

Bomet County Gazette Supplement No. 7 (Acts No. 3)



REPUBLIC OF KENYA

**BOMET COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2014

NAIROBI, 3rd October, 2014

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

**THE BOMET COUNTY ASSEMBLY SERVICE
ACT, 2014**

Date of Assent: 21st July, 2014

Date of Commencement: 3rd October, 2014

ARRANGEMENT OF CLAUSES

Clause

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THE BOMET COUNTY ASSEMBLY SERVICE ACT, 2014

AN ACT of the County Assembly to make provision for the County Assembly Service and the County Assembly Service Board as established under the County Government Act, 2012 and for connected purposes

ENACTED by the County Assembly of Bomet, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Bomet County Assembly Service Act, 2014.

Short title and
commencement

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

Interpretation

“Board” means the County Assembly Service Board established under section 12 of the County Government Act;

“chairperson” includes the vice-chairperson or any other member of the Board when discharging the functions of the chairperson;

“Clerk” means the Clerk of the County Assembly appointed under section 13 of the County Government Act;

“Fund” means the County Assembly Fund established under section 18;

“member” in relation to the Board, includes the chairperson and the

vice-chairperson of the Board;

“office”, in relation to the Service, means a paid office as an employee of the Service, not being the office of a member of the Board, or a part-time

office, or an office the emoluments of which are payable at an hourly or daily rate;

“officer” or “employee” means any person who holds or acts in any office of the Service otherwise than as a part-time officer or employee;

“County Assembly Service Code of Conduct” means the code of conduct prescribed under section 5;

“County Assembly Service values” means the values specified in or under section 4;

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“secretary” includes any other officer when discharging the functions of the secretary;

“Service” means the County Assembly Service established under this Act;

“services and facilities” includes all means by which members of the

County Assembly are officially assisted in performing their legislative duties;

“Speaker” means the Speaker of the County Assembly or, where appropriate, the Deputy Speaker.

PART II – THE COUNTY ASSEMBLY SERVICE

3. (1) The Service shall be an institution of exemplary administrative and technical competence.

Nature of the
County Assembly
Service

(2) Subject to the Constitution, in the performance of their functions, employees of the Service shall not seek or receive directions from any source external to the Service.

(3) Every member of the County Assembly shall respect the non-partisan and apolitical character of the Service and shall not seek to influence employees of the Service in the discharge of their functions.

4. The Service shall uphold the following values—

County Assembly
Service values

- (a) the promotion of democracy and the rule of law;
- (b) the fostering of patriotism, peace and national unity;
- (c) the provision of non-partisan and impartial advice and services to the County Assembly, its committees and its members;
- (d) the maintenance of the highest ethical standards;
- (e) the maintenance of honesty, accountability and integrity in the delivery of services, having regard to the principles of political neutrality, professionalism, economy, efficiency, equality and fairness, courtesy and discipline;
- (f) the provision of a workplace that is free from discrimination, recognizes the diverse

backgrounds of the Service employees and promotes national integration;

- (g) the maintenance of the spirit of co-operation in the workplace based on consultation and communication;
- (h) the provision of a fair, flexible, safe and rewarding workplace;
- (i) the inspiration of public confidence in and respect for the institution of the County Assembly;
- (j) the fostering of understanding and co-operation among the organs of the County government of Bomet, to wit, the County Assembly and the County Executive in the context of their autonomy and complementarity; and
- (k) such other values as the Board may, from time to time, prescribe.

5. (1) The Board may, from time to time, prescribe a County Assembly Service Code of Conduct.

County Assembly
Code of conduct

(2) Without prejudice to the provisions of any Code of Conduct prescribed under subsection (1), employees of the Service shall, in the course of employment—

- (a) at all times conduct themselves in a manner that promotes the image and interests of Bomet County;
- (b) conduct themselves with honesty and integrity and act with care and diligence;
- (c) use the resources of Bomet County conscientiously and combat corruption and misuse or wastage of public property;
- (d) respect and observe the law of the land and co-operate with all lawful agencies in the maintenance of law and order;
- (e) treat all persons with respect and courtesy and, in particular, protect persons with disabilities and other vulnerable groups against any form of abuse, harassment or ill-treatment;
- (f) promote gender equality and respect for the rights and freedoms of others;

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- (g) preserve and protect the environment and national heritage;
- (h) comply with any lawful and reasonable direction given by any person in the Service having authority to give such direction;
- (i) maintain appropriate confidentiality about their dealings with the County Assembly, its committees, its members and its staff (including employees of members, if any);
- (j) disclose, and take reasonable steps to avoid, any conflict of interest (real or apparent) in connection with the Service;
- (k) not provide false or misleading information in response to a request for information that is made for official purposes;
- (l) not make improper use of—
 - (i) any information obtained through or in connection with their office and which is not yet made available to the public; or
 - (ii) their duties, status, power or authority, in order to gain, or seek to gain, a benefit or advantage for themselves or for anyone else;
- (m) conduct themselves in a manner that upholds the letter and spirit of the values and the integrity and good reputation of the Service;
- (n) while on duty outside the County Assembly, conduct themselves in a manner that promotes the good image of Bomet County Assembly; and
- (o) comply with any other requirements of conduct as may be prescribed by the Board.

6. The County Assembly Service values and the County Assembly Service Code of Conduct provided for in sections 4 and 5 shall be in addition to, and not in derogation from, any others that may be specified by or under any other written law in relation to the citizens of Kenya generally.

Complementarity
of values and code
of conduct

PART III – THE COUNTY ASSEMBLY SERVICE BOARD

7. The County Assembly Service Board shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

Incorporation of
the Board

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

8. (1) The membership of the Board shall be in accordance to section 12 of the County Government Act, 2012.

Composition of
the Board

9. (1) There shall be such number and types of departments and such categories and classifications of staff under the Service as the Board may, from time to time determine.

Creation of
departments

(2) The Board may from time to time—

- (a) allocate functions to any department of the Service;
- (b) make such arrangements as appear to the Board expedient in connection with the creation, division, amalgamation or abolition of any department of the Service.

10. The Board shall prescribe a scheme of service setting out the terms and conditions for the appointment of the officers and other staff of the Service which shall provide for—

Scheme of service

- (a) the appointment and confirmation of appointment of officers and other staff;
- (b) promotions, resignations and termination of appointments;
- (c) the scales of salaries and allowances; and

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- (d) the designation and grades of officers and staff.

11. (1) The Board—

Social security
scheme

- (a) shall establish a non-contributory pension scheme for all its employees;
- (b) may establish or adopt a contributory optional superannuation, provident or medical fund or other scheme for its employees and may grant pensions, gratuities, retiring allowances or sickness or injury benefits to any employee.

(2) The provisions of this section shall come into operation on such date as the Clerk may, by notice in the *Gazette*, appoint.

12. (1) The chairperson shall convene a meeting of the Board at least once every fortnight.

Quorum

(2) The chairperson may at any time convene a special meeting of the Board, and shall do so within seven days of the receipt by him of a written requisition therefor signed by at least two members.

(3) The quorum for a meeting of the board shall be three members.

(4) A member of the Board other than an *ex officio* member may be removed from office in accordance with section 12 of the County Government Act.

PART IV—THE CLERK AND OTHER STAFF

13. (1) The Clerk shall be—

Status and general
functions of the
Clerk

- (a) the head of the management of the County Assembly Service and secretary to the Board;
- (b) responsible to the chairperson and the Board for the general working and efficient conduct of the business of the Service.

(2) The Board may delegate to the Clerk such of its functions as are necessary to carry out the day to day management of the Service, and subject to such directions as may be given by the Board, to direct and supervise the acts of all employees and agents of the Service.

(3) The Clerk may, in consultation with the Board, assign or delegate the functions under this section to any employee of the Service.

14. (1) The procedural functions of the Clerk shall include—

Procedural
functions of the
clerk

- (a) rendering expert, non-partisan and impartial advice to the members of the County Assembly on legislative procedure and practice;
- (b) carrying out such other duties and exercising powers as may be conferred on him by law or by the standing orders and practices of the County Assembly.

(2) In carrying out the functions specified in subsection (1), the Clerk shall be assisted by the Deputy Clerk and such other officers of the Service as may be necessary.

(3) Subject to this Act and any other written law, the Clerk shall, in carrying out and exercising the power conferred on him by the standing orders and practices of the County Assembly, be under the direction of the Speaker.

(4) At any time when the office of the Speaker is vacant or the holder of the office is unable for any reason to carry out the duties and exercise the powers and functions of his office, the Clerk shall, during that period and in relation to the carrying out of the duties and exercise of the powers and functions referred to in this section, be under the direction of the Deputy Speaker or any such person acting for the time being as Speaker.

15. If the office of Clerk is vacant, or if for any reason the Clerk is unable to exercise the functions of his office, the Deputy Clerk or any other person for the time being performing the duties of the Clerk pursuant to the standing orders of the County Assembly or by direction of the Speaker shall have and may exercise all the functions, duties and powers of the Clerk.

Vacancy in the
office of the clerk

16. The manner prescribed for the suspension or removal of the Clerk of the National Assembly shall, with necessary modifications, apply to the Clerk.

Removal of the
clerk from office

17. (1) An employee shall retire from the Service on attaining the age of sixty years:

Retirement and
resignation of an
employee

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Provided that the Board may re-engage ~~him~~ on contract for a single term not exceeding two years.

(2) An employee may—

- (a) after attaining the age of fifty years, elect to retire from the Service at any time; or
- (b) in such manner as may be provided under this Act, resign from the Service at any time.

(3) The Board may, in such manner and for such reasons as may be prescribed under any written law, require an employee to retire from the Service at any time.

PART V—FINANCIAL PROVISIONS

18. (1) There is established a fund to be known as the County Assembly Fund.

County Assembly
Fund

(2) There shall be paid into the Fund—

- (a) such moneys as may, from time to time, be provided by the County Assembly;
- (b) such moneys as may be borrowed by the Board on such terms and for such purposes as the Board may determine;
- (c) any moneys accruing to or received by the Board from any other source.

(3) There shall be paid out of the Fund all payments in respect of any expenses incurred in pursuance of the provisions of this Act.

(4) The Board may, with the approval of the County Assembly signified by resolution, establish such other funds as it may deem necessary.

19. The Board shall open and maintain such bank accounts as are necessary for the exercise of its functions.

Bank accounts

20. (1) At least three months before the commencement of each financial year, the Clerk shall cause to be prepared, estimates of all the expenditure required present such estimates to the for the purposes of this Act for that year and shall Board for review.

Estimates

(2) The Board shall review the estimates forwarded under subsection (1) and may make such alterations thereto

as it may deem appropriate and shall thereafter agree upon those estimates.

(3) The chairperson of the Board shall dispatch a copy of the estimates agreed upon by the Board under subsection (2) to the committee responsible for matters relating to Finance in the County Assembly.

(4) The chairperson of the committee responsible for finance or some other member thereof authorized by the committee in that behalf shall table a report before the County Assembly on the estimates of the Board for consideration and approval by the County Assembly.

(5) Upon the approval of the estimates presented to the County Assembly Act shall be paid from the County Fund into the County Assembly Fund.

(6) The estimates forwarded under subsection(1) must comply with the provisions under the Public Finance Management act,2012 or any other written law in relation to public funds

21. (1) The Clerk shall ensure that proper books and records of accounts of the Board are kept and maintained.

Accounts and
audit

22. Members of the Board shall receive such allowances as may be advised by the Salaries and Remuneration Commission.

Remuneration of
Board members

PART VI—MISCELLANEOUS PROVISIONS

23. Within two months after the end of each calendar year, the Board shall prepare and lay before the County Assembly, a report of its operations during the previous year.

Annual report

24. A member of the Board (not being the chairperson) authorized by the Board in that behalf may—

Designated
member may
present
documents, etc.,
in the Assembly

(a) lay before the County Assembly any document or other matter;

(b) reply to a question relating to the affairs of the Board.

25. (1) The members of the Board shall, on first appointment, take an oath in the form prescribed in the First Schedule.

Oath of office

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(2) The secretary and such other officers (including persons engaged by the Board, shall, on first appointment, take an oath in the form prescribed in the Second Schedule to this Act.

(3) Where any person required to take an oath has no religious belief or the taking of such oath is contrary to his religious belief, he may make and subscribe a solemn affirmation in the form of the oath appointed substituting the words **“solemnly and sincerely declare and affirm”** for the word **“swear”** and omitting the words **“So help me God”**.

(4) Every oath or affirmation taken by the chairperson shall be administered by the secretary and every oath or affirmation taken by any other member or the secretary shall be administered by the chairperson:

Provided that every oath or affirmation taken by any other officer shall be administered by the secretary.

26. The Board or any committee thereof may, subject to section 28, order any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of that person.

Attendance of witnesses

27. Every person summoned to attend to give evidence or to produce any paper, book, record or document before the Board or a committee thereof shall be entitled, in respect of that evidence or the disclosure of any communication or the production or any paper, book, record or document to the same right or privilege as before a court of law.

Privileges of witnesses

28. (1) A member or an officer of the Board or any person employed to take minutes or evidence before the Board or any committee shall not give evidence elsewhere in respect of the contents of those minutes or evidence or of the contents of any document laid before the Board or that committee or in respect of any proceedings or examination held before the Board or that committee without special leave first obtained from the chairperson.

Mode of giving evidence

(2) The special leave referred to in subsection (1) may be given by the vice chairperson in the absence or other incapacity of the chairperson.

29. Any act or thing done by any member of the Board or by any officer or servant of the Board shall not, if the act or thing was done *bona fide* for the purposes of carrying out this Act into effect, subject him personally to any liability, action, claim or demand whatsoever.

liability

30. A person shall not in any legal proceedings be permitted or compelled to produce or disclose any communication, written or oral which has taken place between the Board or any member or officer of the Board, in the exercise of, or in connection with the exercise of, the function of the Board unless the chairperson consents in writing to such production or disclosure.

Privileged communication

31. Any person who—

Offences and penalties

- (a) in connection with an application by himself or any other person for employment, appointment or promotion in the Service, or in connection with any matter on which it is the duty of the Board to require information or evidence, or into which it is the duty of the Board to inquire, wilfully gives to the Board or to any member thereof any information which is false or misleading in any material particular; or
- (b) without the consent in writing of the chairperson, publishes or discloses to any unauthorized person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which has come to his knowledge in the course of his duties under this Act, and any person who knowingly acts in contravention of this paragraph; or
- (c) having possession of any information which to his knowledge has been published or disclosed in contravention of paragraph (b) of this section, publishes or communicates to any other person otherwise than for the purpose of any prosecution under this Act or in the course of his duty any such information; or
- (d) otherwise than in the course of his duty, directly or indirectly by himself or by any other person in any manner whatsoever influences or attempts to

influence any decision of the Board or of any member thereof; or

- (e) disobeys any order made by the Board or a committee for attendance or for production of papers, books documents or records; or
- (f) refuses to be examined before, or to answer any lawful and relevant question put by, the Board or a committee, commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings, or to imprisonment for a term not exceeding one month, or to both:

Provided that nothing in paragraph (d) of this section shall prohibit any person from giving a certificate or testimonial to any applicant or candidate for the Service or supplying any information or assistance upon formal request made by the Board.

32. (1) The Board may, in such manner as it deems fit, make provision for examinations and appoint such selection, promotion or other committees as it deems necessary for the proper discharge of its functions.

Other committees

(2) A committee appointed under subsection (1) may wholly or in part consist of persons who are not members of the Board.

33. (1) The Board may make regulations for prescribing anything required by this Act to be prescribed and generally for the better carrying out of the purposes of this Act.

Regulations

(2) Without prejudice to the generality of subsection (1), regulations under this Act may provide for—

- (a) the conduct of the business of the Board;
- (b) the administration and management of the services and facilities;
- (c) the terms and conditions of service, pension and other retirement benefits of employees;
- (d) the measures for the discipline of employees;
- (e) the financial procedures of the Board;
- (f) the orientation and training of members of the County Assembly and employees;

(g) the security of members of the County Assembly;

(h) the general welfare of members of the County Assembly and employees

(3) All regulations made under this section shall be laid before the County Assembly.

TRANSITIONAL PROVISION

34. On the effective date, any person who had, before the commencement date, taken and subscribe an oath or affirmation of office or who is required to take and subscribe an oath or affirmation of office under this act, shall take and subscribe the appropriate oath or affirmation under this act.

Oath and
Affirmation

FIRST SCHEDULE

[Section 26(1).]

OATH/AFFIRMATION OF MEMBER OF THE COUNTY ASSEMBLY BOARD

I.....having been appointed to exercise the functions of the chairperson/ vice chairperson/member of the Bomet county assembly Board do swear/solely and sincerely declare and affirm that I will without fear or favour, affection or ill will discharge the functions of the office of Chairperson/Vice-Chairperson/ Member of the County Assembly Board, and I will not directly or indirectly, reveal any matter relating to such function to unauthorized persons or otherwise than in the course of my duty. SO HELP ME GOD.

Sworn/ Declared by the said

Before me thisday of.....

.....

*Chairperson/ Secretary
County Assembly Board.*

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Bomet County Assembly Service**SECOND SCHEDULE**

[Section 26(2).]

**OATH/AFFIRMATION OF OFFICER OF THE COUNTY
ASSEMBLY BOARD**

I....., being called upon to exercise the function of secretary/ Officer[other] of the Bomet County Assembly Board, do swear/ solemnly and sincerely declare and affirm that I will not directly or indirectly reveal to any unauthorised person or otherwise than in the course of duty the contents or any part of the contents of any document, communication or information whatsoever which may come to my knowledge in the course of my duties as an officer of the Board. SO HELP ME GOD.

Sworn/ Declared by the said

Before me this day of.....

.....

*Chairperson/ Secretary
County Assembly Board.*

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