

SPECIAL ISSUE

Elgeyo/Marakwet County Gazette Supplement No. 2 (Bills No. 2)



REPUBLIC OF KENYA

**ELGEYO/MARAKWET COUNTY
GAZETTE SUPPLEMENT**

BILLS, 2014

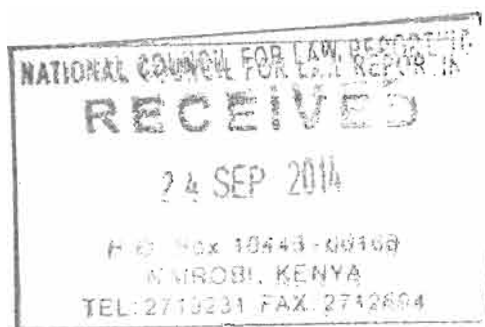
NAIROBI, 3rd March, 2014

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

**THE ELGEYO MARAKWET COUNTY ASSEMBLY
(WARD OFFICES) BILL, 2014**

A Bill for

AN ACT of Elgeyo Marakwet County Assembly to provide for the establishment of the Elgeyo Marakwet County Assembly Service Ward Offices, the procedure for the management thereof, recruitment of ward offices employees and for other connected purposes

ENACTED by the Parliament of Kenya, as follows—

1. This Act may be cited as the Elgeyo Marakwet County Assembly (Ward Offices) Bill, 2014 and shall be deemed to have come into operation on the 1st July, 2013

Short title.

2. In this Act, unless the context otherwise requires “authority to incur expenditure” means a delegated responsibility by the Clerk to the Ward Office Assistant to enable the manager authorize expenditure;

Interpretation

“bank account” means an account opened at a commercial bank for the purpose of running a ward office;

“Clerk” means the Clerk of the County Assembly appointed under section 13 of the County Government Act, 2012;

“Board” means the Elgeyo Marakwet County Assembly Service Board established under section 12 of the County Government Act, 2012;

“Ward” means one of the wards into which the Elgeyo Marakwet County is divided under section 26 of the County Government Act, 2012 or a single member ward established under Article 89 of the Constitution of Kenya.

“Ward office” means an office set up by a Member within the ward he/she represents in accordance with this Act;

“Ward Office Assistant” means a staff employed by a Member to perform duties specified under section 28 of this Act;

“Ward Office Support Staff” means a staff employed by a Member to perform duties specified under section 28 of this Act;

“Direct financial interest” means a case where a Member is part of or co-owner of a building where the ward office is located;

“Landlord” for purposes of this Act includes landlady;

“Member” means an elected Member of County Assembly;

“Member’s home” means any place, house, building or shelter which is ordinarily used by a Member within the ward as his/her home;

“Chief Officer” means a public officer appointed by the Governor pursuant to section 45 of the County Government Act, 2012;

“Speaker” means the Speaker of the County Assembly elected pursuant to Article 178 of the Constitution of Kenya;

“Staff” means an employee or employees of a Member working for the member in the ward office; and

“The Assembly” means the County Assembly.

PART II-OFFICE RENTAL/CONSTRUCTION

3. (1) Upon the gazettelement of an elected Member of County Assembly, the Clerk shall, for the purpose of facilitating the opening of an office for the member, write to the Chief Officer responsible for the County Department of health, public works and lands respectively, to

Initiating/
opening of an
office

- (a) inspect and verify that an office identified by a member is fit for human habitation and meets basic public health standards and requirements;
- (b) confirm that the office building is structurally sound; and
- (c) assess the value of the office through a qualified property valuer to confirm the market renting price for such an office.

4. A Member shall, subject to the fulfillment of the provisions of Section 3, forward a lease agreement together with the relevant letters from County Department of Public Works, Health and Lands to the Clerk for custody.

Custody of Lease
Agreement.

5. (1) Renting of offices shall not be permitted where the proposed office is—

Restriction on where to open an office.

- (a) in a building owned by a Member;
- (b) in a building where the Member has direct financial interest; and
- (c) in the Member's home.

6. The signage for a ward office shall indicate the name of the ward first then followed by the name of the Member.

The Signage

7. The rented office space for a ward shall be as reasonably necessary so long the rent thereof does not exceed KSh. 15,000 per month.

Maximum office space.

8. The Member of the County Assembly, where necessary, shall sign a lease agreement with the landlord or agent before occupying the office and shall be responsible for the accuracy of all the information contained in the lease agreement.

Signing of the lease agreement.

9. The Ward Office Assistant shall ensure there is sufficient security for the ward Office premises and, at least, one guard may be employed for that purpose.

Ensuring security.

10. (1) Any complaint regarding the misuse of a ward office shall be reported to the Member in writing and the general public may also direct such complaints in writing to the Board.

Reporting complain on misuse of office.

(2) Upon receipt of any complaint pursuant to sub section (1), the Board shall investigate the complaints and take action as it deems appropriate.

11. In the event of construction of a ward office, the Assembly shall ensure that—

Construction of Ward office.

- (a) the office is built on public land; and
- (b) the process of procurement of goods and services for the construction of the office is in line with Government procurement procedures and financial regulations.

PART III—FINANCIAL PROVISIONS

12. The Ward Office Assistant shall purchase office supplies as may be necessary to effectively run the ward office.

Procurement procedures.

13. At the commencement of every financial year, the

Source of Finance.

Ward Office Assistant shall be issued with an Authority to Incur Expenditure by the Clerk for the approved budget in respect of that ward for that financial year and an initial amount shall be credited to the account of the ward opened as specified in Section 17.

14. The Ward Office Assistant shall ensure that the money available to the office pursuant to Section 13 is spent prudently and in conformity with existing Government financial regulations to facilitate quick, efficient and effective delivery of services.

Procurement and expenditure.

15. At regular intervals, supporting documents for expenditure incurred shall be lodged with the Clerk for reimbursement

Reimbursement

16. No reimbursement pursuant to regulation 15 shall be effected before the Ward Office Assistant properly accounts for the expenditure incurred on the disbursed funds.

Accounting for reimbursement funds.

17. An account approved by the Board shall be opened for every ward with a reputable commercial bank at the nearest location from the ward office.

Opening of a bank account.

18. The signatories to the account opened pursuant to regulation 17 shall be:

Signatories of Cheques.

(a) the Ward Office Assistant whose signature shall be mandatory;

(b) two signatories appointed by the member for that purpose.

19. (1) Copies of bank statements and any other financial records from every ward office shall be availed to the Clerk at the end of every month.

Bank Statements.

PART IV—STAFFING OF WARD OFFICES

20. A member shall employ a Ward Office Assistant and other staff as the member shall require subject to the ceiling of staff salaries approved by the Board and budgeted for.

Ward Office Staff.

21. (1) A Member shall initiate recruitment of all the ward office staff and determine their terms of employment and salary scales.

Recruitment of staff.

(2) The staff recruited pursuant to this Section shall not hold any post in a political party.

(3) Notwithstanding the provisions of subsection (1), the staff recruited shall not be paid house allowance, overtime allowance or any honorarium and shall not be entitled to any gratuity at the end of contract period.

22. The terms of service for ward staff employees shall be a maximum of five years contract and tied to the political term of the member appointing them.

Terms of Service

23. Each staff shall sign a contract in three counterparts with the Member retaining one, the staff the other and the last one being submitted to the Clerk.

Custody of
Contract
documents

24. (1) At the expiry of a contract, three months salary in lieu of notice shall be paid to the staff.

Expiry of
Contract

(2) A staff may at any time give one months' notice before vacating his employment, or surrender one months salary in lieu of notice.

25. (1) Each staff shall be entitled to twenty-one working days as annual leave and shall in that respect be entitled to a leave allowance to be determined by the Board.

Leave entitlement

(2) The official working days and hours for the ward staff shall conform to those of officers working in the public service in the local jurisdiction.

26. When a member ceases to be the representative of a ward either after an election, or in any other manner, the contract signed between the member and the staff at the ward office shall become void.

Severance
Procedures

27. (1) The Ward Office Assistant shall possess a post-secondary school training, preferably a university degree or its equivalent in addition to having a good understanding of Government procedures and local problems.

Qualifications

(2) All other Ward Office Support Staff shall—

- (a) have basic education; and
- (b) be fluent in English and Kiswahili and the local vernacular language as appropriate.

28. (1) It shall be the responsibility of the Ward Office Assistant to—

Duties or
Responsibilities
of Ward staff.

- (a) provide administrative and institutional support to a member;

- (b) keep the member well informed about the transactions of the ward bank account established under Section 17;
- (c) conduct official correspondence;
- (d) prioritise incoming mail and enquiries;
- (e) undertake general office management; and
- (f) maintain a members diary at the ward office by recording all major ward events that require the members attention.

(2) The Ward Office Support Staff shall perform such duties as shall be assigned to them by the Ward Office Assistant from time to time.

PART V—HANDING OVER OFFICES

29. When the office of a Member falls vacant, the Ward Office Assistant shall be responsible for running the ward office until a new member is elected.

Transit period
between sitting
members

30. Any outgoing Member shall vacate the ward office within seven working days after the gazettelement of the new member.

Period of vacating
office

31. The cost for transporting personal papers and effects of a Member who has ceased to be the representative of a particular ward shall be the responsibility of the outgoing Member.

Removing
Personal effects
from the office.

32. (1) The Board shall pay all expenses including rent, telephone, power and lighting, water and other incidental costs relating to a ward office for one (1) month after a Member vacates his seat.

Assistance during
transition.

(2) If a Member resigns, all the payments to the ward office shall cease with effect from the date the Speaker receives the letter of resignation from the member.

Accounting for
Board property.

(3) Photocopying and postal privileges including use of franking stamp in respect of a ward office shall continue for one month after the election day.

Handing over
report.

33. It shall be the responsibility of the outgoing Member and his or her Ward staff to fully account for Board property in the ward office, including the bank account transactions within one month of the gazettelement

Finalizing
handing over.

of a new Member.

34. The returns specified in section 33 shall be signed by the ward office assistant and handed over to the Clerk or his appointed representative within 30 days of the swearing in of Members of County Assembly.

35. The Clerk shall satisfy himself that all the handing over procedures have been fully complied with before making last payments of salaries and allowances, if any, to the out-going Ward Office Assistant and other staff.

PART VI—MISCELLANEOUS PROVISIONS

36. (1) The County Assembly Service Board may make regulations, not inconsistent with this Act respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act.

Powers of the
County Assembly
Service Board.

(2) Regulations under subsection (1) shall not take effect unless approved by a resolution passed by the Assembly.

(3) Regulations approved under subsection (2) shall take effect on the day after the date the Assembly has approved them or, if a later date is specified in the regulations, on that date.

(4) If the Assembly does not make a resolution either approving or rejecting any Regulations within twenty one sitting days after submission to it for approval, the Assembly shall be deemed to have approved those regulations on that 21st sitting day.

37. The Elgeyo Marakwet County Assembly Service (Ward Offices) Regulations, 2013 which was adopted by the Assembly and came into effect on the 30th June, 2013 stand repealed upon the coming into effect of this Act.

Repeal of some
Regulations.

MEMORANDUM OF OBJECTS AND REASONS

To allow for effective discharge of duties by ward members, they require adequate office space and assisting staff. This bill seeks to provide mechanisms of contracting space, construction, financial provision and management of ward office staff.

Part I of the Bill provides for citing, interpretation and general provisions.

Part II provides for office rental or construction of ward offices and lays down guidelines and conditions on how property can be leased or constructed, from who it can be leased and outlines the custodian of lease agreements.

Part III provides for financial procedures in the ward offices. It sets guidelines of how expenditure is managed i.e who the signatories of accounts are and who approves expenditure. It also provides for an elaborate system for reporting and accountability.

Part IV provides for staffing of ward offices. This part sets out guidelines on how recruitment is done, who determines remuneration of ward officer staff, qualifications of such staff, their entitlement and procedure to be followed when staff term comes to an end.

Part V provides for handing over of the offices. This part gives guidelines on what takes place during the transition period when a Member vacates office and before another Member takes over and who takes care of transition expenses and for what duration.

Part VI provides for the miscellaneous provisions and more particularly the powers of the County Assembly Service Board and respect of certain regulations.

Dated the 24th February, 2014.

BENSON KIPTIRE,
*Chairman, Administration,
Justice and County Security Committee.*

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