

**SPECIAL ISSUE**

COUNTY ASSEMBLIES FORUM (CAF)

P. O. Box 73552 - 00200,

NAIROBI, KENYA

*Kisii County Gazette Supplement No. 29 (Bills No. 23)*



REPUBLIC OF KENYA

---

***KISII COUNTY GAZETTE  
SUPPLEMENT***

**BILLS, 2015**

---

**NAIROBI, 21st October, 2015**

---

CONTENT

Bill for Introduction into the County Assembly of Kisii —

PAGE

The Kisii County Emergency Fund Bill, 2015 ..... 1

NATIONAL COUNCIL FOR  
LAW REPORTING  
LIBRARY

---

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

COUNTY ASSEMBLIES FORUM (CAF)  
P. O. Box 73552 - 00200,  
NAIROBI, KENYA

**THE KISII COUNTY EMERGENCY FUND BILL, 2015**

**ARRANGEMENT OF CLAUSES**

**PART I— PRELIMINARY**

*Clauses*

- 1— Short title.
- 2— Object of this Act.
- 3— Interpretation

**PART II—ESTABLISHMENT AND ADMINISTRATION OF  
EMERGENCY FUND**

- 4— Establishment of the Emergency Fund.
- 5—Responsibilities of the County Treasury in relation the Emergency Fund.
- 6—Power of Executive Committee Member to make payments from Emergency Fund.

**PART III—GENERAL PROVISIONS**

- 7— Meaning of urgency
- 8—Executive Committee member to seek County Assembly's approval for payments from Fund
- 9—Reporting responsibilities of Treasury with respect to Emergency Fund
- 10—Making a false claim
- 11—Misappropriation of funds
- 12—General penalty

**PART IV—MISCELLANEOUS PROVISIONS**

- 13— Regulations

## THE KISII COUNTY EMERGENCY FUND BILL, 2015

### A Bill for

**AN ACT of the County Assembly Kisii to provide for the effective Operation of Section 110 of the Public Finance Management Act, by establishing the County Emergency Fund, and to provide for the management and operation of the Fund and for connected Purposes.**

**ENACTED** by the County Assembly of Kisii as follows—

### PART I—PRELIMINARY

1. (1) This Act may be cited as the Kisii County Emergency Fund Act, 2015. Short title.

2) This Act shall come into operation upon gazettelement.

2. The object of this Act is to ensure that the Emergency Fund established by the County Government for intervention in cases of emergency, is managed and operated by the County Government as contemplated by Section 111 of the Public Finance Management Act. Object of the Act

3. In this Act, unless the context otherwise requires— Interpretation.

“Appropriation” means funds provided for payment of goods and services within the Context of an emergency as provided for under this Act;

“Assembly” Means the Kisii County Assembly;

“County Assembly” means the Kisii County Assembly as established by Article 177 of the Constitution;

“County Government” means the Kisii County Government as established under Article 176 of the Constitution;

“Executive” means the County Executive Committee;

“Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters of Finance;

“Emergency Fund”, in relation to the County Government, means a Fund established under section 8;

“Financial year” has the meaning given in Article 260

of the Constitution;

“Treasury” means the County Treasury established under Section 103 Public Finance Management Act.

## **PART II—EMERGENCY FUND**

4. (1) There is established the Kisii County Emergency Fund which shall consist of—

Establishment of  
Emergency Fund

(a) Such money as may from time to time, be appropriated to the Fund by an Appropriation Act,

(b) Grants and donations made into the Fund.

(2) The County Assembly shall, in appropriating money under section 4(1) above ensure that the money so appropriated shall not exceed 2% of the total county government revenue as shown in the audited financial statements for the previous financial year, except for the first year.

5. (1) The County Executive Committee Member for finance shall be responsible for administering the Emergency Fund.

Responsibilities of  
the Executive  
Committee Member  
in relation the  
Emergency Fund.

(2) The County Executive Committee Member shall administer the Fund in accordance with the framework and criteria approved by the County Assembly.

(3) The County Executive Committee Member shall establish and maintain a separate account into which all money appropriated to the Emergency Fund shall be paid and shall—

(a) pay into that account all money appropriated to the Fund by an Appropriation Act; and

(b) pay from the Fund without undue delay all advances made under 6.

6. (1) Subject to section 8, the Committee Member may, make payments from the Emergency Fund if satisfied that an urgent and unforeseen need for expenditure has arisen for which there is no specific legislative authority and shall be in accordance with operational guidelines made under regulations approved by parliament and the law relating to disaster management.

Power of  
Committee  
Member to make  
payments from  
Emergency Fund.

(2) For the purposes of subsection (1)—

- (a) there is an urgent need for expenditure if, in the opinion of the Executive Committee Member, guided by regulations and relevant laws, establishes that payment not budgeted for cannot be delayed until a later financial year without harming the general public interest;
- (b) the payment is meant to alleviate the damage, loss, hardship or suffering which may be caused by the event, and
- (c) the damage caused by the event is on a small scale and limited to the county.

### **PART III—GENERAL PROVISIONS**

7. (1) In this Part “urgent” means—

Meaning of  
“urgent”.

- (a) an event or situation which threatens serious damage to human welfare in a place within the County,
- (b) an event or situation which threatens serious damage to the environment within the County, or
- (c) war, or terrorism, which threatens serious damage to the security within the County,

(2) For the purposes of subsection (1)(a) an event or situation threatens damage to human welfare only if it involves, causes or may cause—

- (a) loss of human life,
- (b) human illness or injury,
- (c) homelessness,
- (d) damage to property, disruption of a supply of money, food, water, energy or fuel
- (e) disruption of carriage and transportation in a significant manner,

Provided that the Executive Committee Member may incur expenditure in the event and circumstances outlined in Section 7 (1) and (2) above for remedial action in the County within the Republic subject to the Approval of the County Executive.

(3) For the purposes of subsection (1) (b) an event or

situation threatens damage to the environment only if it involves, causes or may cause—

- (a) contamination of land, water or air with biological, chemical or radio-active matter, or
- (b) disruption or destruction of plant life or animal life.

8. (1) The Executive Committee Member shall seek the approval of the County Assembly within two months after payment is made from the Emergency Fund under section 6.

Executive Committee Member to seek Assembly's approval for payments made from Emergency Fund

(2) If the Assembly does not sit during the period referred to in subsection (1), or is not sitting at the end of that period and the Executive Committee Member has not sought the approval of the Assembly before end of that period, the Executive Committee Member shall seek the approval of the payment within fourteen days after the Assembly next sits.

(3) As soon as practicable after the Assembly has approved the payment, the Executive Committee Member shall arrange for an appropriation Bill to be introduced into the Assembly for the appropriation of the money paid and for the replenishment of the Emergency Fund to the extent of the amount of the payment

9. (1) Within three months after the end of each financial year, the Treasury shall prepare and submit to the Auditor-General financial statements for that year in respect of the Emergency Fund.

Reporting responsibilities of Treasury with respect of Emergency Fund

(2) The Treasury shall include in those financial statements the following information concerning the Emergency Fund—

- (a) the date and amount of each payment made from the Fund;
- (b) the person to whom the payment was made;
- (c) the purpose for which the payment was made;
- (d) if the person to whom the payment has been made has spent the money for that purpose, a statement to that effect;
- (e) if the person to whom the payment has been made

has not yet spent the money for that purpose, a statement specifying the reasons for not having done so;

- (f) a statement indicating how the payment conforms to section 7.

(3) A copy of the financial statements prepared under sub-section (1) shall be submitted to the County Assembly.

**10.** Whoever knowingly makes a claim which he or she knows or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the county government is liable, on conviction, to a fine not exceeding one hundred thousand shillings or imprisonment of not more than one year, or to both. False claim

**11.** Whoever, being entrusted with any money or materials, or otherwise being in custody of money or goods meant for providing relief in a threatening disaster or disaster, misappropriates or disposes off such money or materials or any part or willfully compels any other person to do so, is liable on conviction, to a fine not exceeding five hundred thousand shillings or imprisonment of not more than two years, or to both. Misappropriation of money or materials

**12.** A person who commits an offence under this Act for which no penalty is prescribed is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year, or to both. General penalty

#### **PART IV—MISCELLANEOUS PROVISIONS**

**13. (1)** The Executive Committee Member may make regulations, not inconsistent with this Act, for or with respect to any matter that is necessary or convenient to be prescribed for carrying out or giving effect to this Act. Regulations.

(2) A provision of a regulation may —

- (a) apply generally or be limited in its application;
- (b) apply differently according to different factors of a specified kind; or
- (c) authorize any matter or thing to be from time to time determined, (d) or may do any combination of those things.

(3) Regulations made under subsection (1) shall not take effect unless approved by a resolution passed by the County Assembly.

(4) Regulations approved under subsection (3) shall take effect on the day after the date on which it is passed by the County Assembly or if a later date is specified in the regulations, on that later date.

(5) If the County Assembly does not make a resolution either approving or rejecting any regulations within fifteen sitting days after their submission to it for approval, the County Assembly shall be deemed to have approved the regulations

## **MEMORANDUM OF OBJECTS AND REASONS**

The principal purpose and objectives of this Bill is to make provision for the establishment of the County Emergency Fund established by the County Government for purposes of intervention in cases of unforeseen emergencies and for connected purposes.

**Part I** of the Bill provides for preliminary matters including the short title to the Bill, objects of the Bill and the interpretation of words and expressions used in the Bill.

**Part II** of the Bill establishes the County emergency Fund and sets out provision on what the funds of the Fund can be used for, how the Fund shall be administered. The Bill also makes provision for capitalization of the Fund.

**Part III** of the Bill provides for re-capitalization where necessary and financial reporting.

**Part IV** of the Bill contains miscellaneous provision which include power to make regulations.

The enactment of this Bill will occasion some additional expenditure of public funds which will be provided for by budgetary estimates.

**Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution of Kenya 2010.

Dated on the 22nd September, 2015

**DENNIS OMBACHI,**

*Chairman, Budget and Appropriation Committee.*

COUNTY ASSEMBLIES FORUM (CAF)  
P. O. Box 73552 - 00200,  
NAIROBI, KENYA

COUNTY ASSEMBLIES FORUM (CAF)  
P. O. Box 73552 - 00200,  
NAIROBI, KENYA