

SPECIAL ISSUE

Kenya Gazette Supplement No. 238 (Senate Bills No. 54)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

SENATE BILLS, 2023

NAIROBI, 8th December, 2023

CONTENT

Bill for Introduction into the Senate—

PAGE

The Early Childhood Education (Amendment) Bill, 2023 1193

**THE EARLY CHILDHOOD EDUCATION
(AMENDMENT) BILL, 2023**

A Bill for

**AN ACT of Parliament to amend the Early Childhood
Education Act; and for connected purposes**

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Early Childhood Education (Amendment) Act, 2023. Short title.

Amendment of
section 31 of No. 3 of
2021.

1. Section 31 of the Early Childhood Education Act, in this Act referred to as “the principal Act” is amended by inserting the following new paragraph immediately after paragraph (f)—

(fa) discuss and recommend measures for the welfare of teachers.

Amendment of
section 38 of No. 3 of
2021.

2. Section 38 of the principal Act is amended by inserting the following new subsection immediately after subsection (2)—

(2A) In determining the remuneration under subsection (2), the county government shall take into account several factors including —

- (a) inflation rate;
- (b) minimum wage; and
- (c) cost of living.

Amendment of
section 68 of No. 3 of
2021.

3. Section 68 of the principal Act is amended in subsection 3(a) by inserting the following new subparagraph immediately after subparagraph (viii)—

(viiiia) welfare of teachers;

MEMORANDUM OF OBJECTS AND REASONS**Statement of the Objects and Reasons for the Bill**

This Bill seeks to amend the Early Childhood Education Act, No. 3 of 2021 to mandate the county governments to provide for the welfare of early childhood education teachers in public schools.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement of how the Bill concerns County Governments

The Bill concerns county governments in terms of Article 110(1)(a) of the Constitution as it contains provisions that affect the functions and powers of the County Governments. Paragraph 9 of Part II of the Fourth Schedule to the Constitution designates pre-primary education as a devolved function.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 13th June, 2023.

EDDY GICHERU OKETCH,
Senator.

Section 31 of No. 3 of 2021 which it is proposed to amend —

31. Functions of the board of management

The functions of the board of management are to —

- (a) identify the needs of early childhood education and development services within their local communities and develop viable strategies for meeting these 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) identify local resources necessary to equip the education centre and identify sources for, and undertake fundraising activities to raise funds for the education centre;
- (e) ensure the provision of quality early education services in the education centre in accordance with the standards prescribed under this Act and by the County Education Board;
- (f) ensure the provision of adequate equipment and facilities within the education centre that such equipment and facilities are well maintained;
- (g) carry out advocacy in relation to the needs and the rights of the child in relation to early childhood education; and
- (h) carry out such other functions as may be necessary for the implementation of this Act within the education centre.

Section 38 of No. 3 of 2021 which it is proposed to amend —

38. Recruitment of early childhood teachers

(1) The county government shall be responsible for the —

- (a) recruitment and professional development of early childhood education teachers in public education centres within the county; and
- (b) maintenance of a register of early childhood education teachers recruited by it under paragraph (a).

(2) The county government shall pay to early childhood education teachers employed in public education centres within the county, such remuneration as it shall, in consultation with the Salaries and Remuneration Commission, determine.

Section 68 of No. 3 of 2021 which it is proposed to amend —

68. Regulations

(3) The Cabinet Secretary may, in consultation with the Council of County Governors, make regulations generally for the better carrying out of the provisions of this Act.

(4) The Cabinet Secretary shall, in consultation with the Teachers Service Commission and the Council of County Governors, prescribe minimum standards relating to schemes of service for early childhood teachers within one year of enactment of this Act.

(5) Without prejudice to the generality of subsection (1), the Cabinet Secretary may —

- (a) prescribe minimum standards relating to the following matters—
 - (i) premises and facilities;
 - (ii) programmes of education;
 - (iii) practices in relation to children's learning and development;
 - (iv) staffing and parental or caregiver participation;
 - (v) health and safety;
 - (vi) implementation of the curriculum framework;
 - (vii) communication and consultation with parents;
 - (viii) the operation or administration of early childhood education services in a manner that ensures 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) prescribe fees required to be paid under this Act.
- (6) Regulations made under subsection (2) may prescribe different standards and other requirements —
- (a) for early childhood services of different types or descriptions; and
 - (b) in respect of different kinds of registrations.
- (7) For the purposes of Article 94(6) of the Constitution—
- (a) the authority of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and
 - (b) the principles and standards set out under the Interpretation and the General Provisions Act, (Cap. 2) and the Statutory Instruments Act, (No. 23 of 2013) in relation to subsidiary legislation shall apply to regulations made under this Act.