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REPUBLIC OF KENYA

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THE SAMBURU COUNTY CO-ORDINATION OF
GOVERNMENT FUNCTIONS BILL, 2014

A Bill for

AN ACT of the County Assembly of Samburu to establish an administrative and institutional framework for co-ordination of County government functions; to give effect to Articles 176 (2), 179 (1), (2) & (4), 183(1)(e) of the Constitution; Sections 48 (1) (d), (e), (3) & (4), 52, 53 and 54 of the County Governments Act; and for connected purposes

ENACTED by the County Assembly of Samburu, as follows —

PART I—PRELIMINARY

1. This Act may be cited as the Samburu County Government Co-ordination Act, 2014 and shall come into force upon the assent by the Governor.

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

“county executive committee” means a county executive committee established in accordance with Article 176 of the Constitution;

“county government function” means a function assigned by the Constitution, this Act or any other law to the county government;

“Government” means the county government of Samburu;

3. The Government shall ensure reasonable access to its services in all parts of the county, so far as it is appropriate to do so having regard to the nature of the service pursuant to Article 6(3) of the Constitution.

4. Nothing in this Act shall be construed to—

(a) limit the powers of the governor as provided under the Constitution or any other written law;

(b) affect the co-ordination of county government functions as provided for under the Constitution or any other written law; or
PART II—COUNTY GOVERNMENT CO-ORDINATION FRAMEWORK

5. (1) Pursuant to Articles 179 (1), (2) (a), and (4) of the Constitution, the governor may, for purposes of directing and coordinating the functions of the county government departments—

(a) assign, through the respective executive committee the responsibility of discharging any function of the county executive to any person in accordance with the Constitution, this Act or any other written law; and

(b) require a person, to whom responsibility is assigned under paragraph (a) to prepare and submit a report on any matter.

(2) Without prejudice to subsection (1), the governor shall use the following framework for the co-ordination of the county executive functions—

(a) the office of the governor;

(b) the executive committee;

(c) the executive office; and

(d) the co-ordination committees as may be necessary.

6. (1) Pursuant to Article 179 (1), (2) & (4) and 183 (1) (c) of the Constitution, the Governor shall be responsible for the co-ordination of functions of county government departments.

(2) For purposes of co-ordination of county government functions under the Constitution, this Act or any other written law, the Office of the governor shall have such number of County Government Administrative Officers and their Deputies as shall be necessary for the effective and efficient co-ordination of county government functions.

7. (1) Pursuant to Articles 183 (1) (c) of the Constitution, the executive committee shall manage and coordinate the functions of the county administration and departments.

(2) Each executive member shall be responsible for the functions assigned to him or her by the governor, the Constitution, this Act, or any other written law.
(3) An executive member shall be responsible for policy formulation and guidance and, where required, implementation of the policy in respect of the departments or agencies under him or her.

(4) An executive member shall be the link between the county government department and the governor or county assembly as the case may be.

8. (1) The executive committee shall be accountable individually and collectively, to the governor for the exercise of their powers and the performance of their functions in accordance with Article 179 (1) of the Constitution.

(2) Collective responsibility of the executive members referred to in Subsection (1) means that all decisions of the executive are binding on all executive members.

9. (1) There is established the executive office which shall be headed by the County Secretary.

(2) The executive office shall offer the secretariat and support services to the executive committee.

(3) The County Public Service Board shall recruit and appoint such number of public officers as the county secretary may require for the effective and efficient discharge of the functions of the office subject to approval by the Governor and the Executive Committee.

(4) The executive office shall perform such other functions as may be assigned to it by the Governor or the Executive Committee.

10. (1) The Governor shall establish such committees of chief officers as may be necessary for the effective management and co-ordination of the government functions under the Constitution, this Act or any other written law.

(2) The Governor may establish such other committees or put in place such mechanisms as may be necessary in addition to the committees established under subsection (1).

(3) The Governor may decentralize, to the extent necessary the committees or mechanisms referred to under subsection (2).
(4) The Governor may assign such functions to the committees established under this section as the Governor deems necessary.

(5) The committees established under this section shall have all the necessary powers for the proper performance of their functions under this Act or any other written law.

(6) The executive member may, with the approval of the Governor, make regulations to give effect to this section.

PART III—DECENTRALIZED UNITS OF GOVERNANCE

11. (1) The government service delivery co-ordination units shall be—

(a) the sub-county established under the County Governments Act and headed by a Sub-County Administrator;

(b) the Ward established under the County Governments Act headed by a Ward Administrator;

(c) the Village under this Act and as established under Section 52 of the County Governments Act shall be existing sub-location at the commencement of this Act and shall headed by a Village Administrator;

(d) the sub-village under this Act and pursuant Article 176(2) of the constitution which shall consist of minimum 60 to maximum of 100 households clustered together and shall be headed by community secretary.

12. (1) there is established villages to be service delivery units for the county government in accordance with the criteria provided for under this section.

(2) The sub-location administrative units at commencement of this Act shall determine the demarcation and delimitation of village boundaries.

(3) In determining the villages, the county executive committee shall consider —

(a) population size;
(b) geographical features;
(c) community of interest, historical, economic and cultural ties and
(d) means of communication.

PART IV—APPOINTMENT, ROLES AND RESPONSIBILITIES OF GOVERNMENT ADMINISTRATIVE OFFICERS

13. (1) In accordance with the county government functions under the Constitution, this Act or any other written law, the Public Service Board shall, appoint after competitive recruitment government administrative officers to coordinate government functions and to perform such other functions as may be assigned to them under this Act or any other law.

(2) Pursuant to subsection (1), the Public Service Board shall appoint—

(a) a chief officer administration;
(b) deputies chief officer administration
(c) director of administration
(d) sub-county administrator in respect of every sub-county;
(e) ward administrator in respect of every Ward;
(f) village Administrator in respect of every village as established under this Act.
(g) community secretary in respect of each sub-village.
(f) such other person as the Governor may, in consultation with the Public Service Board, appoint.

(3) The Governor may, from time to time, deploy the administrators from the field to the departments or to the field from the departments as the case may be.

14. (1) There is established the office of Chief Officer Administration which shall be an office at the office of the Governor.

(2) The Chief Officer Administration shall have two deputies with qualifications and knowledge in
administration or management and shall be competitively appointed by the County Public Service Board, in consultation with the Governor and approved by the County Assembly.

(3) The Chief Officer Administration shall be responsible for the coordination, management and supervision of the general administrative functions from the headquarters.

(4) In carrying out the functions and obligations in subsection (3), the Chief Officer administration shall be responsible to the County Secretary.

15. (1) There is established at each sub-county the office of the sub-county administrator.

(2) The sub-county administrator shall have qualifications and knowledge in administration or management and shall be competitively appointed by the County Public Service Board in accordance with the provisions of the County Governments Act and this Act.

(3) The sub-county administrator shall be responsible for the coordination, management and supervision of the general administrative functions in the sub-county unit, including—

(a) the development of policies and plans;
(b) ensuring service delivery;
(c) developmental activities to empower the community;
(d) the provision and maintenance of infrastructure and facilities of public services;
(e) the county public service;
(f) exercise any functions and powers delegated by the Governor; and
(g) facilitation and coordination of citizen participation in the development of policies and plans and delivery of services; and
(h) facilitation and coordination of other departments

(4) In carrying out the functions and obligations in subsection (3), the sub-county administrator shall be responsible to chief officer, administration.
16. (1) There is established for each Ward the office of the Ward administrator.

(2) The Ward administrator shall have professional qualifications and technical knowledge in administration and shall be competitively appointed by the County Public Service Board in accordance with the provisions of this Act.

(3) The Ward administrator shall coordinate, manage and supervise the general administrative functions in the Ward unit, including—

(a) the development of policies and plans;
(b) service delivery;
(c) developmental activities to empower the community;
(d) the provision and maintenance of infrastructure and facilities of public services;
(e) the county public service;
(f) exercise any functions and powers delegated by the Governor; and
(g) co-ordination and facilitation of citizen participation in the development of policies, plans and delivery of services.

(4) In carrying out the functions and obligations in subsection (3), the Ward administrator shall be responsible to the sub-county administrator.

17. (1) (a) There is established office of the village administrator for each village.

(b) The village shall be constituted and will be determined in accordance with existing sub-locations unit of national administration at the commencement of this Act.

(2) The Village administrator shall have such qualifications and technical knowledge in administration as shall be determined by the County Public Service Board and shall be competitively recruited in accordance with the provisions of this Act and the County Governments Act.

(3) The village administrator shall coordinate, manage and supervise the general administrative functions in the village unit, including—
(a) the development of policies and plans;
(b) service delivery;
(c) developmental activities to empower the community;
(d) the provision and maintenance of infrastructure and facilities of public services;
(e) the county public service;
(f) exercise any functions and powers delegated by the Governor; and
(g) co-ordination and facilitation of citizen participation in the development of policies, plans and delivery of services.

(4) In carrying out the functions and obligations in subsection (3), the Village administrator shall be responsible to the Ward administrator.

18. (1) (a) There shall be a community Secretary for each sub-village.

(b) Sub-village shall be constituted from the number of households determined through a regulation and gazettement by the County Executive Committee.

(2) The Community Secretary shall have such qualifications and technical knowledge in administration as shall be determined by the County Public Service Board and shall be competitively recruited in accordance with the provisions of this Act.

(3) The community secretary shall, among other duties —
(a) be the secretary to the meetings convened by the village administrator at sub-village;
(b) advice the meetings on county government policies;
(c) be the custodian of records of all the meetings; and
(d) undertake any other function as he may be assigned by the village administrator.

19. The provisions of Chapter Six of the Constitution shall apply with respect to the recruitment of the administrators under this Act.
20. (1) There is established, for each village unit, a Village council comprising—

(a) the village administrator who shall be the chairperson of the village council; and

(b) not less than three and not more than five village elders competitively recruited and appointed by the Governor taking into account gender, youth, religious representation and disability.

(2) A village council shall be responsible for—

(a) ensuring and coordinating the participation of the village unit in governance;

(b) assisting the village 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 village unit;

(d) advising the ward administrator and sub-county administrator on matters pertaining to the village; and

(e) any other function necessary for the better administration of the village unit.

(3) A person shall be eligible for appointment as a village elder 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 village 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; and

(d) is not disqualified for appointment to office by this Act or any other law.

(4) The sub-county administrator shall form a panel of persons from amongst respected members of the community to vet the nominees to the village council.

(5) In appointing the panel, the sub-county administrator shall consider gender, youth, religious organizations and persons with disability.
(6) The County Public Service Board shall provide guidelines for the formation of the panel.

**PART V—COLLABORATION AND DISPUTE RESOLUTION BETWEEN THE NATIONAL AND COUNTY GOVERNMENTS ON ISSUES OF APPARENT CONCURRENT MANDATE**

21. (1) Where a dispute arises as to the mandate or powers of any of the officers, or roles of respective officers of the county government and those of the national Government, a mediation team shall be constituted to deal with the dispute.

(2) The mediation team constituted under subsection (1) shall consist of two eminent persons appointed by the Governor and two eminent persons appointed by the Cabinet Secretary for the time being responsible for national government co-ordination.

(3) The mediation team shall be guided by the constitutional principles and the respective constitutional mandates of each respective government.

(4) The mediation team shall undertake and finalize its task within a period of fourteen days.

(5) Should the mediation team fail to resolve the dispute within the stipulated time, the matter may be referred to the Summit for resolution in accordance with the Inter-Governmental Relations Act.

**PART VI—MISCELLANEOUS PROVISIONS**

22. Subject to the Constitution, this Act or any other written law, a county government administrative officer appointed under this Act shall have all the powers necessary for the proper performance of the functions under this Act or any other applicable written law.

23. Subject to the Constitution, this Act or any other written law, a county government administrative officer appointed under this Act shall be responsible for the co-ordination of county government functions as set out in the Constitution, this Act and any other written law at the relevant decentralized unit as far as may be necessary.
24. The county secretary shall, on the recommendation of the County Public Service Board, prescribe a scheme of service for the County government administrative officers.

25. Nothing done by a public officer appointed under this Act shall, if done in good faith for the purpose of executing the functions of the office, render such officer personally liable for any action, claim or demand.

26. The executive member responsible for administration may, in consultation with the Governor, make regulations for the better carrying into effect of the purposes of this Act.
MEMORANDUM OF OBJECTS AND REASONS

The principle object of this Bill is to provide for coordination of County government functions at all levels of devolution. It is to facilitate the exercise of the Executive Authority pursuant to Article 131 (b) and 132 (3) (b) and (c) of the Constitution; provide for the effective coordination and administration of the county government functions prescribed in the Constitution under schedule Four therein, this Act or any other written law; provide for the establishment of an administrative and institutional framework at the county and decentralized units to ensure access to government services by every Kenyan as guaranteed by the Constitution.

Part I deals with preliminary matters including the interpretation of terms used in the Bill.

Part II provides for County government coordination framework.

Part III deals with the decentralized service units. It also determines what a sub-village and village administrative structure are and how it is determined. This part also provides for establishment of a sub county and ward levels of devolved governance.

Part IV provides for the appointment, roles and responsibilities of County government administrative officers. This part also provides for the appointment of a village administrator. The community secretary will be an ex-officio and shall not vote in any of the meetings.

Part V deals with the collaboration and dispute resolution between the national and county governments on issues of apparent concurrent mandate. It provides that a mediation team will be appointed to resolve the dispute and where the mediation team is unable to resolve the dispute, the same shall be referred to the Summit for resolution in accordance with Intergovernmental Relations Act.

Part VI deals with miscellaneous matters. Clause 24 and 25 provides for the powers and functions of a County government administrative officer. Clause 26 provides for scheme of service for the officers and clause 27 provides for protection from personal liability for actions done in good faith. It also confers powers on the executive member responsible for administration to make regulations.

The enactment of this Bill will not occasion additional expenditure of public funds.

F. D. LOLOSOLI,
Leader of Majority.