

SPECIAL ISSUE

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COUNTY ASSEMBLIES FORUM (CAF)
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REPUBLIC OF KENYA

***MANDERA COUNTY GAZETTE
SUPPLEMENT***

ACTS, 2014

NAIROBI, 3rd October 2014

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THE MANDERA COUNTY ADMINISTRATION ACT, 2014
No. 8 of 2014



Date of Assent: 29th September, 2014

Date of Commencement: 3rd October, 2014

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THE MANDERA COUNTY ADMINISTRATION ACT, 2014

AN ACT of the County Assembly of Mandera to provide for the structure of the County Government Administration and the delineation and establishment of settlement, sub-village, villages and decentralized units to give effect to the provisions of devolution under the County Governments Act, 2012 and Paragraph 14 of Part II of the Fourth Schedule to the Constitution and for related purpose

ENACTED by the County Assembly of Mandera as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Mandera County Government Administration Act, 2014 and shall commence on the fourteenth day after the assent by the Governor or the publication in the County Gazette, whichever comes earlier.

Short title and commencement.

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

“county government administration” means a system of Government, not being of the National Government established under this Act;

Interpretation.

“governor” means a County Governor for Mandera County elected in accordance with Article 180 of the Constitution;

Act No. 17 of 2012.

“the deputy governor” means a person nominated by the Governor as Deputy Governor for Mandera County in the run up to the elections and duly elected in accordance with Article 180 (5) and (6) of the Constitution;

“county executive” means the executive arm of the County Government established in accordance with Part V of the County Governments Act, 2012;

“constitution” means the Constitution of Kenya, 2010;

“executive member for public service” means a the County Executive Member responsible for Public Service;

“sub-county administrator” means a person appointed under this Act to be in charge of the administration of a sub-county;

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“town administrator” means a person appointed under the Town Act to be in charge of the administration of a town;

“ward administrator” means a person appointed under this Act to be in charge of the administration of a ward;

“village administrator” means a person appointed under this Act to be in charge of the administration of a village;

“sub-village administrator” means a person appointed under this Act to be in charge of the administration of a sub-village;

“settlement administrator” means a person appointed under this Act to be in-charge of the administration of a settlement;

“sub-county” means a unit of administration within the County created in accordance with this Act;

“ward” means a unit of administration within the sub-County created in accordance with this Act;

“village” means a unit of administration within the ward created in accordance with this Act;

“sub-village” means a unit of administration within the village created in accordance with this Act;

“settlement” means a unit of administration within the sub- village created in accordance with this Act;

“salaries and remuneration commission” means the commission for salaries established under Articles 230 and 248 of the Constitution;

Act No. 17 of
2012

“sitting” means a meeting of the Village Council;

“village council” means a body at the village level established by the County Government for purposes of administration of village pursuant to section 53 of the County Governments Act, 2012;

“dispute resolution council” means a body established under this Act for purposes of resolving disputes arising between the officers and organs of the County Government;

“decentralized unit” means a unit of administration established under this Act.

3. This Act shall apply to Mandera County as established under Article 6 (1) of the Constitution and the First Schedule to the said Constitution.

Application of this Act.

The object and purpose of this Act is to—

Objects and purposes of the Act.

- (a) give effect to Article 176 (2) of the Constitution in respect of further decentralization;
- (b) provide for matters necessary to give effect to section 48 (1) (d) and (e) of the County Government Act;
- (c) give effect to section 48 (4) of the County Government Act;
- (d) provide for the administration of sub-county office as provided in section 50 of the County Government Act;
- (e) provide for the administration of ward office as contemplated in section 51 of the County Government Act;
- (f) provide for the administration of village office as provided in section 52 of the County Government Act;
- (g) establish a legislative framework for classification of areas as sub-ward, sub-village, and settlement;
- (h) provide for governance and management of decentralized units;
- (i) provide for the manner of nomination or appointment of persons to, and their removal from, offices in decentralized units; and
- (j) other matters for the attainment of the objects provided for in paragraphs (a) to (i).

Act No. 17 of 2012.

Act No. 17 of 2012.

Act No. 17 of 2012.

Act No. 17 of 2012.

PART II—ESTABLISHMENT OF COUNTY GOVERNMENT ADMINISTRATIVE STRUCTURE

4. (1) There is established for Mandera County a system of administration to be called Mandera County Government Administration.

Establishment of County Government Administrative Structure.

(2) Mandera County Government Administration shall comprise of the Governor who shall be the head of the County Government administration, or the Deputy

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Governor who shall deputize the Governor, and the following other officers—

- (a) the sub-county administrator or deputy sub-county administrator who shall deputize the sub-county administrator;
- (b) the ward administrator;
- (c) the village administrator;
- (d) the sub-village administrator;
- (e) the settlement administrator; and
- (f) any other officer as may be determined by the County Government.

(3) All offices in the County Government Administration under this Act shall fall under the direct administration of the Governor.

5. (1) For purposes of Mandera County Government Administration established under this Act the County of Mandera shall be divided into the following administrative units—

Administrative
units of the
County
Government
Administration.

- (a) county;
- (b) sub-county;
- (c) ward;
- (d) village;
- (e) sub-village;
- (f) settlement; and
- (g) any other decentralized unit as may be determined by the County Government.

(2) The administrative boundaries of the sub-counties shall, subject to section 48 of the County Governments Act, 2012 and Article 89 of the Constitution, be the same as the constituency boundaries of the Constituencies existing within Mandera County on the date of enactment of this Act.

Act No. 17 of
2012.

(3) The administrative boundaries of the wards Shall, subject to sections, 26 and 48 (c) of the County Governments Act, 2012 and Article 89 of the Constitution, be the same as the boundaries of the wards existing within Mandera County on the date of enactment of this Act.

Act No. 17 of
2012.

(4) The administrative boundaries of the village and sub-village shall be the same as the boundaries as of the location and sub-location existing under the old system of provincial administration prior to the new Constitution of 2010.

(5) In establishing further decentralized units as required by section 48 (1) (d) of the County Government Act, the County Assembly shall take into account the following—

- (a) population size;
- (b) geographical features;
- (c) community interest;
- (d) means of communication.

(6) Nothing in this section may be construed as precluding the County government, through County legislation, from creating new sub-county, ward, sub-ward or adjusting the units created under this section for purposes of further decentralizing its functions and provision of its services in accordance with Article 176 (2) of the Constitution.

(7) The administrative units specified in subsection (1) shall not be a body corporate.

6. The hierarchy of administration shall be —

- (a) the county;
- (b) sub-county;
- (c) ward;
- (d) village;
- (e) sub- village; and
- (f) settlement.

Administrative
Hierarchy.

PART III—SUB-COUNTIES AND WARDS IN MANDERA COUNTY

7. The Mandera County Government is divided into the following sub-counties:

Sub-counties in
Mandera County.

- (a) Banisa;

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- (b) Lafey;
- (c) Mandera Central;
- (d) Mandera East;
- (e) Mandera North; and
- (f) Mandera West.

(1) The management of a sub-county shall be vested in the County Government and administered on its behalf by—

Management of sub-county.

- (a) An administrator as provided in section 50 of the County Government Act; and
- (b) Such other staff or officers as the County Public Service Board may determine.

Act No. 17 of 2012.

(2) Subject to subsection (4) the sub-county administrator shall be responsible to the Governor.

Act No. 17 of 2012.

(3) The administrator of a sub-county shall perform functions and duties contemplated in section 50 (3) of the County Government Act.

(4) In carrying out the functions and obligations in section 50 (3) of the County Government Act, the sub-county administrator shall be responsible to the relevant county chief officer.

Act No. 17 of 2012.

(5) The governance and management of a sub-county shall be in accordance with the law relating to county governments.

8. A sub-county administrator shall be competitively recruited and appointed by the Mandera County Public Service Board.

Appointment of sub-county administrator.

9. 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 provisions of the County Government Act.

Qualifications for appointment of sub-county administrator.

10. A sub-county administrator shall be removed from the office on the following grounds —

Removal from office.

- (a) is unable to perform the functions of the office by reason of mental physical infirmity or death;
- (b) is convicted of a an offence and sentenced to a

term of imprisonment of six months or more;

- (c) resigns in writing to the relevant chief officer;
- (d) is disqualified from holding a public office under the Constitution;
- (e) engages in any gross misconduct; or
- (f) abuse of office.

11. In cases where of vacancies arise in the office of a sub-county administrator, the institution responsible for recruiting public servants in the County shall within appropriate period filled the position in accordance with section 9 of this Act.

Filling of vacancy of sub-county administrator.

12. The sub-counties specified in section (8) of this Act are divided into wards specified in the First Schedule of this Act.

Wards in Mandera County.

13. (1) The management of a ward shall be vested in the County Government and administered on its behalf by—

- (a) an administrator as provided in section 51 (1) of the County Government Act; and
- (b) such other staff or officers as the County Public Service Board may determine.

Management of Ward.

(2) The administrator of a ward shall perform functions and duties contemplated in section 51 (3) of the County Government Act.

Act No. 17 of 2012.

(3) In carrying out the functions and obligations in subsection (2), the Ward administrator shall be responsible to the relevant sub-county administrator.

Act No. 17 of 2012.

(4) The governance and management of a ward shall be in accordance with the law relating to County governments.

14. A ward administrator shall be competitively recruited and appointed by Public Service Board of the Mandera County.

Appointment of ward administrator.

15. The ward 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 provisions of the County Government Act.

Qualifications for appointment of ward administrator.

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16. A person may be removed from the office of ward administrator on the grounds stipulated in section 10 (a) to (f) of this Act.

Removal from
office.

17. In the cases where vacancies arise in the office of a ward administrator, the institution responsible for recruiting public servants in the County shall within appropriate period filled the position in accordance with section 51 of the County Government Act.

Filling of vacancy
of the ward
administrator.

PART IV—CLASSIFICATION AND ESTABLISHMENT OF VILLAGE, SUB-VILLAGE AND SETTLEMENT

18. An area may be classified as a village, sub-village and settlement if it satisfies the criteria set out under this Act.

Classification and
Establishment of
village, sub-
village and
settlement.

19. (1) A rural area may be classified as a village under this Act if the rural area—

Criteria for
classifying an area
as a village.

(a) Has an inhabitant of at least 300 households according to the final gazettelement result of latest population census;

(2) Nothing in this section may preclude an area from being conferred with the status of a village under this Act if it has significant cultural, economic or political importance.

20. (1) The management of a village shall be vested in the County and administered on its behalf by—

Management of
village.

(a) an administrator appointed pursuant sections 52 (1) the County Government Act; and

(b) village council established under section 44 of this Act.

Act No. 17 of
2012.

(2) The administrator of a village shall perform functions and duties contemplated in section 52 (3) of the County Government Act.

(3) In carrying out the functions and obligations in subsection (2), the village administrator shall be responsible to the ward administrator.

(4) The governance and management of a village shall be in accordance with the law relating to county governments.

21. A village administrator shall be competitively recruited and appointed by Public Service Board of the Mandera County.

Appointment of village administrator.

22. The village administrator shall have post-secondary education and experience in administration / community service and shall be competitively appointed by the County Public service Board.

Qualifications for appointment of village administrator.

23. A person may be removed from the office of a village administrator on the grounds stipulated in section 10 (a) to (f) of this Act.

Removal from office.

24. In the cases where vacancies arise in the office of a village administrator, the County Public Service Board shall within appropriate period fill the position in accordance with sections 21 and 22 of this Act.

Filling of vacancy of the village administrator.

25. (1) There is established for Mandera County Government Administration in every village administrative organ to be called the "Village Council" as provided in section 53 (1) of the County Government Act.

Establishment of village council.

(2) The village council shall perform functions and duties contemplated in section 53 (2) of the County Government Act.

Act No. 17 of 2012.

(3) The composition of the Village Council shall be in accordance with section 53 (1) (b) of the County Government Act that reads "not less than two and not more than five elders appointed by the village administrator with the approval of the County Assembly, taking into account gender balance."

(4) The village administrator shall be the chairperson of the village council in reference to section 53 (1) (a) of the County Government Act that reads "the village administrator who shall be the chairperson of the village council."

(5) Despite subsection (3) of this section, not more than two elders shall be appointed from the same sub-village to a village council.

(6) For effective public service delivery and good governance, every village elder shall be under the direct administration of a village administrator.

26. (1) Unless otherwise removed from office under subsection (2), person appointed as village elder shall serve

Tenure of office of the village elders.

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on a renewable contract term of five years.

(2) Despite section (1) a village elder who is infective or is in breach of the terms of his or her appointment may be dismissed by the village administrator with the approval of the County Assembly.

(3) The office of village elder may otherwise fall vacant by reason of death or resignation in writing to the village administrator.

(4) A vacancy arising in the office of a village elder shall be filled within 30 days in accordance with section (37) of this Act.

27. (1) A Village Councils shall hold their sittings at such places within the ward as may be determined by the village administrators.

Sittings of the
Village Councils.

(2) The sittings of a village council shall be open and easily accessible to the public unless, owing to the nature of the matter and for reasons to be recorded, it becomes necessary to exclude the public.

(3) The meetings of a village council shall be chaired by the village administrator and in his or her absence, an elder elected by the elders present at the meeting.

(4) The quorum at the sitting of village council shall be two thirds.

(5) Village councils shall, at the beginning of every month, prepare schedules of their sittings specifying the time and the venues and publicize the same, in the *County Gazette* and in public places in all sub-villages at least three days prior to the first sitting of each month.

(6) A village council shall, at its first sitting elect one of their own to serve as secretary for purposes of keeping records of the business of the village council.

(7) Village councils shall hold at least one sitting in every month but, unless for special reasons, not more than five sittings in a month.

(8) The decisions of a village council shall be by consensus and where a vote becomes necessary by a simple majority.

(9) The proceedings of the village council shall be recorded in writing.

(10) A village elder who fails to attend three consecutive sittings of the village council without reasonable or acceptable cause shall be dismissed.

28. (1) The village administrator with the approval of the County Assembly may dissolve a village council where the village council has failed to hold sittings specified in section 27 (8).

Dissolution of village councils.

(2) A resident of a village may, in the prescribed manner and for reasons provided in subsection (1) of this Section, petition the County Assembly to dissolve a village council.

29. The village administrator shall exercise the general control and direction over the village council and may assign, within the sub-village, a village elder to serve in one sub- village or more settlements.

Power of the village administrator over village council.

30. (1) The County Government shall, provide funds for acquisition of office accommodation and other materials necessary for the administrators under this Act.

Office and allowances.

(2) In reference to section 53 (4) of the County Government Act, it reads “a village elder shall be paid such allowance as shall be determined by the respective County Assembly.”

31. (1) An area shall be eligible for the grant of the status of a sub-village under this Act if it has—

- (a) An inhabitant of at least two hundred households; and
- (b) Has sufficient space for expansion.

Eligibility for grant of a sub-village.

32. (1) In reference to section 52 (3) of the County Government Act with necessary modification, a sub-village administrator shall co-ordinate, manage and supervise the general administrative functions in the sub-village including—

Management of sub-village.

- (a) pursuant to paragraph 14 of Part II of the Fourth Schedule to the Constitution—
 - (i) ensuring and coordination the participation of the sub-village unit in governance; and
 - (ii) assisting the sub-village unit to develop the administrative capacity for the effective

Act No. 17 of 2012.

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exercise of the functions and powers and participation in governance at the local level;

- (b) the exercise of any functions and powers delegated by the County Public Service Board under section 86.

(2) In carrying out the functions and obligations in subsection (1), the sub-village administrator shall be responsible to the village administrator.

(3) The governance and management of a sub-village shall be in accordance with the law relating to county governments.

33. A sub-village administrator shall be competitively recruited and appointed by public Service Board of the Mandera County.

Appointment of sub-village administrator.

34. The sub-village administrator shall have post-secondary education and experience in administration / community service and shall be competitively appointed by the County Public Service Board.

Qualifications for appointment of sub-village administrator.

35. A person may be removed from the office of sub-village by the sub-county administrator in consultation with the Governor on the grounds stipulated in section 10 (a) to (f) of this Act.

Removal from office.

36. In the cases where vacancies arise in the office of a sub-village administrator, the County Public Service Board shall within appropriate period fill the position in accordance with section 45 of this Act.

Filling of vacancy of the sub-village administrator.

37. (1) In reference to section 48 (1) (d) of the County Government Act and subject to subsection (3), the functions and provision of services of each County Government shall be decentralized to “such number of village units in each County as may be determined by the County assembly of the respective county.”

Eligibility for grant of a settlement.

(2) An area shall be eligible for the grant of the status of a settlement under this Act if it has—

- (a) an inhabitants of at least one hundred households; and
- (b) has sufficient space for expansion.

(3) The areas that meet the criteria set out in subsection (2) before this Act come into operation are

recognized as settlement from the effective date of this Act and shall be gazetted by notice in *County Gazette*.

38. (1) The management of a settlement shall be vested in the relevant sub-county and administered on its behalf by—

Management of settlement.

- (a) an administrator appointed pursuant to section 47; and
- (b) such other staff or officers as the County Public Service Board may determine.

Act No. 17 of 2012.

(2) In reference to section 52 (3) of the County Government Act with necessary modifications, the settlement administrator shall coordinate, manage and supervise the general administrative functions in the settlement including—

- (c) pursuant to paragraph 14 of Part II of the Fourth Schedule to the Constitution—
 - (i) ensuring and co-ordination the participation of the village unit in governance; and
 - (ii) assisting the sub-village unit to develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level;
- (d) the exercise of any functions and powers delegated by the County Public Service Board under section 86.

(3) In carrying out the functions and obligations in subsection (2), the settlement administrator shall be responsible to the sub-village administrator.

(4) The governance and management of a village shall be in accordance with the law relating to County governments.

39. A settlement administrator shall be competitively recruited and appointed by Public Service Board of the Mandera County.

Appointment of settlement administrator.

40. The settlement administrator shall have basic secondary education and experience in community service and shall be competitively appointed by the County Public Service Board.

Qualifications for appointment of settlement administrator.

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41. (1) A person may be removed from the office of a settlement administrator on the grounds stipulated in section 10 (a) to (f) of this Act.

Removal from
office.

42. In the cases where vacancies arise in the office of a settlement administrator, the County Public Service Board shall within appropriate period fill the position.

Filling of vacancy
of the settlement
administrator.

PART V—REPORT BY THE ADMINISTRATORS

43. Every sub-county, ward, village, sub-village and other decentralized units administrators shall prepare monthly reports of all activities undertaken within the month and submit the same to the office of the Governor through the administrative hierarchy established under this Act before the fifth day of every month.

Reports by the
administrators.

PART VI—POSTING AND TRANSFER OF THE COUNTY GOVERNMENT ADMINISTRATORS

44. (1) All administrators appointed under this Act in the County Government Administration may be posted or transferred to serve in any administrative unit within the county.

Posting and
transfer of the
County
Government
administrators.

(2) Unless otherwise removed from office under this Act or any law, officer appointed as administrator under this Act shall serve on a permanent term.

(3) The County Public Service Board, in consultation with the Salaries and Remuneration Commission, shall work out the emoluments, pensions, gratuities or other benefits due to the officers appointed to serve under this Act.

PART VII—THE COUNTY GOVERNMENT DISPUTE RESOLUTION COUNCIL

45. (1) There is established for Mandera County Government the “County Government Administration Dispute Resolution Council”.

Establishment of
the County
Government
Disputes
Resolution
Council.

(2) The County Government Administration Disputes Resolution Council shall be responsible for resolution of disputes arising at all levels of administration under this Act.

46. (1) The composition of the County Government Administration Disputes Resolution Council shall be—

Composition of
the County
Government
Administration

- (a) the Governor, who shall be the chairperson;
- (b) the Deputy Governor who shall be the Deputy Chairperson;
- (c) the Member of the County Executive responsible for Public Service who shall be the Secretary;
- (d) majority Leader of the County Assembly;
- (e) liaison Committee Chairperson; and
- (f) chairperson of the Public Service, Conflict Resolution, Cohesion and Integration Committee.

Dispute
Resolution
Council.

47. (1) All disputes arising between Administrators under this Act or between different levels or units of administration within the County shall first be reported to the County Government Administration Disputes Resolution Council for resolution in the manner provided under Article 159 (2) of the Constitution or other applicable and lawful methods.

Disputes
resolution
mechanisms.

(2) No dispute arising at the village, sub-village, and settlement shall be referred to the Disputes Resolution Council for resolution unless an attempt for resolution has been tried initially at the ward and the sub-county Administration and failed.

(3) Notwithstanding subsection (2) of this section, the Disputes Resolution Council may take over any dispute for purposes of resolution.

(4) The Disputes Resolution Council shall determine its own procedure in resolving disputes save that the rules of natural justice shall be observed and the decision made on any dispute shall be in writing and communicated to the parties concerned within seven days.

PART VIII—FINANCIAL PROVISION

48. (1) The funds of a sub-county, ward and other decentralized units consist of—

- (a) monies allocated by a County Government for the purposes of the management and service delivery of the sub-county, ward and other decentralized units;
- (b) monies or assets that may accrue to the sub-county, ward and other decentralised units in the

Funds of the sub-county, ward and other decentralized units.

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course of the exercise of its powers or the performance of its functions under this Act or any other relevant law; and

- (c) all monies or grants from any other legitimate source provided or donated to the sub-county, ward and other decentralized units.

(2) No payment shall be made out of the funds of a sub-county, ward and other decentralized units unless it has been provided for in the approved annual or revised or supplementary estimates of expenditure and authorized by the Member of the County Executive responsible for finance.

(3) (1) The executive Member for finance may make Regulations, for the better carrying out of the provisions of this Act.

(4) Regulations made under subsection (3) shall be tabled before the County Executive Committee Members for approval, and shall not take effect until such approval is obtained.

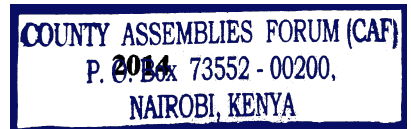
PART IX – MISCELLANEOUS PROVISIONS

49. (1) No act, matter or thing done or omitted to be done by—

Protection against
personal liability.

- (a) Sub-county administrator, town administrator, ward administrator, and administrators of the other decentralized units;
- (b) Any Member of the village council;
- (c) Any Member of staff or other person in the service of the sub-county, town, ward and other decentralized units ; or
- (d) Any person acting under the direction of the sub-county administrator, town, ward administrator, and other administrators, shall, if that act, matter or thing was done or omitted in good faith in the execution of a duty or under direction, render that Member or person personally liable to any civil liability.

(2) A person who is not exempted from liability under subsection (1) and who directs or concurs in the use of funds contrary to existing legal rules or instructions shall be



accountable for any loss arising from that use and shall be required to make good the loss even if that person has ceased to hold office.

50. (1) The governance and management of sub-county, town, ward and other decentralized units shall be based on the following principles—

Principles of governance and management.

- (a) recognition and respect for the constitutional status of County governments;
- (b) recognition of the principal and agency relationship between the sub-county, ward and other decentralized units and their respective county governments including—
 - (i) the carrying out, by a sub-county, ward and other decentralized units, of such functions as may be delegated by the County government;
 - (ii) financial accountability to the County Government;
- (c) promotion of accountability to the County Government and residents of the sub-county, ward and other decentralized units;
- (d) institutionalised active participation by its residents in the management of the sub-county, ward and other decentralized units affairs;
- (e) efficient and effective service delivery; and
- (f) clear assignment of functions.

Act No. 17 of 2012.

(2) All issues that may arise with regard public service, citizen participation, public communication, civic education and public services deliver shall be dealt with in accordance with the County Government Act.

51. (1) The County Assembly may make Regulations for the better carrying out of the purposes and provisions of this Act and such Regulations may be made in respect of all County government's administration units generally.

Regulations.

2014

Mandera County Administration

FIRST SCHEDULE*(Section 19)***WARDS**

1. Alungo Ward.
2. Arabia Ward.
3. Ashabito Ward.
4. Banisa Ward.
5. Bulla Mpya Ward.
6. Dandu Ward.
7. Derkhale Ward.
8. Elwak North.
9. Elwak South Ward.
10. Fino Ward.
11. Gither Ward.
12. Guba Ward.
13. Guticha Ward.
14. Khalalio Ward.
15. Kiliwehiri Ward.
16. Kutulo Ward.
17. Lafey Ward.
18. Lagsure Ward.
19. Libehiya Ward.
20. Malkamari Ward.
21. Marothile Ward.
22. Neboi Ward.
23. Rhamu Dimtu Ward.
24. Rhamu Ward.
25. Shimbir Fatuma Ward.
26. Takaba South Ward.
27. Takaba Ward.
28. Township Ward.
29. Waranqara Ward.
30. Wargadud Ward.

