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FIRST SCHEDULE

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The Nakuru County Flag, Emblem and Names Bill, 2016

A Bill for

AN ACT of the Nakuru County Assembly to prevent the improper use of the Nakuru County Flag and of certain emblems, names, words and likeness for professional and commercial purposes, and to prohibit the display of the flag

ENACTED by the County Assembly of Nakuru as follows—

PART I— PRELIMINARY

Short Title

1. This Act may be called the Nakuru County Flag, Emblems and Names Act, 2016.

Interpretation

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

“Specified emblem” means any emblem, seal, flag, pennant, insignia, ensign or coat of arms of a kind specified in Part I of the First Schedule to this Act;

“Specified likeness” means any photograph, drawing or other pictorial representation of the person for the time being holding any of the offices or dignities specified in Part III of the First Schedule to this Act;

“Specified name” means any of the names and words specified in Part II of the First Schedule to this Act, and include any abbreviation of any such name;

“County Assembly badge” means a badge representing the Armorial, Ensigns by or under authority of the Speaker of the County Assembly;

“County premises” means any premise used wholly or partly for Nakuru County purposes but does not include any building used primarily for residential purposes;

“Vehicle” means any device driven by mechanical, animal, natural or human power on land or water, and includes any craft or aircraft, but does not include a wheeled chair or a device drawn or propelled by hand and used solely for the conveyance of a child or invalid.

2A. Nakuru County Flag, Armorial, ensigns and seal declared

(i) The flag of which the design and description are set out in Part I of the Second Schedule to the Act is hereby declared to be the Nakuru County Flag (in this Act referred to as the Nakuru County Flag).
(ii) The heraldic device of which the blazon and description are set out in Part II of the Second Schedule to this Act is hereby declared to be the Armorial Ensigns of Nakuru (in this Act referred to as the Nakuru Armorial Ensigns).

(iii) The seal of which the design is set out in Part III of the Second Schedule to this Act is hereby declared to be the Seal of Nakuru County.

2B. Insulting County flag, emblems and name, an offence.

Any person who shows disrespect, in speech, manner or writing, to or with reference to the county flag, or to any specified emblem, specified likeness or specified name, or any representation thereof, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

Prohibition of improper use of emblems, names and likeness

3. (1) Notwithstanding anything contained in any law for the time being in force, no person shall, except with the written permission of the Nakuru County Secretary—

(a) Use any specified emblem, specified name or specified likeness, or any colorable imitation thereof, in furtherance of, display the same as an advertisement for, any trade, business, calling or profession; or

(b) Use any specified emblem, specified name or specified likeness, or any colorable imitation thereof, in title of any patent, or in any trademark or design; or

(c) Manufacture or import any article or goods bearing any specified emblem, specified name or specified likeness, or any article or goods on which any title, trade mark or design is used in contravention of paragraph (b) of this subsection.

(2) The provisions of subsection (1) (a) of this section relating to the use of a specified shall not apply to the publication of a bona fide news item (whether in a newspaper or by any other medium) or to the publication in a newspaper of any article connected with bona fide news item other than news item in furtherance of, or as advertisement for, any trade, business, calling or profession.

(3) Any permission given under subsection (1) of this section may be given subject to such conditions as the County Secretary may deem fit.

(4) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding five
thousand shillings, or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

**Prohibition of registration of certain companies e.t.c.**

4. Notwithstanding anything contained in any law for the time being in force, no authority empowered or required by law to register any company, firm or other body of persons, any trademark or design, or to grant a patent, shall—

(i) Register any company, firm or other body of persons under any name; or

(ii) Register a trade mark or design which bears any emblem, name, word or likeness; or

(iii) Grant a patent in respect of an invention which bears a title containing any emblem, name or word.

If the use of such name, emblem, word or likeness would be in contravention of section 3 of this Act, and any purported registration or grant made contrary to this section shall be absolutely void and ineffective for all purposes.

**Prohibition display of certain flags**

5. (1) No person shall display at any place or on any premises any flag or banner or permit any flag or banner to be displayed, being in either case a flag or banner (other than a specified emblem) which is reputed to belong, or is held out by any authority as belonging, to the Nakuru County or of any particular part thereof (other than area of a County).

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(3) This section shall bind the Nakuru County Government.

**Officials authorized to fly the county flag**

6. (1) For the avoidance of doubt, the following persons shall fly the County flag—

(i) Governor

(ii) Deputy governor

(iii) Member of the County Executive Committee.

(iv) Speaker of the County Assembly; and

(v) Deputy speaker of the County Assembly

(2) The member of the executive committee shall prescribe the manner in which the County flag may be flown or displayed.
7. Subject to this Act—

(1) The County flag shall be hoisted on the following occasions—

(i) At all official functions that is attended by the Governor, the Deputy Governor or member of the executive committee.

(ii) At the headquarter of the County government.

(iii) At the head offices of sub counties, wards and villages; and

(iv) At the County Assembly.

(2) The member of the executive committee may prescribe such other place where the county flag shall be hoisted or displayed.

8. The County secretary shall be the custodian of the county flag, emblems, coat of arms and all other symbols protected by this Act.

9. (1) The Governor shall hoist the National flag in the County and shall use it to unite people creating visual, verbal or iconic or representation of National values and goals in the County.

(2) To promote the objective in subsection (1) the Governor may fly the National flag in the prescribed official car.

10. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction in writing of the Nakuru County Director of Legal Services.

11. (1) If a police officer has reasonable cause to believe that something which has been used, displayed, manufactured or imported contrary to this Act is to be found on any premises, he may require the person in charge or appearing to be in charge of the premises to allow him to enter the premises and to afford him all reasonable facilities for a search thereof, and if entry cannot within a reasonable period be so obtained, the officer may without warrant enter the premises (using force if necessary) and search therein.

(2) If a police officer finds an any premises anything in respect of which he has reasonable cause to believe that an offence under this Act has been committed by any person, he may seize that thing, and where he does so shall bring it before a Magistrate, who shall order it to be forfeited if he is satisfied that it has been used, displayed, manufactured or imported contrary to this Act, or else shall order it to be restored to the person from whom it was seized.

12. The County Cabinet secretary may, by notice in the Gazette, amend the first schedule to this Act.
Regulations

13. The County cabinet may take regulations—

(i) Prescribing the occasions upon which, the persons by whom and the manner in which the Nakuru County flag or the Armorial, Ensigns may be flown or displayed, as the case may be;

(ii) Prohibiting, controlling or restricting the use of any specified emblem, specified likeness or specified name;

(iii) Regulating the manner in which application may be made to him for his permission under section 3 of this Act, prescribing the form of any license by which such permission may be given and fixing any fee for such application and license;

(iv) Generally for carrying this Act into effect.

FIRST SCHEDULE
PART I—EMBLEMS

(1) The Nakuru County Government Flag, Armorial Ensigns of Kenya
(2) The Nakuru County Government Seal
(3) The Emblem of official Seal of the Nakuru County Government.
(4) Any Orders, Insignias, Medals, Badges and Decorations instituted by Act of Nakuru County Assembly.
Public Seal

Coat of Arm
Governor’s Standard Flag

County Government of Nakuru Dimension Flag
PART II—NAMES AND WORDS

1. THE NAME OF THE Governor

2. The words “Nakuru County Government” and “Nakuru County Assembly”.

PART III—OFFICES AND DIGNITIES

1. The Governor.

2. The Speaker.

SUBSIDIARY LEGISLATION

Regulation under Section 11

THE NAKURU COUNTY FLAG, EMBLEMS AND NAMES
(FLYING OF THE NAKURU COUNTY FLAG AND DISPLAYING OF ARMORIAL ENSIGNS)

REGULATIONS

1. These regulations may be cited as the Nakuru County Flag, Emblems and Names (flying of the Nakuru County Flag and displaying of Armorial Ensigns) Regulations.

2. Any persons who flies or displays the Nakuru County flag on any premises, not being county premises, on any occasion other than a public holiday or such other occasion as may be notified by the Governor shall be guilty of an offence.

3. (1) Subject to sub paragraph (2) of this regulation, any person who flies the County flag on any motor vehicle shall be guilty of an offence.

(2) This regulation shall not apply to the Governor, Deputy Governor, member of the County executive committee, speaker of the County Assembly and deputy speaker of the county assembly.

4. Any person, not being a member of the County Assembly who wares on his person a County Assembly badge, or any imitation or likeness thereof, shall be guilty of an offence.

5. Any person who is found guilty if an offence under these Regulations shall be liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.
MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to regulate, protect and promote, for interest and collective identity of the people of Nakuru County that can drive a sense of pride, self esteem and the drive to achieve the vision as envisaged by the people and their Government. It is designed to regulate use and display of the County Flag, Emblems and Names and for connected purposes.

The structure of the Bill is as follows—

Part I (clauses 1-2) of the Bill contains the preliminary provisions.

Clause 1 states the title of the Bill and clause 2 deals with interpretation of terms as used in the Bill.

Part II (clauses 3-13) of the Bill deals with regulation of use as well as display of the County Flag, emblems and names.

Clause 3 prohibits the improper use of emblems, names and likeness
Clause 4 prohibits registration of certain companies, etc.
Clause 5 prohibits display of certain flags.
Clause 6 provides for the officials authorized to fly the County Flag while Clause 7 provides for the hoisting of the county Flag.
Clause 8 provides for the custodian of the County Flag while clause 9 provides that the National flag shall be a symbol of unity. Clause 10 provides for sanction for prosecution in the event that an offence is committed in respect of this Bill.
Clause 11 provides for inspection by a police officer or authorized person while clause 12 empowers the county cabinet secretary to amend the first schedule.
Clause 13 provides for regulation.

S.N.WAITHUKI,
Member of the County Assembly
Public Seal

Coat of Arm
The Nakuru County Flag, Emblem and Names Bill, 2016

Governor's Standard Flag

County Government of Nakuru Dimension Flag