

THE EARLY CHILDHOOD COMMISSION ACT

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SCHEDULE

THE EARLY CHILDHOOD COMMISSION ACT

Act
2 of 2003.

[4th March, 2003.]

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

2. In this Act— Interpretation.

“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.

3.—(1) There shall be established for the purposes of this Act a body to be called the Early Childhood Commission, which shall be a body corporate to which section 28 of the Interpretation Act shall apply. Establishment of the Early Childhood Commission.

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

4.—(1) The Commission shall perform the following functions— Functions of the 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.

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 four years and may be reappointed for periods not exceeding four years at a time.

Appoint-
ment of
Executive
Director
and other
officers and
employees.

(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 dependants 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.

Ministerial
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 Commis-
sion.

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.

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.

Borrowing powers.

(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.

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.

Guarantee by Minister of borrowings by Commission and repayment of sums issued to meet guarantees.

(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 (2), 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 12.

(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.

14.—(1) Notwithstanding anything contained in any other enactment—

Exemption
from stamp
duties,
taxes, etc.

- (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.

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.

Regula-
tions.

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 Development 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 reappointment.

(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.

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.

Resignation.

(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.

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*.

Publication of membership.

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.

Procedure and meetings.

(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.

Disclosure of interest.

7.—(1) Any member of the Commission 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.

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.

Protection of members of the Commission.

(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.

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.

Remuneration of members.

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.

Office of chairman or member not public office.