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MERU COUNTY BILLS, 2019

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THE MERU COUNTY ENFORCEMENT BILL, 2019

A Bill for

AN ACT of the County Assembly of Meru to make provision for the establishment, appointment, Composition, functions, powers and duties of Meru County Enforcement Directorate and matters incidental thereto

ENACTED by the County Assembly of Meru, as follows—

PART I— PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Meru County Enforcement Act, 2019 and shall come into operation on the date of publication in the *Gazette*.

Interpretation

2. In this Act unless the context otherwise requires—

“Board” means the County Revenue Board established by the Meru County Revenue Board Act, 2014;

“county” means the County Government of Meru;

“county law” means any Act of the County Assembly of Meru or a subsidiary county law;

“court” means a court of competent jurisdiction and / or the County Court designated to handle criminal matters arising from county laws;

“Chief Officer” includes the Chief Officer Department of Public Service and Administration or any other authorized person acting in that capacity;

“designated areas” means an area designated by the Governor which a Member of the Directorate has duty to control and regulate traffic under this Act;

“directorate” means the Meru County Enforcement Directorate established under Section 4 of this Act;

“Director” means any person appointed under clause 6 of this Act;

“Executive Committee Member” means the Executive Committee Member responsible for Public Service and Administration;

“Governor” means the County Governor of Meru elected in accordance with Article 180 of the Constitution of Kenya;

“member of the directorate” any person appointed or recruited to the Directorate under Section 6 and 7 of this Act;

“motorized vehicle” means a motor vehicle run by engine private or Public Directorate Vehicle;

“non-motorized vehicle” means any animal or human drawn vehicle used for the carriage of goods or person and shall include bicycles;

“officer” means an officer appointed under Section 6 and 7 of this Act;

“premises” includes—

- (i) land;
- (ii) commercial buildings;
- (iii) houses, flats, rooms, bungalows or marionettes belonging to and rented by the County;
- (iv) railway carriage or other conveniences;
- (v) vans;
- (vi) structures of any kind;
- (vii) open places. Covered or closed whether maintained or not under statutory authority, or any place within the limits of the County; and
- (viii) drains;

“Prosecutor” means the County Prosecutor;

Objects of the Act

3. The objects of the Act are to—

- (a) provide for an institutional framework for rendering of quality services to members of the public;
- (b) ensure compliance and enforcement of the county laws; and
- (c) regulate the actions of the County Enforcement Officers, establish accountability mechanism and provide protection against liability arising out of lawful actions.

PART II—ADMINISTRATION

Establishment of the County Enforcement Directorate

4. (1) There is hereby established the Meru County Enforcement Directorate.

(2) The Directorate is established under the Department of Public Service and Administration.

(3) The officers shall have seniority according to their position as set out in the First Schedule.

(4) The Executive Committee Member may from time to time, by notice in the *gazette*, amend that Schedule.

Functions of the Directorate

5. (1) The functions of the Directorate shall be the—

- (a) prevention of crime in the County;
- (b) protection of revenue;
- (c) assist members of public while in need;
- (d) maintenance of order on roads;
- (e) protection of public spaces and facilities;
- (f) investigation of offences and violations against County laws and regulations;
- (g) collection of information related to enforcement of County laws;
- (h) apprehension of offenders;
- (i) rendering of support to County organs in the enforcement of administrative functions and the exercise of lawful duties;
- (j) protection and guarding of County property, installations at strategic points;
- (k) enforcement of all laws and regulations with which it is charged; and
- (l) carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the County Executive Member.

(2) For avoidance of doubt, the Directorate shall—

- (a) be established as a distinct and separate unit in the department;
- (b) not be merged with any other directorate or unit within the department; and
- (c) not be assigned any other County functions except where appropriate the prevention and control of enforcement.

PART III—COMPOSITION AND ADMINISTRATION

Appointment of Members of the Directorate

6. (1) The County Public Service Board shall, in consultation with the Executive Committee Member, competitively recruit and appoint officers into the Directorate.

(2) Every officer shall, on being appointed to the Directorate, make the declaration contained in the Fourth Schedule.

(3) The declaration shall be made before a magistrate and shall be signed by the officer making it.

(4) A Certificate of Appointment in such form as may be required by the Executive Member and signed by the magistrate shall be issued by the Executive Member to every officer and shall be evidence of his appointment under this Act.

(5) The Chief Officer may recommend to the County Public Service Board to discontinue the services of any Directorate officer if he considers that the officer is unlikely to become, or has ceased to be an efficient officer.

Command of the enforcement Directorate

7. (1) The Directorate shall be headed by a Director and Deputized by a Deputy Director who shall be in charge of operations beside other duties.

(2) To aid in the administration of the Directorate there shall also be one Assistant Director in charge of Administration and ten other Assistant Directors who shall head the sub-counties.

(3) The Director shall be appointed by the Governor.

Qualification for appointment as Director of the Directorate

8. A person shall not be appointed as a Director unless the person—

(a) holds a degree from a university recognized in Kenya in matters relating to any of the following disciplines—

- (i) law;
- (ii) public administration;
- (iii) security management;
- (iv) criminology;
- (v) economics;
- (vi) sociology; and

- (vii) psychology.
- (b) has had a distinguished career in their respective fields;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) has served in a senior management position for at least ten years.

Functions of the Director

9. The Director shall subject to the direction and control of the Executive Committee Member—

- (a) be responsible for the effective and efficient day-to day administration and operations of the Enforcement Directorate;
- (b) implement County policies and directions in respect to the Directorate;
- (c) prepare the budget, planning and provision of support for the Directorate;
- (d) establish and maintain enforcement bases and establish a facility in each base for receiving, recording and reporting of complaints from members of the public;
- (e) manage, monitor and evaluate the Directorate;
- (f) undertake the supervision of the Directorate;
- (g) manage training in the Directorate;
- (h) provide internal oversight of the Directorate;
- (i) establish and maintain a relationship between the Directorate and the community;
- (j) improve transparency and accountability in the Directorate;
- (k) co-operate and engage in joint operations with the National Police Service, to ensure improved order and control of the members of the public;
- (l) implement the decisions of the Executive Member; and
- (m) perform such other duties as may be assigned by the Executive Member, the County Public Service Board, or as may be prescribed by this Act or by any other written law.

Qualification for appointment of a Deputy Director

10. A person shall not be appointed as a Deputy Director unless the person—

- (a) holds a degree from a university recognized in Kenya in matters relating to any of the following disciplines—
 - (i) law;
 - (ii) public administration;
 - (iii) security management;
 - (iv) criminology;
 - (v) economics;
 - (vi) sociology; and
 - (vii) psychology.
- (b) has had a distinguished career in their respective fields;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) has served in a senior management position for at least five years.

Removal from office of the Director and the Deputy Director

11. The Director and the deputy director may be removed from holding the position by the Governor for—

- (i) gross misconduct whether in the performance of their functions or otherwise;
- (ii) inability to perform functions of their office arising out of physical or mental incapacity;
- (iii) serious violation the Constitution or any other law;
- (iv) incompetence; or
- (v) bankruptcy.

Vacancy of office of the Director or Deputy Director

12. (1) The office of the Director or Deputy Director shall become vacant if the office holder—

- (a) dies;
- (b) resigns from office by a notice in writing addressed to the Governor; or
- (c) is removed from the office in accordance with Section 11 of this Act.

(2) Where a vacancy occurs in the office of the Director or Deputy Director, the Governor shall appoint a replacement in accordance with Section 8 and 10.

Term of Office

13. The Director shall be appointed for a term of five years and may be eligible for re-appointment for one further term.

Oath of Office

14. Before taking up office the Director, Deputy Director, Assistant Directors and all members of the enforcement directorate shall each make and subscribe to the oath or affirmation set out in the Fourth Schedule before a magistrate.

Administration of Directorate Officers in the Sub counties

15. The Assistant Director commanding officers of any Sub county within which the officers have been deployed shall administer the officers in their sub county, subject to the general or special directions of the sub county administrator.

Area of duty

16. An officer shall carry out the duties imposed upon him by this Act within the sub county in which he is deployed and can be deployed in any part of the county.

PART IV—GENERAL FUNCTIONS AND POWERS OF THE MEMBERS OF THE DIRECTORATE**Functions of Members of the Directorate**

17. The functions of the officers shall be the—

- (a) co-ordinate enforcement of the act;
- (b) provision of assistance to the public when in need;
- (c) maintenance of law and order within the County;
- (d) preservation of peace;
- (e) protection of county property;
- (f) investigation of crimes associated with disobedience of county laws;
- (g) enforcement of all county laws and regulations which the officer is charged with; and
- (h) performance of any other duties that may be prescribed by the Executive Committee Member under this Act or any other written law from time to time.

Obligations of an Officer

18. (1) Every officer shall comply with the Constitution, provisions of this Act and all laws relating to conduct of enforcement officers and shall—

- (a) 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 Directorate;
- (b) obey and execute all orders and warrants lawfully issued;
- (c) when called upon by any administrator assist him in the exercise of his lawful duties;
- (d) obey and execute promptly all orders lawfully issued to him by any competent authority;
- (e) collect and communicate intelligence affecting enforcement of County laws;
- (f) provide assistance to members of the public when they are in need;
- (g) execute functions of the Directorate;
- (h) ensure that all resources within the officers area of responsibility are used in a lawful and authorized manner;
- (i) undergo such training as may be ordered by the Executive Member;
- (j) act as messenger in any matter connected with the administration or the public;
- (k) ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of County property; and
- (l) apprehend all persons whom they are legally authorized to apprehend and for whose apprehension sufficient ground exists.

(2) The officers shall in the performance of their obligations use reasonable force in execution of their duties and only as set out in the Third Schedule.

Power of Entry by Officers

19. (1) An officer may, at all reasonable times, enter upon any land, premises, motor vehicle and inspect or make examinations and enquiries to determine whether the provisions of applicable county laws are complied with.

(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 they reasonably suspect that an activity is about to or is being undertaken contrary to any county laws and where entry has been denied.

Power to Stop and Detain any Person for Production of Licence

20. (1) An officer in uniform may stop and detain any person whom they—

- (a) witness doing any act or thing;
- (b) finds in possession of anything; or
- (c) suspects of doing any act or thing or of being in possession of anything, for which a licence, permit, certificate or pass is required under any county law and may require the person to produce the licence, permit, certificate or pass.

(2) A person who fails to produce a licence, permit, certificate or pass when called upon by an officer 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 other proceedings which may issue or be taken against them.

Power to Erect Barriers

21. (1) The Chief Executive Officer Revenue Board, a Sub county Administrator or an Assistant Director may, if they consider it necessary so to do for the enforcement of County laws and regulations, order an officer to erect or place barriers in or across any road or street or in any public place.

(2) An officer in uniform may take all reasonable steps to prevent any vehicle from being driven past any such barrier, and a driver who fails to comply with any reasonable signal given by an officer in uniform requiring them to stop the vehicle before the barrier shall be guilty of an offence and liable to imprisonment for a term not exceeding twelve months or to a fine not exceeding Kenya shillings ten thousand or to both.

Power to Lay Information or Complaint

22. An officer may lay information or complaint before any subordinate court and may make application thereto for a summons, warrant or other legal process.

Power of Arrest

23. (1) Where an officer has reasonable grounds to believe that an offence has been or is about to be committed and who at the time of arrest identifies himself as such may arrest without a warrant, any person who in his presence commits any offence within the County laws and may subject the person to a court or handover the person to a police station.

(2) An officer may without a warrant arrest any person —

- (a) who contravenes the county laws;
- (b) who obstructs an officer in execution of their lawful duty;
- (c) who assaults an officer while in execution of their lawful duty;
- (d) who aides another person in commission of any offence in contravention of the county laws; and
- (e) who is found in possession of anything which may reasonably be suspected to be used or may reasonably be suspected to have been used to commit an offence.

Production in Court or Police Station

24. Where an officer arrests any person under Section 23 they shall immediately forward the arrested person to the nearest police station or produce the arrested person in court within 24 hours.

Power to Control Traffic

25. An officer may control and regulate traffic in designated areas as may prescribed by the Executive Committee Member.

Power to Stop Vehicles

26. An officer has the power to stop any vehicle that they reasonably believe is being operated in contravention of county laws.

Power to Impound Goods

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

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

(3) Sub section 1 does not preclude the county government from dealing with the impounded goods in any other manner permitted by orders of the court or by any other law.

Impounding of Vessels

28. (1) An officer may stop, search and detain any motorized or non-motorized vehicle or vessel, animal and any other thing which they have reasonable cause to suspect is being employed in the commission of, or to facilitate the commission of, an offence in contravention of the County laws.

(2) The officer may impound the vessel by clamping, towing the vessel to the nearest directorate station.

Power to Compel Attendance of Witnesses at Enforcement Base

29. (1) An officer may, in writing, require any person whom the officer has reason to believe has information which may assist in the investigation of an alleged offence against County laws to attend before him at a enforcement base or office in the County in which that person for the time being is.

(2) A person who without reasonable cause fails to comply with a requisition under subsection (1), or who, having complied, refuses or fails to give his correct name and address and to answer truthfully all questions that may be lawfully put to him commits an offence.

(3) An officer shall record any statement made to him by any such person, whether the person is suspected of having committed an offence or not, but, before recording any statement from a person to whom a charge is to be preferred or who has been charged with committing an offence, the officer shall warn the person that any statement which may be recorded may be used in evidence.

(4) A statement taken in accordance with this section shall be recorded and signed by the person making it after it has been read out to him in a language which the person understands and the person has been invited to make any correction he may wish.

(5) All evidence shall be compiled by the police in a case file in a manner provided in the investigations guidelines.

Service of Notice

30. Any notice required to be given shall be deemed to have been served upon a person if—

- (a) it is placed on a conspicuous place on premises, structure or buildings;

- (b) it is served upon the individual in person; or
- (c) served upon an owner or occupant.

Custody of Unclaimed Property

31.(1) Where any property has come into the possession of the directorates' officers, the officer shall furnish an inventory or description of the property within forty eight hours to a magistrate having jurisdiction in the area in which the property is found, or handled in a manner prescribed by the court.

(2) The magistrate shall determine the manner of disposal of the unclaimed property.

Prosecution

32.(1) Any Directorate officer who has been gazetted by the Director of Public Prosecution as a Public Prosecutor shall have the power to prosecute offences provided by county laws.

(2) An officer appointed under sub section (1) shall have the powers to institute charges against a person who contravenes the County laws in court.

(3) The prosecutor will have powers to prosecute persons contravening the National laws subject to approval by the Director of Public Prosecution in accordance with other related laws.

PART V—RECRUITMENT AND TRAINING

Identification of Officers

33.(1) An officer shall sufficiently identify themselves by producing the certificate of appointment while exercising any of their powers or 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.

(2) A failure to comply with this requirement shall invalidate any purported exercise of the power that the officer is seeking to exercise.

Training Institution and Centres

34. The County Government shall establish and develop enforcement training institutions or centres to train its officers.

Training of Members of the Directorate

35. The Executive committee member shall—

- (a) develop a training policy;
- (b) approve the training curriculum;

- (c) oversee the implementation of the policy; and
- (d) regulate and review of the training curricula to ensure its relevancy.

PART VI—FINANCIAL PROVISIONS

Budget

36. (1) The County Assembly shall allocate adequate funds to enable the Directorate to perform its functions.

(2) Such monies or assets as may accrue to the Directorate in the course of the exercise of its powers or the performance of its functions under this Act.

(3) All other sums which may in any manner become payable to, or vested in, the Directorate.

Financial year

37. The financial year of the Directorate shall be the period of twelve months commencing on the first of July and ending on the thirtieth of June in each year.

Annual Estimates

38. (1) At least three months before the commencement of each financial year, the Director shall prepare expenditure estimates of that Directorate for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Directorate for the financial year concerned, and in particular shall provide for—

- (a) the payment of salaries, allowances and other expenses in respect of the staff of the Directorate;
- (b) the payment of pensions, gratuities and other benefits which are payable out of the funds of the Directorate;
- (c) the maintenance of the assets of the Directorate;
- (d) the funding of Operations, Training, Research and Development of activities of the Directorate; and
- (e) the creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment, and in respect of such other matters as the Directorate may consider appropriate.

(3) The annual estimates shall be approved by the Executive Committee Member before the commencement of the financial year to which it relates and shall be submitted to the County Assembly for approval.

Accounts and Audit

No. 12 of 2003

39. (1) The Directorate shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Directorate.

(2) The annual accounts of the Directorate shall be prepared, audited and reported upon in accordance with the Public Audit Act, 2003 and in such details as the county treasury may from time to time direct.

(3) Furnish such additional information as may be required for examination and audit by the Auditor-General or under any law.

PART VII—DISCIPLINE

Responsibility of Officers

40. (1) Every member of the Directorate shall be deemed to be a member of the County Public Service.

(2) The officers shall conduct themselves in an irreproachable manner that brings respect and trust to the public office they hold, both while on and off duty.

(3) Officers with command and supervisory responsibility shall have the primary responsibility to uphold discipline in the Directorate.

(4) Officers senior in rank shall exercise command and disciplinary control of junior officers and shall be responsible for everything they do or omit to do.

(5) Senior officers, however, shall be divested of liability if it can be demonstrated that the conduct of the junior officers was improper, negligent or contrary to the instructions given and that the senior officer were not negligent in undertaking their supervisory duties and did not aid, abet, instigate or condone the misconduct.

(6) The Director shall formulate the procedure to be adopted during disciplinary proceedings.

Establishment of the Disciplinary Inquiry Committee

41. (1) There is established an Internal Disciplinary Inquiry Committee that shall be responsible for maintaining discipline in the Enforcement Directorate.

(2) The Committee shall comprise of—

- (a) the Chairperson who shall be the Chief Officer in charge of the Directorate;
- (b) an officer not below the rank of senior inspector;
- (c) a representative of the County legal office or department;
- (d) a representative of the County Public Service Board; and
- (e) three persons from the enforcement directorate chosen by the Executive Committee Member.

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

Powers of the Disciplinary Inquiry Committee

42. The Disciplinary Inquiry Committee shall have power to—

- (a) receive and investigate a complaint regarding an enforcement officer;
- (b) summon and interrogate witnesses;
- (c) call for or require production of documents for examination; and
- (d) recommend appropriate disciplinary action against enforcement officer to the County Public Service Board.

Disciplinary Offences

43. (1) Any member of the Directorate shall be an officer in the Directorate and shall be, subject to the law and regulations from time to time in force relating to the Directorate.

(2) The disciplinary offences include the offences prescribed under the Second schedule of this Act.

Penalties for Disciplinary Offences

44. (1) Any member of the Directorate who commits an offence against discipline is liable to disciplinary actions which the committee may recommend which include—

- (a) surcharge;
- (b) interdiction of an officer;
- (c) suspension;
- (d) reprimand (including severe reprimand);
- (e) deferment of increment;

- (f) withholding of increment;
- (g) stoppage of increment;
- (h) demotion or reduction in rank or seniority;
- (i) transfer to another enforcement unit within the County;
- (j) dismissal; and
- (k) any combination of the punishments provided under this section.

(2) The officer authorized to impose a penalty for a disciplinary offence, shall enter a record of such punishment, the date of the punishment and the offence for which punishment was imposed on the record sheet of the officer punished, a copy of which shall be forwarded to the County Public Service Board for review and confirmation.

(3) All disciplinary proceedings under this Act shall be in accordance with the Directorate disciplinary procedures as approved by the county public Service board and shall comply with Article 47 of the Constitution.

Appeals to Court

45 (1) Subject to section 42, an enforcement officer who has been aggrieved by the decision of the Disciplinary Inquiry Committee may appeal against such decision to the High Court.

(2) No further appeal may be tenable after the decision of the high court in its appellate capacity on any matter that relates to any provision of this Act.

(3) The right to appeal does not bar any enforcement officer from applying for a judicial review of the decisions of the Disciplinary Inquiry Committee.

Establishment of Units Within the Directorate

46. (1) The Executive Committee Member shall in furtherance of the requirements of this Act, establish the following units—

- (a) professional standards unit; and
- (b) revenue protection unit.

(2) The Executive Committee Member shall ensure each unit established under subsection (1) is resourced with persons qualified in the fields related to the respective functions.

Professional Standards Unit

47. (1) The professional standards unit within the Directorate shall comprise of—

- (a) an officer not below the rank of Senior Inspector who shall be the Unit Commander;
 - (b) a deputy who shall be in charge of investigations ; and
 - (c) such other officers as the director may determine.
- (2) The functions of the unit shall be to—
- (a) accept and investigate allegations of misconduct by members of the directorate;
 - (b) provide oversight and ensure the integrity of the directorate and its personnel;
 - (c) promote uniform standards of discipline and good order in the directorate;
 - (d) offer periodical integrity and professionalism trainings to the staff of the directorate and remedial training to officers who fall short of standards in work performance;
 - (e) keep a record of the facts of any complaint or investigation made to it; and
 - (f) studying and suggesting remedies for gaps in the law and procedures to improve professionalism, efficiency, minimize misconduct and promote integrity.
- (3) The unit shall investigate misconduct and hear complaints—
- (a) from members of the directorate or members of the public;
 - (b) at the direction of a senior directorate officer;
 - (c) on its own initiative;
 - (d) on the direction of the Executive Committee Member and Chief officers; or
 - (e) at the request of the County Assembly.
- (4) Investigations shall have the following outcomes—
- (a) no disposition if the complaint is under investigation;
 - (b) unfounded allegations where the investigation indicates the acts complained of did not occur or did not involve the directorate officers, such findings are communicated to the complainant and case file is closed and officer continues on duty;
 - (c) exoneration if the investigation indicates the alleged act(s) did occur but were proper and within the policies, procedures and guidelines set forth by the directorate. Review of the offending

procedures may be recommended. Findings communicated to the complainant, case file is closed and officer continues on duty;

- (d) not sustained if the investigation failed to disclose sufficient evidence to clearly prove or disprove the allegations made, such findings are communicated to the complainant and case file is closed and officer continues on duty;
- (e) sustained if the investigation discloses sufficient evidence to clearly prove the allegation made in the complaint, recommendation for appropriate disciplinary action is made, and officer maybe be interdicted;
- (f) sustained with discovery if a substantiated misconduct not mentioned in the initial allegation in the complaint was disclosed by the investigator, the recommendation for appropriate disciplinary action is made and officer maybe be interdicted; and
- (g) criminal proceedings if sufficient evidence exists that a criminal offense has been committed, recommendation to the county prosecutor for prosecution is made and the officer is suspended.

(5) When a complaint against an officer is sustained, the report is sent to the Sub county commander of the offending officer for appropriate action. If warranted, a disciplinary hearing concerning the allegation will be convened. The complainant may be required to appear as a witness at a disciplinary inquiry committee where a hearing is held by a three member panel who will hear all evidence in the matter and determine guilt or innocence.

(6) If there is sufficient mitigating circumstances for the misconduct or at the request of the complainant, an officer may be directed to undergo such training as maybe be recommended.

(7) In any instance where investigations uncover defective or inadequate procedures, immediate action shall be taken to rectify the procedures.

(8) It shall be an offense to provide false information to members of the Professional standards Unit.

Revenue Inspectorate Unit

48. (1) There is established a Revenue Inspectorate Unit within the Directorate which shall comprise of—

- (a) an officer not below the rank of Senior Inspector who shall be the Unit Commander;
- (b) a deputy ; and

(c) such other officers as maybe required.

(2) Officers deployed in this unit shall be seconded to the Revenue Board where they shall be under the administration of the CEO of the Revenue Board.

(3) Subject to direction, command and control of the Revenue Board CEO, the function of the Unit shall be—

- (a) collection of intelligence about revenue evasion, under declaration of goods and services, under-invoicing, over-invoicing;
- (b) analysis and dissemination of such intelligence to the field enforcement officers for action;
- (c) working out intelligence directly, where necessary, including arrests of offenders, seizures and impounding;
- (d) investigation of revenue related cases including taking over the investigations which warrant specialized handling by the unit;
- (e) keeping liaison with other enforcement agencies for exchange of information; and
- (f) studying and suggesting remedies for gaps in law and procedures to minimize revenue loss.

PART VIII—OFFENCES

Impersonating an Officer

49. 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 Kenya shillings three hundred thousand or imprisonment for a period not exceeding two years, or to both.

Obstruction of an Officer

50. Any person who willfully resists arrest, obstructs, hinders or interferes with the duties of an enforcement officer commits an offence and shall be liable upon conviction to a fine not exceeding Kenya Shillings one hundred thousand or to imprisonment for a term not exceeding 1 year or to both.

Protection of Members of the Directorate

51. Anybody who willfully assaults any member of the Directorate while on lawful duty is guilty of an offence and liable to a fine not

exceeding Kenya Shillings one hundred thousand or imprisonment for a term not exceeding one year or both

Destruction of Property

52. (1) Any person who commits an act of vandalism, defaces or destroys any property being the property of County Government commits an offence and shall be liable upon conviction to a fine not exceeding Kenya Shillings two hundred thousand or to imprisonment for a term not exceeding one year or to both.

(2) In addition to the penalties prescribed in sub section (1) above, the person so convicted under this provision shall be liable to pay damages or costs of repair to the County Government for the destroyed property.

General Penalty

53. Any person convicted for an offence under this Act for which no specific penalty is prescribed the person shall upon conviction of that offence be liable to a fine not exceeding Kenya Shillings fifty thousand or to imprisonment for a term not exceeding one year or to both.

PART IX—MISCELLANEOUS PROVISIONS

Protection from Personal Liability

54. (1) No criminal proceedings or civil suit shall be brought against the Directorate or any of its members in the course of discharging of the functions under this Act.

(2) No action shall lie against the Directorate or any of its members or other persons appointed or authorized to perform any function under this Act in respect of any act done or omitted to be done by them in good faith in exercise of performance of any power, authority or duty conferred or imposed on them under this Act.

(3) Notwithstanding sub section (2) a member of the Directorate shall be personally liable for any act or omission done or committed in performance of his duties under this Act having regard to the circumstances of the case if such act or omission is—

- (a) done or committed willfully or dishonestly by such person;
- (b) due to the negligence of such person; and
- (c) done or omitted by the person in contravention of any provisions of this act and any other written law.

Liaison with other National Government Agencies

55. The Executive Committee Member shall put in place arrangements for liaison with—

- (a) the Office of the Director of Public Prosecutions for the purpose of facilitating prosecution of offenders;
- (b) the Judicial Service Commission for allocation and designation of magistrates to adjudicate matters arising from county laws; and
- (c) other relevant criminal justice agencies dealing with processing of criminal matters.

Code of Conduct

56. The Executive Committee Member shall, within one year develop a code of conduct for the Directorates members of staff.

Regulations

57. (1) The Executive Committee Member may, make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of sub section (1) the Regulations may—

- (a) prescribe anything required by this act to be prescribed or prohibit anything required by this act to be prohibited;
- (b) prescribe and regulate the conduct of enforcement officers;
- (c) prescribe for the description and issuance of uniforms and any other identification to be supplied to the directorate; and
- (d) facilitate implementation of this act.

Transitional Provision

58. (1) Notwithstanding any other provision of this Act to the contrary, any person who prior to the commencement of this Act, was appointed to the Board or recruited by the Board, shall be deemed to have been so appointed or recruited in accordance with this Act.

(2) For the avoidance of doubt, the term of Board Members appointed under the Meru County Revenue Board Act, 2014 shall be deemed to have commenced on the respective dates of their appointment.

FIRST SCHEDULE

(Section 4)

STRUCTURE AND RANKING OF THE ENFORCEMENT DIRECTORATE

- 1—Director.
- 2—Deputy Director.
- 3—Assistant Director.
- 4—Senior Inspector.
- 5—Inspector.
- 6—Senior Sergeant.
- 7—Sergeant.
- 8—Officers (include Corporals, Constables and Recruit constables).

SECOND SCHEDULE

(Section 43)

OFFENCES AGAINST DISCIPLINE

It shall be an offence against discipline for any member of the Directorate to—

- (a) unlawfully strike, or use or threaten violence against any member of the Directorate or any other person;
- (b) use any obscene, abusive or insulting language in any form to any member;
- (c) uses threatening or insubordinate or disrespectful language, word, act or demeanor to a member senior to him in rank;
- (d) cause a disturbance in any premises of the Directorate;
- (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 place of duty before he/she is regularly relieved;
- (k) resist any lawful arrest;

- (l) being found guilty of an Act which is to the prejudice of good conduct and discipline;
- (m) negligently allow any suspect, who is committed to his charge, or whom it is his/her duty to guard, to escape;
- (n) without reasonable cause, fail to attend at any parade, instruction class or court or any other duty which he is required to attend;
- (o) sell, pawn, lose by neglect, make away with or willfully or negligently damage, or fail to report any loss or damage to, 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;
- (p) be in improper possession of any public or private property;
- (q) commit any act of plunder or wanton destruction of any property;
- (r) be negligent in the performance of his duty;
- (s) appear on duty untidy or dirty in his/her person clothing or equipment;
- (t) make or sign any false statement in any document or official record;
- (u) without proper authority, disclose or conveys any information concerning any investigation or other Directorate matter;
- (v) malingering, or feign any disease or infirmity;
- (w) knowingly and willingly transmit any venereal disease or HIV/AIDS;
- (x) without proper authority demands or exacts from any person any carriage, portage or provisions;
- (y) commit an act which amounts to corruption under any law in force in Kenya; and
- (z) make any false statements upon joining the Directorate;
- (aa) knowingly make any false accusation or complaint or statement against any police officer or other person, affecting the character of such person, or willfully suppress any material fact.

THIRD SCHEDULE

(Section 18 (2))

CONDITIONS AS TO THE USE OF FORCE

1. Any member of the Directorate 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 law.
3. When the use of force results in injuries—
 - (a) the Directorate member 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 and report the matter to the nearest police station.
4. Any member of the Directorate 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 these regulations.
5. It shall be a disciplinary offence for a member of the Directorate to fail to report in accordance with these regulations.
6. Any member of the Directorate shall not tamper or otherwise damage any evidence from the scene of the act.
7. Any member of the Directorate in uniform shall at all times affix a name tag or identifiable Directorate number in a clearly visible part of the uniform

FOURTH SCHEDULE

(Section 14)

OATH OR AFFIRMATION TO BE TAKEN BY ENFORCEMENT OFFICERS ON JOINING THE DIRECTORATE

I, ..., do swear/ do solemnly and sincerely affirm, that I will well and truly serve and bear true allegiance to the People and to the Republic according to law; that I will at all times, as thereunto required and authorized by law, do my utmost to preserve the peace and to prevent offences against the same, and that I will to the best of my skill and knowledge discharge all the duties of an enforcement officer faithfully according to law. And that during my time in the Directorate, I will obey all such lawful orders as may be given to me and will observe all Acts, Regulations and Orders relating to the enforcement which may from time to time be in force.

So help me God

.....

Signature of Recruit.

Sworn before me

on the, 20.....

MEMORANDUM OF OBJECTS AND REASONS

The County Government of Meru seeks to regulate various enforcement matters within the purview of its powers and functions.

This legislation mandates and empowers the County Government with the responsibility of enforcement which includes inspection of compliance with County laws, arrest of those who offend the County laws, their prosecution and judicial determination of accusations and punishments of those who offend the County law.

Enforcement further extends to the impoundment of property and animals which are traded and kept contrary to County laws. The arresting or impounding officer must have a legal backing from which such power shall be given. It is upon the above considerations that this bill seeks to provide for county law enforcement institutions and their powers.

The structure of the Bill is as follows:

PART I of the Bill provides for preliminary provisions including citation and interpretation of terms used in the Bill. The Part outlines the object and purpose of the Bill.

PART II of the Bill provides for the establishment and functions of the Enforcement Directorate.

PART III provides for the composition, appointment of Directorate officers, their deployment, discipline and ranking.

PART IV provides for the various powers and functions which have been bestowed upon the enforcement officers.

PART V makes provision for the recruitment and training of officers engaged in the Directorate.

PART VI of the Bill outlines financial procedures with respect to the administration and use of the budget of the Directorate. This Part provides for the management of the funds disbursed to the directorate for the operations of the office.

PART VII of the Bill makes provision for the establishment of the Disciplinary Inquiry Committee which is tasked with the maintenance of discipline within the enforcement directorate. The Part provides for the establishment of units within the Directorate and the powers of the disciplinary committee. This Part also provides for a mechanism of appeal from the decision of the disciplinary committee.

PART VIII provides for the offences created under this Act and their punishment. There is also a provision for general penalty in cases where no penalty is provided for an offence.

PART IX provides for the miscellaneous provisions such as the power of the Executive Member to make Regulations under the Act.

The Bill also provides for various Schedules in furtherance of the Bill.

Dated the 21st June, 2019.

MOSES KINYUA TORIBU,
Chairperson, Sectoral Committee on Justice and Legal Affairs.