

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 21 (Mombasa County Acts No. 7)*



REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**MOMBASA CITY COUNTY ACTS, 2017**

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**NAIROBI, 23rd June, 2017**

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**THE MOMBASA COUNTY EDUCATION  
DEVELOPMENT (AMENDMENT) ACT, 2017**

**No. 7 of 2017**

*Date of Assent: 16th June, 2017*

*Date of Commencement: 23rd June, 2017*

**AN ACT of the County Assembly of Mombasa to amend the Mombasa County Education Development Act, 2014 to provide for a Corporation and a Fund; and for connected purposes**

**ENACTED** by the County Assembly of Mombasa, as follows—

1. This Act may be cited as the Mombasa County Education Development (Amendment) Act, 2017 and shall come into operation upon publication in the *Gazette*.

Short title and commencement

2. The long title to the Mombasa County Education Development Act, 2014 in this Act referred to as “the principal Act”, is amended by deleting it in its entirety and substituting therefor the words—

Amendment of the long title of Act No. 11 of 2014

‘AN ACT of the County Assembly of Mombasa to establish a corporation; to promote and provide for the delivery of quality and efficient education services; to provide for collaboration with stakeholders in relation to education development; and for connected purposes’

3. Section 2 of the principal Act is amended—

Amendment of section 2 of Act No.11 of 2014

(a) by inserting the following definition in the proper alphabetical sequence immediately after the definition of Board

‘Board of Trustees’ means the Board of Trustees established under section 11B of this Act

(b) in the definition of ‘child care’ by inserting the word ‘facility’ immediately after the words ‘child care’

(c) by deleting the phrase ‘including the board and the Fund’ in the definition of the word ‘Corporation’

(d) by deleting the definition of education

- (e) in the definition of 'financial aid' by inserting the word 'loans' immediately after the word 'scholarships' and deleting the phrase 'related to education child care and access to information'

3. The principal Act is amended by inserting the following new sections immediately after section 2—

Insertion of new  
section 2A

2A The object of this Act is to—

- (a) prioritise quality learning and teaching that facilitates lifelong learning
- (b) build education and child care facilities and rehabilitate existing education and child care facilities
- (c) increase graduation and transition rate for pre-primary education, village polytechnics, home craft centres and child care facilities
- (d) impart relevant knowledge, skills, talent, attitude and values to learners
- (e) improve governance, institutional and professional capacity of devolved educational facilities and stakeholders
- (f) enhance cooperation, consultation and collaboration among the stakeholders on matters related to education
- (g) improving regional, national and international partnership both in public and private sector.

5. Section 3 of the principal Act is amended by—

Amendment of  
section 3

- (a) deleting in subsection (1) the words 'which shall be a body corporate with perpetual succession and a common seal and shall be managed and administered by a Board.'
- (b) inserting the following phrase immediately after the word Corporation in subsection 2;

'shall be a body corporate with perpetual succession and a common seal and'

6. Section 4 of the principal Act is amended by—

Amendment of  
section 4 of Act  
No.11 of 2014

- (a) deleting paragraph (a) and inserting therefor the following new paragraph—

‘provide partnership and coordination in the resource mobilization and promotion of technical, financial and human resource toward quality information centres, child care facilities and education from local, regional and international partners.’

- (b) deleting the word ‘solicit’ and inserting the word ‘source’ therefor in paragraph (b)
- (c) deleting paragraph (c) and inserting therefor the following new paragraph—  
‘set and advise the criteria and conditions governing the granting of financial aid’
- (d) deleting paragraph(d) and inserting therefor the following new paragraph—  
‘receive all contributions, grants, donations and other payments’
- (e) deleting paragraph(e) and inserting therefor the following new paragraph—  
‘disburse all benefit, grants, donations and other payments’
- (f) inserting a new paragraph immediately after paragraph (e) as follows
- (e) (a) to advise on the criteria and conditions to be met for the disbursement of financial aid by the Fund; and
- (g) deleting in paragraph (f) the phrase ‘links with other persons, bodies or Organisations within or outside Kenya’ and substituting therefor the phrase ‘partnerships and networks with local and international education stakeholders’

7. Section 5 of the principal Act is amended by deleting in subsection (1)(c) the word ‘four’ and substituting therefor with the word ‘three’

Amendment of  
section 5 of Act  
No.11 of 2014

8. Section 6 of the principal Act is amended by—

- (a) deleting the phrase ‘non renewable term of six consecutive years’ and inserting the phrase ‘term of three years renewable once or for such shorter period as may be specified in the gazette notice’ in section 6(1)(a)

Amendment of  
section 6 of Act  
No.11 of 2014

- (b) deleting the phrase 'six years' and inserting the phrase 'three years renewable once or for such shorter period as may be specified in the gazette notice' in section 6(1)(c)
- (c) deleting the phrase 'of at least' and inserting the word 'exceeding' in section 6(2)(e)

**9. Section 8 of the Principal Act is amended by—**

Amendment of  
section 8 of Act  
No.11 of 2014

- (a) deleting paragraph (a)
- (b) deleting the words 'sound' and 'regulating' in paragraph(b)
- (c) deleting the words 'considering and entertaining' in paragraph(c) and inserting therefor the phrase 'receive, hear and determine'
- (d) deleting paragraph (d) and inserting therefor the following new paragraph—  
'to determine the strategic plan of the Corporation and follow up its implementation'
- (e) deleting paragraph (e) and inserting therefor the following new paragraph—  
'to approve, review and amend the internal rules and procedures of the Corporation'
- (f) deleting the phrase 'relevant authorities' in paragraph (g) and substituting therefor the phrase 'Executive Committee Member in charge of education'
- (g) deleting words 'of action' in paragraph (h) and inserting therefor the word 'strategic' immediately before the word 'plan'
- (h) deleting paragraph (i)
- (i) deleting paragraph (k) and inserting therefor the following new paragraph—  
'to receive grants, donations, contributions and other payments to the Fund'
- (j) inserting the following new paragraphs immediately after paragraph (k)
- (k) (a) to invest any surplus funds of the Corporation in accordance with all applicable laws for the

purposes of realizing the objects of the Corporation

- (k) (b) to collaborate and partner with local and regional stakeholders in both private and public sector
- (k) (c) to acquire, purchase, dispose of movable and immovable property
- (k) (d) to create committees for the better performance of the functions of the Corporation
- (k) deleting paragraph (l)
- (l) deleting paragraph (m) and inserting therefor the following new paragraph—  
‘to fund and promote all programs, activities and facilities of the Corporation within the County’
- (m) deleting paragraph (n) and (o) and inserting therefor the following new paragraph
- (n) (a) to advise, recommend, monitor and oversee the management of the Fund

Section 9 of the principal Act is deleted.

Amendment of section 9 of Act No.11 of 2014  
Amendment of section 10 of Act No.11 of 2014

Section 10 of the principal Act is amended by deleting and inserting therefor the following new section

‘10. Board meetings shall be conducted in accordance with the Mombasa County Corporations Act, 2016’

12. Section 11 of the principal Act is amended by deleting in subsection (2) the word ‘Corporation’ and substituting therefor the phrase ‘Board of Trustees established under section 11B’

Amendment of section 11 of Act No.11 of 2014

13. The following new sections is inserted immediately after section 11

### **Objects and purpose of the Fund**

11A The object and purpose of the Fund shall be to administer the disbursement of loans and bursaries

### **Establishment of a Board of Trustees of the Fund**

11B There is established a Board of Trustees of the Fund comprising of;

Insertion of new section 11B

- (a) a chairperson appointed by the Governor who shall have a minimum qualification of a degree in finance and experience of not less than seven years
- (b) Chief Officer in charge of finance
- (c) Chief Officer in charge of education
- (d) the Chief Executive Officer of the Corporation
- (e) three members appointed by the Executive Committee Member in charge of finance with a minimum qualification of a degree in law, economics, finance, social sciences, public financial management and experience of not less than five years.'
- (f) the Administrator of the Fund

#### **Powers of the Board of Trustees**

**11C** The Board of Trustees shall be a body corporate with perpetual succession and a common seal and shall be capable of;

Insertion of new section 11C

- (a) suing and being sued
- (b) taking, purchasing and disposing of movable and immovable property
- (c) borrowing money
- (d) entering into contracts
- (e) making not more than three committees with a maximum of five members each to assist the Board of Trustees in executing its mandate
- (f) delegating some of its functions to the committees as may be necessary
- (g) doing such other things necessary for the proper discharge of the functions of this Act which may be lawfully done or performed by a body corporate.'

#### **Functions of the Board of Trustees**

**'11D** The Board of Trustees shall –

Insertion of new section 11D

- (a) receive monies meant for bursary and education loans from the County Treasury

- (b) formulate policies for the management of the Fund
- (c) source for funds and other assistance to promote the objects for which the Fund is established
- (d) determine the amount payable for the purposes of the Fund and formulate the conditions for disbursement
- (e) receive, consider, approve, defer or reject any application for education loans and bursary
- (f) invest any surplus funds not immediately required in securities approved by the County Treasury for the purposes of realizing the objects and purpose for which the Fund is established
- (g) keep and maintain audited accounts of the Fund and publish the accounts in the manner approved by the County Treasury
- (h) enter into contracts with financial institutions for the purpose of loans disbursement and recovery
- (i) grant loans out of the Fund with security as the Board of Trustees may deem fit to any eligible person
- (j) receive any gifts, donations, grants or endowments made to the Fund and to make approved disbursement
- (k) perform any other functions that are ancillary to the objects and purpose for which the Fund is established

#### **Meetings of the Board of Trustees**

**11E.** Meetings of the Board of Trustees shall be conducted in accordance with the Mombasa County Corporations Act, 2016'

Insertion of new section 11E

#### **Conflict Of Interest**

**11F.** Members of the Board of Trustees or Companies in which they hold shares shall not be allowed to bid for the Fund's contracts and any other activity that may raise conflict of interest within the Fund.

Insertion of new section 11F

**14.** Section 12(3) of the principal Act is amended by

Amendment of section 12 of Act No.11 of 2014



inserting the phrase 'of Trustees' immediately after the word 'Board'

15. Section 13 of the principal Act is deleted and inserting therefor the following new section—

Amendment of  
section 13 of Act  
No.11 of 2014

'13(1) The administrator of the Fund shall be appointed in accordance with section 116 of the Public Finance Management Act, 2012 and shall possess a minimum of a degree in finance and experience of not less than five years in the relevant field.

(a) by inserting the following new subsections immediately after subsection 13(1)

'13(2) The administrator of the Fund shall be the Secretary to the Board of Trustees'

'13(3) The administrator of the Fund shall be responsible for keeping all proper books and records of account of the income, expenditure, assets and liabilities of the Fund and any other functions in relation to administration of the Fund'

16. Section 14 of the principal Act is deleted.

Amendment of  
section 14 of Act  
No.11 of 2014

17. Section 15 of the principal Act is deleted.

Amendment of  
section 15 of Act  
No.11 of 2014

18. The principal Act is amended in section 16(2) by deleting the phrase 'persons appointed by the Board from amongst its members' and inserting the phrase 'members of the Board' therefor

Amendment of  
section 16 of Act  
No.11 of 2014

The following new section is inserted immediately after section 16—

Insertion of new  
section 16A

'16A(1). Bank accounts of the Fund shall be opened and maintained at a commercial bank approved by the Executive Committee Member in charge of Finance

16A(2) The signatories to the accounts of the Fund maintained in accordance with subsection 16A(1) are—

(a) the Secretary; and

(b) three other members of the Board of Trustees

(3) All payment cheques and instruments intended for actual release of money from the Fund, shall be signed by;

- (a) the Secretary; and
- (b) any other two of the three signatories.

**14.** The principal Act is amended in section 17 by—

- (a) deleting the head note 'Income and Expenditure' and substituting therefor with the new head note 'Annual Estimates'
- (b) deleting subsection (1) and inserting therefor the following new subsection—

Amendment of  
section 17 of Act  
No. 11 of 2014

The Board and the Board of Trustees shall submit to the Executive Committee Member in charge of Education an annual estimate of its income and expenditure at least three months before the commencement of the financial year.

- (c) deleting in subsection (2) the phrase 'of the corporation'
- (d) deleting in paragraph 2(b) the phrase 'of the corporation and members of the Board and programmes related to education, child care and access to information'
- (e) deleting paragraph (c) and inserting therefor the following new paragraph—  
'payment or reimbursement to the member of the Board and Board of Trustees of monies in respect of expenses incurred during the attendance of board meeting'
- (f) inserting in subsection (3) the phrase 'and Fund' immediately after the word 'Corporation'
- (g) deleting subsection (4)

**15.** Section 18 of the principal Act is deleted.

Amendment of  
section 18 of Act  
No. 11 of 2014

**16.** The header 'ACCOUNTS AND AUDIT' is deleted

Amendment of head  
note

**17.** Section 19 is deleted and substituted therefor with the following new section—

19(1) The Board and Board of Trustees shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Corporation and the Fund respectively.

Amendment of  
section 19 of Act  
No. 11 of 2014

(2) Within a period of three months after the end of each financial year, the Chief Executive Officer and the administrator of the Fund shall submit to the Auditor-General, the accounts of the Corporation and the Fund, respectively, in respect of that year together with —

- (a) a statement of the income and expenditure of the Corporation and the Fund during that year; and
- (b) a statement of the assets and liabilities of the Corporation and the Fund on the last day of that financial year.

**18.** Section 20 of the principal Act is amended by deleting the section and substituting therefor with the following new section

Amendment of  
section 20 of Act  
No. 11 of 2014

**21A** The common seal of the Corporation shall be kept in the custody of the Chief Executive Officer and shall not be used except on the order of the Board’

**19.** The following new section is inserted immediately after section 20—

insertion of new  
section 20A

### **Common Seal of the Fund**

**20A.** The common seal of the Fund shall be kept in the custody of the Administrator of the Fund and shall not be used except on the order of the Board of Trustees.

**20.** Section 21 of the principal Act is deleted.

**21.** Section 22 of the principal Act is deleted

**22.** Section 23 of the principal Act is deleted

**23.** Section 24 is amended by—

(a) deleting the phrase ‘Rules and’ before the word ‘regulations’ in the head note

(b) in subsection (2) by deleting the phrase ‘establishing a bursary fund’ and substituting therefor the phrase ‘the Fund’

**24.** The following new section is inserted immediately after section 25 of the principal Act—

**‘25A(1)** Any person appointed as a member of the Board established under section 5(1)(c) of the principal Act, at the commencement of this Act, shall continue to serve as a member of the Board of the Corporation and

Insertion of new  
section 25A

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interim member of the Board of Trustees established under section 11B of this Act.

25. (2) Upon expiry of the term of office for members of the Board, the provisions for appointment of the Board of the Corporation and Board of Trustees, set out in this Amendment Act, shall be complied with.

