The Nyandarua County Public Appointment (County Assembly Approval) Act 2017

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THE NYANDARUA COUNTY PUBLIC APPOINTMENTS (COUNTY ASSEMBLY APPROVAL) ACT, 2017

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SCHEDULE—CRITERIA FOR VETTING OR APPROVAL OF NOMINEES FOR APPOINTMENT TO PUBLIC OFFICE BY COUNTY ASSEMBLY
THE NYANDARUA COUNTY PUBLIC APPOINTMENTS
(COUNTY ASSEMBLY APPROVAL) ACT, 2017

AN ACT of the County Assembly of Nyandarua to provide for procedures for County Assembly approval of constitutional and statutory appointments and for connected purposes

ENACTED by the County Assembly of Nyandarua as follows—

Short title

1 This Act may be cited as the Nyandarua County Public Appointments (County Assembly Approval) Act, 2017

Interpretation

2 In this Act, unless the context otherwise provides—

“county public officer” has the same meaning as in the County Governments Act, 2012,

“appointing authority” means any person who, under the Constitution or any other law, is required to make an appointment for which the approval of the County Assembly is required,

“appointment” includes any re-appointment to the same body, whether or not in the same capacity,

“candidate” means a person who has been proposed or nominated for appointment to a public office,

“clerk” means the Clerk of the County Assembly of Nyandarua, and

“committee” means the relevant committee of the County Assembly or such other Committee as the Speaker may, for good reasons, direct

Guiding principles

3 In exercise of its powers and discharge of its functions under this Act the County Assembly shall be guided by the values and principles of the Constitution and in particular—

(a) respect the Constitutional dictates of separation of powers in accordance with Article 185 of the constitution,

(b) respect the values of public service enshrined in Article 232 of the Constitution,

(c) approve on the basis of competence and integrity as required by Article 73 of the Constitution
Exercise of Powers of Appointment

4 An appointment under the Constitution or any other law for which the approval of the County Assembly is required shall not be made unless the appointment is approved by the County Assembly in accordance with this Act

Notification of Vetting Requirements

5 (1) An advertisement inviting applications for nomination for appointment to an office to which this Act applies, shall indicate that candidates nominated shall be required to appear before a committee of the County Assembly for vetting

(2) Unless provided for by any written law, an advertisement for an appointment requiring approval of the County Assembly shall be placed in a daily newspaper with national circulation

Notification of Nomination

6 (1) An appointing authority shall, upon nominating a person for an appointment to which this Act applies, notify the County Assembly

(2) A notification under subsection (1) shall be—

(a) in writing,

(b) lodged with the Clerk of the County Assembly

(3) A notification of appointment shall be accompanied by information concerning the nominee, having regard to the issues stated in section 8

(4) For purposes of this Act, a notification of nomination shall be deemed to be duly given on the day on which it complies fully with subsections (2) and (3)

Approval Hearing

7 (1) Within three days of the receipt of a notification of appointment that requires the approval of the County Assembly, the Clerk, in consultation with the Speaker shall invite the Committee to hold an approval hearing

(2) The Committee shall determine the time and place for holding of the approval hearing and shall inform the Clerk

(3) The Clerk shall notify a candidate of the time and place for the holding of an approval hearing

(4) The Committee shall notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing
(4) A notice to the public under sub-section (4) shall comply with the requirement of the law governing public notices under the public participation framework in the county.

(6) Subject to this Act, all Committee proceedings on public appointments shall be open and transparent.

(7) Despite subsection (5), and subject to Article 196 of the Constitution, a Committee may, on its own motion or on the application of a candidate or any other concerned person, determine that the whole or part of its sittings shall be held in camera.

(8) The criteria specified in the Schedule shall be used by a Committee during an approval hearing for the purposes of vetting a candidate.

(9) Any person may by written statement on oath, provide the Clerk with evidence contesting the suitability of a candidate to hold the office to which the candidate has been nominated at least twenty-four (24) hours prior to the approval hearing.

(10) A candidate may, at any time, by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate’s nomination shall thereupon lapse.

Issues for Consideration

8  The issues for consideration by the County Assembly in relation to any nomination shall be—

(a) the procedure used to arrive at the nominee,

(b) any constitutional or statutory requirements relating to the office in question, and

(c) the suitability of the nominee for the appointment proposed having regard to whether the nominee’s abilities, experience and qualities meet the needs of the body to which nomination is being made

(d) a candidate’s academic credentials, professional training and experience, personal integrity and background

Fundamental Rights and Freedoms

9  (1) A nominee may decline to answer a question from the committee if on the face of it that question violates the fundamental rights and freedoms of that candidate in accordance as enshrined in the Constitution.

(2) A nominee shall be informed of the right and obligation under this Act at the beginning of the hearing.
Fair Administrative Action

10 The County Assembly and the respective Committee shall afford a nominee appearing before it an opportunity to be heard and to adduce relevant documentation in support of their defence.

Period of Consideration and Report

11 (1) Unless otherwise provided in any law, a Committee shall consider a nomination and table its report in the County Assembly for debate and decision within twenty-one days from the date on which the notification of nomination was given in accordance with section 5.

(2) At the conclusion of an approval hearing, the Committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated, and shall include in the report, such recommendations as the Committee may consider necessary.

Failure of County Assembly To Act on Nomination

12 If, after expiry of the period for consideration specified in section 11, the County Assembly has neither approved nor rejected a nomination of a candidate, the candidate is deemed to be approved.

Rejection of Nomination

13 Where the nomination of a candidate is rejected by County Assembly, the appointing authority may submit to the County Assembly the name of another candidate, and the procedure for approval specified in this Act shall accordingly apply.

Notification of Decision

14 The Clerk shall notify the appointing authority of the decision of the County Assembly within seven days of the decision.

Powers of the Committee

15 (1) The committee shall have power to summon any person to appear before it for the purpose of giving evidence or providing information during approval hearing.

(2) For purposes of subsection (1), the committee shall have the same powers as the High Court to—

(a) enforce the attendance of witnesses and examine them on oath, affirmation or otherwise,

(b) compel the production of documents, and

(c) issue a commission or request to examine witnesses abroad.

(3) A person who—
(a) disobeys any order made by a committee for attendance or for production of papers, books, documents or records, or

(b) refuses to be examined before, or to answer any lawful and relevant question put by, a committee, commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both
SCHEDULE
(Section 6 (8))

CRITERIA FOR VETTING/APPROVAL OF NOMINEES FOR
APPOINTMENT TO PUBLIC OFFICE BY THE COUNTY
ASSEMBLY QUESTIONNAIRE

NOTES

(a) This questionnaire applies to appointments to public office arising by or under the Constitution or any other law where County Assembly approval is required

(b) The questionnaire shall be used by the relevant County Assembly committee to vet a nominee appearing before the committee in the process of County Assembly approval

(c) The questionnaire shall be filled and submitted by the nominee to the relevant County Assembly committee through the Clerk of the County Assembly on or before a date set by the committee

(d) The submission of false information in the questionnaire is an offence and may result in prosecution

(e) Any form of canvassing by a nominee shall lead to disqualification

(f) The nominee must answer all the questions in this questionnaire

1 Name (State full name)
2 Position (State office to which you have been nominated)
3 Gender
4 Date of Birth (State year and place of birth)
5 Marital Status
6 Daytime phone number
7 Mobile phone number
8 Email Address
9 ID Number
10 PIN Number
11 Nationality
12 Postal Address
13 Town/City
14 Knowledge of Languages (Specify Languages)
15 Education (List, in reverse chronological order, each university, college, or any other institution of higher education attended and indicate, in respect of each, the dates of attendance, academic award obtained, whether a degree was awarded, and the dates on which each such degree was awarded)
16 Employment Record (List in reverse chronological order all government agencies, business or professional corporations, companies, firms or other enterprises with which you have been affiliated as an officer, director, partner, proprietor, employee or consultant)
17 Honours and Awards (List any scholarships, fellowships, honorary degrees, academic or professional honours, honorary society memberships, military awards and any other special recognition for outstanding service or achievement and in respect of each, state the date of award and the institution or organization that made the award)
18 Professional Association (where applicable) (List all professional associations of which you are or have a member and give any positions held and the respective dates when each such position was held)
19 Memberships (List all professional, business, fraternal, scholarly, civic, charitable or other organizations, (other than those listed in response to Question 18) to which you belong or have belonged)
20 Published Writings—
   (a) List the titles, publishers and dates of books, articles, reports, letters to the,
   (b) Supply editor, editorial pieces or other published materials you have authored or edited four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of any bar association, committee, conference or organization of which you were a member
21 Public Office, Political Activities and Affiliations—
   (a) List chronologically any public offices you have held or are currently holding, including the terms of service and whether such positions were elected or appointed
(b) List all memberships and offices held in and services rendered, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities. Also include any linkage you have to a political party at present.

(c) Have you ever been dismissed or otherwise removed from office for a contravention of the provisions of Article 75 of the Constitution?

(d) Have you ever been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties?

22 Deferred Income/Future Benefits (List the sources, amounts and dates of all anticipated receipts from deferred income arrangements, stock, options, uncompleted contracts and other future benefits which you expect to derive from previous business relationships, professional services, firm memberships, etc)

Outside commitment during service in office (Do you have any plans, commitments or agreements to pursue outside employment with or without compensation during your service in office? If so, explain)

23 Sources of Income (List sources and amounts of all income received during the calendar year preceding your nomination and in the current calendar year)

24 Tax Status (State whether you have fully complied with your tax obligations to the State up to the end of the financial year immediately preceding the nomination for appointment)

25 Statement of Net Worth (State your financial net worth)

26 Potential Conflicts of Interest —

(a) Identify the family members or other persons, parties, categories of litigation or financial arrangements that are likely to present potential conflicts of interest when you first assume the position to which you have been nominated. Explain how you would address any such conflict if it were to arise.

(b) Explain how you will resolve any potential conflict of interest, including the procedure you will follow in determining these areas of concern.
27 Pro Bono/Charity Work/Donations to charity (Describe what you have done by way of pro bono or charity work, listing specific instances, the amount contributed and the amount of time devoted to each)

28 Have you ever been charged in a court of law in the last three years? If so, specify the nature of the charge, where the matter is ongoing, the present status of the matter, or where the matter is concluded, the judgment of the court, or otherwise, how the case was concluded

29 Have you ever been adversely mentioned in an investigatory report of Parliament or any other Commission of inquiry in the last three years?

30 Have you any objection to the making of enquiries with your present employer/referees in the course of consideration of your nomination?

31 References (List three persons who are not your relatives who are familiar with your character, qualification and work)