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MANDERA COUNTY BILLS, 2020

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**THE MANDERA COUNTY ENFORCEMENT AND
INSPECTORATE BILL, 2020**

A Bill for

AN ACT of the County Assembly of Mandera to provide for the establishment of Mandera County Inspectorate, laws governing enforcement of County legislations and for matters connected thereto

ENACTED by the County Assembly of Mandera, as follows—

PART I—PRELIMINARY

Short title

1 This Act may be cited as the Mandera County Enforcement and Inspectorate Act, 2020

Interpretation

2 In this Act, unless the context otherwise requires—

“Animal” includes domestic animals, wild animals and poultry,

“Board” means the County Public Service Board of Mandera County established under section 57 of County Government Act, 2012,

“Committee” means the disciplinary committee established under Section 29 of the Act,

“Compliance enforcement” includes action taken to establish compliance of any requirement by a county law or, enforcing compliance of county laws and pursuing punishment for committing an offence under a county law,

“County law” means any Act of Mandera County Assembly and/or a subsidiary county law,

“Court” means a magistrate court designated to handle criminal matters arising from county laws,

“Governor” means the governor of Mandera County Government,

“Inspectorate” means the Inspectorate established under Section 4,

“County Executive Committee Member” means the County Executive Member responsible for matters pertaining to enforcement of county laws,

“Officer” means an officer appointed under section 6,

“Premise” means any building or structure where a regulated activity is undertaken or is about to be undertaken but does not include residential houses,

“Regulated activity” means any activity, trade or business, whose undertaking a county law requires obtaining of a license, permit, approval or payment of service fee, by or to relevant county organ,

“Relevant county organ” means the organ or department responsible for licensing, issuing permits, collecting services fee or approving an activity,

“Vessel” includes motor vehicles, motorbikes, bicycles and any other motorized or non-motorized vessel

Objects of the Act

3 The objects of this Act are—

- (a) give effect to the provisions of Article 183(1)(a) and 183(1)(b) of the Constitution that require the county executive committee to implement county legislation and to implement within the county, national legislation to the extent that the legislation so requires,
- (b) establish by law, pursuant to Article 185(2) of the Constitution, an inspections mechanism so as to ensure the effective performance and exercise of the powers conferred on the county government under Part 2 of the Fourth Schedule of the Constitution,
- (c) to provide for institutional framework for the enforcement of the County laws, and
- (d) to regulate the actions of County enforcement officers

PART II—ESTABLISHMENT OF THE COUNTY INSPECTORATE

Establishment of Inspectorate

4 (1) There is hereby established a Inspectorate to be known as the Mandera County Inspectorate and Enforcement Inspectorate

(2) The Inspectorate and Enforcement Inspectorate shall be a department within the County Public Service,

(3) The Enforcement and Inspectorate shall consist of such maximum number of officers as shall be determined from time to time by the County Public Service Board

Functions of the Inspectorate

5 The functions of the Enforcement and Inspectorate shall be to—

- (a) carryout inspections within Mandera County to ensure

compliance with set standards in respect of the functions of the County Government as specified under Part 2 of the Fourth Schedule to the Constitution,

- (b) regulate and control traffic on county roads and keep order and prevent obstructions in county public places,
- (c) protecting and guarding the property of the county, and
- (d) perform any other duties that may be prescribed by this Act or any other written law from time to time

Deployment of Inspectorate Officers

6 The Inspectorate shall be responsible for deployment, promotion and demotion of officers within Mandera County for the performance of the functions specified in this Act or any other law

Structure of the Inspectorate

7 (1) The Structure of the Inspectorate shall be as follows in order of their rank—

- (a) Director of Inspectorate,
- (b) Deputy Director of Inspectorate,
- (c) Assistant Director of Inspectorate in charge of Discipline and Training,
- (d) Assistant Director in charge of Operations and Administration,
- (e) Senior Superintendent,
- (f) Superintendent,
- (g) Chief Inspector,
- (h) Senior Sergeant,
- (i) Sergeant,
- (j) Corporal,
- (k) County Constable

(2) Inspectorate officers shall have seniority according to their position as set out in subsection (1) above. All persons who immediately before the commencement of this Act were officers of the county inspectorate shall upon commencement of this Act become officers of the Inspectorate in accordance with this Act in such ranks as the Board shall designate

(3) Notwithstanding subsection (2), all officers shall undergo vetting by the Board to assess their suitability and competence to continue in service with regards to compliance with the requirements of Chapter six of the Constitution, the Leadership and Integrity Act and other written law applicable to public officers

(4) The Board shall discontinue from the Inspectorate any inspectorate officer who fails in the vetting referred to under subsection (3)

Gender, ethnic and Disability balance

8 The composition of the Inspectorate shall, so far as is reasonably practicable—

- (a) uphold the principle that not more than two-thirds of the appointments shall be of the same gender, and
- (b) reflect the special needs and ethnic diversity of Mandera County

PART III—THE DIRECTOR OF ENFORCEMENT AND INSPECTORATE

Appointment of Director of Inspectorate

9 The Director of Enforcement and Inspectorate—

- (a) The Inspectorate shall be under the command of a County Director of Inspectorate and enforcement who shall be competitively recruited and appointed by the County Public Service Board,
- (b) The Director of Inspectorate may perform the functions or exercise the powers of the office in person or may delegate to an officer subordinate to him,
- (c) A delegation under this Act—
 - (i) shall be in writing,
 - (ii) shall be subject to any conditions the Director of Inspectorate may impose,
 - (iii) shall not divest the Director of Enforcement and Inspectorate of the responsibility concerning the exercise of the powers or the performance of the duty delegated, and
 - (iv) may be withdrawn, and any decision made by the person so delegated may be withdrawn or amended by the Director of Inspectorate,

- (d) the Director reports to the County Chief Officer in charge of Cohesion and Integration

Functions and Powers of the Director

10 (1) The functions of the Director of Inspectorate shall be to—

- (a) oversee and supervise the implementation of the functions of the Inspectorate,
- (b) prepare budgetary estimates, and develop annual Inspectorate plan before the end of each financial year for approval by the County Executive Committee,
- (c) advise the County Executive Committee on the establishment and maintenance of Inspectorate posts, outposts, units or unit bases in the county,
- (d) oversee and monitor the implementation of the Inspectorate's budget and the annual work plan,
- (e) supervise and evaluate the performance of the staff under the Inspectorate,
- (f) co-operate with other public or private bodies to provide reliable inspectorate statistics on crime rates, detection rate, public confidence in the inspectorate, number of complaints against the inspectorate, as well as personnel statistics,
- (g) perform such other functions on behalf of the Inspectorate as may be prescribed under this Act, any other written law or assigned from time to time by the Executive Committee

(2) The County Executive Committee Member shall prescribe the standing orders for enforcement officers

(3) The standing orders shall be deemed to be prescribed in accordance with this provision and the County Executive Committee Member may from time to time amend the Standing Orders as shall be appropriate

(4) 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

(5) The Inspectorate Standing Orders issued under subsection (2) shall—

- (a) be administrative orders,
- (b) be for the general control, direction and information of the Inspectorate, and

- (c) not be inconsistent with the Constitution, this Act or any written law,

(6) The Inspectorate Standing Orders shall be made available to each serving officer and wherever possible, be accessible to the public

Qualification for Appointment of Director

11 (1) A person shall be qualified for appointment as Director of Enforcement and Inspectorate if such person—

- (a) is a citizen of Kenya,
- (b) holds a degree from a university recognized in Kenya,
- (c) has had a distinguished career in their respective fields,
- (d) meets the requirements of Chapter Six of the Constitution,
- (e) has served in a senior management position for at least fifteen years and has knowledge and experience in matters relating to any of the following disciplines—
 - (i) criminal justice,
 - (ii) policy development and implementation,
 - (iii) Finance and public administration,
 - (iv) Strategic management,
 - (v) Security,
 - (vi) Law,
 - (vii) Sociology, or
 - (viii) Government

(2) Notwithstanding the provisions of subsection (1), the County Public Service Board may remove a Director—

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

Procedure for Appointment of the Director

12 (1) Whenever a vacancy arises in the office of the Director of Enforcement and Inspectorate, the Board shall, within fourteen days from the date of the occurrence of the vacancy, by notice in at least two daily newspapers of countywide circulation, declare the vacancy, and invite applications

(2) Any person qualified in accordance with this Act may make an application to the Board within the specified period from the date of the publication of the notice

(3) The Board shall consider the applications, shortlist at least three persons qualified for the position advertised for under subsection (1) and conduct public interviews

(4) The Board shall appoint the most qualified candidate as the director

Oath of office

13 Before taking up the office, the Director shall make and subscribe to the oath or affirmation set out in the First Schedule before an officer authorized by law to administer oath, either in English or Swahili

Vacancy and filling of vacancy

14 (1) The office of the Director of Enforcement and Inspectorate shall become vacant if the holder—

- (a) dies,
- (b) resigns from office by a notice in writing addressed to the board, or
- (c) is removed from office in accordance with the Constitution or this Act

(2) Where a vacancy occurs in the office of the Director or where the Director is suspended under section 11(2), the Deputy Director shall act in the office until the Board recruits and appoints a replacement in accordance with the provisions of section 11

Appointment of the Deputy Director

15 (1) There shall be a Deputy Director of Enforcement and Inspectorate appointed by the County Public Service Board

(2) The Deputy Director of Enforcement and Inspectorate shall be the principal assistant to the Director of Enforcement and Inspectorate in the performance of the function of office under this Act or by any other written law

(3) In appointing the Deputy Director of Enforcement and Inspectorate, the Board shall ensure that at all times the office shall not remain vacant

PART IV—THE ENFORCEMENT AND INSPECTORATE SERVICE

Allocations of the budget

16 (1) The County Executive with the approval of the County Assembly shall allocate adequate funds to enable the Inspectorate to perform its functions and for the Inspectorate shall be a separate vote

(2) The Director of Enforcement and Inspectorate shall ensure that every inspectorate post, outposts and unit is allocated sufficient funds to finance its activities

Inspectorate Training Institution

17 (1) The Inspectorate with the approval of the County Executive Committee shall establish and maintain a training institution for purposes of training and re-training of its officers

(2) Training in the institutions referred to in subsection (1) shall be conducted in accordance to the training curriculum

(3) The Inspectorate may collaborate with other training institutions to provide training to its officers

(4) The Public Service Board shall develop guidelines on the curriculum, examination and certification of inspectorate trainees

Certificate of appointment

18 (1) The Director of Enforcement and Inspectorate shall ensure that a certificate of appointment is issued to every person who is appointed as a Inspectorate Officer

(2) A certificate of appointment shall be in a form prescribed by the rules and be signed by an officer authorized for the purpose

(3) An Inspectorate officer shall produce the certificate of appointment issued under subsection (2) on being requested to do so by any person in relation to whom the officer is exercising or is about to exercise a power conferred by this Act

(4) A failure to comply with subsection (3) shall invalidate any purported exercise of the power that the officer is seeking to exercise

(5) A certificate issued to an Inspectorate officer under this section shall be evidence of the officer's appointment not only for the purposes of legal proceedings but for all other purposes of the law

Oath of Office

19 An inspectorate officer shall upon being enlisted, make and sign before an officer authorized by law to administer oaths or before the County Chief Inspector, in English or Swahili and in such manner as the officer may declare to be most binding on his conscience, the oath or the affirmation set out in the First Schedule

Inspectorate officers prohibited from taking other employment

20 No member of the Inspectorate shall engage in any trade, business or employment, outside the scope of his duties as an officer of the Inspectorate if the trade, business or employment is in conflict of interest with the performance of the inspectorate officer's duties

(2) A member of the Inspectorate who intends to engage in other forms of employment shall apply for and obtain approval from the Board

(3) The Board may approve or reject the application under subsection (2)

(4) The Board shall maintain a register of all persons granted approval under subsection (3), indicating the particulars thereof, and shall submit copies of the register to the Director of Enforcement and Inspectorate

(5) For the avoidance of doubt, the laws on anti-corruption, the Public Officers Ethics Act 2003, and other relevant laws shall apply to members of the Inspectorate

Public property not to be used privately

21 (1) Unless specifically authorized by rules, no inspectorate officer shall be entitled to keep or use for private benefit any article that has been supplied to the officer at the public expense, but shall hold every such article at the order and disposal of the County

(2) An inspectorate officer who keeps or uses an article in contravention of subsection (1) commits a disciplinary offence

Surrender of public property on resignation, etc

22 (1) An officer who is dismissed from the Inspectorate, or resigns from office, or otherwise leaves the inspectorate, shall forthwith deliver over to the person authorized by rules or appointed for that purpose every article which has been supplied to him and which he or she has not been expressly authorized to keep or use for his private benefit

(2) Any person who—

(a) fails to comply with subsection (1), or

- (b) returns such property in a damaged condition, the damage not being attributable to the proper discharge of his duties in the inspectorate, commits an offence, and shall be liable on conviction, whether or not any penalty is otherwise imposed, for the cost of replacing such property, or, as the case may require, for the cost of repair, and such cost shall be recoverable by the Government by deduction from any moneys due to such person, and shall be a debt due from such person to the Government

Limitation of rights and fundamental freedoms of inspectorate officers

23 (1) Subject to this section, an inspectorate officer shall be entitled to all the rights set out in the Constitution

(2) Subject to Article 24, 25 and 35 of the Constitution, the rights and fundamental freedoms of an officer of the inspectorate may be limited for the purposes, in the manner and to the extent set out by law

(3) A limitation of a right or fundamental freedom under subsection (2) shall be reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom and shall be limited only for purposes of ensuring—

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

PART V—APPOINTMENT, DEPLOYMENT, RANKING AND DISCIPLINE OF OFFICERS

Appointment of Inspectorate officers

24 (1) The County Public Service Board shall, in consultation with the member of the county executive committee, competitively recruit and appoint officers into the Inspectorate

(2) The Board shall ensure that recruitment and appointment of officers into the Inspectorate reflects ethnic and geographical diversity of the people of the county

Deployment, promotion and ranking of officers

25 The Board shall be responsible for deployment, promotion, demotion of the officers

Establishment of the Disciplinary Committee

26 (1) There is established an internal disciplinary committee that shall be responsible for maintaining discipline in the Inspectorate

(2) The Committee shall comprise of—

- (a) the Chairperson who shall be the Chief Officer in charge of the Inspectorate,
- (b) assistant director in charge of discipline and training
- (c) two persons from the Inspectorate chosen by the County Executive Committee member,
- (d) a representative from the County Legal Office or department,
- (e) a representative from the County Public Service Board, and
- (f) a representative from Human Resource Department as Secretary for the Committee

(3) At any disciplinary proceedings, an officer shall be represented by a representative or advocate of their choice

Powers of the Disciplinary Committee

27 (1) The Disciplinary committee shall have power to—

- (a) receive and investigate a complaint regarding an inspectorate officer,
- (b) summon and interrogate witnesses,
- (c) call for or require the production of documents for examination,
- (d) recommend the appropriate disciplinary action against an inspectorate officer to the County Executive in charge of the Inspectorate who in turn writes to the Public Service Board

(2) The disciplinary actions the committee may recommend include—

- (a) Interdiction of an officer,
- (b) Suspension,
- (c) Dismissal,
- (d) Demotion,
- (e) Deduction of salary, or
- (f) Transfer to another Inspectorate within the county

(3) The disciplinary report shall be shared with the Ministry Human Resource Committee for which the Inspectorate is under for action

PART VI—POWERS OF ENFORCEMENT OFFICERS

Power of entry by authorized officer

28 (1) An officer may, at all reasonable times, enter upon any premises or place in which there is a reasonable ground to believe that a regulated activity is being undertaken, for the purpose of compliance enforcement

(2) If an officer acting under subsection (1), is satisfied that a regulated activity is taking place or is about to take place contrary to a lawful requirement, the officer may order immediate stoppage of the activity

(3) An officer may apply to a magistrate for a warrant to enter, inspect and impound goods in any premises where he reasonably suspects that an activity is about to be or being undertaken contrary to any county laws and where entry has been refused

Power to apprehend

29 (1) Where an officer has reasonable grounds to believe that an offence has been committed or is about to be committed under any county law, the officer may apprehend—

(b) The person committing or who is about to commit the offence

(c) Where the offence relates to a regulated activity -

(i) the proprietor of the activity, or

(ii) an employee of the proprietor, or

(iii) Any other person whom the officer reasonably believes that is involved in the execution of the activity

(2) An officer may use reasonable force to execute arrest, where a person whom is believed to have committed a crime or is about to commit a crime under any county law resists an arrest

Production in court or police station

30 Where an officer arrests any person under section 32 above, he or she shall immediately forward the person arrested to the nearest police station or, produce such person in court within 24 hours

Power to impound goods

31 (1) Where an officer has reasonable grounds to believe that a person is trading in goods contrarily to any county law, the officer may impound on the goods and cause them to be stored at the Inspectorate Station until the person involved complies with the law or the case against him is determined by the court

(2) Any goods impounded that are subject to rapid decay shall be disposed of with the authority of the magistrate after a full inventory has been taken and any other records of the same including photographs submitted to court

(3) Sub-section 1 shall not preclude the relevant county organ from dealing with the impounded goods in any other manner permitted by order of the court or by any other law

Impounding of vessels

32 Where an officer reasonably believes that a vessel is parked or controlled in any manner contrary to any county law or without payment of prescribed parking fee, the officer may impound the vessel by clamping or towing it to the nearest Inspectorate Station

Power to impound animals

33 An officer may impound any animal that is kept contrary to any county law

Identification of an Officer

34 An officer shall sufficiently identify himself or herself while exercising any of the powers under this part

Unapproved building and structures

35 (1) It shall be unlawful for any person to erect, build establish or keep any structure, building, shed, kiosk or any other structure whatsoever or for whatever purpose on any area whether public or private without approval of the County Government

(2) Where it has come to the attention of the County Government that there is or are such structures mentioned in subsection (1) above which have been put, constructed or erected without County Government Approval, the County Government shall give the owner or occupier of such structure Seven (7) days' notice to demolish the structure or obtain County Government approval

(3) If the owner and /or occupier does not demolish or obtain approvals within seven (7) days, the County Government may demolish such structures and surcharge the owner of the plot or person who has constructed the costs of demolition

Unlicensed trades

36 No person shall engage in or carry any trade, occupation, business or profession, at any premises within the town unless such premises are permitted for the purpose of carrying on such trade, occupation, business or profession

Costs of demolition

37 (1) The surcharge mentioned in section 38(3) herein above may—

- (a) be added to rates payable by rent, and /or
- (b) be recovered by the County Government as a civil dent

(2) An invoice raised by the County Government shall be prima facie evidence of expenses incurred by County Government for the demolition

Service of notice

38 Any notice required to be given shall be deemed and have been served if—

- (a) It is placed on a conspicuous place of the structure or buildings,
- (b) served upon the owner, or
- (c) served upon the occupant

PART VII—ENFORCEMENT SERVICES

Designation of Inspectorate posts

39 (1) The County Executive Committee Member In charge of Inspectorate may, by a notice in the Gazette designate Inspectorate posts

(2) In designating Inspectorate posts under subsection (1), the County Executive Committee Member In charge of Inspectorate shall ensure that such Inspectorate posts are equitably distributed throughout the County

(3) The Inspectorate posts under subsection (1) shall be the unit for Inspectorate delivery

(4) Each Inspectorate post shall—

- (a) be the center for the administrative and command functions of the Inspectorates in respect of the area of jurisdiction, and
- (b) provide room for operational creativity to the inspectorate officers under the Inspectorate

(5) The Director of enforcement and inspectorate shall ensure the development of procedures which facilitate uniform keeping of records at all Inspectorate posts

Duties and powers of officers

40 (1) An Inspectorate officer shall obey and execute all lawful orders in respect of the execution of the duties of office which he may from time to time receive from his superiors in the Inspectorate and may—

- (a) at any reasonable time, enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act,

- (b) apprehend any person who is in breach of any law or standards that is within the jurisdiction of the Inspectorate and for whose apprehension sufficient ground exists

(2) In carrying out an inspection in any place pursuant to this Act an Inspectorate officer may—

- (a) examine anything referred to in that section,
- (b) require any person in such place to produce for inspection, in the manner and form requested by the officer, the thing,
- (c) open or require any person in the place to open any place of abode, kennel, container or thing found in the place that the officer believes on reasonable grounds contains the thing,
- (d) conduct any test or analysis or take any measurements, or
- (e) require any person found in the place to produce for inspection or copying, any written or electronic information that is relevant to the administration or enforcement of this Act,
- (f) use or cause to be used any computer system in the place to examine data contained in or available to the computer system that is relevant to the administration or enforcement of this Act,
- (g) reproduce the data in the form of a print-out or other intelligible output and take it to examination or copying,
- (h) use or cause to be used any copying equipment in the place to make copies of any data, record or document, or
- (i) scrutinize any other record system in use in that place

Stoppage and detention

41 (1) An Inspectorate officer in uniform may stop and detain any person whom the officer witnesses doing any unlawful act or thing or finds in possession of 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) An Inspectorate officer who abuses the powers under this section commits an offence

Power to enter premises and stop vehicles etc without warrant

42 (1) Subject to the Constitution, if an Inspectorate officer has reasonable cause to believe—

- (a) that anything necessary to the investigation of an alleged offence is in any premises and that the delay caused by obtaining a warrant to enter and search those premises would be likely to imperil the success of the investigation, or
- (b) that any person in respect of whom a warrant of arrest is in force, or who is reasonably suspected of having committed a cognizable offence, is in any premises, the inspectorate officer may demand that the person residing in or in charge of such premises allow him free entry thereto and afford him all reasonable facilities for a search of the premises, and if, after notification of his authority and purpose, entry cannot without unreasonable delay be so obtained, the officer may enter such premises without warrant and conduct the search, and may, if necessary in order to effect entry, break open any outer or inner door or window or other part of such premises

(2) An Inspectorate officer may stop, search and detain any vehicle or vessel which the inspectorate officer has reasonable cause to suspect is being used in commission of, or to facilitate the commission of an offence

(3) A person who fails to obey a reasonable signal given by an Inspectorate officer in uniform requiring the person to stop any vehicle or vessel commits an offence and is liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred thousand shillings, or to both

(4) An Inspectorate officer may arrest a person under subsection (3) without a warrant unless the person gives his name and address and otherwise satisfies the inspectorate officer that the person will duly answer any summons or other proceedings which may issue or be taken against that person

(5) An Inspectorate officer who exercises the powers conferred under this section shall—

- (a) identify himself or herself beforehand,
- (b) record the action,
- (c) record the items taken,
- (d) make a report regarding such exercise and make it available for the superior

Power to arrest without a warrant

43 Subject to Article 49 of the Constitution, an Inspectorate officer may without a warrant, arrest a person—

- (a) who is accused by another person of breaching any law within his enforcement jurisdiction in any case in which the inspectorate officer believes upon reasonable ground that such breach has been committed,
- (b) who obstructs an Inspectorate officer while in the execution of duty,
- (c) who commits a breach of the peace in the presence of the inspectorate officer,
- (d) in whose possession is found anything which may reasonably be suspected of having committed an offence with reference to that thing,
- (e) whom the inspectorate officer suspects upon reasonable grounds of having committed or being about to commit a breach of a county law, or
- (f) whom the inspectorate officer has reasonable cause to believe a warrant of arrest has been issued

Arrests and detentions by Inspectorate Officers

44 (1) An arrest by an Inspectorate 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 Inspectorate officer shall carry out an arrest and detention only as provided for in law

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

(4) Force shall only be used in accordance with the Second Schedule

(5) Every arrested person shall as soon as practically 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

(6) An Inspectorate Officer who contravenes the provisions of this section shall be personally guilty of a disciplinary offence and may be tried for a criminal offence

Use of force

45 (1) Subject to subsection (2), an Inspectorate officer shall perform the functions and exercise the powers conferred by the Constitution and this Act by use of non-violent means

(2) Despite subsection (1), an Inspectorate officer may use force in accordance with the rules on the use of force contained in the Second Schedule

Entry of dwelling Place

46 (1) An Inspectorate officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued under sub-section (2)

(2) Upon an ex-parte application, a magistrate or judge, may issue a warrant authorizing the Inspectorate officer named in the warrant to enter and inspect a dwelling place, subject to any conditions specified in the warrant, if the magistrate or judge is satisfied by information on oath that--

- (a) the dwelling place is a place referred to in section 23,
- (b) entry to the dwelling place is necessary for the administration or enforcement of this Act, and
- (c) the occupant does not consent to the entry, or that entry has been refused or there are reasonable grounds for believing that it will be refused

(3) 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

(4) An Inspectorate officer executing the warrant issued under this section shall not use force unless such officer is accompanied by a police officer and the use of force is specifically authorized in the warrant

Inspectorate officer report

47 An Inspectorate officer who carried out an inspection under this Act shall make a preliminary report immediately upon completion of the inspection in a prescribed format, a copy of which shall be retained in the premises

Assistance of officers

48 (1) The owner of a place inspected by an Inspectorate officer under this Act or the person in charge of the place and every person found in the place shall—

- (a) provide all reasonable assistance to enable the Inspectorate officer to carry out his duties under this Act, and

- (b) furnish the Inspectorate officer with such information as the officer reasonably requires for the purpose for which entry into the place has been made

(2) The inspecting agent in sub-section (1) shall issue the respective inspection completion and certification certificate once satisfied with the inspection

Obstruction

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

- (2) A person who contravenes sub-section (1) commits an offence

Seizure during inspections

50 (1) During an inspection under this Act, an Inspectorate officer may, in addition to the avenues provided for in this Act, seize anything by means of which or in relation to which the officer believes, on reasonable grounds, that this Act has been contravened and a full inventory thereof shall be made at the time of such seizure by the officer

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

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

(4) Any person from whom the thing was seized may, within thirty days after the date of 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

Order for restoration

51 (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 thing seized, and
- (b) the 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 sub-section (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 sub-section (1), the court may order that the thing seized be restored to the applicant on the expiration of one hundred and eighty days from the date of seizure if no proceedings in respect of an offence under this Act have been commenced before that time

PART VIII—MISCELLANEOUS PROVISIONS

Solid Waste Management

52 (1) The Inspectorate shall in consultation with sanitation department arrange for the collection, treatment and disposal of, or otherwise dealing with, all domestic waste and street and other litter generated or otherwise arising within its area of jurisdiction and to take all necessary and reasonably practicable measures to maintain all places falling within its area of jurisdiction in a clean and sanitary condition at all times

(2) The Inspectorate shall, in consultation with sanitation department establish and implement a system of monitoring, inspections and enforcement of waste management activities and shall regularly inform the public of steps it is taking to implement and improve waste management within the township and the use to which the general cleansing levy is put in each year

Disposal

53 (1) No person shall dispose of waste other than in permitted disposal areas or at an approved disposal facility

(2) Any person who refuses or fails to comply with any provision of Sections 55 and 56 of this Act or gives false information in relation to any requirements of these Sections shall be guilty of an offence, and, in addition to any other penalty which may lawfully be available, shall be liable on conviction to a fine not exceeding Kenya Shillings ten thousand or to imprisonment for a term not exceeding six months or to both

Parking places and omnibus station

54 (1) Any person who parks any vehicle other than a matatu at matatu terminus commits an offence

(2) No driver shall, while driving a matatu and plying for hire or reward and carrying passengers, without the written permission of the county, park or stop such matatu in any place other than a matatu terminus

(3) No person shall use or cause to be used any matatu within the matatu terminus for the purpose of hawking, trading, sale or exchange of goods of whatever kind

(4) Every person in a matatu terminus shall comply with and obey all lawful instructions, directions and orders given by an enforcement officer for the purpose of controlling or supervising such terminus

(5) Any person who obstructs, hinders, interferes, aids and/or encourages any other person to obstruct, hinder or interfere with any enforcement officer's duties under this Bill shall be guilty of an offence

(6) Any person who shall drive a vehicle on hire, or ply for hire in a vehicle whilst no permit issued under this Bill or any other written law is in force in respect of such vehicle shall be guilty of an offence

Disturbance

55 Any person who shall in any street or public place or in any place within the sight or hearing of any person therein—

- (a) disturb the peace by quarrelling with any other person or use any violent scurrilous or abusive language,
- (b) commit any nuisance in any street or public place,
- (c) commit any act contrary to public good,
- (d) without statutory authority, deface the foot way or road way by other marks, deposit, obstruct or by writing of other marks,
- (e) cut, breakdown, uproot, chop or in any other manner destroy or injure or climb any tree or shrub growing in any street, or
- (f) except in case of emergency sound any motor hour, cycle bell or any similar warning instrument shall be guilty of an offence

Washing car

56 Any person who—

- (a) Washes or repairs or paints or permit to be washed or repaired in any street or public place any car, cart, lorry, or vehicle of any kind of description,
- (b) circulate any depositing affixing or causing to be deposited or affixed in or upon any vehicle, whether a motor vehicle or any kind, standing in any street or public place or vacant plot within the town, any handbill or advertising matter or any description whatever, or
- (c) places or causes to be placed or leaves any vehicle or article or materials in a street in such a manner that it causes or is likely to cause an obstruction to a person or vehicle using the street shall be guilty of an offence

Unlicensed Hawkers

57 (1) The Inspectorate shall ensure that any person who hawks within the town has a valid permit from the department responsible for trade

(2) There shall be issued with each permit a badge relating thereto

(3) Every hawker shall whilst engaged in hawking, carry the permit with him and produce it on demand to an enforcement officer or to a duly authorized licensing officer of the town committee, and shall wear in a conspicuous place the badge relating to his permit

(4) Any person who—

(a) hawks in the town without a permit issued by the relevant department, or

(b) being the holder of a permit hawks in the town otherwise than in accordance with the terms and conditions thereof shall be guilty of an offence

PART IX— FINANCIAL PROVISION

Funds of the Inspectorate

58 (1) The funds of the Inspectorate consist of—

(a) monies allocated by the County Government with the approval of the County Assembly for the purposes of the management of the Inspectorate, enforcement of laws and other related purposes,

(b) monies or assets that may accrue to the Inspectorate in the course of the exercise of its powers or the performance of its functions under this Bill or any other relevant law, and

(c) all monies or grants from any other legitimate source provided or donated to the sub-county, ward and other decentralized units

(2) No payment shall be made out of the funds of the Inspectorate unless it has been provided for in the approved annual or revised or supplementary estimates of expenditure and authorized by the County Executive Committee Member

Administration of the Fund

59 (1) The Director shall be designated as the administrator of the Fund

- (2) The administrator of the Fund shall—
- (a) supervise and operate bank accounts at Reputable Bank in the County
 - (b) supervise and control the administration of the Fund,
 - (c) ensure that the earnings of, or accruals to a county public fund are retained in the fund, unless the County Executive Committee directs otherwise,
 - (d) ensure that money held in the Fund, including any earnings or accruals referred to in sub paragraph (c) is spent only for the purposes for which the fund is established,
 - (e) cause to be kept proper books of account and other books and records in relation to the Fund, of all activities and undertakings financed from the Fund,
 - (f) prepare, sign and transmit to the County Auditor, in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund and submit a copy to the County treasury and the statement shall be prepared in such manner as the public Sector Accounting Standards Board shall prescribe,
 - (g) furnish additional information as he or she may consider to be proper and sufficient for the purpose of examination and audit by the County Auditor in accordance with the provision of the Public Audit Act, and
 - (h) prepare a quarterly report on the receipt into and issues out of the Fund and submit it to the Executive Member for Gazettement by the 21st of every four months

PART X—OFFENCES

Impersonating an officer

60 Any person who impersonates an officer appointed under this Act commits an offence and shall be liable, upon conviction, to pay a fine of not more than five hundred thousand or imprisonment for a period not exceeding three years, or to both

Obstruction of an officer

61 Any person who willfully resists arrest, obstructs or interferes with the duties of an Inspectorate officer commits an offence and shall be liable upon conviction to a fine not exceeding Kenya shillings 50,000 or to imprisonment for a term not exceeding one year or to both

Protection against personal liability

62 No act, matter or thing done or omitted to be done by—

- (a) town administrator,
- (b) any member of the town committee,
- (c) any member of staff or other person in the service of the town, or
- (d) any person acting under the direction of the town administrator, shall, if that act, matter or thing was done or omitted in good faith in the execution of a duty or under direction, render that member or person personally liable to any civil liability

(2) A person who is not exempted from liability under subsection (1) and who directs or concurs in the use of funds contrary to existing legal rules or instructions shall be accountable for any loss arising from that use and shall be required to make good the loss even if that person has ceased to hold office

Prohibition against torture or cruel treatment

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

(2) An Inspectorate officer who subjects a person to torture commits a criminal offence and shall be liable on conviction to imprisonment for term not exceeding twenty five years

(3) An Inspectorate officer who subjects a person to cruel, inhuman or degrading treatment commits a criminal offence and is liable on conviction to imprisonment for term not exceeding fifteen years

Impersonation of Inspectorate Officer or Wearing of Inspectorate Uniform Etc

64 (1) A person other than an Inspectorate officer who, without the written authority of the County Director Inspectorate—

- (a) puts on or assumes, either in whole or in part, the uniform, name, designation or description of an Inspectorate officer, or a uniform, name or designation, resembling or intended to resemble the uniform, name or designation of an Inspectorate officer, or
- (b) in any way pretends to be an Inspectorate officer for any purpose which he would not by law be entitled to do of his 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) a person may, with the approval

of the County Chief Inspector use inspector uniform for artistic purposes

Obtaining admission to Inspectorate by the fraud

65 (1) A person who, for the purposes of obtaining admission into the Inspectorate, knowingly—

- (a) uses or attempts to pass off a forged or false certificate, letter or other document, or
- (b) Makes a false answer to a question which is put to him by an Inspectorate officer, 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 three years, or to both

(2) An Inspectorate officer may without a warrant arrest a person the inspectorate officer reasonably believes has committed an offence under this section

Assault in Execution of duty

66 Any person who—

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

Offences by partnership or bodies corporate

67 (1) Any act or omission which is an offence under this partnership or Act shall, if done by a body corporate, be deemed to be an offence committed by every director, secretary or manager of the body corporate unless proved that the offence was committed without consent or connivance and that he exercised all such diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions and the circumstances of the case

(2) If an offence under this Act is committed by a partner in a firm, every person who, at the time of the commission of the offence, was a partner in that firm, or was purporting to act in that office shall be deemed to have committed the offence unless there is proof that the offence was

committed without his consent and that he exercised all such diligence to prevent the commission of the offence having regard to the nature of his functions and the circumstances of the case

(3) In any prosecution for an offence under this Act, it shall be sufficient proof of the offence to establish that the offence was committed by an employee or agent of the accused

(4) Any act done or omitted to be done by an employee in contravention of any of the provisions of this Act shall be deemed also to be the act or omission of the employer, and any proceedings for an offence arising out of such act or omission may be taken against both the employer and the employee

Nature of evidence in proceedings

68 (1) In any prosecution for an offence under this Act, proceedings obtained during an inspection under this Act and certified to be a true copy thereof shall be admissible in evidence and shall, in the absence of evidence to the contrary, be proof of its contents

(2) Subject to this Part, a certificate or report purporting to be signed by an officer stating that the officer analyzed anything to which this Act applies and stating the results of the analysis, shall be admissible in evidence in any prosecution for an offence under this Act without proof of the signature or official character of the person appearing to have signed the certificate or report

(3) The certificate or report may not be received in evidence unless the party intending to produce it has, before the trial given the party against whom it is intended to be produced notice of not less than seven days of that intention together with a copy of the certificate or report

(4) The party against whom the certificate or report under sub-section (3) is produced may, with leave of the court, require the attendance of the officer for purposes of cross examination

(5) In a prosecution for a contravention of this Act—

(a) information on an identification tag indicating that the thing is licensed is, in the absence of evidence to the contrary, proof that the thing is licensed, and

(b) a name or address on an identification tag purporting to be the name or address of the person who owns the thing is, in the absence of evidence to the contrary, proof that the thing is owned by that person

Protection of County Government or any officer or other employee

69 No suit, prosecution or other legal proceedings shall lie against the Actions of the taken in good faith County Government or any other person or authority authorized by the county Government, for anything, which is done or intended to be done in good faith under this Act or the rules made thereunder

General penalty

70 (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 fifty thousand shillings

(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 with double the penalty provided for the offence

Fines and other public

71 All fines imposed and recovered by a competent court on an offender shall be paid to and collected by the County as revenue

Arrangements with other public offices

72 (1) The Governor and the member of the County Executive Committee shall put in place arrangements with—

- (a) the Director of Public Prosecution for the purpose of facilitating prosecution of those who contravene county laws ,
- (b) the Judicial Service Commission of Kenya for the purpose of allocation and designation of magistrates to adjudicate on criminal matters arising from county laws and the transmission of fines paid by those convicted of county offences into the County Revenue Fund

(2) The relevant public authorities dealing with matters of incarceration of criminal suspects and convicts

Regulations

73 The County Executive Committee Member may in consultation with the relevant departments and committees in the county government make regulations to—

- (a) further prescribe and regulate the conduct of Inspectorate enforcement officers,
- (b) facilitate the implementation of this Act

PART XI—PROVISIONS ON DELEGATED POWERS

Rules

74 (1) The County Executive Committee Member may, in consultation the Board and the County Chief Officer in charge of the inspectorate make rules for the 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, accouterments and necessities by the Inspectorate,
 - (d) monitoring and evaluating the performance of the functions of the Inspectorate,
 - (e) facilitating the involvement of the public in the activities of the Inspectorate,
 - (f) establishing an Inspectorate Reform Unit for ensuring continuous and sustainable inspectorate reforms,
 - (g) generally for the good order and management of the Inspectorate,
 - (h) the penalties and disciplinary procedures applicable to Inspectorate officers who commit' any of the offences against discipline set out in' the Third 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 fulfilment of the objectives specified under this section,
 - (c) the principles and standards applicable to the delegated power referred to under section 46 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

FIRST SCHEDULE

(s 13)

OATH/AFFIRMATION OF OFFICE

I, _____ do swear solemnly and sincerely affirm that I will be faithful and bear true allegiance to the Constitution and the Governor of Mandera County Government 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 hold 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 Inspectorate and that I will discharge my duties and the duties of the Inspectorate 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 Inspectorate or by reason of any office or employment held by me pursuant to the Mandera County Government Inspectorate Act SO HELP ME GOD

SECOND SCHEDULE

(s 30 (40))

A - CONDITIONS AS TO THE USE OF FORCE

1 An Inspectorate officer shall always attempt to use non-violent means first and force may only be employed when non-violent means are ineffective or without any promise of achieving the intended result

2 The force used shall be proportional to the objective to be achieved, the seriousness of the offence, and the resistance of the person against whom it is used, and only to the extent necessary while adhering to the provisions of the law and the Standing Orders

3 When the use of force results in injuries—

(a) The inspectorate officers present shall provide medical assistance immediately and unless there are good reasons, failing to do so shall be a criminal offence, and

(b) Shall notify relatives or close friends of the injured or affected persons

4 An Inspectorate officer who uses any form of force shall immediately report to the officers' superior explaining the circumstances that necessitated the use of force and the supervisor shall judge the rightfulness and decide on the next step, subject to this Schedule

5 Any use of force that leads to death, serious injury and other grave consequences shall be reported immediately by the officer in charge or another direct superior of the person who caused the death or injury, to the Police who shall investigate the case

6 The County Chief Inspector shall not be precluded by virtue of paragraph (5) from conducting investigations into the matter

7 An Inspectorate officer who makes a report to the Police in accordance with paragraph (5) shall—

(a) secure the scene of the act for purposes of investigations, and

(b) notify the next of kin, their relative or friend of the death or injury as soon as reasonably practical

8 It shall be a disciplinary offence for an Inspectorate officer to fail to report in accordance with this Schedule

9 An officer shall not tamper or otherwise damage any evidence from the scene of the act

10 An Inspectorate officer in uniform shall at all-time affix a nametag or identifiable inspectorate number in a clearly visible part of the uniform

11 Following the orders of a superior is no excuse for unlawful use of force

C - SPECIFIC RESPONSIBILITIES OF SUPERIORS

1 Superior officers should do everything in their power to prevent unlawful use of force, and when such unlawful use does occur, they should report this immediately to the Police and to the County Chief Inspector

2 (1) Refusing to carry out orders that include unlawful use of force should not be penalized and should not be a disciplinary offence

(2) Giving an order that would lead to the unlawful use of force is a disciplinary offence and may amount to a criminal offence

(3) The post commander, or any other relevant direct superior, shall, immediately after the death or serious injury of a person who at the time of his death or injury, was in inspector custody or under the control of the Inspector or in any way the death or serious injury was the result of inspector action or inaction which includes anyone who may have been injured or killed being a bystander during a inspector operation

- (a) Take all steps to secure evidence which may be relevant to that death,
- (b) Immediately report the case to the Police, using the means of communication that guarantee there will be the least delay] and confirm this in writing no later than within 24 hours after the incident,
- (c) supply the Police with evidence of and all other facts relevant to the matter, including, if available, the names and contact details of all persons who may be able to assist the Independent Inspector Oversight Authority should it decide to conduct an investigation, and
- (d) Non-compliance with the above shall be an offence

D-PREVENTING ESCAPE

1 An Inspectorate officer may use instruments of restraint to prevent the escape of an arrested person—

- (a) to prevent the escape of a person, and
- (b) to prevent the person from self-injury or injuring others or damaging property

2 An instrument of restraint may—

- (a) Not be applied for longer than necessary to secure the purpose for which it is used,
- (b) Not be used as a punishment, and
- (c) Shall be removed immediately after the purpose for which it is used is achieved

THIRD SCHEDULE

(s 46 (2)(h))

OFFENCES AGAINST DISCIPLINE

1 It shall be an offence against discipline for any inspectorate officer to—

- (a) unlawfully strike, or use or threaten violence against any inspectorate officer or any other person,
- (b) use any obscene, abusive or insulting language in any form to any inspectorate officer,
- (c) uses threatening or insubordinate or disrespectful language, word, act or demeanor to an Inspectorate officer senior to him in rank,
- (d) cause a disturbance in any inspectorate 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 inspectorate officer charged with any offence, 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 at any parade, instruction class or court or any other duty which he is required 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 conveys any information concerning any investigation or other inspectorate matter,
- (x) malingering, or feign any disease or infirmity,
- (y) knowingly and willingly transmit any venereal disease or HIV/AIDS,
- (z) without proper authority demands or exacts from any person any carriage, portage or provisions,
- (aa) commit an act which amounts to corruption by under of any law in force in Kenya,
- (bb) make any false statements upon joining the Inspectorate, 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 inspectorate officer or other person, affecting the character of such person", or willfully suppress any material fact,
- (ee) failing to attending Inspectorate parades,
- (ff) improperly dressed

MEMORANDUM OF OBJECTS AND REASONS

The main objective of this Bill is to establish the Mandera County Government Inspectorate and provide for its functions, powers, and organization so as to give effect to the provisions of Articles 185 (2), 187 and 189(1) (b) of the Constitution that require the county executive committee to implement county legislation and to implement within the county, national legislation to the extent that the legislation so requires

PART I of the Bill sets out preliminary matters **Clause 1** provides for the Short title of the Bill whereas **Clause 2** provides for the Interpretation of terms used in the Bill **Clause 3** sets out the Objects of Act

PART II of the Bill established Mandera County Government Inspectorate **Clause 4** provides for the establishment of the Inspectorate whereas **Clause 5** provides for the gender, ethnic and regional balance in staffing the Inspectorate **Clause 6** provides for the Functions of the Inspectorate **Clause 6**—Deployment of Inspectorate Officers while **Clause 7** provides for the Structure of the Inspectorate

PART III of the Bill contains provisions relating to the Office of the County Director Inspectorate as the administrative head of the Inspectorate **Clause 9** establishes the office of the County Director of Inspectorate while **Clause 10** provides for the functions and powers of the County Director of Inspectorate **Clause 11** provides for the recruitment of County Deputy Director of Inspectorate whereas **Clause 12** provides for the qualifications for appointment of County Director of Inspectorate **Clause 13** provides for the Procedure for appointment of the County Director of Inspectorate while **Clause 14** provides for the term of office **Clause 15** provides for the Oath of office while **Clause 16** provides for the removal of the County Director of Inspectorate **Clause 17** provides for the Vacancy and filling of vacancy **Clause 18** provides for the Appointment of the Deputy Director Inspectorate

PART IV of the Bill contains provisions on service in the Inspectorate **Clause 19** provides for the allocations of Funds to the Inspectorate while **Clause 20** provides the establishment of an Inspectorate Training institution **Clause 21** requires a Certificate of Appointment to be issued to every officer while **Clause 22** provides for the Oath of office before assuming office **Clause 23** prohibits Inspectorate officers from taking other employment while **Clause 24** prohibits the private use of public property by the officers **Clause 25** provides for the surrender of public property on resignation while **Clause 26** provides for the Limitation of rights and fundamental freedoms of inspectorate officers **Clause 27** provides for the Access to information

PART V of the Bill contains provisions for appointment, deployment, ranking and discipline of officers **Clause 28** Appointment of Inspectorate officer while **Clause 29** Deployment, promotion discipline and ranking of officers **Clause 30** Establishment of the Disciplinary Committee while **Clause 31** Powers of the Disciplinary Committee

PART VI— of the Bill contains provisions for the powers of Officers **Clause 32**—Powers of entry into a premise while **Clause 33** — Power to apprehend **Clause 34**— Production in court or police station while **Clause 35**—Power to impound goods **Clause 36**— impounding vessels, **Clause 37**—Power to impound animals, **Clause 38**—Identification of officers while **Clause 39**—Unapproved building and structures **Clause 40**— Unlicensed trades, **Clause 41**—Costs of demolition and **Clause 42** provides for Service of Notice

PART VII contains provisions on enforcement by Inspectorate officers **Clause 43** provides for the designation of Inspectorate posts while **Clause 44** provides for the duties and powers of officers **Clause 45** provides for the stoppage and detention of offenders while **Clause 46** provides for the power to enter premises and stop vehicles, etc without warrant **Clause 47** provides for the power to arrest without a warrant while **Clause 49** provides for the arrests and detentions by Inspectorate officers **Clause 50** provides for the use of force while **Clause 51** provides for the entry of dwelling place **Clause 52** provides for the Inspection report while **Clause 53** provides for the assistance of officers **Clause 54** prohibits the Obstruction of officers while they are performing their duty **Clause 56** provides for the seizure during inspections while **Clause 55** provides for the Order for restoration

PART VIII contains provisions on miscellaneous provisions **Clause 56**— Solid Waste Management, **Clause 57** Disposal, **Clause 58** Parking places and omnibus station, **Clause 59**— Disturbance, **Clause 60** Washing car, **Clause 61** Unlicensed Hawkers

PART IX contains provisions on **financial provision** **Clause 62** Funds of the Inspectorate **and Clause 63** Administration of the Fund

PART X containing provisions relating to offences under the Act **Clause 64** prohibits torture or cruel treatment while **Clause 65** prohibits the Impersonation of inspectorate officers or wearing inspector uniform etc **Clause 66** prohibits the obtaining of admission to the Inspectorate by fraud while **Clause 67** prohibits assault in execution of duty **Clause 68** provides for the Offences by partnership or bodies corporate while **Clause 69** provides for the Nature of evidence in proceedings **Clause 70** provides for the protection of actions taken in good faith while **Clause 71** Offences by partnership or bodies corporate **and Clause 72** Nature of evidence in

proceedings, Clause 73 provides for the Protection of County Government or any officer or other employee, **Clause 74** Fines and other public, **Clause 75** Arrangements with other public offices stipulates the general penalty applicable under the Act and finally **Clause 76** Regulations

PART XI contains provisions on delegated powers **Clause 78** delegates the rules making power to the Member of the County Executive Committee

The enactment of this Bill shall occasion additional expenditure of public funds

Dated the 25th June, 2020

KULLOW ALIO GUYOW,
*Chairperson Public Service Cohesion,
Integration and Devolved Units*