

SPECIAL ISSUE

Kenya Gazette Supplement No 18A (Kiambu County Bills No 10)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KIAMBU COUNTY BILLS, 2018

NAIROBI, 17th July, 2018

CONTENT

Bill for Introduction into the County Assembly of Kiambu—

PAGE

The Kiambu County Enforcement Bill, 2018

1

THE KIAMBU COUNTY ENFORCEMENT BILL, 2018

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title
- 2—Interpretation
- 3—Purpose of the Act

PART II—ADMINISTRATION

- 4—Establishment of the Directorate
- 5—Appointment of the Director
- 6—Appointment of the Deputy Director of Enforcement
- 7—Designation of an officer in charge
- 8—Appointment of enforcement officers
- 9—Appointment of other members of staff
- 10—Gender, Ethnic and Regional balance
- 11—Oath of Office
- 12—Standing orders for enforcement officers
- 13—Enforcement officers prohibited from conflict of interest
- 14—Uniforms and Identification badges
- 15—Surrender of public property on resignation
- 16—Limitation of rights and fundamental freedom of enforcement officers

PART III—POWERS AND RESPONSIBILITIES OF ENFORCEMENT OFFICERS

- 17—Duties and Power of officers
- 18—Stoppage
- 19—Power to Arrest
- 20—Arrests and Detentions by an enforcement officer
- 21—Non-violent means
- 22—Entry of dwelling place
- 23—Obstruction

2 *The Kiambu County Enforcement Bill, 2018*

24—Seizure during inspection

25—Order of restoration

PART IV—OFFENCES

26—Prohibition against torture or cruel treatment

27—Impeisonation of an enforcement officer or wearing uniform etc

28—Assault in execution of duty

20—General Penalty

PART V—GENERAL PROVISIONS

30—Rules

SCHEDULES

FIRST SCHEDULE—OATH/AFFIRMATION OF OFFICE

—OATH/ AFFIRMATION OF SECRECY

SECOND SCHEDULE—STANDING ORDERS

**THIRD SCHEDULE—REPORT ON SEIZURE OF
GOODS/PROPERTY**

THE KIAMBU COUNTY ENFORCEMENT BILL, 2018

A Bill for

AN ACT of the County Assembly of Kiambu to establish the Kiambu County Directorate of Enforcement and provide for its organization, functions, and powers and for connected purposes

ENACTED by the County Assembly of Kiambu as follows—

PART I—PRELIMINARY

Short title

1 This Act may be cited as the Kiambu County Enforcement Act, 2018

Interpretation

2 In this Act, unless the context otherwise provides—

“arrest” means the act of apprehending a person for suspected commission of an offence or by the action of legal authority,

“board” means the Kiambu County Public Service Board established by section 57 of the County Governments Act, 2012,

“chief officer” means the Chief Officer in the Department of Public Service and Administration,

“chief superintendent” means the Chief Superintendent appointed under section 6,

“county” means the Kiambu County,

“court” means a court of competent jurisdiction,

“director” means the Directorate of Enforcement established under section 5,

“enforcement officer” means an officer appointed to serve as an enforcement officer in the Directorate,

“executive committee member” means the County Executive Committee Member for the time being responsible for public service and administration,

“reasonable time” means any period of time between six o’clock in the forenoon and six o’clock in the afternoon of any day of the week

Purpose of the Act

3 The purpose of the Act is to establish a framework for enforcement of the county legislation and other applicable written laws for effective performance and exercise of powers conferred on the County Government under Part 2 of the Fourth Schedule to the Constitution

PART II—ADMINISTRATION

Establishment of the Directorate

4 (1) There is established in Kiambu County the Directorate of Enforcement which shall be an office in the county public service

(2) The functions of the Directorate shall include—

- (a) advising the County Government on all matters relating to enforcement,
- (b) implementing co-operation and collaboration agreements between the County Government and the National Government Enforcement Agencies in the performance of enforcement functions, and shall in so doing give guidance in respect to compliance with any directions issued by the National Government enforcement agencies,
- (c) ensuring the implementation of policy and operational directions of the Directorate,
- (d) recommending the budgetary estimates for better implementation of this Act,
- (e) ensuring compliance with the Enforcement Standing Orders as may be issued from time to time,
- (f) promoting co-operation with other public or private bodies in the provision of enforcement statistics on crime rates, detection rate, public confidence in the enforcement, number of complaints against the enforcement, as well as personnel statistics,
- (g) preparing periodic reports necessary for evaluating and monitoring the performance of the Directorate and an annual report for further submission to the County Assembly,
- (h) providing security and maintaining order in public markets, bus parks, stadium, government offices, government properties and any other public place under the management of the County Government,

- (i) carrying out inspections within Kiambu County and enforcing county legislations and applicable national laws,
- (j) regulating and controlling traffic within the county for maintenance of good public order,
- (k) collaborating and co-operating with National enforcement agencies to maintain law and order within the County, and
- (l) performing any other duties that may be prescribed by this Act or any other written law or assigned from time to time

Appointment of the Director

5 (1) The Directorate shall be headed by a Director who shall be appointed by the County Public Service Board on such terms and conditions as the County Public Service Board shall determine

(2) A person shall not be appointed as a Director under this Act unless that person—

- (a) is a citizen of Kenya,
- (b) possesses an academic degree from a university recognized in Kenya,
- (c) possess at least five years' work experience in a managerial position, and
- (d) meets the requirements of Chapter Six of the Constitution

(3) The Director shall be responsible for the day to day operations of the Directorate, and in particular—

- (a) oversee and supervise the implementation of the functions of the Directorate,
- (b) prepare the budgetary estimates and the directorate's annual work plan for the approval by the Executive Committee,
- (c) oversee and monitor the implementation of the directorates budget and the annual work plan,
- (d) advice the Executive Committee Member on matters relating to enforcement and security within the county,
- (e) prepare quarterly report and submit to the Executive Committee Member on matters relating to the security and enforcement,
- (f) prepare any other report or statement as may be required by the Executive Committee Member, and

- (g) undertaking such other functions as may be prescribed under this Act, any other written law or assigned from time to time by the Executive Committee

(4) Notwithstanding the provisions of subsection (1), the County Secretary may, on the recommendation of the County Public Service Board remove a Director—

- (a) for gross misconduct,
- (b) where adjudged bankrupt,
- (c) for abuse of office,
- (d) due to incompetence or neglect of duty,
- (e) due to inability to perform his or her duties arising out of physical or mental capacity,
- (f) due to a breach of the public officers code of ethics, or
- (g) due to a conviction of a crime under this Act or a traffic offence whose penalty exceeds an imprisonment term of six months

Appointment of a Deputy Director

6 (1) The County Public Service Board shall appoint a Deputy Director who shall be an enforcement officer of the rank of a chief superintendent

(2) The Deputy Director, shall, in addition to such other functions assigned by the Director from time to time—

- (a) ensure the maintenance of discipline among the enforcement officers
- (b) appraise the performance of the enforcement officers,
- (c) recommend to the Chief Officer the deployment or re-deployment of any enforcement officer,
- (d) ensure the implementation of the directorates annual work plan,
- (e) prepare and submit a quarterly report on the status of security and enforcement within the county and submit to the Director,
- (f) prepare any other report or prepare a statement to answer to any question or queries as may be directed by the Director, and
- (g) be in charge, generally, of allocation of duty and supervision of enforcement officers within the county

(3) Notwithstanding the provisions of subsection (1), the County Secretary may, on the recommendation of the Executive Committee Member remove a Deputy Director—

- (a) for gross misconduct,
- (b) where adjudged bankrupt,
- (c) for abuse of office,
- (d) due to incompetence or neglect of duty,
- (e) due to inability to perform his or her duties arising out of physical or mental capacity,
- (f) due to a breach of the public officers code of ethics, or
- (g) due to a conviction of a crime under this Act or a traffic offence whose penalty exceeds an imprisonment term of six months

Designation of an Officer-in-charge

7 (1) The Executive Committee Member shall designate from among the county enforcement officers an officer in charge of—

- (a) a Sub-County, municipality or a city who shall be an officer in the rank of a senior superintendent, and
 - (b) a Ward, Town or other decentralized units who shall be an officer in the rank of superintendent I
- (2) An Officer-in-Charge shall—
- (a) oversee and supervise the implementation of the Directorate's functions within their area of jurisdiction,
 - (b) allocate duties and ensure maintenance of discipline of the officer within their jurisdiction,
 - (c) recommend to the Chief Officer the institution of disciplinary proceedings,
 - (d) prepare quarterly reports and submit them to the Deputy Director on the status of security and enforcement in their areas of jurisdiction, and
 - (e) perform any other duties as may be assigned by the Deputy Director from time to time

Appointment of enforcement officers

8 (1) The County Public Service Board may, on the recommendation of the Chief Officer, appoint such number of persons as shall be necessary for better implementation of this Act

(2) Persons appointed under subsection (1) shall undergo mandatory training to be established through curricula to be developed by the Directorate with the approval of the County Executive Committee

(3) The County Public Service Board may, on the recommendation of the Chief Officer, confirm a person who has successfully completed the mandatory training as an enforcement officer within any of the following ranks—

- (a) Chief Superintendent,
- (b) Senior Superintendent,
- (c) Superintendent I,
- (d) Superintendent II,
- (e) Superintendent III,
- (f) Senior Inspector,
- (g) Inspector I,
- (h) Inspector II,
- (i) Inspector III,
- (j) Assistant Inspector,
- (k) Senior Sergeant,
- (l) Sergeant,
- (m) Corporal,
- (n) Constable

(4) In addition to subsection (3), the County Public Service Board may, on the recommendation of the Chief Officer, promote an officer to a higher rank if the officer—

- (a) has successfully undergone further training and has good work record, or
- (b) has fulfilled conditions prescribed in the Regulations under this Act

(5) The Executive Committee Member shall make Regulations on the procedure of appointment to the ranks of the enforcement officers

Appointment of other members of staff

9 The County Public Service Board may, on recommendation of the Chief Officer, appoint such other members of staff for better implementation of this Act

Gender, Ethnic and Regional balance

10 The recruitment and composition of the Directorate shall, so as far as is reasonably practicable—

- (a) ensure gender parity,
- (b) reflect the regional and ethnic diversity of the County, and
- (c) ensure equity of opportunity amongst all the wards in the county

Oath of Office

11 (1) In addition to any other requirements under this Act, a person shall not be appointed as an enforcement officer unless that person make and sign before an officer authorized by law to administer oath, either in English or Swahili, the oath or the affirmation set out in the First Schedule

(2) Notwithstanding the provisions of subsection (1), any person employed as an enforcement officer of the County Government at the time of enactment of this Act, shall within thirty days from the date of commencement of this Act comply with the provisions of subsection (1)

(3) A person who, being required to take the oath of office under this section fails to do so within the time set out under this section shall immediately cease being an enforcement officer of the County Government

Standing orders for enforcement officers

12 (1) The Executive Committee Member shall prescribe the standing orders for enforcement officers

(2) The standing orders set out in the Second Schedule shall be deemed to be prescribed in accordance with this provision and the Executive Committee Member may from time to time amend this Schedule as shall be appropriate

(3) In addition to other employment regulations, rules and procedures prescribed for the employee of the County, an enforcement officer shall be required to abide by the prescribed standing orders

Enforcement Officers prohibited from conflict of interest

13 No member of the Directorate shall engage in any trade, business or employment, if the trade, business or employment is in conflict of interest with the performance of the enforcement officer's duties

Uniforms and Identification badge

14 (1) The Executive Committee Member may, with the approval of the County Executive Committee, prescribe the uniforms of a suitable kind and design, with suitable insignia and identification badge, to worn by appropriate ranks of enforcement officers

(2) Unless specifically authorized by the immediate supervisor for a specific purpose, an enforcement officer shall wear the prescribed uniform while on official duties

(3) The prescribed uniform shall be provided to an enforcement officer by the County Government

Surrender of public property on resignation

15 (1) An enforcement officer who is dismissed from the Directorate, or who resigns from office, or otherwise leaves the Directorate, shall forthwith deliver to Officer in Charge of the duty station to which that person was last deployed, every article which has been supplied to him and which he or she has not been expressly authorized to keep or use for his or her private benefit, and in particular, the crown and the identification badge

(2) Any person who fails to comply with subsection (1) commits an offence, and shall, on conviction, be liable to a fine of a sum not exceeding two hundred thousand shillings or imprisonment for a term not exceeding three months or to both

(3) In addition to any other remedy under this Act, the County Government shall publish and publicize in the County Government communication channel any information of an enforcement officer who contravenes of this section

Limitation of rights and fundamental freedoms of enforcement officers

16 (1) Subject to the provisions of this Act, an enforcement officer shall be entitled to all rights set out in the Constitution

(2) The right to privacy as provided for under Article 31 of Constitution shall be limited under this Act, but only to the extent of ensuring or assuring—

- (a) the protection of classified information,
- (b) the security and safety of officers of the Directorate,
- (c) the integrity of the Directorate, and
- (d) that the enjoyment of the rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others

PART III—POWERS AND RESPONSIBILITIES OF ENFORCEMENT OFFICERS

Duties and Powers of officers

17 (1) An Enforcement officer shall obey and execute all lawful orders in respect of the execution of the duties of office which he or she may from time to time receive from his or her supervisors and may—

- (a) at any reasonable time, enter any place in which the enforcement officer believes on reasonable grounds that any person is in any way contravening the provisions of a county or applicable national legislation,
- (b) arrest any person who is in breach of any county or applicable national legislation or standards which is within the jurisdiction of the county,
- (c) seize anything which may be necessary to effectively enforce the laws, or
- (d) destroy or in any such other way, dispose of any item or good whose continued existence would constitute a breach of the provisions of the county or applicable national laws, subject only to the Executive Committee Member's guidance

(2) Notwithstanding the provisions of subsection (1)(d) an item may only be destroyed or disposed in accordance with the procedure prescribed under the relevant written law

Stoppage

18 (1) An enforcement officer on duty may stop any person whom the officer witnesses doing any unlawful thing, or suspects of doing any unlawful act or thing or being in possession of anything for which a permit, license or certificate or pass is required under any written law and has no such permit, license or certificate

(2) A person who fails to produce a license, permit, certificate or pass within forty eight hours when called upon to do so, may be arrested without a warrant unless he gives his name and address and otherwise satisfies the officer that he will duly answer any summons or any other proceedings which may issue or be taken against him or her

(3) Where an enforcement officer intends to carry out an arrest under subsection (2), he or she shall produce their enforcement identification card and shall explain to the suspect the reason of arrest in a language or manner they understand

(4) Notwithstanding sub section (3), the enforcement officer carrying out the arrest shall explain to the suspect of his or her rights while in custody

(5) An enforcement officer who abuses the powers under this section commits an offence under this Act and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding one year or to both

Power to Arrest

19 (1) Subject to Article 49 of the Constitution, an enforcement officer may without a warrant, arrest a person who—

- (a) is accused of breaching any law within the enforcement officer's area of jurisdiction and that enforcement officer believes upon reasonable ground that such breach has been committed,
- (b) obstructs an enforcement officer while in the execution of duty,
- (c) commits a breach of the peace in presence of the enforcement officer,
- (d) is in possession of an item or thing which is reasonably suspected to have been used to commit an offence,
- (e) the enforcement officer suspects upon reasonable grounds of having committed or being about to commit a breach of a county law or national law enforceable by the enforcement officer, or
- (f) the enforcement officer has a reasonable cause to believe a warrant of arrest has been issued

(2) Notwithstanding subsection (1), an enforcement officer may apply to court for a warrant of arrest and on such warrant, arrest any person who the enforcement officer reasonably believes is committing or intending to commit an offence under the county legislation or a national legislation enforceable by the enforcement officer

Arrests and Detentions by an Enforcement officer

20 (1) An arrest by an Enforcement officer, whether with or without a warrant, shall be subject to the rules contained in this section with respect to arrest and detention

(2) In the performance of the functions and exercise of the powers of arrest and detention set out in the Constitution and this Act or any other law, an enforcement officer shall carry out an arrest and detention only as provided for in the law

(3) An enforcement officer shall accord an arrested or detained person all the rights set out under Articles 49, 50 and 51 of the Constitution

(4) Every arrested person shall as soon as practicably possible but in any event not more than three hours after arrest be handed over to the police station in the jurisdiction within which the offence has been committed

(5) An enforcement officer who contravened the provisions of this section shall be personally guilty of a disciplinary offence and may be tried for a criminal offence

Non-Violent means

21 An enforcement officer shall perform the functions and exercise the powers conferred by the Constitution and this Act by use of non-violent means

Entry of dwelling place

22 (1) An enforcement officer may not enter a dwelling place except with the consent of the occupant or upon reasonable suspicion of the commission of an offence and the entry is necessary for the enforcement of the provisions of this Act

(2) The time of such entry shall be between six o'clock in the forenoon and six o'clock in the afternoon of any day of the week

(3) An enforcement officer who exercises the powers conferred under this section shall—

- (a) identify himself or herself,
- (b) record the action,
- (c) record any items, thing or document seized, and
- (d) make a report regarding such exercise and submit it to the immediate supervisor within twenty four hours of taking such an action

Obstruction

23 (1) No person shall obstruct or hinder, or knowingly make a false or misleading statement to an enforcement officer who is carrying out duties under this Act

(2) A person who contravenes subsection (1) commits an offence and on conviction is liable to a fine of a sum not exceeding Kenya Shilling one hundred thousand or to imprisonment for a term not exceeding three months or to both

Seizure

24 (1) During an inspection under this Act, an enforcement officer may, in addition to any other remedy provided under this Act, seize any item, good, property, document or thing by means of which or in relation to which the officer believes, on reasonable grounds, that any provision of any County or national legislation or standard has been contravened and a full inventory thereof shall be made at the time of such seizure by the enforcement officer

(2) The enforcement officer may direct that anything seized be kept or stored in the place where it was seized or that it may be removed to another place

(3) Unless authorized by an enforcement officer, no person shall remove, alter or interfere in any manner with any other thing seized

(4) Any person from whom an item, good, property, document or thing was seized may, within thirty days after the seizure, apply to Court for an order of restoration, and shall send notice containing the prescribed information to the relevant Department within the prescribed time and in the prescribed manner

(5) The enforcement officer shall make a report of the seizure to his or her immediate supervisor as prescribed in the Third Schedule within forty eight hours of such seizure

(6) Where goods seized by an enforcement officer are not claimed within ninety days, the County Government may dispose of the goods in accordance with the Disposal of Uncollected Goods Act

Order of restoration

25 (1) The Court may order that the thing be restored immediately to the applicant if, on hearing the application, the Court is satisfied that—

- (a) the applicant is entitled to possession of the item, good, property, document or thing seized, and
- (b) the item, good, property, document or thing seized is not and will not be required as evidence in any proceedings in respect of an offence under this Act

(2) Where upon hearing an application made under subsection (1) the court is satisfied that the applicant is entitled to possession of the thing seized but is not satisfied with respect to the matters mentioned in paragraph (b) of subsection (1), the court may order that the thing seized be restored to the applicant on the expiration of seven days from the date of seizure if no proceedings in respect of an offence under this Act have been commenced before that time

(3) Where an order of restoration is made, such item, good, property or thing seized shall be released to the applicant upon payment of impounding fees under the applicable laws unless the Court orders otherwise

PART IV—OFFENCES

Prohibition against torture or cruel treatment

26 (1) It shall be unlawful for an enforcement officer to subject any person to torture or other cruel, inhuman or degrading treatment

(2) An enforcement officer who subjects a person to cruel, inhuman or degrading treatment commits a criminal offence under the Penal Code

Impersonation of an enforcement officer

27 (1) A person other than an enforcement officer who, without written authority of the Chief Superintendent—

- (a) puts on or assumes, either in whole or in part, the uniform, name, designation or description of an enforcement officer, or a uniform, name or designation, resembling or intended to resemble the uniform, name or designation of an enforcement officer, or
- (b) in any way pretends to be an enforcement officer for any purpose which he would not by law be entitled to do his or her own authority, commits an offence and shall be liable on conviction to a fine not exceeding one million shillings or to a term of imprisonment not exceeding ten years, or to both

(2) Notwithstanding subsection (1) person may, with the approval of the Chief Superintendent use enforcement uniform for artistic purposes

Assault in execution of duty

28 Any person who—

- (a) assaults, resists, or willfully obstructs an enforcement officer in the execution of the enforcement officer's duties,
- (b) assaults, resists or willfully obstructs any person acting in aid of the enforcement officer,
- (c) attacks an animal belonging to the enforcement, or
- (d) intentionally or recklessly, destroys enforcement property, commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both

General Penalty

29 (1) A person who contravenes the provisions of this Act for which no penalty is specified or fails to comply with any order or direction given under this Act, shall be punishable with fine not exceeding Kenya Shilling fifty thousand

(2) a person who having been convicted of an offence under this Act, is again found guilty and is convicted of an offence under this Act, shall be punishable upon conviction with double the penalty provided for the offence

PART V—PROVISIONS ON DELEGATED POWERS

Rules

30 (1) The member of the County Executive Committee may, upon recommendation by the Director make rules for the purpose of carrying out the provisions of this Act

(2) without prejudice to the generality of subsection (1), the rules made may provide for—

- (a) the prescribing of anything required to be prescribed in this Act,
 - (b) prescribing administrative organization of the service,
 - (c) the description, wearing and issue of uniform, accoutrements and necessities by the enforcement,
 - (d) monitoring and evaluation of the performance of the functions of the enforcement,
 - (e) facilitating the involvement of the public in the activities of the enforcement,
 - (f) establish an Enforcement Reform Unit for ensuring continuous and sustainable enforcement reforms,
 - (g) generally for the good order and management of the enforcement,
 - (h) the penalties and disciplinary procedures applicable to enforcement officers who commit any of the offences against discipline set out in the Second Schedule
- (3) For the purposes of Article 94(6) of the Constitution—
- (a) the purpose and objective of the delegation under this section is to enable the Inspector-General to make rules for better carrying into effect the provisions of this Act,

- (b) the authority of the Inspector-General to make rules under this Act will be limited to bringing into effect the provisions of this Act and fulfillment of the objectives specified under this section,
- (c) the principles and standards applicable to the delegated power referred to under this Act are those found in—
 - (i) the Statutory Instruments Act, 2013,
 - (ii) the Interpretation and General Provisions Act,
 - (iii) the general rules of international law as specified under Article 2(5) of the Constitution, and
 - (iv) any treaty and convention ratified by Kenya under Article 2(6) of the Constitution

FIRST SCHEDULE (s 12)**OATH/AFFIRMATION OF OFFICE**

I Do swear/do solemnly and sincerely affirm that I will be faithful and bear true allegiance to the Constitution and the Governor of Kiambu County during my without favour or affection, malice or ill will, that I will at all times do my utmost to reserve the peace and to prevent offences against the peace, that while I shall continue to uphold the said office, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law and will not, I will subject myself to the Constitution, all Acts, orders and rules now or in future within the jurisdiction of the County and that I will discharge my duties and the duties of the enforcement according to law, without fear, favour, affection or ill will (SO HELP ME GOD)

OATH/ AFFIRMATION OF SECRECY

I (full names)
Do hereby swear by the Almighty God/solemnly and sincerely affirm that I will not, without due authority, disclose or make known to any person any information acquired by me by reason of the duties performed by me on behalf or under the direction of the enforcement or by reason of any office or employment held by me pursuant to the Kiambu County Enforcement Act SO HELP ME GOD

SECOND SCHEDULE

s 13

STANDING ORDERS

CONSTITUTION

1 The Kiambu County Enforcement Standing Orders are established in accordance with this Act and the Constitution of Kenya

COMMAND

2 The Directorate is under the command of the Chief Superintendent who is responsible to the Director for its efficient administration

ESTABLISHMENT

3 The establishment of the Directorate in each rank shall be determined from time to time by the County Public Service Board

DECLARATION

4 On appointment all members of the Directorate will be required to make and sign a declaration that he/she will subject himself/herself to all orders and regulations relating to the Directorate

RANKS AND BADGES OF RANKS

5 The ranks of the Directorate are as follows in the order of seniority

- (a) Chief Superintendent,
- (b) Senior Superintendent,
- (c) Superintendent I,
- (d) Superintendent II,
- (e) Superintendent III,
- (f) Senior Inspector,
- (g) Inspector I,
- (h) Inspector II,
- (i) Inspector III,
- (j) Assistant Inspector,
- (k) Senior Sergeant,
- (l) Sergeant,
- (m) Corporal,
- (n) Constable

FUNCTIONS

- 6** The functions of the Directorate shall be to—
- (a) provide security and maintain order in public markets, bus parks, stadium, government offices, government properties and any other public place under the management of the County Government,
 - (b) carry out inspections within Kiambu County and enforce County legislations and applicable national laws,
 - (c) regulate and control traffic within the County for maintenance of good public order,
 - (d) collaborate and cooperate with National enforcement agencies to maintain law and order within the County,
 - (e) perform any other duties that may be prescribed by this Act or any other written law from time to time

DUTIES AND RESPONSIBILITIES

- 7** (a) the Director shall be head of the Directorate and shall be responsible for the day to day operations of the Directorate. He/she shall make orders for good governance of the Directorate in relation to engagement, ranks, duties, training, transfers, discharge, place of residence, clothing, equipment and inspection thereof
- (b) the Deputy Director shall be second in command of the Directorate in the rank of Chief Superintendent who shall assist the Director in his/her duties, will assume office of the Director in their absence and will be responsible to the Director for training of all ranks in the Directorate
 - (c) SUB COUNTY ENFORCEMENT OFFICER – shall be in charge of enforcement at the sub-county, municipality or a city level and shall be an officer in the rank of a Senior Superintendent
 - (d) WARD ENFORCMENT OFFICER- shall be in charge of enforcement at the Ward, town or other decentralized units and shall be an officer in the rank of Superintendent I

SMOKING ON DUTY

- 8** All enforcement officers of the Directorate in uniform and on duty are prohibited from smoking in public places

CONDUCT OF THE ENFORCEMENT OFFICERS

9 All enforcement officers carry the reputation of the Directorate and the County Government of Kiambu and therefore they must—

- (a) always be clean and smart on or off duty,
- (b) never discuss their work with other members of the public,
- (c) be confident by having a clear knowledge of their duties and powers as prescribed by this Act,
- (d) not engage in political activities that deter them from carrying out their responsibilities under this Act,
- (e) obey promptly and willingly, all lawful orders given to them by their superiors,
- (f) perform diligently any duty for which they may be assigned from time to time

COMPLAINTS BY MEMBERS OF THE DIRECTORATE

- (i) an enforcement officer may lodge a complaint by making a formal written complaint to his/her immediate superior and ask to be brought before the Chief Superintendent,
- (ii) an enforcement officer making a complaint without following due procedure shall have committed an offence against discipline, whether or not there is substance in the complaint,
- (iii) the immediate superior is bound to bring a sub-ordinate officer before the Chief Superintendent when requested to do so for this purpose,
- (iv) every member of the Directorate has the right to be paraded before the Director if dissatisfied with the decision of the Chief Superintendent

COMPLAINTS AGAINST ENFORCEMENT OFFICERS

- 11** (i) all complaints made by members of the public against any enforcement officer shall be reported to the Ward Enforcement Officer who shall forward it to the Sub-County Enforcement Officer in charge of the area for consideration. The Sub-County Enforcement Officer shall institute investigations without delay in order to uphold the good name of the Directorate and create a good relationship with members of the public,

- (ii) any complaint against an enforcement officer shall receive a full, un prejudiced and immediate hearing and redress will follow a wellfounded complaint,
- (iii) where the Director finds or considers that any complaint made against an enforcement officer is of a serious nature he or she shall make his or her recommendations to the County Secretary who shall appoint a Committee to investigate and report its finding and recommendation to him

TRAINING/ PARADES

12 The training of enforcement officers is a continuous process and will not be considered to have been completed at the end of an officer's initial training course

It is the policy of the Directorate that as many training, re training and refresher courses as possible shall be held

- (a) **INITIAL COURSE**—Every enforcement officer shall undertake an initial training course at a recognized institution prescribed by the Chief Superintendent,
- (b) **REFRESHER COURSE**—every enforcement officer shall undertake a refresher course at least once every year at a training institution prescribed by the Chief Superintendent,
- (c) **OTHER COURSES**—every enforcement officer shall be required to undertake other courses on court procedure, criminal procedure, criminal investigations, public relations, communications, conflict management and dispute resolution mechanisms and other relevant courses as may be prescribe by the Chief Superintendent

Frequent lectures and tuitions shall be offered to all members of the Directorate on all aspects of their duties and in particular,

- (a) drills/salutes
- (b) lectures on County Government and National legislations
- (c) powers of search/ methods of search
- (d) care and treatment of prisoners
- (e) escort of prisoners
- (f) court procedure and how to present evidence in Court
- (g) summons/warrants etc methods of service

- (h) how to maintain various records
- (i) care and custody of exhibits
- (j) care and custody of prisoners' properties
- (k) general knowledge and current affairs
- (l) relations with members of the public
- (m) co-operation with Kenya Police
- (n) first aid

PARADE—On Mondays and Fridays every week at 07 45 hours there will be a parade which will be attended by all enforcement officers. The parade will be inspected by the Ward Enforcement/Sub-County Enforcement Officer in their respective areas or any other superior officer.

All enforcement officers shall be carefully inspected as to the cleanliness of their uniforms and equipment. Parades will be exercised in foot drill.

EXAMINATIONS

13 The following is a list of examinations to be taken by every enforcement officer—

- (a) English literacy examinations,
- (b) Swahili literacy examinations,
- (c) County Government legislations competency

Enforcement officers who have education level beyond secondary level shall be exempted from sitting the examinations (a) and (b) above.

The Chief Superintendent shall in consultation with the Director set dates and time for carrying out the examinations.

TERMINATION OF SERVICE

14 An enforcement officer who is dismissed from the Directorate, or resigns from office, or otherwise leaves the Directorate, shall forthwith deliver over to the Chief Superintendent every article which has been supplied to him or her and which he or she has not been expressly authorized to keep or use for his/her private use.

DISCIPLINE

15 All members of the Directorate must at all times obey promptly all orders given to them by persons in lawful authority over them and must at all times act in obedience to the provisions of this Act and other relevant

county and national legislations, of these standing orders, of the county human resource code of conduct and conditions of service

OFFENCES AGAINST DISCIPLINE

16 It shall be an offence against discipline for any enforcement officer to—

- (a) unlawfully strike, or use or threaten violence against any enforcement officer or any other person,
- (b) use any obscene, abusive or insulting language in any form to any enforcement officer,
- (c) use threatening or insubordinate or disrespectful language, word, act or demeanor to an enforcement officer senior to him in rank,
- (d) cause a disturbance in any enforcement premises,
- (e) be guilty of drunkenness while on duty,
- (f) drink intoxicating liquor or psychotropic substances or drugs, or smoke in uniform when actively engaged on duty in a public place,
- (g) willfully disobey any lawful command or order,
- (h) absent himself without leave,
- (i) be found sleeping while on duty,
- (j) leave his post or place of duty before he/she is regularly relieved, except in fresh pursuit of an offender who it is his/her duty to apprehend,
- (k) while under arrest or in detention, leave or escape from such arrest or detention before he/she is set at liberty by proper authority,
- (l) neglect or refuse to assist in the apprehension of any Enforcement officer charged with any office, when lawfully ordered so to do,
- (m) resist any lawful arrest,
- (n) negligently allow any prisoner, who is committed to his charge, or whom it is his/her duty to guard, to escape,
- (o) discharge any weapon without orders or without reasonable lawful cause,
- (p) without reasonable cause, fail to attend to any parade, instruction class or court or any other duty which he or she is requires to attend,

- (q) sell, pawn, lose by neglect, make away with or willfully or negligently damage, or fail to report any loss or damage to, any arm, ammunition, accoutrement, uniform or other article of personal issue or any vehicle or other property committed to his charge belonging to the Government or for which the Government is responsible, or
- (r) be in improper possession of any public or private property, or
- (s) commit any act of plunder or wanton destruction of any property,
- (t) be negligent in the performance of his duty,
- (u) appear on duty untidy or dirty in his/her person, arms, clothing or equipment,
- (v) make or sign any false statement in any document or official record,
- (w) without proper authority, disclose or convey any information concerning any investigation or other enforcement matter,
- (x) malingering, or feign any disease or infirmity,
- (y) knowingly and willingly transmit any venereal disease or HIV/AIDS,
- (z) without proper authority demand or exact from any person any carriage, portage or provisions,
- (aa) commit an act which amounts to corruption under any law in force in Kenya,
- (bb) make any false statements upon joining the Directorate, or
- (cc) refuse or neglect to make or send any report or return which it is his duty to make or send, or
- (dd) knowingly make any false accusation or complaint or statement against any enforcement officer or other person, affecting the character of such person, or willfully suppress any material fact

DISCIPLINARY COMMITTEE

17 The Directorate disciplinary committee members shall be appointed by the County Executive Committee Member for the time being in charge of enforcement which shall be composed of the following—

- 1 Director of Enforcement,
- 2 Deputy Director of Enforcement,

- 3 Two Sub-County enforcement officers nominated amongst the sub county enforcement officers who shall sit in the committee on rotational basis
- 4 Three Ward Enforcement Officers nominated amongst the ward enforcement officers who shall sit in the committee on rotational basis

The duties and powers of the Disciplinary Committee shall be—

- (a) to investigate all cases of serious complaints against any enforcement officer and report their findings and recommendations to the County Secretary, and
- (b) to hear all cases of disciplinary appeals by enforcement officers

AWARD OF DISCIPLINARY PUNISHMENT

18 The following punishment will be applicable to all enforcement officers in the Directorate

Officer Awarding Punishment	Punishment
County Secretary	1 Dismissal 2 Reprimand 3 Interdiction or any other punishment at his or her discretion
Director	1 Suspension 2 Deduction of two days salary 3 Final warning letter or confidential report to County Secretary
Chief Superintendent	1 Deduction of one day salary 2 Two days extra duty 3 Issue second warning letter
Sub-County Enforcement Officer	1 Award one day extra duty

N B All orderly room proceedings will be conducted by an officer of or above the rank of Senior Superintendent

NOTIFICATION OF DISCIPLINARY INQUIRIES

(see second and third forms attached)

APPEALS

19 Any enforcement officer who is dissatisfied with the decision of the disciplinary committee may appeal to the Executive Committee Member within seven (7) days

REVISION

20 These rules and regulations may be revised from time to time as the Executive Committee Member may deem fit

CHIEF SUPERINTENDENT

NOTIFICATION FOR DISCIPLINARY INQUIRY FORM E-1 ENFORCEMENT SECTION

No Rank Name

TAKE NOTICE that it is proposed to hold an inquiry into an offence against discipline alleged to have been committed by you, in that on the _____ day of _____ 20____ at _____ about _____ a m/p m/at _____

This is an offence contrary to section _____ subsection _____ of the Kiambu County Enforcement Act section _____ standing orders _____

The inquiry will commence at _____ a m/p m on _____ the _____ day of _____ 20____ before _____ Presiding Officer at _____

Do inform the presiding officer within seven (7) days of receipt of this notification if you wish to call any witness to give evidence on your behalf

Handing Over Officer

I do/not wish to call witnesses

Accused

Date

Time

Signature

THIS NOTICE TO BE FILLED IN DUPLICATE

THIRD SCHEDULE**REPORT ON SEIZURE OF GOODS/PROPERTY**

FORM

*Third Schedule, p 4***ENFORCEMENT OFFICER'S REPORT**

To

From

Name

Employment No

Please take note that on the _____ day of _____
20____ at _____ am/pm,

I _____ holder of national identification card
no _____, being an authorized officer, entered the
business premises known as _____

located at _____ building
_____ street and seized the
following goods/obtained the following documents/made the following
finding/observations—

The details of the licensee/business owner are as follows

Name

Postal address

Physical address

Telephone contacts

The goods seized were the following

Description	Quantity	Date of expiry
Place of custody		

Signed

Dated

MEMORANDUM OF OBJECTS AND REASON

The proposed Bill seeks to establish a framework for enforcing the County legislation and any other written law within the jurisdiction of the County Government of Kiambu. It establishes the Directorate of enforcement responsible for coordinating and supervising the enforcement activities within the County.

Part I of the Bill introduces the preliminaries and the purpose of the Act. It describes that the purpose of the Act is to establish a framework for enforcement of the county legislation and other applicable written law for better performance of the functions set out under the Constitution.

Part II establishes the Directorate of Enforcement proposed to be headed by a Director appointed by the County Public Service Board. The Part also introduces the office of the Deputy Director proposed to be at the rank of a superintendent. In addition, the County Public Service Board is also mandated to recruit enforcement officers and other staff as may be necessary for better implementation of this Act. The Part provides for an oath of office to be administered on the enforcement officer.

Part III spells out the powers and responsibilities of the enforcement officers. It provides for the power to arrest, to seize or to enter into any place for purposes of enforcement of a written law. The Part also provides for the extent and limitation of those powers, particularly, in ensuring the protection of persons' rights as spelt out under the Constitution.

Part IV provides the offences for contravening the provisions of this Act. This includes the prohibition against cruelty or torture, impersonation of an enforcement officer or assault of an officer while on duty.

The Bill also sets out three Schedules. The First Schedule provides for the oaths of office of an enforcement officer. The Second Schedule provides for the Standing Order and the Third Schedule guides on the implementation of the power to seize goods or property.

Dated 12th June, 2018

ANTONY IKONYA MWANIKI,
Leader of the Majority