

**SPECIAL ISSUE**

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Kenya Gazette Supplement No. 4

26th May, 2025

(Nandi County Legislative Supplement No. 1)

LEGAL NOTICE NO. 1

THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

THE NANDI COUNTY ALCOHOLIC DRINKS CONTROL ACT, 2014

(No. 6 of 2014)

THE PUBLIC FINANCE MANAGEMENT (THE NANDI COUNTY ALCOHOLIC  
DRINKS CONTROL FUND) REGULATIONS, 2025

ARRANGEMENT OF REGULATIONS

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- 1— Citation.
- 2— Interpretation.
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## THE PUBLIC FINANCE MANAGEMENT ACT

(No. 18 of 2012)

## THE NANDI COUNTY ALCOHOLIC DRINKS CONTROL ACT, 2014

(No. 6 of 2014)

IN EXERCISE of the powers conferred by section 67 of the Nandi County Alcoholic Drinks Control Act, 2014, the County Executive Committee Member for Trade, Tourism, Investment and Industrialization makes the following Regulations—

## THE PUBLIC FINANCE MANAGEMENT (THE NANDI COUNTY ALCOHOLIC DRINKS CONTROL FUND) REGULATIONS, 2025

*Citation*

1. These Regulations may be cited as the Public Finance Management (the Nandi County Alcoholic Drinks Control Fund) Regulations, 2025.

*Interpretation*

2. In these regulations, unless the context otherwise requires —

“Act” means the Nandi County Alcoholic Drinks Control Act, 2014;

“Review Committee” means the Nandi County Alcoholic Drinks Review Committee established under section 28(1) of the Act;

“Chief Officer” means the accounting officer for the time being responsible for matters relating alcoholic drinks control;

“County” means the County Government of Nandi;

“Department” means the County department responsible for matters relating to alcoholic drinks;

“Fund” means the Nandi County Alcoholic Drinks Control Fund established under section 6 of the Act;

*Administration of the Fund*

3. (1) Pursuant to the provisions of section 7(1) of the Act, the County Executive Committee Member in charge of finance shall designate the Director to be responsible for administration of the Fund.

(2) The Fund Administrator appointed under sub-reg (1) above shall be responsible in ensuring that—

- (a) disbursement out of the Fund are made promptly;
- (b) payment is made directly to the designated function, activity or program;
- (c) Section 6 (4) of the Act relating to application of disbursed funds is complied with; and
- (d) any other related matter is dealt with in accordance with the Act.

(3) The Director shall be the fund administrator of the Fund.

(4) The Fund Administrator shall—

- (a) prepare and keep the accounts of the Fund in each financial year; and

(b) not later than three (3) months after the end of each financial year, submit financial statements relating to those accounts to the Executive Committee Member responsible for matters relating to alcoholic drinks control for onward transmission to the Auditor- General.

(5) The Fund Administrator shall cause an account to be opened in any commercial bank, approved by the County Treasury, and such an account shall be known as the "Nandi County Alcoholic Drinks Control Fund Account".

(6) The signatories of the account stated in sub-rule (5) above shall include the Fund Administrator, the Chief Officer responsible for alcoholic drinks control and any other officer designated by the County Executive Committee Member in charge of finance.

(7) The bank account must be operated in accordance with Part II of the Act and the Public Finance Management Act, 2012.

(8) The Fund Administrator will ensure that the account's resources are used for the purpose for which they were intended and shall ensure that the earnings of, or accruals to the Fund are retained in the Fund.

(9) The Fund Administrator shall ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time.

(10) The County Assembly Committee on Alcoholic Drinks Control formed in accordance with the County Assembly standing orders shall play an oversight role in the management of the Fund.

*Responsibility of the accounting officer of the Fund.*

4. (1) The Fund Administrator is accountable for ensuring that the resources of the Fund for which the officer is designated are used in a way that is—

- (a) lawful and authorized; and
- (b) effective, efficient, economical and transparent.

(2) In carrying out a responsibility imposed by sub-rule (1) above, the Fund Administrator, shall—

- (a) ensure that all expenditure made out of the Fund complies with sub-rule (1) above;
- (b) ensure that the financial and accounting records comply with the Public Finance Management Act;
- (c) ensure that all financial and accounting records that the Fund keeps in any form including in electronic form are adequately protected and backed up;
- (d) ensure that all contracts entered into on behalf of the Fund are lawful and are complied with;
- (e) ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their custody, safe guarding and maintenance;
- (f) bring a matter to the attention of the County Executive Committee Member responsible for alcoholic drinks control and the County Treasury through the

chief officer, if, in the accounting officer's opinion a decision or policy or proposed decision or policy of the Fund may result in resources being used in a way that is contrary to sub-rule (1);

- (g) submit the estimates of the Fund to the Chief Officer responsible for alcoholic drinks control who will forward the same to the County Treasury;
- (h) not later than three (3) months after the end of each financial year, prepare annual financial statements for that financial year and submit them to the County Treasury;
- (i) try to resolve any issues resulting from an audit that remain outstanding;
- (j) manage the assets of the Fund to ensure that it receives value for money when acquiring, using or disposing of its assets;
- (k) dispose of assets at the most competitive price and at the lowest possible cost ensuring that the proceeds from all asset disposals are deposited in the bank account of the Fund;
- (l) ensure that the Fund has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to the County Treasury;
- (m) provide the County Treasury with any information it requires to fulfill its functions under the Act;
- (n) provide information on any frauds, losses, or any violations of sub-rule (1) and provide explanations for the actions taken to prevent similar conduct in future; and
- (o) carry out such other responsibilities as may be specified in regulations by the County Executive Committee Member responsible for Finance.

(3) Not later than three (3) months after the County Assembly has adopted a report by a committee of the County Assembly with respect to a report submitted by the Controller of Budget under Article 228 (6) of the Constitution, the Chief Officer shall—

- (a) prepare a report on actions taken by the Fund to implement any recommendations made in the report as adopted by the County Assembly; and
- (b) submit the report to the County Treasury.

(4) Not later than one month after receiving a report by the Chief Officer under sub-rule (3) above, the County Treasury shall submit to the County Assembly and the auditor-general, the accounting officer's report and may include any comments on the report.

(5) The report referred to in sub-rule (3) shall be published and publicized.

#### *Management of Assets and Liabilities of the Fund*

5. (1) The Fund Administrator—

- (a) is responsible for the management of the Fund's assets and liabilities; and
- (b) shall manage those assets in such a way as to ensure that the Fund achieves value for money in acquiring, using or disposing of those assets.

(2) The Fund Administrator shall dispose of assets only in terms of the Public Procurement and Disposal Act and pursuant to Article 227 of the Constitution, and shall ensure that the proceeds from all asset disposals are credited into the Fund's bank account.

*Reports*

6. (1) At the end of each financial year, the Fund Administrator shall prepare financial statements in respect of the Fund in formats to be prescribed by the Accounting Standards Board.

(2) The Fund Administrator shall include in the financial statements—

(a) appropriation accounts, showing—

(i) the services for which the appropriated money was spent;

(ii) the amounts actually spent on each service;

(iii) a statement explaining any variations between the actual expenditure and the sums voted; and

(iv) any other information specified by the County Treasury;

(b) a statement of the Fund's debt that is out at the end of the financial year;

(c) a statement of the Fund's assets as at the end of the financial year;

(d) a statement of the accounting policies followed in preparing the financial statement; and

(e) a statement of the Fund's performance against predetermined objectives.

(3) Within three (3) months after the end of each financial year, the Fund Administrator shall submit the Fund's financial statements to the Chief Officer responsible for matters relating to alcoholic drinks control for onward transmission to the County Treasury.

*Quarterly reports*

7. (1) The Fund Administrator shall prepare a report for each quarter of the financial year in respect of the Fund.

(2) In preparing the quarterly report, the Fund Administrator shall ensure that the report—

(a) contains information on the financial and non-financial performance of the Fund; and

(b) Is in a form determined by the Accounting Standards Board.

(3) Not later than fifteen (15) days after the end of each quarter, the Fund Administrator shall submit a copy of the quarterly report to the Chief Officer responsible for matters relating to alcoholic drinks control, who shall ensure that a copy thereof is submitted to the County Treasury.

*Application of the Fund.*

8. The funds allocated to the Nandi County Alcoholic Drinks Control Fund shall be applied as follows—

- (a) thirty-seven per cent (37%) shall be used towards financing advocacy, awareness, education, research activities, wellness, treatment and rehabilitation activities and programmes;
- (b) twenty-five per cent (25%) shall be used towards financing compliance and enforcement activities and programmes;
- (c) twenty per cent (20%) shall be used towards financing licensing activities and programmes;
- (d) three per cent (3%) shall be used towards financing administrative costs;
- (e) fifteen per cent (15%) shall be used towards financing legal, Monitoring and Evaluation costs, activities and programmes of the Fund.

*Disbursement procedure.*

9. (1) The Chief Officer shall ensure that monies allocated to the Fund are remitted directly to the Nandi County Drinks Control Fund Account.

(2) The Fund Administrator shall maintain and keep records of the disbursements made from the Fund in accordance with Part II of the Public Finance Management Act, 2012, for a period of five (5) years.

*Monitoring and Evaluation.*

10. (1) Every year, monitoring and evaluation shall be done so as to provide feedback on the progress and challenges faced in the administration of the Fund.

(2) Capacity building for staff, committee members, Management Board and other persons responsible for this Fund shall be conducted and facilitation thereof shall be deducted from the Fund.

*Fees*

11. All fees payable under these Regulations and the Act shall be paid electronically into the Fund and shall be as follows:

ALCOHOL CONTROL LICENSING CHARGES

Categories	Zone A1	Zone A2	Zone B	Zone C	Zone D
BAR	Kapsabet Central Business District	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C	Nandi Hills And Mosoriot	Kaptumo, Serem, Kobujoi, Kabiyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren.	Areas Not Covered In A, B And C
	45,000	40,000	35,000	30,000	20,000
Bar & Restaurant	Kapsabet Central Business District	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C	Nandi Hills and Mosoriot	Kaptumo, Serem, Kobujoi, Kabiyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren.	

Categories	Zone A1	Zone A2	Zone B	Zone C	Zone D
	60,000	60,000	50,000	30,000	50,000
Wine & Spirit	Kapsabet Central Business District	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C	Nandi Hills and Mosoriot	Kaptumo, Serem, Kobujoi, Kabiyyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren.	
	40,000	40,000	35,000	35,000	35,000
Wholesales/Stockist	Kapsabet Central Business District	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C	Nandi Hills and Mosoriot	Kaptumo, Serem, Kobujoi, Kabiyyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren.	
	100,000	100,000	90,000	90,000	
Depot/Distributor Per Premise	Kapsabet Central Business District	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C	Nandi Hills and Mosoriot	Kaptumo, Serem, Kobujoi, Kabiyyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren.	
	100,000	100,000	90,000	90,000	
Distributor Without Premise	Kapsabet Central Business District	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C	Nandi Hills and Mosoriot	Kaptumo, Serem, Kobujoi, Kabiyyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren.	
	80,000	80,000	80,000	80,000	60,000
Hotel Alcoholic Drinks License	Kapsabet Central Business District	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C	Nandi Hills and Mosoriot	Kaptumo, Serem, Kobujoi, Kabiyyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren.	
	75,000	75,000	50,000	30,000	30,000
Members	Kapsabet	Namgoi T.C,	Nandi Hills	Kaptumo,	

Categories	Zone A1	Zone A2	Zone B	Zone C	Zone D
Club	Central Business District 50,000	Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C 50,000	and Mosoriot 40,000	Serem, Kobujoi, Kabiyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren. 40,000	
Proprietary Or Night Club	Kapsabet Central Business District 100,000	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C 100,000	Nandi Hills and Mosoriot 80,000	Kaptumo, Serem, Kobujoi, Kabiyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren. 70,000	
Supermarket	Kapsabet Central Business District 60,000	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C 60,000	Nandi Hills and Mosoriot 50,000	Kaptumo, Serem, Kobujoi, Kabiyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren. 50,000	
Senator Keg	Kapsabet Central Business District 20,000	Namgoi T.C, Kamobo T.C, Kipsigak T.C, Chebarbar T.C, Chepterit T.C, and Baraton T.C 20,000	Nandi Hills and Mosoriot 15,000	Kaptumo, Serem, Kobujoi, Kabiyet, Chepsonoi, Maraba, Kaiboi, Lessos, Himaki, Kipkaren. 10,000	10,000

Made on the 26th May, 2025.

ALFRED LAGAT,  
County Executive Committee Member,  
Trade, Tourism, Investment and Industrialization.

*[Handwritten signature]*

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 5 (Nandi County Acts No. 4)*



REPUBLIC OF KENYA



***KENYA GAZETTE SUPPLEMENT***

**NANDI COUNTY ACTS, 2017**

**NAIROBI, 18th April, 2017**

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**THE NANDI COUNTY REVENUE ADMINISTRATION ACT, 2017****No. 4 of 2017***Date of Assent: 10th April, 2017**Date of Commencement: See Section 1***ARRANGEMENT OF SECTIONS***Section***PART I — PRELIMINARY PROVISIONS**

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2017

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**THE NANDI COUNTY REVENUE  
ADMINISTRATION ACT, 2017**

**AN ACT of the County Assembly of Nandi to provide for the general administration of imposition of tax and revenue raising laws and regulations, and for connected purposes.**

**ENACTED** by the Nandi County Assembly of as follows—

**PART I — PRELIMINARY PROVISIONS**

**1.** This Act may be cited as the Nandi County Revenue Administration Act, 2017 and shall come into operation upon publication.

Short title and commencement.

**2.** In this Act, unless the context otherwise requires:

Interpretation.

“County Government” means the County Government of Nandi County.

“Executive Committee Member” means County Executive Committee Member for the time being responsible for Finance;

“County Assembly” means the County Assembly of Nandi;

“County Public Officer” has the same meaning as in Article 260 of the Constitution of Kenya and for avoidance of doubt, public officers are responsible for managing the finances of the County Government and are accountable to the public for the management of those finances through the County Assembly;

“Movable property” means any property that can be moved from one location to another and includes but is not limited to motor vehicles, motor cycles, bicycles, tuk tuks and taxis, containers;

“Premises” includes—

- (a) any part of a building or structure;
- (b) any part of a vehicle or vessel; and
- (c) an area of land;

“Prescribed” means a provision stipulated by the rules or regulations made under this Act;

“Rate” means a rate imposed under the Nandi County

Rating Act, 2017;

“Receiver of revenue” has the meaning given by section 3 of this Act;

“Relevant person” means—

- (a) a revenue payer;
- (b) an employee or agent of the revenue payer; or
- (c) any other person whom the receiver of revenue believes on reasonable grounds may be able to assist in determining the liability (if any) of a revenue payer to pay a rate, tax, fee or charge payable under a County Revenue Law;

“Revenue law” means—

- (a) this Act;
- (b) the Nandi County Rating Act, 2017;
- (c) the Nandi County Business Licence Act, 2017;
- (d) the Nandi County Cess Act, 2017;
- (e) any other Act imposing an entertainment tax or any other tax that is payable to the County Government;
- (f) any Act or other law providing for the payment to the county government of fees or charges for services provided; or
- (g) any other prescribed law;

“Revenue payer” means a person liable to pay a rate, Cess, tax, fee or charge to the county government under a revenue law.

**3.** The purpose of this Act is to establish a legal framework County to put into effect and implement the provisions of the Public Finance Management Act in relation to—

- (a) collection and receipt of County revenue by County Public Officers; and
- (b) administration and management of the taxes and revenue.

Objectives of the Act.

## PART II — ADMINISTRATION OF REVENUE LAWS

4. (1) The County Executive Committee Member shall designate a person or persons, in writing, to be the Receiver of Revenue responsible for collecting, receiving and accounting for such county government revenue as the County Executive Committee Member for finance may specify in their letters of designation.

Receiver of revenue.

(2) A receiver of county government revenue shall be responsible to the County Executive Committee Member for ensuring that the revenue for which the Receiver of Revenue is responsible, is collected or recovered, and is accounted for.

(3) Without prejudice to the provisions of subsection (1), a Receiver of Revenue may also include—

- (a) a public officer authorized in writing by the Receiver of Revenue to be a collector of revenue; or
- (b) the Kenya Revenue Authority or a collection agent to be a collector of revenue on such terms and conditions as may be agreed in writing or in accordance with regulations:

Provided that such appointment of the Kenya Revenue Authority shall be done in writing by County Executive Committee Member.

(4) The Receiver of Revenue shall be responsible for the collection or recovery of tax and other kind of revenue pursuant to the provisions of section 157 of the Public Finance Management Act, 2012.

[Act No. 18 of 2012]

5. (1) The Receiver of Revenue shall—

Functions and powers of receiver of revenue.

- (a) be responsible for the administration and enforcement of revenue laws in the county;
- (b) ensure the assessment, collection of and accounting for all rates, taxes, fees and other charges payable by or under any law in the county;
- (c) receive and account for all county government

revenue in accordance with this act and Public Finance Management Act;

[Act No. 18 of 2012, S. 165]

- (d) prepare and provide quarterly statements of revenue collected, received or recovered to the county treasury, national treasury and the commission on revenue allocation in accordance with the Public Finance Management Act;
- (e) advice the County Government on all matters relating to the administration and enforcement of county revenue laws, assessment and collection of rates fees and other charges under the laws; and
- (f) perform such other functions as the county executive member may direct.

[Act No. 18 of 2012, S. 158]

(2) Without limiting the functions and power of the Receiver of Revenue under the Public Finance Management Act, 2012 the Receiver of Revenue shall have such other powers and functions as may be provided for by or under the revenue laws of the County.

6. (1) The Receiver of Revenue may, by instrument in writing, delegate all or any of his or her functions or powers under any revenue law to a county public officer employed by the County Government of Nandi, except the power of delegation.

Delegation of functions and powers.

(2) A delegate of the Receiver of Revenue shall remit the revenue collected to the County Revenue account daily.

(3) A delegate of the Receiver of Revenue shall keep such up to date books, accounts and records as are reasonably necessary to establish the revenue collected.

(4) A delegate of the Receiver of Revenue shall make an account of the revenue collected to the Receiver of Revenue on a monthly basis or in the alternative, as and when required by the Receiver of Revenue.

(5) In performing any function or exercising any power, a delegate of the receiver of revenue must produce written identification establishing his or her position as the county receiver of revenue's delegate if requested by any person.

7. (1) The Receiver of Revenue shall provide quarterly

Quarterly Statements

statements to the County Treasury with copies to the National Treasury and the Commission on Revenue Allocation in accordance with the Public Finance Management Act.

[Act No. 18 of 2012,  
S. 158]

(2) Save for the power to delegate under this Act, the Receiver of Revenue may after consultation with the County Executive Committee Member by instrument in writing, delegate all or any of his or her functions or powers under any revenue law to and authorize a public officer or officers in the County or an of its entities to perform such functions or exercise such powers.

(3) A public officer appointed under subsection (2) shall be qualified to be appointed a Receiver of Revenue pursuant to Section 3 of the Act.

(4) A public officer appointed under sub-section (1) shall have an identification card and shall produce identification or proof of authorization whenever required to do so.

(5) A person to whom a function or power has been delegated or who is otherwise authorized by the Receiver of Revenue to collect and or receive any County revenue shall remit to the receiver of all the revenue collected, received or recovered as soon as practicable but not later than three days after such collection or receipt.

8. The County Government may enter into an agreement authorizing the Kenya Revenue Authority or any other person to collect rates or charges payable under the substantive revenue laws on such terms and conditions as may be specified in the agreement.

Agreement in  
relation to revenue  
collection.

9. (1) At the end of each financial year, the Receiver of Revenue shall prepare an account in respect of the revenue collected, received and recovered by the Receiver during that financial year.

Annual Reporting.

(2) The accounts under sub-section (1) shall include—

(a) a statement of receipts and disbursement in a form prescribed by the Accounting Standards Board from time to time; and

(b) a statement of arrears of revenue.

(3) Not later than three months after the end of the

financial year, the County Executive Committee Member shall—

- (a) submit the accounts to the Auditor-General; and
- (b) deliver a copy to the National Treasury, the Controller of Budget, County Treasury, and the Commission on Revenue Allocation.

(4) Not later than three months after the end of each financial year, the County Executive Committee Member shall submit to the County Assembly a report with respect to all waivers and variations of taxes, fees or charges granted during that year.

(8) The County Executive Committee Member shall include in the report the following details in respect of each waiver or variation—

- (a) the full name of each person benefiting from the waiver or variation;
- (b) the amount of rates, Cess, fee or charge affected by the waiver or variation;
- (c) the year to which the waiver or variation relates;
- (d) the reasons for the waiver or variation; and
- (e) the legislation in terms of which the waiver was authorized.

### **PART III — REVENUE PAYERS' OBLIGATIONS AND COMPLIANCE POWERS**

10. (1) A revenue payer must make and keep such books, accounts and records as are reasonably necessary to determine the revenue payer's liability to pay rates, Cess, taxes, fees or charges under a revenue law for a period of at least 7 years after the completion of the transactions to which they relate.

Books, accounts and records to be made and kept.

(2) The receiver of revenue may by notice in writing given to a revenue payer, direct the revenue payer as to the books, accounts and records the revenue payer is required to make and keep.

(3) A person who fails to comply with sub-section (1)

or a notice under sub Section (2) commits an offense and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings in the case of natural persons; or not exceeding two million five hundred thousand shillings in the case of juristic persons.

11. For the purposes of determining the liability of a revenue payer to pay a rate, Cess, tax, fee or charge under a revenue law, the Receiver of Revenue may, by notice in writing, given to a relevant person require the relevant person to do either or both of the following—

Providing information and evidence.

- (a) provide the receiver of revenue with such information as the receiver of revenue requires; or
- (b) attend and give evidence before the Receiver of Revenue upon an oath being administered by an advocate of the High Court who is an employee of the County.

12. (1) For the purpose of determining the liability of a revenue payer to pay a rate, Cess, tax, fee or charge payable under a revenue law, the receiver of revenue has full and free access to any premises of, or in the custody or control of, a relevant person and may, at all reasonable times, exercise all or any of the following powers—

Access, inspection and other powers.

- (a) enter and inspect those premises and any goods in or on those premises, including opening any packaging or containers that may contain goods;
- (b) obtain, copy and print information or data from any computer system in or on those premises and retain all information and data that is obtained, copied or printed; or
- (c) take extracts from or copies of any books, accounts, records and other documents in or on those premises and retain all extracts or copies taken.

(2) If the receiver of revenue is of the view that it is impractical to exercise any of the powers under paragraph (1) (a), (b) or (c), the receiver of revenue may remove all or any of the things referred to in that paragraph to offices of the county government for such time as is reasonably

financial year, the County Executive Committee Member shall—

- (a) submit the accounts to the Auditor-General; and
- (b) deliver a copy to the National Treasury, the Controller of Budget, County Treasury, and the Commission on Revenue Allocation.

(4) Not later than three months after the end of each financial year, the County Executive Committee Member shall submit to the County Assembly a report with respect to all waivers and variations of taxes, fees or charges granted during that year.

(8) The County Executive Committee Member shall include in the report the following details in respect of each waiver or variation—

- (a) the full name of each person benefiting from the waiver or variation;
- (b) the amount of rates, Cess, fee or charge affected by the waiver or variation;
- (c) the year to which the waiver or variation relates;
- (d) the reasons for the waiver or variation; and
- (e) the legislation in terms of which the waiver was authorized.

### **PART III — REVENUE PAYERS' OBLIGATIONS AND COMPLIANCE POWERS**

**10.** (1) A revenue payer must make and keep such books, accounts and records as are reasonably necessary to determine the revenue payer's liability to pay rates, Cess, taxes, fees or charges under a revenue law for a period of at least 7 years after the completion of the transactions to which they relate.

Books, accounts and records to be made and kept.

(2) The receiver of revenue may by notice in writing given to a revenue payer, direct the revenue payer as to the books, accounts and records the revenue payer is required to make and keep.

(3) A person who fails to comply with sub-section (1)

or a notice under sub Section (2) commits an offense and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings in the case of natural persons; or not exceeding two million five hundred thousand shillings in the case of juristic persons.

11. For the purposes of determining the liability of a revenue payer to pay a rate, Cess, tax, fee or charge under a revenue law, the Receiver of Revenue may, by notice in writing, given to a relevant person require the relevant person to do either or both of the following—

Providing information and evidence.

- (a) provide the receiver of revenue with such information as the receiver of revenue requires; or
- (b) attend and give evidence before the Receiver of Revenue upon an oath being administered by an advocate of the High Court who is an employee of the County.

12. (1) For the purpose of determining the liability of a revenue payer to pay a rate, Cess, tax, fee or charge payable under a revenue law, the receiver of revenue has full and free access to any premises of, or in the custody or control of, a relevant person and may, at all reasonable times, exercise all or any of the following powers—

Access, inspection and other powers.

- (a) enter and inspect those premises and any goods in or on those premises, including opening any packaging or containers that may contain goods;
- (b) obtain, copy and print information or data from any computer system in or on those premises and retain all information and data that is obtained, copied or printed; or
- (c) take extracts from or copies of any books, accounts, records and other documents in or on those premises and retain all extracts or copies taken.

(2) If the receiver of revenue is of the view that it is impractical to exercise any of the powers under paragraph (1) (a), (b) or (c), the receiver of revenue may remove all or any of the things referred to in that paragraph to offices of the county government for such time as is reasonably

necessary to determine a revenue payer's liability to pay.

(3) A person must give all reasonable assistance to the Receiver of Revenue so as to allow him or her to exercise all or any of his or her powers under this section.

(4) A person who-

- (a) Fails or refuses to provide access to premises required by the receiver of revenue; or
- (b) Obstructs or hinders the Receiver of Revenue from discharge of the duties under subsection (1);
- (c) commits an offense and shall be liable to a fine not exceeding five hundred thousand shillings, or to imprisonment for a terms not exceeding one year, or to both.

13. (1) The Receiver of Revenue may take into his or her possession any property, other than land, that may be required as evidence in a court of law for proceedings to be brought under this Act or any other revenue law.

Seizure of property  
required as evidence

(2) When property is no longer required under subsection (1), the property must be returned as soon as practical to the person entitled to it.

#### **PART IV — OBLIGATIONS OF PUBLIC OFFICERS**

14. (1) Every public officer employed in or by the County Government shall comply with the Constitution and all laws relating to conduct of public officers when carrying out a responsibility imposed, or exercising a power conferred, by this Act.

Obligations of Public  
Officers.

- (2) Every public officer shall—
  - (a) comply with the provisions of this Act so far as they are applicable to the officer;
  - (b) ensure that the resources within the officer's area of responsibility are used in a way that—
    - (i) is lawful and authorized; and
    - (ii) effective, efficient, economical and transparent; and
  - (c) every public officer shall perform an action within the officer's area of responsibility and—

- (i) ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property; and
- (ii) use the officer's best efforts to prevent any damage from being done to the financial interests of the county government.

(3) A county public officer within the meaning of the County Governments Act, 2012 or any other prescribed office holder may not be excluded from the payment of a rate, cess, tax, fee or charge by reason of his or her office or the nature of his or her work.

[Act No. 17 of 2012]

#### **PART V — ENFORCEMENT PROVISIONS**

**15.** (1) A person shall not make a statement in connection with this Act which that person knows to be false or misleading—

False witness.

- (a) in connection with an application for the grant or renewal of a business licence; or
- (b) when providing information required under this Act.

(2) If a person contravenes subsection (1), the person is guilty of an offence and is punishable on conviction by a fine not exceeding two hundred and fifty thousand shillings, or to imprisonment not exceeding six months, or both.

**16.** For the purposes of enforceability of this Act, offences committed by authorized officers under this Act shall be punishable, on conviction, as envisioned under Part VII of the Public Finance Management Act, 2012, of the Laws of Kenya.

Offences by public officers

**17.** (1) A Licensing Officer, an administrative officer, a public health officer or a police officer of or above the rank of Inspector may, upon production of evidence of his authority to any person reasonably requiring it—

Power to enter premises and require information

- (a) at any reasonable time, enter any premises which he has reasonable grounds for believing to be occupied by a business, and inspect such premises and any book, document or other thing

found therein for the purpose of ascertaining whether this Act is being complied with;

- (b) require any person appearing to be conducting the business or to be employed in it to give such information within his power or to request for a certain document for inspection as the officer may reasonably require to enable him to ascertain whether this Act is being complied with;
- (c) open or require any person in the place to open any container or package found in the place that the officer believes on reasonable grounds contains any illegal and/or prohibited items or substances;
- (d) conduct any test or analysis or take any measurements; or
- (e) require any person found in the place to produce for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of this Act.

(2) Any person who hinders, interferes with or obstructs an officer acting under subsection (1) shall be guilty of an offence.

(3) Any person who refuses to give information or who gives false information shall be guilty of an offence.

(4) Any person who gives false information in order to be undercharged shall be guilty of an offence.

**18.** (1) Such permits and/or licenses shall be produced to an authorized officer or any police officer on demand.

Discharge, carrying and production of license for inspection.

(2) Failure to comply with sub-section (1) above shall be an offence.

**19.** (1) An authorized officer or a police officer shall have powers to detain any movable property and prosecute the property owner, user, agent or servant who refuses to pay charges or fees under this Act, or who contravenes the provisions of this Act.

Power of seizure, detention, towing and confiscation of movable property.

(2) An authorized officer or a police officer shall have powers to seize, tow and detain movable property where

the provisions of this Act have been contravened.

(3) If movable property is seized, towed and detained pursuant to this Act, it shall be released to its owner upon payment of the towing and/or storage charges, and upon compliance with any other lawful directions of the confiscating officer made pursuant to this Act.

(4) Any person who hinders, obstructs or interferes with an officer executing duties pursuant to this section commits an offence.

**20.** An authorized officer or a police officer shall not be liable in respect of—

Liability.

- (a) any damage incurred by or caused to any movable property being taken into custody;
- (b) any damage caused to movable property while in pursuit of enforcement of the provisions of this Act;
- (c) any damage caused to movable property while being towed to the police station or a County Government yard; or
- (d) the release of movable property into the custody of a person other than its owner.

**21.** For the purposes of this Act, a person conducting a business shall be responsible for the acts or omissions of any partner, agent or servant of his in so far as they concern his business, and if such partner, agent or servant commits any act or makes any omission which is an offence under this Act, or which would be an offence if committed by the person conducting the business, such person and his partner, his agent or his servant, as the case may be, shall each be guilty of the offence and liable to the penalty prescribed therefor: Provided that—

Acts of agents or servants.

- (a) where a person conducting a business is, by virtue of this section, charged with an offence under this Act, it shall be a defence to the charge to prove that he had reasonable ground to believe and did believe that a competent and reliable person was charged with the duty of seeing that the requirements of this Act were complied with and was in a position to discharge that duty; and

- (b) a person shall not be sentenced to imprisonment for such an offence unless, in the opinion of the court, the offence was committed wilfully.

**22.** (1) For the purposes of ensuring compliance with this Act, an authorized officer may, at any reasonable time, enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act.

Places authorized  
officers may enter

(2) An authorized officer entering any premises under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises the certificate issued to him under this Act.

**23.** In carrying out an inspection in a place, an authorized officer may—

Use of records.

- (a) use or cause to be used any computer system in the place to examine data contained in or available to the computer system that is relevant to the administration or enforcement of this Act;
- (b) reproduce the data in the form of a print-out or other intelligible output and take it for examination or copying;
- (c) use or cause to be used any copying equipment in the place to make copies of any data, record or document; or
- (d) scrutinize any other record system in use in that place.

**24.** (1) Upon an *ex-parte* application, a magistrate or judge of the High Court, may issue a warrant authorizing the authorized officer named in the warrant to enter and inspect a place or business premises, subject to any conditions specified in the warrant, if the magistrate or judge is satisfied by information on oath that—

Court to issue  
warrant.

- (a) entry to the place or business premises is necessary for the administration or enforcement of this Act; or
- (b) the occupant or proprietor does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be

refused.

(2) The time of such entry shall be between six o'clock in the forenoon and six o'clock in the afternoon of any day of the week.

**25.** An authorized officer executing the warrant issued under Section 63 shall not use force unless such officer is accompanied by a police officer and the use of force is specifically authorized in the warrant.

Use of force.

**26.** (1) The owner or proprietor of a premises inspected by an authorized officer under this Act, the person in charge of the place or any person found in the place, shall—

Duty to assist officers.

(a) provide all reasonable assistance to enable the authorized officer to carry out his duties under this Act; and

(b) furnish the authorized officer with such information as the officer reasonably requires for the purpose for which entry into the premises has been made.

(2) When relevant, the inspecting agent in subsection (1) shall issue the respective inspection and certificate of completion once satisfied with the inspection.

**27.** (1) No person shall obstruct or hinder, or knowingly make a false or misleading statement to an authorized officer who is carrying out their duties under this Act.

Obstruction

(2) A person who obstructs an authorized officer as stated in subsection (1) commits an offence.

**28.** (1) During an inspection under this Act, an authorized officer may seize any thing by means of which or in relation to which the officer believes, on reasonable grounds, that this Act has been contravened and a full inventory thereof shall be made at the time of such seizure by the officer.

Procedure as to seizures

(2) The authorized officer may direct that anything seized be kept or stored in the place where it was seized or that it be removed to another place.

(3) Unless authorized by an officer, no person shall

remove, alter or interfere in any manner with anything seized.

(4) An authorized officer shall—

- (a) forthwith seal, clearly identify and categorize the goods seized;
- (b) prepare, in quadruplicate, an inventory of such goods in Form 1 prescribed under the First Schedule and cause the person from whom the goods are seized to check the inventory for correctness, and, if correct, to cause that person to append their signature on each copy of the inventory and if the seized goods are removed under paragraph (d), the authorized officer shall endorse that fact under his signature on every copy of the inventory, in which case the inventory shall also serve as a receipt;
- (c) furnish one copy of the inventory to the person from whom the goods are seized and another to the complainant, if any, within five (5) working days after the seizure;
- (d) as soon as possible, remove the goods, if transportable, to a County Government depot for safe storage, or, if not capable of being removed or transported, declare the goods to have been seized *in situ*, and seal off or seal and lock up the goods or place them under guard at the place where they were found, and thereupon that place shall be deemed to be a goods depot; and
- (e) by written notice, inform the person from whom goods are seized of the action taken by the authorized officer under this Act and of the address of the goods depot where the seized goods are kept.

(5) Where a person from whom goods have been seized declines to sign the form referred to in subsection (4) (b) as required, the authorized officer shall make a note to that effect on the form.

(6) Any person from whom a thing was seized may, within thirty (30) days after the date of seizure, apply to the High Court for an order of restoration, and shall send notice

containing the prescribed information to the Executive Minister within the prescribed time and in the prescribed manner.

**29.** (1) Goods that have been seized shall be stored and kept in safe custody at a goods depot until the person in charge of the depot—

Storage and access  
of seized goods.

- (a) is ordered by a court to return, release, destroy or otherwise dispose of those goods as specified in the order:

Provided that in the case of destruction, such goods shall be destroyed at the expense of the person from whom the goods were seized based on the environmental considerations; or

- (b) is directed by an authorized officer under section 28 to release the goods to the person from whom they were seized.

(2) Upon application in the prescribed manner, goods seized under section 26 (1) shall, within five working days, be made available for inspection by the person from whom they were confiscated or any other interested person, at the goods depot at any reasonable time.

(3) Upon an application in Form 2 prescribed under the First Schedule, the County Executive Committee Member may make a sample of the seized goods available within a period of five working days to the applicant.

(4) An authorized officer may take, upon application in Form 3 of the First Schedule, samples of goods in reasonable quantities for testing or analysis.

(5) The County Executive Committee Member shall make regulation relating to administration of pounds.

**30.** (1) Where any goods are seized and detained under section 26, they shall be returned, less any portion thereof which has been reasonably utilized for the purpose of any test or analysis to the person from whom they were seized within a period of three (3) months after the date of seizure unless, within such period, some person is charged with an offence under this Act and it is alleged that such offence was committed in relation to or in connection with such goods.

Release of seized  
goods

(2) Where prosecution for an offence under this Act is commenced within the period mentioned in subsection (1), and any person is convicted of that offence, the court which made the conviction may order that any goods seized and detained in relation to or in connection with which such offence was committed shall be forfeited to the County Government or be destroyed at the expense of the person so convicted.

**31.** (1) The High Court may order that a thing be restored or returned immediately to the applicant if, on hearing the application, the court is satisfied that—

Order for restoration  
in proceedings.

- (a) the applicant is entitled to possession of the thing seized; and
- (b) the thing seized is not and will not be required as evidence in any proceedings in respect of an offence under this Act.

(2) Where upon hearing an application made under subsection (1) the court is satisfied that the applicant is entitled to possession of the thing seized but is not satisfied with respect to the matters mentioned in subsection (1) (b), the court may order that the alcoholic drink or thing seized be restored to the applicant on the expiration of one hundred and eighty (180) days from the date of seizure if no proceedings in respect of an offence under this Act have been commenced before that time.

**32.** (1) In any prosecution for an offence under this Act, a copy of any written or electronic information obtained during an inspection under this Act and certified to be a true copy thereof shall be admissible in evidence and shall, in the absence of evidence to the contrary, be proof of its contents.

Nature of evidence  
in proceedings.

(2) Subject to this Part, a certificate or report purporting to be signed by an officer stating that the officer analyzed anything to which this Act applies and stating the results of the analysis, shall be admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report.

(3) The certificate or report may not be received in evidence unless the party intending to produce it has.

before the trial, given the party against whom it is intended to be produced notice of not less than seven (7) days of that intention together with a copy of the certificate or report.

(4) The party against whom the certificate or report provided for under subsection (3) is produced may, with leave of the court, require the attendance of the officer for purposes of cross examination.

(5) In a prosecution for a contravention of this Act—

(a) information on a package indicating that it contains a thing is, in the absence of evidence to the contrary, proof that the package contains that thing; and

(b) a name or address on a package purporting to be the name or address of the person by whom a thing was manufactured is, in the absence of evidence to the contrary, proof that it was manufactured by that person.

**33.** (1) If a person contravenes or fails to comply with any provision of this Act, the person commits an offence and, unless another penalty is expressly provided by this Act for that offence, the person is liable on conviction to a fine not exceeding two hundred thousand shillings or imprisonment not exceeding one year or to both.

General penalty and law applicable to officers in exercise of their general powers

(2) Officers exercising general powers under this Act shall adhere to substantive and procedural law.

#### **PART VI — MISCELLANEOUS PROVISIONS**

**34.** (1) The County Executive Committee Member shall designate any officers or class of officers to be authorized officers for purposes of this Act.

Authorized officers

(2) The Executive Member shall issue a certificate of appointment to every person appointed under this section in the form set out in the Second Schedule.

**35.** (1) The County Executive Committee Member responsible for Finance may on a recommendation made under subsection (3) waive interest or reduce a rate, Cess, tax, fee or charge that is imposed or payable under a revenue law.

Waiver or reduction of taxes, Cess, fees and charges

(2) An application to waive interest or reduce a rate.

Cess, tax, fee or charge that is imposed or payable under a revenue law must be made in writing to the County Executive Committee Member.

(3) The County Executive Committee Member may recommend that the interest on the rate, tax, fee or charge or the rate, Cess, tax, fee or charge which was the subject of the application be waived or reduced if he or she is satisfied that—

- (a) the applicant would suffer severe financial hardship if the rate, Cess, tax, fee or charge were not waived, or reduced;
  - (b) it is not cost effective to take action to recover the rate, tax, fee or charge;
  - (c) the waiver or reduction is for the purpose of encouraging the applicant to pay amounts outstanding to the County Government;
  - (d) grounds of equity or other good cause exist that make it expedient to waive, or reduce the rate, Cess, tax, fee or charge;
  - (e) an order of a court is in force that specifies the imposition or payment of a rate, Cess, tax, fee or charge at a lower rate or amount than is provided for in the revenue law under which the rate, Cess, tax, fee or charge is imposed or payable; or
  - (f) when any other compelling circumstances exist which make it expedient to waive, or reduce the rate, tax, fee or charge.
- (4) A recommendation under subsection (3) must be in writing and must—
- (a) specify the rate, tax, fee, charge or interest that is waived, or the amount of the reduction of the rate, Cess, tax, fee or charge;
  - (b) specify the person or body to whom the waiver or reduction applies; and
  - (c) set out the reasons for the recommendation.
- (5) Within 14 days after making a decision under subsection (1), the County Executive Committee Member responsible for Finance must cause a copy of the decision

to be provided to the applicant together with a statement of the reasons for the decision.

(6) A person or body granted a waiver, or reduction of a rate, tax, fee or charge is not subject to any collection or enforcement procedure in respect of the rate, Cess, tax, fee or charge that is waived, or the part of the rate, Cess, tax, fee or charge that is reduced.

**36.** (1) The county Receiver of Revenue must establish and maintain a revenue register which is to be available for inspection by the public during government office hours containing details of the revenue received.

Revenue register

(2) The register must contain the prescribed information and may be kept in such form as the Receiver of Revenue decides.

**37.** The County Executive Committee Member may approve and prescribe forms for the purposes of a revenue law.

Approved forms

**38.** (1) Any document required to be published under a revenue law may be published by advertisement in the county Gazette and in one or more newspapers circulating in the county.

Publication and service of documents

(2) Any document required or authorized to be sent or served under or for the purposes of a revenue law may be sent or served—

- (a) by delivering it to the person to or on whom it is to be sent or served;
- (b) by leaving it at the usual or last known place of residence or business of that person, or, in the case of a company, at its registered office;
- (c) by ordinary or registered post;
- (d) by emailing it to the person;
- (e) by delivering it to some person on the premises to which it relates, or, if there is no person on the premises to whom it can be delivered, then by fixing it on or to some conspicuous part of the rateable property; or
- (f) in any other prescribed method.

(3) However, if the Receiver of Revenue has attempted to send or serve a document by one of the methods mentioned in subsection (2) and is satisfied that such document has not been received by the person to whom it was addressed, the Receiver of Revenue may apply to Court to advertise, in the manner provided in subsection (1), the general purport of such document, and upon such advertising, the document is deemed to have been received by that person.

(4) An advertisement referred to in subsection (3) may refer to one or more documents and to one or more revenue payers.

(5) Any document under a revenue law required or authorized to be served on the owner or occupier of any premises may be addressed by the description "owner" or "occupier" of the premises (naming them), without further name or description.

Guidelines

**39.** (1) The Receiver of Revenue may issue guidelines for the purposes of a revenue law.

(2) Accounting officers of the County Government may also make guidelines relating to—

- (a) making applications for permits or licenses electronically; or
- (b) making payment of rate, Cess, tax or other fees or charges electronically.

Regulations

**40.** The County Executive Committee Member may make regulations generally for the better carrying out of the provisions and purposes of this Act.

No action maintainable against Executive Member, etc.

**41.** Neither the County Executive Committee members nor any other public officer or body of public officers shall be personally liable to any action or proceedings for or in respect of any act or thing done or omitted to be done in good faith in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under this Act.

Saving Section

**42.** Nothing in this Act or any rules or regulations made pursuant thereto shall prejudice or affect collection of rates, Cess, taxes, fees or charges under the previous by-laws of the defunct local authority, and where anything in

this Act or any rule is inconsistent with any such provision of the by-laws, the provisions of this Act shall prevail.

**43.** Notwithstanding the repeal of the by-laws of the defunct local authorities—

(a) all rules made under the by-laws in relation to collection of rates, Cess, taxes, fees or charges and in force before the commencement of county governments, except only in so far as they conflict with this Act, shall remain in force until revoked as if they were rules made under this Act; and

(b) all orders made under the by-laws and subsisting at the commencement of this section shall remain in force as if they were orders made pursuant to this Act.

**44.** (1) The county government shall liaise with the Office of the Director of Public Prosecution to have its authorized officers gazetted in order to prosecute matters for and on behalf of the county government under this Act.

(2) Offences created pursuant to this Act shall be cognizable offences to the Police Force.

**45.** (1) Fines imposed by this Act shall be payable to the County Revenue Fund.

(2) The County Government shall make an arrangement with the National Treasury on the remittance of fines paid to it to the County Treasury in relation to this Act.

## SCHEDULES

### FIRST SCHEDULE

#### FORM 1 (S. 28 (4) (b))

#### INVENTORY OF SEIZED GOODS

1.	Name of the owner/agent of the seized goods	
2.	Telephone number, postal and physical address	
3.	Description of the goods	
4.	Quantity of the goods	

Saving of rules and orders under the by-laws.

Prosecution of matters under this Act.

Fines imposed by this Act.

5.	Place of seizure (physical address)	
6.	Date and time of seizure	
7.	Full particulars of the authorized officer seizing the goods	
8.	Remarks	
Signature .....	Signature .....	<b>OWNER/AGENT</b>
<b>AUTHORIZED OFFICER</b>		
Name .....		
Signature .....		
<b>WITNESS</b>		
Dated this .....day of..... 20.....		

**RECEIVED BY:**

Officer's Name .....

Signature: ..... Date: .....

**DEPOT MANAGER****NOTES:**

1. If space provided is not sufficient, please use a separate sheet of paper.
2. This form should be completed in quadruplicate. One copy to be issued to the owner/agent of the seized goods, one copy to be delivered to the goods depot manager, one copy to be filed in the investigation file by the authorized officer and one copy to be filed in the relevant file.

**FORM 2 (S. 29 (3))****APPLICATION FOR INSPECTION OF SEIZED GOODS**

The County Executive Committee Member,

1.	Name of the person whose goods have been detained or any other interested person	
2.	If interested person, state the nature of interest	
3.	Telephone number, postal and physical address	
4.	Reference number of the matter	
5.	Description of the seized goods	
6.	Quantity of the goods	

7. Place of seizure (physical address)	
8. Reason for application	
9. Remarks	

Dated this ..... day of ....., 20.....

Signature .....

**APPLICANT**

**FOR OFFICIAL USE ONLY**

THIS APPLICATION IS APPROVED/NOT APPROVED

Signature .....

**COUNTY EXECUTIVE COMMITTEE MEMBER, FINANCE**

Inspection carried out by the applicant on this ..... day of ....., 20.....

.....

**DEPOT MANAGER**

**NOTES:**

1. If space provided is not sufficient, please use a separate sheet of paper.
2. This Form shall be completed in quadruplicate. One copy to be retained by the County Executive Committee Member, one copy to be given to the applicant, two copies to be given to the Depot Manager, who will return one of the copies to the County Executive Committee Member after inspection of the goods.

**FORM 3 (S, 29 (4))**  
**APPLICATION FOR SAMPLES**

1.	Name of applicant			
2.	Telephone number, postal and physical address			
3.	Reference number of the matter			
4.	Description of goods			
5.	Reason for sampling			
6.	Sample size			
7.	Indicate type of testing/ analysis	Destructive		Non Destructive
8.	Remarks			

Dated this..... day of ..... 20.....

Signature .....

**APPLICANT**

**FOR OFFICIAL USE ONLY**

**THIS APPLICATION IS APPROVED/NOT APPROVED**

Signature .....

**COUNTY EXECUTIVE COMMITTEE MEMBER, FINANCE**

Sample taken by the applicant on this..... day of ..... 20.....

.....

**DEPOT MANAGER**

**NOTES:**

1. If space provided is not sufficient, please use a separate sheet of paper.
2. This Form shall be completed in quadruplicate. One copy to be retained by the County Executive Committee Member, one copy to be given to the applicant, two copies to be given to the Depot Manager, who will return one of the copies to the County Executive Committee Member after inspection and/or analysis of the goods

**SECOND SCHEDULE (S. 34 (2))****CERTIFICATE OF APPOINTMENT**

Certificate No.: .....

1.	Name of authorized officer	
2.	Identification or personal number	
3.	Designation	
4.	Signature of the holder	

I certify that the person whose particulars are herein indicated has been appointed an authorized officer under Section 32 (2) of the Nandi County Revenue Administration Act, 2016.

Issued and sealed on this ..... day of ....., 20.....

Signature: .....

**COUNTY EXECUTIVE COMMITTEE MEMBER****NOTE**

This Certificate is the property of Nandi County. In case it is lost and found, the same should be returned to the County Executive Committee Member, Finance and Economic Planning, P. O. Box 802 – 30300, Kapsabet, or may be surrendered to the nearest Police Station.

**SUBSIDIARY LEGISLATION****Rules pursuant to section 29 (6)****NANDI COUNTY POUNDS RULES, 2016****ARRANGEMENT OF RULES****Rule**

- 1 — Citation and commencement.
- 2 — Interpretation.
- 3 — Establishment of pounds.
- 4 — Authorized officer's powers.
- 5 — Seizure upon trespass.
- 6 — Reception of impounded items.
- 7 — Release from a pound.
- 8 — Unclaimed animals or things.
- 9 — Sale upon forfeiture.
- 10 — Slaughter.
- 11 — No liability.
- 12 — Penalty.

## THE NANDI COUNTY POUNDS RULES, 2016

### Citation and commencement.

1. These rules may be cited as the Nandi County Pounds Rules, 2016 and shall come into operation upon the date of commencement of the Act.

### Interpretation.

2. In these rules, unless the context otherwise requires—

“Act” means the Nandi County Revenue Administration Act, 2016;

“animals” means any horse, donkey, mule, cattle, sheep, goat, dog, pig or poultry;

“County” means the county Government of Nandi;

“pounds” means a pound established by the County under law 3; and

“Pound Master” means the person for the time being appointed by the County to be in charge of a pound.

### Establishment of pounds.

3. The County may establish, control and maintain pounds for the reception and detention of any animal or thing impounded under pursuant to any County law and may appoint a Pound Master to be in charge of such pounds.

### Authorized officer’s powers.

4. Any person authorized to do so by the County, may seize any animal, motor vehicle or other thing in accordance with the provisions of any County law, and may take it, or cause it to be taken to a pound to be impounded.

### Seizure upon trespass.

5. The owner or occupier of any land may seize any animal or poultry, which he finds trespassing on his land; and may take it, or cause it to be taken to a pound to be impounded.

### Reception of impounded items.

6. The Pound Master may receive into a pound and detain any animal or thing brought for such purpose.

### Release from a pound.

7. (1) Every person seeking the release of an animal or thing impounded under any County law shall be entitled to do so upon payment

to any duly authorized agent, such fee as may be determined by the relevant County legislation from time to time.

(2) The Pound Master shall not release an animal or thing from the pound until the person seeking the release of the animal or thing provides evidence of payment of the impound fees as per subrule (1).

#### **Unclaimed animals or things.**

8. Any animal or thing not claimed within one month of having been received into a pound shall be deemed to be forfeited by the owner thereof.

#### **Sale upon forfeiture.**

9. (1) The Pound Master may cause any animal or thing deemed to be forfeited to be sold at a public auction.

(2) The proceeds of such sale shall be applied to the payment of the impound fees and to the expenses incurred as the cost of such sale.

(3) In case of any remainder upon reduction of the amounts referred to in sub-rule (2) that amount shall be paid into the County Revenue Account.

#### **Slaughter.**

10. The Pound Master may at any time order the slaughter of any animal taken into a pound and detained therein, if it appears to the Pound Master that such slaughter is necessary or advisable to prevent the spread of diseases or for humanitarian reasons.

#### **No liability.**

11. No liability shall be attached to the County, the Pound Master or any authorized officer in respect of any act or thing done or omitted to be done in good faith in the performance or exercise or intended performance or exercise of any duty or power imposed or conferred by or under these rules.

#### **Offences.**

12. (1) Any person who, without lawful authority, either releases or attempts to release any animal being properly conveyed to or held within a pound, commits an offence and shall be liable to a fine of three thousand shillings or imprisonment for a term not exceeding six months or to both.

(2) Offences under these rules shall be cognizable to the police.

*[Handwritten signature]*

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 19 (Nandi County Acts No. 8)*



REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

**NANDI COUNTY ACTS, 2019**

**NAIROBI, 30th December, 2019**

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# THE NANDI COUNTY YOUTH SERVICE ACT, 2019

No. 8 of 2019

*Date of Assent: 10th December, 2019*

*Date of Commencement: See Section 1*

## ARRANGEMENT OF SECTIONS

*Section*

### **PART I – PRELIMINARY PROVISIONS**

*Clause*

- 1— Short title.
- 2— Interpretation.
- 3— Objectives of the Act.

### **PART II – ESTABLISHMENT OF THE SERVICE**

- 4— Establishment of the service.
- 5— Functions of the service.
- 6— Recruitment of service members.
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### **PART III—ORGANISATION AND MEMBERSHIP OF THE SERVICE**

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- 15— Members not to engage in trade, etc.
- 16— Service may be divided into branches, etc.
- 17— Appointment of Director.
- 18— Responsibilities of Director and officers in charge.
- 19— Director may delegate powers or functions.

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#### **PART IV – DUTIES AND EMPLOYMENT OF THE SERVICE**

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## THE NANDI COUNTY YOUTH SERVICE ACT, 2019

**AN ACT of the County Assembly of Nandi to give effect to Article 55 of the Constitution; establish the Nandi County Youth Service; and for connected and incidental purposes.**

ENACTED by the County Assembly of Nandi as follows—

### PART I – PRELIMINARY PROVISIONS

#### Short title and commencement

1. This Act may be cited as the Nandi County Youth Service Act, 2019, and shall come into force upon its publication in the *Gazette*.

#### Interpretation

2. In this Act, except where the context otherwise requires—

“County” means Nandi County;

“County Government” means the County Government of Nandi;

“County Public Service Board” means the Nandi County Public Service Board;

“director” means the county director of the Service appointed under this Act;

“Executive Committee” means County Executive Committee pursuant to Article 179 of the Constitution of Kenya;

“Executive Committee Member” means the Executive Committee Member responsible for youth affairs;

“officer” means a member of the County Youth Service or one of the ranks of officers specified in the First Schedule;

“member” in relation to the County Youth Service includes an officer, a subordinate officer, a service member and any person for the time being seconded for service in the county youth service;

“service” means Nandi County Youth Service;

“Service Member” means a member of the County Youth Service undergoing training;

“subordinate officer” means a member of the service of one of the ranks of subordinate officer specified in the First Schedule; and

“youth” has the meaning assigned to it under article 260 of the Constitution of Kenya, 2010.

### **Objectives of the Act**

3. The object of this Act is to—
- (a) give effect to Article 55 of the Constitution by—
    - (i) ensuring youth access relevant education and training;
    - (ii) providing youth with opportunities to associate, be represented and participate in political, social and economic spheres of life;
    - (iii) providing youth with employment opportunities; and
    - (iv) ensuring youth are protected from harmful cultural practices and exploitation.
  - (b) promote participation of the youth in development and empowerment programs; and
  - (c) provide necessary training to facilitate increased employment and self-reliance of the youth.

### **PART II—ESTABLISHMENT OF THE SERVICE**

#### **Establishment of the service**

4. There is hereby established the Nandi County Youth Service.

#### **Functions of the service**

5. The functions of the service shall be to—
- (a) train youth to serve the County; and
  - (b) recruit trained youth to undertake tasks relating to the devolved functions of the County or otherwise, in service of the County.

#### **Recruitment of service members**

6. (1) The service shall recruit service members from every ward of the County.

(2) In making the recruitment, the Director shall ensure regional balance within the Wards and gender equity in line with existing policies and regulations.

(3) A Service member shall not be recruited unless he or she undergoes a mandatory three (3) months training prior to absorption into the Service.

(4) The recruitments of Service members, shall take place provided that each members of the Service recruited shall undergo a mandatory three (3) months training prior to absorption into the Service.

(5) The recruitments of Service members, shall take place provided that each members of the Service recruited shall undergo a mandatory three (3) months training prior to absorption into the Service.

(6) The recruitments of Service members, shall take place provided that each members of the Service recruited shall undergo a mandatory three (3) months training prior to absorption into the Service.

### **Appointment of county youth advisor**

7. (1) The Governor may appoint a County Youth Advisor who shall not be a member of the County Public Service.

(2) The County youth advisor shall advise the Governor and the Executive Committee Member on the exercise of their powers under this Act and their general responsibilities for the service.

(3) The County youth advisor shall be appointed from amongst the youth within the County.

## **PART III—ORGANIZATION AND MEMBERSHIP OF THE SERVICE**

### **Members of the service**

8. (1) The service shall consist of such number of members as may from time to time be prescribed by the Executive Committee.

(2) The members of the service shall be service members or officers, such officers being officers or subordinate officers having the ranks and seniorities specified in the First Schedule and any person for the time being seconded to the service.

(3) The Executive Committee Member may, from time to time amend the First Schedule.

### **Secondment to the Service**

9. The Executive Committee Member may second any person in the County Public Service, or an officer from any other county or national government, upon consultation with that other government, to the Service, for such period and at such rank in the service as the Executive Committee Member may determine:

Provided that where a person is seconded to the service in any particular rank he or she shall not thereafter be required to serve in any junior rank than his or her previous rank, without his or her consent, and if he or she can no longer be employed in the rank at which he or she was seconded, or in any rank senior thereto, his or her secondment shall, if he or she so wishes, be terminated.

### **Appointment or enlistment to service**

10. (1) Officers and subordinate officers shall be appointed in the manner applicable to the appointment of other public officers within the county public service.

(2) Other members of the service, who must be male or female youths and citizens of Kenya between the ages of eighteen years and thirty five years (both ages being inclusive), may be enlisted or re-enlisted by the director, or by an officer authorized by him or her in that behalf, from persons who voluntarily offer themselves for enlistment or re-enlistment.

(3) Every member of the Service enlisted or re-enlisted under paragraph (1) of this section shall be enlisted to serve in the service for a period of three (3) years subject to satisfactory performance, or for such other period as the Executive Committee Member may from time to time prescribe and on the expiration of such period may, if he or she so wishes, and the director, or an officer authorized by him or her in that behalf so approves, be re- enlisted for a further period:

Provided that a member desiring to re-enlist for a further term of service shall so apply not more than three months, or less than one month, immediately preceding the date of expiration of his or her current period of service.

(4) Every member of the service being appointed or seconded or enlisted for the first time shall be required to make the declaration set out in the Second Schedule, either in English or Kiswahili.

### **Termination of service**

11. (1) The Executive Committee Member may at any time during the period of secondment of a member terminate such secondment if, for any reason, the services of such member are no longer required.

(2) The appointment of an officer or a subordinate officer may be terminated, if his or her services are no longer required, in the manner applicable to other public officers within the County Public Service.

(3) The director may, at any time during the period of enlistment or re-enlistment of a service member, terminate such enlistment or re-enlistment if for any reason the service member's services are no longer required.

### **Resignation from the service**

12. (1) A service member may, at the discretion of the director, or an officer authorized by him or her in that behalf, be permitted to resign from the service before the expiration of his or her period of enlistment or re- enlistment on personal or compassionate grounds.

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*Nandi County Youth Service*

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(2) An officer or a subordinate officer may be permitted to resign from the service in the manner applicable to other public officers within the county public service.

### **Extension of service during times of emergency**

13. Despite the foregoing provisions, any member of the service whose engagement or secondment expires, or who wishes to resign, during a disaster or public emergency may be retained in the service and his or her period of engagement or secondment prolonged for such further period, not being more than six months:

Provided that the provisions of this section shall not apply to a member seconded from another county or national government, except with the consent of the government and of the member concerned.

### **Return of service property**

14. (1) Every member on leaving the service shall forthwith deliver up to such person as may be authorized in that behalf, any uniform, clothing, equipment or accoutrements supplied to him or her by or on behalf of the service:

Provided the director, at his or her discretion, may authorize a member to retain items of clothing on leaving the service.

(2) Any person who fails to comply with the provisions of subsection (1) or who returns such property in a damaged condition, the damage not being attributable to the proper discharge of his or her duties whilst being a member of the service, shall be liable for the cost of replacing or repairing such property, and such cost shall be a debt due from such person to the County Government and may be recoverable by deduction from any moneys due from the County Government to such person, or by civil suit for the whole amount, or for any balance due after such deduction as aforesaid.

### **Members not to engage in trade, etc**

15. During his or her period of service with the service, no member shall engage himself or herself in any trade, business or employment, or shall take part in any commercial undertaking, outside the scope of his or her duties in the service, except with the approval of the Executive Committee Member.

### **Service may be divided into branches, etc**

16. (1) The service shall be divided into such numbers and description of branches, units and sub-units as the Executive Committee Member may from time to time direct.

(2) Any member, save for an officer or subordinate officer specifically seconded to a particular description of branch, unit or sub-unit (in which case he or she may be posted only to a branch, unit or sub-unit of that description), may at the discretion of the director be posted to and employed in any branch, unit or sub-unit of the service.

### **Appointment of Director**

17. (1) There shall be a Director of the Service who shall be appointed by the Governor on recommendation of the Executive Committee Member upon the approval of such person by the County Assembly.

(2) A person is qualified to be appointed as the Director if that person—

- (a) is a Kenyan citizen by birth;
- (b) has at least ten years post qualification experience, five of which have been at senior management level;
- (c) has not been convicted of any criminal offence;
- (d) has not been dishonorably discharged from a national security organ;
- (e) has not been otherwise dismissed from an office in the public service; and
- (f) is not an undischarged bankrupt.

(3) For purposes of this section, disciplined service means the Kenya Defence Forces, National Police Service, National Intelligence Service, Kenya Forest Service, Kenya Prisons Service, Kenya Wildlife Service, Kenya Coast Guard Service, County Government Administration unit and National Government Administration.

### **Responsibilities of Director and officers in charge**

18. (1) The Director shall, subject to this Act and any subsidiary legislation made there under, and any directions given by the Executive Committee Member, be responsible for the overall command, superintendence and direction of the service, and may for this purpose from time to time issue service standing orders which shall not be required to be published in the *gazette*.

(2) The Director shall be the accounting officer of the Service.

(3) In the administration of funds, the Director may be assigned authority to incur expenditure by the Chief Officer of the department responsible for matters relating to the Service.

(4) Subject to subsection (1), the member who is appointed as officer in charge of any description of branch, unit or sub-unit or combination of the same shall be responsible to the Director in relation to the command, superintendence and direction of such branch, unit or sub-unit or such combination.

(5) The Director shall ensure that the resources of the Service are used in a way that is lawful, authorized, effective, efficient, economical and transparent.

(6) The Director shall—

- (a) subject to the general directions of the Executive Committee Member, be responsible for the day to day administration, control and management of the Service;
- (b) advise the Executive Committee Member on any quasi-military, operational and administrative matters within the competence of the Director;
- (c) lawfully administer, control and manage the Service as a quasi-paramilitary unit;
- (d) comply with any lawful direction issued by the Executive Committee Member;
- (e) develop and implement or cause to be implemented, the Service policy and strategy;
- (f) execute commands by issuing lawful orders, directives or instructions to members of the Service;
- (g) be responsible for the training, education and deployment of the members of the Service;
- (h) prepare and submit to the Executive Committee Member an annual report on the activities undertaken by the Service;
- (i) ensure that the Service keeps financial and accounting records that comply with the Public Finance Management Act, No. 18 of 2012;
- (j) ensure that all financial and accounting records of the Service are kept in any form, including in electronic form and that they are adequately protected and backed up;
- (k) ensure that all contracts entered into by the Service are lawful and are complied with;
- (l) ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when

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procuring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their custody, safeguarding and maintenance;

- (m) bring any matter to the attention of the Executive Committee Member responsible for the Service, if, in his or her opinion, a decision or policy or proposed decision or policy of the Service may result in resources being used in a way that is contrary to subsection (5);
- (n) prepare a strategic plan for the Service in conformity with the medium term fiscal framework and fiscal policy objectives of the County Government;
- (o) prepare estimates of expenditure and revenues of the Service in conformity with the strategic plan referred to in paragraph (n);
- (p) submit the estimates of the Service to the Executive Committee Member who, after approving it, shall forward it to the County Treasury;
- (q) prepare annual financial statements for each financial year within three (3) months after the end of the financial year, and submit them to the Executive Committee Member who, after approving it, shall forward it to the County Treasury;
- (r) take appropriate measures to resolve any issues arising from audit which may remain outstanding;
- (s) provide the County Treasury and any other office, where relevant, with any information it may require to fulfill its functions under the Public Finance Management Act, No. 18 of 2012;
- (t) be the custodian of all the assets of the Service; and
- (u) perform any other functions conferred by this Act or any other written law.

**Director may delegate powers or functions**

- 19.** (1) The Director may, in writing, delegate the performance of any function or exercise of a power conferred on him or her by this Act or any other written law to a member of the Service.
- (2) A delegation under this section —
- (a) shall be in writing;
  - (b) shall be subject to any conditions the Director may impose;
  - (c) shall not relieve the Director of responsibility concerning the

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exercise of the delegated function or performance of the delegated power; and

- (d) may be withdrawn or varied by the Director at any time.
- (3) The Director shall not assign the performance of a function or exercise of a power that is exercisable by an officer of a specific rank, seniority or qualification to an officer who does not hold a rank, seniority or qualification that is not contemplated by this Act or any other written law.

#### **Term of office of Director**

20. A person appointed as the Director shall serve for a single and non-renewable term of six (6) years.

#### **Vacancy in the office of Director**

21. (1) The office of the Director shall become vacant if the holder —

- (a) dies;
- (b) resigns from office in writing to the Governor;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment; or
- (d) is removed or retired from office by the Governor on the following grounds —
  - (i) violation of the Constitution or any other written law including a contravention of Chapter Six;
  - (ii) gross misconduct in the performance the functions of the office of the Director;
  - (iii) physical or mental incapacity to perform the functions of the office of the Director;
  - (iv) incompetence; or
  - (v) bankruptcy.

(2) Where a vacancy occurs in the office of Director, the Governor shall fill the vacancy in accordance with the provisions of section 17.

#### **Retirement or redeployment of Director**

22. Despite the provisions of section 21, the Governor may in consultation with the Executive Committee Member remove, retire or redeploy the Director at any time before the expiry of his or her term of office.

**No. 8****Oath of office by Director**

**23.** A person appointed as Director shall, on his or her appointment, take and subscribe to the oath of office set out in the Second Schedule.

**Secretariat of the service**

**24.** There is established a secretariat of the service headed by the Director which shall have such number of staff as may be approved by the Executive Committee.

**PART IV — DUTIES AND EMPLOYMENT OF THE SERVICE****Duties of members**

**25.** Every member of the service shall—

- (a) perform such duties and carry out such training as he or she may be directed by the officers senior to or placed in command over him or her; and
- (b) obey and execute promptly all orders lawfully issued to him or her by the officers senior to him or her or placed in command over him or her.

**Certificate**

**26.** Upon successful completion of the prescribed period of training and service in the County Youth Service, a certificate of training and service shall be issued to every service member.

**PART V — DISCIPLINARY PROVISIONS****Disciplinary code and regulations**

- 27.** (1) Every member of the Service shall be subject to the provisions of this Part.
- (2) A member of the Service who commits any of the acts set out in the Third Schedule commits an offence against discipline.
- (3) The Executive Committee Member may issue a disciplinary code for the Service or any part of the Service, and in respect of service members may make regulations for the following matters—
- (a) to make provision for the investigation of disciplinary offences and the hearing and determination of disciplinary proceedings;
  - (b) to make provision for appeals; and
  - (c) to prescribe disciplinary penalties and awards.
- (4) A member of the Service who commits an offence against discipline shall, on conviction, be liable to—

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- dismissal from the service;
- (a) stoppages of pay or allowances;
  - (b) demotion in rank;
  - (c) dismissal from the Service;
  - (d) extra drills or parades or fatigues; or
  - (e) any combination of the punishments provided under this section.
  - (f) A person seconded to the service shall be subject to the disciplinary code.

**Strike, sit in, revolt, or defiance**

**28.** (1) Any member who takes part in a strike, sit-in, revolt or an Act of defiance commits an offence and on conviction shall be liable to imprisonment to a term not exceeding one year.

(2) In subsection (1) "strike, sit-in, revolt or defiance" for the purposes of this section means a combination between two or more members—

- (a) to resist lawful authority in the service; or
- (b) to disobey any such authority in such circumstances as to make the disobedient subversion of discipline.

**Insubordinate behavior**

**29.** Any member who—

- (a) strikes or otherwise uses violence to, or offers violence to or incites any other person to use violence to an officer senior to or placed in command over him or her or such other person; or
- (b) uses threatening or insubordinate language to any officer senior to or placed in command over him or her, shall be summarily dismissed from the service.

**Liability for other offences**

**30.** Nothing in this Act or in the disciplinary code shall be deemed to exempt any member from being proceeded against for any offence under any other written law.

**Desertion**

**31.** (1) Any member who absents himself or herself from duty without leave or just cause for a period of seven (7) days shall, unless the contrary is proved, be deemed to have deserted from the service.

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(2) Any member who deserts from the service or who is deemed to have deserted from the service shall forfeit any pay or allowances due to him or her and all rights in respect of any incentives offered by the service.

(3) No pay or allowances shall be paid to any member in respect of any day during which he or she is absent from duty without leave, unless the Director otherwise directs.

**PART VI—MISCELLANEOUS PROVISIONS****Partnership**

**32.** The Service shall, under the stewardship of the Executive Committee, partner with such other entities or organizations in order to fulfill its mandate under this Act.

**Finance**

**33.** (1) The expenditure incurred in the establishment, maintenance and operations of the Service, including the payment of such allowances for members as the Executive Committee Member may from time to time be defrayed out of moneys appropriated by the County Assembly.

(2) Notwithstanding the provisions of subsection (1), the Executive Committee Member may, upon consultation with the Executive Committee Member responsible for finance, make regulations for the better carrying out of the provisions of this section.

**Member not employee**

**34.** Despite anything contained in any other written law, a member of the service shall not be deemed to be an employee of the public service of the County Government of Nandi.

**Role of County Public Service Board**

**35.** The County Public Service Board shall guide the County Department responsible for matters relating to the Service on all matters of recruitment, human resource management and development, discipline and deployment and any other matter that may affect the service.

**Reports**

**36.** (1) At the end of each financial year or upon request by the Executive Committee Member or the Governor, the Director shall submit a report on the performance of the service including—

- (i) the number of youth trained and deployed to perform various tasks in the County during the year;
- (ii) the number of youths who have successfully completed the

programme and exited;

- (iii) financial records of the Service;
- (iv) any disciplinary issues;
- (v) challenges experienced during the year and recommendations for better performance in the future;
- (vi) nature, achievements and distribution of programmes being undertaken by the service in the County; and
- (vii) any other matter the Director shall deem necessary or is requested to report on.

(2) The report in sub section (1) shall also be submitted to the county assembly through the line Department.

### **Regulations**

37. The Executive Committee Member may make regulations generally for the better carrying out of the purposes of this Act.

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**FIRST SCHEDULE***(Section 2; 8 (2))***RANKS OF OFFICERS IN ORDER OF SENIORITY***Officers*

Director  
 Senior Deputy Director  
 Deputy Director  
 Senior Assistant Director  
 Assistant Director  
 Senior Superintendent  
 Superintendent  
 Chief Inspector  
 Inspector

*Subordinate Officers*

Senior Sergeant  
 Sergeant  
 Corporal

**SECOND SCHEDULE***(Section 10 (4); 23)***DECLARATION**

I, ..... Do hereby swear by the Almighty God [or do hereby solemnly and sincerely affirm] that I will give faithful and loyal service during this or any subsequent period of service as a member of the County Youth Service and that I will subject myself to all laws, regulations, standing orders and disciplinary code relating to the said Service which may from time to time be in force.

So help me God.

..... (Signature of member)

Declared by the said

**THIRD SCHEDULE***(Section 21 (2))***OFFENCES AGAINST DISCIPLINE**

1. It shall be an offence against discipline for any officer of the Service or any other person to—
  - (a) unlawfully use force or threaten to use violence against another officer or any other person;
  - (b) use any obscene, abusive or insulting language in any form against any officer of the Service;
  - (c) use threatening, insubordinate or disrespectful language, word, act or demeanour to an officer senior in rank to him or her;
  - (d) cause a disturbance at any Service premises;
  - (e) be intoxicated while on duty;
  - (f) consume any intoxicating liquor, psychotropic substance or narcotic drug, or smoke while in uniform or actively engaged in duty at a public place;
  - (g) willfully disobey a lawful command or order;
  - (h) be absent without leave;
  - (i) be asleep while on duty;
  - (j) leave his or her post or place of duty before being relieved except when in fresh pursuit of an offender who it is his or her duty to apprehend;
  - (k) while under arrest or detention, leave or escape from such arrest or detention before he or she is set at liberty by the relevant authority;
  - (l) discharge any weapon without authorization or without reasonable lawful cause;
  - (m) without reasonable cause, fail to attend at any parade, instruction class or court or any other duty which he or she is required to attend;
  - (n) sell, pawn, negligently lose, make away with, wilfully or negligently damage, or fail to report any loss or damage to, any arm, ammunition, accoutrement, uniform or other article of personal issue or any vehicle or other property committed to his or her charge that belongs to the Service or for which the Service is responsible for;

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- (o) be in improper possession of any public or private property;
  - (p) commit any act of plunder or wanton destruction of property;
  - (q) be negligent in the performance of his or her duties;
  - (r) appear on duty untidy in his or her person, arms, uniform or equipment;
  - (s) make or sign any false statement in any document or official record;
  - (t) without proper authority, disclose or convey any information concerning any investigation or Service matter;
  - (u) feign any disease or infirmity;
  - (v) without proper authority, demand or exact from any person any carriage, portrage or provisions;
  - (w) commit an act of corruption as defined by any written law;
  - (x) make any false statement on joining the Service;
  - (y) refuse or neglect to make or send any report which it is his or her duty to make or send;
  - (z) knowingly falsely accuse or make a complaint against any officer of the Service or any other person affecting the character of that other officer or that other person, or willfully suppressing any material fact;
  - (aa) without lawful excuse break out of Service barracks, quarters, lines or camp;
  - (bb) make or sign any false statement in any document or official record;
  - (cc) act or behave in a manner that constitutes cowardice under the Standing Orders;
  - (dd) knowingly make a false statement affecting the character of such officer or other person or willfully suppressing any material fact; or
  - (ee) be engaged in any other gainful employment or office without authority.
2. A member of the Service who is absent from duty without leave for a period exceeding seven (7) days shall, unless the contrary is proven, be considered to have deserted from the Service which shall be an offence against discipline.



**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 7 (Nandi County Acts No. 3)*



REPUBLIC OF KENYA

***KENYA GAZETTE SUPPLEMENT***

***NANDI COUNTY ACTS, 2022***

***NAIROBI, 1st November, 2022***

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Act—

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**THE NANDI COUNTY FACILITIES IMPROVEMENT FUND ACT,  
2022**

**No. 3 of 2022**

*Date of Assent: 10th June, 2022*

*Date of Commencement: See Section 1*

**ARRANGEMENT OF SECTIONS**

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- 3— Object of the Act.

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#### **SCHEDULE**

**THE NANDI COUNTY FACILITIES  
IMPROVEMENT FUND ACT, 2022**

AN ACT of County Assembly of Nandi to establish the Nandi County Facilities Improvement Fund; to provide for the additional funding for the management of health systems and public Facilities Improvement in the County; to enable sustainable operations of health facilities; and for connected purposes.

ENACTED by Nandi County Assembly as Follows—

**PART I — PRELIMINARY PROVISIONS**

1. This Act may be cited as Nandi County Facilities Improvement Fund Act, 2022, and shall come into operation upon publication.

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

“Appropriation-in-Aid” means any revenue which a health facility/entity receives and is approved by this Act for application by that facility/entity to finance its activities;

“Board” means Nandi County Facility Improvement Fund Board established under section 5;

“Chief Officer” means the Chief Officer and accounting officer of the Department for the time being responsible for health services;

“County” means the County Government of Nandi;

“County Assembly” means the County Assembly of Nandi;

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to Health;

“County Treasury” has the meaning assigned to it under section 103 of the Public Finance Management Act, 2012;

“Department” means the department for the time being responsible for matters relating to Health;

“financial year” means the period of twelve months beginning 1st July ending on the 30th June of the

Short title and  
commencement

Interpretation

subsequent year;

“Fund” means Nandi County Facilities Improvement Fund established under section 4;

“Fund Account” means the Nandi County Facilities Improvement Fund Account created under section 6 (4);

“Fund Administrator” means the person designated under section 16 to manage the Facilities Improvement Fund by the County Executive Committee Member for finance pursuant to section 116 of the Public Finance Management Act, 2012;

“Fund Board” means the Nandi County Facilities Improvement Fund Board established under section 5 (1);

“health facility” means any other health establishment, licensed under any written law, other than a hospital which provides health services , and includes health centres, mobile clinics and dispensaries;

“hospital” means a gazetted county or sub-county hospital including a registered faith based equivalent health facility;

“hospital management boards” means the County and Sub-County hospital management boards established under sections 19 and 20, respectively;

“Salaries and Remuneration Commission” means the Salaries and Remuneration Commission established by Article 230 of the Constitution; and

“user charges” means cost-sharing charges.

3. The objects of this Act are to—

- (a) provide for a framework to allow the Health sector and health facilities retain monies received in accordance with provisions of section 109 (2) (b) read with section 116 (1) of the Public Finance Management Act, 2012;
- (b) establish a Nandi County Facilities Improvement Fund;
- (c) provide for the process of nomination and appointment of the Fund Board;
- (d) provide for the appointment of hospitals and

*Nandi County Facilities Improvement Fund*

health facilities management boards and committees; and

- (e) provide for a framework for performance based financing of health service in the County in order to—
    - (i) sustainably operate, maintain, equip, rehabilitate health facilities and procure emergency medical supplies in hospitals and health facilities in the county;
    - (ii) enhance participation of relevant stakeholder and host communities in the planning and management of health facilities and hospitals located in their jurisdiction;
    - (iii) create incentives for hospitals and health facilities to sustainably generate resources;
    - (iv) provide funding for the day to day operations of hospitals and health facilities;
    - (v) provide for financing of preventive and promotional healthcare services;
    - (vi) provide immediate funds for health relate emergencies and disaster; and
    - (vii) ensure that 70% of the resources of the Fund shall be retained within the collecting facilities while 20% of the funds shall facilitate Primary healthcare facilities and 10% of the funds shall be used as administrative services;
- Provided that levels 2 and 3 are exempted from this ratio/formula.

**PART II — ESTABLISHMENT AND  
MANAGEMENT OF THE FACILITY  
IMPROVEMENT FUND**

4. (1) The County Executive Committee Member for finance shall within thirty days of Gazettement of this Act establish the Nandi County Facilities Improvement Fund.

(2) The Fund shall consist of—

- (a) monies that may be appropriated by the

County Assembly for operations of health facilities except money provided in the budget for purchase of medical commodities as well as conditional allocations by the national government;

- (b) monies received as contributions, gifts or grants from any lawful source;
- (c) monies earned or received as user charges;
- (d) income generated from the proceeds of the Fund;
- (e) income generated from environmental health services;
- (f) funds from the free maternity service allocated to the County;
- (g) funds received as reimbursement from National hospital Insurance Fund and other medical insurance entities; and
- (h) any user fees foregone.

(3) All resources due to the Fund shall be received and paid to the Fund in full and shall be collected and accounted for in compliance with the accounting standards prescribed and published by the Accounting Standards Board.

(4) All monies raised or received directly by county health facilities shall be paid into the Facilities Improvement Fund and not the County Revenue Fund.

(5) The revenue receipts, earnings and accruals of the Fund shall be received and accounted for as Appropriation-in-Aid.

(6) The budget estimates for the Fund, as approved by the Fund Board, shall be submitted together with the estimates of the Department to county treasury for consolidation.

(7) The budget estimates of the Fund shall comprise separate expenditure plans for all health facilities which raise or receive revenue from their services.

(8) Budget estimates of the Fund shall indicate expenditure net of Appropriation-in-Aid and as approved

by the County Assembly.

5. The initial capital of the Fund shall be such amounts of money as may be appropriated by County Assembly in that financial year.

6. (1) The County Executive Committee Member responsible for finance shall designate a person from the County public service who shall administer the Nandi County Facilities Improvement Fund.

(2) The Fund Administrator appointed under subsection (1) shall be the accounting officer of the Fund.

(3) The Fund Administrator shall—

- (a) prepare and keep the accounts of the Fund in each financial year;
  - (b) not later than three (3) months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General; and
  - (c) present financial statements to the County Assembly.
- (4) The Fund Administrator shall cause an account to be opened in any commercial bank, approved by the County Treasury, and the account shall be known as the “Nandi County Facilities Improvement Fund Account”.
- (5) The signatories of the Fund Account shall be—
- (a) the Fund Manager;
  - (b) the chief officer Health services; and
  - (c) the county Director of Health services.
- (d) The Director for Administration in the Department of Health.
- (6) The Fund Administrator shall ensure that the resources of the Fund Account are used for the purpose for which they were intended and shall ensure that the earnings of, or accruals to the Fund are retained in the Fund.
- (7) The Fund Administrator shall ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting

Capital of the Fund

Administration of  
the Fund

## Standards Board.

(8) The County Executive Committee Member responsible for finance shall issue regulations on the banking arrangements for the Fund pursuant to the provisions of the Public Finance Management Act, 2012, and its regulations.

7. (1) The Fund Administrator is accountable to the Fund Board for ensuring that the resources of the Fund for which the officer is designated are used in a way that is—

- (a) lawful and authorized; and
  - (b) effective, efficient, economical and transparent.
- (2) In carrying out the responsibilities imposed by subsection (1), the Fund Administrator shall—
- (a) ensure that all expenditure made by the Fund complies with subsection (1);
  - (b) ensure that the Fund keeps financial and accounting records that comply with the Public Finance Management Act, 2012;
  - (c) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the Board for gazettement by the 21st of every fourth month of a financial year;
  - (d) develop the criteria for the allocation of funds for approval by the Board;
  - (e) prepare in consultation with the health facility board or committees a schedule of annual distribution of resources to health facilities;
  - (f) ensure that all financial and accounting records that the Fund keeps in any form, including in electronic form, are adequately protected and backed up;
  - (g) ensure that all contracts entered into on behalf of the Fund are lawful and are complied with;
  - (h) ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their

## Standards Board

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  - (d) develop the criteria for the allocation of funds for approval by the Board;
  - (e) prepare in consultation with the health facility board or committees a schedule of annual distribution of resources to health facilities;
  - (f) ensure that all financial and accounting records that the Fund keeps in any form, including in electronic form, are adequately protected and backed up;
  - (g) ensure that all contracts entered into on behalf of the Fund are lawful and are complied with;
  - (h) ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their

- custody, safe guarding and maintenance;
- (i) bring a matter to the attention of the County Executive Committee Member responsible for health if, in the accounting officer's opinion, a decision or policy or proposed decision or policy of the Fund may result in resources being used in a way that is contrary to subsection (1);
  - (j) submit the estimates of the Fund and such relevant data to the Fund Board;
  - (k) prepare annual financial statements, to be presented to the Auditor-General for audit, not later than three (3) months after the end of each financial year;
  - (l) try to resolve any issues resulting from an audit that remain outstanding;
  - (m) manage the assets of the Fund to ensure that it receives value for money when acquiring, using or disposing of its assets;
  - (n) dispose of assets at the most competitive price and at the lowest possible cost ensuring that the proceeds from all asset disposals are deposited in the bank account;
  - (o) ensure that the Fund has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to County Treasury and the Auditor-General;
  - (p) provide the County Treasury with any information it requires to fulfill its functions;
  - (q) provide information on any fraud, losses, or any violations of subsection (1) and provide explanations for the actions taken to prevent similar conduct in future; and
  - (r) carry out such other responsibilities as may be specified in regulations by the County Executive Committee Member responsible for finance.

**8. (1)** The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and

Expenditure from the Fund

cost estimates which shall be prepared by the administrator of the Fund, and approved by the Board at the beginning of the financial year to which they relate.

(2) Any revision of the approved annual work programme, and of any cost estimate, shall be referred to the Board for approval.

(3) The Board shall—

- (a) authorize payments out of the Fund on the basis of quarterly budgets approved by Hospitals Boards, Sub-County hospital Boards and Health Facilities Committees; and
- (b) ensure equitable sharing of monies appropriated by the County Assembly for operational needs of the hospitals, Sub-County hospitals and health facilities.

(4) All disbursements from the Fund shall be approved and recorded in the minutes of the Fund Board.

(5) The record of the amounts received by each hospital, Sub-County hospital and health facility and the record of expenditure of amounts so received shall be submitted to the Fund Board within thirty (30) days after the close of the relevant financial year, together with a copy of the relevant bank statements.

(6) No disbursements for the succeeding financial year shall be made into the accounts of the hospitals, Sub-County hospitals and health facilities until the records referred to under subsection (5) are duly received.

(7) The in-charge of each hospital, Sub-County hospital and health facility shall be responsible to the Fund Board in submitting the records referred to under subsection (5).

(8) The Fund Board may impose reasonable requirements, including restrictions, on a particular hospital, Sub-County hospital or health facility and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Fund Board.

9. (1) At the end of each financial year, the Fund Administrator shall prepare financial statements in respect of the Fund in a format to be prescribed by the Accounting

## Standards Board.

(2) The Fund Administrator shall include in the financial statements—

- (a) appropriation accounts, showing—
  - (i) the services for which the appropriated money was spent;
  - (ii) the amounts actually spent on each service;
  - (iii) a statement explaining any variations between the actual expenditure and the sums voted; and
  - (iv) any other information specified by the County Treasury;
- (b) a statement of the Fund's debt that is outstanding at the end of the financial year;
- (c) a statement of the Fund's assets and liabilities as at the end of the financial year;
- (d) a statement of the accounting policies followed in preparing the financial statement;
- (e) a statement of the Fund's performance against predetermined objectives;
- (f) the number of beneficiaries aggregated in accordance to the number of the facilities;
- (g) challenges faced in the implementation of this Act and mitigation measures taken; and
- (h) any other matter as may be directed by the County Executive Committee Member responsible for finance.

(3) The Fund Administrator shall upon preparing the reports of the Fund as provided for under subsections (1) and (2) above present the same to the Fund Board for consideration and approval.

(4) The report referred to under subsection (3) above shall be presented to the Fund Board before the period referred to under subsection (4) below.

(5) Not later than three (3) months after the County Assembly has adopted the report of the Controller of Budget as presented by the responsible committee of the

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County Assembly under Article 228 (6) of the Constitution, the Fund Board shall—

- (a) prepare a report on actions taken by the Fund Administrator to implement any recommendations made by the County Assembly; and
- (b) submit the report to the County Assembly with a copy to the County Treasury and the County Facilities Improvement Board.

(6) Not later than one month after receiving the report under subsection (3), the County Treasury shall submit to the County Assembly the said report which may include its comments.

(7) The reports referred to in subsection (3) shall be published and publicized.

10. (1) The Fund Administrator shall prepare a report for each quarter of the financial year in respect of the Fund.

*Quarterly reports.*

(2) In preparing the quarterly report, the Fund Administrator shall ensure that the report—

- (a) contains information on the financial and nonfinancial performance of the Fund; and
- (b) is in a form determined by the Accounting Standards Board.

(3) Not later than fifteen (15) days after the end of each quarter, the Fund Administrator shall submit a copy of the quarterly report to the Fund Board.

*Winding up of the Fund.*

11. In the event of winding up of the Fund, the Fund Board shall ensure that the cash balances are transferred to the County Revenue Account whereas other assets of the Fund are transferred to the Department of Health.

*Application of National Legislation.*

12. Subject to the provisions of the Public Finance Management Act, 2012, existing Government Regulations and Procedures shall apply to the administration of the Fund.

*Establishment of the Fund Board.*

13. (1) There is established the Nandi County Facilities Improvement Fund Board.

(2) The Board Shall comprise of Eleven (11) members

as follows—

- (a) A chairperson appointed by the Governor Nandi County from three nominees recommended by the CEC member for Health and Sanitation
  - (b) The county executive for the time being responsible for matters relating to health services or his/her representative duly nominated by him/her in writing.
  - (c) the Chief Officer and accounting officer of the Department for the time being responsible for health services;
  - (d) the County Director of Health Services, who shall be the Secretary of the Board;
  - (e) the Fund Administrator who shall be an *ex-officio* member of the Board;
  - (f) the Chief Officer for the time being responsible for matters relating to finance or his/her representative duly nominated in writing;
  - (g) County Hospital Medical Superintendent;
  - (h) a member of the public nominated from health non-governmental organization networks in the County appointed by the Governor;
  - (i) a member of the public nominated from religious hospital associations or networks in County appointed by the Governor;
  - (j) a member of the public appointed by the Governor by virtue of his/her knowledge or experience in financial management of public resources;
  - (k) County Health Director, Finance and Planning.
- (3) The County Executive Committee Member shall ensure provision of such public officers as may be necessary for the effective functioning of the Fund Board.
- (4) The quorum at any meeting of the Fund Board shall be seven (7) members and the Board shall meet not less than four times in each financial year.
- (5) The Executive Committee Member shall cause

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the names of chairperson and members of the Fund Board to be published in the Gazette at least 30 days after their appointment.

(6) The County Executive Committee Member may make regulations to give full effect to this section.

## 14. (1) The Fund Board shall—

- (a) provide overall design and oversight of the Fund;
- (b) consider, verify and approve funding to hospitals and health facilities;
- (c) ensure equitable distribution of resources to the hospitals and health facilities;
- (d) review and approve disbursements or utilization of the Fund;
- (e) advise the County Executive Committee Member on the appropriate guidelines and procedures for better management of the Fund;
- (f) consider and approve funding for preventive and promotive health services;
- (g) receive reports on the performance of the Fund from its management committee which the Fund Administrator shall be a member of;
- (h) develop relevant guidelines and review them as need arises, to guide the operations and implementation of the Fund;
- (i) develop and facilitate sectoral linkage on the Fund;
- (j) monitor and evaluate programs and activities under the Fund;
- (k) prepare an annual report on the operations and performance of the Fund to the County Executive Committee Member;
- (l) impose conditions on expenditure authorized by the Fund Board including imposing any reasonable prohibition, restriction or other requirement concerning expenditure from the Fund;

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(6) The County Executive Committee Member may make regulations to give full effect to this section.

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- (c) ensure equitable distribution of resources to the hospitals and health facilities;
- (d) review and approve disbursements or utilization of the Fund;
- (e) advise the County Executive Committee Member on the appropriate guidelines and procedures for better management of the Fund;
- (f) consider and approve funding for preventive and promotive health services;
- (g) receive reports on the performance of the Fund from its management committee which the Fund Administrator shall be a member of;
- (h) develop relevant guidelines and review them as need arises, to guide the operations and implementation of the Fund;
- (i) develop and facilitate sectoral linkage on the Fund;
- (j) monitor and evaluate programs and activities under the Fund;
- (k) prepare an annual report on the operations and performance of the Fund to the County Executive Committee Member;
- (l) impose conditions on expenditure authorized by the Fund Board including imposing any reasonable prohibition, restriction or other requirement concerning expenditure from the Fund;

Functions of the  
Fund Board.

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- (m) institute prudent measures for the proper utilization of monies deposited in to the Fund using suitable internal controls and appropriate mechanisms for financial accountability such as audit of accounts;
- (n) oversee the management and administration of the Fund; and
- (o) put in place necessary mechanisms for sanctions and their enforcements in case of mismanagement of funds.

(2) Members of the Fund Board shall serve the Board on part-time basis.

**15.** (1) The Fund Board—

- (a) is responsible for the management of the Fund's assets and liabilities; and
- (b) shall manage those assets in such a way as to ensure that the Fund achieves value for money in acquiring, using or disposing of those assets.

Management of  
assets and liabilities  
of the Fund.

(2) The Fund Board shall dispose of assets only in terms of the public procurement Regulation 2020 , Public Procurement and Disposal Act, 2015, and pursuant to Article 227 of the Constitution, and shall ensure that the proceeds from all asset disposals are credited into the Fund Account.

**16.** (1) The Fund Board shall, for the effective discharge of its functions, establish committees.

Committees of the  
Fund Board

(2) The Fund Board may co-opt into the membership of a committee established under subsection (1), any person whose knowledge and skills are considered necessary for the effective discharge of its functions.

**17.** (1) The Fund Board may, where appropriate and in writing, delegate any power or assign any duty conferred on it under this Act to the Fund Administrator, the County Executive Committee Member or committees of the board.

Delegation of  
powers and  
functions

(2) A delegation or assignment under subsection (1) shall not prevent the Fund Board from exercising the power in question.

(3) A delegation under this section—

- (a) shall be subject to any conditions the Fund Board may impose;
- (b) shall not divest the Fund Board of its responsibilities concerning the exercise of the powers or the performance of the duty delegated; and
- (c) may be withdrawn, and any decision made by the person to whom the delegation is made, be withdrawn or amended by the Fund Board.

18. (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Schedule and shall be in accordance with this Act.

Conduct of business and affairs of the Fund Board.

(2) Except as provided in the Schedule, the Board may regulate its own procedures.

### **PART III — HOSPITAL MANAGEMENT BOARDS AND HEALTH FACILITY MANAGEMENT COMMITTEES**

19. (1) There is established a hospital management board for each county hospital.

County hospital management boards.

(2) The Board shall consist of seven (7) members who shall be—

- (a) a member of the public appointed by the County Executive Committee Member and who shall be the chairperson of the board;
- (b) the area Sub-County Administrator as an *ex-officio* appointed under Section 50 of the County Governments Act, 2012;
- (c) the medical superintendent who, shall be the secretary;
- (d) a member of the public with knowledge and experience on health matters appointed by the County Executive Committee Member;
- (e) three (3) members of the public who shall be residents of the area of jurisdiction of the hospital, appointed by the County Executive Committee Member representing the following

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categories of persons—

- (i) a person who shall have knowledge and experience in finance and administration matters; and
- (ii) two (2) people representing persons from the following special interest groups namely, people living with disabilities, youth or women.

(3) Membership of the County hospital management board shall respect and reflect the diversities in the County.

(4) At least one third of the membership of the County hospital management board shall be from the opposite gender.

(5) The County Executive Committee Member shall cause the names of chairperson and members of the County hospital management board published in the Gazette at least 30 days after their appointment.

**20.** (1) There is established a hospital management board for each Sub-County hospital.

Sub-County hospital  
management boards

(2) The Board shall consist of seven (7) members who shall be—

- (a) a member of the public appointed by the County Executive Committee Member who shall be the chairperson of the board;
- (b) the area sub-county administrator *as an ex-officio* member appointed under Section 50 of the County Governments Act, 2012;
- (c) the facility in-charge who shall be the secretary to the Sub-County hospital board;
- (d) a member of the public with knowledge and experience on health matters appointed by the County Executive Committee Member;
- (e) three (3) members of the public who shall be residents of the area of jurisdiction, appointed by the County Executive Committee Member representing the following categories of persons—
  - (i) one person who shall have knowledge

and experience in finance and administration matters; and

- (ii) two (2) people representing persons from the following special interest groups namely, people living with disabilities, youth or women.

(3) Membership of the Sub-County hospital management board shall respect and reflect the diversities in the County.

(4) At least one third of the membership of the hospital management board shall be from the opposite gender.

(5) The County Executive Committee Member shall cause the names of chairperson and members of the Sub-County hospital management board published in the Gazette at least 30 days after their appointment.

**21.** (1) The County and Sub-County hospital management boards shall—

Functions of hospital management boards.

- (a) be responsible for the supervision of the funds allocated to the respective hospitals;
- (b) open and operate bank accounts at a banks to be approved by the County Treasury;
- (c) recommend activities to be included in the hospital work plans based on the County health sectoral and strategic plans;
- (d) cause to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the hospitals as directed by the Chief Officer;
- (e) cause prescribed monthly, quarterly and annual financial reports to be prepared and submitted to the Fund Board; and
- (f) cause to be kept records of all its deliberations.

(2) The reports referred to under subsection (1) (e) shall be addressed to the secretary of the Fund Board.

**22.** (1) The hospital management boards may, for the effective discharge of their functions, establish committees.

Committees of the hospital management boards.

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(2) The composition and membership of the committees established under subsection (1) shall be determined by the chairpersons of the boards, in consultation with the Chief Officer.

(3) There are established the following committees—

- (a) executive committee;
- (b) finance and general purpose committees ;
- (c) quality of Facilities Improvement committee;
- (d) commodity quality Assurance Committee; and
- (e) special and ad hoc committee.

(4) Without prejudice to the generality of subsection (3), the executive committee membership shall consist of—

- (a) chairpersons of the hospital management boards;
- (b) chairpersons of finance and general purpose committees; and
- (c) secretaries of the hospital management boards.

(5) The functions of the executive committee shall be to—

- (a) prepare the agenda for the meetings of the boards;
- (b) advise the boards on matters related to their functions; and
- (c) make recommendations for consideration by the hospital management boards.

(6) Finance and general purpose committee membership shall be not more than five (5) members whereas two (2) members shall be members of the hospital management boards and three (3) members shall be officers from the following hospital departments, laboratory, pharmacy and a representative of in and out patient departments.

(7) The finance and general purpose committee referred to in subsection (6) above shall elect a chairperson from among themselves.

(8) The functions of the finance and general purpose

committee shall be to—

- (a) review the County and Sub-County hospital budgets;
- (b) review fiscal management policies and practices of the County and Sub-County hospitals over their assets and liabilities;
- (c) make recommendations to their respective boards; and
- (d) perform any other function as directed by the hospital management boards.

(9) The quality of facilities improvement committee shall comprise of not more than five (5) members with at least two (2) from the hospital management boards and the three (3) other members from the following hospital departments, Public Health, Human Resource and other department.

(10) The quality health services committee shall elect a chairperson from amongst its membership.

(11) The functions of the quality facilities improvement committee shall be to—

- (a) establish and maintain a hospital quality improvement program;
- (b) review the hospital quality assessment reports;
- (c) make recommendations to the hospital management boards; and
- (d) to perform any other function as may be assigned to them by the hospital management boards.

(12) The chairperson of the hospital management boards may constitute a special and ad hoc committee to—

- (a) deal with any urgent matters; or
- (b) assist the boards in any specific issues pertaining to their responsibilities.

**23.** (1) The responsibilities of the chairperson of the County and Sub-County hospital management boards shall be—

Functions of the chairperson and secretary of the management boards

2022

- (a) overseeing all committees of the Board;
- (b) setting schedules of meetings in consultation with the secretary;
- (c) presiding over the board meetings; and
- (d) to perform any other duty as may be assigned by the County Executive Committee Member, the Chief Officer or the Fund Board.

(2) The secretary to the County or Sub-County hospital management boards shall—

- (a) keep records of their deliberations;
- (b) communicate their decisions to the relevant authorities and offices; and
- (c) implement decisions of the boards.

**24.** (1) A person shall not be eligible for appointment as a chairperson of the County or Sub-County hospital management board unless that person—

Qualifications,  
appointment,  
quorum, tenure, etc.

- (a) holds a degree from a university recognized in Kenya;
- (b) has demonstrated high level of integrity and leadership at senior level either in public or private sector;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) is not serving as a State or public officer.

(2) A person shall not be appointed as a member of a board under this Part unless that person holds at least an O-level certificate of education or its equivalent.

(3) A member of a board, apart from members who are county public officers, shall hold office for a period of three (3) years and may be eligible for re-appointment for a further term on a two-term service.

(4) The boards shall meet at least four (4) times in every financial year and shall maintain records of their deliberations.

(5) Copies of deliberations and records in referred to under subsection (4) above shall be forwarded to the Fund

Board not more than one (1) month after such board meetings

(6) The quorum of the boards shall be a four.

(7) The County and Sub-County management boards established under this Part shall be responsible to the County Chief Officer for the execution of their functions under this Act.

Health management committees

25. (1) There is established a health management committee in each health centre and dispensary in the county.

(2) The health management committee shall consist of nine (9) members appointed as follows—

- (a) a ward administrator in the area of jurisdiction who shall be an *ex-officio* member;
- (b) the officer in charge of the health facility, who shall be the secretary of the committee;
- (c) the area chief or assistant chief who shall be an *ex-officio* member;
- (d) a member of the public representing religious or faith based organisations;
- (e) five (5) members of the public who are residents of the area of jurisdiction of the dispensary or health facility, appointed by the County Executive Committee Member as follows—
  - (i) one person who shall have knowledge and experience in finance and administration matters; and
  - (ii) three (3) people representing persons from the following special interest groups namely, people living with disabilities, youth and women.
- (3) The health management committees shall elect a chairperson from amongst their respective membership.
- (4) The chairperson appointed under subsection (3), shall not be an *ex-officio* member.
- (5) A person shall not be qualified to be appointed as a chairperson of the health management committee

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*Nandi County Facilities Improvement Fund*

unless that person has post-secondary certificate.

(6) Members of the committees, other than members who are County public officers, shall hold office for a period of three (3) years and shall be eligible for re-election for a further term.

(7) Health management committees may, if necessary, constitute sub-committees from their memberships to carry out specific functions assigned to them by the committees.

(8) Health management committees shall meet four (4) times in each financial year and shall keep and maintain records of their deliberations.

(9) The quorum for the meeting of the health management committees shall be five (5) members.

(10) Health management committees shall be responsible to the County Executive Committee Member.

**26. The health management committees shall—**

- (a) supervise and control the administration of the funds allocated to the dispensaries and health facilities;
- (b) open and operate a bank account at a bank approved by the County Treasury;
- (c) cause dispensaries and health facilities work and procurement plans to be prepared;
- (d) cause books and records of accounts of the income, expenditure, assets and liabilities of the facilities to be kept as directed by the Fund Administrator;
- (e) prepare and submit prescribed and certified periodic financial and performance reports; and
- (f) cause records of all its deliberations to be kept.

Functions of the health management committees

**PART IV— FINANCIAL PROVISIONS**

27. (1) At the end of each quarter, the responsible health facilities will prepare a quarterly budget, quarterly implementation and procurement plan.

Submission and approval of budgets

(2) The quarterly budget referred to in subsection (1) shall, where appropriate, indicate how much resources the health facility has raised to finance their quarterly

budget as well as their deficits.

(3) The budget together with quarterly implementation and quarterly procurement plan shall be submitted to the hospital management boards or health management committees for approval.

(4) The approved budgets shall then be submitted to the Fund Board, addressed to the secretary of the Fund Board, for consideration and approval.

(5) Upon approval of the budgets by the Fund Board, the Fund Administrator shall prepare payment instruments intended for actual release of moneys from the Fund pursuant to section 6 (5) as read with section 8 of this Act.

(6) The payment instruments referred to in subsection (5) shall include authority to incur expenditure by the various health facilities.

(7) The approved funds shall be disbursed to the health facilities not more than fourteen (14) days after appropriate documentation has been submitted to the Fund Board and proper approvals by the Fund Board have been issued.

(8) All the spending units shall prepare monthly, quarterly and annual financial reports in a prescribed format to be forwarded to the Fund Board for consolidation and further action as prescribed under this Act.

**28.** The disbursements made to health facilities by the Fund Board shall be on the basis of, and limited to, the annual allocations, grants and authority-to-incur-expenditure for that financial year.

Allocations to health facilities.

**29. (1)** At least three (3) months before the commencement of each financial year, the Fund Administrator shall cause to be prepared estimates of the revenue and expenditure of the Fund Board, boards and committees for that year.

Annual estimates.

(2) The annual estimates shall make provision for all the estimated expenditure for the financial year concerned and, in particular, shall provide for—

- (a) payment of remuneration or allowances in respect of the members and staff of the various boards and committees;

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- (b) maintenance of the buildings and hospital implements and facilities;
- (c) funding of training, research and development of activities of the boards and committees;
- (d) allocation of funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as are necessary and justifiably prudent; and
- (e) any other expenditure necessary or purposes of this Act.

(3) The annual estimates herein shall be approved by Fund Board before the commencement of the financial year to which they relate and shall be submitted to the County Executive Committee Member for consolidation with the Departmental annual estimates and tabling at the County Assembly.

(4) Notwithstanding the provisions of subsection (3) above, annual estimates specific to the activities of the Fund Board shall be considered and approved by the County Executive Committee Member, and thereafter, such annual estimates shall be consolidated with the Departmental annual estimates and tabled at the County Assembly.

**30.** The financial year shall—

Financial year

- (a) in the first instance, be the period commencing on the day on which this Act comes into operation and ending on the thirtieth day of June of the subsequent year; and
- (b) subsequently, be the period of twelve months commencing on the first of July and ending on the thirtieth of June.

**31.** (1) Notwithstanding the provisions of this Act, the Chief Officer shall be responsible for causing to be kept all proper books and records of account of the income, expenditure, assets and liabilities under this Act.

Accounts and audit

(2) The annual account reports shall be prepared, audited and reported upon in accordance with the

provisions of Articles 226 and 229 of the Constitution of Kenya, 2010, and the laws of Kenya relating to public audit.

**32.** (1) Each hospital, primary health facility or revenue collection point shall operate a bank account in its own name pursuant to sections 21 (1) (b) and 26 (b) of the Act relating to the County and Sub-County hospital management boards and the health management committees, respectively.

Opening and operating health facilities bank accounts.

(2) Notwithstanding the provisions of subsection (1), a bank account as approved by the County Treasury, shall be opened for public health services in each Sub-County.

(3) There shall be three (3) mandatory signatories to the bank accounts specified under sub sections (1) and (2) as follows—

- (a) with respect to hospitals including referral hospitals—
  - (i) the medical superintendent;
  - (ii) the Health Administrative Officer; and
  - (iii) the Hospital accountant.
- (b) in respect of primary health facilities—
  - (i) the chairperson of the health facility;
  - (ii) the treasurer of the health facility; and
  - (iii) the officer in-charge of the primary health facility.
- (c) with regards to public health services—
  - (i) the Sub-County public health officer;
  - (ii) the Sub-County medical officer of health; and
  - (iii) the Sub-County health administrative Officer.
- (d) with respect to County Health services;
  - (i) County Director Health Services
  - (ii) County Director Health Administration, Finance and Planning
  - (iii) County Health Administrative Officer
- (4) The County Executive Committee Member

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responsible for matters relating to finance may issue regulations for the better carrying out of this section.

33. Where funds have been disbursed to hospital management boards and committees to support the ambulance services facilitating referral of clients in disasters and emergencies of a large magnitude, the officer responsible for ambulance emergency services shall prepare claims by hospitals involved in provision of the emergency services for reimbursement by the Fund Board.

Funds for emergency purposes

**PART V — MISCELLANEOUS PROVISIONS**

34. Allowances for members of the various boards and committees, including the Fund Board members shall be defrayed from the resources of the Fund in accordance with regulation and direction provided for by the Salaries and Remuneration Commission.

Allowances

35. Nothing done by the accounting officer, chairperson, member of the board or by any person working under the instructions of the Fund Board or the County Executive Committee Member shall, if it is done in good faith for the purpose of executing the powers, functions or duties of this Act, render such member or officer personally liable for any action, claim or demand.

Protection from personal liability

36. The County Executive Committee Member shall within one year of coming into force of this Act prescribe, publish and publicize a code of conduct to guide the operations and conduct of chairpersons, members, and any other person assigned a task under this Act.

Code of conduct

37. A person who contravenes any of the provisions of this Act commits an offence, and shall on conviction be liable to a fine not exceeding three million shillings or to imprisonment for a term not exceeding three years, or to both.

Offences and general penalty

38. (1) The County Executive Committee Member shall facilitate, supervise and oversee the operations of the Fund Board in the implementation of the Fund, and in particular, shall—

Regulations

- (a) issue regulation relating to the allocation formula of distribution of resources and funds to hospitals and health facilities;

- (b) regulate the conduct of persons subject to the provisions of this Act; and
- (c) issue other regulation for the better carrying out of the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1), the County Executive Committee Member responsible for matters relating to finance shall—

- (a) develop policy measures relating to the Fund; and
- (b) make regulations to give effect to the objects of the Fund.

**39.** (1) The health management boards and committees established previously shall stand automatically disbanded within 30 days of coming into the operation of this Act and shall be reconstituted, pursuant to this Act, within one month.

Transition and savings.

(2) Legal Notice No. 155 of 16 October 2009 ceases to apply with respect to hospital management boards, in so far as their composition and membership refers:

Provided that such guidelines as to conduct of meetings, that are not specifically provided for under this Act, shall remain in force until such time as the County Executive Committee Member formulates such Regulations.

**SCHEDULE****PROVISIONS AS TO THE CONDUCT OF BUSINESS AND  
AFFAIRS OF THE COUNTY FACILITIES IMPROVEMENT  
FUND BOARD***Board meetings*

1. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of sub paragraph (1) above, the chairperson may, and upon requisition in writing by at least four (4) members, shall convene a special meeting of the Board at any time for the transaction of the business of the Board or Committee.

(3) At least fourteen (14) days' written notice of every meeting of the Board shall be given to every member of the Board by the secretary.

(4) The chairperson shall preside at every meeting of the Board at which he/she is present, but in his/her absence, the members present shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(5) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting.

(6) In the case of an equality of votes, the chairperson or the person presiding as chairperson under subsection (4) shall have a casting vote.

(7) No proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

*Conflict of interest*

2. (1) If a member is directly or indirectly interested in an outcome of any decision of the Board or other matter before the Board and is present at a meeting of the Board at which the matter is the subject of consideration, that member shall, at the meeting as soon practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A member of the Board shall be considered to have a conflict of interest for the purpose of this Act if he/she acquires any pecuniary or

other interest that could conflict with the proper performance of his/her duties as a member or employee of the Board.

(3) Where the chairperson of the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the chairperson shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has conflict of interest, he/she shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Board and the same shall be recorded.

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether any future conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member of the Board and the member with the conflict of interest shall not vote on this determination.

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance, the members shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty (30) days.

(7) The Board shall report to the County Executive Committee Member any determination by the Board that a conflict is likely to interfere significantly with its performance and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A member of the Board who fails to declare conflict of interest where such is the case commits an offence and shall be punished as provided for under section 37 of this Act.

#### *Code of conduct.*

3. The Board shall comply with the code of conduct governing public officers and provisions of Chapter Six of the Kenya Constitution.

#### *Minutes of the meeting.*

4. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

SPECIAL ISSUE

Kenya Gazette Supplement No. 7 (Nandi County Acts No. 3)



REPUBLIC OF KENYA

# **KENYA GAZETTE SUPPLEMENT**

**NANDI COUNTY ACTS, 2022**

**NAIROBI, 1st November, 2022**

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**THE NANDI COUNTY FACILITIES IMPROVEMENT FUND ACT,  
2022**

**No. 3 of 2022**

*Date of Assent: 10th June, 2022*

*Date of Commencement: See Section 1*

**ARRANGEMENT OF SECTIONS**

*Section*

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- 1— Short title and commencement.
- 2— Interpretation.
- 3— Object of the Act.

**PART II — ESTABLISHMENT AND MANAGEMENT OF THE  
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- 5— Capital of the Fund.
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#### **SCHEDULE**

**THE NANDI COUNTY FACILITIES IMPROVEMENT FUND ACT, 2022**

**AN ACT of County Assembly of Nandi to establish the Nandi County Facilities Improvement Fund; to provide for the additional funding for the management of health systems and public Facilities Improvement in the County; to enable sustainable operations of health facilities; and for connected purposes.**

**ENACTED** by Nandi County Assembly as Follows—

**PART I — PRELIMINARY PROVISIONS**

1. This Act may be cited as Nandi County Facilities Improvement Fund Act, 2022, and shall come into operation upon publication.

Short title and commencement

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

Interpretation.

“Appropriation-in-Aid” means any revenue which a health facility/entity receives and is approved by this Act for application by that facility/entity to finance its activities;

“Board” means Nandi County Facility Improvement Fund Board established under section 5;

“Chief Officer” means the Chief Officer and accounting officer of the Department for the time being responsible for health services;

“County” means the County Government of Nandi;

“County Assembly” means the County Assembly of Nandi;

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to Health;

“County Treasury” has the meaning assigned to it under section 103 of the Public Finance Management Act, 2012;

“Department” means the department for the time being responsible for matters relating to Health;

“financial year” means the period of twelve months beginning 1st July ending on the 30th June of the

subsequent year;

“Fund” means Nandi County Facilities Improvement Fund established under section 4;

“Fund Account” means the Nandi County Facilities Improvement Fund Account created under section 6 (4);

“Fund Administrator” means the person designated under section 16 to manage the Facilities Improvement Fund by the County Executive Committee Member for finance pursuant to section 116 of the Public Finance Management Act, 2012;

“Fund Board” means the Nandi County Facilities Improvement Fund Board established under section 5 (1);

“health facility” means any other health establishment, licensed under any written law, other than a hospital which provides health services, and includes health centres, mobile clinics and dispensaries;

“hospital” means a gazetted county or sub-county hospital including a registered faith based equivalent health facility;

“hospital management boards” means the County and Sub-County hospital management boards established under sections 19 and 20, respectively;

“Salaries and Remuneration Commission” means the Salaries and Remuneration Commission established by Article 230 of the Constitution; and

“user charges” means cost-sharing charges.

**3. The objects of this Act are to—**

Objects of the Act

- (a) provide for a framework to allow the Health sector and health facilities retain monies received in accordance with provisions of section 109 (2) (b) read with section 116 (1) of the Public Finance Management Act, 2012;
- (b) establish a Nandi County Facilities Improvement Fund;
- (c) provide for the process of nomination and appointment of the Fund Board;
- (d) provide for the appointment of hospitals and

health facilities management boards and committees; and

(e) provide for a framework for performance based financing of health service in the County in order to—

- (i) sustainably operate, maintain, equip, rehabilitate health facilities and procure emergency medical supplies in hospitals and health facilities in the county;
  - (ii) enhance participation of relevant stakeholder and host communities in the planning and management of health facilities and hospitals located in their jurisdiction;
  - (iii) create incentives for hospitals and health facilities to sustainably generate resources;
  - (iv) provide funding for the day to day operations of hospitals and health facilities;
  - (v) provide for financing of preventive and promotional healthcare services;
  - (vi) provide immediate funds for health relate emergencies and disaster; and
  - (vii) ensure that 70% of the resources of the Fund shall be retained within the collecting facilities while 20% of the funds shall facilitate Primary healthcare facilities and 10% of the funds shall be used as administrative services:
- Provided that levels 2 and 3 are exempted from this ratio/formula.

**PART II — ESTABLISHMENT AND  
MANAGEMENT OF THE FACILITY  
IMPROVEMENT FUND**

Establishment of the  
Fund

4. (1) The County Executive Committee Member for finance shall within thirty days of Gazettement of this Act establish the Nandi County Facilities Improvement Fund.

(2) The Fund shall consist of—

- (a) monies that may be appropriated by the

County Assembly for operations of health facilities except money provided in the budget for purchase of medical commodities as well as conditional allocations by the national government;

- (b) monies received as contributions, gifts or grants from any lawful source;
  - (c) monies earned or received as user charges;
  - (d) income generated from the proceeds of the Fund;
  - (e) income generated from environmental health services;
  - (f) funds from the free maternity service allocated to the County;
  - (g) funds received as reimbursement from National hospital Insurance Fund and other medical insurance entities; and
  - (h) any user fees foregone.
- (3) All resources due to the Fund shall be received and paid to the Fund in full and shall be collected and accounted for in compliance with the accounting standards prescribed and published by the Accounting Standards Board.
- (4) All monies raised or received directly by county health facilities shall be paid into the Facilities Improvement Fund and not the County Revenue Fund.
- (5) The revenue receipts, earnings and accruals of the Fund shall be received and accounted for as Appropriation-in-Aid.

(6) The budget estimates for the Fund, as approved by the Fund Board, shall be submitted together with the estimates of the Department to county treasury for consolidation.

(7) The budget estimates of the Fund shall comprise separate expenditure plans for all health facilities which raise or receive revenue from their services.

(8) Budget estimates of the Fund shall indicate expenditure net of Appropriation-in-Aid and as approved

by the County Assembly.

5. The initial capital of the Fund shall be such amounts of money as may be appropriated by County Assembly in that financial year.

6. (1) The County Executive Committee Member responsible for finance shall designate a person from the County public service who shall administer the Nandi County Facilities Improvement Fund.

(2) The Fund Administrator appointed under subsection (1) shall be the accounting officer of the Fund.

(3) The Fund Administrator shall—

(a) prepare and keep the accounts of the Fund in each financial year;

(b) not later than three (3) months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General; and

(c) present financial statements to the County Assembly.

(4) The Fund Administrator shall cause an account to be opened in any commercial bank, approved by the County Treasury, and the account shall be known as the "Nandi County Facilities Improvement Fund Account".

(5) The signatories of the Fund Account shall be—

- (a) the Fund Manager;
- (b) the chief officer Health services; and
- (c) the county Director of Health services.
- (d) The Director for Administration in the Department of Health.

(6) The Fund Administrator shall ensure that the resources of the Fund Account are used for the purpose for which they were intended and shall ensure that the earnings of, or accruals to the Fund are retained in the Fund.

(7) The Fund Administrator shall ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting

Standards Board.

(8) The County Executive Committee Member responsible for finance shall issue regulations on banking arrangements for the Fund pursuant to provisions of the Public Finance Management Act and its regulations.

7. (1) The Fund Administrator is accountable to the Fund Board for ensuring that the resources of the Fund which the officer is designated are used in a way that—

(a) lawful and authorized, and

(b) effective, efficient, economical and transparent.

(2) In carrying out the responsibilities imposed by subsection (1), the Fund Administrator shall

(a) ensure that all expenditure made by the officer complies with subsection (1);

(b) ensure that the Fund keeps financial accounting records that comply with the Finance Management Act, 2012;

(c) prepare a quarterly report on the receipts and issues out of the Fund and submit the Board for gazettelement by the 21st of fourth month of a financial year.

★ (d) develop the criteria for the allocation of funds for approval by the Board.

(e) prepare in consultation with the health facilities board or committees a schedule of distribution of resources to health facilities.

(f) ensure that all financial and accounting records that the Fund keeps in any form, including electronic form, are adequately protected and backed up.

(g) ensure that all contracts entered into on behalf of the Fund are lawful and are complied with,

(h) ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of such goods and services, adequate arrangements are made for

1. The first part of the document discusses the importance of maintaining accurate records of all transactions. It emphasizes that proper record-keeping is essential for the integrity of the financial system and for the ability to detect and prevent fraud.

2. The second part of the document outlines the specific requirements for record-keeping, including the need to maintain original documents and to keep copies of all records for a minimum of seven years. It also discusses the importance of ensuring that records are accessible and retrievable.

3. The third part of the document discusses the role of the auditor in verifying the accuracy of the records. It emphasizes that the auditor must exercise due diligence and must be satisfied that the records are complete and accurate before issuing an audit opinion.

4. The fourth part of the document discusses the consequences of failing to maintain accurate records. It notes that failure to do so can result in the disqualification of the auditor and can also lead to the imposition of penalties and fines.

5. The fifth part of the document discusses the importance of the auditor's independence and objectivity. It emphasizes that the auditor must not be influenced by any external factors and must maintain a high level of professional skepticism throughout the audit process.

6. The sixth part of the document discusses the importance of the auditor's communication with the client. It emphasizes that the auditor must keep the client informed of the progress of the audit and must discuss any issues that arise during the audit process.

7. The seventh part of the document discusses the importance of the auditor's documentation of the audit process. It emphasizes that the auditor must maintain a clear and concise record of all audit procedures performed and of the results of those procedures.

8. The eighth part of the document discusses the importance of the auditor's adherence to the applicable standards and regulations. It emphasizes that the auditor must stay up-to-date on any changes to the standards and regulations and must ensure that the audit is conducted in accordance with those standards and regulations.

9. The ninth part of the document discusses the importance of the auditor's professional conduct. It emphasizes that the auditor must maintain a high level of integrity and must avoid any actions that could be perceived as a conflict of interest.

10. The tenth part of the document discusses the importance of the auditor's ongoing education and development. It emphasizes that the auditor must stay up-to-date on the latest developments in the field and must engage in ongoing education and development activities.

11. The eleventh part of the document discusses the importance of the auditor's communication with the public. It emphasizes that the auditor must be transparent and must provide clear and concise information about the audit process and the results of the audit.

12. The twelfth part of the document discusses the importance of the auditor's cooperation with the regulatory authorities. It emphasizes that the auditor must provide all necessary information and documents to the regulatory authorities and must cooperate fully with any investigations.

13. The thirteenth part of the document discusses the importance of the auditor's adherence to the code of ethics. It emphasizes that the auditor must maintain a high level of ethical standards and must avoid any actions that could be perceived as a breach of the code of ethics.

14. The fourteenth part of the document discusses the importance of the auditor's commitment to the public interest. It emphasizes that the auditor must always act in the best interests of the public and must not be influenced by any external factors.

15. The fifteenth part of the document discusses the importance of the auditor's ongoing monitoring and evaluation of the audit process. It emphasizes that the auditor must regularly review the audit process and must make any necessary adjustments to ensure that the audit is conducted in the most effective and efficient manner possible.

16. The sixteenth part of the document discusses the importance of the auditor's communication with the audit committee. It emphasizes that the auditor must keep the audit committee informed of the progress of the audit and must discuss any issues that arise during the audit process.

17. The seventeenth part of the document discusses the importance of the auditor's communication with the board of directors. It emphasizes that the auditor must keep the board of directors informed of the results of the audit and must discuss any issues that arise during the audit process.

18. The eighteenth part of the document discusses the importance of the auditor's communication with the shareholders. It emphasizes that the auditor must provide clear and concise information about the audit process and the results of the audit to the shareholders.

19. The nineteenth part of the document discusses the importance of the auditor's communication with the media. It emphasizes that the auditor must be transparent and must provide clear and concise information about the audit process and the results of the audit to the media.

20. The twentieth part of the document discusses the importance of the auditor's communication with the public. It emphasizes that the auditor must be transparent and must provide clear and concise information about the audit process and the results of the audit to the public.

by the County Assembly.

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(c) the county Director of Health services.

(d) The Director for Administration in the Department of Health.

(6) The Fund Administrator shall ensure that the resources of the Fund Account are used for the purpose for which they were intended and shall ensure that the earnings of, or accruals to the Fund are retained in the Fund.

(7) The Fund Administrator shall ensure that the accounts for the Fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting

Capital of the Fund

Administration of  
the Fund

## Standards Board.

(8) The County Executive Committee Member responsible for finance shall issue regulations on the banking arrangements for the Fund pursuant to the provisions of the Public Finance Management Act, 2012, and its regulations.

7. (1) The Fund Administrator is accountable to the Fund Board for ensuring that the resources of the Fund for which the officer is designated are used in a way that is—

- (a) lawful and authorized; and
  - (b) effective, efficient, economical and transparent.
- (2) In carrying out the responsibilities imposed by subsection (1), the Fund Administrator shall—
- (a) ensure that all expenditure made by the Fund complies with subsection (1);
  - (b) ensure that the Fund keeps financial and accounting records that comply with the Public Finance Management Act, 2012;
  - (c) prepare a quarterly report on the receipts into and issues out of the Fund and submit it to the Board for gazettelement by the 21st of every fourth month of a financial year;

- ★ (d) develop the criteria for the allocation of funds for approval by the Board;
- (e) prepare in consultation with the health facility board or committees a schedule of annual distribution of resources to health facilities;
- (f) ensure that all financial and accounting records that the Fund keeps in any form, including in electronic form, are adequately protected and backed up;
- (g) ensure that all contracts entered into on behalf of the Fund are lawful and are complied with;
- (h) ensure that all applicable accounting procedures are followed when acquiring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their

- custody, safe guarding and maintenance;
- (i) bring a matter to the attention of the County Executive Committee Member responsible for health if, in the accounting officer's opinion, a decision or policy or proposed decision or policy of the Fund may result in resources being used in a way that is contrary to subsection (1);
  - (j) submit the estimates of the Fund and such relevant data to the Fund Board;
  - (k) prepare annual financial statements, to be presented to the Auditor-General for audit, not later than three (3) months after the end of each financial year;
  - (l) try to resolve any issues resulting from an audit that remain outstanding;
  - (m) manage the assets of the Fund to ensure that it receives value for money when acquiring, using or disposing of its assets;
  - (n) dispose of assets at the most competitive price and at the lowest possible cost ensuring that the proceeds from all asset disposals are deposited in the bank account;
  - (o) ensure that the Fund has adequate systems and processes in place to plan for, procure, account for, maintain, store and dispose of assets, including an asset register that is current, accurate and available to County Treasury and the Auditor-General;
  - (p) provide the County Treasury with any information it requires to fulfill its functions;
  - (q) provide information on any fraud, losses, or any violations of subsection (1) and provide explanations for the actions taken to prevent similar conduct in future; and
  - (r) carry out such other responsibilities as may be specified in regulations by the County Executive Committee Member responsible for finance.

**8. (1)** The expenditure incurred on the Fund shall be on the basis of and limited to annual work programmes and

cost estimates which shall be prepared by the administrator of the Fund, and approved by the Board at the beginning of the financial year to which they relate.

(2) Any revision of the approved annual work programme, and of any cost estimate, shall be referred to the Board for approval.

(3) The Board shall—

(a) authorize payments out of the Fund on the basis of quarterly budgets approved by Hospitals Boards, Sub-County hospital Boards and Health Facilities Committees; and

(b) ensure equitable sharing of monies appropriated by the County Assembly for operational needs of the hospitals, Sub-County hospitals and health facilities.

(4) All disbursements from the Fund shall be approved and recorded in the minutes of the Fund Board.

(5) The record of the amounts received by each hospital, Sub-County hospital and health facility and the record of expenditure of amounts so received shall be submitted to the Fund Board within thirty (30) days after the close of the relevant financial year, together with a copy of the relevant bank statements.

(6) No disbursements for the succeeding financial year shall be made into the accounts of the hospitals, Sub-County hospitals and health facilities until the records referred to under subsection (5) are duly received.

(7) The in-charge of each hospital, Sub-County hospital and health facility shall be responsible to the Fund Board in submitting the records referred to under subsection (5).

(8) The Fund Board may impose reasonable requirements, including restrictions, on a particular hospital, Sub-County hospital or health facility and such restrictions or requirements shall be reported together with the monthly returns to be submitted to the Fund Board.

9. (1) At the end of each financial year, the Fund Administrator shall prepare financial statements in respect of the Fund in a format to be prescribed by the Accounting

## Standards Board.

(2) The Fund Administrator shall include in the financial statements—

- (a) appropriation accounts, showing—
    - (i) the services for which the appropriated money was spent;
    - (ii) the amounts actually spent on each service;
    - (iii) a statement explaining any variations between the actual expenditure and the sums voted; and
    - (iv) any other information specified by the County Treasury;
  - (b) a statement of the Fund's debt that is outstanding at the end of the financial year;
  - (c) a statement of the Fund's assets and liabilities as at the end of the financial year;
  - (d) a statement of the accounting policies followed in preparing the financial statement;
  - (e) a statement of the Fund's performance against predetermined objectives;
  - (f) the number of beneficiaries aggregated in accordance to the number of the facilities;
  - (g) challenges faced in the implementation of this Act and mitigation measures taken; and
  - (h) any other matter as may be directed by the County Executive Committee Member responsible for finance.
- (3) The Fund Administrator shall upon preparing the reports of the Fund as provided for under subsections (1) and (2) above present the same to the Fund Board for consideration and approval.
- (4) The report referred to under subsection (3) above shall be presented to the Fund Board before the period referred to under subsection (4) below.

(5) Not later than three (3) months after the County Assembly has adopted the report of the Controller of Budget as presented by the responsible committee of the

County Assembly under Article 228 (6) of the Constitution, the Fund Board shall—

- (a) prepare a report on actions taken by the Fund Administrator to implement any recommendations made by the County Assembly; and
  - (b) submit the report to the County Assembly with a copy to the County Treasury and the County Facilities Improvement Board.
- (6) Not later than one month after receiving the report under subsection (3), the County Treasury shall submit to the County Assembly the said report which may include its comments.
- (7) The reports referred to in subsection (3) shall be published and publicized.

Quarterly reports

10. (1) The Fund Administrator shall prepare a report for each quarter of the financial year in respect of the Fund.

(2) In preparing the quarterly report, the Fund Administrator shall ensure that the report—

- (a) contains information on the financial and nonfinancial performance of the Fund; and
  - (b) is in a form determined by the Accounting Standards Board.
- (3) Not later than fifteen (15) days after the end of each quarter, the Fund Administrator shall submit a copy of the quarterly report to the Fund Board.

Winding up of the Fund

11. In the event of winding up of the Fund, the Fund Board shall ensure that the cash balances are transferred to the County Revenue Account whereas other assets of the Fund are transferred to the Department of Health.

Application of National Legislation

12. Subject to the provisions of the Public Finance Management Act, 2012, existing Government Regulations and Procedures shall apply to the administration of the Fund.

Establishment of the Fund Board

13. (1) There is established the Nandi County Facilities Improvement Fund Board.

(2) The Board shall comprise of Eleven (11) members

as follows—

- (a) A chairperson appointed by the Governor Nandi County from three nominees recommended by the CEC member for Health and Sanitation
  - (b) The county executive for the time being responsible for matters relating to health services or his/her representative duly nominated by him/her in writing.
  - (c) the Chief Officer and accounting officer of the Department for the time being responsible for health services;
  - (d) the County Director of Health Services, who shall be the Secretary of the Board;
  - (e) the Fund Administrator who shall be an *ex-officio* member of the Board;
  - (f) the Chief Officer for the time being responsible for matters relating to finance or his/her representative duly nominated in writing;
  - (g) County Hospital Medical Superintendent;
  - (h) a member of the public nominated from health non-governmental organization networks in the County appointed by the Governor;
  - (i) a member of the public nominated from religious hospital associations or networks in County appointed by the Governor;
  - (j) a member of the public appointed by the Governor by virtue of his/her knowledge or experience in financial management of public resources;
  - (k) County Health Director, Finance and Planning.
- (3) The County Executive Committee Member shall ensure provision of such public officers as may be necessary for the effective functioning of the Fund Board.
- (4) The quorum at any meeting of the Fund Board shall be seven (7) members and the Board shall meet not less than four times in each financial year.
- (5) The Executive Committee Member shall cause

the names of chairperson and members of the Fund Board to be published in the Gazette at least 30 days after their appointment.

(6) The County Executive Committee Member may make regulations to give full effect to this section.

**14. (1) The Fund Board shall—**

Functioms of the Fund Board.

- (a) provide overall design and oversight of the Fund;
- (b) consider, verify and approve funding to hospitals and health facilities;
- (c) ensure equitable distribution of resources to the hospitals and health facilities;
- (d) review and approve disbursements or utilization of the Fund;
- (e) advise the County Executive Committee Member on the appropriate guidelines and procedures for better management of the Fund;
- (f) consider and approve funding for preventive and promotive health services;
- (g) receive reports on the performance of the Fund from its management committee which the Fund Administrator shall be a member of;
- (h) develop relevant guidelines and review them as need arises, to guide the operations and implementation of the Fund;
- (i) develop and facilitate sectoral linkage on the Fund;
- (j) monitor and evaluate programs and activities under the Fund;
- (k) prepare an annual report on the operations and performance of the Fund to the County Executive Committee Member;
- (l) impose conditions on expenditure authorized by the Fund Board including imposing any reasonable prohibition, restriction or other requirement concerning expenditure from the Fund.

- (m) institute prudent measures for the proper utilization of monies deposited in to the Fund using suitable internal controls and appropriate mechanisms for financial accountability such as audit of accounts;
- (n) oversee the management and administration of the Fund; and
- (o) put in place necessary mechanisms for sanctions and their enforcements in case of mismanagement of funds.
- (2) Members of the Fund Board shall serve the Board on part-time basis.

#### 15. (1) The Fund Board—

- (a) is responsible for the management of the Fund's assets and liabilities; and
- (b) shall manage those assets in such a way as to ensure that the Fund achieves value for money in acquiring, using or disposing of those assets.
- (2) The Fund Board shall dispose of assets only in terms of the public procurement Regulation 2020, Public Procurement and Disposal Act, 2015, and pursuant to Article 227 of the Constitution, and shall ensure that the proceeds from all asset disposals are credited into the Fund Account.

16. (1) The Fund Board shall, for the effective discharge of its functions, establish committees.

(2) The Fund Board may co-opt into the membership of a committee established under subsection (1), any person whose knowledge and skills are considered necessary for the effective discharge of its functions.

17. (1) The Fund Board may, where appropriate and in writing, delegate any power or assign any duty conferred on it under this Act to the Fund Administrator, the County Executive Committee Member or committees of the board.

(2) A delegation or assignment under subsection (1) shall not prevent the Fund Board from exercising the power in question.

- (3) A delegation under
- (a) shall be subject to the approval of the Fund Board
- (b) shall not divest the County Executive Committee of its powers or delegated responsibilities
- (c) may be withdrawn at any time by the person to whom it was delegated

18. (1) The conduct and affairs of the Board shall be regulated in accordance with the provisions of this Act.

(2) Except as provided in this Act, the Board shall regulate its own procedure.

### PART III — HOSPITAL AND HEALTH FACILITIES AND SERVICES

#### CHAPTER 10

19. (1) There is established a board for each county hospital.

(2) The Board shall be known as the \_\_\_\_\_

- (a) a member of the County Executive Committee; or
- (b) the chairperson of the \_\_\_\_\_ in the area of \_\_\_\_\_
- (c) the medical superintendent of the \_\_\_\_\_

(d) a member of the County Executive Committee with experience in the \_\_\_\_\_

(e) three (3) members of the \_\_\_\_\_ hospital, appointed by the County Executive Committee Member

Management of assets and liabilities of the Fund

Committees of the Fund Board

Delegation of powers and functions

(3) A delegation under this section—

- (a) shall be subject to any conditions the Fund Board may impose;
- (b) shall not divest the Fund Board of its responsibilities concerning the exercise of the powers or the performance of the duty delegated, and
- (c) may be withdrawn, and any decision made by the person to whom the delegation is made, be withdrawn or amended by the Fund Board.

Conduct of business  
and affairs of the  
Fund Board.

18. (1) The conduct and regulation of the business and affairs of the Board shall be as set out in the Schedule and shall be in accordance with this Act.

(2) Except as provided in the Schedule, the Board may regulate its own procedures.

### PART III — HOSPITAL MANAGEMENT BOARDS AND HEALTH FACILITY MANAGEMENT COMMITTEES

County hospital  
management boards

19. (1) There is established a hospital management board for each county hospital.

(2) The Board shall consist of seven (7) members who shall be—

- (a) a member of the public appointed by the County Executive Committee Member and who shall be the chairperson of the board;
- (b) the area Sub-County Administrator as an *ex-officio* appointed under Section 50 of the County Governments Act, 2012;
- (c) the medical superintendent who, shall be the secretary;
- (d) a member of the public with knowledge and experience on health matters appointed by the County Executive Committee Member;
- (e) three (3) members of the public who shall be residents of the area of jurisdiction of the hospital, appointed by the County Executive Committee Member representing the following

categories of persons—

- (i) a person who shall have knowledge and experience in finance and administration matters; and
- (ii) two (2) people representing persons from the following special interest groups namely, people living with disabilities, youth or women.

(3) Membership of the County hospital management board shall respect and reflect the diversities in the County.

(4) At least one third of the membership of the County hospital management board shall be from the opposite gender.

(5) The County Executive Committee Member shall cause the names of chairperson and members of the County hospital management board published in the Gazette at least 30 days after their appointment.

**20.** (1) There is established a hospital management board for each Sub-County hospital.

(2) The Board shall consist of seven (7) members who shall be—

- (a) a member of the public appointed by the County Executive Committee Member who shall be the chairperson of the board;
- (b) the area sub-county administrator as an *ex-officio* member appointed under Section 50 of the County Governments Act, 2012;
- (c) the facility in-charge who shall be the secretary to the Sub-County hospital board;
- (d) a member of the public with knowledge and experience on health matters appointed by the County Executive Committee Member;
- (e) three (3) members of the public who shall be residents of the area of jurisdiction, appointed by the County Executive Committee Member representing the following categories of persons—
  - (i) one person who shall have knowledge

and experience in finance and administration matters; and

- (ii) two (2) people representing persons from the following special interest groups namely, people living with disabilities, youth or women.

(3) Membership of the Sub-County hospital management board shall respect and reflect the diversities in the County.

(4) At least one third of the membership of the hospital management board shall be from the opposite gender.

(5) The County Executive Committee Member shall cause the names of chairperson and members of the Sub-County hospital management board published in the Gazette at least 30 days after their appointment.

*Functions of hospital management boards*

21. (1) The County and Sub-County hospital management boards shall—

- (a) be responsible for the supervision of the funds allocated to the respective hospitals;
  - (b) open and operate bank accounts at a banks to be approved by the County Treasury;
  - (c) recommend activities to be included in the hospital work plans based on the County health sectoral and strategic plans;
  - (d) cause to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the hospitals as directed by the Chief Officer;
  - (e) cause prescribed monthly, quarterly and annual financial reports to be prepared and submitted to the Fund Board; and
  - (f) cause to be kept records of all its deliberations.
- (2) The reports referred to under subsection (1) (c) shall be addressed to the secretary of the Fund Board.

22. (1) The hospital management boards may, for the effective discharge of their functions, establish committees.

*Committee of the hospital management board's*

(2) The composition and membership of the committees established under subsection (1) shall be determined by the chairpersons of the boards, in consultation with the Chief Officer.

(3) There are established the following committees—

- (a) executive committee;
  - (b) finance and general purpose committees ;
  - (c) quality of Facilities Improvement committee;
  - (d) commodity quality Assurance Committee; and
  - (e) special and ad hoc committee.
- (4) Without prejudice to the generality of subsection (3), the executive committee membership shall consist of—

- (a) chairpersons of the hospital management boards;
- (b) chairpersons of finance and general purpose committees; and
- (c) secretaries of the hospital management boards.

(5) The functions of the executive committee shall be to—

- (a) prepare the agenda for the meetings of the boards;
  - (b) advise the boards on matters related to their functions; and
  - (c) make recommendations for consideration by the hospital management boards.
- (6) Finance and general purpose committee membership shall be not more than five (5) members whereas two (2) members shall be members of the hospital management boards and three (3) members shall be officers from the following hospital departments, laboratory, pharmacy and a representative of in and out patient departments.
- (7) The finance and general purpose committee referred to in subsection (6) above shall elect a chairperson from among themselves.
- (8) The functions of the finance and general purpose

committee shall be to—

- (a) review the County and Sub-County hospital budgets;
  - (b) review fiscal management policies and practices of the County and Sub-County hospitals over their assets and liabilities;
  - (c) make recommendations to their respective boards; and
  - (d) perform any other function as directed by the hospital management boards.
- (9) The quality of facilities improvement committee shall comprise of not more than five (5) members with at least two (2) from the hospital management boards and the three (3) other members from the following hospital departments, Public Health, Human Resource and other department.

(10) The quality health services committee shall elect a chairperson from amongst its membership.

(11) The functions of the quality facilities improvement committee shall be to—

- (a) establish and maintain a hospital quality improvement program;
  - (b) review the hospital quality assessment reports;
  - (c) make recommendations to the hospital management boards; and
  - (d) to perform any other function as may be assigned to them by the hospital management boards.
- (12) The chairperson of the hospital management boards may constitute a special and ad hoc committee to—
- (a) deal with any urgent matters; or
  - (b) assist the boards in any specific issues pertaining to their responsibilities.

**23.** (1) The responsibilities of the chairperson of the County and Sub-County hospital management boards shall be—

Functions of the chairperson and secretary of the management boards

- (a) overseeing all committees of the Board,
  - (b) setting schedules of meetings in consultation with the secretary;
  - (c) presiding over the board meetings; and
  - (d) to perform any other duty as may be assigned by the County Executive Committee Member, the Chief Officer or the Fund Board.
- (2) The secretary to the County or Sub-County hospital management boards shall—
- (a) keep records of their deliberations;
  - (b) communicate their decisions to the relevant authorities and offices; and
  - (c) implement decisions of the boards.

**24.** (1) A person shall not be eligible for appointment as a chairperson of the County or Sub-County hospital management board unless that person—

Qualifications, appointment, tenure, etc.

- (a) holds a degree from a university recognized in Kenya;
  - (b) has demonstrated high level of integrity and leadership at senior level either in public or private sector;
  - (c) meets the requirements of Chapter Six of the Constitution; and
  - (d) is not serving as a State or public officer.
- (2) A person shall not be appointed as a member of a board under this Part unless that person holds at least an O-level certificate of education or its equivalent.
- (3) A member of a board, apart from members who are county public officers, shall hold office for a period of three (3) years and may be eligible for re-appointment for a further term on a two-term service.
- (4) The boards shall meet at least four (4) times in every financial year and shall maintain records of their deliberations.

(5) Copies of deliberations and records in referred to under subsection (4) above shall be forwarded to the Fund

Board not more than one (1) month after such board meetings.

(6) The quorum of the boards shall be a four.

(7) The County and Sub-County management boards established under this Part shall be responsible to the County Chief Officer for the execution of their functions under this Act.

25. (1) There is established a health management committee in each health centre and dispensary in the county.

Health management  
committees

(2) The health management committee shall consist of nine (9) members appointed as follows—

- (a) a ward administrator in the area of jurisdiction who shall be an *ex-officio* member;
  - (b) the officer in charge of the health facility, who shall be the secretary of the committee;
  - (c) the area chief or assistant chief who shall be an *ex-officio* member;
  - (d) a member of the public representing religious or faith based organisations;
  - (e) five (5) members of the public who are residents of the area of jurisdiction of the dispensary or health facility, appointed by the County Executive Committee Member as follows—
    - (i) one person who shall have knowledge and experience in finance and administration matters; and
    - (ii) three (3) people representing persons from the following special interest groups namely, people living with disabilities, youth and women.
- (3) The health management committees shall elect a chairperson from amongst their respective membership.
- (4) The chairperson appointed under subsection (3), shall not be an *ex-officio* member.
- (5) A person shall not be qualified to be appointed as a chairperson of the health management committee

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unless that person has post-secondary certificate.

- (6) Members of the committees, other than members who are County public officers, shall hold office for a period of three (3) years and shall be eligible for re-election for a further term.
- (7) Health management committees may, if necessary, constitute sub-committees from their memberships to carry out specific functions assigned to them by the committees.
- (8) Health management committees shall meet four (4) times in each financial year and shall keep and maintain records of their deliberations.
- (9) The quorum for the meeting of the health management committees shall be five (5) members.
- (10) Health management committees shall be responsible to the County Executive Committee Member.

26. The health management committees shall—

- (a) supervise and control the administration of the funds allocated to the dispensaries and health facilities;
- (b) open and operate a bank account at a bank approved by the County Treasury;
- (c) cause dispensaries and health facilities work and procurement plans to be prepared;
- (d) cause books and records of accounts of the income, expenditure, assets and liabilities of the facilities to be kept as directed by the Fund Administrator;
- (e) prepare and submit prescribed and certified periodic financial and performance reports; and
- (f) cause records of all its deliberations to be kept.

#### PART IV—FINANCIAL PROVISIONS

27. (1) At the end of each quarter, the responsible health facilities will prepare a quarterly budget, quarterly implementation and procurement plan.

(2) The quarterly budget referred to in subsection (1) shall, where appropriate, indicate how much resources the health facility has raised to finance their quarterly

Functions of the  
health management  
committees.

Submission and  
approval of budgets.

budget as well as their deficits.

(3) The budget together with quarterly implementation and quarterly procurement plan shall be submitted to the hospital management boards or health management committees for approval.

(4) The approved budgets shall then be submitted to the Fund Board, addressed to the secretary of the Fund Board, for consideration and approval.

(5) Upon approval of the budgets by the Fund Board, the Fund Administrator shall prepare payment instruments intended for actual release of moneys from the Fund pursuant to section 6 (5) as read with section 8 of this Act.

(6) The payment instruments referred to in subsection (5) shall include authority to incur expenditure by the various health facilities.

(7) The approved funds shall be disbursed to the health facilities not more than fourteen (14) days after appropriate documentation has been submitted to the Fund Board and proper approvals by the Fund Board have been issued.

(8) All the spending units shall prepare monthly, quarterly and annual financial reports in a prescribed format to be forwarded to the Fund Board for consolidation and further action as prescribed under this Act.

28. The disbursements made to health facilities by the Fund Board shall be on the basis of, and limited to, the annual allocations, grants and authority-to-incur-expenditure for that financial year.

29. (1) At least three (3) months before the commencement of each financial year, the Fund Administrator shall cause to be prepared estimates of the revenue and expenditure of the Fund Board, boards and committees for that year.

(2) The annual estimates shall make provision for all the estimated expenditure for the financial year concerned and, in particular, shall provide for—

- (a) payment of remuneration or allowances in respect of the members and staff of the various boards and committees;

Allocations to health facilities

Annual estimates

- (b) maintenance of the buildings and hospital implements and facilities;
- (c) funding of training, research and development of activities of the boards and committees;
- (d) allocation of funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as are necessary and justifiably prudent; and
- (e) any other expenditure necessary or purposes of this Act.

(3) The annual estimates herein shall be approved by Fund Board before the commencement of the financial year to which they relate and shall be submitted to the County Executive Committee Member for consolidation with the Departmental annual estimates and tabling at the County Assembly.

(4) Notwithstanding the provisions of subsection (3) above, annual estimates specific to the activities of the Fund Board shall be considered and approved by the County Executive Committee Member, and thereafter, such annual estimates shall be consolidated with the Departmental annual estimates and tabled at the County Assembly.

**30.** The financial year shall—

Financial year

- (a) in the first instance, be the period commencing on the day on which this Act comes into operation and ending on the thirtieth day of June of the subsequent year; and
- (b) subsequently, be the period of twelve months commencing on the first of July and ending on the thirtieth of June.

**31.** (1) Notwithstanding the provisions of this Act, the Chief Officer shall be responsible for causing to be kept all proper books and records of account of the income, expenditure, assets and liabilities under this Act.

Accounts and audit.

(2) The annual account reports shall be prepared, audited and reported upon in accordance with the

provisions of Articles 226 and 229 of the Constitution of Kenya, 2010, and the laws of Kenya relating to public audit.

32. (1) Each hospital, primary health facility or revenue collection point shall operate a bank account in its own name pursuant to sections 21 (1) (b) and 26 (b) of the Act relating to the County and Sub-County hospital management boards and the health management committees, respectively.

Opening and  
operating health  
facilities bank  
accounts.

(2) Notwithstanding the provisions of subsection (1), a bank account as approved by the County Treasury, shall be opened for public health services in each Sub-County.

(3) There shall be three (3) mandatory signatories to the bank accounts specified under sub sections (1) and (2) as follows—

- (a) with respect to hospitals including referral hospitals—
  - (i) the medical superintendent;
  - (ii) the Health Administrative Officer; and
  - (iii) the Hospital accountant.
- (b) in respect of primary health facilities—
  - (i) the chairperson of the health facility;
  - (ii) the treasurer of the health facility; and
  - (iii) the officer in-charge of the primary health facility.
- (c) with regards to public health services—
  - (i) the Sub-County public health officer;
  - (ii) the Sub-County medical officer of health; and
  - (iii) the Sub-County health administrative Officer.
- (d) with respect to County Health services;
  - (i) County Director Health Services
  - (ii) County Director Health Administration, Finance and Planning
  - (iii) County Health Administrative Officer
- (4) The County Executive Committee Member

responsible for matters relating to finance may issue regulations for the better carrying out of this section.

33. Where funds have been disbursed to hospital management boards and committees to support the ambulance services facilitating referral of clients in disasters and emergencies of a large magnitude, the officer responsible for ambulance emergency services shall prepare claims by hospitals involved in provision of the emergency services for reimbursement by the Fund Board.

Funds for emergency purposes

#### PART V — MISCELLANEOUS PROVISIONS

34. Allowances for members of the various boards and committees, including the Fund Board members shall be defrayed from the resources of the Fund in accordance with regulation and direction provided for by the Salaries and Remuneration Commission.

Allowances

35. Nothing done by the accounting officer, chairperson, member of the board or by any person working under the instructions of the Fund Board or the County Executive Committee Member shall, if it is done in good faith for the purpose of executing the powers, functions or duties of this Act, render such member or officer personally liable for any action, claim or demand.

Protection from personal liability

36. The County Executive Committee Member shall within one year of coming into force of this Act prescribe, publish and publicize a code of conduct to guide the operations and conduct of chairpersons, members, and any other person assigned a task under this Act.

Code of conduct

37. A person who contravenes any of the provisions of this Act commits an offence, and shall on conviction be liable to a fine not exceeding three million shillings or to imprisonment for a term not exceeding three years, or to both.

Offences and general penalty

38. (1) The County Executive Committee Member shall facilitate, supervise and oversee the operations of the Fund Board in the implementation of the Fund, and in particular, shall—

Regulations

- (a) issue regulation relating to the allocation formula of distribution of resources and funds to hospitals and health facilities;

- (b) regulate the conduct of persons subject to the provisions of this Act; and
- (c) issue other regulation for the better carrying out of the provisions of this Act.

(2) Notwithstanding the provisions of subsection (1), the County Executive Committee Member responsible for matters relating to finance shall—

- (a) develop policy measures relating to the Fund; and
- (b) make regulations to give effect to the objects of the Fund.

**39.** (1) The health management boards and committees established previously shall stand automatically disbanded within 30 days of coming into the operation of this Act and shall be reconstituted, pursuant to this Act, within one month.

Transition and savings

(2) Legal Notice No. 155 of 16 October 2009 ceases to apply with respect to hospital management boards, in so far as their composition and membership refers:

Provided that such guidelines as to conduct of meetings, that are not specifically provided for under this Act, shall remain in force until such time as the County Executive Committee Member formulates such Regulations.