

SPECIAL ISSUE

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REPUBLIC OF KENYA

***BOMET COUNTY GAZETTE
SUPPLEMENT***

ACTS, 2014

NAIROBI, 28th July 2014

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COUNTY ASSEMBLIES FORUM (CAF)

P. O. Box 73552 - 00200,

NAIROBI, KENYA

**THE BOMET COUNTY COORDINATION OF GOVERNMENT
FUNCTIONS ACT, 2014**

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**THE BOMET COUNTY COORDINATION OF GOVERNMENT
FUNCTIONS ACT, 2014**

(No. 8 of 2014)

[Date of Assent: 21st July 2014]

[Date of Commencement: 21st July 2014]

AN ACT of County Assembly to establish an administrative and institutional framework for co-ordination of government functions; to give effect to Articles 176 (2), 179 (1), (2) & (4), 183(1)(c) 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 Bomet, as follows—

Short title and
commencement.

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

Interpretation.

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 Bomet;

Accessibility of
government services.

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.

Powers of the
Governor remain
unaffected.

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

Powers of the Governor in co-ordination of county government functions.

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.

The office of the governor.

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 as shall be necessary for the effective and efficient co-ordination of county government functions.

The executive committee.

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.

Individual and collective responsibility of the executive member.

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.

Executive office.

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.

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

Chief Officers.
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10. (1) In accordance with section 45 (3) of the County Governments Act, a chief officer shall be responsible to the respective executive committee member for the administration of a department.

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(2) The Governor may, in accordance with Section 45 (1) of the County Governments Act, appoint such number of Chief Officers as may be necessary for the effective discharge of the government functions.

Powers of the
governor to establish
Committees.

11. (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

Service delivery co-ordination units.

12. 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—

provided that where a ward traverses certain urban area designated as such under paragraph (g) the ward shall not include such designated urban areas;

- (c) the zone established under this Act, headed by a community Administrator;
- (d) the area established under this Act headed by a area administrator;
- (e) a village headed by a village elder appointed under section 22;
- (f) area council headed by the area administrator and five elders representing five villages appointed under section 22; and
- (g) such other areas as may be designated by the Governor.

Establishment of zones, areas and villages.

13. (1) There is established the zones, areas and villages to be service delivery units for the government in accordance with the criteria provided for under this section.

(2) The community shall determine the demarcation and delimitation of zone, area and village boundaries.

(3) The Ward administrator shall preside over the formation of zones, areas and villages.

(4) The criteria for formation of zones, areas and villages may be such that a population of at least ten thousand people forms a zone and a population of at least three thousand people shall form an area:

Provided that each ward shall have at least two and not more than three zones, six areas and five villages in an area.

(5) In determining the zones, areas and villages, the community shall consider—

- (a) community of interest;
- (b) geographical features;
- (c) mode of infrastructure; and
- (d) commonly shared facilities.

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

Recruitment and
appointment
of government
administrative
officers.

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

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

- (a) a chief officer administration;
- (b) a director, administration
- (c) a sub-county administrator in respect of every sub-county;

- (d) a ward administrator;
- (e) a community administrator in respect of every zone;
- (f) community secretary in respect of every zone; and
- (g) one area administrator in respect of every area.
- (h) 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.

Office of the
Chief Officer
Administration.

15. (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 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 Governor.

Office of the sub-
county administrator.

16. (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 County Government 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.

Office of Ward
administrator.

17. (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) coordination 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.

Office of Community
Administrator.

18. (1) There is established for each zone the office of the Community Administrator.

(2) The Community 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.

(3) The Community administrator shall coordinate, manage and supervise the general administrative functions in the zone 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) coordination 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 Community administrator shall be responsible to the Ward administrator.

Community Secretary

19. (1) There shall be a Community Secretary for each zone.

(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 community administrator and area administrator.
- (b) advise the meetings on points of law;
- (c) be the custodian of records of all the meetings; and
- (d) undertake any other function as he may be assigned by the Ward administrator.

Office of the Area administrator.

20. (1) There is established for each area the office of the Area administrator.

(2) The Area 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.

(3) The Area administrator shall coordinate, manage and supervise the general administrative functions in the area 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) coordination and facilitation of citizen participation in the development of policies, plans and delivery of services.

Provisions of Chapter
Six to apply.

21. The provisions of Chapter Six of the Constitution shall apply with respect to the recruitment of the administrators under this Act.

Area council.

22. (1) There is established, for each area unit, an area council comprising—

- (a) the area administrator who shall be the chairperson of the area council; and
- (b) not less than three and not more than five village elders competitively recruited and appointed by the County Secretary taking into account gender, youth, religious representation and disability.

- (2) An area 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 area 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**

Constitution of mediation team.

23. (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 then 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.

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PART VI—MISCELLANEOUS PROVISIONS

Powers of a government administrative officer.

24. 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 written law.

Functions of county government administrative officers.

25. 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 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.

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Scheme of service
for administrative
officers.

26. The county secretary shall, on the recommendation of the County Public Service Board, prescribe a scheme of service for the government administrative officers.

Protection from
personal liability.

27. 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.

Regulations.

28. 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.

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