MIGORI COUNTY GAZETTE SUPPLEMENT

BILLS, 2014

NAIROBI, 11th November, 2014

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MIGORI COUNTY AUDIT BILL 2014

A Bill For

AN ACT bill of the Migori County Assembly to make provision reforming audit arrangements in Migori county; creating a new office of County Internal Auditor and a new body to be known as Migori Audit Office; providing for the County Internal Auditor to conduct pre-audit of transactions in all Migori county government offices; and for connected purposes.

ENACTED by the County Assembly of Migori as follows—

Introduction

1. The main provisions of this Bill—

(a) Create a new office of County Internal Auditor for Migori county upon the terms set out in Part 1, Chapter 1;

(b) Create a new corporate body called the Migori Audit Office (the “MAO”) and confer functions upon it (Part 2 and Schedules 1 and 2);

(c) Prescribe governance arrangements for the County Internal Auditor for Migori county and the MAO, including arrangements for oversight of the County Internal Auditor by the MAO, and provisions regarding the relationship between the two (Part 2, Chapter 2 and Schedules 1 and 2);

(d) Prescribe how the functions of the County Internal Auditor are to be exercised, and make provision for the County Internal Auditor to audit the accounts of county government departments in Migori County (Part 1, Chapter 2).

PART 1—COUNTY INTERNAL AUDITOR FOR MIGORI COUNTY

CHAPTER 1

THE OFFICE OF COUNTY INTERNAL AUDITOR FOR MIGORI COUNTY

2. (1) The office of County Internal Auditor for Migori county (the “County Internal Auditor”) is to be created.

Office of the County Internal Auditor for
(2) It is for His Excellency the Governor to appoint a person to be County Internal Auditor on the nomination of the County Assembly.

(3) No nomination is to be made until the County Assembly is satisfied that reasonable consultation has been undertaken with such bodies as appear to the Assembly to represent the interests of local government bodies in Migori County.

(4) The person appointed holds office for up to 5 years.

(5) The person may not be appointed again.

(6) The validity of any act or omission of a person appointed as County Internal Auditor is not affected by any defect in the person’s nomination or appointment.

3. (1) A person appointed as County Internal Auditor holds office until the end of the period for which the person was appointed (subject to subsections (2) and (3)).

(2) His Excellency the Governor may relieve a person from office as County Internal Auditor before the end of the period for which the person was appointed—

(a) At the person’s request, or

(b) On His Excellency the Governor being satisfied that the person is incapable for medical reasons of performing the duties of the office and of requesting to be relieved of it.

(3) His Excellency the Governor may remove a person from office as County Internal Auditor before the end of the period for which the person was appointed on the making of a recommendation, on the ground of the person’s misbehavior, that His Excellency the Governor should do so.

(4) A recommendation for the removal of a person from office as County Internal Auditor may not be made unless—

(a) The County Assembly has resolved that the recommendation should be made, and

(b) The resolution of the Assembly is passed on a vote in which the number of Assembly members voting in favor is not less than two-thirds of the total number of Assembly seats.

4. (1) A person cannot be appointed as County Internal Auditor if the person is disqualified on any of the grounds specified in subsection (3).
(2) A person ceases to be County Internal Auditor if the person is disqualified on any of the grounds specified in subsection (3).

(3) A person is disqualified from being County Internal Auditor if the person is—

(a) A Member of the National Assembly or County Assembly;

(b) The holder of any other office or position to which a person may be appointed, or recommended or nominated for appointment, by or on behalf of—
   (i) The President,
   (ii) The National Assembly,
   (iii) The Governor, or
   (iv) The County Assembly;

(c) An employee of the Migori Audit Office.

5. (1) This section applies to a person who was appointed as Auditor General under this Part but who no longer holds that office.

(2) Before—

(a) Taking up an office or position of a description specified by the County Assembly, or

(b) Entering into an agreement or other arrangement of a description so specified, the person must consult any person specified by the County Assembly.

(3) The County Assembly must publish a list of—

(a) The offices and positions specified for the purposes of subsection (2) (a);

(b) The agreements and other arrangements specified for the purposes of subsection (2) (b).

(4) Subsections (5) and (6) apply for a period of 2 years starting with the day on which the person ceases to be County Internal Auditor.

(5) The person must not—

(a) Hold an office or position to which a person may be appointed, or recommended or nominated for appointment, by or on behalf of—
   (i) The President,
   (ii) The National Assembly, or
   (iii) The Governor; or
   (iv) The County Assembly,

(b) Be a member, director, officer or employee of a person listed in subsection (7).
(6) The person must not, in any capacity, provide services to—
   (a) The Governor or anybody or other person acting on behalf of the Governor,
   (b) The County Assembly or anybody or other person acting on behalf of the Assembly,
   (c) The County Assembly Service Board or anybody or other person acting on behalf of the Board, or
   (d) A person listed in subsection (7).

(7) The persons are—
   (a) A person whose accounts, or statements of accounts, fall to be examined by the County Internal Auditor in accordance with provision made by or by virtue of an enactment;
   (b) A person to whom a value for money study or examination carried out by the County Internal Auditor in accordance with provision made by or by virtue of an enactment relates;

(8) In this section, “a value for money study or examination” means a study or examination into the economy, efficiency and effectiveness with which a person has discharged that person’s functions, or has used resources in discharging those functions.

6 (1) The person for the time being holding the office of County Internal Auditor continues, by the name of that office, to be a corporation sole.

(2) The County Internal Auditor is not to be regarded as holding office under His Excellency the Governor,

(3) But the County Internal Auditor is to be taken to be a servant for the purposes of this Bill.

7 (1) Before a person is appointed as County Internal Auditor, remuneration arrangements are to be made in respect of that person by the County Assembly,

(2) But before those arrangements can be made, the Chief Officer in charge of Finance and Economic planning must be consulted.

(3) The remuneration arrangements—
   (a) May make provision for a salary, allowances, gratuities, arrangements for a pension and other benefits, and
   (b) May include a formula or other mechanism for adjusting one or more of those elements from time to time.
(4) But no element is to be performance-based.

(5) The County Assembly Service Board must make payments to the County Executive Committee Member in charge of Finance, at such times as the County Executive Committee Member may determine, of such amounts as may be so determined, in respect of—

(a) The provision of pensions, allowances, gratuities or other benefits or in respect of any person who holds or has ceased to hold office as County Internal Auditor, and

(b) The expenses incurred in administering those pensions, allowances, gratuities or other benefits.

(6) Amounts payable by virtue of this section are to be charged on, and paid out of, the County Assembly Fund.

CHAPTER 2
COUNTY INTERNAL AUDITOR’S FUNCTIONS

General provision about the exercise of the County Internal Auditor’s functions

8 (1) The County Internal Auditor has complete discretion as to the manner in which the functions of that office are exercised and is not subject to the direction or control of the Migori County Assembly or the County Government of Migori.

(2) But this discretion is subject to subsection (3).

(3) The County Internal Auditor must—

(a) Aim to carry out his or her functions efficiently and cost-effectively;

(b) Have regard, as he or she considers appropriate, to the standards and principles that an expert professional provider of accounting or auditing services would be expected to follow;

(c) Have regard to advice given to him or her by the MAO (see section 17(3)).

9. (1) The County Internal Auditor may do anything calculated to facilitate, or which is incidental or conducive to, the carrying out of any of the County Internal Auditor’s functions.

(2) But the County Internal Auditor may not do anything which is or could become the responsibility of the MAO by virtue of paragraphs (a) to (c) of section 21(2) (provision of resources for County Internal Auditor’s functions).
10 (1) The County Internal Auditor must issue a code of audit practice prescribing the way in which the functions of the County Internal Auditor specified in subsection (2) are to be carried out.

(2) The functions are—

(a) Examining any accounts or statements of accounts that fall to be examined by the County Internal Auditor in accordance with provision made by or by virtue of an enactment;

(b) Carrying out, undertaking or promoting value for money studies or examinations in accordance with provision made by or by virtue of an enactment.

WILLIAM ABED MAROA,
Chairman, Budget and Appropriation Committee.