

SPECIAL ISSUE

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**HOMABAY COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2016

NAIROBI, 10th May, 2016

CONTENT

Act—

PAGE

The Homa Bay County Emergency Fund Act, 2016 1

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NAIROBI, KENYA

2016

Homa Bay County Emergency Fund

No. 3

**THE HOMA BAY COUNTY EMERGENCY FUND
ACT, 2016**

No. 3 of 2016

Date of Assent: 14th April, 2016

Date of Commencement: See Section 1

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY PROVISIONS

- 1— Short title and commencement.
- 2— Interpretation.
- 3— Object and Purpose of the Act.

PART II—ESTABLISHMENT OF THE FUND

- 4— Establishment of the Fund.

**PART III—MANAGEMENT AND THE
ADMINISTRATION OF THE FUND**

- 5— Officer administering the fund.
- 6— Functions of the officer administering the fund.
- 7— Power of the County Executive Committee Member to make payments from the fund.
- 8— Limitation of Powers of the County Executive Committee Member to make payments from the fund.
- 9— Approval of the County Assembly.

PART IV—FINANCIAL PROVISIONS

- 10—Accruals.
- 11—County Treasury to submit a report to the Auditor General.

PART V—MISCELLANEOUS PROVISIONS

- 12—Winding up of the fund.
- 13—Regulations.

**THE HOMA BAY COUNTY EMERGENCY FUND
ACT, 2016**

**AN ACT of the County Assembly of Homa Bay to
provide for the establishment of an Emergency
Fund and for connected purposes**

ENACTED by the County Assembly of Homa Bay, as
follows—

PART I—PRELIMINARY PROVISIONS

1. This Act may be cited as the Homa Bay County
Emergency Fund Act, 2016 and shall come into operation
upon the expiry of fourteen days from the date of
publication.

Short title and
Commencement

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

Interpretation

“Administrator” means the County Executive
Committee Member for Finance and Economic Planning

“Appropriation” means funds provided for to pay for
supply of services;

“County Assembly” means the County Assembly of
Homa Bay;

“County Government” means the County
Government of Homa Bay;

“County Executive Committee Member” means the
County Executive Committee Member responsible for
finance;

“Fund” means the County Emergency Fund
established under section 3 of this Act;

“Financial year” means the period of twelve months
ending on the 30th day of June;

“Legislative Authority” means powers and functions
conferred to a person vide an Act or Regulation passed and
enacted by the County Assembly;

“Unforeseen event” means an event which threatens
damage to human life or welfare; or threatens damage to
the environment”

3. The object and purpose of the Act is to establish a
fund that shall enable payments to be made in respect of
the County when an urgent and unforeseen need for

Object and purpose of
the Act

expenditure arises for which there is no specific legislative authority.

PART II—ESTABLISHMENT OF THE FUND

4. (1) There is established a fund to be known as the Homa Bay Emergency Fund.

Establishment of the Fund

(2) The fund shall consist of—

- (a) monies appropriated by the County Assembly; and
- (b) grants and donations made into the Fund.

(3) The County Assembly shall, in appropriating monies under subsection 2(a) in each financial year ensure that the monies contained in the fund are not exceeding 2% of the total county revenue.

PART III—THE MANAGEMENT AND ADMINISTRATION OF THE FUND

5. (1) The County Executive Committee Member for Finance and Economic Planning shall be the officer responsible for administering the fund in accordance with a framework and criteria approved by the County Assembly.

Officer Administering the Fund

(2) The County Executive Committee Member shall establish and maintain a separate account into which all money appropriated to that fund shall be paid.

6. The officer administering the fund shall—

Functions of the officer administering the fund

(1) Supervise and control the day to day management of the fund;

(2) Prepare and keep or cause to be kept accounts for the Fund and annual financial statements relating to those accounts that comply with accounting standards prescribed and published by the Accounting Standards Board from time to time;

(3) Not later than three months after the end of each financial year, submit financial statements relating to those accounts to the County Treasury for onward transmission to the Auditor General; and

(4) Present the financial statement to the County Assembly not later than three months after the end of each financial year.

7. (1) Subject to section 8, the County Executive Committee Member shall may make payments from the fund only if he/she is satisfied that there is an urgent and unforeseen need for expenditure for which there is no legislative authority and shall be in accordance with operational guidelines made under regulations approved by parliament and the law relating to disaster management.

Power of the
Executive Committee
Member to make
payments from the
fund

(2) For the purposes of subsection (1), there is an urgent and unforeseen need for expenditure if, in the opinion of the County Executive Committee Member for Finance and Economic Planning, guided by regulations and relevant laws, establishes that—

- (a) payment not budgeted for cannot be delayed until a later financial year without harming the general public interest;
- (b) the payment is necessary to alleviate the damage, loss, hardship or suffering which may be directly caused by the event; and
- (c) the damage caused by the event is on a small scale and limited to the county.

(3) For the purposes of subsection (1) the unforeseen event is one which—

- (a) threatens damage to human life or welfare; or
- (b) threatens damage to the environment

8. The County Executive Committee Member shall not, during a financial year, make payment under section 7 if the payment exceeds two per cent (2%) of the total County Government's revenues as shown in that County's audited financial statements for the previous financial year except for the first year.

Limitation of powers
of County Executive
Committee Member
to make payments
from the fund.

9.(1) The County Executive Committee Member shall notify the County Assembly in writing within two months after payment is made out of the fund.

Approval of the
County Assembly

(2) If the County Assembly is not sitting during the period referred to in subsection (1), or soon thereafter the County Executive Committee Member for Finance and Economic Planning shall seek the approval of the County Assembly for the payment within fourteen days after its next sitting.

(3) As soon as applicable after the County Assembly has approved the payment, the County Executive Committee Member shall cause a draft Appropriation Bill to be introduced in the County Assembly for the appropriation of the money and for the replenishment of the fund to the extent of the amount of the payment.

PART IV—FINANCIAL PROVISIONS

10. All receipts, earnings and accruals to the Fund and the balance of the Fund at the close of the financial year and shall be retained by the Fund for the purpose for which it is established.

Accruals.

11. (1) The County Treasury shall, not later than three months after the end of each financial year, prepare and submit to the Auditor General a Financial Statement in respect of the fund for that financial year.

County Treasury to submit a report to the Auditor General.

(2) The financial statement prepared under subsection(1) shall include the following information—

- (a) the date and the amount of each payment;
- (b) the person to whom the payment was made;
- (c) the purpose for which the payment was made;
- (d) whether the person to whom the payment was made spent the money for that purpose and a statement to that effect;
- (e) if the person to whom the payment has been made has not spent the money for that purpose, a statement specifying the reason for not having done so;
- (f) a statement indicating how the payment conforms to section 7 of this Act and section 112 of the Public Finance Management Act, 2012.

PART V—MISCELLANEOUS PROVISIONS

12. (1) The County Executive Committee member for Finance and Economic Planning may wind up the fund with the approval of the County Assembly.

Winding up of the Fund.

(2) On the winding of the fund—

- (a) The administrator of the fund shall pay any amount remaining in the fund to the county exchequer account; and

- (b) The County Executive Committee member shall with the approval of the County Assembly pay any deficit in the fund from the County Exchequer Account.

13. The County Executive Committee member may make regulations with the approval of the County Assembly for the effective carrying out of this Act and any other connected purpose.

Regulations