executive Committee Member considers necessary for the administration of this Act.

## **MEMORANDUM AND OBJECTS OF REASONS**

The principal object of this Bill is to provide for early childhood education in Isiolo County. The structure of the Bill is as follows:

**Part I (clauses 1–3)** of the Bill contains preliminary provisions

Clause 1 states the title of the Bill while clause 2 deals with interpretation of terms as used in the bill. It defines “early childhood education” as the education of children below the age of six years and includes pre-primary education. Clause 3 defines early childhood education centre as premises used regularly for the education of three or more children by the day or part of a day to children under the age of six who do not belong to the persons providing the education.

**Part II (clauses 4-12)** of the Bill is on the responsibilities relating to early childhood education

Clause 4 gives the Governor responsibility of promoting early childhood education centres in the county while clause 5 gives the Executive Committee Member the duty to organize early childhood education in the county.

Clause 6 establishes the Directorate of Early Childhood Education while clause 7 provides for the functions of the directorate to be among others advise the Governor and the Executive Committee on all matters relating to early childhood education.

Clause 8 gives the Directorate powers necessary for the proper performance of its functions under the Act. Clause 9 provides for the person to head the Early Childhood Education Directorate in the county while Clause 10 provides for appointment of other officers of the Directorate.

Clause 11 requires the directorate to keep register of all centres in the county while Clause 12 requires the service provider of every registered centre to keep among others a register of the children who attend or have attended the service, specifying the date of birth of each and avail them to the directorate.

**Part III (clause 13-20)** of the Bill provides for registration of centres

Clause 13 provides that centres registration must be registered as a condition before one can operate such while clause 14 is to the effect that an early childhood education centre shall be in a form prescribed by the Executive Committee Member and shall be submitted to the Directorate. Clause 15 provides that the applicant must pay a prescribed fee while clause 16 requires the Directorate to publish an application for registration in the county Gazette.

Clause 17 is on registration of a centre while Clause 18 is on caters for instances when the permit operates prior to registration. Clause 19 provides for issuance of the registration certificate while Clause 20 sets out the requirement to display of the registration certificate.

**Part IV (clause 21-23)** of the Bill provides the powers of entry and inspection

Clause 21 provides for a parent's right of entry to inspect the centre while 22 is on powers of entry and inspection without warrant by an authorised person. Clause 23 is on powers of entry and inspection with warrant.

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**Part V (clause 24-26)** of the Bill contains provisions on funding

Clause 24 provides for annual estimates of the Directorate to be made in accordance with the Public Finance Management Act, 2012 while clause 25 is on funding of certain early childhood education services out of the money appropriated by the County Assembly. Clause 26 provides for the requirement of an annual report.

**Part VI (clause 27-32)** of the Bill is on the miscellaneous provisions

Clause 27 is on offences relating to ceasing operation of an early childhood education centre while clause 28 deals with specific offences and the penalty. Clause 29 provides for the offence of obstructing power of entry while clause 30 is on publication of matters of concern to the community by the Directorate. Clause 31 provides protection from personal liability while clause 32 gives power to make regulations to the Executive Committee Member.

Dated the .....2014

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*Executive Committee Member, Education and Cultural Services*