

SPECIAL ISSUE

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REPUBLIC OF KENYA

**KISII COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2014

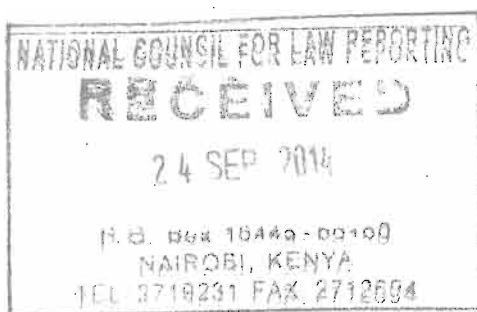
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CONTENT

Bill for Introduction into the Kisii County Assembly—

PAGE

The Kisii County Flag, Emblems and Names Bill, 2014 1



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**THE KISII COUNTY FLAG, EMBLEMS AND NAMES BILL,
2014**

ARRANGEMENT OF CLAUSES

Clauses

PART I—PRELIMINARY

- 1— Short title.
- 2— Interpretation.

PART II—GENERAL PROVISIONS

- 3— County Flag, Coat of Arms and Public Seal.
- 4— Restrictions on flying the County Flag.
- 5— Flying of National Flag by Governor.
- 6— Insulting County Flag or any symbol an offence.
- 7— Prohibition of improper use of emblems, names and Likenesses.
- 8— Prohibition of registration of certain companies, etc
- 9— Prohibition of display of certain flags.
- 10— Sanction for prosecution.
- 11- Power of seizure.

PART III—MISCELLANEOUS PROVISIONS

- 12- Power to amend First Schedule.
- 13- Regulations.

THE KISII COUNTY FLAG, EMBLEMS AND NAMES BILL, 2014

A Bill for

AN ACT of the County Assembly of Kisii to provide for the county flag and other symbols and to prevent the improper use of the county flag and of certain symbols, names, words and likenesses for professional or commercial purposes, and for matters incidental

ENACTED by the County Assembly of Kisii as follows

PART I—PRELIMINARY

1. This Act may be cited as the Kisii County Flag, Emblems and Names Act, 2014. Short title.

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

“specified emblem “ means any emblem, seal, flag, pennant, insignia, ensign or coat-of- arms of a kind specified in Part I of the First Schedule to this Act;

“Executive Committee Member” means the County Executive Committee Member for the time being in charge of administration;

“specified likeness” means any photograph, drawing or other pictorial representation of the person for the time being holding any of the offices or dignitaries specified in Part III of the First Schedule to this Act;

“specified name” means any of the names and words specified in Part II of the First Schedule to this Act, and includes any abbreviation of such name.

PART II—GENERAL PROVISIONS

3. (1) The flag of which the design and descriptions are set out in Part I of the Second Schedule to this Act is hereby declared to be the Flag of Kisii County government, in this Act referred to as the County Flag. County flag, Coat of Arms and Public Seal.

(2) The coat of arms device of which the blazon and description are set out in Part II of the Second Schedule to this Act is hereby declared to be the Coat of Arms of Kisii County, in this Act referred to as the Coat of Arms.

(3) The seal of which the design is set out in Part III of the second Schedule to this Act is hereby declared to be the Public Seal of Kisii County.

The Kisii County Flag, Emblems and Names Bill, 2014!

4. The flying of the County Flag is hereby reserved for use by the Governor, the Deputy Governor, the Speaker of the County Assembly and the County Executive Committee Members.

Restrictions on flying of the County Flag.

5. (1) Subject to the Emblems and Names Act, the Governor shall hoist the National Flag in the County and shall use it to unite the people by creating visual, verbal or iconic or representations of the national values and goals in the County.

Flying of National Flag by Governor as a symbol of unity

(2) To promote the objective in subsection (1) the Governor shall flag the national flag alongside the County in the prescribed official car.

Cap. 99

6. Any person who shows disrespect, in speech, manner or writing, to or with reference to the County flag, or to any specified emblem, specified likeness or specified name, or any representation thereof, commits an offence and is liable, on conviction, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both the fine and imprisonment.

Insulting County flag etc- an offence.

7. (1) Notwithstanding anything contained in any law for the time being in force, no person shall, except with the written permission of the Executive Committee Member—

Prohibition of improper use of emblems, names and likeness.

- (a) use the county flag, any specified emblem, specified name, specified licenses or any colourable imitations thereof, or display the same in furtherance of ; or as an advertisement for any trade, business, calling or profession; or
- (b) use any specified emblem, specified name or specified likeness, or any colourable imitation thereof, in the title of any patent, or any trade mark or design; or
- (c) manufacture or import any article or goods bearing any specified emblem, specified name or specified likeness, or any article or goods on which any title, trade mark or design is used in contravention of paragraph (b) of this subsection.

(2) Subsection (1) (a) relating to the use of a specified likeness shall not apply to the publication—

- (a) of a bona fide news item, whether in a newspaper, website or any other medium; or

- (b) in a newspaper of any article connected with any bona fide news item, other than a news item in the furtherance of, or as advertisement for, any trade, business, calling or profession.

(3) Any permission given under subsection (1) may be given subject to such conditions as the Executive Committee Member may deem fit.

(4) Any person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a fine not exceeding five thousand shillings, or to imprisonment for a term not exceeding six months, or to both the fine and imprisonment.

8. Notwithstanding anything contained in any law for the time being in force, no authority empowered or required by law to register any company, firm or other body of persons, or any trade mark or design, or grant a patent, shall—

Prohibition of registration of certain companies.

- (a) register any company, firm or other body of persons under any name; or
- (b) register a trade mark or design which bears any emblem, name, word or likeness; or
- (c) grant a patent in respect of an invention which bears a title containing any emblem, name or word, if the use of that name, emblem, word or likeness would be in contravention of section 7 of this Act, and any purported registration or grant made contrary to this section shall be absolutely void and ineffective for all purposes.

9. (1) Except for the national flag and other national symbols as provided in the National Flag, Emblems and Names Act, no person shall display, at any place or on any premises, any flag or banner or permit any flag or banner to be displayed, being in either case a flag or banner, other than a specified emblem, which is reputed to belong, or is held out by any authority as belonging, to Kisii County government or any particular part thereof.

Prohibition of display of certain flags.

(2) Any person who contravenes subsection (1) of this section commits an offence and is liable, on conviction, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both the fine and imprisonment

(3) This section shall bind the Kisii County Government.

10. No prosecution for any offence under this Act shall be instituted except with the previous sanctions in writing of the Director of Public Prosecutions.

Sanction for prosecution.

11. (1) If a police officer has reasonable cause to believe that something is being used, displayed, manufactured or imported contrary to this Act, or is to be found on any premises, he or she may require the person in charge or appearing to be in charge of the premises to allow the officer to enter the premises and to afford that officer all reasonable facilities for a search thereof, and if entry cannot, within a reasonable period, be so obtained, the officer may, using force if necessary and without warrant enter and search the premises and search therein.

Power of seizure.

(2) If a police officer finds on any premises anything in respect of which he or she has reasonable cause to believe that an offence under this Act has been committed by any person, he or she may seize that thing, and it before a magistrate, who shall order it to be forfeited if satisfied that it has been used, displayed, manufactured or imported contrary to this Act, or order it to be restored to the person from whom it was seized.

PART III—MISCELLANEOUS PROVISIONS

12. The Executive Committee Member may, by notice in the Gazette, amend the First Schedule to this Act.

Power to amend First Schedule

13. The Executive Committee member may make regulations—

Regulations.

- (a) prescribing the occasions upon which, the persons by whom and manner in which the County Flag or the Armorial Ensigns may be flown, hoisted or displayed, as the case may be;
- (b) prohibiting, controlling or restricting the use of any specified emblem, specified likeness or specified name;
- (c) prescribing the manner in which applications may be made to the Executive Committee Member for the permission under section 3 of this Act;
- (d) prescribing the fee and form of a licence issued for any permission granted under section 3;
- (e) generally for carrying this Act into effect.

FIRST SCHEDULE

Part I—Specified Emblems

1. The County Flag,
2. The Court of Arms of the County of Kisii;
3. The Public Seal of County Government of Kisii, and
4. The Logo

Part II—Specified Names and Words

1. The name of the Governor.
2. The name of the Deputy Governor
3. The name of the Speaker
4. The name of the Deputy Speaker

Part III—Specified Offices and dignitaries

1. His or Her Excellency the Governor
2. The Deputy Governor
3. The Speaker
4. The Deputy Speaker

SECOND SCHEDULE (S.3)

PART I

The County Flag



Blue: symbolizes sky is the limit for the County

White: represents peace and unity

Green: represents the rich agricultural potential of the County

Stars: represents the clans of Omogusii

PART II

The Coat of Arms



Yellow rope: symbolizes unity and strength. It also represents togetherness.

7 stars: represents the 6 clans of Omogusii, which are Bobasi, Bogetutu, Bonchari, Bomachoge, Nyaribari and Bogirango and the additional clan constituting members of other communities' resident in Kisii County.

The Hills: represent the green rich Kisii highlands where bananas and tea flourish.

The round ring (Mwanyagetinge): represents the unity of Omogusii as a community.

Kisii soapstone: represents the creative art of the Kisii people.

Blue colour: since it is very subtle, it symbolizes freedom, since the sky is blue.

The white ribbon: represents peace and unity.

The Shield: is a symbol of prosperity, opportunities, justice, courage and abundance.

PART III

The County Public Seal



Blue: symbolizes sky is the limit for the county.

White: represents peace and unity.

Green: represents the rich agricultural potential of the County.

Stars: represents the clans of Omogusii.

7 stars: represents the 6 clans of Omogusii, which are Bobasi, Bogetutu, Bonchari, Bomachoge, Nyaribari and Bogirango and the seventh clan being a representation of members of other communities resident in Kisii County.

The Hills: represent the green rich Kisii highlands where bananas and tea flourish.

Mwanyagetinge: the round ring represents the unity of Omogusii as a community.

Kisii soapstone: represents the creative art of the Kisii people.

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose and objectives of this Bill is to prevent improper use of the County flag and of certain emblems, names, words and likeness for professional and commercial purposes, and to prohibit the display of certain flags and reserve the use of the county flag to certain officers.

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

Part II of the Bill makes general provision for County Flag Armorial Ensigns, Public Seal and restricts the flying of the county flag to certain officers and prohibits improper use of emblems, names and Likenesses.

Part III of the Bill provides for miscellaneous provisions

The Bill is crucial because Kisii County needs its own identity. A County flag, Coat of Arms and Public Seal are instruments that signify identity and the exercise of authority.

The enactment of this Bill will not occasion any significant additional expenditure of public funds and the small expenditure which will arise will be provided for in the county administration budget.

Statement on Delegated Powers to Legislate

The Executive Committee member responsible for Administration and Public service is empowered to grant permission for the use of the County Flag and make necessary regulations for the better functioning of various provisions of the Act.

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 the 19th June, 2014.

PERIS ONIANG'O,
Executive Committee Member,
Administration, Corporate Services and Stakeholder Management.

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