

SPECIAL ISSUE

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REPUBLIC OF KENYA

**MOMBASA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2016

NAIROBI, 27th May, 2016

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**THE MOMBASA COUNTY PORT HEALTH ACT,
2016**

No. 4 of 2016

Date of Assent: 3rd May, 2016

Date of Commencement: See Section II

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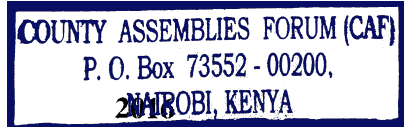
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THE MOMBASA COUNTY PORT HEALTH ACT, 2016

AN ACT of the County Assembly of Mombasa to provide for the powers and functions of port health services and connected purposes

ENACTED by the County Assembly of Mombasa as follows—

PART I—PRELIMINARY

Short Title

1. This Act may be cited the Mombasa County Port Health Act, 2016.

Commencement

2. This Act shall come into operation upon publication in the *Gazette*.

Interpretation

3. In this Act unless the context otherwise requires—

“Executive Member” means the County Executive Committee Member in charge of Health;

“Coasting trade” means trade carried on by water between neighbouring ports within the Country, as distinguished from foreign trade or trade involving long voyages;

“Customs Officer” means an officer of revenue and customs appointed by the Kenya Revenue Authority;

“Master” in relation to any vessel means the person other than a pilot or captain, having at the time, command or charge of that vessel;

“Port” includes harbors and airports;

“Port Health Officer” means any medical practitioner appointed by or acting as such under the authority and instructions of the Director of Medical Services;

“pratique” means license or permission to use a port, given to a vessel after quarantine or on showing a clean Act of health;

“Vessel” includes aircraft and seacrafts;

Object of the Act

4. The object of this Act is to—

- (a) establish, manage, regulate and control port health services
- (b) provide for inspection of vessels to ensure public health standards are met;

- (c) control infectious diseases on board incoming vessels by undertaking health checks to vessels;
- (d) provide for investigation of reported sickness and deaths on vessels.

Application of the Act

5. The provisions of this Act as regards vessels shall apply to vessels anchoring or arriving in any port within Mombasa, provided that the Executive Member may, subject to such conditions or limitations as may be prescribed by him, exempt from any such provisions any warship of Kenya or of any foreign country, or any vessel engaged solely in the coasting trade.

PART II—ADMINISTRATION AND MANAGEMENT OF PORT HEALTH

No communication between vessels and shore before granting of pratique

6. (1) Except in case of emergency, no master of a vessel arriving at any port or place in Mombasa and no person on board thereof shall communicate or attempt to communicate with the shore or with any other vessel or any boat, and no person from the shore or from any other vessel or boat shall communicate with such vessel, otherwise than by signal, until pratique has been granted to such vessel in accordance with this Act:

Provided that nothing in this subsection shall prevent any port health or other officer, pilot or other duly authorized officer from coming alongside or boarding any such vessel.

(2) No fee shall be payable in respect of the examination by the Port Health Officer for granting of pratique to any vessel arriving at any port in Mombasa.

Notification of infectious disease or death on board of vessel

7. (1) The provisions of this Act in respect of the notification of the occurrence of an infectious disease in human beings, sickness or mortality in rodents or other animals susceptible to plague, shall apply to every vessel at any port within Mombasa and notification shall be made to the Port Health Officer.

(2) No fee shall be payable to any ship surgeon or other medical officer of a vessel or shipping company in respect of the notification of any case of infectious disease on board of any vessel.

(3) For purposes of this Act, every vessel shall be deemed to be a dwelling or premises, and the master thereof shall be deemed to be the head of the household or the owner or occupier of the premises.

(4) It shall be the duty of the master to report to the Port Health Officer the death of any person who has died from any cause on the vessel during the voyage just completed, or while the vessel is in port, and also the cause of death.

Powers and functions of Port Health Officer

8. (1) The Port Health Officer may at any time board any vessel and inspect any part thereof or anything therein, and may medically examine any person on board and require any such person to answer any question for the purpose of ascertaining whether or not an infection exists or has recently existed on board.

(2) Any person who refuses to allow any such officer to board any vessel or to make any inspection or medical examination as aforesaid, or otherwise obstructs or hinders any such officer in the execution of his duty, or who fails or refuses to give any information which he may lawfully be required to give, or who gives false or misleading information to any such officer knowing it to be false or misleading, shall be guilty of an offence and liable to a fine not exceeding five hundred thousand shillings or imprisonment to a term not exceeding one year, or to both.

(3) The Port Health Officer shall perform the following function—

- (a) ensure that vessels carrying into the port meet port health standards;
- (b) develop, communicate and disseminate the port health standards;
- (c) implement and enforce the standards of health, infectious disease control mechanisms/interventions, through issuance of permits, notices, quarantine, grants;
- (d) provide treatment and management of standards through vaccinations, decontamination, application of disease control mechanism and other preventive and take all precautionary measures;
- (e) coordinate with other departments, agencies, government and private entities in providing port health services;
- (f) issue, approve and revoke licenses, permits, clearance certificates and inspection reports;
- (g) order quarantine and issue pratique;

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- (h) collect charges for all port health services;
- (i) maintain reports and records of all vessels carrying into the port;
- (j) perform any other function relating to the implementation of this Act or any other applicable law.

Notification to medical officers of health at ports

9. Upon the occurrence on any vessel of any case of death from any notifiable infectious disease, or of such other disease as the Executive Member may prescribe, or of any sickness or mortality among rodents or other animals on any vessel or within the harbour area suspected to be due to any formidable epidemic disease, the Port Health Officer shall forthwith inform the medical officer of health of the area in or adjoining which the port is situated of—

- (a) the occurrence of death from any notifiable disease;
- (b) any sickness or mortality among rodents or other animals on any vessel or within the harbour;
- (c) the measures taken or intended to be taken in connection therewith.

Granting of restricted or conditional pratique to and quarantining of vessels

10. (1) In the case of any vessel having, or suspected on reasonable grounds of having, on board in any person, animal or thing the infection of any infectious disease, the Port Health Officer may; (a)— grant or continue pratique to such vessel subject to such conditions or restrictions as may be deemed necessary, or

- (b) withhold or withdraw pratique and place the vessel in quarantine:

(2) Where pratique restrictions are imposed or any vessel is placed in quarantine or when any person on board of or landed from any vessel is compulsorily detained, isolated or removed, the Port Health Officer shall immediately report the action taken by him and the reasons therefore to the Director of Medical Services and the nearest medical officer of health.

Declaration of infected places, ports of entry

11. (1) The Executive Member may, by order—

- (a) declare that any place beyond or within Mombasa is infected with a formidable epidemic disease or that a formidable epidemic disease is liable to be brought or carried from or through that place, and thereupon, and for so long as such order remains in force, that place shall be a proclaimed place within the meaning of this Act;

- (b) declare any port in Mombasa to be a first port of entry for all or for any particular class or description of overseas vessels coming from a proclaimed place, and require masters of such vessels bound for Mombasa to enter a port so declared before entering any other port of Mombasa, except in case of danger or for other sufficient reason;
- (c) prohibit, restrict or regulate the immigration or importation into Mombasa of any person, animal or article likely, in his opinion, to introduce any infectious disease, or impose restrictions or conditions as regards the examination, detention, disinfection or otherwise of any such animal or article.

(2) Any person who contravenes or fails to comply with an order made under subsection (1) shall be guilty of an offence and liable to a fine not exceeding five hundred thousand shillings or imprisonment to a term not exceeding two years, or to both.

Master of vessel from proclaimed place to take precautionary measures

12. (1) The master of any vessel bound for any port in Mombasa which comes from or calls or touches at any proclaimed place shall, while his vessel is at that place and during the voyage to Mombasa, take in respect of the vessel and her crew, passengers and cargo all such precautionary measures as may be prescribed.

(2) Any master of a vessel failing to comply with subsection (1) and enters any port in Mombasa shall, unless he satisfies the court that he was unaware of the measures required to be taken by him and that he took all reasonable means to ascertain whether it was his duty to take any such measures, be guilty of an offence and liable to a fine not exceeding Five Hundred thousand shillings or imprisonment to a term not exceeding two years, or to both.

(3) Where a vessel has arrived from a proclaimed place and the prescribed precautionary measures have not been taken, any measures considered necessary by the Port Health Officer, acting on the instructions of the Medical Officer, may be carried out with respect to the vessel and her crew, passengers and cargo, at the expense of the owner of the vessel.

Removal of quarantined vessels

13. Where a vessel has been placed in quarantine at any port in Mombasa, the Executive Member may, for the purpose of more effectually dealing with the infection on board, require the master thereof to remove such vessel, at his own risk and expense, to any other port or place within territorial waters.

Master of vessel may decline to submit to quarantine or removal

14. Where the master of a vessel has been informed by the Port Health Officer or other duly authorized officer of the intention of placing that vessel in quarantine or of requiring him to move that vessel in quarantine to another port or place in Mombasa and where such master declines to submit to quarantine or refuses to remove the vessel as aforesaid, he shall immediately inform such officer accordingly and shall forthwith hoist the quarantine signal on the vessel and remove the vessel from the neighbourhood of any wharf or landing place or any other vessel, and shall leave the port with all possible dispatch after notifying the Port Health Officer of the next intended port of call of the vessel.

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Removal of patient from vessel and treatment on shore

15. (1) Where any person on board of any vessel is suffering from any infectious or other disease and, in the opinion of the Port Health Officer, is not accommodated or is not being nursed or treated in such manner as to guard adequately against the spread of the disease or to promote recovery, the Port Health Officer may cause such person to be removed to a hospital or place of isolation on shore and there accommodated and treated for such period as may be considered necessary in the interests of the patient or to prevent spread of the infection.

(2) All reasonable expenses necessarily incurred in dealing with a patient under this section shall be a charge against the master or agent of the vessel, and may be recovered from either or both of them by the County Government.

Surveillance or isolation of persons who have been exposed to infection

16. (1) Where any person on board of any vessel is believed to have been recently exposed to an infection, and may be in the incubation stage of any notifiable infectious disease, the Port Health Officer may require such person to remain on board such vessel, or alternatively to land and proceed direct to his place of destination and report to the medical officer of health for medical surveillance by such medical officer of health until considered to be free from infection.

(2) Where in the opinion of the Port Health Officer any such person cannot otherwise be properly kept under medical surveillance or the public health cannot be otherwise adequately safeguarded, such person may be moved to a place of isolation on shore and there detained until considered free from infection.

(3) The Port Health Officer shall notify the medical officer of health the fact that such person is believed to have been recently exposed to infection and has been allowed to land and proceed to his destination.

(4) Any person who refuses or fails to comply with, or willfully obstructs the execution of, any requirement lawfully made under this section shall be guilty of an offence and liable to a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Burial of the bodies of persons dying on board of vessel

17. Where there is any dead body on board any vessel at any port in Mombasa, it shall be the duty of the master of such vessel to cause such body to be properly buried or cremated.

Clearance papers may be withheld from vessels pending inquiry into offence

18. Whenever the Port Health Officer has reasonable grounds to believe that the master of any vessel has committed an offence under this Act or fails or refuses to pay any charges lawfully made thereunder, any authorized officer on the request of the Port Health Officer, withhold clearance papers from such vessel pending the institution of proceedings in any competent court:

Provided that clearance papers shall not be withheld for more than thirty-six hours (Sundays and public holidays excepted), unless such proceedings have been commenced before the expiry of that period.

Powers to enforce precautions at frontiers

19. (1) When it is considered necessary for the purpose of preventing the introduction of infectious disease into Mombasa, the Executive Member may—

- (a) regulate, restrict or prohibit the entry into Mombasa at its inland borders or any part thereof or any persons, or of persons of any specified class or description or from any specified locality or area;
- (b) regulate, restrict or prohibit the introduction into Mombasa at its inland borders, or any specified part thereof, of any animal or article;
- (c) impose requirements or conditions as regards the medical examination, detention, quarantine, disinfection, vaccination, isolation or medical surveillance or otherwise of persons entering, or the examination, detention or disinfection or otherwise of such persons as aforesaid or of articles introduced into Mombasa at its inland border or any part thereof;

(2) Any person who contravenes or fails to comply with an order made under subsection (1) shall be guilty of an offence and liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding two years or to both.

Agreements with other governments regarding reciprocal notification of outbreaks

20. (1) The Executive Member may enter into agreements with other Governments, providing for the reciprocal notification of outbreaks of any formidable epidemic or other disease of any other matter affecting the public health relations of Mombasa with other counties and countries.

(2) Agreements under subsection (1) shall be notified in the *Gazette*.

Regulations

21. The County Executive Committee Member may make regulations not inconsistent with this Act or the Constitution of Kenya, 2010 respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act.

General penalty

22. Any person contravening any provision of this Act, for which no other punishment is given is liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both.

Protection of the County Government

23. Wherever under this Part powers are exercised by the Executive Member or other officer in accordance therewith and with the rules, and by reason of the exercise of such powers—

- (a) any vessel, person or article is delayed or removed or detained;
or
- (b) any article is damaged or destroyed; or
- (c) any person is deprived of the use of any article,

the County Government shall not be liable to pay compensation, provided due care and attention was observed in the exercise of the powers.