

SPECIAL ISSUE

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REPUBLIC OF KENYA

**KAKAMEGA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2016

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**THE KAKAMEGA COUNTY DECENTRALISED UNITS ACT
(AMENDMENT) 2016**

No. 4 of 2016

Date of Assent: 5th October, 2016.

Date of Commencement: 26th October, 2016

**AN ACT of the County Assembly of Kakamega to amend the
Kakamega County Government Decentralised Units Act, 2015
and for connected purposes.**

ENACTED by the County Assembly of Kakamega as follows—

Short title

1. This Act may be cited as the Kakamega County Government Decentralised Units (Amendment) Act, 2016.

Interpretation

Amendment of section 2 of Act No.5 of 2015

2. The Kakamega County Government Decentralised Units Act, 2015 (hereinafter referred to as "the principal Act") is amended in section 2 by inserting the following new definition in its proper alphabetical sequence—

“Community area” means the designated decentralised administrative unit below a village.

“Community administrator” means a person appointed for any area to the office of community administrator by the county public service board.

Insertion of new Part and Sections

3. The principal Act is amended by inserting –

(a) a new Part IV reading “Office of the Community Administrator” immediately after section 13.

(b) new sections 14 and 15.

Community Administrator

14. (1) There is established the office of the community administrator for each community area unit established in a county.

(2) A community administrator shall have professional qualifications and technical knowledge in administration and shall be appointed by the County public service board in accordance with the provisions of the County Government Act No.17 of 2012.

Functions of the Community Administrator

15. The community administrator shall in accordance with the existing county policies and any written law coordinate manage and supervise the general administrative functions in the community area including –

- (a) Pursuant to paragraph 14 of Part II of the Fourth Schedule to the Constitution—
 - (i) ensuring and coordinating the participation of the community area unit ; and
 - (ii) assisting the community area unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.
- (b) the exercise of any functions and powers delegated by the county public service board under section 86 of the County Governments Act No. 17 of 2012;
- (c) prohibiting consumption of intoxicating liquor, by and supply of such liquor to young persons;
- (d) prohibiting or restricting the holding of drinking bouts;
- (e) prohibiting cultivation of poisonous or noxious plants and transfer and sale of such plants;
- (f) preventing pollution of water in any stream ,water course ,water hole and preventing the obstruction of any stream or water hole;
- (g) preventing the spread of disease whether human or animal;
- (h) prohibiting any act or thing which may cause damage to any public road or work constructed or maintained by the county government for the benefit of the community;
- (i) regulating the cutting of timber and prohibiting wasteful destruction of trees;
- (j) restricting or prohibiting the use of grazing by any form of stock in any area which has been set apart for the purpose of reconditioning or which has been planted with any fodder producing plants or grass;
- (k) controlling grass fires;
- (l) ensuring control of drugs and substance abuse and pornography;
- (m) regulating use of artificial water supply constructed by county government;

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- (n) requiring proper burial of deceased persons in cemeteries or otherwise;
- (o) controlling animal, insect pests or plant pests and noxious weeds and pests; and
- (p) any other function authorised by this Act or authorised officer.

4. The principal Act is amended by inserting—

- (a) a new Part V reading “Establishment, Composition, Qualifications and Administration of the Community Council” immediately after section 15.
- (b) new sections 16,17,18,19 and 20.

Community Area Council

16. (1) There is established for each community area unit a community area council comprising—

- (a) the community administrator who shall be the chair person; and
- (b) not more than five community elders competitively appointed by the community administrator with the approval of county assembly taking into account affirmative action;
- (c) in making the appointments, the community administrator shall ensure that each of the respective appointees shall be responsible for one or more of the following functions—
 - (i) health;
 - (ii) water and environment;
 - (iii) roads and infrastructure;
 - (iv) education;
 - (v) governance;
 - (vi) agriculture; or
 - (vii) any other devolved function.

Functions of the Community Area Council

17. A community area council shall be responsible for—

- (a) ensuring and coordinating the participation of the community area unit governance;

- (b) assisting the community area unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level;
- (c) monitoring the implementation of policies at the community area unit;
- (d) advising the community administrator on matters pertaining to the community area; and
- (e) any other function necessary for the better administration of the community area unit.

Eligibility of members of the Community Area Council

18. A person shall be eligible for appointment as a member of community area council if the person—

- (a) is a citizen of Kenya;
- (b) has been a resident of or has been the owner of property in the respective community area unit for a continuous period of not less than five years prior to the appointment date;
- (c) meets the requirements of Chapter Six of the Constitution;
- (d) is not disqualified from appointment to office by any other law;
- (e) is an adult of sound mind;
- (f) is of good standing in society; and
- (g) has been involved in community initiatives.

Removal of member of the Community Area Council

19. Any member of the community area council may be removed from office by the appointing authority with the concurrence of the executive committee member and approval by the county assembly for any of the following reasons-

- (a) failure to effectively discharge the designated functions of the office;
- (b) is guilty of gross misconduct;
- (c) is an adjudged bankrupt by a court of law;
- (d) has breached Chapter six of the Constitution of Kenya;
- (e) has rendered a resignation in writing to the appointing authority;
- (f) dies; or
- (g) Incapacitated by mental or physical infirmity.

Tenure of Office of Community Area Council

20. Every member of the Community area council shall serve for a period of three years and may be eligible for reappointment for not more than one term.

5. The principal Act is amended by –

(a) inserting a new Part VI reading “Miscellaneous Provisions ”

(b) deleting section 14

(c) inserting new sections 21,22,23 and 24 .

Allowances for members the village and community area councils

21. (1) The village and community area council members shall be paid such sitting allowances as shall be determined by the executive committee member and approved by the executive committee.

(2) The village and community area councils shall sit for a maximum of four times in a month.

Role of village and community area councils advisory

22. The role of the village and community area councils shall only be advisory and shall at no time shall they be involved in day to day administration of the village or community area units respectively.

Wearing of uniforms

23. The sub-county, ward, village and community administrators shall wear such uniforms and at such times as may be determined by the executive committee member.

Number of community area units

24. There shall be a minimum of Three Hundred and Sixty and a maximum of Four Hundred community area units;

PART VI —Miscellaneous Provisions**Remuneration**

25. The County Assembly shall enact legislation to provide for the establishment of further decentralized administrative units, their boundaries and names.