



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

BARINGO COUNTY BILLS, 2024

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BARINGO COUNTY PRE-PRIMARY MEALS AND NUTRITION BILL, 2024

A Bill for

AN ACT of County Assembly of Baringo to provide for a framework for the co-ordination and implementation of pre-primary meals and nutrition programme within the county and for connected purposes.

ENACTED by the County Assembly of Baringo, as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Baringo County Pre-Primary Meals and Nutrition Act, 2024 and shall come into operation on publication in the *Gazette*.

Interpretation

2. In this Act, unless the context otherwise requires—

“Board” means the center Board of management established under section 12;

“center” means an educational institution registered by the county to offer stimulation and early learning for children before entry to grade one;

“Committee” means the County Pre-primary Meals and Nutrition Committee established under section 7;

“County” means the Baringo County Government;

“County Executive Committee member” means the County Executive Committee member responsible for Pre-primary Education;

“Directorate” means the Directorate of Pre-primary Education established under section 10;

“Director” means the Director of Pre-primary Education;

“Gazette” has the meaning assigned to it under Article 260 of the Constitution;

“Governor” means the Governor of the County Government of Baringo;

“learner” means a child who has been admitted to a center for the purpose of gaining knowledge, information, values, comprehension and skill by studying, practicing, or being taught;

“private center” means a center established, owned or operated by a private individual, entrepreneur or institution; and

“programme” means the meals and nutrition programme implemented under this Act.

Application

3. This Act shall apply to both public and private centers within the County.

Objects of the Act

4. The object of this Act is to—

- (a) provide for a legal framework for the access to quality meals, nutrition, and health education to all learners in the County pre-primary centers;
- (b) promote partnerships in supporting pre-primary meals and nutrition programme within the County; and
- (c) strengthen the capacity of the pre-primary management committees and community towards ownership and sustainability of the pre-primary meals and nutrition programme.

Guiding principles

5. The guiding principles for the implementation of this Act, shall be the—

- (a) right to free and compulsory basic education as envisaged under Article 53(1)(b) of the Constitution;
- (b) recognition of family as the primary care givers and the role of the community in providing an alternative support system that ensures the realization of the right to early childhood education and development;
- (c) promotion of equality, equity and non-discrimination in access to compulsory pre-primary education and nutrition;
- (d) promotion of integrity, transparency and accountability in the implementation of the pre-primary meals and nutrition programme;
- (e) promotion of the right to quality nutrition and health care through identification and prioritization of the most vulnerable learners with special needs in the community; and

- (f) promotion of the principles of inclusivity, social justice, human rights and protection of the marginalized in accessing basic nutrition.

PART II—PROVISION OF MEALS AND NUTRITION SERVICES IN PRE-PRIMARY CENTERS

Role of the County Government in the provision of meals and nutrition

6. (1) The County Government in collaboration with and state government and non-governmental agencies shall ensure that every child in the County has access to free and compulsory pre-primary basic education, basic nutrition and health care in line with Article 53 (1) (b) and (c) of the Constitution.

(2) The County Government will in promoting the access under sub-section (1)—

- (a) uphold the right to basic nutrition and healthcare in all county pre-primary centers and guarantee mechanisms for its enforcement;
- (b) ensure availability and access to free meals and nutrition to all learners in public pre-primary centers, within the county irrespective of their economic, social or religious backgrounds;
- (c) provide such necessary infrastructure and enabling environment for the provision of free meals and nutrition in all county pre-primary centers;
- (d) formulate and implement policies, programmes, plans, guidelines and regulations on meals and nutrition programme in pre-primary centers;
- (e) provide adequate annual budgetary allocation for the implementation of meals and nutrition programme for public pre-primary centers;
- (f) provide a structured funding and resource mobilization from partners, donors, and other stakeholders to finance, support and sustain the meals and nutrition programme;
- (g) provide capacity building to the pre-primary management committee and community towards ownership and sustainability of meals and nutrition programme;
- (h) promote partnerships with stakeholders in supporting the meals and nutrition programme;

- (i) ensure equity and inclusivity in access to meals by all learners in public pre-primary centers;
- (j) ensure that private centers and other stakeholders running pre-primary education centers develop mechanism to provide meals and nutrition to learners in their centers;
- (k) collaborate with other stakeholder to provide periodic essential nutrition and health services to all pre-primary learners;
- (l) undertake periodic vulnerability assessment in collaboration with other stakeholders to inform targeting priority for meals and nutrition programme in pre-primary centers;
- (m) enhance effective monitoring and evaluation of the meals and nutrition programme;
- (n) develop and enhance access and circulation of up-to-date data and timely information on meals and nutrition programme; and
- (o) carry out public awareness and advocacy forums in relation to the meals and nutrition programme.

PART III—MANAGEMENT OF PRE-PRIMARY MEALS AND NUTRITION PROGRAMME

Establishment of County Pre-primary Meals and Nutrition Committee

7. (1) There is established a committee to be known as the County Pre-primary Meals and Nutrition Committee.
- (2) The Committee shall consist of the—
- (a) County Executive Committee Member responsible for Education who shall be the chairperson of the Committee;
 - (b) Chief Officer responsible for Education.
 - (c) Chief Officer responsible for Health Services or a representative nominated in writing;
 - (d) Director responsible for County Pre-primary Education who shall be the Secretary to the Committee;
 - (e) Director disaster risk management or representative nominated by the Director Disaster Risk Management;
 - (f) County Director of Education or a representative nominated in writing;
 - (g) a person appointed to represent privately owned pre-primary centers;

- (h) a representative of the parents association in the County;
- (i) a representative of the faith based organizations within the County; and
- (j) a representative of the development partners involved in pre-primary education, appointed by the County Executive Committee member.

(3) The members appointed under paragraph 7(2)(a)(b)(c)(d)(e) shall serve during their tenure of office.

(4) The members appointed under paragraph 7(2)(f)(g)(h)(i)(j) shall serve for a term of three years and may be eligible for reappointment for a single further term of three years.

(5) The Committee may co-opt into its membership, a person whose knowledge and skills is found necessary for the effective discharge of the functions of the Committee under this Act.

Functions of the Committee

8. The Committee shall be responsible for the—

- (a) formulation of the criteria for the implementation of the programme;
- (b) implementation of the policy on meals and nutrition programme;
- (c) development of guidelines for the implementation of the programme;
- (d) mobilization of resources for the implementation of the programme;
- (e) carry out periodic nutritional assessment at the pre-primary centers;
- (f) receive and address complaints and disputes and take any appropriate action;
- (g) co-ordination and collaboration with other stakeholders in the implementation of the programme;
- (h) performance of such other function as may be necessary for the implementation of the programme; and
- (i) receiving and approving quarterly reports of the programme.

Conduct of business and affairs of the Committee

9. (1) The Committee will have at least four meetings in each financial year.

(2) The Committee shall regulate the procedure for its meetings.

(3) The Committee shall be paid such allowances as are determined by the Salaries and Remuneration Commission.

Functions of the Committee

10. (1) The Committee shall consist of such staff deployed to assist the Directorate discharge its functions under this Act.

Functions of the Directorate

11. The Directorate shall be responsible for the—

- (a) enforcement of the Act and guidelines made under the Act;
- (b) planning and capacity building on pre-primary meals and nutrition programme;
- (c) co-ordination of the programme at the county level;
- (d) co-ordination of the activities of the Directorate with the stakeholders involved in the implementation and support of the programme;
- (e) collaboration with the Department of Health in offering health and nutrition services and to ensure that food delivered to pre-primary centers is fit for human consumption; and
- (f) carry out monitoring and evaluation of the programme.

Centre Management Team

12. (1) There shall be in each public center, a Center Management Team appointed by the County Executive Committee member.

(2) The Center Board of Management shall consist of—

- (a) the head teacher of parent primary school, who shall be the Chairperson of the Board;
- (b) representative of the early childhood development education teacher who shall be the Secretary to the Board; and
- (c) a representative of the parents association.

(3) The Board shall be responsible for the—

- (a) day to day management of the programme at the center;
- (b) storage and security of the food supplies at the center;

- (c) provision of cooking utilities to include safe and clean water and fuel; and
- (d) ensuring the safety, health and sanitation in the pre-primary centers.

(4) The Board shall serve for a term of three years or such longer term as the County Executive Committee Member, may determine.

Meetings of the Management team

13. The Board shall for effective discharge of its functions under this Act, regulate its own procedures.

PART IV—FINANCIAL PROVISIONS

Financing of the programme

14. (1) The programme for public pre-primary centres shall be financed through, notwithstanding the provisions of sub-section (1) privately owned centres will finance their programme—

- (a) annual County budgetary allocation on a per capita allocation basis; and
- (b) external resource mobilization.

(2) The County Executive Committee member shall in consultation with the County Executive Committee member responsible for Finance, determine the parameter for computing the per capita allocation ratio.

(3) The approved per capita ratio determined under sub-section (2), shall be reviewed after every three years.

(4) The County Executive Committee member shall develop a mechanism for resource mobilization from external partners to support the implementation of the programme.

Appropriation from the County Assembly and other sources of funds

15. (1) The Directorate shall receive such monies as may be appropriated by the County Assembly for the purposes of its functions under this Act.

(2) The Directorate may also receive monies from any other sources such as donations or gifts.

(3) Donations and grants shall only be used for the purpose for the programme.

Bank accounts

16. (1) For purposes of section 16, the County Executive Committee member for Finance shall, authorize the opening and maintenance of bank accounts by the Directorate for purposes of operationalizing disbursements of conditional grants, donations and any other monies designated for the programme as may be prescribed in accordance with the provisions of the Public Finance Management Act and any other relevant law.

(2) Funds identified and designated for the programme under subsection (1) shall not be appropriated for any other purpose.

Management of the funds

17. Funds allocated for the implementation of the programme shall be accounted for in accordance to the Public Finance Management Act and the applicable Regulations.

Accounts and audit

18. The accounts of the Directorate shall be audited and reported upon in accordance with the Constitution, the Public Audit Act and any other relevant legislation.

Quality assurance

19. The Directorate shall in order to ensure safety and quality of the meals—

- (a) ensure that all meals provided to the learners are safe and nutritious;
- (b) undertake regular inspection of the pre-primary meals to ensure it is fit for human consumption;
- (c) implement, monitor and ensure compliance to requisite standards for provision of meals and nutrition services under this Act; and
- (d) cause the food handlers to undertake regular and mandatory medical examination and have a valid medical certificate.

PART V—TRANSITIONAL PROVISIONS**Regulations**

20. (1) The County Executive Member may develop Regulations and guidelines for effective implementation of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations and guidelines may be on—

menu and duration of the meals for the programme;

- (a) food quality controls;
- (b) food storage and transportation;
- (c) health and nutrition;
- (d) water sanitation and hygiene; and
- (e) monitoring, evaluation and reporting.

Report

21. The Committee shall within three months after the end of each financial year, report to County Executive Committee member and County Assembly on the activities undertaken towards the implementation of the programme.

Offences and penalties

22. Any person who—

- (a) assaults, obstructs, threatens, intimidates, abuses or insults a person in the discharge of functions; or exercise of his powers under this Act; or
- (b) diverts programme goods, equipment or other aid commodities to other persons other than the rightful recipient; or
- (c) substitutes or replaces the programme foods, goods, equipment or other aid commodities with items of inferior or cheaper quality; or
- (d) contravenes any order issued under this Act, commits an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or both.

SCHEDULE*(S. 9(2))***CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE****1. Election of Vice-chairperson**

At the first meeting, the Committee shall elect a vice-chairperson amongst their number and regard shall be taken to ensure that the Chairperson and Vice-chairperson shall be of opposite gender.

2. Time and place of meetings

A meeting of the Committee shall be held on such date and at such time and place as the Committee may determine.

3. Special meetings

The Chairperson shall, on the written application of one-third of the members, convene a special meeting of the Committee.

4. Quorum

The quorum for the conduct of business at a meeting of the Committee shall be any five members.

5. Voting

The Chairperson shall preside at every meeting of the Committee at which he or she is present and in the absence of the Chairperson at a meeting, the Vice-chairperson, shall preside and in the absence of both the Chairperson and the Vice-chairperson, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

6. Decisions of the Committee

Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by concurrence of a majority of all the members present and voting at the meeting.

7. Validity of proceedings

Subject to paragraph 4, no proceedings of the Committee shall be invalid by reason only of a vacancy among the members thereof.

8. Signification of instruments and decisions of the Committee

Unless otherwise provided by or under any law, all instruments made by and decisions of the Committee shall be signified under the hand of the Chairperson.

MEMORANDUM OF OBJECTS AND REASONS

This Bill has been formulated to provide for a framework for the coordination and implementation of pre-primary meals and nutrition programme within the county and for connected purposes. It shall apply to both public and private pre-primary centers within the county to ensure that every learner gets a nutritious meal while attending school.

The Bill is structured as follows

PART I the preliminary part is an introduction of the Bill, including the title, commencement, definition of terms, application, objects and purpose as well the guiding principles.

PART II provides for the management of pre-primary meals and nutrition programme specifically provides role of the County Government in the provision of meals and nutrition.

PART III this establishes the structures responsible for coordinating the meals and nutrition programme and it prescribes role of the Committee, the directorate and center management teams including the mode of conduct of their affairs.

PART IV provides the financial provisions for the meals and nutrition programme, including the source and management of funds, bank accounts and audit and quality assurance.

PART V is on the miscellaneous provisions including formulation of regulations, reporting structures and offences and penalties.

MICHEAL CHEBON CHEPKERES,
Chairperson, Committee on Education and Ict.