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**THE BARINGO COUNTY PRE-PRIMARY AND EARLY CHILDHOOD
EDUCATION BILL, 2020**

A Bill for

AN ACT of the County Assembly of Baringo to give effect to paragraph 9 of part 2 of the Fourth Schedule of the Constitution of Kenya and to provide for pre-primary and early Childhood Education and for other connected purposes

ENACTED by the County Assembly of Baringo as follows—

PART I— PRELIMINARY

Citation

1 This Act may be cited as the Baringo County Pre-primary and Early Childhood Education Bill, 2020 and shall come into operation upon publication in the *County Gazette* and *Kenya Gazette*, which date shall not be later than ninety days from the date of its publication

Interpretation

2 In this Act, unless the context otherwise requires—
“**early childhood**” means the age between three and five years of a child,

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

“**Department**” means the Department of Pre-primary and Early Childhood Education established under section 5,

“**executive committee member**” means the county executive committee member responsible for education,

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

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

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

Responsibilities of
the Governor

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

(2) The governor shall organise the pre-primary and early childhood education system in the county and be responsible for the general progress, development and co-ordination of the system and its activities in accordance with the Basic Education Act, No 14 of 2013

Executive committee to issue guidelines on minimum standards

4 The county executive committee shall, in consultation with the County Education Board established under the Basic Education Act—

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

Department of Pre primary and Early Childhood Education

5 (1) There shall be a Pre-primary and Early Childhood Education Department within the Directorate responsible for county early education in the county public service

(2) The principal functions of the Department of Pre-primary and Early Childhood Education shall be to—

- (a) advise the Governor and the Executive Committee on all matters relating to pre-primary and early childhood education,
- (b) facilitate the raising and obtaining of funds for the promotion and development of pre-primary and early childhood education,
- (c) initiate guidelines on the establishment of pre-primary and early childhood school centres and institutions for approval by the Executive Committee,
- (d) register pre-primary and early childhood schools, centres and institutions,

- (e) carry out any other function for the effective provision of pr-primary and early childhood education

Head of Department of pre primary education

6 (1) The Department of Pre-primary and Early Childhood Education shall be headed by a public officer competitively appointed by the County Public Service Board

(2) A person is qualified for appointment as head of Department of Pre-primary and Early Childhood Education if that person—

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

(3) A person shall not be qualified for appointment as the head of Department of Pre-primary and Early Childhood Education under subsection (2) if that person—

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

Other officers and staff of the Department

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

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

Annual and other reports

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

(2) Notwithstanding subsection (1), the governor or County Education Board may at any time, require a report from the Department on any particular matter under the responsibility of the Department

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

PART III— REGISTRATION OF SCHOOLS, CENTRES AND INSTITUTIONS

School centre or institution to be registered

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

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

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

Application for registration

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

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

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

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

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

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

Applicant to pay prescribed fee

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

Publication of the application

12 The Department shall, upon receipt and after forwarding the application for the registration of a pre-primary or early childhood school, centre or institution to the County Education Board, publish the application in the *County Gazette* and in at least one daily newspaper of national circulation

Registration of a school centre or institution

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

- (a) the applicant is an adult and a fit and proper person to operate the school centre or institution,
- (b) the applicant has not been convicted of an offence under the Psychotropic and Dangerous Drugs Act, or the Children’s Act, or an offence involving fraud, dishonesty or moral turpitude,
- (c) where the applicant is a company, firm or other organisation, none of its directors or members, has been convicted of an offence mentioned in paragraph (b),

(d) none of the persons to be employed by the applicant in the operation of the institution has been convicted of an offence mentioned in paragraph (b)

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

(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

Permit to operate
prior to registration

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

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

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

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

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

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

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

Registration certificate

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

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

Registration certificate to be displayed

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

Register of schools, etc to be kept

17 The Department shall keep a register of all pre-primary and early childhood schools, centres and institutions operating in the county and shall include in the register name of the schools, centres or institution and such other particulars as the executive committee member may prescribe

PART IV — MISCELLANEOUS PROVISIONS

Administrative and technical costs No 18 of 2012

18 The annual estimates of the Directorate of Education in the county government shall, in accordance with the Public Finance Management Act, 2012, make provision for the administrative and technical costs of the Department

Public may institute complaint

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

(a) a pre-primary or early childhood school, centre or institution is operating illegally or is contravening any provision of this Act, or

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

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

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

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

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

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

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

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

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

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

(8) Any person aggrieved by the decision of the Head of 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

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

Publication
of matters of
concern to the
community

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

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

Regulations

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

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

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to give effect to paragraph 9 of Part 2 of the Fourth Schedule of the *Constitution of Kenya 2010* and to provide for Pre-primary and Early Childhood Education and for other connected purposes

Part II of the Bill provides for responsibilities relating to Pre-primary and Early Childhood Education

Part III of the Bill provides for registration of schools, centres and other institutions within the County

Part IV of the Bill provides for miscellaneous provisions to include Administrative and technical costs, how the public may institute complaints, publication of matters of concern to the community and other subsidiary regulations

Dated this 14th day of October, 2019

Hon John Tarus

M C A – SACHO WARD, BARINGO COUNTY ASSEMBLY

Chairperson—Committee on Education Vocational Training and ICT

