

SPECIAL ISSUE

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KAKAMEGA COUNTY BILLS, 2018

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THE KAKAMEGA COUNTY YOUTH SERVICE BILL, 2018

A Bill for

AN ACT of the County Assembly of Kakamega to give effect to Article 55 of the Constitution, establish the Kakamega County Youth Service and for connected matters and purposes incidental there to

ENACTED by the County Assembly of Kakamega as follows—

PART I—PRELIMINARY

Short title and Commencement

1 This Act may be cited as the Kakamega County Youth Service Act, 2018 and shall come into force upon publication in the *Gazette*

Interpretation

2 In this Act, except where the context otherwise requires—

“county” means Kakamega County,

“county government” means the County Government of Kakamega,

“county public service board” means the Kakamega County Public Service Board,

“director” means the County Director of the service appointed under this Act,

“executive committee” means County Executive Committee pursuant to Article 179 of the Constitution of Kenya,

“executive committee member” means the County Executive Committee Member responsible for youth affairs,

“officer” means a Member of the County Youth Service of one of the ranks of officers specified in the First Schedule,

“member” in relation to the county youth service includes an officer, a subordinate officer, a service member and any person for the time being seconded for service in the county youth service,

“service” means Kakamega County Youth Service,

“service member” means a Member of the County Youth Service undergoing training,

“subordinate officer” means a member of the service of one of the ranks of subordinate officer specified in the First Schedule, and

“youth” has the meaning assigned to it under article 260 of the Constitution of Kenya, 2010

Object and Purpose

- 3** The object and purpose of this Act is to—
- (a) give effect to Article 55 of the Constitution by—
 - (i) ensuring youth access relevant education and training,
 - (ii) providing youth with opportunities to associate, be represented and participate in political, social and economic spheres of life,
 - (iii) providing youth with employment opportunities, and
 - (iv) ensuring youth are protected from harmful cultural practices and exploitation,
 - (b) promote participation of the youth in development and empowerment programs, and
 - (c) provide necessary training to facilitate increased employment and self-reliance of the youth

PART II—ESTABLISHMENT OF THE SERVICE

Establishment of the Service

4 There is established in the County the service to be known as the Kakamega County Youth Service which shall be maintained by the County Government

Functions of the Service

- 5** The functions of the service shall be to—
- (a) training the youth to serve the county, and
 - (b) employment its members to undertake tasks on the devolved functions of the county and otherwise in the service of the county

Recruitment of Service Members

6 (1) The service shall recruit service members from every ward of the county

(2) In making the recruitment, the director shall ensure regional balance and gender equity in line with existing policies and regulations

Appointment of the County Youth Leader

7 (1) There shall be a county youth leader appointed by the governor, who shall not be a member of the County Public Service

(2) The county youth leader shall advise the governor and the executive committee member on the exercise of their powers under this Act and their general responsibilities for the service

(3) The county youth leader shall be appointed from amongst the youth within the county

PART III—ORGANIZATION AND MEMBERSHIP OF THE SERVICE

Members of the Service

8 (1) The service shall consist of such number of members as may from time to time be prescribed by the executive committee

(2) The members of the service shall be service members or officers, such officers being officers or subordinate officers having the ranks and seniorities specified in the First Schedule and any person for the time being seconded to the service

(3) The executive committee member may, from time to time amend the First Schedule

Secondment to the Service

9 Any person in the county public service, officer from any other county or national government by arrangement with that government, may be seconded by the executive committee member to the service, for such period and at such rank in the service as the executive committee member may determine

Provided that where a person is seconded to the service in any particular rank he or she shall not thereafter be required to serve in any rank junior thereto without his or her consent, and if he or she can no longer be employed in the rank at which he or she was seconded, or in any rank senior thereto, his or her secondment shall, if he or she so wishes, be terminated

Appointment to, or enlistment in Service

10 (1) Officers and subordinate officers shall be appointed in the manner applicable to the appointment of other public officers within the county public service—

- (a) other members of the service, who must be male or female youths citizens of Kenya between the ages of eighteen years and thirty five years (both ages being inclusive), may be enlisted or re-enlisted by the director, or by an officer authorized by him or her in that behalf, from persons who voluntarily offer themselves for enlistment or re-enlistment,

- (b) every member of the service enlisted or re-enlisted under paragraph (a) of this subsection shall be enlisted initially to serve in the service for a period of one year, or for such other period as the executive committee member may from time to time prescribe and on the expiration of such period may, if he or she so wishes and the director, or an officer authorized by him or her in that behalf so approves, be re-enlisted for a further period

Provided that a member desiring to re-enlist for a further term of service shall so apply not more than three months, or less than one month, immediately preceding the date of expiration of his or her current period of service

- (3) Every member of the service being appointed or seconded or enlisted for the first time shall be required to make the declaration set out in the Second Schedule, either in English or Kiswahili

Termination of Service

11 (1) The executive committee member may at any time during the period of secondment of a member terminate such secondment if, for any reason, the services of such member are no longer required

(2) The appointment of an officer or a subordinate officer may be terminated, if his or her services are no longer required, in the manner applicable to other public officers within the county public service

(3) The director may, at any time during the period of enlistment or re-enlistment of a service member, terminate such enlistment or re-enlistment if for any reason the service member's services are no longer required

Resignation from the Service

12 (1) A service member may, at the discretion of the director, or an officer authorized by him or her in that behalf, be permitted to resign from the service before the expiration of his or her period of enlistment or re-enlistment on personal or compassionate grounds

(2) An officer or a subordinate officer may be permitted to resign from the service in the manner applicable to other public officers within the county public service

Extension of service during times of emergency

13 Despite the foregoing provisions, any member of the service whose engagement or secondment expires, or who wishes to resign, during a disaster or public emergency may be retained in the service and his or

her period of engagement or secondment prolonged for such further period, not being more than six months

Provided that the provisions of this section shall not apply to a member seconded from another county or national government, except with the consent of the government and of the member concerned

Return of service property

14 (1) Every member on leaving the service shall forthwith deliver up to such person as may be authorized in that behalf, any uniform, clothing, equipment or accoutrements supplied to him or her by or on behalf of the service

Provided the director, at his or her discretion, may authorize a member to retain items of clothing on leaving the service

(2) Any person who fails to comply with the provisions of subsection (1) or who returns such property in a damaged condition, the damage not being attributable to the proper discharge of his or her duties whilst a member of the service, shall be liable for the cost of replacing or repairing such property, and such cost shall be a debt due from such person to the county government and may be recoverable by deduction from any moneys due from the county government to such person, or by civil suit for the whole amount, or for any balance due after such deduction as aforesaid

Members not to engage in trade, etc

15 During his or her period of service with the service no member shall engage himself or herself in any trade, business or employment, or shall take part in any commercial undertaking, outside the scope of his or her duties in the service, except with the approval of the executive committee member in the case of an officer and a subordinate officer or the director in the case of any other member

Service may be divided into branches, etc

16 (1) The service shall be divided into such numbers and description of branches, units and sub-units as the executive committee member may from time to time direct

(2) Any member, save for an officer or subordinate officer specifically seconded to a particular description of branch, unit or sub-unit (in which case he or she may be posted only to a branch, unit or sub-unit of that description), may at the discretion of the director be posted to and employed in any branch, unit or sub-unit of the service

Responsibilities of director and officers in-charge

17 (1) The director shall, subject to this Act and any subsidiary legislation made thereunder, and any directions given by the executive committee member, be responsible for the overall command, superintendence and direction of the service, and may for this purpose from time to time issue service standing orders which shall not be required to be published in the *Gazette*

(2) Subject to subsection (1), the member who is appointed as officer in charge of any description of branch, unit or sub-unit or combination of the same shall be responsible for the command, superintendence and direction of such branch, unit or sub-unit or such combination

PART IV—DUTIES AND EMPLOYMENT OF THE SERVICE

Duties of members

18 Every member of the service shall—

- (a) perform such duties and carry out such training as he or she may be directed by the officers senior to or placed in command over him or her,
- (b) obey and execute promptly all orders lawfully issued to him or her by the officers senior to him or her or placed in command over him or her

Certificate

19 Upon successful completion of the prescribed period of training and service in the county youth service, a certificate of training and service shall be issued to every service member

PART V—DISCIPLINE

Disciplinary Code and Regulations

20 (1) The director may issue a disciplinary code for the service or any part of the service, and in respect of service members may make regulations for the following matters—

- (a) to make provision for the investigation of disciplinary offences and the hearing and determination of disciplinary proceedings,
- (b) to make provision for appeals, and
- (c) to prescribe disciplinary penalties and awards

(2) The following disciplinary penalties and awards, or any combination thereof, may be included in such regulations for infringements of the disciplinary code—

- (a) dismissal from the service,

- (b) stoppages of pay or allowances,
- (c) extra drills or parades or fatigues

(4) A person seconded to the service shall not be subject to the disciplinary code

Strike, Sit in, Revolt, or Defiance

21 (1) Any member who takes part in a strike, sit-in, revolt or an act of defiance commits an offence and on conviction shall be liable to imprisonment to a term not exceeding one year

(2) In subsection (1) “strike, sit-in, revolt or defiance” for the purposes of this section means a combination between two or more members—

- (a) to resist lawful authority in the service, or
- (b) to disobey any such authority in such circumstances as to make the disobedience subversive of discipline

Insubordinate behaviour

22 Any member who—

- (a) strikes or otherwise uses violence to, or offers violence to or incites any other person to use violence to an officer senior to or placed in command over him or her or such other person, or
- (b) uses threatening or insubordinate language to any officer senior to or placed in command over him or her, shall be summarily dismissed from the service

Liability for other offences

23 Nothing in this Act or in the disciplinary code shall be deemed to exempt any member from being proceeded against for any offence under any other written law

Desertion

24 (1) Any member who absents himself or herself from duty without leave or just cause for a period of seven days shall, unless the contrary is proved, be deemed to have deserted from the service

(2) Any member who deserts from the service or who is deemed to have deserted from the service shall forfeit any pay or allowances due to him or her, and all rights in respect of any savings scheme operated by the service

(3) No pay or allowances shall be paid to any member in respect of any day during which he or she is absent from duty without leave, unless the director otherwise directs

PART VI—MISCELLANEOUS

Finance

25 The expenditure incurred in the establishment, maintenance and operations of the service, including the payment of such allowances for members as the executive committee member may from time to time direct shall be defrayed out of moneys appropriated by the county assembly

Member not employee of County Public Service

26 Despite anything contained in any other written law, a member of the service shall not be deemed to be an employee of the public service of the County Government of Kakamega

Role of County Public Service Board

27 The County Public Service Board shall guide the county department responsible for the service on all matters of recruitment, human resource management and development, discipline and deployment and any other matter that may affect the service

Report

28 At the end of each financial year or upon request by the executive committee member or the governor, the director shall submit a report on the performance of the service including—

- (a) the number of youth trained and deployed to perform various tasks in the county during the year,
- (b) the number of youths who have successfully completed the programme and exited,
- (c) financial records of the service,
- (d) any discipline issues,
- (e) challenges experienced during the year and recommendations;
- (f) nature, achievements and distribution of programmes being undertaken by the service in the county, and
- (g) any other matter the director shall deem necessary to report on

Regulations

29 In addition to the powers to make regulations or orders provided in the foregoing provisions of this Act, the executive committee member may make regulations generally for the better carrying out of the purposes of this Act

FIRST SCHEDULE

[SECTION 8(2)]

RANKS OF OFFICERS IN ORDER OF SENIORITY

Officers

Director

Senior Deputy Director

Deputy Director

Senior Assistant Director

Assistant Director

Senior Superintendent

Superintendent

Chief Inspector

Inspector

Subordinate Officers

Senior Sergeant

Sergeant

Corporal

Constable

SECOND SCHEDULE

[SECTION 10(3)]

DECLARATION

I, _____ swear by the Almighty
God [or solemnly and sincerely affirm] that I will give faithful and loyal
service during this or any subsequent period of service as a member of the
county youth service and that I will subject myself to all laws, regulations,
standing orders and disciplinary code relating to the said service which
may from time to time be in force

So help me God

(Signature of member)

Date

Declared by the said

At

This _____ day of _____ 20____

Before me

MEMORANDUM OF OBJECT AND REASONS

This Bill establishes the Kakamega County Youth Service. The Bill gives effect to Article 55 of the Constitution by promoting participation of the youth in development and empowerment programs as well as providing necessary training to facilitate increased employment and self-reliance of the youth.

The Bill is organised into six parts covering the following provisions—

Part I provides for preliminaries including short title, interpretation and object and purpose of the Bill.

Part II establishes the Service, its functions, mode of recruitment of Service members and appointment of the Service leaders.

Part III provides for the organization and membership to the Service.

Part IV provides for duties and employment of Service members.

Part V provides for discipline of Service members.

Part VI provides for miscellaneous provisions including Finances, Reports and Regulations.

The Bill shall occasion additional expenditure, which has been provided for in the budget estimates.

Dated 17th July, 2018

WINNY MUSUNGU,
*Chairperson, Committee on Labour,
Social Services, Youth, Sports and Culture*