

SPECIAL ISSUE

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2016

Kisii County Emergency Health Services Fund

**THE KISII COUNTY EMERGENCY HEALTH SERVICES FUND
ACT, 2016**

No. 6 of 2016*Date of Assent: 28th June, 2016**Date of Commencement: See Section 3*

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THE KISII COUNTY EMERGENCY HEALTH SERVICES FUND ACT, 2016

AN ACT of the County Assembly of Kisii to provide for the establishment of a Fund to deal with Ambulance and Emergency services in the county and for matters incidental thereto and connected therewith

ENACTED by Kisii County Assembly, as follows—

PART I—PRELIMINARY

1. This Act may be cited as Kisii County Emergency Health Services Fund Act, 2016. Short title.
2. This Act applies within the jurisdiction of Kisii County. Application
3. This Act shall commence upon assent by the Governor and not later than fourteen days from its enactment. Commencement
4. In this Act, unless the context otherwise requires— Interpretation.

“ambulance” means a conveyance that is designed and constructed, or equipped, to provide ambulance services;

“ambulance services” means the use of an ambulance to

 - (a) provide emergency health services; or
 - (b) transport an individual;
 - (i) under the care of; or
 - (ii) who requires, or may require, a service provided by a medical practitioner, a nurse practitioner, an emergency medical assistant or another health care provider;

“ancillary health services” means health care that supports, supplements or complements, or that is related or ancillary to, one or more of the following—

 - (a) ambulance services;
 - (b) emergency health services;
 - (c) urgent health services;
 - (d) services provided by, from, in or through a facility;

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“county” means Kisii County;

“emergency health services” means first aid or other health care provided in circumstances in which it is necessary to provide the first aid or other health care without delay in order to—

- (a) preserve an individual’s life;
- (b) prevent or alleviate serious physical or mental harm; or
- (c) alleviate severe pain;

but does not include services provided by, from, in or through a facility;

“emergency medical assistant” means a person licensed by the licensing board as an emergency medical assistant;

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

“facility” means a hospital or mental health facility;

“Fund” means the Kisii County Emergency Health Services Fund established under section 5;

“urgent health services” means health care provided in circumstances in which a medical practitioner or nurse practitioner determines that an individual;

- (a) needs the health care urgently, and
- (b) does not need emergency health services,

but does not include services provided by, from, in or through a facility;

“Scheduled Conventions” means the conventions set out in the Schedule to this Act;

PART II — ESTABLISHMENT OF COUNTY EMERGENCY HEALTH SERVICES FUND

5. (1) There is hereby established a Fund known as the Kisii County Emergency Health Services Fund, which shall be a county corporation.

Establishment of
county Emergency
Health Services Fund

(2) On the commencement of this Act—

- (a) all the assets and liabilities of the existing emergency health services in the County shall be

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transferred to and be vested in the Fund by virtue of this section and the Fund shall have all the powers necessary to take possession of, recover and deal with such assets and discharge such liabilities if any;

- (b) all deeds, bonds, instruments and contracts subsisting immediately before such commencement to which the County Health Service is a party shall be of as full force and effect against or in favour of the Fund.

6. (1) The Fund shall be a body corporate having perpetual succession and a common seal, and shall have power in its own name to—

Incorporation of Fund

- (a) sue and be sued;
- (b) purchase, acquire, hold, manage and dispose of movable and immovable property;
- (c) to enter into any such contracts as it may consider to be necessary or expedient for the purpose of performing its functions or achieving its objects under this Act; and
- (d) do or perform all other things or acts that may be lawfully done or performed by a body corporate for the proper discharge of its functions under this Act.

(2) Subject to this Act and the regulations, the board of directors may make bylaws that it considers necessary or advisable, including bylaws to do the following—

- (a) determine its own procedure;
- (b) provide for the control and conduct of its meetings;
- (c) provide for the election of officers of the board of directors, including the chair and the member to be the acting chair in the absence of the chair, and provide for the powers and duties of the officers of the board of directors;
- (d) establish committees and specify the powers and duties of those committees;
- (e) delegate administrative or management duties to persons appointed or retained under section 5;

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- (f) provide for the preparation and custody of minutes of meetings of the board of directors, and of committees established under the bylaws.

7. (1) The objects of the Fund shall be—

Objective of the Fund

- (a) to provide volunteer emergency medical aid to the sick, wounded, poor, disabled, disadvantaged and vulnerable members of society in times of disaster and civilian sufferers from the effects of conflict;
- (b) in the case of catastrophes or public disasters, to provide the victims thereof with relief;
- (c) to carry on and assist in the work for the improvement of health, the prevention of diseases and the mitigation of suffering throughout the County and its environs;
- (d) to promote the internship among the youth of all races;
- (e) to propagate the ideals and the humanitarian principles of the Fund with a view to developing a feeling of solidarity and mutual understanding among all men and all nations;
- (f) to carry out training and certification in areas related to emergency services, pre- and post-hospital care, humanitarian assistance and disaster management;
- (g) to purchase and manage ambulance services for the rescue of the sick in all areas of the county including the remote areas; and
- (h) conduct outreach and health education to the citizens of the County.

(2) In pursuing the objects referred to in subsection (1) of this section, the Fund shall not make any adverse distinction founded on sex, race, nationality, religion or faith, political opinions or any other similar criteria, and shall act in accordance with the spirit and principles of the Scheduled Conventions.

8. The Purpose of the Fund is—

Purposes of the Fund

- (1) (a) to provide, in the County, ambulance services and emergency health services;

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- (b) to provide, in areas of the County that the Fund considers advisable, any urgent health services or ancillary health services;
- (c) to establish, equip and operate, in areas within the County that the Fund considers advisable, centres and stations for the purposes of providing—
 - (i) ambulance services and emergency health services, and
 - (ii) the urgent health services or ancillary health services referred to in paragraph (b);
- (d) to collaborate, to the extent practicable, with regional health institutions, Organizations and agencies, municipalities and other organizations and persons in the planning and coordination of—
 - (i) the provision, in the County, regionally and locally integrated ambulance services, emergency health services, urgent health services and ancillary health services, and
 - (ii) the recruitment and training of emergency medical assistants and other persons to provide the services referred to in subparagraph (i);
- (e) to establish or improve communications systems, in the County, for ambulance services and emergency health services;
- (f) to make available the services of emergency medical assistants or other persons on a continuous, continual or temporary basis for the purposes described in paragraph (b), (c) (ii), (g) or (h);
- (g) to provide, a service designated under subsection (2) that provides emergency or other health information or services, or referrals, for the purposes of—
 - (i) assessing an individual's health status and responding to a particular problem or circumstance, including the assessment of whether emergency health services or

urgent health services are required,

- (ii) supporting individuals in caring for themselves,
 - (iii) assisting persons, including health care providers, in accessing care, information and services available through the health system, or
 - (iv) a purpose specified by order of the Executive Committee Member;
- (h) to participate in research projects, conducted in whole or in part in the County, related to the provision of ambulance services or emergency health services and to approve such projects if they involve the provision of any of those services to individuals;
- (i) to recruit and train emergency medical assistants and other persons—
- (i) for the purposes set out in this section, or
 - (ii) under an agreement or arrangement entered into under this Act;
- (j) to enter into—
- (i) agreements for the purposes set out in this subsection, or
 - (ii) agreements or arrangements generally under any provision of this Act;
- (k) to administer and allocate grants made or funds provided, for the purposes of this Act, by the government or any Authority or a person;
- (l) any other purpose specified by order of the Executive Committee Member;
- (m) to exercise any power or perform any duty of the Fund under this Act.
- (2) The Executive Committee Member may, by order, designate a service for the purpose of subsection (1) (g) by—
- (a) setting out the name by which the service is commonly known; and

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- (b) describing the nature of the service.

(3) A person, other than the Executive Committee Member or the Fund, shall not, do or offer to do anything described in subsection (1) (a), (c) (i), (e), (k), (l) or (m) or approve a research project referred to in subsection (1) (h), except—

- (a) a person who is employed by, acting under the direction of or acting on behalf of the Fund;
- (b) in accordance with—
 - (i) an agreement or arrangement referred to in subsection (1) (j) (i) or (ii); or
 - (ii) the written consent of the Fund and any terms, limits or conditions the Fund may specify; or
- (c) as authorized by order of the Executive Committee Member and in accordance with any terms, limits or conditions the Executive Committee Member may specify.

9. The Fund is hereby recognized by the National and County Government as a voluntary aid Fund auxiliary to the public both for the purpose of the Scheduled Conventions and otherwise, and shall have the right in conformity with the Scheduled Conventions to use the heraldic emblem (to be determined) or any colourable imitations thereof or the words “Kisii County Emergency Health Services Fund”.

Recognition of Fund
as voluntary aid fund

10. The independent and voluntary nature of the Fund shall at all times be respected in accordance with the resolution adopted by Kisii County Assembly in that respect.

Independence of Fund
to be respected

PART III—ADMINISTRATION OF THE FUND

11. (1) The governing body of the Fund shall be the Board of Directors constituted in accordance with rules made under this Act.

Board of Directors

(2) The Board may from time to time appoint an Executive Committee with such powers and duties as may be prescribed by rules made under this Act.

(3) The first members of the Board shall be those

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persons who shall be appointed by the Governor of Kisii County in consultation with the Executive Committee Member and the County Director of Health of health services.

12. (1) The Board of Directors—

Officer administering
the Fund

- (a) shall appoint a person as the Chief Executive Officer of the Fund to exercise the powers and perform the duties that the board of directors may specify; and
- (b) may in consultation with the Executive Committee Member determine the remuneration and other terms and conditions of employment of the Chief Executive Officer.

(2) The Board of Directors or, if authorized by the board of directors, the Chief Executive Officer of the Fund may—

- (a) appoint officers and employees of the Fund and retain specialists and consultants to exercise the powers and perform the duties of the Fund, and
- (b) determine the remuneration and other terms and conditions of employment or retainer of the persons referred to in paragraph (a).

(3) The Public Service Act and the Employment Act do not apply to the Fund or its officers and employees appointed under subsection (1) (a) or (2) (a) of this section.

PART IV — FINANCIAL PROVISIONS

13.(1) The Fund shall constitute the following—

Sources of Funds

- (a) such amount of money as may be appropriated to the Fund by the County Assembly every financial year;
- (b) any grant, gift, donations or bequest received by the Fund from any lawful source;
- (c) moneys that may vest in or accrue to the Fund in the course of the exercise or performance of its functions under this Act;
- (d) moneys from any other lawful source accruing to the Fund;
- (e) a proportion of user fees collected in all public faculties within the County; and

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- (f) Other levies that may be proposed and approved from time to time

(2) All receipts, savings and accruals to the Fund and the balance of the Fund at the end of each financial year shall be retained for the purposes for which the Fund is established.

14. (1) The Fund shall establish and maintain an accounting system satisfactory to the Executive Committee Member and shall, whenever required, render in the form specified by the Executive Committee Member detailed accounts of revenues and expenditures of the Fund for the period or to the day the Executive Committee Member designates.

Financial
administration

(2) All books or records of account, documents and other financial records of the Fund must be open at all times for inspection by the Executive Committee Member or a person designated for that purpose by the Executive Committee Member.

(3) The Executive Committee Member for Finance may direct the auditor to examine and report to Treasury on any or all of the financial and accounting operations of the Fund.

(4) No later than 120 days after the end of its fiscal year, the Fund shall prepare and submit to the Executive Committee Member, in a form satisfactory to the Executive Committee Member—

- (a) a report of the Fund on its operations for the preceding fiscal year; and
- (b) a financial statement showing the assets and liabilities of the Fund at the end of the preceding fiscal year and the income and expenditures of the Fund for that year, and a statement of changes in financial position of the Fund for the fiscal year then ended.

(5) The financial statement referred to in subsection (4) (b) must be prepared in accordance with generally accepted accounting principles and regulations, if any.

(6) The provisions of the Public Finance Management Act shall apply to the Fund.

(7) The fiscal year of the Fund is the period of 12

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months beginning on July 1st in each year and ending on June 30th in the next succeeding year.

15. (1) A bank account of the Fund shall be opened and maintained by the officer administering the Fund with the approval of the Board in a bank approved by the Executive Committee Member.

Bank account for the Fund

(2) The signatories to the account of the Fund shall be the Chairperson, officer administering the Fund and one member appointed by the Board from among its members.

(3) A cheque issued by the Fund or instruments intended for actual release of money from the Fund shall be honoured by a mandatory signature of the officer administering the Fund and any one of the other two signatories.

16. All receipts, savings and accruals to the Fund and the balance of the funds at the end of each financial year shall be retained in the Fund shall be carried forward from one financial year to the next.

Funds to be retained in the Fund.

PART V— MISCELLANEOUS PROVISIONS

17. (1) No act, matter or thing done or omitted to be done by—

Protection from personal liability

- (a) any member of the Board Committee or sub-committee;
- (b) any member of staff or other person in the service of the Fund, or any person acting under the direction of the Board or any Committee of the Board or Fund, shall, if that act, matter or thing was done or omitted to be done in good faith in the execution of a duty or direction, render that member or person personally liable to any civil liability.

18. A person shall not assume or use the title “emergency medical assistant”, or a title prescribed in a regulation under this Act, or otherwise represents himself or herself to be an emergency medical assistant unless the person is the holder of a valid and subsisting license under this Act.

Licence required

19. (1) The Executive Committee member may make regulations for the better carrying out of this Act and

Regulations.

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without prejudice to the foregoing generality, such regulations may provide for—

- (a) the rules governing any action under this Act;
- (b) respecting the qualifications, examination, training, registration and licensing of emergency medical assistants;
- (c) respecting the continuing competence of emergency medical assistants, and providing for the assessment, by persons designated by the Executive Committee Member or the licensing board, of the professional performance of emergency medical assistants;
- (d) prescribing titles that may be used by, or that are to be used exclusively by, emergency medical assistants, and providing for limits or conditions on the use of prescribed titles, or other titles or terms, by emergency medical assistants;
- (e) prescribing services that may be provided by emergency medical assistants, and providing for limits or conditions on the provision of those services;
- (f) prescribing restricted activities that may be performed by emergency medical assistants in the course of providing services referred to in paragraph (d), and providing for limits or conditions on the performance of those restricted activities;
- (g) prescribing services that may be provided under the supervision of an emergency medical assistant by a person who is not an emergency medical assistant, and providing for limits or conditions on the provision of those services;
- (h) prescribing restricted activities that may be performed, in the course of providing services referred to in paragraph (f), by persons who are not emergency medical assistants, and providing for limits or conditions on the provision of those restricted activities—
 - (i) authorizing an emergency medical assistant to determine which of the services referred to in paragraph (f), and

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- (ii) restricted activities referred to in paragraph (g) a person who is not an emergency medical assistant may provide under the supervision of the emergency medical assistant, and providing for limits or conditions on the exercise of that authority;
- (j) respecting standards, guidelines or protocols for, and audits of, the provision of services by emergency medical assistants;
- (k) prescribing fees payable in respect of the qualifications, examinations, training, registration, licensing, continuing competence or assessment of emergency medical assistants;
- (l) prescribing fees payable for any service rendered under this Act, and providing for different fees for a service rendered to—
 - (i) an employee who requires an emergency health service if the employer is, under an enactment, obliged to supply emergency health services, or
 - (ii) different persons or classes of persons; and
 - (iii) authorizing the waiving of fees for different persons or classes of persons;
- (m) respecting the equipping of centres and stations referred to in this Act;
- (n) establishing standards of construction and maintenance required for an ambulance;
- (o) establishing the standard of equipment and supplies to be carried in an ambulance while it is being used, or held out as being available for use, as an ambulance;
- (p) respecting the services that may be provided in accordance with this Act by the Fund, or a person who is employed by, acting under the direction of or acting on behalf of the Fund, despite a prohibition established under the authority of another enactment;
- (q) respecting the practices or procedures that must be followed by the corporation in the conduct of its affairs;

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- (r) respecting the manner, form and amount of insurance that must be maintained by the Fund;
- (2) A regulation under—
 - (a) subsection (1) (a) to (k) or (m) to (o) may make different provisions for different classes of
 - (i) emergency medical assistants;
 - (ii) centres or stations referred to in the Act; or
 - (iii) ambulances; and
 - (b) subsection (1) (a) to (i) or (m) to (o) may delegate a power to, or confer a discretion on, a person designated in the regulation, including the power or discretion to exempt a person or class of persons from any condition or requirement imposed under the regulations, and may set out considerations that the person must or may take into account when a matter is delegated or a discretion is conferred.
- (3) A regulation under subsection (1) (k) to (l) may—
 - (a) authorize the Fund to collect and retain, or waive, a specified fee; and
 - (b) impose limits or conditions on the Fund's exercise of that authority.
- (4) A regulation may be made under subsection (1) (k) to (l) or (3) only with the prior approval of County Executive Committee.

20. Any person who—

Offences and Penalty

- (a) misappropriates any funds or assets from the Fund; or
- (b) assists or causes any person to misappropriate or apply the funds otherwise than in the manner provided in this Act;

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