

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

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CONTENT

Act—

PAGE

The Tana River County Ward Bursary Fund Act, 2014 1

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**THE TANA RIVER COUNTY WARD BURSARY FUND
ADMINISTRATION ACT, 2014**

No. 2 of 2014

Date of Assent: 1st August, 2014

Date of Commencement: 1st September, 2014

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARIES

1—Short title and commencement.

2—Interpretation

**PART II—ESTABLISHMENT OF THE TANA RIVER COUNTY
WARD BURSARY FUND**

3—Establishment of the fund

4—Establishment of the board

PART III—COMPOSITION OF THE BOARD

5—Functions of the board

PART IV—REMOVAL FROM THE BOARD

6—Removal from the board

7—Functions of the board

8—Conduct of business and affairs of the board

9—Fund administrator

10—Disbursement from the fund

11—Allocation of funds

12—Funds to be retained in the Fund

PART V—ADMINISTRATION OF THE WARD BURSARY FUND

13—Establishment of ward bursary committee

**PART VI—REMOVAL OF A MEMBER FROM THE
COMMITTEE**

14—Removal of a committee member

15—Resolution of removal

PART VII—FUNCTIONS OF THE COMMITTEE

16—Functions of the ward bursary committee

17—Filing of vacancy in the ward bursary committee

18—Submission of ward bursary requests

2014 *Tana River County Ward Bursary Fund Administration*

No. 2

19—Bursary to be publicized and published

20—Report of bursaries

21—Record of bursaries

**PART VIII—COUNTY ASSEMBLY COMMITTEE ON WARD
BURSARY**

22—Establishment of the County Assembly Select Committee

PART IX—MISCELLANEOUS PROVISIONS

23—Offenses and penalties

FIRST SCHEDULE: Regulations

**THE TANA RIVER COUNTY WARD BURSARY
FUND ADMINISTRATION ACT, 2014**

**AN ACT of County Assembly to provide for
Establishment of the Tana River County Ward
Bursary Fund and for connected purposes**

ENACTED by the County Assembly of Tana River, as
follows—

PART I—PRELIMINARY

1. This Act may be cited as the Tana River County Ward Bursary Fund Act, 2014 and shall come into operation not later than 14 days after publication in the County or Kenya.

2. In this Act, except where the context otherwise requires—

“Board” means the County Bursary Fund Board established by section 5(4);

“Chairperson” means the Chairperson of the Board appointed under section 5(4);

“Executive Committee Member” means the Executive Committee Member responsible for Finance and Planning.

“Fund” means the bursary fund established under section (3)

“Bursary” means monetary award to needy and deserving pupils and students towards helping them meet the cost of education;

“Ward” means an electoral unit within a Constituency delimited in accordance with Article 89 of the Constitution or by any other relevant law;

“Ward Bursary Committee” means the committee established in accordance with section 13; and

“Ward Representative” means a County Assembly Member representing a particular Ward.

**PART II—ESTABLISHMENT OF THE TANA RIVER
COUNTY WARD BURSARY FUND**

3. (1) There is established a fund to be known as the County Ward Bursary Fund (in this Act referred to as the “Fund”) which shall be administered by the Board.

2014

Tana River County Ward Bursary Fund Administration

- (2) There shall be paid into the fund—
 - (a) an amount of money not less than 2.5% of the sharable revenue received by the County Government from the National Treasury.
 - (b) any money accruing to the fund as set out in other legislation of the county assembly
 - (c) any moneys accruing to or from any other source; and
 - (d) there shall be paid out of the Fund lawful expenses reasonably incurred by the Board.

4. (1) There is established an executive Board to be known as the Ward Bursary Fund Board.

(2) The Board shall be a body corporate with perpetual succession and common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investments; and
- (d) doing or performing all other acts or things for the proper performance of its function under this Act which may lawfully be done or performed by a body corporate.

PART III—COMPOSITION OF THE BOARD

5. The Board shall be an executive Board of Management which shall consist of—

(1) The Chief Officer of the Department for the time being responsible for Education, Vocational Training and Sports or his/her designated alternate not being below the level of County Director of Education.

(2) The Chief Officer of the Department for the time being responsible for finance and planning for his/her designated alternate, not being below the level of Head of Accounting.

(3) The Clerk of the County Assembly or his/her designated alternate not being below the level of Deputy Clerk.

(4) The Chief Officer for the time being responsible for the administration of the office of the Governor.

(5) The Fund Administrator as appointed by the Executive Committee Member for Finance and Planning.

(6) One member of the Chamber of Commerce appointed by the Executive Committee Member for Finance and Planning with the approval of the Assembly.

(7) Members to be appointed by the county executive committee for finance and planning with the approval of the assembly.

(8) Two heads of schools from either gender appointed by the Executive Committee Member for Finance and Planning with the approval of the Assembly.

(9) One member with disability appointed by the Executive Committee Member for Finance and Planning with the approval of the Assembly.

PART IV—REMOVAL FROM THE BOARD

6. A member of the Board may be removed from office on any of the following grounds—

- (a) lack of integrity;
- (b) gross misconduct;
- (c) gross violation of the Constitution or any statute;
- (d) physical incapacitation or mental infirmity;
- (e) pecuniary embarrassment; and
- (f) failure to attend three consecutive meetings without apology.

7. The Board shall—

(1) Ensure timely and efficient disbursement of funds to the schools of beneficiaries as approved by the Ward Bursary Committee;

(2) ensure efficient management of the Fund;

(3) Perform such other duties assigned by the Executive Committee Member for Finance and Planning with the approval of the County Assembly.

8. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the first schedule.

(2) The quorum of the Board shall be five members.

(3) The Board shall meet not less than twelve times and not more than twenty four times in a year.

9. (1) Pursuant to Section 116 (2) of the Public Finance Management Act, the executive committee member of Finance shall, designate an officer responsible for administering the Funds.

(2) The functions of the Fund Administrator shall be guided by the provisions of the Public Finance Management Act relating to funds and regulations set out in this Act.

10. (1) Each and every disbursement from the Fund shall be approved and minuted by the Board.

(2) All disbursement from the Fund shall be for specific beneficiaries from specific wards in accordance with procedures outlined in this Act.

(3) All disbursement shall be made through cheques written in favour of specific schools or institutions on behalf of qualifying beneficiaries.

(4) Notwithstanding the provision of subsection (3), payments for examination fees, where such fees are not payable directly through a learning institution, cheques shall be made directly to the account of such recognized examination body with due approval of the Board.

(5) The Board shall set out general requirements for the release of funds to ensure efficient and effective management of resources.

11. (1) Subject to enactment of a sharing formula to be approved by the county assembly, the Board shall disburse funds equitably to the wards.

(2) The Fund may receive allocation from provisions arising from other county legislation.

(3) Such additional allocation arising from subsection (2) shall be shared equally among the wards.

12. (1) Unspent funds shall not lapse at the end of the financial year and shall be available for allocation in the next financial year.

(2) Notwithstanding subsection (1), unspent funds by a ward may be reallocated to another ward on the concurrence of the executive committee member for finance and the relevant county assembly committee.

PART V—ADMINISTRATION WARD BURSARY FUND

13. (1) There shall be established a Ward Bursary Fund Committee consisting of—

- (a) two representatives of religious organizations;
- (b) one representative from an educational based institution;
- (c) two persons representing the youth of either gender;
- (d) one village elder;
- (e) a representative of the women;
- (f) a representative of persons living with disability;
- (g) the committee may co-opt another two members representing gender; and
- (h) a teacher from a public secondary school to represent educational institutions.

(2) The ward office manager shall be the secretary to the committee.

(3) The ward representative shall be the patron of the committee.

(4) The committee shall elect the chairperson in its first sitting convened by the patron.

(5) Whenever a vacancy occurs in the Ward Bursary Fund Committee by reason of resignation, incapacitation or demise of a member then the vacancy shall be filled from the same category of persons where the vacancy has occurred.

**PART VI—REMOVAL OF A MEMBER FROM THE
COMMITTEE**

14. (1) A member of the committee may be removed on any one or more of the following—

- (a) lack of integrity;
- (b) gross misconduct;
- (c) gross violation of the Constitution;
- (d) Physical or mental infirmity; and
- (e) Failure to attend three consecutive meetings without apology.

15. (1) A decision to remove a member under Section 14 subsection (1), shall be made through a resolution of at least two-thirds of the members of the committee and the member sought to be removed shall be given a fair hearing before the resolution is made.

(2) Minutes of resolution of a meeting under Sub-Section 1 shall indicate grounds of removal of the member and such other details of the proceedings of the meeting.

PART VII—FUNCTIONS OF THE COMMITTEE

16. The Committee shall—

- (1) Receive, vet and approve Bursary applications and recommend deserving cases to the bursary Board;
- (2) ensure fair and equitable distribution of bursary at the ward.

17. Whenever a vacancy occurs in the Ward Bursary Fund Committee by reason of resignation, removal, incapacitation or demise of a member the vacancy shall be filled from the same category of persons where the vacancy has occurred.

18. (1) The list of bursary requests shall be submitted by the secretary of the Ward Bursary Committee.

(2) The Board shall receive and compile the list of successful bursary applications submitted and submit it to the County Assembly Select Committee for information.

19. The Bursary for each ward shall be publicized by the Board and published to ensure transparency and public accountability in the exercise.

20. The Board shall, on a quarterly basis, submit a report to the County Assembly Select Committee detailing—

- (a) a summary of the bursary funds received and indicating the approval status of the bursaries.
- (b) a summary of the status of the disbursements of fund to the wards for that preceding quarter; and
- (c) a summary of the status of disbursement from the Treasury to the County Account.

21. The Secretary of the Committee in every ward shall compile and maintain a record showing all receipts, disbursements and actual expenditures on a quarterly basis in respect of every disbursement under this Act and shall—

- (a) present such record at a meeting of the Ward Bursary Fund Committee in every quarter; and
- (b) submit a summary of the record for the year to the Ward Bursary Fund Committee not later than thirty days after the end of every financial year.

PART VIII—COUNTY ASSEMBLY COMMITTEE ON WARD BURSARY FUND

22. (1) The County Assembly shall, in accordance with its Standing Orders, establish a select committee consisting of a chairperson and not more than ten other members of the county assembly.

(2) In determining the membership of the County Assembly Select Committee, the County Assembly shall ensure proportionate representation of the County Political Parties.

(3) The procedures and rules for the operations of the County Assembly Committees shall be governed by the Standing Orders of the County Assembly.

(4) The functions of the County Assembly Select Committee shall be—

- (a) to consider and recommend to the County Assembly any matter requiring action by the

County Assembly pursuant to the provisions of this Act;

- (b) to oversee the implementation of this Act; and
- (c) to oversee the policy framework and legislative matters that may arise in relation to the Fund.

23. Any person who misappropriates any funds or assets from the Fund, or assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act, shall be guilty of an offence and shall, upon conviction, be liable to imprisonment for a term not exceeding 5 years or to a fine not exceeding one million shillings (KSh. 1,000,000/=) or to both.

FIRST SCHEDULE PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. The Chairperson or a member of the Board other than *ex officio* members, if any, shall, subject to the provisions of this of this schedule, hold office for a period of three years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two consecutive terms.

2. (1) A member other than an *ex officio* member may—

- (a) At anytime resign from office by notice in writing to the Executive Committee Member responsible for Education, Vocational Training and Sports;
- (b) Be removed from office by the Executive Committee Member responsible for Education, Vocational Training and Sports on recommendation of the board if the member—
 - (i) has been absent from three consecutive meetings of the Board without its permission;
 - (ii) is convicted of a criminal offence that amounts to a felony under the laws of Kenya;
 - (iii) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
 - (iv) is otherwise unable or unfit to discharge his functions.

(2) The Chairperson shall not be removed from office unless such removal is in accordance with subparagraph (1).

3. (1) The Board shall meet not less than six and not more than eighteen times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding subparagraph (1), the Chairperson may, and upon requisition in writing by at least three members, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of business of the board shall be four members.

(5) The Chairperson shall when present, preside at every meeting of the Board but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members presents and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provision of this schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meeting and may make standing orders in respect thereof.

4. (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the Chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

5. (1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably

practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the board who contravenes subparagraph (1) shall cease to be a member of the Board upon direction of the County executive committee member.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

7. (1) The common seal of the Board shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson, The Executive Committee Member responsible for Finance and Planning and one member nominated by the Board and any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson, The Executive Committee Member responsible for Finance and Planning and that member nominated by the Board.

(3) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.

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