

NATIONAL COUNCIL FOR
LAW REPORTS
LIBRARY

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

SPECIAL ISSUE

Isiolo County Gazette Supplement No. 18 (Acts No. 6)



REPUBLIC OF KENYA

**ISIOLO COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

NAIROBI, 21st December, 2015

CONTENT

Act—

PAGE

The Isiolo County Early childhood Education Act, 2015 1

**THE ISIOLO COUNTY EARLY CHILDHOOD
EDUCATION ACT, 2015**

No. 6 of 2015

Date of Assent: 14th December, 2015

Date of Commencement: 21st December, 2015

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1—Short title and Commencement
- 2—Interpretation
- 3—Meaning of Early Childhood Education Centre

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

- 4—Obligation of the county government
- 5—Duties of the Executive Committee Member
- 6—Directorate of Early Childhood Education
- 7—Functions of the Directorate
- 8—Powers of the Directorate
- 9—Head of Directorate of Early Childhood Education
- 10—Other officers and staff of the Directorate
- 11—Register of centres to be maintained
- 12—Administrative requirements

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

- 13—Early Childhood Education Centres to be registered
- 14—Application for registration
- 15—Applicant to pay prescribed fee
- 16—Publication of the application
- 17—Registration of a Centre
- 18—Permit to operate prior to registration
- 19—Registration Certificate

20—Registration certificate to be displayed

PART IV—POWERS OF ENTRY AND INSPECTION

21—Parent's right of entry

22—Powers of entry and inspection without warrant

23—Powers of entry and inspection with warrant

PART V—PROVISIONS ON FUNDING

24—Administrative and technical costs

25—Funding of certain Early Childhood Education services

26—Annual Report

PART VI—MISCELLANEOUS PROVISIONS

27—Offences relating to ceasing operation of an Early Childhood Education Centre

28—Offence of insulting, abusing, or intimidating staff

29—Offence of obstructing Power of Entry

30—Publication of matters of concern to the community

31—Protection from personal liability

32—Regulations

THE ISIOLO COUNTY EARLY CHILDHOOD EDUCATION ACT, 2015

**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

1. This Act may be cited as the Isiolo County Early Childhood Education Act, 2015 and shall come into operation upon publication in the *Gazette*. Short title and
Commencement

2. In this Act— Interpretation

“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;

“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.

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— Meaning of early
childhood
education centre

- (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

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.

Obligation of the
County
Government.

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.

Duties of the
Executive
Committee
Member

(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;
- (c) ensure that the teachers who teach in the centres have the necessary qualifications; and
- (d) ensure that all centres are registered and regularly

No. 14 of 2013

inspected by government education inspectors and health inspectors.

6. There shall be an Early Childhood Education Directorate within the Department responsible for education in the county.

Directorate of
Early Childhood
Education

7. The Directorate shall—

Functions of the
Directorate

- (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.

8. The Directorate shall have all powers necessary for the proper performance of its functions under this Act.

Powers of the
Directorate.

9. (1) The Directorate of Early Childhood Education shall be headed by a public officer competitively appointed by the County Public Service Board.

Head of Directorate
of early childhood
education.

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 sub-section (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.

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.

Other officers and staff of the Directorate.

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

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.

Register of centres to be maintained

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

Administrative requirements

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

PART III—REGISTRATION OF EARLY CHILDHOOD EDUCATION CENTRES

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

Early childhood education centres to be registered

(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.

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. Application for registration

(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 executive committee member for the registration of the centre or take such other action as it deems fit.

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

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

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

- (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; 4 of 1994
No. 8 of 2001
- (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 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.

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.

Permit to operate
prior to registration

(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.

19. (1) The Directorate shall, on registration of a centre, issue a registration certificate to the applicant.

Registration
certificate

(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.

20. The registration certificate issued under section 19 shall be displayed, by the operator, in a conspicuous place on the premises of the centre.

Registration
certificate to be
displayed

PART IV—POWERS OF ENTRY AND INSPECTION

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—

Parent's right of entry

- (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.

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—

Powers of entry and inspection without warrant

- (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 sub-section (1), to exercise those powers.

(4) An authorisation under sub-section (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 sub-section (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.

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.

Powers of entry
and inspection with
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 sub-section (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 of issue and expiry

(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 sub-section (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

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.

Administrative and technical costs

No. 18 of 2012

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

Funding of certain early childhood education services

- (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—

(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,

(b) the amount of a grant may be determined accordingly; but

(c) nothing in this subsection limits or affects the Executive Committee Member's may from time to time with the approval of the county assembly 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;

(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.

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

(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

27. (1) A server may not cease operations without a prior notice as may be specified in the regulations.

Offences relating to
ceasing operation
of a centre

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 Kenya Shillings twenty thousand.

Offence of
insulting, abusing,
or intimidating
staff

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 Kenya Shillings one hundred thousand.

Offence of
obstructing power
of entry

30. The Directorate shall cause any matter of concern to the community in the county relating to centres to be published—

Publication of
matters of concern
to the community

(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

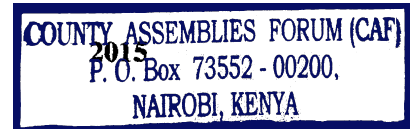
(b) by including the document comprising the matter as a supplement to an official local publication, if any.

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.

Protection from
personal liability

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

Regulations



(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.