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TANA RIVER COUNTY BILLS, 2019

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THE TANA RIVER COUNTY SERVICE DELIVERY COORDINATION (AMENDMENT) BILL, 2019

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THE TANA RIVER COUNTY SERVICE DELIVERY
CO-ORDINATION (AMENDMENT) BILL, 2019

A Bill for

AN ACT of the County Assembly of Tana River to amend the Tana River County Service Delivery Co-ordination Act, 2016 and for connected purposes

ENACTED by the County Assembly of Tana River as follows—

Short Title

1 This Act may be cited as the Tana River County Service Delivery Co-ordination (Amendment) Act, 2019

Amendment to Section 1 of Act No 1 of 2016

2 The Tana River County Service Delivery Co-ordination Act, 2016 (hereinafter referred to as the “Principal Act”) is amended in Section 1 by deleting the words “and shall commence on such a day as the Governor may determine” immediately after the figure “2016,”

Amendment to Section 2 of Act No 1 of 2016

3 Section 2 of the Principal Act is amended by—

(1) deleting the definition of the term “administrator” and substituting therefor with the following new definition

“administrator” includes a sub-county administrator, a ward administrator, a village administrator and a town administrator,

(2) deleting the definition of the term “elder” and substituting therefor with the following new definition

“elder” means an elder appointed under Section 53 (3) of the County Governments Act,

(3) inserting the following new definition in its proper alphabetical sequence

“manager” includes a municipal manager and a city manager appointed under section 29 of the Urban Areas and Cities Act,

Amendment to Section 3 of Act No 1 of 2016

4 Section 3 of the Principal Act is amended in Sub-Section (2) by deleting the terms “(b), (c) and” immediately after the figure “(1)”

Amendment to Section 4 of Act No 1 of 2016

5 Section 4 of the Principal Act is amended—

(1) in Sub-Section (1) by inserting the words “in respect of each sub-county” immediately after the word “administrator”
(2) in Sub-Section (4) by inserting the words “and submit the same to the County Assembly” immediately after the words “delivery in the sub-county”

Deletion of Section 5 of Act No 1 of 2016

6 The Principal Act is amended by deleting Section 5

Amendment to Section 6 of Act No 1 of 2016

7 Section 6 of the Principal Act is amended—

(1) in Sub-Section (2) by deleting paragraph (c) and substituting therefor with the following new paragraph

“(c) professional qualification and knowledge in administration”

(2) in Sub-Section (4) by—

(a) inserting the word “submit” immediately after the words “in the ward and”,

(b) deleting the words “Member of the” immediately after the words “the same to the”

Amendment to Section 7 of Act No 1 of 2016

8 Section 7 of the Principal Act is amended—

(1) in Sub-Section (1) by,

(a) deleting the expression “/Area” immediately after the word “Village”

(b) inserting the words “in respect of each Ward” immediately after the word “Administrator”

(2) in Sub-Section (3) by deleting paragraph (c) and substituting therefor with the following new paragraph

“(c) professional qualification and knowledge in administration”

(3) in Sub-Section (5) by inserting the words “and submit the same to the County Assembly” immediately after the words “delivery in the village”

Amendment to Section 8 of Act No 1 of 2016

9 Section 8 of the Principal Act is amended—

(1) in Sub-Section (1) by—

(a) inserting the words “not less than three and not more than” immediately after the word “appoint”
(b) deleting the words “taking into account the principle that not more two thirds of the members of the Council shall be of the same gender” immediately after the words “County Governments Act,”

(2) in Sub-Section (2) by inserting the word “as” immediately after the words “shall be”

(3) by deleting Sub-Section (3) and inserting the following new Sub-Section

“(3) In appointing the village elders under Sub-Section (1) the village administrator shall take into account that not more than two thirds of the members of a Council shall be of the same gender”

(4) in Sub-Section (5) by inserting the word “unit” immediately after the word “village”

(5) inserting the following new subsection immediately after subsection (5)

“(5A) the conduct and business of a Village Council shall be as stipulated in the Second Schedule”

**Amendment to Section 12 of Act No 1 of 2016**

10 Section 12 of the Principal Act is amended—

(1) in Sub-Section (1) by deleting the words “as may be determined by the County Public Service Board,” immediately after the word “administrators”

(2) in Sub-Section (2) by—

(a) deleting the words “as may be determined by the County Assembly on the advice of the County Public Service Board,” immediately after the words “village elder”,

(b) adding the letter “s” at the end of the word “elder”

**Substitution of Section 13 of No 1 of 2016**

11 The Principal Act is amended by deleting Section 13 and substituting therefor with the following new Section

“13 (1) The County Executive Committee member responsible for County Public Service may make regulations necessary for the implementation of this Act

(2) The regulations made under this Section shall be tabled before the County Assembly for approval and shall not take effect until such approval is obtained”
Insertion of new Schedule

12 The Principal Act is amended by inserting the following new Second Schedule immediately after the First Schedule—

SECOND SCHEDULE

(Section 8(5))

THE CONDUCT OF BUSINESS AND AFFAIRS OF A VILLAGE COUNCIL

Meetings

1 (1) A Village Council shall meet as often as may be necessary for the carrying out of its business but it shall meet at least once every calendar month

(2) A meeting of a Village Council shall be held on such date and at such time as the chairperson shall determine

(3) Unless the majority of the total membership of a Village Council otherwise agree, at least seven days written notice of every meeting of a Council shall be given to every member of the relevant Council

Special meetings

2 The chairperson or in the absence of the chairperson, the vice-chairperson, shall, within seven days of receipt of a written application of receipt of a written application of at least three members, convene a special meeting of a Village Council

Presiding at meetings

3 (1) The Chairperson shall preside at all meetings of the Village Council

(2) In the absence of the Chairperson at a meeting, the vice-chairperson shall preside at that meeting of a Village Council

(3) In the absence of the Chairperson and the Vice Chairperson at a meeting, the members present shall elect one of their number to preside at that meeting of a Village Council

(4) A person presiding over a meeting of a Village Council under subparagraph (2) or (3), shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson

Quorum

4 The quorum for a meeting of a Village Council meeting shall be three members
Decisions

5 (1) Each Village Council shall endeavour to reach every decision by consensus

(2) Where on any matter consensus cannot be obtained, the decision of a Council shall require the concurrence of a majority of all the members present at the meeting

Invitation of professional experts

6 A Village Council may invite any person whose knowledge and experience is required in the deliberation of matters before it but such a person shall have no right to vote in any decision to be made by a Council

Validity of proceedings

7 The proceedings of a Village Council shall not be invalidated by reason of a vacancy in its membership or absence of a member, or by the presence or participation of a person not entitled to be present at or to participate in those proceedings

Minutes

8 Each Village Council shall keep minutes of proceedings of its meetings and decisions taken

Disclosure of Interest

9 (1) A member of a Village Council shall be considered to have a conflict of interest, if the member acquires any pecuniary or other interest that could conflict with the proper performance of the members duties as a member a Village Council

(2) If at any time a member of a Village Council has interest in any matter before a Village Council or any matter a Village Council could reasonably expect might come before it for consideration or determination the member shall immediately disclose the conflict of interest to the other members of a Village Council and refrain from taking part, or any further part, in the consideration or determination of the matter

(3) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made

Self-regulation

10 Each Village Council may regulate its own procedure, subject to the provisions of this Schedule
MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons of the legislative proposal

This Bill seeks to amend the Tana River County Service Delivery Coordination Act 2016

Statement on the delegation of legislative powers

Clause 11 of this legislative proposal delegates legislative powers to the County Executive Committee Member in charge of the county public service the power to make regulations

Statement on limitation of fundamental rights and freedoms

The Bill does not limit any fundamental rights and freedoms

Statement on whether the Bill is a money Bill

This Bill is not a money Bill within the meaning of Article 114 of the Constitution and Section 21(4) of the County Governments Act

Statement on the financial implications and expenditure of public moneys

The enactment and operationalization of the proposed law may entail an additional expenditure of public funds, which shall be provided for in the estimates The Bill anticipates the creation of the position of town administrator and municipal manager for entities that have acquired the town status and municipal status respectively

Dated the 25th September, 2019

MOHAMED BUYA YUSA,
Chairperson, Committee on County Public Service Administration, Management and Information Communication Technology
Section 1 of the Principal Act which is proposed to amend—

Short title and commencement

1 This Act may be cited as the Tana River County Service Delivery Co-ordination Act, 2016, and shall commence on such a day as the Governor may determine.

Section 2 of the Principal Act which is proposed to amend—

Interpretation

2 In this Act, unless the context otherwise requires

“administrator” means the Sub-County, Ward and Village Administrators, and the offices established under the Urban Areas and Cities Act, No 13 of 2011,

“council” means the village council established under section 8 of this Act,

“elder” includes the member representing the youth under section 8(2) of the Act,

“sub-counties” has the same meaning assigned to a constituency within the county, identified under Article 89 of the Constitution,

“urban areas” has the same meaning as the urban areas identified by the relevant national government agency under the Urban Areas and Cities Act, Act, No 13 of 2011,

“village unit” has the same meaning assigned to it under section 48(1)(d) of the County Governments Act, No 17 of 2012, and

“ward” has the same meaning assigned to a ward within the county, identified under Article 89 of the Constitution, and section 26 of the County Governments Act, No 17 of 2012.

Section 3 of the Principal Act which is proposed to amend—

Decentralized units

3 (1) There is established the following decentralized units for the county—

(a) urban areas within the county,

(b) sub-counties,

(c) wards, and

(d) village units

(2) For the avoidance of doubt, the decentralized units under subsection (1) (b), (c) and (d) shall be those specified in the Schedule.
Section 4 of the Principal Act which is proposed to amend—

Sub County Administrator

4 (1) There is established the Office of the Sub-Administrator

(2) The Sub-County Administrator shall be recruited competitively by the County Public Service Board, and shall possess the following minimum qualifications —

(a) be a Kenyan citizen,

(b) hold at least a Bachelors degree from a university recognized in Kenya, with five years' working experience in middle level administration or management, or

(c) hold at least a Diploma with at least fifteen years' working experience in the public service

(3) The Sub-County Administrator shall perform the same functions assigned under section 50(3) of the County Governments Act

(4) The Sub-County Administrator shall submit quarterly reports to the county chief officers on service delivery in the sub-county

Section 6 of the Principal Act which is proposed to amend—

Ward Administrator

6 (1) There is established the Office of the Ward Administrator

(2) The Ward Administrator shall be recruited competitively by the County Public Service Board with the approval of the County Assembly, and shall possess the following minimum qualifications —

(a) be a Kenyan citizen,

(b) hold at least a diploma or other post-secondary qualifications, and

(c) experience in community service or community development

(3) The Ward Administrator shall perform the same functions assigned under section 51(3) of the County Governments Act

(4) The Ward Administrator shall submit quarterly reports to the Sub-county Administrator on service delivery in the ward and the same to the Member of the County Assembly

Section 7 of the Principal Act which is proposed to amend—

Village/Area Administrator

7 (1) There is established the Office of the Administrator
(2) The Village Administrator shall be recruited competitively by the County Public Service Board with the approval of the County Assembly.

(3) A Village Administrator shall possess the following minimum qualifications—

(a) be a Kenyan citizen,
(b) attained at least O-Level education, or
(c) five years experience in public administration.

(4) The Village Administrator shall perform the same functions assigned under section 52(3) of the County Governments Act.

(5) The Village Administrator shall submit quarterly reports to the Ward Administrator on service delivery in the village.

Section 8 of the Principal Act which is proposed to amend—

Village Council

8 (1) The Village Administrator shall competitively appoint five village elders to constitute the Village Council under section 53(1)(b) of the County Governments Act, taking into account the principle that not more than two thirds of the members of the Council shall be of the same gender.

(2) The qualification of a village elder shall be provided for in Section 53 (3) of the County Government Act.

(3) The Village Administrator shall ensure that the youth are represented in the membership of the Council.

(4) In appointing the village elders under subsection (1), the Village Administrator shall also endeavor to incorporate the traditional village elders recognized as such in the village to the farthest extent possible.

(5) The Council shall deliberate on matters affecting their village or area of jurisdiction.

Section 12 of the Principal Act which is proposed to amend—

Financial provisions

12 (1) The allowances for the administrators as may be determined by the County Public Service Board, and any funds for the operationalization of this Act shall be drawn from the County Revenue Fund.

(2) The allowances for the village elder as may be determined by the County Assembly on the advice of the County Public Service Board, shall be drawn from the County Revenue Fund.
Section 13 of the Principal Act which is proposed to amend—

Regulations

13 The Governor may prescribe regulations for—

(a) the appointment of village elders,

(b) the procedure for meetings of the Council, and

(c) any other matter that may be necessary for the proper implementation of the Act