

SPECIAL ISSUE

Mombasa County Gazette Supplement No. 20 (Acts No. 11)

**MOMBASA COUNTY ASSEMBLY
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REPUBLIC OF KENYA

**MOMBASA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2014

NAIROBI, 30th January, 2015

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**THE MOMBASA COUNTY EDUCATION DEVELOPMENT ACT,
2014**

No. 11 of 2014

Date of Assent: 31st December, 2014

Date of Commencement: 2nd January, 2015

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**THE MOMBASA COUNTY EDUCATION DEVELOPMENT
ACT, 2014**

AN ACT of the Mombasa County Assembly to provide for the delivery of efficient education services; to raise and solicit for funds to promote education; to set conditions governing the granting of bursaries; to facilitate the decentralized state organs related to education, care and access to information in carrying out their functions and services and for connected purposes

ENACTED by the County Assembly of Mombasa as follows—

PART I—PRELIMINARY**1. Short title and commencement**

This Act may be cited as the Mombasa Education Development Act, 2014 and shall come into operation upon assent by the Governor.

2. Interpretation

In this Act, unless the context otherwise requires—

“Board” means the Board established under section 4 of this Act;

“Child” means any person under the age of eighteen years;

“Child care” means the necessary provisions for the education, health, welfare, maintenance and protection of a child;

“Committee” means a committee established under this Act;

“Constitution” means the constitution of Kenya 2010;

“Corporation” means the corporation established under section 3 (1) of this Act including the board and the Fund;

“Education” means the giving of intellectual, moral, spiritual instruction or other training to a child;

“Financial aid” means any bursaries, scholarships and grants related to education child care and access to information;

“Fund” means the Fund established under section 11 (1) of this Act;

“Secretary” means secretary to the Board appointed under section 5 (2) of this Act;

**PART II—ESTABLISHMENT AND ADMINISTRATION OF
THE CORPORATION****3. Establishment of the Corporation**

(1) There is established a Corporation to be known as the Elimu Development Corporation which shall be a body corporate with perpetual

succession and a common seal and shall be managed and administered by a Board.

(2) The Corporation shall be capable of —

- (a) suing and being sued;
- (b) taking, purchasing, acquiring, holding, charging, disposing and investing in movable and immovable property and any other investment relating to education, child care and access to information;
- (c) entering into contract;
- (d) borrowing money; and
- (e) doing or performing all such other acts necessary for the proper performance of its functions under this Act, and which may lawfully be done or performed by a body corporate.

4. Functions of the Corporation

The Corporation shall—

- (a) provide partnership and coordination in the resource mobilization and promotion of technical, financial and human resource towards quality access to information, child care and education from local, regional and international partners.
- (b) raise and solicit for funds and other assistance to promote the functions of the corporation;
- (c) set the criteria and conditions governing the granting of bursaries;
- (d) receive all contributions and other payments required by this Act to be paid into the Fund; and
- (e) disburse all benefits and other payments required by this Act to be paid out of the Fund.
- (f) establish and maintain links with other persons, bodies or organizations within or outside Kenya, as the Board may consider appropriate for the furtherance of the purposes for which the Corporation is established;

5. Administration of the Corporation

(1) The Corporation shall be managed by a Board comprising of—

- (a) a Chairperson appointed by the Governor by virtue of his or her knowledge and experience in matters relating to financial management, economics, education or business administration

with minimum qualifications of a degree and a minimum of ten (10) years' experience;

- (b) Chief Executive Officer appointed by the executive committee member in charge of finance by virtue of his or her knowledge and experience in matters relating to financial management, economics, education or business administration with minimum qualifications of a degree and a minimum of seven (7) years' experience;
- (c) four members appointed by the Executive Committee Member at the time being is responsible for matters relating to education and children; with minimum qualifications of a degree in social sciences and a minimum of five (5) years experience;
- (d) the Chief Officer for Finance;
- (e) the chief officer for education.

(2) The Chief Executive Officer is the Secretary to the Board, an *ex officio* Member and is responsible for the day to day management of the corporation and shall have no right to vote in the meetings of the Board.

6. Term of Office

(1) The board shall hold office as follows—

- (a) the Chairperson shall serve for a non renewable term of six consecutive years;
- (b) the Chief Executive Officer shall serve for five consecutive years and is eligible for reappointment; and
- (c) the members shall serve for a non renewable term of six years;

(2) Notwithstanding subsection (1) a member of the Board shall vacate office if—

- (a) the term of office expires;
- (b) he or she submits his written resignation to the appointing authority;
- (c) he or she unable to perform his or her duties due to physical or mental disability as certified by a medical practitioner;
- (d) he or she has been adjudged bankrupt by a competent court of law;
- (e) he or she has been convicted of a criminal offence whose punishment is imprisonment for a period of at least six months;

- (f) he or she is found to have been in contravention of Chapter Six of the Constitution;
 - (g) he or she no longer fulfills the requirements considered at the time of his/her appointment;
 - (h) he or she is absent for three consecutive meetings in one year without any justifiable cause; or
 - (i) he or she dies.
- (3) Where the office becomes vacant under subsection (2), the Secretary to the Board shall forthwith notify the vacancy to the appointing authority for appropriate action.

7. Conflict of interest

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

8. Functions of the Board

The functions of the Board include —

- (a) trustee of the Fund established under section 14;
- (b) formulation of sound policies for regulating the management of the corporation;
- (c) considering and entertaining appeals from the committees;
- (d) to determine the strategic vision and plan of action of the corporation and follow up their implementation;
- (e) to approve the internal rules and regulations of corporation;
- (f) to approve the organizational structure of the corporation which shall be established by the Executive Committee Member in charge of education;
- (g) to approve the annual budget proposal before it is transmitted to relevant authorities;
- (h) to evaluate the performance of the Corporation in accordance with the plan of action and the budget;
- (i) to approve the activity and financial reports of the previous year;
- (j) to appoint and dismiss the personnel of the Corporation;
- (k) to receive all contributions and other payments to the Fund;
- (l) to make payments out of the Fund;

- (m) to fund and promote care, student exchange programs, learning, talent development and management, teaching facilities and programs within the County;
- (n) to regulate the contributions payable to the Fund;
- (o) to protect the interests of contributors to the Fund;
- (p) performing and exercising any other functions and powers conferred on the Board by this Act.

9. Committees of the Board

(1) The Board shall appoint the following Committees which shall operate on part time basis and paid sitting allowance;

- (a) a Committee that will deal with child care;
- (b) a Committee that will deal with talent, knowledge and workforce development;
- (c) a Committee that will deal with financial aid;
- (d) a Committee that will deal with access to information;
- (e) any other Committee that the Board deems appropriate.

(2) The membership of each Committee except the Committee dealing with financial aid shall be five and the quorum shall be three members present.

(3) Each Committee Member shall possess the relevant skills, knowledge and experience relating to that Committee.

(4) All Committees of the Board shall have such powers as to co-opt such members not exceeding two as may be necessary.

(5) Notwithstanding section 9 (1) a committee dealing with financial aid shall be established at the sub-county level and shall consist of;

- (a) a Chairperson appointed by the Executive Committee Member in charge of education with a minimum qualification of a degree in accounts or financial management and a minimum experience of five years.
- (b) a representative of each ward within the respective sub-county appointed by the Member of the County Assembly with the relevant skills, knowledge and experience relating to education, child care or finance.
- (c) a representative of a Parents Association in each ward within the respective Sub-County with the relevant skills, knowledge and experience relating to education, child care or finance.

(6) Subject to this Act the Committees shall regulate their own functions.

10. Board Meetings

(1) The Chairperson shall preside over all meetings of the Board, in his/her absence the members present shall elect one of themselves to preside at that particular meeting or part thereof.

(2) The Board shall meet at least four times in a financial year. However, the Chairman may upon requisition in writing by at least four members, convene a special meeting of the Board.

(3) All questions at any meeting of the Board shall be determined by a simple majority of the votes of the members present and voting.

(4) The Chairperson shall, in case of equality of votes, have a casting vote.

(5) The Secretary shall cause minutes and proceedings of all the Board meetings to be entered into the Minute-Book kept for that purpose.

PART III—ESTABLISHMENT AND FUNCTIONS OF THE ELIMU FUND

11. Establishment of the Elimu Fund

(1) There is established a Fund, to be known as the Elimu Fund.

(2) The Fund shall be operated and managed by the Corporation.

12. Sources of funds for the Elimu Fund

(1) The sources of funds for the Fund shall consist of any gifts, donations, grants and endowments made to the Fund.

(2) The County Treasury may make payments to the fund

(3) There will be paid out of the Fund any expenditure approved by the Board and incurred in connection with the administration of the Fund.

13. Administrator of the Fund

The Chief Executive Officer shall be the administrator of the Fund.

14. Trustees of the Fund

The Board under section 5 shall be the trustee of the Fund.

PART IV—ADMINISTRATION AND FINANCE

15. Financial Year

The financial year of the Fund shall be from the 1st of July in a year to the 30th of June in the next year.

16. Bank Accounts

(1) Bank accounts of the corporation shall be opened and maintained at a Commercial Bank approved by the Board.

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

- (a) the Secretary; and
- (b) three other persons appointed by the Board from amongst its members.

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

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

17. Income and Expenditure

(1) The Board shall submit to the Executive Committee Member in charge of education an estimate of its income and expenditure as specified in the budget cycle for approval.

(2) The annual estimates shall make provisions for all the estimates of expenditure of the corporation for the financial year and provide for the—

- (a) award of financial aid in accordance with this Act;
- (b) cost of administration of the corporation including payment of salaries, allowances, pensions, gratuities and other charges payable to the staff of the Corporation and members of the Board and programmes related to education, child care and access to information.
- (c) payment or reimbursement to the members of the Board of monies in respect of expenses incurred during the attendance of the meetings of the Board.

(3) The Corporation shall incur expenditure in accordance with the annual estimates approved under subsection (2).

(4) The Board may create such reserve funds to meet future or contingent expenditure in respect to an urgent and unforeseen matter that addresses education, child care and access to information.

18. Investment of Funds

(1) All moneys of the Corporation which are surplus for the purposes of this Act shall be invested in—

- (a) such investment in a reputable bank, being an investment in which trust funds, or part thereof, are authorized by law to be invested;
 - (b) in such other commercial investments in matters related to education, child care and access to information
- 2) All investments made under this section shall be held in the name of the Corporation.

ACCOUNTS AND AUDIT

19. Books of Accounts

(1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets, audits and liabilities of the Corporation and other statements of accounts as may be necessary to fully disclose the undertaking, assets, liabilities and discharge of the functions of the Corporation.

(2) The Executive Committee Member in charge of education shall lay audited report of accounts of the Corporation before the County Assembly not more than four months after the end of each financial year.

(3) Not later than three months after the close of every financial year, the accounts, including the balance sheet of the fund relating to that financial year shall be audited by the Auditor General or an Auditor appointed by him or her.

(4) As soon as the accounts of the fund have been audited, and in any case not later than three months after the audit, the board shall submit to the Executive Committee Member in charge of education a copy of the audited statement of account together with a copy of the audited report on the statement of account made by the auditors

PART V—MISCELLANEOUS

20. Common seal of the Corporation

The common seal shall be kept in such custody as the Corporation may direct and shall not be used except on the order of the Board.

21. Appointments

Appointment of the Chief Executive Officer and staff of the corporation must be subject to a competitive process by the Board.

22. Gender Rule

The composition of the Board shall adhere to the Gender rule as stipulated in the Constitution.

23. Resolutions of Board meetings

Resolutions of the Board meetings shall be signed by its members immediately at its completion and shall be submitted to the Executive Committee Member in charge of Education within five (5) days.

24. Rules and regulations

(1) The Executive Committee Member for the time being in charge of education may make regulations, not inconsistent with this Act respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act.

(2) The Executive Committee Member for the time being in charge of finance may make regulations for purpose of establishing a bursary fund which shall be administered under the department of education.

25. Offences relating to financial aid

(1) Any person who, for the purpose of obtaining the payment of any benefit under this Act, knowingly makes any false statement, whether orally or in writing commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

(2) Any person with intent to obtain fraudulently the payment of any benefit under this Act, or impersonates any person; commits an offence and is liable on conviction to a fine not exceeding Five Hundred Thousand Shillings or to imprisonment for a term not exceeding three years, or to both.

(3) Any individual knowingly or fraudulently alters or falsifies any information with intent to defraud the Corporation or to obtain any benefit that it is not entitled to under this Act, commits an offence and is liable on conviction to suspension and prosecution

(4) Any individual suspended under this section will be published in the County Gazette and will not, during the suspension be entitled to any financial aid from the Fund.

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