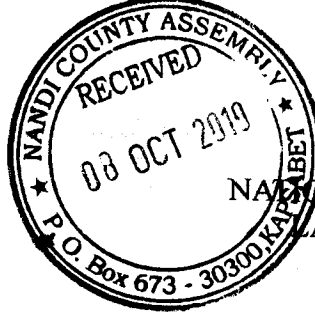




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SPECIAL ISSUE

Kenya Gazette Supplement No. 14 (Nandi County Bills No. 7)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NANDI COUNTY BILLS, 2019

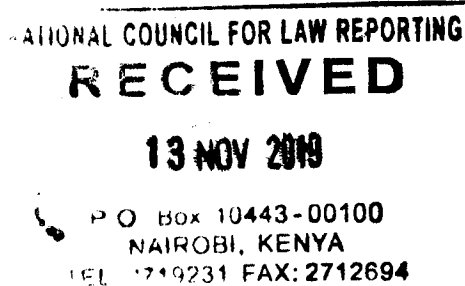
NAIROBI, 25th September, 2019

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THE NANDI COUNTY YOUTH SERVICE BILL, 2019

A Bill for

AN ACT of the County Assembly of Nandi to give effect to Article 55 of the Constitution; establish the Nandi County Youth Service; and for connected and incidental purposes.

ENACTED by the County Assembly of Nandi as follows—

PART I – PRELIMINARY PROVISIONS

Short title and commencement.

1. This Act may be cited as the Nandi County Youth Service Act, 2019, and shall come into force upon publication in the *Gazette*.

Interpretation.

2. In this Act, except where the context otherwise requires—

“county” means Nandi County;

“county government” means the County Government of Nandi;

“county Public Service Board” means the Nandi County Public Service Board;

“director” means the county director of the service appointed under this Act;

“executive committee” means County Executive Committee pursuant to Article 179 of the Constitution of Kenya;

“executive committee member” means the Executive Committee Member responsible for youth affairs;

“officer” means a member of the county youth service of one of the ranks of officers specified in the First Schedule;

“member” in relation to the county youth service includes an officer, a subordinate officer, a service member and any person for the time being seconded for service in the county youth service;

“service” means Nandi County Youth Service;

“service member” means a member of the county youth service undergoing training;

“subordinate officer” means a member of the service of one of the ranks of subordinate officer specified in the First Schedule; and

“youth” has the meaning assigned to it under article 260 of the Constitution of Kenya, 2010.

Objectives of the Act.

3. The object of this Act is to—
- (a) give effect to Article 55 of the Constitution by—
 - (a) ensuring youth access relevant education and training;
 - (b) providing youth with opportunities to associate, be represented and participate in political, social and economic spheres of life;
 - (c) providing youth with employment opportunities; and
 - (d) ensuring youth are protected from harmful cultural practices and exploitation.
 - (b) promote participation of the youth in development and empowerment programs; and
 - (c) provide necessary training to facilitate increased employment and self-reliance of the youth.

PART II—ESTABLISHMENT OF THE SERVICE

Establishment of the service

4. There is hereby established and maintained in the County, the Nandi County Youth Service.

Functions of the service

5. The functions of the service shall be—
- (a) the training of youth to serve the County; and
 - (b) the employment of its members to undertake tasks on the devolved functions of the County or otherwise in the service of the County.

Recruitment of service members

6. (1) The service shall recruit service members from every ward of the County.

(2) In making the recruitment, the Director shall ensure regional balance within the Wards and gender equity in line with existing policies and regulations.

Appointment of county youth advisor.

7. (1) There shall be a County youth advisor appointed by the Governor, who shall not be a member of the County Public Service.

(2) The County youth advisor shall advise the Governor and the Executive Committee Member on the exercise of their powers under this

Act and their general responsibilities for the service.

(3) The County youth advisor shall be appointed from amongst the youth within the County.

PART III—ORGANISATION AND MEMBERSHIP OF THE SERVICE

Members of the service.

8. (1) The service shall consist of such number of members as may from time to time be prescribed by the Executive Committee.

(2) The members of the service shall be service members or officers, such officers being officers or subordinate officers having the ranks and seniorities specified in the First Schedule and any person for the time being seconded to the service.

(3) The Executive Committee Member may, from time to time amend the First Schedule.

Secondment to the Service

9. The Executive Committee Member may second any person in the County Public Service, or an officer from any other county or national government, upon consultation with that other government, to the Service, for such period and at such rank in the service as the Executive Committee Member may determine:

Provided that where a person is seconded to the service in any particular rank he or she shall not thereafter be required to serve in any junior rank than his or her previous rank, without his or her consent, and if he or she can no longer be employed in the rank at which he or she was seconded, or in any rank senior thereto, his or her secondment shall, if he or she so wishes, be terminated.

Appointment or enlistment to service

10. (1) Officers and subordinate officers shall be appointed in the manner applicable to the appointment of other public officers within the county public service.

(2) Other members of the service, who must be male or female youths citizens of Kenya between the ages of eighteen years and thirty five years (both ages being inclusive), may be enlisted or re-enlisted by the director, or by an officer authorized by him or her in that behalf, from persons who voluntarily offer themselves for enlistment or re-enlistment.

(3) Every member of the Service enlisted or re-enlisted under paragraph (a) of this subsection shall be enlisted to serve in the service for a period of two (2) years subject to satisfactory performance, or for such

other period as the Executive Committee Member may from time to time prescribe and on the expiration of such period may, if he or she so wishes, and the director, or an officer authorized by him or her in that behalf so approves, be re-enlisted for a further period:

Provided that a member desiring to re-enlist for a further term of service shall so apply not more than three months, or less than one month, immediately preceding the date of expiration of his or her current period of service.

(4) Every member of the service being appointed or seconded or enlisted for the first time shall be required to make the declaration set out in the Second Schedule, either in English or Kiswahili.

Termination of service

11. (1) The Executive Committee Member may at any time during the period of secondment of a member terminate such secondment if, for any reason, the services of such member are no longer required.

(2) The appointment of an officer or a subordinate officer may be terminated, if his or her services are no longer required, in the manner applicable to other public officers within the county public service.

(3) The director may, at any time during the period of enlistment or re-enlistment of a service member, terminate such enlistment or re-enlistment if for any reason the service member's services are no longer required.

Resignation from the service

12. (1) A service member may, at the discretion of the director, or an officer authorized by him or her in that behalf, be permitted to resign from the service before the expiration of his or her period of enlistment or re-enlistment on personal or compassionate grounds.

(2) An officer or a subordinate officer may be permitted to resign from the service in the manner applicable to other public officers within the county public service.

Extension of service during times of emergency

13. Despite the foregoing provisions, any member of the service whose engagement or secondment expires, or who wishes to resign, during a disaster or public emergency may be retained in the service and his or her period of engagement or secondment prolonged for such further period, not being more than six months:

Provided that the provisions of this section shall not apply to a member seconded from another county or national government, except

with the consent of the government and of the member concerned.

Return of service property

14. (1) Every member on leaving the service shall forthwith deliver up to such person as may be authorized in that behalf, any uniform, clothing, equipment or accoutrements supplied to him or her by or on behalf of the service:

Provided the director, at his or her discretion, may authorize a member to retain items of clothing on leaving the service.

(2) Any person who fails to comply with the provisions of subsection (1) or who returns such property in a damaged condition, the damage not being attributable to the proper discharge of his or her duties whilst a member of the service, shall be liable for the cost of replacing or repairing such property, and such cost shall be a debt due from such person to the County Government and maybe recoverable by deduction from any moneys due from the County Government to such person, or by civil suit for the whole amount, or for any balance due after such deduction as aforesaid.

Members not to engage in trade, etc

15. During his or her period of service with the service no member shall engage himself or herself in any trade, business or employment, or shall take part in any commercial undertaking, outside the scope of his or her duties in the service, except with the approval of the executive committee member in the case of an officer and a subordinate officer or the director in the case of any other member.

Service may be divided into branches, etc

16. (1) The service shall be divided into such numbers and description of branches, units and sub-units as the executive committee member may from time to time direct.

(2) Any member, save for an officer or subordinate officer specifically seconded to a particular description of branch, unit or sub-unit (in which case he or she may be posted only to a branch, unit or sub-unit of that description), may at the discretion of the director be posted to and employed in any branch, unit or sub-unit of the service.

Appointment of Director

17. (1) There shall be a Director of the Service who shall be appointed by the Governor on recommendation of the Executive Committee Member.

(2) A person is qualified to be appointed as the Director if that

person—

- (a) is a Kenyan citizen by birth;
- (b) has at least ten years post qualification experience, five of which have been at senior management level;
- (c) has not been convicted of any criminal offence;
- (d) has not been dishonourably discharged from a national security organ;
- (e) has not been otherwise dismissed from an office in the public service; and
- (f) is not an undischarged bankrupt.

(3) For purposes of this section, disciplined service means the Kenya Defence Forces, National Police Service, National Intelligence Service, Kenya Forest Service, Kenya Prisons Service, Kenya Wildlife Service, Kenya Coast Guard Service, County Government Senior Administration and National Government Administration.

Responsibilities of Director and officers in charge

18. (1) The Director shall, subject to this Act and any subsidiary legislation made there under, and any directions given by the Executive Committee Member, be responsible for the overall command, superintendence and direction of the service, and may for this purpose from time to time issue service standing orders which shall not be required to be published in the *gazette*.

(2) The Director shall be the AIE holder of the Service.

(3) Subject to subsection (1), the member who is appointed as officer in charge of any description of branch, unit or sub-unit or combination of the same shall be responsible to the Director in relation to the command, superintendence and direction of such branch, unit or sub-unit or such combination.

(4) The Director shall ensure that the resources of the Service are used in a way that is lawful, authorized, effective, efficient, economical and transparent.

(5) The Director shall—

- (a) subject to the general directions of the Executive Committee Member, be responsible for the day to day administration, control and management of the Service;
- (b) advise the Executive Committee Member on any quasi-military, operational and administrative matters within the competence of

the Director;

- (c) lawfully administer, control and manage the Service as a quasi-paramilitary unit;
- (d) comply with any lawful direction issued by the Executive Committee Member;
- (e) develop and implement or cause to be implemented, the Service policy and strategy;
- (f) execute commands by issuing lawful orders, directives or instructions to members of the Service;
- (g) be responsible for the training, education and deployment of the members of the Service;
- (h) prepare and submit to the Executive Committee Member an annual report on the activities undertaken by the Service;
- (i) ensure that the Service keeps financial and accounting records that comply with the Public Finance Management Act, No. 18 of 2012, as per the Chief Officer's direction;
- (j) ensure that all financial and accounting records of the Service are kept in any form, including in electronic form and that they are adequately protected and backed up, as per the Chief Officer's direction;
- (k) ensure that all contracts entered into by the Service are lawful and are complied with;
- (l) ensure that all applicable accounting and financial controls, systems, standards, laws and procedures are followed when procuring or disposing of goods and services and that, in the case of goods, adequate arrangements are made for their custody, safeguarding and maintenance;
- (m) bring any matter to the attention of the Executive Committee Member responsible for the Service, if, in his or her opinion, a decision or policy or proposed decision or policy of the Service may result in resources being used in a way that is contrary to subsection (4);
- (n) prepare a strategic plan for the Service in conformity with the medium term fiscal framework and fiscal policy objectives of the County Government;
- (o) prepare estimates of expenditure and revenues of the Service in conformity with the strategic plan referred to in paragraph (n);

- (p) submit the estimates of the Service to the Executive Committee Member who, after approving it, shall forward it to the County Treasury;
- (q) prepare annual financial statements for each financial year within three months after the end of the financial year, and submit them to the Executive Committee Member who, after approving it, shall forward it to the County Treasury;
- (r) take appropriate measures to resolve any issues arising from audit which may remain outstanding;
- (s) provide the County Treasury and any other office, where relevant, with any information it may require to fulfill its functions under the Public Finance Management Act. No. 18 of 2012;
- (t) be the custodian of all the assets of the Service; and
- (u) perform any other functions conferred by this Act or any other written law.

Director may delegate powers or functions

19. (1) The Director may, in writing, delegate the performance of any function or exercise of a power conferred on him or her by this Act or any other written law to a member of the Service.

(2) A delegation under this section—

- (a) shall be subject to any conditions the Director may impose;
- (b) shall not relieve the Director of responsibility concerning the exercise of the delegated function or performance of the delegated power; and
- (c) may be withdrawn or varied by the Director at any time.

(3) The Director shall not assign the performance of a function or exercise of a power that is exercisable by an officer of a specific rank, seniority or qualification to an officer who does not hold a rank, seniority or qualification that is not contemplated by this Act or any other written law.

Term of office of Director

20. A person appointed as the Director shall serve for a single and non-renewable term of six (6) years.

Vacancy in the office of Director

21. (1) The office of the Director shall become vacant if the

holder—

- (a) dies;
- (b) resigns from office in writing to the Governor;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment; or
- (d) is removed or retired from office by the Governor on the following grounds —
 - (i) violation of the Constitution or any other written law including a contravention of Chapter Six;
 - (ii) gross misconduct in the performance the functions of the office of the Director;
 - (iii) physical or mental incapacity to perform the functions of the office of the Director;
 - (iv) incompetence; or
 - (v) bankruptcy.

(2) Where a vacancy occurs in the office of Director, the Governor shall fill the vacancy in accordance with the provisions of section 17.

Retirement or redeployment of Director

22. Despite the provisions of section 21, the Governor may in consultation with the Executive Committee Member remove, retire or redeploy the Director at any time before the expiry of his or her term of office.

Oath of office by Director

23. A person appointed as Director shall, on his or her appointment, take and subscribe to the oath of office set out in the Second Schedule.

Secretariat of the service

24. There is established a secretariat of the service headed by the Director which shall have such number of staff as may be approved by the County Executive Committee.

PART IV—DUTIES AND EMPLOYMENT OF THE SERVICE

Duties of members

25. Every member of the service shall—
- (a) perform such duties and carry out such training as he or she may be directed by the officers senior to or placed in command over

him or her; and

- (b) obey and execute promptly all orders lawfully issued to him or her by the officers senior to him or her or placed in command over him or her.

Certificate

26. Upon successful completion of the prescribed period of training and service in the County Youth Service, a certificate of training and service shall be issued to every service member.

PART V—DISCIPLINARY PROVISIONS

Disciplinary code and regulations.

27. (1) Every member of the Service shall be subject to the provisions of this Part.

(2) A member of the Service who commits any of the acts set out in the Third Schedule commits an offence against discipline.

(3) The Executive Committee Member may issue a disciplinary code for the Service or any part of the Service, and in respect of service members may make regulations for the following matters—

- (a) to make provision for the investigation of disciplinary offences and the hearing and determination of disciplinary proceedings;
- (b) to make provision for appeals; and
- (c) to prescribe disciplinary penalties and awards.

(4) A member of the Service who commits an offence against discipline shall, on conviction, be liable to—

- (a) dismissal from the service;
- (b) stoppages of pay or allowances;
- (c) demotion in rank;
- (d) dismissal from the Service;
- (e) extra drills or parades or fatigues; or
- (f) any combination of the punishments provided under this section.

(5) A person seconded to the service shall be subject to the disciplinary code.

Strike, sit in, revolt, or defiance

28. (1) Any member who takes part in a strike, sit-in, revolt or an act of defiance commits an offence and on conviction shall be liable to

imprisonment to a term not exceeding one year.

(2) In subsection (1) “strike, sit-in, revolt or defiance” for the purposes of this section means a combination between two or more members—

- (a) to resist lawful authority in the service; or
- (b) to disobey any such authority in such circumstances as to make the disobedience subversive of discipline.

Insubordinate behavior

29. Any member who—

- (a) strikes or otherwise uses violence to, or offers violence to or incites any other person to use violence to an officer senior to or placed in command over him or her or such other person; or
- (b) uses threatening or insubordinate language to any officer senior to or placed in command over him or her, shall be summarily dismissed from the service.

Desertion

30. (1) Any member who absents himself or herself from duty without leave or just cause for a period of seven (7) days shall, unless the contrary is proved, be deemed to have deserted from the service.

(2) Any member who deserts from the service or who is deemed to have deserted from the service shall forfeit any pay or allowances due to him or her and all rights in respect of any incentives offered by the service.

(3) No pay or allowances shall be paid to any member in respect of any day during which he or she is absent from duty without leave, unless the Director otherwise directs.

Liability for other offences

31. Nothing in this Act or in the disciplinary code shall be deemed to exempt any member from being proceeded against for any offence under any other written law.

PART VI—MISCELLANEOUS PROVISIONS

Partnership

32. The Service shall, under the stewardship of the Executive Committee, partner with such other entities or organizations in order to fulfill its mandate under this Act.

Finance

33. (1) The expenditure incurred in the establishment, maintenance and operations of the service, including the payment of such allowances for members as the Executive Committee Member may from time to time be defrayed out of moneys appropriated by the County Assembly.

(2) Notwithstanding the provisions of subsection (1), the Executive Committee Member may, upon consultation with the Executive Committee Member responsible for finance, make regulations for the better carrying out of the provisions of this section.

Member not employee

34. Despite anything contained in any other written law, a member of the service shall not be deemed to be an employee of the public service of the County Government of Nandi.

Role of County Public Service Board

35. The County Public Service Board shall guide the county department responsible for the service on all matters of recruitment, human resource management and development, discipline and deployment and any other matter that may affect the service.

Reports

36. (1) At the end of each financial year or upon request by the executive committee member or the governor, the director shall submit a report on the performance of the service including—

- (a) the number of youth trained and deployed to perform various tasks in the county during the year;
- (b) the number of youths who have successfully completed the programme and exited;
- (c) financial records of the service;
- (d) any discipline issues;
- (e) challenges experienced during the year and recommendations;
- (f) nature, achievements and distribution of programmes being undertaken by the service in the county; and
- (g) any other matter the director shall deem necessary or is requested to report on.

(2) The report in sub section (1) shall also be submitted to the county assembly through the line Department.

Regulations

37. The Executive Committee Member may make regulations generally for the better carrying out of the purposes of this Act.

FIRST SCHEDULE

(Section 2; 8 (2))

RANKS OF OFFICERS IN ORDER OF SENIORITY

Officers

Director
Senior Deputy Director
Deputy Director
Senior Assistant Director
Assistant Director
Senior Superintendent
Superintendent
Chief Inspector
Inspector

Subordinate Officers

Senior Sergeant
Sergeant
Corporal

SECOND SCHEDULE

(Section 10 (4); 23)

DECLARATION

I,..... Do hereby swear by the Almighty God [or do hereby solemnly and sincerely affirm] that I will give faithful and loyal service during this or any subsequent period of service as a member of the county youth service and that I will subject myself to all laws, regulations, standing orders and disciplinary code relating to the said service which may from time to time be in force.

So help me God

..... (Signature of member)

Declared by the said

THIRD SCHEDULE

(Section 21 (2))

OFFENCES AGAINST DISCIPLINE

1. It shall be an offence against discipline for any officer of the Service to—

- (a) unlawfully use force or threaten to use violence against another officer or any other person;
- (b) use any obscene, abusive or insulting language in any form against any officer of the Service;
- (c) use threatening, insubordinate or disrespectful language, word, act or demeanour to an officer senior in rank to him or her;
- (d) cause a disturbance at any Service premises;
- (e) be intoxicated while on duty;
- (f) consume any intoxicating liquor, psychotropic substance or narcotic drug, or smoke while in uniform or actively engaged in duty at a public place;
- (g) wilfully disobey a lawful command or order;
- (h) be absent without leave;
- (i) be asleep while on duty;
- (j) leave his or her post or place of duty before being relieved except when in fresh pursuit of an offender who it is his or her duty to apprehend;
- (k) while under arrest or detention, leave or escape from such arrest or detention before he or she is set at liberty by the relevant authority;
- (l) discharge any weapon without authorization or without reasonable lawful cause;
- (m) without reasonable cause, fail to attend at any parade, instruction class or court or any other duty which he or she is required to attend;
- (n) sell, pawn, negligently lose, make away with, wilfully 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 or her charge that belongs to the Service or for which the Service is responsible for;

- (o) be in improper possession of any public or private property;
- (p) commit any act of plunder or wanton destruction of property;
- (q) be negligent in the performance of his or her duties;
- (r) appear on duty untidy in his or her person, arms, uniform or equipment;
- (s) make or sign any false statement in any document or official record;
- (t) without proper authority, disclose or convey any information concerning any investigation or Service matter;
- (u) malingering or feign any disease or infirmity;
- (v) without proper authority, demand or exact from any person any carriage, portage or provisions;
- (w) commit an act of corruption as defined by any written law;
- (x) make any false statement on joining the Service;
- (y) refuse or neglect to make or send any report which it is his or her duty to make or send;
- (z) knowingly falsely accuse or make a complaint against any officer of the Service or any other person affecting the character of that other officer or that other person, or wilfully suppressing any material fact;
- (aa) without lawful excuse break out of Service barracks, quarters, lines or camp;
- (bb) make or sign any false statement in any document or official record;
- (cc) act or behave in a manner that constitutes cowardice under the Standing Orders;
- (dd) knowingly make a false statement affecting the character of such officer or other person or willfully suppressing any material fact; or
- (ee) be engaged in any other gainful employment or office without the authority of the Director.

2. A member of the Service who is absent from duty without leave for a period exceeding seven (7) days shall, unless the contrary is proven, be considered to have deserted from the Service which shall be an offence against discipline.

MEMORANDUM OF OBJECTS AND REASONS

The Nandi County Youth Service Bill, 2019, is a bill for an Act of the County Assembly of Nandi to give effect to Article 55 of the Constitution; establish the Nandi County Youth Service; and for connected and incidental purposes. The aim of this Bill is therefore to ensure that the youth can be able to access relevant education and training; have opportunities to associate, be represented and participate in social, economic and other spheres of life; access employment; and are protected from harmful cultural practices and exploitation.

Part I of the Bill makes proviso for preliminary matters. It cites the long and short title of the Bill and provides that the commencement of the said legislation shall be upon publication in the *Gazette*. The part further outlines the objectives of the Bill.

Part II of the Bill establishes the Service, details the functions of the Service and makes provision as to the appointment of a County Youth Leader under Clause 7 of the Bill.

Part III of the Bill sets out the organizational structure of the service and gives guidance as to the membership of the Service. It provides for the criteria for the appointment and/or enlistment of members into the County Youth Service (under Clause 10), makes provision as to the custody and proper management of the property, implements, and other tools of the Service and return thereof (upon the expiry of the term of membership for each member of the Service). It further portrays the structural makeup of the Service into branches under Clause 16 of the Bill. This Part further makes provision for the appointment of the Director, functions of the Director, term of office of the director and matters relating to the oath of office of the Director of the Service.

Part IV of the Bill speaks to matters relating to the duties and method and process of deployment of the members of the Service. This Part describes the duties of the members of the Service and further makes provision for their certification upon exit from the Service pursuant to Clauses 25 and 26, respectively.

Part V of the Bill pronounces disciplinary provisions for the members of the Service. This Part countenances that the Executive Committee Member responsible for matters relating to youth may issue a disciplinary code for the Service or any part of the Service, and in respect of service members, may make regulations for any other matter. This Part further elucidates the offences by members in the service and sets out the penalty thereof. Note that there is a more descriptive list of offences against the discipline under the Third Schedule.

Part VI of the Bill makes provision for miscellaneous matters. It provides that the Service may partner with other organizations such as the National Youth Service and collaborate on various matters with such organizations. That part further elaborates upon financial matters and outlines a process through which periodical financial reports of the Service will be made. It further gives power to the Executive Committee Member to formulate regulations for the better carrying out of the provisions of the Bill.

The Bill has three schedules containing provisions relating to determination of the ranks of the officers in the Service according to their order in seniority; declaration of the oath of office of various members of the Service; and offences against the discipline, respectively.

This Bill is not a money Bill within the meaning of the Article 114 of the Constitution but has provisions relating to financial provisions of the resources of the Service and has been formulated through the cooperative effort of the Departments of Youth Affairs, Sports and Culture and Finance and Economic Planning.

Dated 24th September, 2019.

CYNTHIA MUGE,
Chairperson Youth Affairs, Sports and Culture.