

EARLY CHILDHOOD COMMISSION ACT, 2003

(Act of 2003)

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SCHEDULE

**A BILL
ENTITLED**

An Act to Establish a Commission to govern the administration of early childhood care, education and development in Jamaica, and to make provision for connected matters.

BE IT ENACTED by The Queen's Most Excellent Majesty by and with the advice and consent of the Senate and House of Representatives of Jamaica, and by the Authority of the same, as follows:-

Short title. 1. This Act may be cited as the Early Childhood Commission Act, 2003.

Inter- 2. In this Act -

pretation. "Commission" means the Commission established by section 3;

"child" means a child under the age of nine years;

"early childhood development" includes the education, health, safety and care of children;

"early childhood institution" means a setting that provides developmentally appropriate care, stimulation, education and socialization for children under the age of six years;

"functions" includes powers and duties.

Establish- 3. - (1) There shall be established for the purposes
ment of the of this Act a body to be called the Early Childhood
Early Child- Commission, which shall be a body corporate to which
hood Com- section 28 of the Interpretation Act shall apply.

mission. (2) The provisions of the First Schedule shall
First have effect as to the constitution and procedure of
Schedule. the Commission and otherwise in relation thereto.

Functions 4. - (1) The Commission shall perform the following

of the functions -

- Commission.
- (a) advise the Minister on policy matters relating to early childhood care, education and development in Jamaica, including initiatives and actions to achieve national early childhood development goals;
 - (b) assist in the preparation of plans and programmes concerning early childhood development;
 - (c) monitor and evaluate the implementation of the plans and programmes referred to in paragraph (b) and, in respect thereof, make to the Minister such recommendations as it thinks fit;
 - (d) act as a co-ordinating agency to ensure effective streamlining of all activities relating to early childhood development;
 - (e) convene consultations with relevant stakeholders as appropriate;
 - (f) analyse resource needs and submit recommendations for budgetary allocations for early childhood development;
 - (g) identify alternative financing through negotiation with donor agencies and liaise with such agencies to ensure effective and efficient use of donor funds;
 - (h) supervise and regulate early childhood institutions.

(2) The Commission may, with the approval of the Minister, impose charges for the use of any facility or services provided by it.

(3) For the purposes of the discharge of its functions under subsection (1), the Commission shall -

- (a) submit to the Minister an annual report relating generally to the execution of its duties;
- (b) collect such information and data, in relation to early childhood development services, as may be prescribed;
- (c) enter into contracts with national and international agencies;
- (d) establish, maintain and deliver public awareness programmes for early childhood development; and
- (e) produce and publish materials on all aspects of early childhood development.

Appointment of Executive Director and other officers and employees. 5. - (1) The Commission shall appoint and employ, at such remuneration and on such terms and conditions as it thinks fit, an Executive Director who shall hold office for a period not exceeding five years and may be re-appointed for periods not exceeding four years at a time.

(2) The Executive Director shall be responsible for the day-to-day management of the Commission.

(3) The Commission may appoint and employ at such remuneration and on such terms and conditions as it thinks fit, such other officers and employees as it thinks necessary for the proper carrying out of the provisions of this Act:

Provided that, except with the prior approval of the Minister -

- (a) no salary in excess of the prescribed rate shall be assigned to any post; and

(b) no appointment shall be made to any post to which a salary in excess of the prescribed rate is assigned.

(4) For the purposes of subsection (3) the "prescribed rate" shall be such rate as the Minister may prescribe by order subject to affirmative resolution.

(5) The Governor-General may, subject to such conditions as he may impose, approve the appointment of any officer in the service of the Government to any office with the Commission and any officer so appointed shall, while so employed, in relation to other rights as a public officer be treated as continuing in the service of the Government.

(6) It shall be lawful for the Commission, with the approval of the Minister -

(a) to enter into arrangements respecting schemes, whether by way of insurance policies or not; or

(b) to make regulations, for pensions, gratuities and other retiring or disability or death benefits relating to members and employees of the Commission and such arrangements or regulations may include provisions for the grant of benefits to the dependents and legal personal representatives of such members or employees.

Delegation of power by Executive Director.

6. - (1) The Executive Director may in writing, with the approval of the Commission, delegate any of his powers or the performance of any duties conferred on him by or under this Act to a person specified in the instrument of delegation.

(2) A delegation under subsection (1) shall not prevent the exercise of the powers or the performance of the duties by the Executive Director.

Minis-
terial
directions.

7. The Minister may, after consultation with the Chairman of the Commission, give to the Commission directions of a general character as to the policy to be followed by the Commission in the performance of its functions in relation to matters appearing to the Minister to concern the public interest.

Funds and
resources
of the
Commission.

8. The funds and resources of the Commission shall consist of -

- (a) such sums as may be provided by Parliament for the Commission in the Estimates of Revenue and Expenditure;
- (b) revenues from charges imposed by the Commission for the use of any facility or services provided by it;
- (c) such sums as may be allocated from time to time to the Commission from loan funds;
- (d) sums borrowed by the Commission for the purpose of meeting any of its obligations or discharging any of its functions;
- (e) all other sums or property which may in any manner become payable to or vested in the Commission in respect of any matter incidental to its functions.

Borrowing
powers.

9. - (1) Subject to the provisions of subsection (2), the Commission may borrow sums required by it for meeting any of its obligations or discharging any of its functions.

(2) The power of the Commission to borrow shall be exercisable only with the approval of the Minister

as to the amount, source of borrowing and the terms on which the borrowing may be effected.

(3) An approval given in any respect for the purposes of subsection (2) may be either general or limited to a particular borrowing or otherwise, and may be either unconditional or subject to conditions.

Guarantee
by Minister
of borrow-
ings by Com-
mission and
repayment
of sums
issued to
meet
guarantees.

10. - (1) With the approval of the House of Representatives the Minister responsible for finance may guarantee in such manner and on such conditions as he may think fit, the repayment of the principal and interest on any authorized borrowings of the Commission.

(2) Where the Minister responsible for finance is satisfied that there has been default in the repayment of any principal moneys or interest guaranteed under the provisions of this section, he shall direct the repayment out of the Consolidated Fund and assets of Jamaica of the amount in respect of which there has been such default.

(3) The Commission shall make to the Accountant-General, at such times and in such manner as the Minister responsible for finance may direct, payments of such amounts as may be so directed in or towards payment of any sums issued in fulfilment of any guarantee given under this section, and payments of interest on what is outstanding for the time being in respect of any sums so issued at such rate as the Minister responsible for finance may direct, and different rates of interest may be directed as respects different sums and as respects interest for different periods.

Power to invest moneys. 11. Moneys standing to the credit of the Commission may be invested in securities and the Commission may, from time to time, sell all or any of such securities and shall, as soon as practicable, notify the Minister, in writing, of any action taken under this section.

Accounts and audit. 12. - (1) The Commission shall keep proper accounts and other records in relation to its business, and shall prepare annually a statement of account in a form satisfactory to the Minister, being a form which shall conform with established accounting principles.

(2) The accounts of the Commission shall be audited annually by an auditor or auditors appointed by the Commission and approved by the Minister.

(3) The members, officers and employees of the Commission shall -

(a) grant to the auditor appointed under subsection (1), access to all books, documents, cash and securities of the Commission; and

(b) give to him on request, all such information as may be within their knowledge in relation to the Commission's operations.

(4) The auditors' fees and any expenses of the audit shall be paid by the Commission.

(5) The Auditor-General shall be entitled at all reasonable times to examine the accounts and other records in relation to the business of the Commission.

Annual report and estimates. 13. - (1) The Commission shall, within six months after the end of each year, or within such longer period as the Minister may in special circumstances allow, cause to be made, and transmit to the Minister, a report dealing generally with the activities of the

Commission during the preceding year, including a statement of its account audited in accordance with section 11.

(2) The Minister shall cause copies of the report together with the auditor's report to be laid on the Table of the House of Representatives and the Senate.

(3) The Commission shall, before a date specified by the Minister, submit to the Minister for his approval, estimates of revenue and expenditure for the ensuing year.

Exemption from stamp duties, taxes, etc. 14. - (1) Notwithstanding anything contained in any other enactment -

(a) any instrument necessary for transferring or vesting any land or other property to or in the Commission upon which or in respect of which stamp duties, registration or recording fees are payable, shall be exempt from the payment of such stamp duties, registration or recording fees;

(b) the Commission shall, in relation to all property whatsoever held or dealt with by it for the purposes of this Act, be exempt from the payment of property tax or income tax.

(2) No customs duty or other similar impost or general consumption tax shall be payable upon any article imported into Jamaica or taken out of bond in Jamaica by the Commission and shown to the satisfaction of the Commissioner of Customs to be required for the Commission's use in the performance of its duties.

Regulations. 15. The Commission may, with the approval of the

Minister, make regulations for the better carrying out of the purposes or provisions of this Act, such regulations to be subject to affirmative resolution.

SCHEDULE

(Section 3)

The Early Childhood Commission

Appointment of members. 1. - (1) The Commission shall consist of not less than sixteen nor more than twenty members.

(2) The Executive Director of the Commission shall be an **ex officio** member of the Commission.

(3) The other members of the Commission shall be -

(a) a chairman appointed by the Governor-General acting on the advice of the Prime Minister after consultation with the Leader of the Opposition;

(b) a representative of the political party forming the Opposition, appointed by the Governor-General on the recommendation of the Leader of the Opposition;

(c) the Permanent Secretary, or his nominee, in -

(i) the Ministry of Education, Youth and Culture;

(ii) the Ministry of Health;

(iii) the Ministry of
Local Government
and Community
Development;

(iv) the Ministry of
Labour and Social
Security;

(v) the Ministry of
Finance and
Planning;

(d) the Executive Director (or
his nominee) of -

(i) the Child Develop-
ment Agency;

(ii) the Planning Institute
of Jamaica;

(e) at least seven persons who
appear to the Governor-
General to be qualified as
having experience of, and
shown capacity in, matters
relating to early childhood
development, including child
care, child psychology,
nutrition, paediatrics and
the field of nursing.

Temporary
appointment.

2. A person may be appointed to
act temporarily in the place of any
member of the Commission appointed
under paragraph (3)(a), (b) and (e), in
the case of the absence or inability
to act of such member.

Tenure
of office.

3. - (1) The appointment of every member of the Commission shall be evidenced by instrument in writing and such instrument shall specify the period of office of the member, which shall not exceed six years.

(2) Every member of the Commission shall be eligible for re-appointment.

(3) The Governor-General may at any time revoke the appointment of any member of the Commission if such person -

- (a) becomes of unsound mind or becomes permanently unable to perform his functions by reason of ill health;
- (b) becomes bankrupt or compounds with, or suspends payment to, his creditors;
- (c) is convicted and sentenced to a term of imprisonment or to death;
- (d) is convicted of any offence involving dishonesty or moral turpitude; or
- (e) fails to carry out any of the functions conferred or imposed on him under this Act.

Resignation.

4. - (1) Any member of the Commission other than the chairman may at any

time resign his office as member by instrument in writing addressed to the Governor-General and transmitted through the chairman, and from the date of the receipt by the Governor-General of such instrument, such member shall cease to be a member of the Commission.

(2) The chairman may at any time resign his office as chairman or member by instrument in writing addressed to the Governor-General and such resignation shall take effect as from the date of the receipt of such instrument by the Governor-General.

Publication
of member-
ship.

5. The names of the members of the Commission as first constituted and every change in the membership thereof shall be published in the *Gazette*.

Procedure
and meetings.

6. - (1) The Commission shall meet as often as may be necessary or expedient for the transaction of its business, and such meetings shall be held at such places and times and on such days as the Commission may determine.

(2) The chairman may at any time call a special meeting of the Commission, and shall call a special meeting to be held within seven days

of a written request for that purpose addressed to him by any two members of the Commission.

(3) The chairman shall preside at all meetings of the Commission and in the absence of the chairman from any meeting the members present and constituting a quorum shall elect a chairman from among their number to preside at that meeting.

(4) A quorum of the Commission shall be twelve.

(5) The decisions of the Commission shall be by a majority of votes and, in addition to the original vote, the person presiding at a meeting shall have a casting vote in any case in which the voting is equal.

(6) Minutes in proper form of each meeting of the Commission shall be kept and shall be confirmed by the chairman or other member elected to preside at the meeting, as the case may be, as soon as practicable thereafter at a subsequent meeting.

(7) Subject to the provisions of this paragraph, the Commission shall have the power to regulate its own proceedings.

of interest. who, otherwise than as such member, is directly or indirectly interested in a contract made or entered into, or proposed to be made or entered into, by the Commission, shall as soon as possible after the relevant facts have come to his knowledge, disclose the nature of his interest at a meeting of the Commission.

(2) A disclosure under this paragraph shall be recorded in the minutes of the Commission, and the member -

(a) shall not take part after the disclosure in any deliberation or decision of the Commission relating to the contract;

(b) shall be disregarded for the purpose of forming a quorum of the Commission for any such deliberation or decision.

Power to
appoint
committees.

8. - (1) The Commission may appoint a committee of the Commission to examine and report to it on any matter arising out of or connected with any of its powers and duties under this Act.

(2) Any such committee shall consist of at least two members of the Commission and such other

persons, whether members of the Commission or not, whose assistance or advice the Commission may desire.

(3) Where persons, not being members of the Commission, are members of a committee appointed under this paragraph, the Commission may by resolution declare the remuneration and allowances of such persons, and such sums shall properly be payable out of the funds and resources of the Commission.

(4) The Commission may by resolution reject the report of any such committee or adopt it either wholly or with such modifications, additions or adaptations as the Commission may think fit.

Power to
delegate.

9. Subject to the provisions of this Act, the Commission may delegate to any member or committee of the Commission the power and authority to carry out on their behalf such duties as the Commission may determine.

Protection
of the
Commission.

10. No act done or proceeding taken under this Act shall be questioned on the ground of -

- (a) the existence of any vacancy in the membership of, or any defect in the constitution of, the Commission;

(b) the contravention by a member of the Commission of the provisions of paragraph 7; or

(c) any omission, defect or irregularity not affecting the merits of the case.

Protection
of members
of the
Commission.

11. - (1) No action, suit, prosecution or other proceedings shall be brought or instituted personally against any member of the Commission, or any member of a committee appointed under paragraph 8, in respect of any act done *bona fide* in pursuance or execution or intended execution of this Act.

(2) Where any member of the Commission or of a committee appointed under paragraph 8, as the case may be, is exempt from liability by reason only of the provisions of this section the Commission shall be liable to the extent that it would be if the said member were a servant or agent of the Commission.

Remuneration
of members.

12. There shall be paid to the chairman and other members of the Commission such remuneration, whether by way of honorarium, salary or fees, and such allowances, as the Minister may determine.

Office of chairman or member not public office. 13. The office of chairman or member of the Commission shall not be a public office for the purposes of Chapter V of the Constitution of Jamaica.

MEMORANDUM OF OBJECTS AND REASONS

A decision has been taken to establish an Early Childhood Commission in order to co-ordinate the promotion and oversight of early childhood development and to prevent the fragmentation and duplication of services relating to early childhood development. The Commission will facilitate the integrated delivery of services, ensure that service standards are developed and maintained and interface with international agencies to facilitate support for national policies and development activities.

This Bill seeks to give effect to the decision to establish an Early Childhood Commission.

Maxine Henry Wilson
Minister of Education, Youth and Culture