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**THE EMBU COUNTY EARLY CHILDHOOD DEVELOPMENT
AND EDUCATION ACT, 2015**

No. 13 of 2015

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THE EMBU COUNTY EARLY CHILDHOOD DEVELOPMENT AND EDUCATION ACT, 2015

AN ACT of the County Assembly of Embu to provide a framework for the establishment of systems for the administration of early childhood education and development in order to promote and regulate compulsory pre-primary education and for connected purposes

ENACTED by the County Assembly of Embu as follows—

PART I—PRELIMINARY

Short Title and Commencement

1. This Act may be cited as the Embu County Early Childhood Education and Development Act, 2015 and shall come into operation upon publication in the gazette.

Interpretation

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

“accreditation” means the procedure by which the accreditation agency formally recognises the status of an institution offering early childhood education and confirms it in writing by way of a documentation issued under this Act;

“child” means a person who is at least three years of age and not more than eight years of age;

“children with special needs” means children whose mental characteristics, sensory abilities, physical characteristics, emotional and social adjustment or communication abilities are underdeveloped and include children who suffer from long-term disabilities that affect the body or emotions to the extent that learning, growth and development are affected;

“community” means persons residing within the neighbourhood of an Early Childhood Education Centre;

“County” means Embu County;

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

“curriculum” means all the approved subjects taught or programmes offered and includes all the activities provided at any Early Childhood Education Centre;

“Department” means the Department of Early Childhood Education established under section 17;

“early childhood education” means the educational programmes imparted to a child in an education centre;

“education centre” means a public or private facility used wholly or partly, regularly or periodically for conducting basic education and training and includes a school, a tuition facility an education centre and academy;

“Education, Standards and Quality Assurance Council” means the Council established under section 64 of the Basic Education Act, No.14 of 2013 of which the County Education Board shall with the approval of the relevant County department establish a County office;

“Executive Member” means the County Executive Committee Member for the time being responsible for education;

“head teacher” means the lead educator or administrator of an early childhood education centre;

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

“Kenya Institute of Curriculum Development” means the Kenya Institute of Curriculum Development established under section 3 of the Kenya Institute of Curriculum Development Act;

“parent” means a mother, father or guardian of a child and includes any person who is responsible under the law to maintain a child or is entitled to a child’s custody;

“special education needs” means conditions, physical, mental or intellectual conditions with substantial and long term adverse effects on the learning ability (other than exposure) or the needs of those who learn differently or have disabilities that prevent or hinder or make it harder for them to access education or educational facilities of a kind generally provided for learners of the same age in the formal education system;

“special school” means a school established for the benefit of a particular class of children who require some special form of education, treatment or care;

“sponsor” means a person or institution who makes a significant contribution and impact on the academic, financial, infrastructural and spiritual development of an institution of basic education; and

“tuition fees” means fees charged to cater for instruction or instructional materials;

Application

3. This Act shall apply to all Early Childhood Education Centres within the County.

Objects and Purpose of the Act

4. The object and purpose of this Act is to provide for regulation of early childhood education and development by the County government pursuant to Part II of the Fourth Schedule to the Constitution in order to—

- (a) establish a comprehensive early childhood development and education system through an aligned continuum of County and private programs, including early intervention, early childhood special education and family support;
- (b) encourage skills, disciplines and capacities for reconstruction and development;
- (c) encourage artistic experience and expression;
- (d) encourage language development and other communication on using language effectively and creatively in order to help in reading and writing;
- (e) encourage physical and psychological development;
- (f) encourage critical thinking, imagination and develop a child's independence;
- (g) encourage accountability and democratic decision making within Early Childhood Education Centres, parents and the community;
- (h) promote protection of every child in Early Childhood Education Centres to equal standards of education including the medium of instructions used in schools for all children of the same educational level;
- (i) without prejudice to paragraph (h) above, advance protection of every child's right to early level of education to be instructed in the language of his or her choice where this is reasonably practicable;
- (j) promote peace, integration, cohesion, tolerance and inclusion as an objective in the provision of early childhood education;
- (k) promote good governance, participation and inclusiveness of parents, communities, private sector and other stakeholders in the development and management of early childhood education;
- (l) promote the respect for the rights of the child equity and non-discrimination in the provision of early childhood education and there cognition of children with special needs; and

- (m) Provide for appropriate human resource, funds, equipment, infrastructure and related resources that meet the needs of every child in early childhood education.

Guiding Principles

5. 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 education enshrined under Article 43(1)(f) and 53(1)(b) of the Constitution;
- (b) co-ordinated public participation in the formulation, implementation, monitoring and control of policies and plans related to the implementation of early childhood development and education;
- (c) a holistic approach towards meeting the education and other development needs of the child to ensure that their full potential is realized;
- (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 special needs;
- (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) ensure that interventions are based on objective information and methods, and 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; and
- (i) accountability through developmentally appropriate methods of measuring, reporting and tracking a child's growth and development and the improvement of the system's programs; and

- (j) 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

Right to Early Childhood Education

6. (1) Every child has the right to free and compulsory early childhood education.

(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, improve, inform, 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 by making provision of 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 systems and protect the early childhood education from encroachment by any public authority or any person.

Children with Special Needs

7. (1) The Executive member shall establish a mechanism for the identification children with special needs and put in place mechanisms to ensure that such children have access to, and are provided with early

childhood education.

(2) The Executive Member may make regulations setting out the criteria for the identification of children with special needs and for the effective implementation of this Act.

Obligations of the Executive Member in promoting the right to Early Childhood Education

8. The department responsible for Education in the County shall, in promoting the right to early childhood education—

- (a) provide free and compulsory early childhood education within the County;
- (b) formulate programmes and plans and implement policies for the realization of the right to early childhood education;
- (c) be responsible for the training, registration, staffing and supervision of the early childhood education and development of connected personnel in the County;
- (d) develop, in consultation with the Kenya Institute of Curriculum Development, local curriculum programs that are secular in nature and that promote culture and the holistic development of the child;
- (e) identify and undertake an assessment of children with special needs in the County and put in place special programmes targeting such children in the provision of early childhood education;
- (f) carry out public awareness and advocacy programmes in relation to early childhood development and education;
- (g) ensure the provision of, and support investment in infrastructural facilities and learning resources to facilitate the provision of early childhood education;
- (h) 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;
- (i) establish and maintain relationships with international, national and local institutions within the County involved in the provision of early childhood education; and
- (j) promoting the circulation of and access to up-to-date and timely information on early childhood education and development; and

- (k) provide the necessary infrastructure and funds necessary for the development of education centres and for the administration of early childhood education within the County;

Prohibition against the infringement of the right Early Childhood Education

9. (1) A person shall not act in a manner which—
- (a) is incompatible with or affects the enjoyment of the right to early childhood education under this Act; or
 - (b) Would impede the implementation of activities carried out for the implementation of early childhood education under this Act.
- (2) A person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction, to imprisonment for a term not exceeding three years or to a fine not exceeding two hundred thousand shillings or to both.

Limitation of the right to Early Childhood Education

10. (1) Subject to Article 24 of the Constitution, the right to early childhood education may be limited for the purpose of safeguarding overriding legitimate interests of the public and is compatible with the nature of the right to early childhood education.

(2) Limitation of the right to early childhood education shall be to the extent that it is done—

- (a) in the interest of National security, public safety, public order or public health; and
- (b) in the interest of promoting the general welfare of the society.

Fees

11. (1) A public Early Childhood Education Centre shall not charge or cause any parent or guardian to pay tuition fees for or on behalf of any pupil in the school.

(2) Notwithstanding the provisions of subsection (1), tuition fee may be charged to persons who are not Kenyan citizens.

(3) Notwithstanding the provisions of this section, charges may be imposed at a public early childhood centre with approval of the Executive Member in consultation with the County Education Board provided that no child shall be refused to attend school because of failure to pay such charges.

(4) A person shall not collect levies under this section without issuing an official receipt.

Proof of Age of Admission

12. (1) All children shall be eligible for admission to an education centre upon attaining the age of three years.

(2) For the purpose of admission to an early childhood centre, the age of a child shall be determined on the basis of the birth certificate issued in accordance with the provisions of the Births and Deaths Registration Act, Chapter 149 Laws of Kenya, or on the basis of such other document, as may be prescribed under Regulations.

(3) A child shall not be denied admission in an Early Childhood Education Centre for lack of proof of age.

Prohibition of administration of exams for admission

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

Duty of Parents and Guardians

14. (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 Early Childhood Education Centre.

(2) Where a parent or guardian defaults in the discharge of his or her responsibility under sub-section (1), such a parent or guardian commits an offence and is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

(3) A parent or guardian shall have the right to participate in the character development of his or her child.

Duty of the Head Teacher

15. (1) Where a pupil fails to attend school, the Head teacher shall cause investigation of the circumstances of the child's absence from school.

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

(a) issue a written notice to the parent of the child requiring that parent to comply with the provisions of this Act; and

(b) submit a report on the child to the Executive Member

(3) Any parent who without a reasonable cause and after a written notice from the head teacher, fails to comply with such notice commits an offence and shall be liable, on conviction, to a fine not exceeding

fifty thousand shillings or to imprisonment for a period not exceeding one year or to both.

Period of Admission

16. 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.

PART III—ADMINISTRATION OF THE EARLY CHILDHOOD EDUCATION SYSTEM

Establishment of Department

17. There is established a Department to be known as the Department of early childhood education which shall be a department within the Directorate responsible for education in the County.

Functions of the Department

18. (1) The functions of the Department shall be to—

- (a) Advise the executive member, on policy matters in respect to quality assurance of early childhood education;
- (b) In collaboration with the County education Board, facilitate the raising and obtaining of funds for the promotion and development of early childhood education ;
- (c) initiate guidelines on the establishment of Early Childhood Education Centres for approval by the executive member;
- (d) register Early Childhood Education Centres in collaboration with the County education Board;
- (e) make recommendations to the County government on how to coordinate and align an early childhood care and education system to include child care, home schooling, early childhood special education, early intervention and family support and to provide families within the County with consistent access to appropriate care and education services;
- (f) be responsible for the implementation of policy on early childhood education within the County;
- (g) carry out any other functions for the effective provision of early childhood education.

(2) In formulating recommendations under subsection (1), the Department shall—

- (a) consider how to consolidate and coordinate resources and public funding streams for early childhood care and education and

ensure the accountability and coordinated development of all early childhood care and education services;

- (b) take into account a parent's decisive role in the planning, operation and evaluation of programs that aid families in the care and education of children;
 - (c) examine ways to provide consumer education and accessibility to early childhood care and education resources;
 - (d) consider the establishment of an administrative framework to promote the development of high quality early childhood care and education services that are staffed by well-qualified professionals and are available in every community for all families that express a need for them.
 - (e) consider the advancement of quality early childhood care and education programs in order to support the healthy development of children and preparation for their success in school;
 - (f) consider the development of an aligned system of professional development for professionals providing early childhood care and education;
 - (g) consider the development of a seamless service delivery system with local points of entry for early childhood care and education programs administered by local and state agencies;
 - (h) focus on the diversity, cultural heritage and strengths of the families and communities of the state;
 - (i) ensure effective collaboration with state and local child welfare programs and early childhood health and behavioural health programs;
 - (j) consider how to develop and manage effective data collection systems to support the necessary functions of a coordinated system of Early Childhood Care and Education and track children through the education system from prenatal to Early Childhood to kindergarten to higher education, in order to enable accurate evaluation of the impact of early childhood care and education;
- (3) In implementation of standards and guidelines on quality assurance in early childhood education centres in the County, the Department 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 relevant written law are adhered to and maintained;
- (c) monitor and evaluate and where appropriate, review the standards and guidelines on quality assurance in the County; and
- (d) inspect any registered education centre.

Composition of the Department

19. (1) The Department shall be headed by the Public Officer competitively appointed by the County Public Service Board.

(2) A person shall be qualified for appointment as the head of Department if such a person—

- (a) Holds a degree in education from a university recognised in Kenya;
- (b) Has knowledge and relevant experience in early childhood education and development or social work; and
- (c) Meets the qualifications of Chapter Six of the Constitution.

(3) The Executive Member through the County Public Service Board shall ensure that the Department has adequate human resource to enable it carry out the functions assigned to it under this Act.

(4) The Department shall generate and cause to be published an annual report on the state of early childhood education within the County.

Experts' engagement

20. The Department may engage such experts and consultants as it considers it appropriate to assist in the discharge of its functions under this Act.

Sponsors

21. (1) A public education centre may be sponsored by a private person or 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 Childhood Education Centre.

(4) Notwithstanding the generality of subsection (2), the role of sponsors shall be—

- (a) To participate and make recommendations of review of syllabus, curriculum, books and other teaching aids;
- (b) representation in the school management Board;
- (c) to provide supervisory and advisory services in matters regarding spiritual development in schools; and
- (d) To offer financial and infrastructural support to the education centre.

(5) Notwithstanding the fact that the sponsor of an education centre is a faith based institution, the curriculum in the education centre shall be secular.

Compulsory Attendance

22. (1) Every parent who is a resident of the County shall ensure that the child regularly attends an Early Childhood Education Centre.

(2) A parent who fails to take his or her child to an early childhood education institution without justifiable cause commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings.

(3) Where a person convicted of an offence under subsection (2) is unable to pay the fine, such person shall be 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.

(4) Sub-section (2) shall not apply to a parent who provides the required documentation to show that the child is enrolled at a religious institution or is home-schooled in accordance with the prescribed guidelines.

PART IV—ESTABLISHMENT AND REGISTRATION OF EARLY CHILDHOOD DEVELOPMENT AND EDUCATION CENTRES

Establishment of Early Childhood Education Centres

23. Subject to the Constitution and the provisions of this Act, the County government shall establish and maintain such early childhood education centres as it may consider necessary to meet the

obligation set out under Article 53 of the Constitution and this Act, within the County.

Register of Education Centres

24. (1) The Department shall keep and maintain a register of—
- (a) all persons registered to provide early childhood education services within the County;
 - (b) all early childhood education centres within the County;
 - (c) all early childhood education centres whose registration has been cancelled; and
 - (d) such other particulars as the Department may from time to time determine to be necessary.

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

Requirement for Registration of Early Childhood Education Centre

25. (1) A person shall not establish, operate or maintain an early childhood development and education centre unless it is registered in accordance with this Act.

(2) Any person who operates an Early Childhood Education 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 or to imprisonment for a term not exceeding six months or to both.

Required Acreage

26. An Early Childhood Education Centre shall not be registered unless it is situate in a piece of land of minimum acreage of half (0.5) an acre in the case of a centre in the urban area or one (1) acre in the case of a centre in the rural area.

Registration of Early Childhood Education Centres

27. (1) A public education centre that undertakes or offers early childhood and development services shall submit an application for registration to the County Education Department in the prescribed form.

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

- (a) a certificate of registered business name 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 Institution in the prescribed form;
- (c) registration fees as set out under the County Annual Finance Act payable to the County treasury;
- (d) supporting Sub-County minutes signed by the relevant authorities showing existing facilities and future development or extension plans where applicable;
- (e) a full Institution inspection report by the Sub-County Education office;
- (f) a Public Health or sanitary inspection report;
- (g) the Title Deed, allotment letter or a valid lease agreement covering a period not less than five years; and
- (h) certified copies of professional and academic certificates of all teachers and the head teacher;

Provisional Registration

28. (1) The Department shall, where the applicant meets the criteria for registration, provisionally register the school in respect of which an application is made as a school of the description or descriptions concerned if it is satisfied that the school or proposed school meets or is likely to meet the criteria for registration as an education centre.

(2) Provisional registration of a school or proposed school shall be for a period of twelve months, unless earlier revoked or such other period as the Department may specify.

(3) The Department may renew the provisional registration of a school only once, or for such period as the Department may specify, if it is satisfied that—

- (a) exceptional circumstances exist in relation to the education centre; and
- (b) the education centre is likely to meet the criteria for registration as a private Early Childhood Education Centre in that period.

(4) The Department may undertake a further review of the education centre, in addition to the review required under section 29 of an education centre that has its provisional registration renewed under subsection 29 (3).

(5) The Department shall fully register an education centre as a private education centre if it is satisfied, having considered any report under section 27(2)(e) in relation to a review under section 29 or as

the case may be, that a provisionally registered education centre meets the criteria for registration as a Private Education Centre.

Review of Registration

29. (1) The Department shall review any education centre that is provisionally registered under section 28 either—
- (2) Between six and twelve months after the provisional registration of the education centre or proposed education centre; or
- (a) A period earlier than that specified under paragraph (a) with the consent of its head teacher.
- (3) The Department shall conduct a further review of the education centre that has had its provisional registration renewed under section 28.
- (4) The department shall, upon conducting a review under subsection (2) or (3) prepare a written report in relation to the review and submit a copy to the Department and to the head teacher of the education centre.
- (5) A written report submitted under subsection (4) on a review under this section shall include—
- (a) Information as to whether the education centre meets the criteria for registration as a Private Education Centre; and
- (b) Information as to the areas in which improvement is required, if it does not meet the criteria.

Criteria for Registration of a Private Institution

30. The Department shall not register an institution as a private Early Childhood Education Centre, unless such centre—
- (a) Has a certificate of registered business name and in the case of a company, a copy of the memorandum and articles of association of the company;
- (b) is situated in premises that are suitable, as described in section 32;
- (c) has the capacity to care and provide early childhood education to at least ten children who are at least three years and not more than eight years of age;
- (d) has adequate and qualified staffing that is suitable to the age range and level of development of its pupils, the curriculum taught at the education centre, and the size of the education centre;
- (e) has equipment that is suitable for the curriculum being delivered or to be delivered at the education centre;

- (f) has a curriculum for teaching, learning, and assessment and makes details of the curriculum and its programme for delivery available for parents;
- (g) meets the education standards prescribed under this Act; and
- (h) has a head teacher who meets the qualifications and criteria prescribed under this Act.

Obligations of a Private Education Centre

31. 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 to teach the early childhood education curriculum in the centre as set out in section 47 (1);
- (c) maintain a data bank on pupils undertaking education in the education centre and submit to the Executive Member;
- (d) administer a curriculum that adheres to the early childhood education policy and this Act;
- (e) maintain necessary teaching and learning materials and equipment;
- (f) maintain premises in a manner that ensures that it meets the requirements of the occupational health, safety regulations and building standards; and
- (g) meet such other requirements as the Executive Member, in consultation with the County Education Board, may consider necessary for the delivery of quality early childhood education services within the County.

Suitable Premises

32. (1) In determining whether the premises of an education centre are suitable in relation to a private school, the Department shall take into account the criteria specified under the First Schedule to this Act.

(2) Sub-section (1) shall apply to all premises used by the education centre for the regular delivery of courses, whether or not the managers of the centre own or lease the premises for the education centre.

Change of Premises.

33. (1) The head teacher of a school registered under section 30 shall notify the Department 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 premises from that currently occupied by the school.

(2) The head teacher of an education centre under sub-section (1) shall not change the location of the centre nor acquire additional premises unless it has applied to the Department and obtained its approval.

(3) In determining whether to grant approval of premises under sub-section (1), the Department shall take into account the criteria specified under regulations.

Action by the Department where centre fails to comply with the Act

34. (1) The Department 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 29 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 their statutory duties in relation to the education centre under this or any other relevant 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 Department is satisfied that any ground specified under subsection (1) exists in relation to an education centre registered under section 30, it may take one or more of the following action—

- (a) issue the head teacher of the education centre with a notice to comply in the prescribed form;
- (b) require the principal of the education centre to inform parents of the children 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) cancel the education centre's registration; in accordance with subsection (3) ;
- (e) take any action specified under paragraphs (a) to (c), and suspend the education centre's registration.

(3) Any action taken by the Department 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.

Application Fees

35. Any person making an application for registration of an early childhood education, centre or institution shall pay the prescribed fees to the County Treasury.

Registration of Private Early Childhood Education Centres

36. (1) The department shall register an early childhood education institution if it 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 institution; the applicant has not been convicted of an offence under the Psychotropic and Dangerous drugs Act, or the Children's Act, 2001 or an offence involving fraud, dishonesty or moral turpitude.
- (b) 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.

(2) Any person aggrieved by the decision of the Department 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, 2013

Registration Certificate

37. The Department shall, on registration of an Early Childhood Education Centre, issue a registration certificate to the applicant.

Suspension of registration where welfare of pupils is at risk

38. (1) The Department may at any time suspend the registration of an education centre registered under section 30 if it has reasonable grounds to believe that the welfare of the pupils 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 Department, to be excessive.

(2) An institution shall remain suspended under subsection (1) until the Department—

- (a) is satisfied that the managers of the centre have complied with all requirements imposed by it; or
- (b) cancels the school's registration.

Appeal from decision of the Department

39. A person who is aggrieved by the decision of the Department 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, 2013.

Categories of Education Centres

40. Education centres shall be categorized as—

- (a) Private Education Centres established, owned or operated by private persons; and
- (b) Public education centres and sponsored 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 unless the County executive Committee Member has consulted with the County Education Board and has approved such conversion.

Boarding Education Centres

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

PART V—MANAGEMENT OF PUBLIC EDUCATION CENTRES**Early Childhood Education Management Board**

42. (1) There is established in every public education centre, a Management Board.

(2) where an education centre exists or is established in an existing institution of basic education, the management Board of the education centre shall be separate and distinct from that of the institution of basic education.

Composition of the Management Board

43. (1) The Board of management shall consist of—

- (a) one person elected from amongst the parents from each level within the school to represent parents of pupils in the school;
- (b) the officer in charge of early childhood education in the ward who shall be an ex-officio member;
- (c) the head teacher of the early education centre who shall be secretary to the Management Board;
- (d) the head teacher of the host primary school;
- (e) one public officer with knowledge and experience in matters relating to early childhood development education within the County appointed by the Executive Member;
- (f) one person with knowledge and experience in matters related to children with special needs nominated by the Executive Member and
- (g) In case of a sponsored education centre, one person nominated by the sponsor

(2) A person shall qualify for nomination to the Board of management if such a person holds at least a Kenya Certificate of Secondary Education.

(3) The members of the Board shall, at their first meeting convened on such date as the Department shall determine, appoint from amongst themselves, a person who shall be the chairperson and vice-chairperson except for persons nominated under (b) and (d).

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

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

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

Functions of the Board

44. The functions of the Board shall be to—

- (a) Identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting the said 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) recruit the casual support staff within the Early Childhood Education Centre;
- (e) Identify local resources necessary to equip the education centre and identify sources for, and undertake fundraising activities to raise funds for the education centre;
- (f) Ensure the provision of quality education services in the education centre;
- (g) ensure the provision of adequate equipment and facilities within the education centre and that such equipment and facilities are well maintained;
- (h) carry out advocacy in relation to the needs and the rights of the child in relation to early childhood education; and
- (i) Carry out such other functions as may be necessary for the implementation this Act within the education centre.
- (j) Maintain good working relationship between teachers and parents;
- (k) Discuss and recommend charges to be levied on children or parents; and
- (l) Assist the school management in monitoring, guidance, counselling and disciplining of children.

Annual report on governance

45. Every Public early education centre shall submit an annual report to the Department.

Record keeping requirements

46. Every education centre shall keep, and make available to an authorised officer on request—

- (a) A register of the children who attend or have attended the Early Childhood Education Centre, specifying the date of birth of each child;
- (b) A record of the attendance of children at the education centre;
- (c) A record of all fees and other charges paid in respect of children's attendance at the education centre;
- (d) Evidence of parents of children attending the education centre; and
- (e) Such other records that may be necessary to enable the centre's performance to be monitored adequately.

Teaching Staff

47. (1) A person shall not be employed as an early childhood education teacher unless such person—

- (a) Is at least eighteen years of age;
- (b) Holds at least a Certificate in early childhood education development and education from an institution recognized in Kenya;
- (c) Is registered as a teacher by the Teacher's Service Commission;
- (d) Holds a certificate of good conduct from the Directorate of Criminal Investigations;
- (e) Meets such other requirements as the Executive Member may in consultation with the County Education Board, prescribe.

(2) The remuneration of early childhood education teachers shall be commensurate to the qualification of such teachers and the County assembly shall appropriate such funds as may be necessary to ensure the recruitment of adequate early childhood education and development teachers in the County.

(3) The County Public Service Board shall exercise disciplinary and professional control over the early childhood education teachers.

(4) Without prejudice to the generality of subsection (4), the County Public Service Board may—

- (a) impose such teaching standards and conditions of performance on the teachers, as it may consider necessary; and
- (b) Subject to the existing employment laws, dismiss a teacher for breach of any condition of employment.

Framework of Curriculum

48. (1) The Executive Member in consultation with the Department may prescribe a curriculum framework for all licensed early childhood services within the County.

(2) Notwithstanding subsection (1) the Executive Member shall ensure that the curriculum—

- (a) adheres to the policy and guidelines on curricula developed by the Cabinet Secretary under the Basic Education Act, 2013; and
- (b) meets the standards approved by the Kenya Institute of Curriculum Development pursuant to the Kenya Institute of Curriculum Development Act.

(3) The Executive Member shall not prescribe a curriculum framework or amend any prescribed curriculum framework, unless he or she has consulted with those organizations that appear to him or her to be representative of persons likely to be substantially affected by the curriculum framework or the amendment, as the case may be.

(4) As soon as practicable after prescribing or amending the curriculum framework, the Executive Member shall publish by notice in the Gazette—

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

(5) Without limiting the generality of subsection (1), a notice under subsection (4) may—

- (a) specify different commencement dates for different provisions of the curriculum framework or for different purposes; and

- (b) Specify a transitional period during which service providers may elect to comply with another specified curriculum requirement and specify a date on which service providers must comply with the curriculum framework.

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

Standards for Curriculum

49. In developing or reviewing the curriculum of early childhood education within the County under section 48, the Executive Member shall ensure that -

- (a) the curriculum does not require the children in the education centre to be subjected to written examinations for purposes of admission to class one;
- (b) the curriculum incorporates holistic learning including basic life skills;
- (c) learning is activity based;
- (d) child centred teaching methodologies are incorporated in imparting education; and
- (e) it incorporates strategies to ensure creativity and ensure support to the learning of every child in the institution.

Standards of Education in a Private Education Centre

50. (1) The education administered in a private education centre registered under this Act shall be of a suitable standard and not of a lower standard than that administered to children enrolled in a public education centre of the same class levels.

(2) In assessing the standard of tuition, the mode of curriculum delivery and the regularity of instruction shall be considered.

Education Centre Programmes

51. (1) In administering early childhood education, an education centre shall—

- (a) provide appropriate and adequate learning and play materials; and
- (b) emphasize and carry out activities aimed at enhancing creativity amongst the children and use of learning materials;

- (c) emphasize the need for the child centred approach in individual learning for the development of each individual child.
- (2) An education centre may offer any of the following programmes during a weekday—
 - (a) a half day programme which commences at 8.00 a.m. and ends at 12 noon; or
 - (b) a full day programme which commences at 8.00 a.m. and ends at 3 p.m.
- (3) Where an education centre offers the programme specified under subsection (2)(b), the children shall be afforded an opportunity to rest during the afternoon period commencing at 2:00 p.m.
- (4) An education centre shall not, in offering the programmes specified under subsection (2), exceed the time period specified therein.

Prohibition from holding back and expulsion

52. (1) No child admitted in an education centre shall, subject to subsection (2), be held back in any class or expelled from the centre.

(2) Subject to subsection (1) the Executive Member may, in consultation with the County Education Board, make regulations to prescribe expulsion or the discipline of a delinquent child for whom all other corrective measures have been exhausted and only after such child and parent or guardian have been afforded an opportunity of being heard:

Provided that such a child may be admitted to an institution that focuses on correction in the context of education.

Prohibition of Holiday Tuition

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

(2) A person who contravenes subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year or, to both.

Feeding Programmes

54. The Executive Member may, in consultation with the Department, carry out feeding programmes in relation to Early Childhood Education Centres under this Act in such areas whose residents are affected by malnutrition or have special nutritional needs and shall—

- (a) issue guidelines and support efforts for the feeding programmes; and
- (b) Ensure that the feeding programmes provide adequate and nutritious foods based on the physiological and regional demands.

Teacher Child Ratio

55. The teacher child ratio in an education centre under this Act shall be as prescribed by the Executive Committee Member in consultation with the County Education Board.

PART VI—SAFETY AND PROTECTION OF CHILDREN IN AN EARLY CHILDHOOD EDUCATION CENTRE**Safety Equipment**

56. (1) 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 pupils, teachers, non-teaching staff and other persons within the institution;
- (c) put in place firefighting equipment, first aid and other emergency equipment and non-prescription medicine as the Executive Member may prescribe.
- (d) have a list of the contacts of emergency service providers including hospitals, readily available to all members of staff.

(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 Executive Member shall prescribe minimum standards for the health and safety of pupils and for a satisfactory environment for education.

Prohibition against physical punishment and mental harassment to the child

57. (1) A pupil shall not be subjected to torture and cruel, inhuman or degrading treatment or punishment, in any manner, whether physical or psychological.

(2) A person, who contravenes the provisions of subsection (1), commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand (100,000) shillings or to imprisonment for a term not exceeding six (6) months or both.

PART VII—ACCREDITATION**Accreditation of education centres offering foreign curriculum**

58. 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.

Application for Accreditation

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

(2) The County Education Board may, in consultation with the County executive committee member grant to an applicant for full accreditation, interim accreditation for the purpose of enabling the education centre to address any areas of non-compliance with the accreditation standards prior to issuing to the education centre, a certificate of full accreditation.

(3) An education centre to which a certificate of interim accreditation is issued under subsection (2) shall address any areas of non-compliance within such period as may be specified by the County Education Board not exceeding six months from the date on which the certificate is issued.

(4) Full accreditation shall be for a period of five years and shall be renewable subject to the education centre meeting the conditions prescribed by the County Education Board in consultation with the Executive Member.

(5) Where an education centre under subsection (3) fails to meet the accreditation standards within the period specified by the County education Board, the certificate shall be deemed to have expired.

Renewal of Accreditation

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

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

Consideration of Application

61. Upon receipt of an application under section 59 and 60, the County Education Board shall—

- (a) acknowledge receipt within a period of seven days of such receipt;
- (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.

Evaluation of Applicant for Accreditation

62. (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.

Grant of Accreditation

63. (1) The County Education Board shall, upon considering an application for accreditation or renewal under section 59 and 60, conduct a site visit under section 62 and upon being satisfied that the applicant has paid to the County treasury such fees as may be prescribed in the County annual Finance Act and upon being satisfied that the education centre meets the requirements under this Act—

- (a) grant the applicant a certificate of full accreditation or renewal as the case may be; or
- (b) Reject the application for the grant of or renewal of accreditation.

(2) The County Education Board may defer its decision to grant or renew an application for accreditation and require the education centre to submit to it such additional information or take such corrective measures as it may consider necessary.

Adherence to conditions for Accreditation

64. An education centre to which a certificate of accreditation is issued under section 63 shall—

- (a) adhere to the standards and conditions for accreditation throughout the period of accreditation;
- (b) ensure that the curriculum administered in the centre meets the standards set out under section 49 and such further standards as may be determined by the Kenya Institute of Curriculum Development in consultation with the County Education Board.

Certificate to remain property of the Board

65. A certificate of accreditation issued by the County education Board under this Act shall remain the property of the Board and shall upon revocation or expiry, be surrendered to the Board.

Revocation of Accreditation

66. (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) An education centre shall, upon the revocation of the certificate of accreditation, surrender the certificate to the County Education Board within seven days of the revocation.

(3) 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.

(4) 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.

Appeal against decision of the Board to revoke Accreditation

67. 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 Board.

Register of Accredited Education Centres

68. The County Education Board shall maintain a register of accredited institution and shall publish such register annually in one newspaper of National circulation and on its website or such other media as it may consider appropriate.

PART VIII—TRANSITIONAL PROVISIONS**Existing Education Centres**

69. (1) Subject to subsections (2), (3), and (6), every early education centre that, immediately before the commencement of this Act, was registered as an early childhood centre in accordance with the Basic Education Act, 2013 shall be deemed to be registered as an Early Childhood Education Centre under this Act, and continues to be so licensed for the relevant period of registration subject to such conditions of registration as may be imposed under this Act.

(2) Despite subsection (1), the Department may give written notice to the provider of an education centre registered under subsection (1), requiring the service provider who operates that centre to apply for registration under regulations made under this Act within three months of the date of that notice, and—

- (a) if that service provider fails to make such an application within the specified period, the centre ceases to be licensed under subsection (1) at the end of that period; or
- (b) If that service provider makes such an application within the required period, the centre continues to be licensed under subsection (1) until that application has been determined.

(3) Despite subsection (1), if subsection (4) applies, the Executive member may, by written notice to the service provider who operates an early childhood education and care centre that is deemed to be licensed under subsection (1), declare that the centre is no longer licensed under subsection (1) and the notice has effect accordingly.

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

- (a) fails to comply with the regulations made under section 71; or
- (b) fails to comply with any conditions for registration.

(5) The Department may, despite the fact that the centre concerned does not meet the minimum requirements for registration, issue to the service provider operating the centre a transitional certificate in such

manner as the Executive Member may prescribe and subject to such conditions as he or she may impose.

(6) Where the Department is not satisfied that the conditions specified in a certificate issued under subsection (5) are being complied with, the Department 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, suspend, or reclassify certificate or education centre in the manner prescribed by the Executive Committee Member.

PART IX—MISCELLANEOUS PROVISIONS

Power to make Regulations

70. (1) The Executive Member may, in consultation with the county executive committee, make regulations generally for the better carrying out of the purposes and provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Executive Member may make regulations to—

- (a) prescribe minimum standards relating to premises, facilities, programmes of education, practices in relation to children's learning and development, staffing and parental or caregiver participation, health and safety, implementation of the curriculum framework, communication and consultation with parents, the operation or administration of those services, or any of them, to be complied with to ensure 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;
- (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) Regulate the qualifications to be held by persons managing, teaching or offering any care services in an education centre.

General Penalty

71. A person who contravenes any provision of this Act for which no penalty is specifically provided commits an offence and shall be 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.

FIRST SCHEDULE (s. 32)

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-
 - (a) twenty five (25) children where the children are aged 5-6years;
 - (b) twenty (20) children where the children are aged 4years; and
 - (c) Fifteen (15) children where the children are aged 3 years.
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

(s. 43)

**CONDUCT OF AFFAIRS OF BOARD OF MANAGEMENT OF
EARLY CHILDHOOD EDUCATION CENTRES****Meetings of the Board**

1. (1) The Board of management shall meet at least once in every two months to conduct its business.

(2) The first meeting of the Board shall be convened on such date as the Department shall determine 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 chairperson and vice-chairperson from among themselves—

(a) at the first sitting of the Board in accordance with section 43(3); 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. (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.

Conflict of Interest

4. (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.

Rules of Procedure and Minutes

5. (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.