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**KAKAMEGA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

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THE KAKAMEGA COUNTY ASSEMBLY SERVICE ACT, 2015

No. 7 of 2015

Date of Assent: 23rd December, 2015

Date of Commencement: By Notice

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2015

Kakamega County Assembly Service Board

No. 7

**THE KAKAMEGA COUNTY ASSEMBLY SERVICE
ACT, 2015**

AN ACT of the Kakamega County Assembly to make provision for the Kakamega County Assembly Service and the Kakamega County Assembly Service Board established in accordance with section 12 of the County Government Act, 2012 and for connected purposes

ENACTED by the County Assembly of Kakamega as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kakamega County Assembly Service Act, 2015 and shall come into operation on such date as the Clerk of the Kakamega County Assembly, by notice in the Gazette, appoint. Short title and Commencement

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

“Board” means the County Assembly Service Board established under the County Government Act 2012; No. 17 of 2012

“Chairperson” means the Chairperson of the Board as established under the County Government Act 2012 and any other person acting in the same capacity under this Act; No. 17 of 2012

“Clerk” means the Clerk of the Kakamega County Assembly appointed in accordance with the County Government Act 2012; No. 17 of 2012

“Contract of service” has the meaning assigned to it under the Employment Act 2007; No. 11 of 2007

“County Assembly” means the County Assembly sitting of Members as constituted under clause 177(1) of the Constitution of Kenya;

“County Executive Member” means the County Executive Committee Member in charge of Finance in Kakamega County;

"Leader of Majority" has the meaning assigned to it under the County Government Act 2012; No. 17 of 2012

“Leader of Minority” has the meaning assigned to it under the County Government Act 2012; No. 17 of 2012

“Member” means a member of the Board appointed in accordance with section 12 (3) of the County Government Act 2012; No. 17 of 2012

“Salaries and Remuneration Commission” means the commission established under article 230 of the Constitution;

“Service” means the Kakamega County Assembly Service established under this Act in accordance with the County Government Act 2012;

“Ward” has the meaning assigned to it under the County Government Act 2012; No.17 of 2012

“Ward Office” has the meaning assigned to it under this Act;

PART II—COUNTY ASSEMBLY SERVICE

3. (1) There is established the Kakamega County Assembly Service. Establishment of the Service

(2) The purposes of the service shall include—

- (a) the provision of services and facilities for supporting the functions of the County Assembly;
- (b) the constitution and management of staff of the County Assembly;
- (c) the management of the welfare of the members of the County Assembly;
- (d) the promotion of programs and projects to meet development needs of the members of the County Assembly;
- (e) the development of the code of conduct and service standards for the County Assembly;

(3) The Service shall in discharging its functions conform the provisions of Article 10, 232 and 235 of the Constitution; and Section 12 of the County Government Act 2012; and any other law governing issues related to Public Service.

4. (1) In the performance of their functions, employees of the Service shall not seek or receive directions from any source external to the Service. Independence of the Service

(2) Every Member of the County Assembly shall respect the non-partisan and apolitical character of the Service and shall not seek to influence employees of the Service in the discharge of their functions.

5. (1) The Board shall from time to time prescribe a County Assembly Service Code of Conduct.

(2) Without prejudice to the provisions of any Code of Conduct prescribed under subsection (1) every employee of the Service shall, at all times and in all places, in the course of employment—

- (a) Be loyal to the County of Kakamega and at all times conduct himself/herself in a manner that promotes the image and interests of Kakamega County;
- (b) Conduct himself with honesty and integrity and act with care and diligence;
- (c) Use the resources of the County conscientiously and combat corruption and misuse or wastage of public property;
- (d) Respect and observe the laws of Kenya and co-operate with all lawful agencies in the maintenance of law and order;
- (e) Treat all persons with respect and courtesy and, in particular, protect persons with disabilities and other vulnerable groups against any form of abuse, harassment and ill-treatment;
- (f) Promote gender equality and respect for the rights and freedoms of others;
- (g) Preserve and protect the environment and national heritage;
- (h) Comply with any lawful and reasonable direction given by any person in the Service having authority to give such direction;
- (i) Maintain appropriate confidentiality about dealings that the employee has with the County Assembly of Kakamega, its committees, its members and its staff;
- (j) Disclose, and take reasonable steps to avoid, any conflict of interest arising in the course of discharging duties;
- (k) Not to provide false or misleading information in response to a request for information that is made for official purposes;

- (l) Not make improper use of—
 - (i) Any information obtained through or in connection with the office of such employee and which is not yet made available to the public; or
 - (ii) The employee's duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for himself/herself or for anyone else.
- (m) Conduct himself/herself in a manner that upholds the letter and spirit of the values and the integrity and good reputation of the Service;
- (n) Comply with any other requirements of conduct as may be prescribed by the Board.

PART III—COUNTY ASSEMBLY SERVICE BOARD

6. (1) There is established the Kakamega County Assembly Service Board in accordance with the County Government Act.

Establishment of the Board.

No. 17 of 2012

(2) The Board shall be a body corporate with perpetual succession and a common seal, and in its corporate name capable of—

- (a) Taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (b) Borrowing money or making investments;
- (c) Entering into contracts
- (d) Doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

7. The functions of the Board shall include, but are not limited to—

Functions of the Board.

- (a) providing services and facilities to ensure the efficient and effective functioning of the county assembly;
- (b) constituting offices in the county assembly service, and appointing and supervising office

holders;

- (c) preparing annual estimates of expenditure of the county assembly service and submitting them to the county assembly for approval, and exercising budgetary control over the service;
- (d) undertaking, singly or jointly with other relevant organizations, programmes to promote the ideals of parliamentary democracy; and
- (e) performing other functions—
 - (i) necessary for the well-being of the members and staff of the county assembly; or
 - (ii) Prescribed by national legislation.

8. (1) The Board shall consist of—

Composition of the Board

- (a) the Speaker of the county assembly as the chairperson;
- (b) the leader of the majority party or a member of the county assembly deputed by him or her, as the vice-chairperson;
- (c) the leader of the minority party or a member of the county assembly deputed by him or her; and
- (d) one person resident in the county, appointed by the county assembly from among persons who have knowledge and experience in public affairs, but who is not a member of the county assembly.

(2) The county assembly clerk shall be the secretary to the county assembly Board.

(3) The members of the Board shall vacate office in accordance with the provisions of the County Government Act 2012;

No. 17 of 2012

(4) The office of the clerk of the county assembly and the offices of members of the staff of the clerk of the county assembly shall be offices in the Board.

9. (1) The chairperson shall convene a meeting of the Board as the business demands

Meetings of the Board

(2) The chairperson, or in his absence the vice-

chairperson may at any time convene a special meeting of the Service Board, and shall do so within seven days of the receipt of a written requisition duly signed by three members;

(3) in the event that the chairperson fails to convene a meeting in accordance with subsection (2) above, the members making such a requisition may convene such a meeting to be held within seven days after expiry of the period prescribed in that subsection;

(4) the quorum for the Board shall be three members provided that the chairperson or vice-chairperson is present;

10. (1) The remuneration of the clerk and staff of the county assembly shall be determined by the county assembly service board upon the advice of the Salaries and Remuneration Commission;

Remuneration of
the Board

(2) the members of the Board shall be paid such allowances as prescribed by the Salaries and Remuneration Commission;

PART IV—MANAGEMENT OF THE SERVICE

11. (1) There shall be such number and types of departments and such categories and classification of staff under the service as the Board may from time to time determine.

Offices of the
Service

(2) The Board may—

- (a) allocate functions to any department of the service;
- (b) make such arrangements as appear expedient to the Board with regard to amalgamation or abolition of any department of the service.

12. (1) Without prejudice to section 11 above, the Board shall establish Ward Offices according to the number of the elected Members of County Assembly in the County Assembly.

Ward Offices.

(2) The Ward Office shall serve as the local office for the elected Member of County Assembly; and shall be situated within the locality of the respective Wards.

(3) The Board shall appoint staff to the Ward Office with the recommendation of the respective elected Member of County Assembly on contracts of service.

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(4) The Board shall prescribe the standards Ward Office staff and regularize their appointments in accordance with the County Assembly Budget and any necessary austerity considerations

(5) The contracts of service for the staff appointed under subsection (3) above shall terminate—

- (a) when the respective Member of County Assembly upon whose recommendation the person was appointed ceases to be a member of the County Assembly; or
- (b) when the Member of County Assembly upon whose recommendation the person was appointed makes a written request for such termination to the Board; or
- (c) due to a standardization or regularization decision of the Board based on County Assembly Budget provisions or necessary austerity considerations; and
- (d) in the case of subsection (b) and (c) above the termination shall be effected at least twenty eight days after the notice of termination is issued.

(6) Any person employed on the recommendation of a Member the County Assembly to serve in a designation that would constitute a Ward Office before the commencement of this Act shall be deemed to have been employed under this Act; subject to standardization and regularization by the Board under subsection (4) and (5) above.

(7) Any expenditure incurred by the County Assembly due to circumstances described under subsection (6) above shall be deemed to have been incurred under this Act.

13. The Board shall prescribe a scheme of service setting out the terms and conditions for the appointment of the officers and other staff of the Service in consultation with the Salaries and Remuneration Commission which shall provide for—

Scheme of service

- (a) the appointment and confirmation of appointment of officers and other staff;

- (b) promotions, resignations and termination of appointments;
- (c) the scales of salaries and allowances, and
- (d) the designation and grades of officers and other staff.

14. The Board—

Social security scheme

- (a) Shall establish a non-contributory pension scheme for all its employees;
- (b) May establish or adopt a contributory optional superannuation, provident or medical fund or other scheme for its employees and may grant pensions, gratuities, retiring allowances or sickness or injury benefits to any employee.

15. (1) The Clerk shall be—

Status and general functions of the Clerk

- (a) the chief executive of the Service and the secretary to the Board;
- (b) responsible to the chairperson and the Board for the general Working and efficient conduct of the business of the Service

(2) The board may delegate to the Clerk such of its functions as are necessary to carry out the day to day management of the Service, and subject to such directions as may be given by the Board, to direct and supervise the acts of all employees and agents of the Service.

(3) The Clerk may, in consultation with the Board, assign or delegate the functions under this section to any employee of the Service

16. (1) The procedural functions of the Clerk shall include—

Procedural functions of the Clerk

- (a) rendering expert, non-partisan and impartial advice to the members of the County Assembly on Parliamentary procedure and practice;
 - (b) carrying out such other duties and exercising powers as may be conferred on him by law or by the standing orders and practices of the County assembly;
- (2) In carrying out the functions specified in

subsection (1), the Clerk shall be assisted by such other officers of the Service as may be necessary

(3) Subject to this Act and any other written law, the Clerk shall, in carrying out and exercising the power conferred on him by the standing orders and practices of the County Assembly, be under the direction of the Speaker.

(4) At any time when the office of the Speaker is vacant or the holder of the office is unable for any reason to carry out the duties and exercise the powers and functions of his office, the Clerk shall, during that period and in relation to the carrying out of the duties and exercise of the powers and functions referred to in this section, be under the direction of the Deputy Speaker.

17. If the office of the Clerk is vacant, or if for any reason the Clerk is unable to exercise the functions of his office, any other person for the time being performing the duties of the Clerk pursuant to the standing orders of the County Assembly or by direction of the Speaker shall have and may exercise all the functions, duties and powers of the Clerk.

Exercise of the functions of the Clerk during vacancy or inability

18. The Clerk may, at any time and in such manner as may be prescribed under this Act, be suspended or removed from office by the board for inability to perform the functions of his office; due to incompetence or violation of law or misbehavior.

Suspension or removal of the Clerk

19. (1) An employee shall retire from the Service on attaining the age of sixty years.

Retirement and resignation of employees

(2) An employee may—

- (a) After attaining the age of fifty years, elect to retire from the Service at any time, or
- (b) In such manner as may be provided under this Act, resign from the Service at any time.

(3) The Board may, in such manner and for such reasons as may be prescribed under this Act, require an employee to retire from the Service at any time.

PART V –FINANCIAL PROVISIONS

20. (1) There shall be established a fund to be known as the County Assembly Service Fund.

Establishment of the County Assembly Fund.

(2) There shall be paid into the Fund—

- (a) such moneys as may, from time to time, be provided by the County Assembly;
- (b) such moneys as may be borrowed by the Service on such terms and for such purposes as the Board, in consultation with County Executive Committee Member for the time being responsible for Finance, may determine;
- (c) any moneys accruing to or received by the Service from any other source.

(3) There shall be paid out of the Fund all payments in respect of any expenses incurred in pursuance of the provisions of this Act.

(4) The Board may, with the approval of the County Assembly signified by resolution, establish such other funds as it may deem necessary.

21. The Board shall open and maintain such bank accounts as are necessary for the exercise of its functions.

Bank Accounts

22. (1) The Board shall open and maintain such bank accounts as are necessary for the exercise of its functions.

Estimates of expenditure

(2) The Board shall review the estimates forwarded under subsection (1) and may make such alterations thereto as it may deem appropriate and shall thereafter agree upon those estimates.

(3) The Clerk shall submit the estimates the County Assembly, and dispatch a copy of the estimates agreed upon by the Board under subsection (2) to the County Executive Committee Member by the 7th February in that year.

(4) The County Executive Member shall present his or her comments on the estimates dispatched under subsection (3) to the Clerk by the 21th February in that year.

(5) The Clerk shall present the comments received in subsection (4) to the Board for deliberation and appropriate action taken including but not limited to—

- (a) adoption in full of the recommendations of the County Executive Member;

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- (b) adoption of the recommendations of the County Executive Member with alterations;
- (c) rejection of the recommendations with or without reasons.

(6) The chairperson of the Board or some other member thereof authorized by the Board in that behalf shall present the estimates agreed by the Board for consideration and approval by the County Assembly within the timelines for the County Budget process outlined in the Public Finance Management Act. No. 18 of 2012

(7) Upon the approval of the estimates presented to the National Assembly under subsection (6), all monies from time to time required for the purposes of this Act shall be paid from the County Revenue Fund into the County Assembly Service Fund.

23. (1) The Clerk shall ensure that proper books and records of accounts of the Board are kept and maintained in accordance with the Public finance Management Act.

Accounts and audit

(2) Within three months after the end of each financial year, the Clerk shall—

- (a) submit the entity's financial statements to the Auditor-General; and
- (b) deliver a copy of the statements to the relevant County Treasury, the Controller of Budget, and the Commission on Revenue Allocation.

(3) Notwithstanding the provisions of any other written law, the accounts of the Board shall be audited and reported upon by the Auditor-General.

PART VI – MISCELLANEOUS

24. Within three months after the end of each calendar year, the Board shall prepare and lay before the National Assembly, a report of its operations during that year.

Annual report of the operations of the Board

25. A member of the Board (not being the chairperson) authorized by the Board in that behalf may—

- (a) lay before the County Assembly any document or other matter;

Designated member may present documents, etc., in the Assembly

(b) reply to a question relating to the affairs of the Board.

26. (1) The members of the Board shall, on first appointment, take an oath in the form prescribed in the First Schedule.

Oath of office for members and staff of the Board

(2) The secretary and such other officers of the Board as the chairperson may require so to do, shall, on first appointment, take an oath from the prescribed schedule.

(3) Where any person required to take an oath has no religious belief or the taking of such oath is contrary to his religious belief, he may make and subscribe a solemn affirmation in the form of the oath appointed substituting the words “**solemnly and sincerely declare and affirm**” for the word “**swear**” and omitting the words “**So help me God**”.

(4) Every oath or affirmation taken by the chairperson shall be administered by the secretary and every oath or affirmation taken by any other member or the secretary shall be administered by the chairperson:

Provided that every oath or affirmation taken by any other officer shall be administered by the secretary.

27. The Board or any committee thereof may, subject to section 28, order any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of that person.

Power to order attendance of witnesses

28. Every person summoned to attend to give evidence or to produce any paper, book, record or document before the Board or a committee thereof shall be entitled, in respect of that evidence or the disclosure of any communication or the production or any paper, book, record or document to the same right or privilege as before a court of law.

Privileges of witnesses

29. (1) A member or an officer of the Board or any person employed to take minutes or evidence before the Board or any committee shall not give evidence elsewhere in respect of the contents of those minutes or evidence or of the contents of any document laid before the Board or that committee or in respect of any

Evidence of proceedings in the Board not to be given without leave

proceedings or examination held before the Board or that committee without special leave first obtained from the chairperson.

(2) The special leave referred to in subsection (1) may be given by the vice-chairperson in the absence or other incapacity of the chairperson.

30. Any act or thing done by any member of the Board or by any officer or servant of the Board shall not, if the act or thing was done *bona fide* for the purposes of carrying out this Act into effect, subject him personally to any liability, action, claim or demand whatsoever.

Protection of members and staff of the Board

31. A person shall not in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral which has taken place between the Board or any member or officer of the Board, in the exercise of, or in connection with the exercise of, the function of the Board unless the chairman consents in writing to such production or disclosure.

Communication of the Board privileged

32. Any person who—

- (a) in connection with an application by himself or any other person for employment, appointment or
- (b) promotion in the Service, or in connection with any matter on which it is the duty of the Board to require information or evidence, or into which it is the duty of the Board to inquire, wilfully gives to the Board or to any member thereof any information which is false or misleading in any material particular; or
- (c) without the consent in writing of the chairperson, publishes or discloses to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which has come to his knowledge in the course of his duties under this Act, and any person who knowingly acts in contravention of this paragraph; or
- (d) having possession of any information which to his knowledge has been published or disclosed in

Offences and penalties under the Act

contravention of paragraph (b) of this section, publishes or communicates to any other person otherwise than for the purpose of any prosecution under this Act or in the course of his duty any such information; or

- (e) otherwise than in the course of his duty, directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to influence any decision of the Board or of any member thereof; or
- (f) disobeys any order made by the Board or a committee for attendance or for production of papers, books documents or records; or
- (g) refuses to be examined before, or to answer any lawful and relevant question put by, the Board or a committee,

commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding twelve months, or to both:

Provided that nothing in paragraph (d) of this section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for the Service or supplying any information or assistance upon formal request made by the Board.

33. (1) The Board may make regulations for prescribing anything required by this Act to be prescribed and generally for the better carrying out of the purposes of this Act.

Regulations by the
Commission

(2) Without prejudice to the generality of subsection (1), regulations under this Act may provide for—

- (a) the conduct of the business of the Board;
- (b) the administration and management of the services and facilities;
- (c) the terms and conditions of service, pension and other retirement benefits of employees;
- (d) the measures for the discipline of employees;
- (e) the financial procedures of the Board;

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- (f) the orientation and training of members of the County Assembly and employees;
- (g) the security of members of the County Assembly.

(3) All such regulations made under subsection (2) shall be tabled before the County Assembly for approval within reasonable time after the making of such regulations.

FIRST SCHEDULE

[Section 26(1)]

OATH/AFFIRMATION OF MEMBER OF THE BOARD

I having been appointed as the Chairperson/Vice-Chairperson/Member of the County Assembly service Board do swear/solemnly and sincerely declare and affirm that I will without fear or favour, affection or ill-will discharge the functions of the Chairperson/Vice-Chairperson/Member of the County Assembly Service Board, and that I will not, directly or indirectly, reveal any matter relating to such function to unauthorized persons or otherwise that in the course of my duty.

SO HELP ME GOD.

Sworn/Declared by the said

..... before me this
..... day of

Chairman/Member

*Kakamega County Assembly
Service Board*

Secretary

SECOND SCHEDULE

[Section 26(2)]

OATH/AFFIRMATION OF OFFICER OF THE BOARD

I having been appointed as the secretary/officer/ [other] of the County Assembly service Board do swear/solemnly and sincerely declare and affirm that I will not directly or indirectly, reveal to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as an officer of the Board.

SO HELP ME GOD.

Sworn/Declared by the said

..... before me this
..... day of

Secretary/Officer

*Kakamega County Assembly
Service Board*

Chairman/Secretary