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**KAKAMEGA COUNTY GAZETTE
SUPPLEMENT**

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**THE KAKAMEGA COUNTY PUBLIC HEALTH
BILL, 2017**

A Bill for

**AN ACT of the County Assembly of Kakamega
County to make provisions for public health
sanitation and related services.**

ENACTED by the County Assembly of Kakamega,
County as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Kakamega County
Public Health Act, 2017 and shall come into operation upon
publication.

Short title

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

Interpretation

“Authorised officer” means persons authorised under
this Act.

“Adult” means a person of eighteen years of age or
over

“Approved” and “prescribed” mean respectively
approved or prescribed by the Executive Committee
Member or by the regulations made under this Act as case
may be;

“Basement” means any cellar, vault or underground
room

“County Gazette” means a *gazette* published by the
authority of the county government or a supplement of such
gazette;

“Drain” means any drain used for the drainage of one
building only, or of premises within the same curtilage and
made merely for the purpose of communicating therefrom
with a cesspool or other like receptacle for drainage, or
with a sewer into which the drainage of two or more
buildings or premises occupied by different persons is
conveyed;

“Dwelling” means any house, room, shed, hut, cave,
tent, vehicle, vessel or boat or any other structure or place
whatsoever, any portion whereof is used by any human
being for sleeping or in which any human being dwells;

“Executive committee” means Kakamega county executive committee established in accordance with Article 179 of the Constitution;

“Factory” means any building or part of a building in which machinery is worked by steam, solar, water, electricity or other mechanical power, for the purposes of trade;

“Food” means any article used for food or drink-other than drugs or water, and any article intended to enter into or be used in the preparation of such food, and flavoring matters and condiments;

“Infected” means suffering from, or in the incubation stage of, or contaminated with the infection of, any infectious or communicable disease;

“Isolation” means the segregation and the separation from and interdiction of communication with others, of persons who are or are suspected of being infected;

“isolated” has a corresponding meaning;

“Keeper of a lodging-house” means any person licensed to keep a lodging-house;

“Latrine” includes privy, urinal, earth-closet and water closet;

“Lodging-house” means a building or part of a house including the veranda thereof, if any, which is let or sublet in lodgings or otherwise, either by storeys, by flats, by rooms or by portions of rooms;

“Magistrate” means a magistrate as prescribed in the Magistrate's Act.

“Meat inspector” means inspecting officer as defined in Meat Control Act;

“Public Health Officer” means—

(a) the County, Public Health Officer; and

(b) in relation to the area of the County Government, the duly assigned Public Health officer of the County Government including a Public Health Officer seconded by the National Government to hold such office; and

The Kakamega County Public Health Bill, 2017

(c) in relation to any other area a Public Health Officer assigned by the County Executive Committee Member for Health services;

“Occupier” includes any person in actual occupation of land or premises without regard to the title under which he occupies and in case of premises subdivided and let to lodgers or various tenants the person receiving the rent payable by the lodgers or tenants whether on his own account or as an agent for any person entitled thereto or interested therein;

“Offensive trade” includes the trades of blood-boiler, bone-boiler, fell-monger, soap-boiler, tallow-melter and tripe-boiler, and any other noxious or offensive trade, business or manufacture whatsoever;

“Owner”, as regards immovable property, includes any person, other than the Government, receiving the rent or profits of any lands or premises from any tenant or occupier thereof or who would receive such rent or profits if such land or premises were let whether on his own account or as agent for any person, other than the Government, entitled thereto or interested therein; the term includes any lessee or licensee from the Government and any superintendent, overseer or manager of such lessee or licensee residing on the holding;

“Premises” includes any building or tent together with the land on which the same is situated and the adjoining land used in connection therewith, and includes any vehicle, conveyance or vessel;

“Public building” means a building used or constructed or adapted to be used either ordinarily or occasionally as a place of public worship or as a hospital, college, school, theatre, public hall or as a public place of assembly for persons admitted by ticket or otherwise, or used or adapted to be used for any other public purpose;

“Public latrine” means any latrine to which the public are admitted on payment or otherwise;

“Rules” includes regulations made or deemed to be made under this Act;

“Slaughterhouse” means any premises set aside for the purpose of the slaughter of animals for human consumption;

“Stock” means all domesticated animals of which the flesh or milk is used for human consumption;

“Street” means any highway, road or sanitary lane, or strip of land reserved for a highway, road or sanitary lane, and includes any bridge, footway, square, court, alley or passage whether a thoroughfare or not, or a part of one;

“Trade premises” means any premises (other than a factory) used or intended to be used for carrying on any trade or business;

“Veranda” includes any stage, platform or portico projecting from the main wall of any building;

“Veterinary officer” means a veterinary surgeon in the employment of the Government;

“Workshop” means any building or part of a building in which manual labour is exercised for purposes of trade.

“Drinking water” means water that is intended, or likely, to be used for human consumption or for purposes connected with human consumption, such as:

- (a) the washing or cooling of food; or
- (b) the making of ice for consumption, or for the preservation of unpackaged food, whether or not the water is used for other purposes.

“Government” means Kakamega county government;

“Health authority”, in relation to the County Government, means the Public Health division concerned, and, in relation to any other area, means the Executive Committee Member;

“Treatment” of water means any process or technique used to improve the quality of water.

“Function” includes a power, authority or duty.

“Executive Committee Member” means the Executive Committee Member responsible for Health Services;

“Noxious article” means any article that—

- (a) has been in contact with a person or animal which has an infectious disease that is transmissible by contact with the article ; or

(b) is or is likely to be infested with vermin, or is or is likely to be a risk to health as a result of its having been in contact with any article, person or animal that is infested with vermin

“Public authority” means an incorporated or unincorporated body constituted by or under an Act for a public purpose.

“Public health officer” means a public health officer appointed under this Act;

“Public place” means a place (including a place in any vehicle or vessel) that the public, or a section of the public, is entitled to use or that is open to, or is used by, the public or a section of the public (whether on payment of money, by virtue of membership of a club or other body, or otherwise).

“Skin penetration procedure” means any procedure (whether medical or not) that involves skin penetration (such as acupuncture, tattooing, ear piercing or hair removal), and includes any procedure declared by the regulations to be a skin penetration procedure.

“Temporary structure” includes a booth, tent or other temporary enclosure (whether or not part of the booth, tent or enclosure is permanent), and also includes a mobile structure.

3. (1) The object and purpose of this Act is to—

- (a) promote, protect and improve public health;
- (b) control the health risks to the public; and
- (c) prevent and control the spread of infectious diseases.

Object and
purpose of the Act

PART II– GENERAL PROVISIONS ON PUBLIC HEALTH

4. (1) The Executive Committee Member may, if he or she considers on reasonable grounds that an emergency is, or is likely to be, a risk to public health—

- (a) take such action, and
- (b) by written order give such directions, as he or she considers necessary to deal with the risk and its possible consequences.

Power to deal
with public health
risks during
emergency

(2) Without limiting subsection (1), an order may direct—

- (a) all persons in a specified group, or all persons residing in a specified area to submit themselves for medical examination;
- (b) quarantine;
- (c) isolation;
- (d) closure of premises;
- (e) mass vaccination;
- (f) evacuation; or
- (g) any other measures as specified in the order.

(3) An order shall be published in the gazette as soon as practicable after it is made, but failure to do so does not invalidate the order.

(4) Unless it is earlier revoked, an order expires when the relevant emergency ceases to exist.

5. (1) If the Executive Committee Member considers that, because of an act or omission of a public authority, or of any person acting on behalf of a public authority, a situation has arisen that is, or is likely to be, a risk to public health, the Executive Committee Member may, by order in writing served on the public authority or the chief executive officer of the authority, direct the public authority or the chief executive officer to take specified action to minimise or rectify any adverse consequences of the act or omission.

Power to deal
with public health
risks arising from
conduct of public
authorities

(2) If a health authority or the Chief Officer responsible for Health Services considers that, for any reason, a situation has arisen that is, or is likely to be, a risk to public health, the health authority or Chief Officer responsible of Health Services is to notify the Executive Committee Member of that fact.

6. (1) If a Public Health Officer considers that access to any premises on which the public, or sections of the public, are required, permitted or accustomed to congregate should be restricted or prohibited in order to protect public health, the Public Health Officer may, by order, direct that access to the premises be restricted or prohibited as specified in the order.

Power to close
public premises
on public health
grounds

(2) In any other case the Public Health Officer, may require any person who-

- (a) owns or is an agent or an occupier of the premises; or
- (b) has notice of the direction, to take such reasonably practicable action as is necessary to comply with the direction.

7. (1) If a Public Health Officer suspects that there is a noxious article on any premises, the Public Health Officer may, by order in writing, direct authorised persons to enter the premises, seize anything that appears to be a noxious article and, there or elsewhere, disinfect or destroy it.

Power to direct
disinfection or
destruction of
noxious articles

(2) A person other than an authorised officer shall not-

- (a) transfer possession of the article to another person;
- (b) expose the article to another person; or
- (c) remove the article from any premises the subject of an order under subsection (1), if the person knows it to be a noxious article.

(3) An authorised officer has a duty to avoid doing anything that, if done by a person other than a public officer, would be an offence under this section.

PART III—PUBLIC WATER SUPPLIES, MEAT, MILK AND OTHER ARTICLES OF FOOD

8. The Department of Health Services shall take all lawful, necessary and reasonably practicable measures -

Duty to prevent
water pollution

- (a) for preventing any pollution dangerous to health of any supply of water which the public has a right to use and does use for drinking or domestic purposes; and
- (b) to take measures against any person so polluting any such supply or polluting any stream so as to be a nuisance or danger to health.

9. (1) The Executive Committee Member, may make rules and impose orders in respect of defined areas—

Rules for
protection of
water supply

- (a) prohibiting bathing in, and prohibiting or regulating the washing of clothes or other articles or of animals in, or in any place draining into, any such water supply;

- (b) prohibiting or regulating the erection of dwellings, sanitary conveniences, stables, cattle-kraals, pigstys, ostrich-pens, dipping tanks, factories or other works likely to entail risk of harmful pollution of any such water supply, or prohibiting or regulating the deposit in the vicinity of, or in any place draining into, any such supply of any manure, filth or noxious or offensive matter or thing, and generally, for preventing the pollution of any water supply that the public has a right to use and does use for drinking or domestic purposes.

(2) Rules under this section shall be made with due regard to the interests of agricultural or any other industry.

10. (1) No person shall sell or expose for sale or import or bring into any market or have in his or her possession without reasonable excuse any food for human consumption in a tainted, adulterated, diseased or unwholesome state, or which is unfit for use, or any food for any animal which is in an unwholesome state or unfit for their use, and any Public health officer, veterinary officer, meat inspector or police officer of or above the rank of Inspector may seize any such food, and any magistrate on the recommendation of the Public Health Officer, or a veterinary officer may order it to be destroyed, or to be so disposed of as to prevent it from being used as food for human or animal consumption as the case may be.

Sale of
unwholesome
food prohibited

(2) No person shall collect, prepare, manufacture, keep, transmit or expose for sale any foodstuffs without taking adequate measures to guard against or prevent any infection or contamination thereof.

11. Any Public Health Officer may, at any reasonable time enter any shop or premises used for the sale or preparation for sale or storage of food to inspect and examine any food found there-in which he or she has reason to believe is intended to be used as human food, and should such food appear to such officer to be unfit for such use he or she may seize the same and any magistrate may order it to be disposed of; the proof that such food was not exposed or deposited for any such purpose shall rest with the person charged.

Seizure of
unwholesome
foods

12. Any person in whose possession there is found any food liable to seizure under section 9 or section 10 shall be

Penalty respecting
unwholesome
food

guilty of an offence and liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

13. The Executive Committee Member, may make rules regarding all or any of the following matters —

Rules for
protection of food

- (a) the inspection of dairy stock and of animals intended for human consumption, and of dairies, stock-sheds or yards, milk-shops, milk-vessels and slaughter-houses, and of factories, stores, chemists or pharmacy, agro-vets, shops and other places where any article of food is manufactured or prepared or kept;
- (b) the taking and examination of samples of milk, dairy produce, meat or other articles of food and the removal or detention, pending examination or inquiry, of animals or articles which are suspected of being diseased or unsound or unwholesome or unfit for human consumption, and the seizure and destruction or treatment, or disposal so as not to endanger health, of any such article which is found to be unwholesome or unsound or diseased or infected or contaminated, and of diseased animals sold or intended or offered or exposed for sale for human consumption; and such rules may empower a Public Health Officer, to detain, seize or destroy any diseased, un-sound or unwholesome article of food, but shall not confer on any other person any power beyond that of detention of such article for the purpose of examination by a Public Health Officer, or in the case of meat a veterinary officer;
- (c) fixing standards of cleanliness of milk and prescribing the warning to be given to any cow keeper, dairy man, or purveyor of milk that any milk sold or kept or transmitted or kept for sale by him or her has been found to be below such standards and the issue of orders prohibiting the sale or the keeping or exposure for sale of milk from any particular animal or animals, or requiring the closing of any dairy stock-shed or yard or milk shop the milk from which it is found, after analysis and official warning, to be below any such standard;

- (d) the inspection and examination of, and the regulation, and supervision of the manufacture, preparation, storage, keeping and transmission of, any article of food intended for sale or for export, and the prohibition of the manufacture, preparation, storage, keeping, transmission, sale or export of any such article which is, or contains an ingredient which is diseased or unsound or unfit for human consumption, or which has been exposed to any infection or contamination;
- (e) the establishment, locality, supervision, equipment, maintenance and management of slaughterhouses and the disposal of the waste products of slaughtering and the inspection of slaughterhouses and prohibiting, restricting or regulating the slaughtering of animals;
- (f) the preparation ,manufacture or storage and sale of or trade in articles of food which are packed in airtight receptacles or are otherwise preserved, and the marking of any such article or receptacle with the date of manufacture or preparation;
- (g) in relation to food intended for sale, prescribing standards of composition, strength and quality, for the prevention of adulteration, misbranding, misdescription or reduction below a prescribed standard and for securing the sale in a pure state and in a condition which conforms with such standards.

PART IV—SANITATION AND HOUSING

14. (1)No person shall cause a nuisance or shall suffer to exist on any land or premises owned or occupied by him or her or of which he or she is in charge any nuisance or other condition liable to be injurious or dangerous to health.

Nuisances
prohibited

(2) The following shall be deemed to be nuisances liable to be dealt with in the manner provided in this Part—

- (a) any vessel, and any railway carriage or other conveyance, in such a state or condition as to be injurious or dangerous to health;
- (b) any dwelling or premises or part thereof which is or are of such construction or in such a state or so

situated or so dirty or so verminous as to be, in the opinion of the Public Health Officer, injurious or dangerous to health, or which is or are liable to favour the spread of any infectious disease;

- (c) any street, road or any part thereof, any stream, pool, ditch, gutter, watercourse, sink, water-tank, cistern, water-closet, earth-closet, privy, urinal, cesspool, soakaway pit, septic tank, cesspit, soil-pipe, waste-pipe, drain, sewer, garbage receptacle, dust-bin, dung pit, refuse-pit, slop-tank, ash-pit or manure heap so foul or in such a state or so situated or constructed as in the opinion of the Public Health Officer to be offensive or to be injurious or dangerous to health;
- (d) noxious matter, or waste water, flowing or discharged from any premises, wherever situated, into any public street, or into the gutter or side channel of any street, or into any watercourse, irrigation channel or bed thereof not approved for the reception of such discharge;
- (e) any animal so kept as to be a nuisance or injurious to health;
- (f) any accumulation or deposit of refuse, offal, manure or other matter whatsoever which is offensive or which is injurious or dangerous to health;
- (g) any accumulation of stones, timber or other material if such in the opinion of the Public Health Officer is likely to harbour rats or other vermin;
- (h) any premises in such a state or condition and any building so constructed as to be likely to harbour rats;
- (i) any dwelling or premises which is so overcrowded as to be injurious or dangerous to the health of the inmates, or is dilapidated or defective in lighting or ventilation, or is not provided with or is so situated that it cannot be provided with sanitary accommodation to the satisfaction of the Public Health Officer;
- (j) any public or other building which is so situated, constructed, used or kept as to be unsafe, or injurious or dangerous to health;

- (k) any factory or trade premises not kept in a clean state and free from offensive smell arising from any drain, privy, water-closet, earth-closet or urinal, or not ventilated so as to destroy or render harmless and inoffensive as far as practicable any gases, vapours, dust or other impurities generated, or so overcrowded or so badly lighted or ventilated as to be injurious or dangerous to the health of those employed therein;
- (l) any factory or trade premises causing or giving rise to smells or effluvia which are offensive or which are injurious or dangerous to health;
- (m) any factory or premises chimney sending forth smoke in such quantity or in such manner as to be offensive or injurious or dangerous to health;
- (n) any public or private hospital or health facility generating healthcare waste in such quantity or in such manner as to be offensive or injurious or dangerous to health.
- (o) any cemetery, burial-place or place of sepulture situated or so crowded or otherwise so conducts as to be offensive or injurious or dangerous to health
- (p) any hospital or health facility keeping dead human bodies in their premises situated so to be offensive or unsightly to public or dangerous to health.
- (q) any mortuary, vessel holding human dead bodies for fourteen days situated or so crowded or otherwise so to be offensive or injurious or dangerous to health.
- (r) any act, omission or thing which is, or may be, dangerous to life, or injurious to health.

(3) The author of a nuisance means the person by whose act, default or sufferance nuisance is caused, exists or is continued, whether he or she is the owner or occupier or both owner and occupier or any other person.

15. It shall be the duty of the Department of Health Services to take all lawful, necessary and reasonably practicable measures for maintaining the County at all times in clean and sanitary condition, and for preventing

Department of
Health Services to
maintain
cleanliness and
prevent nuisances

the occurrence therein of, or for remedying or causing to be remedied, any nuisance or condition liable to be injurious or dangerous to health, and to take proceedings at law against any person causing or responsible for the continuance of any such nuisance or condition.

16. It shall be the duty of the Department of Health Services to take all lawful, necessary and reasonably practicable measures for preventing or causing to be prevented or remedied all conditions liable to be injurious or dangerous to health arising from the erection or occupation of unhealthy dwellings or premises, or the erection of dwellings or premises on unhealthy sites or on sites of insufficient extent, or from overcrowding, or from the construction, condition or manner of use of any factory or trade premises, and to take proceedings against any person causing or responsible for the continuance of any such condition.

Unhealthy
dwellings
prohibited

17. A Public Health Officer, if satisfied of the existence of a nuisance, shall serve a notice on the author of the nuisance or if he cannot be found, on the occupier or owner of the dwelling or premises on which the nuisance and or continues, requiring him or her to remove it within the time specified in the notice, and to execute such work and do such things as may be necessary for that purpose, and, if the Public Health Officer think it desirable specifying any work to be executed to prevent a recurrence of the said nuisance;

Notice and
Procedure to
Abate Nuisances

Provided that —

- (i) where the nuisance arises from any want or defect of a structural character, or where the dwelling premises are unoccupied, the notice shall be served on the owner;
- (ii) where the author of the nuisance cannot be found and it is clear that the nuisance does not arise or continue by the act or default or sufferance of the occupier or owner of the dwelling or premises, the Public Health Officer shall remove the same and may do what is necessary to prevent the recurrence thereof.

18. (1) If the person on whom a notice to remove nuisance has been served as aforesaid fails to comply with any of the requirements thereof within the time specified

Procedure if
owner fails to
comply with the
notice

the Public Health Officer shall cause a complaint relating such nuisance to be made before a magistrate, and such magistrate shall thereupon issue summons requiring the person on whom the notice was served to appear before court.

(2) If the court is satisfied that the alleged nuisance exists the court shall make an order on the author thereof, or occupier or owner of the dwelling or premises, as the case may be requiring him to comply with all or any of the requirements of the notice or otherwise to remove the nuisance within a time specified in the order and to do any works necessary for that purpose.

(3) The court may by such order impose a fine not exceeding one hundred thousand shillings on the person on whom the order is and may also give directions as to the payment of all costs incurred up to the time of the hearing or making of the order for the removal of the nuisance.

19 (1) Any person who fails to obey an order to comply with the requirements of a Public Health Officer or otherwise to remove the nuisance shall, unless he satisfies the Court that he has used all diligence to carry out such order, be guilty of an offence and liable on conviction to a fine not exceeding one thousand shillings for every day during which the default continues.

Penalty respecting
nuisances

(2) The Public Health Officer may in such case enter the premises to which any such order relates, and remove the nuisance and do whatever may be necessary in the execution of such order, and recover in any competent court expenses incurred from the person on whom the order is made.

20. It shall be the duty of the Department of Health Services—

Duty of
department as to
overcrowding etc

- (a) to collect, investigate, consider and publish the facts as to any overcrowding or bad or insufficient housing in various parts of the county;
- (b) to inquire into the best methods of dealing with any overcrowding or bad housing so ascertained to exist;
- (c) to make or publish such recommendations as may seem necessary in respect of the result of any such investigation or inquiry.

21. The Executive Committee Member, may make regulations to operationalise this part

Rules under this
part

PART V—PROTECTION OF FOODSTUFFS

22. (1) All warehouses, godowns or buildings of whatever nature used for the storage of foodstuffs shall be constructed of such materials and in such manner as shall in the opinion of the Public Health Officer render such warehouse, go down or building rat-proof.

Construction and regulation of building used for storage of foodstuffs

(2) Where any warehouse, godown or building intended for the storage of foodstuffs aforesaid has fallen into a state of disrepair, or does not in the opinion of the Public Health Officer afford sufficient protection against rat invasion by reason of the materials used in the construction of the same being defective, the Public Health Officer may by written notice require the owner to effect such repairs and alterations as the notice shall prescribe within a time to be specified in the said notice, and if such requirement is not complied with the Public Health Officer may obtain a court order closing down the premises and seize any foodstuff therein.

(3) Where in the opinion of the Public Health Officer any foodstuffs within a warehouse, godown or building are insufficiently protected, the owner thereof shall observe all written instructions and directions of the Public Health Officer within a time to be specified in the said notice for the better protection of the same;

Provided that in the case of any prosecution under this section the court may in its discretion acquit the accused if it is satisfied that all reasonable steps have been taken to exclude rats having regard to all the circumstances of the case.

23. (1) No person shall reside or sleep in any kitchen or room in which foodstuffs are prepared or stored for sale.

Prohibition of residing or sleeping in kitchens and food stores

(2) If it appears to the Public Health Officer that any such kitchen or room is being so used contrary to the provisions of this section, or that any part of the premises adjoining the room in which foodstuffs are stored or exposed for sale is being used as a sleeping apartment under such circumstances that the foodstuffs are likely to be contaminated or made unwholesome, he may serve upon the offender or upon the owner of the house, or upon both, a notice calling for such measures to be taken as will

prevent the improper use of such kitchen and premises within a time to be specified in the notice, and if such notice is not complied with the party upon whom it was served commits an offence.

24. (1) No person shall use any premises or being the owner or occupier thereof permit or allow the premises to be used for the purposes of selling, preparing, packaging, storing, or displaying for sale any food unless that person is in possession of a licence issued under this Act.

Licensing of food
premises

(2) No licence shall be issued under this Act unless —

(a) a Public Health Officer is satisfied that the provisions of this Act have been complied with; and

(b) the prescribed fee has been paid.

25. Every person applying for a licence in respect of any premises used or to be used for the purpose of selling, preparing, storing, or displaying for sale any food shall on request supply any information which may be required by a Public Health Officer for the purposes of this Act.

Requirement to
provide
information

26. (1) Every person who owns, operates or is in charge of a food plant shall take all reasonable measures and precautions to ensure that —

Measures for food
safety

- (a) no person suffering from any disease in a communicable form or having boils, sores or infected wounds works in a food plant in any capacity where there is a reasonable possibility of food ingredients becoming contaminated by such person or the disease being transmitted to the other employees;
- (b) medical examination is carried out in a government medical institution on all employees prior to their employment and at regular intervals of not more than twelve months; and the health certificate and health records of each employee showing the dates and results of the health examination are kept at the food plant;
- (c) all persons while working in direct contact with food, food ingredients or food contact surfaces comply with requirements as to general cleanliness.

- (d) the personnel responsible for identifying sanitation failures or food contamination are properly trained to provide a level of competency necessary for the production of clean and safe food, and in the case of food handlers and supervisors, proper techniques and food protection principles are instituted to make them cognizant of the danger of poor personal hygiene and insanitary practices; and
- (e) proper supervision is provided so that responsibility for ensuring the compliance by all employees with the requirements of this Act is assigned to competent supervisory personnel.

(2) The owner, operator or the person in charge of a food plant shall, in pursuance of the provisions of subsection (1) (b), apply to the department of Health Services for a medical examination of all persons employed at the food plant.

(3) Any person contravening the above requirements shall be liable on conviction to a fine not exceeding thirty thousand shillings or to imprisonment for a term not exceeding one year or both.

27. The following requirements shall be complied with as regards the cleanliness of all persons working in direct contact with food—

Requirements for
food handlers

- (a) they shall wear clean outer garments and conform to hygienic practices while on duty;
- (b) they shall wash their hands thoroughly, remove all jewellery, and take any other necessary precautions to prevent contamination of food with micro-organisms or foreign substances;
- (c) refrain from smoking, snuffing, chewing or using tobacco in areas where food is prepared, stored or handled;
- (d) if gloves are used in food handling, they shall be maintained in a clean and sanitary condition;
- (e) as is necessary for the work on which the employee is engaged, he shall wear effective head-dress, such as hair net, head-band or cap; and
- (f) all employees shall refrain from storing their

clothing or any other personal belongings or from eating food or drinking beverages in areas where food is or food ingredients are exposed or areas used for washing equipment or utensils.

PART VI—PREVENTION AND DESTRUCTION OF MOSQUITOES

28. For the purposes of this Act—

Breeding places
for mosquitoes to
be nuisances

- (a) all collections of water, sewage, rubbish, refuse, ordure or other fluid or solid substances which permit or facilitate the breeding or multiplication of animal or vegetable parasites of men or domestic animals, or of insects or of other agents, which are known to carry, such parasites or which may otherwise cause or facilitate the infection of men or domestic animals by such parasites;
- (b) any collection of water in any well, pool, gutter, channel, depression, excavation, barrel, tub, bucket or any other article, and found to contain any of the immature stages of the mosquito;
- (c) any cesspit, latrine, urinal, dung-pit or ash-pit found to contain any of the immature stages of the mosquito;
- (d) shall be nuisances liable to be dealt with in the manner hereinbefore provided for the treatment of nuisances.

29. (1) The occupier or owner of any premises shall keep such premises free from all bottles, whole or broken, whether fixed on walls or not, tins, boxes, calabashes, earthenware vessels, shells or any other articles which are kept so that they are likely to retain water.

Yards to be kept
free from bottles,
whole or broken
etc

(2) Any occupier or owner of any premises who fails to comply with the provisions of subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings.

30. No person shall within a township permit any premises or lands owned or occupied by him or over which he has control to become overgrown with bush or long grass of such a nature as, in the opinion of the Public Health Officer, to be likely to harbor mosquitoes.

Premises not to be
overgrown

31. (1) It shall be unlawful for any person to keep, or for the occupier or owner of any premises to allow to be kept thereon, any collection of water in any well, barrel, tub, bucket, tank or other vessel intended for the storage of water, unless such well, barrel, tub, bucket, tank or other vessel is fitted with a sufficient cover and is properly protected or screened to the satisfaction of a Public Health Officer so as to prevent the ingress of mosquitoes into the same.

Wells etc to be covered

(2) Any person who contravenes the provisions of subsection (1) commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings, and after notice received from the Public Health Officer to a further fine not exceeding five hundred shillings for each day during which he makes default.

32. The occupier or owner of any premises upon or attached to which is any cesspit shall cause such cesspit to be properly protected or screened to the satisfaction of a Public Health Officer so as to prevent the ingress of mosquitoes into the same, and in default he commits an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings, and to a further fine not exceeding one thousand shillings for each day during which he continues to make such default after notice received from the department of health services to comply with the provisions of this section.

Cesspit to be screened

PART VII—CEMETERIES

33. (1) The Executive Committee Member shall select, appoint and notify in the gazette proper places to be the sites of and to be used as cemeteries; and it shall be obligatory where such cemeteries exist to bury the dead in such cemeteries in conformity with the provisions of rules made by Department of Health Services.

Dead to be buried in appointed cemeteries

(2) Any person who violates a rule made under subsection (1) commits an offence and shall be liable on conviction to a fine of not exceeding fifty thousand shillings or for a term of imprisonment not exceeding one year or both.

34. (1) It shall be unlawful to exhume anybody or the remains of anybody which may have been interred in any authorized cemetery, burial ground or other place without a permit granted by the Department of Health Services.

Permit to exhume

(2) Such permit shall be granted only to the legal personal representative or next of kin of the person buried or to his or their duly authorized agent.

(3) The Department of Health Services may prescribe such conditions or precautions as it may deem fit as the condition of the grant of such permit and any person who exhumes anybody or the remains of anybody contrary to this Act or who neglects to observe the conditions or precautions prescribed as the condition of the permit commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment to a term not exceeding one year or to both:

Provided that nothing herein contained shall be deemed to affect the right of a court of competent jurisdiction to order the exhumation of the body or the remains of any body for any purpose.

35. (1) It shall be lawful to the executive committee member whenever he deems it expedient for the execution of any public work or any public purpose to remove any body or the remains of any body from any grave whether in an authorised cemetery or elsewhere and by order under his hand to direct such removal to be made in such manner as he deems fit.

Exhumation
needed for
execution of
public works may
be ordered

(2) No such order shall be made in respect of any grave situated in an authorised cemetery until six months notice of the intention to make it has been given by notification in the gazette; copies of such notice shall be posted at or near the grave

(3) When an order is made directing the removal from the grave as aforesaid elsewhere than in an authorised cemetery due notice of such order shall so far as possible to do so be given to the legal representative or next of kin of the person buried before the work of removal of such a body is undertaken.

(4) The Department of Health Services shall make proper and fitting arrangements for the re-interment in an authorised cemetery or of any body or remains of anybody removed under this section and for the removal and re-erection of any monument, all charges in connection therewith being defrayed out of the public funds.

36. (1) There shall be kept a record of every permit granted and of every order made under section 33 or section 34 of this Act.

Records of
permits and orders
for exhumation

(2) Such records shall contain particulars so far as the same can be ascertained of the race, nationality, name, sex and age of the person buried, the date of burial, and the place of original burial and of re-burial or removal.

(3) such records shall be open for public inspection.

37. The Executive Committee Member shall notify in the gazette that any cemetery or burial ground shall from a time in such notification to be specified be closed and the same shall be closed accordingly and whosoever after the said specified time, buries anybody or remains of anybody in such burial grounds shall commit an offence and liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Closing of
cemeteries

PART VIII—POWER OF ENTRY

38. (1) A County Public Health Officer, County enforcement officer or a police officer of or above the rank of Inspector may at any reasonable time for the proper performance of their duty, enter any land or premises to make any inspection or to perform any work or to do anything which is required or authorized by this Act .

Power of entry

(2) Any person who fails to give or refuses access to a Public Health Officer, or a police officer of the rank of inspector or above, or obstructs or hinders such officer in the execution of his or her duties, or who fails or refuses to give information that he may lawfully be required to give to such officer, or who gives to such officer, false or misleading information, commits an offence.

PART IX—NOTIFICATION OF INFECTIOUS DISEASES

39. (1) The provisions of this Act, unless otherwise expressed, shall, so far as they concern notifiable infectious diseases, apply to smallpox, plague, cholera, scarlatina or scarlet fever, typhus fever, diphtheria or membranous croup, measles, whooping-cough, erysipelas, puerperal fever (including septicaemia, pyaemia, septic pelvic cellulitis or other serious septic condition occurring during

Application of this
Part

the puerperal state), enteric or typhoid fever (including para-typhoid fever), epidemic cerebro-spinal meningitis or cerebro-spinal fever, acute poliomyelitis, leprosy, anthrax, glanders, rabies, malta fever, sleeping sickness or human trypanosomiasis, beri-beri, yaws, dengue fever, influenza, yellow fever, viral haemorrhagic fevers and all forms of tuberculosis which are clinically recognizable apart from reaction to the tuberculin test.

(2) The Executive Committee Member may, by notice in the gazette—

- (a) declare that any infectious disease other than those specified in subsection (1) shall be notifiable diseases under this Act;
- (b) declare that only such provisions of this Act as are mentioned in such notice shall apply to any notifiable infectious disease;
- (c) restrict the provisions of this Act, as regards the notification of any disease, to any area defined in such notice.

40. (1) Where an occupant of any building used for human habitation is suffering from any notifiable infectious disease, unless such building is a hospital in which persons suffering from any notifiable infectious disease are received, the following provisions shall have effect—

Notification of
infectious diseases

- (a) the head of the family to which such occupant belongs, and in his default the nearest relatives of the patient present in the building or in their default the person in charge of or in attendance on the patient, and in default of any such person the occupier of the building, shall, as soon as he becomes aware that the patient is suffering from any notifiable infectious disease to which this Act applies, send notice thereof to the nearest health facility;
- (b) every medical practitioner attending on or called in to visit the patient shall forthwith on becoming aware that the patient is suffering from any notifiable infectious disease to which this Act applies send the nearest medical officer of health a certificate stating the name of the patient, the

situation of the building and the notifiable infectious disease from which, in the opinion of such medical practitioner, the patient is suffering; and shall also inform the head of the household or the occupier of the premises or any person in attendance on such patient of the infectious nature of the disease and the precautions to be taken to prevent its conveyance to others;

(c) in any case in which a medical practitioner has been called in, the obligation to notify an infectious disease shall rest on such medical practitioner only;

(d) every medical practitioner who becomes aware, by post-mortem examination or otherwise, that any person has died of a notifiable infectious disease shall immediately furnish a written certificate thereof to the nearest medical officer of health, and shall also inform the head of the household or the occupier of the premises .

(2) Every person required by this section to give a notice or certificate and who fails to give the same commits an offence.

Provided that if a person is not required to give notice in the first instance, but only in default of some other person, he shall not be guilty of an offence if he satisfies the court that he had reasonable cause to suppose that the notice had been duly given.

41. The Department of Health Services shall pay to every medical practitioner, other than a Government Medical Officer, for each certificate duly sent by him in accordance with this Act prescribed fees upon confirmation if the case occurs in his private practice.

Fees for
certificates

42. A notice or certificate to be sent to a medical officer of health in pursuance of this Act may be sent by being delivered to the officer or being left at his office or residence, or may be sent by post addressed to him at his office or his residence.

Manner of
sending notices
and certificates

PART X—PREVENTION AND CONTROL OF INFECTIOUS DISEASES

A—General Provisions

43. A medical practitioner may at any time enter and inspect any premises in which he has reason to believe that any person suffering or who has recently suffered from any infectious disease is or has recently been present, or any occupant of which has recently been exposed to the infection of any infectious disease, and may medically examine any person in such premises for the purpose of ascertaining whether such person is suffering or has recently suffered from any such disease.

Inspection of
infected premises
and examination
of persons
suspected to be
suffering from
infectious disease

44. (1) Where any medical practitioner is of opinion that the cleansing and disinfecting of any building or part thereof, and of any articles therein likely to retain infection, would tend to prevent or check infectious disease, it shall be his duty to give notice in writing to the owner or occupier of such building or part thereof, specifying the steps to be taken to cleanse and disinfect such building or part thereof and articles within a time specified in such notice.

Health authority
to cause premises
to be cleansed and
disinfected

(2) If the person to whom notice is so given fails to comply therewith, he commits an offence and shall on conviction be liable to a fine not exceeding one thousand shillings for every day during which he continues to make default; and the department of health services or medical practitioner may cause such building or part thereof and articles to be cleansed and disinfected, and may recover the expenses incurred from the owner or occupier in default as a civil debt recoverable summarily.

(3) Where the owner or occupier of any such building or part thereof is poor or otherwise unable, in the opinion of the Department of Health Services or the medical practitioner, effectually to carry out the requirements of this section, the Department of Health Services or the medical practitioner, may without enforcing such requirements on such owner or occupier, with or without his consent, enter, cleanse and disinfect such building or part thereof and articles, and defray the expenses thereof.

45. A medical practitioner may direct the destruction of any bedding, clothing or other articles which have been

Destruction of
infected bedding,
etc.

exposed to infection from any infectious disease, or in the opinion of the medical practitioner are infected.

46. The Department of Health Services may provide a proper place, with all necessary apparatus and attendance, for the disinfection of bedding, clothing or other articles which have become infected, and may cause any articles brought for disinfection to be disinfected free of charge, and any such direction shall be sufficient authority for a medical practitioner or person authorized thereto to destroy the same.

Provision of
means of
disinfection

47. Any health authority may provide and maintain a carriage or carriages suitable for the conveyance of persons suffering from any infectious disease, and may pay the expenses of conveying therein any person so suffering to a hospital or other place of destination.

Provision of
conveyance for
infected persons

48. Where, in the opinion of the medical practitioner, any person certified by a medical practitioner to be suffering from an infectious disease is not accommodated or is not being treated or nursed in such manner as adequately to guard against the spread of the disease, such person may, on the order of the medical practitioner, be removed to a hospital or temporary place which in the opinion of the medical practitioner is suitable for the reception of the infectious sick and there detained until such medical practitioner duly authorized thereto by the Department of Health Services is satisfied that he is free from infection or can be discharged without danger to the public health.

Removal to
hospital of
infected persons

49. Where, in the opinion of a medical practitioner, any person has recently been exposed to the infection, and may be in the incubation stage, of any notifiable infectious disease and is not accommodated in such manner as adequately to guard against the spread of the disease, such person may, on a certificate signed by the medical practitioner, be removed and at the cost of the Department of Health Services where such person is found to a place of isolation and there detained until in the opinion of the medical practitioner he is free from infection or able to be discharged without danger to public health.

Isolation of
persons who have
been exposed to
infection

50. Any person who—

Penalty for
exposure of
infected persons
and things

- (a) while suffering from any infectious disease, wilfully exposes himself without proper precautions against spreading the said disease in any street, public place, shop, inn or public conveyance, or enters any public conveyance without previously notifying the owner, conductor or driver thereof that he is so suffering; or
- (b) being in charge of any person so suffering, so exposes such sufferer; or
- (c) gives, lends, sells, transmits or exposes, without previous disinfection, any bedding, clothing, rags or other things which have been exposed to infection from any such disease,

commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding three years or to both; and a person who, while suffering from any such disease, enters any public conveyance without previously notifying the owner or driver that he is so suffering shall in addition be ordered by the court to pay such owner and driver the amount of any loss and expenses they may incur in carrying into effect the provisions of this Act with respect to disinfection of the conveyance.

Provided that no proceedings under this section shall be taken against persons transmitting with proper precautions any bedding, clothing, rags or other things for the purpose of having the same disinfected.

51. Every owner or driver of a conveyance shall immediately provide for the disinfection of such conveyance after it has to his knowledge conveyed any person suffering from an infectious disease; and if he fails to do so commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings; but no such owner or driver shall be required to convey any persons so suffering until he has been paid a sum sufficient to cover any loss or expenses incurred by him in carrying into effect the provisions of this section.

Penalty for failing to provide for disinfection of public conveyance

52. (1) Any person who knowingly lets for hire any dwelling or premises or part thereof in which any person has been suffering from an infectious disease without having the same and all articles therein liable to retain

Penalty for letting an infected house

infection efficiently disinfected to the satisfaction of a medical practitioner as testified by a certificate signed by him commits an offence and shall be liable on conviction to a fine not exceeding eighty thousand shillings or imprisonment to a term not exceeding one year or to both.

(2) This section shall apply to any owner or keeper of a hotel or boardinghouse who lets any room or part thereof to any person.

53. Any person letting for hire or showing for the purpose of letting for hire any dwelling or premises or part thereof who, on being questioned by any person negotiating for the hire of such house as to the fact of there being or within six weeks previously having been therein any person suffering from any infectious disease, knowingly makes a false answer to such question commits an offence and shall be liable on conviction to a fine not exceeding five thousand shillings.

Duty of person
letting house
lately infected to
give true
information

B—Hospitals

54. (1) The Department of Health Services may provide for the use of the inhabitants of its area hospitals or temporary places for the reception of the sick, and for that purpose may—

Power of the
Department of
Health Services to
provide hospital

- (a) build such hospitals or places of reception; or
- (b) contract for the use of any such hospital or part of a hospital or place of reception; or
- (c) enter into any agreement with any person having the management of any hospital, for the reception of the sick inhabitants of their area, on payment of such annual or other sum as may be agreed on.

C—Special Provisions Regarding Formidable Epidemic, Endemic or Infectious Diseases.

55. The provisions of this Act, unless otherwise expressed, in so far as they concern formidable epidemic, endemic or infectious disease, shall be deemed to apply to smallpox, plague, cholera, viral hemorrhagic fevers, sleeping sickness or human trypanosomiasis and any other disease which the Executive Committee Member may, by order, declare to be a formidable epidemic disease for the purpose of this Act.

Formidable
epidemic,
endemic or
infectious diseases

56. Whenever any part of the County appears to be threatened by any formidable epidemic, endemic or infectious disease, the Executive Committee Member may make rules for all or any of the following purposes—

- (a) the speedy interment of the dead;
- (b) house to house visitation;
- (c) the provision of medical aid and accommodation, the promotion of cleansing, ventilation and disinfection and guarding against the spread of disease;
- (d) preventing any person from leaving any infected area without undergoing all or any of the following, namely, medical examination, disinfection, inoculation, vaccination or revaccination and passing a specified period in an observation camp or station;
- (e) the formation of hospitals and observation camps or stations, and placing therein persons who are suffering from or have been in contact with persons suffering from infectious disease;
- (f) the destruction or disinfection of buildings, furniture, goods or other articles, which have been used by persons suffering from infectious disease, or which are likely to spread the infection;
- (g) the removal of persons who are suffering from an infectious disease and persons who have been in contact with such persons;
- (h) the removal of corpses;
- (i) the destruction of rats, the means and precautions to be taken for the better prevention of the danger of spreading infection by rats;
- (j) the regulation of hospitals used for the reception of persons suffering from an infectious disease and of observation camps and stations;
- (k) the removal and disinfection of articles which have been exposed to infection;
- (l) prohibiting any person living in any building or using any building for any other purposes

whatsoever, if in the opinion of the medical officer of health any such use is liable to cause the spread of any infectious disease; and any rule made under this paragraph may give the Health Officer or a medical officer of health power to prescribe the conditions on which such a building may be used;

- (m) any other purpose, whether of the same kind or nature as the foregoing or not, having for its object the prevention, control or suppression of infectious diseases, and may by order declare all or any of the rules so made to be in force within any area specified in the order, and such area shall be deemed an infected area.

57. The Department of Health Services shall do and provide all such acts, matters and things as may be necessary for mitigating any such disease, or aiding in the execution of such rules, or for executing the same, as the case may require; and the department of health services or the medical practitioner may from time to time direct any prosecution or legal proceedings for or in respect of the wilful violation or neglect of any such rules.

The Department
of Health Services
to see to execution
of rules

58. A medical practitioner shall have power of entry on any premises or vessels for the purpose of executing or superintending the execution of any rules made under section 55 of this Act.

Power of entry

59. (1) Any person who becomes aware of any unusual sickness or mortality among rats, mice, cats, dogs or other animals susceptible to plague or other formidable epidemic diseases not due to poison or other obvious cause shall immediately report the fact to a health facility.

Notification of
sickness or
mortality in
animals suspected
of plague

(2) Any person who fails so to report commits an offence.

60. Any medical practitioner shall immediately report to the Director of Health Services particulars of every notification received by such medical practitioner of a case or suspected case of any formidable epidemic disease, or of any unusual sickness or mortality in animals.

Medical
practitioner to
report notification
of formidable
epidemic diseases

61. (1) Where an outbreak of any formidable epidemic disease exists or is threatened, the Department of Health Services shall require any person owning or having charge

Department of
Health Services
may requisition
buildings,
equipment, etc.

of any land or any buildings or dwellings, not occupied, or any person owning or having charge of tents, transport, bedding, hospital equipment, drugs, food or other appliances, materials or articles urgently required in connection with the outbreak, to hand over the use of any such land or building or to supply or make available any such article, subject to the payment of reasonable amount as hire or purchase price.

(2) Any person who, without reasonable cause, fails or refuses to comply with any such requirement commits an offence.

PART XI—SEXUALLY TRANSMITTED DISEASES

62. The provisions of this Act, unless otherwise expressed, in so far as they concern sexual transmitted diseases, shall be deemed to apply to syphilis, gonorrhoea, gonorrheal ophthalmia, soft chancre, genital warts, *Chlamydia trachomatis*, candidiasis, venereal granuloma and any other disease as may be declared.

Sexually
transmitted
diseases

63. (1) Any person who knows or has reason to believe that he is suffering from any sexually transmitted disease shall forthwith consult a medical practitioner with respect thereto, and shall place himself or herself under treatment by that medical practitioner, or shall attend for treatment at any health facility for treatment of the sexually transmitted diseases.

Persons suffering
from sexually
transmitted
diseases to have
themselves treated
until cured

(2) Every person undergoing treatment for any sexually transmitted disease as aforesaid shall, until cured or free from such disease in a communicable form, continue to submit himself or herself to treatment at such intervals as may be prescribed by any such medical practitioner.

(3) Any person who fails to comply with any provision of this section commits an offence.

64. Any medical practitioner who attends or advises any patient in respect of any sexually transmitted disease from which the patient is suffering shall—

Duties of medical
practitioners

- (a) direct the attention of the patient to the infectious nature of the disease and to the penalties prescribed by this Act for infecting any other person with such disease;

- (b) warn the patient against contracting marriage unless and until he has been cured of such disease or is free from such disease in a communicable form; and
- (c) give to the patient such printed information relating to the treatment of sexually transmitted disease and to the duties of persons suffering therefrom, as may be supplied to the medical practitioner by the department of health.

65. (1) Every parent or guardian of a child who knows or has reason to believe that such child is suffering from any sexually transmitted disease shall cause such child to be treated for such disease by a medical practitioner until such child is cured or free from such disease in a communicable form.

Duties of parents
or guardians of
infected children

(2) Every parent or guardian of any such child who fails or neglects to have that child treated as aforesaid 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 six months or to both.

66. (1) Any person who, while suffering from any sexually transmitted disease in a communicable form, accepts or continues in employment in or about any factory, shop, hotel, restaurant, house or other place in any capacity entailing the care of children or the handling of food or food utensils intended for consumption or use by any other person commits an offence, unless he proves that he did not know or suspect, and had no reasonable means of knowing or suspecting, that he was so suffering.

Infection by
employees

(2) A person commits an offence if he employs or continues to employ any person suffering from any sexually transmitted disease in a communicable form if, by reason of such employment, such person is required or is permitted to have the care of children or to handle any food or food utensils intended for consumption or use by any person other than the person employed, unless the defendant proves that he did not know or suspect, and had no reasonable means of knowing or suspecting, that the person so employed by him was suffering from such disease.

67. (1) It shall be the duty of every medical practitioner who knows or has reason to believe that any person is suffering from any sexually transmitted disease in a communicable form and is not under treatment by a medical practitioner or is not attending for medical treatment regularly and as prescribed by such medical practitioner to give notice to such person of the requirements of this Act in regard to attendance for treatment of persons suffering from sexually transmitted disease, and, if thereafter such person does not comply with those requirements, to report the matter to the department of health services to institute appropriate legal proceedings.

Duties of medical practitioners to report, and powers of magistrates

(2) An order under this section may require the person named therein—

- (a) to furnish a certificate by a medical practitioner as to whether he is or is not suffering from a sexually transmitted disease in a communicable form; or
- (b) to attend at a specified time and place for examination by a medical practitioner named in the order; or
- (c) to attend regularly for medical treatment at times and at a place specified in such order; or
- (d) to proceed or be removed to and to remain or be detained under treatment in a special hospital or place of accommodation provided or established under this Part, either for a specified time or until cured or free from the disease in a communicable form.

(3) Any person who fails to comply with any order made under this section, or who escapes or attempts to escape from any health facility in which he has been ordered to remain or to be detained, commits an offence.

68. Every person who willfully or by culpable negligence infects any other person with venereal disease or does or permits or suffers any act likely to lead to the infection of any other person with any such disease 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 six months or to both.

Conveyance of infection an offence

69. (1) Where any person sentenced to imprisonment under this Act or any other law is suffering from a sexually transmitted disease in a communicable form, he may, by order of the court, be removed to a health facility or place of accommodation, and be detained under treatment therein until the expiry of his sentence, and the court, on the representation of the medical practitioner treating such person, and if satisfied that the public health cannot otherwise adequately be safeguarded and that such person when released is unlikely to undergo treatment by a medical practitioner for such disease, may order that he be detained in such health facility or place either for a specified period after the expiry of his sentence or until he is cured or free from the disease in a communicable form.

Detention in
hospital of
infected person

(2) Any person so detained in a health facility or other place of accommodation who escapes or attempts to escape therefrom commits an offence.

70. (1) Inquiries and proceedings before any court of law under this part shall be secret and conducted in camera and the records thereof shall be kept in the manner and form prescribed by law.

Secrecy of
proceedings

(2) Any person publishing or divulging the name of any person dealt with under this part or the nature of proceedings or contents of any report, certificate, document or order in connection therewith or any other matter in connection to his knowledge in connection with anything arising in this Act to any unauthorised person and any person who without any lawful justification or excuse falsely alleges that any person is suffering or has suffered from sexual transmitted disease commits an offence.

PART XII—GENERAL

71. It shall be unlawful to live in, occupy or use, or to let or sublet, or to suffer or permit to be used, any basement for habitation, nor shall it be lawful, without the written permission of a Public Health Officer, to use such basement as a shop, workshop or factory, or for the preparation or storage of food, and no basement shall be used unless it is well lit and ventilated and is free from damp and is rendered rat-proof to the satisfaction of the Public Health Officer.

Basements not to
be occupied
without
permission

72. The Executive Committee Member, may make rules for the conduct and inspection of lodging-houses, and

Regulation of
lodging-houses

no person shall open, or keep open, a lodging house unless the house is registered and the keeper thereof is licensed by the Department of Health Services.

73. (1) The Executive Committee Member, may make rules for the conduct and inspection of nursing homes, convalescent homes, private hospitals, private mental hospitals, maternity homes, infirmaries or any institutions where invalids, convalescents or children are treated or received upon payment of fees or charges, and no person shall open, or keep open, any such premises unless the premises and the keeper thereof are licensed by the relevant regulatory bodies.

Regulation of private health facilities.

(2) The Department of Health Services, may authorize medical practitioners to visit and inspect any such premises, as are mentioned in subsection (1) and to report to the Department of Health Services upon any matter or thing connected with such premises or the use thereof.

(3) Any person who knowingly obstructs an authorized medical practitioner in any inspection under subsection (2), commits an offence.

74. For the purposes of this Act, the Executive Committee Member may make rules for the establishment, control and closing of all markets and market buildings.

Markets

75. (1) Where it is shown to the satisfaction of the Executive Committee Member, that the growing of any crop or the irrigation of any land being within the boundaries of a township or within three miles of such boundaries is a health risk or insanitary, the Executive Committee Member may, after consultation with the Executive Committee Member for the time being responsible for Agriculture, by order, prohibit the growing of any crop or the irrigation of any land within any area, within the boundaries of a township or within three miles of such boundaries, and may cause any permit or authorization issued for the diversion, abstraction or use of water for such purpose to be cancelled upon such terms as may appear to him or her equitable.

Control of irrigated land, and rules for the regulation of standing or running water

(2) The Executive Committee Member may make rules for ensuring that the health of the inhabitants of the County may be safeguarded in respect of—

- (a) the prevention of pools of standing water;
- (b) the drainage and control of such pools when they exist;
- (c) the inspection, repair and cleansing of open channels, canals and drains.

PART XIII—MISCELLANEOUS PROVISIONS

76. Notices, orders and other documents under this Act may be in writing or print, or partly in writing and partly in print, and if the same require authentication by the department of health services, the signature thereof respectively by the Chief Officer of Health Services, Director of Health Services, medical practitioner, Public Health Officer as the case may be, shall be sufficient authentication.

Notices, etc., may
be printed or
written

77. Notices, orders and other documents required or authorized to be served under this Act may be served by delivering the same to or at the residence of the person to whom they are respectively addressed, or where addressed to the owner or occupier of premises by delivering the same, or a true copy thereof, to some person on the premises, or if there is no person on the premises who can be served by fixing the same on some conspicuous part of the premises; they may also be served by post by a prepaid letter, and if served by post shall *prima facie* be deemed to have been served at the time when the letter containing the same would be delivered in the ordinary course of post, and in proving such service it shall be sufficient to prove that the notice, order or other document was properly addressed and put in the post.

Service of notices,
etc.

78. No defect in the form of any notice or order made under this Act shall invalidate or render unlawful the administrative action, or be a ground for exception to any legal proceedings, which may be taken in the matter to which such notice or order relates, provided the requirements thereof are substantially and intelligibly set forth.

Defect in form not
to invalidate
notices, etc.

79. (1) Any medical practitioner or any police officer of or above the rank of Inspector, or any other person generally or specially authorized in writing by the Director of Health Services, may at any hour reasonable for the proper performance of the duty, enter any land or premises to make any inspection or to perform any work or to do

Powers of entry
and inspection of
premises and
penalties for
obstruction

anything which is required or authorized by this Act or any other law to do, if such inspection, work or thing is necessary for or incidental to the performance of his or her duties or the exercise of his powers.

(2) Any person who fails to give or refuses access to any officer, or person mentioned in or authorized under subsection (1) if he requests entrance on any land or premises, or obstructs or hinders him or her in the execution of his duties under this Act, or who fails or refuses to give information that he may lawfully be required to give to such officer, or person, or who gives to such officer, inspector or person false or misleading information knowing it to be false or misleading, or who prevents the owner or any of his servants or workmen from entering any land or dwelling or premises for the purpose of complying with any requirement under this Act, commits an offence.

80. Any person who is guilty of an offence under or of any contravention of or default in complying with any provision of, this Act shall, if no penalty is expressly provided for such offence, contravention or default, be liable on conviction to a fine not exceeding fifty thousand shillings, or to imprisonment for a term not exceeding six months, or to both and, if the offence, contravention or default is of a continuing nature, to a further fine not exceeding one thousand shillings for each day it continues.

Penalty where not expressly provided

81. Where a contravention of any of the provisions of this Act is committed by any company or corporation, the secretary or manager thereof may be summoned and shall be held liable for such contravention and the consequences thereof.

Liability of secretary or manager of company

82. Where proceedings under this Act are competent against several persons in respect of a joint act or default of such persons, it shall be sufficient to proceed against one or more of them without proceeding against the others.

Proceedings against several persons

83. The department of health services may, by any of its officers or by any person generally or specially authorized in writing by the director of public prosecution, prosecute for any contravention of, offence against, or default in complying with, any provision of this Act or any rule made or deemed to be made thereunder, if the

Prosecutions

The Kakamega County Public Health Bill, 2017

contravention, offence or default is to have been committed within or to affect his area.

84. Nothing in any law specially governing the government shall be construed as preventing the government from exercising any power or performing any duty under this Act by reason only that in exercising such power or performing such duty it must do some act or thing or incur expenditure outside its area.

Power of
department of
health services
outside its area

85. The Executive Committee Member may make regulations, generally for carrying out of the purposes of this Act.

General power to
make regulations

86. Save as provided in this Act all legal rights and obligations of the National Government in respect of Health Services as a devolved function however arising and subsisting immediately before the commencement of this Act shall continue as rights and obligations of the County government.

Transitional
provisions

MEMORANDUM OF OBJECTS AND REASONS

The Kenya Constitution 2010, Article 186 lays out the sharing of functions between the National Government and County Governments. The provision of health services was devolved as a function of the County Governments under the Fourth schedule of the Constitution. In view of the above, the Bill seeks to make provisions for provision and management of Public Health Services in the County to ensure compliance to set down health standards, control of health care facilities and related matters.

LUCAS RADOLI,
Chairperson, Health Services Committee.