

THE KILIFI COUNTY FIRE AND RESCUE BILL, 2016

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THE KILIFI COUNTY FIRE AND RESCUE SERVICES BILL, 2016

A Bill for

An Act of County Assembly of Kilifi to make provision for fire and rescue services, to establish a Fire and Rescue Services Authority and its functions; to make provision about employment and powers of the Authority; to make provision about education and training and pension schemes; to make provision about the supply of water for firefighting; and for connected purposes.

ENACTED by the County Assembly of Kilifi as follows-

PART 1 – PRELIMINARY

Short title	1. This County Act may be cited as the Kilifi County Fire and Rescue Services Act, 2016.
Interpretation	2. In this Act, unless the context otherwise requires— “Authority” means the Fire and Rescue Authority; “Emergency” means an event or situation that causes or is likely to cause— (a) one or more individuals to die, be seriously injured or become seriously ill; or (b) serious harm to the environment and includes the life and health of plants and animals “Executive member” means the county executive committee member responsible for matters relating to fire and rescue services in the county; and “Equipment” means a vehicle, or any other apparatus, intended to be used by the authority in the performance of its functions. “Fire and Rescue Services includes the Prevention, Fighting and Investigation of fires.
Object of the Act	3. The purpose of this Act is to provide a legal framework for the fire disaster management system that includes collaboration among different players in the sector.
Guiding Principles	4. In the performance of its functions or the exercise of the powers conferred under this Act, the Authority shall -

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- (a) adopt an inclusive multi-disciplinary and multi-sectoral approach in firefighting;
- (b) factor climate variations into fire and rescue services;
- (c) disseminate information on fire safety; and
- (d) be guided by the—
 - (i) national values and principles of governance set out by Article 10 of the Constitution; and
 - (ii) values and principles of public service set out by Article 232 of the Constitution.

**PART II—ESTABLISHMENT AND COMPOSITION OF THE FIRE
AND RESCUE SERVICE AUTHORITY**

5. (1) There is established the Fire and Rescue Services Authority in the county.
- (2) The Authority is a body corporate with perpetual succession and a common seal and is in its corporate name capable of—
- (a) suing and being sued;
 - (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
 - (c) borrowing and lending money; and
 - (d) doing or performing all such other things or acts as may be necessary in furtherance of its purpose and functions.
6. (1) There is a Board of the Authority which consists of—
- (a) a non-executive chairperson appointed by the Governor;
 - (b) one person who must be working in the area of fire and rescue services appointed in writing by the Executive Member.

Establishment
of the Authority

The Board

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- (c) a representative appointed in writing by the chairperson of an association representing the interests of persons working in fire and rescue services;
- (d) a representative of the private sector appointed in writing by the chairperson of an association representing the private sector; and
- (e) a person nominated in writing by the Secretary General of the Kenya Red Cross Society
- (f) the chief executive officer appointed under section 18 who is the secretary of the Board.

Functions of the
Board

7. The Board is responsible for overseeing the operations of the Authority with the goal of—
- (a) sourcing and receiving funding for the activities of the Authority;
 - (b) securing continuing improvement of performance;
 - (c) protecting the long term viability of the Authority;
 - (d) ensuring that its financial needs are addressed.
 - (e) Review the terms and conditions of service of the employees of the authority

Powers of the
Board

8. (1) The Board has all powers necessary for the proper performance of the functions of the Authority under this Act.
- (2) Without prejudice to the generality of sub-section (1), the Board has the power to—
- (a) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;
 - (b) delegate any of its powers; and
 - (c) undertake any activity necessary for the fulfillment of any of the functions of the Authority.

Procedure for
appointment of
members

9. The recruitment and appointment of the Board members listed in section 6 must be carried out—
- (b) in a competitive and transparent manner;
 - (c) based on merit; and
 - (d) in line with the constitutional requirements for public service.

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- Qualifications
for appointment
of chairperson
and members
- 10.** (1) A person is qualified for appointment as chairperson or member if such a person—
- (a) is a citizen of Kenya;
 - (b) holds a degree from a university recognized in Kenya;
 - (c) has at least five years experience in—
 - (i) the management of public affairs; or
 - (ii) a field that is relevant to the functions of the Authority; and
 - (iii) meets the requirements of leadership and integrity set out in chapter six of the Constitution of Kenya, 2010.
- Committees of
the Board
- 11.** (1) During its term, the Board may establish committees for the better carrying out of its functions.
- (2) The Board may co-opt persons to committees established under subsection (1) for a particular reason and such persons hold office for a period as the Board may determine.
 - (3) The persons co-opted under sub section (2) must not be more than two at any particular time.
- Term of office
- 12.** (1) The chairperson and Board members hold office on a part-time basis for a term of four years and are eligible for re-appointment once.
- (2) Where the chairperson or a member opts to apply for re-appointment under subsection (1), the re-appointment shall be considered based on the performance of the applicant.
- Remuneration
of members
- 13.** The Board members shall be paid such allowances as the executive member, may from time to time, determine on the recommendation of the Salaries and Remuneration Commission.
- Meetings
- 14.** (1) The business and affairs of the Board shall be conducted in accordance with the Schedule.
- (2) Except as provided in the Schedule, the Board may regulate its own procedure.
 - (3) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Board.

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Removal
from office

- 15.** (1) The chairperson or a member may be removed from office for—
- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
 - (b) gross misconduct or misbehavior;
 - (c) incompetence or negligence of duty; or
 - (d) absence from three consecutive meetings of the Board without a reasonable explanation.
- (2) Before the appointing authority makes a decision under subsection (1), the person must be given an opportunity to provide a defence against any of the allegations.

Vacation
of office

- 16.** A person ceases to be a member of the Board if such person—
- (a) resigns in writing, to the appointing authority;
 - (b) is convicted of a criminal offence and sentenced to a term of imprisonment of more than six months;
 - (c) is declared bankrupt;
 - (d) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
 - (e) dies.

Filling of
Vacancy

- 17.** Where a vacancy occurs in the membership of the Board under sections 15 or 16, the appointing authority shall, if the vacancy relates to any of the positions specified under section 6(1), appoint a new member in accordance with the provisions of this Act.

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Chief executive
officer

- 18.** (1) There is a chief executive officer of the Authority who shall be appointed by the executive member, on recommendation of the County Public Service Board, on such terms and conditions as may be specified in the instrument of appointment.
- (2) Despite (1), the appointment of the chief executive officer of the Authority shall be through a competitive recruitment process.
- (3) The chief executive officer shall be the county chief fire officer.
- (4) A person is qualified for appointment as chief executive officer if that person—
- (a) is a citizen of Kenya;
 - (b) holds a degree from a university recognized in Kenya;
 - (c) has at least five years experience in—
 - (i) the management of public affairs; or
 - (ii) a profession directly relevant to the functions of the Authority
 - (d) has experience in public administration; and
 - (e) meets the requirements of leadership and integrity set out in chapter six of the Constitution.
- (5) The chief executive officer is subject to the direction of the Board and is responsible to it for the—
- (a) implementation of the decisions of the Board;
 - (b) day to day management of the affairs of the Authority;
 - (c) organization and management of the employees; and
 - (d) fire and rescue services, and
 - (e) any other function that may be assigned by the Board.
- (6) The chief executive officer holds office for a term of five years and is eligible for re-appointment once based on performance.

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Removal of the
chief executive
officer

19.(1) The chief executive officer may be removed from office by the executive member on recommendation of the Board, in accordance with the terms and conditions of service, for—

- (a) inability to perform the functions of the office arising out of physical or mental infirmity;
- (b) gross misconduct or misbehavior;
- (c) incompetence or neglect of duty;
- (d) a violation of the Constitution; or
- (e) any other ground that would justify removal from office under the terms and conditions of service.

(2) Before the Executive Committee Member makes a decision under subsection (1), the chief executive officer shall be given—

- (a) sufficient notice of the allegations made against them; and
- (b) an opportunity to provide a defence against any of the allegations, either in person or by a legal representative.

20. (1) The Authority may engage such other employees as it may consider sufficient for the performance of its functions under this Act.

Employees of
the Authority

(2) The terms and conditions of employees of the Authority shall be determined upon consideration of advice from the Salaries and Remuneration Commission.

21. (1) The affixing of the common seal of the Authority shall be authenticated by the signature of the chairperson and the chief executive officer.

Common seal of
the Authority

(2) A document not required by law to be made under seal and all decisions of the Authority may be authenticated by the signatures of the chairperson and the chief executive officer.

(3) Where the chairperson or the chief executive officer is absent, the Board may nominate a member to authenticate the seal on behalf of either the chairperson or the chief executive officer.

(4) The common seal of the Authority shall be kept in such custody as the Board may direct and shall not be used except on the order of the Authority.

(5) The common seal of the Authority when affixed to a document and authenticated is officially noticed and unless the contrary is proved, an order or authorization of the Authority under this section shall be presumed to have been given.

Functions

**PART III – FUNCTIONS AND POWERS OF THE FIRE AND
RESCUE SERVICE AUTHORITY**

22. (1) The functions of the Authority are to—

- (a) extinguish fires when they arise;
- (b) protect life and property in the event of a fire in its area;
- (c) secure the provision of the personnel, services and equipment necessary efficiently to meet all normal requirements;
- (d) secure the provision of training for personnel;
- (e) rescue victims in the event of road traffic accidents in its area;
- (f) identify and facilitate a means of escape from buildings and other property in case of a fire;
- (g) in the event of a road traffic accident, protect people from harm to the extent it considers it reasonable to do so;
- (h) provide rescue to any person or animal endangered as a result of a road accident or any other accident, including one which does not involve the existence of a fire.
- (i) perform humanitarian services including the protection of life and property, in the event of a disaster; and

2. The Authority shall make arrangements to-

- (a) Deal with calls for help and for summoning personnel;
- (b) Obtain information needed for the discharge of functions; and
- (c) Ensure reasonable steps are taken to prevent or limit damage to property resulting from action taken for the discharge of functions.
- (d) promote fire safety in its area, and in doing so, make arrangements to provide information and publicity in respect of the steps to be taken to prevent—
 - (iii) fires;
 - (iv) death; or
 - (v) injury by fire;
- (e) give advice, upon request, on how to prevent fires and restrict their spread in buildings and other property; spread in buildings and other property;

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- (2) The Authority must also make arrangements to—
- a) deal with calls for help and for summoning personnel;
 - b) obtain information needed for the discharge of functions; and
 - c) ensure that reasonable steps are taken to prevent or limit damage to property resulting from action taken for the discharge of functions.

Other services

23. (1) The Authority may provide the services of any persons employed by it or any equipment maintained by it to any person for any purpose that appears to the Authority to be appropriate.

(2) The Authority may also provide services under this Act within its area as well as out of the area of the Authority.

Power to
respond to other
eventualities

24. (1) The Authority may take any action it considers appropriate—

- (a) in response to an event or situation of a kind mentioned in subsection (2);
- (b) for the purpose of enabling action to be taken in response to such an event or situation.

(2) The event or situation is one that causes or is likely to cause—

- (a) one or more individuals to die, be injured or become ill; or
- (b) harm to the environment, including the life and health of plants and animals.

(3) The power conferred by subsection (1) includes power to secure the provision of equipment.

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Powers of a
fire-fighter in
an emergency

25. (1) An employee of the Authority who is authorised in writing by the Authority for the purposes of this section, may do anything the employee believes to be necessary to prevent or limit damage to property—

- a. if the employee is informed or reasonably believes a fire to have broken out or to be about to break out, for the purpose of extinguishing or preventing the fire or protecting life or property;
- b. if the employee reasonably believes a road traffic accident to have occurred, for the purpose of rescuing people or protecting them from serious harm;
- c. if the employee reasonably believes an emergency of another kind to have occurred, for the purpose of discharging any function conferred on the fire and rescue authority in relation to the emergency;

(2) In particular, an employee of the Authority who is authorised as mentioned in subsection (1) may under that subsection—

- (a) enter premises or a place, by force if necessary, without the consent of the owner or occupier of the premises or place;
- (b) move or break into a vehicle without the consent of its owner;
- (c) close a road;
- (d) stop and regulate traffic; or
- (e) restrict the access of persons to premises or a place.

(3) A person commits an offence, if without reasonable excuse, the person obstructs or interferes with an employee of the Authority taking action authorised under this section.

(4) Upon conviction of an offence under subsection (3), a person is liable to—

- (a) a fine not exceeding five hundred thousand shillings; or
- (b) imprisonment not exceeding three years ;or
- (c) both.

General power
to deal with
other forms of
emergencies

- 26.** (1) The executive member may, by notice in the county Gazette, confer on the Authority functions relating to emergencies, other than fires and road traffic accidents in relation to which the Authority has functions.
- (2) A notice under this section may require functions conferred on the Authority under this section to be discharged outside the Authority's area.
- (3) A notice under this section may make provision as to what the Authority shall or may do for the purpose of a function conferred under this section, and may in particular require or authorise the Authority —
- (a) to secure the provision of personnel, services and equipment;
 - (b) to secure the provision of training for personnel;
 - (c) to make arrangements for dealing with calls for help and for summoning personnel;
 - (d) to make arrangements for obtaining information needed for the purpose of discharging the function;
 - (e) to make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from discharging the function.
 - (f) to carry out investigations on the causes of fires;
 - (g) to preserve the scene of a fire incident; and
 - (h) to perform such other functions as may be necessary to discharge its duties under this Act or as may be provided by any other law.
- (4) A notice under this section may confer a function, including a function of providing particular equipment, on the Authority.
- (5) Before making a notice under this section, the executive member must consult any persons considered appropriate.

Collaboration with
other agencies

PART IV– COLLABORATION WITH OTHER AGENCIES

27. (1) The Authority may enter into arrangements with—

- a. An entity of the national government
- b. A fire and Rescue Authority in another county; or
- c. any other person,

for the discharge to any extent by that other Fire and Rescue Authority or person of a function conferred on the Authority under any of sections 22 and 23

(2) Despite subsection (1), the Authority may enter into arrangements with a person under subsection (1) in relation to its function of extinguishing fires only if the person employs fire-fighters.

(3) Arrangements under this section may include provision as to the terms on which a function is to be discharged and this may include provision on payment.

(4) The Authority shall formulate contingent plans and operational procedures for handling a fire related emergency.

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Directions as
to
arrangements

- 28.** The executive member may direct the Authority to
- (a) enter into arrangements under section 28 in the terms specified in the direction;
 - (b) make one or more specified variations to any such arrangements; or
 - (c) cancel any such arrangements

Charging of
fees

- 29.** (1) The executive member may, by regulation, authorize the Authority to charge a person of a specified description for any action of a specified description taken by the Authority.

(2) An order under subsection (1) may authorize charging for extinguishing fires, or protecting life and property in the event of fires but must not authorize charging for emergency medical assistance.

(3) The power in subsection (1) includes power to authorize a charge to be imposed on, or recovered from, a person other than the person in respect of whom action is taken by the Authority.

(4) If the Authority is authorized by an order under subsection (1) to charge for taking action of a particular description and the Authority decides to do so—

- (a) the amount of the charge is to be set by the Authority;
- (b) the Authority may charge different amounts in different circumstances;
or
- (c) the Authority may not charge anything.

(5) In setting the amount of a charge, the Authority must secure that, taking one financial year with another, the income of the Authority from charges does not exceed the cost to the Authority of taking the action for which the charges are imposed.

(6) Before making an order under this section, the executive member must consult any persons the executive member considers appropriate.

PART V – FIRE SAFETY AND PREVENTION

Equipment,
Facilities,
services and
organizations

30. (1) The executive member may provide and maintain, or contribute to the provision and maintenance of, any equipment, facilities and services the executive member considers appropriate for promoting the efficiency and effectiveness of fire and rescue authorities or services.

(2) The executive member may establish and maintain, or contribute to the establishment and maintenance of, any organizations the executive member considers appropriate for promoting the efficiency and effectiveness of the Authority.

Directions for
public safety
purposes

31. (1) The executive member may, if it is considered necessary for public safety purposes, by notice in the county Gazette, give general or specific directions to the Authority about the use or disposal of property or facilities.

(2) The notice given under subsection (1) may include provision on the—

(a) use or disposal by the Authority of property or facilities belonging to or under its control;

(b) use by the Authority of property or facilities belonging to or under the control of a person who has made, or is willing, to avail the property or facilities;

(c) payments to be made by the Authority to another Fire and Rescue Services Authority or to any other person, in respect of the use of property or facilities.

(3) The references in subsection (2) to property or facilities belonging to a person include land occupied by the person.

(4) Before issuing a notice under this section, the executive member shall ensure that the public is involved in arriving at a decision.

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Training
institutions and
centres

32. (1) The Governor may establish and maintain—

a. a central training institution, or

b. one or more local training centres,

for one or more of the purposes mentioned in subsection (2).

(2) The training institutions or centres are for the following purposes—

(a) the provision of education and training to employees of the Authority;

(b) the provision of advice and assistance to the Authority in connection with the provision of such education and training;

(c) the supervision and regulation of the provision of education and training on fire and rescue services;

(d) the provision of education and training to persons who—
(i) provide; or

(ii) are to provide such education and training;

(e) the provision of education and training to persons who are not employees of the Authority in matters which the Authority has functions; and

(f) the provision of advice and assistance in connection with the provision of education and training.

(3) the Executive Committee Member is responsible for the maintenance of any institution or center that is established under sub-section (1)

Decorations,
medals and
certificates

33. (1) The Governor may, on advice by the executive member, award decorations or medals for services rendered in relation to fire and rescue services.

(2) The executive member may, subject to such requirements as the executive member may consider appropriate, institute service certificates, which may be awarded by the chief executive officer or any person designated by the chief executive officer, to any member of the Authority, in respect of their service, or to any other person in respect of exceptional service rendered under this Act.

PART VI– WATER SUPPLY

34. (1) The Authority through the Executive Committee Member shall take all reasonable measures for securing that an adequate supply of water is available for the Authority’s use in the event of fire.

Duty to secure
water Supply

(2) The Authority may use any suitable supply of water for the purposes of extinguishing a fire or protecting life or property in the event of a fire.

(3) Despite subsection (2), the Authority shall pay prescribed compensation for the water.

Supply by other
persons

35. For the purposes of section 34, the Authority may enter into an agreement with any person—

- (a) to secure the use of water under the control of a person; improve access to any such water; or
- (b) to lay and maintain pipes and to carry out other works in connection with the use of such water.

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Fire
hydrants

- 36.** (1) A water undertaker shall cause the function of every fire hydrant provided by it to be clearly indicated by a notice or a distinguished water mark.
- (2) A water undertaker may place such a notice or mark on a wall or a fence adjoining a highway or public place.
- (3) A person commits an offence if they use a fire hydrant otherwise than for-
- (a) The purpose of firefighting;
 - (b) Any purpose authorized by any person to whom the fire hydrant belongs.
 - (c) For any purpose approved by the authority; or
- (4) A person commits an offence if they damage or obstruct a fire hydrant otherwise than in consequence of use for the purpose mentioned in sub-section 6
- (5) A person who proposes to carry out works for the purposes of supplying water to any part of the area of the Authority shall give notice of at least six weeks, in writing, to the Authority.
- (6) A person who proposes to carry out works affecting a fire hydrant shall give at least seven days' notice in writing to the fire and rescue service authority in whose area the hydrant is situated.
- (7) A person commits an offence if without reasonable excuse fail to give notice in writing as required under this section.
- (8) A person convicted of an offence under subsection (7) is liable to a fine not exceeding five thousand shillings.
- (9) For the purposes of this section, a water undertaker means a company appointed under the Kilifi County Water and Sanitation Act, 2016 to provide water to a defined geographical area which includes fire hydrants.

Funds

PART VII — FINANCIAL PROVISIONS

37. The funds of the Authority consist of—

- (a) monies allocated by the County Assembly for the purposes of the Authority;
- (b) such monies or assets as may accrue to the Authority in the course of the exercise of its powers or in the performance of its functions under
- (c) this Act; and
- (d) all monies from any other source provided, donated or lent to the Authority.

Financial
Year

38. The financial year of the Authority is the period of twelve months ending on the thirtieth of June in each year.

Annual
Estimates

39. (1) Before the commencement of each financial year, the Authority must cause to be prepared estimates of the revenue and expenditure of the Authority for that year.

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

- (a) payment of the salaries, allowances and other charges in respect of the staff of the Authority;
- (b) payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the Authority;
- (c) maintenance of the buildings and grounds of the Authority;
- (d) funding of training, research and development of activities of the Authority;
- (e) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment; and

(f) such other matters as the Authority may consider fit.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the executive member for transmission to and tabling in the County Assembly.

(4) Expenditure of the Authority shall not be incurred except in accordance with the annual estimates approved under subsection (3).

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Accounts and
Audit

- 40.** (1) The Authority shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Authority.
- (2) Within a period of three months after the end of each financial year, the Authority shall submit to the Auditor-General the accounts of the Authority in respect of that year together with a—
- (a) statement of the income and expenditure of the Authority during that year; and
 - (b) statement of the assets and liabilities of the Authority on the last day of that financial year.
- (3) The annual accounts of the Authority shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

Bank accounts

- 41.** The Authority shall open and maintain such bank accounts as is necessary for the performance of its functions.

PART VIII– MISCELLANEOUS PROVISIONS

Regulations

- 42.** (1) The executive member may, in consultation with the Authority, make regulations for the better carrying out of the purposes of this Act, and in particular, with respect to—
- (a) any matter which may or is prescribed under this Act
 - (b) the organization and procedure for the employment, pension of the Authority;
 - (c) regarding the uniforms, and identification of members of the Authority;
 - (d) safety requirements to be complied with on premises in order to reduce the risk of a fire or other danger, or to facilitate the evacuation of the premises in the event of such danger;
 - (e) storage or transportation of explosives, fireworks, petroleum or any other flammable or combustible substance, gas or any other dangerous substance;
 - (f) specifications and standards with which the equipment and material of the Authority must comply;

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- (g) the control over and registration of the members of the Authority;
- (h) training and development of the staff of the Authority;
- (i) any matter which the executive member considers necessary or expedient so as to achieve the objects of this Act.

(2) A regulation regarding the salaries, remuneration, qualifications and experience of a member of the Authority must not be made without consultation with the County Public Service Board and the Salaries and Remuneration Commission.

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Protection from
personal
liability

43. No act done by any member of the Authority, or employee of the Authority shall, if the act was done in good faith for the purpose of carrying out the provision of this Act, subject the person to any liability, action, claim or demand.

Offences

44.(1) A person who knowingly gives or causes to be given a false alarm of fire to a person acting on behalf of the Authority commits an offence.

(2) Upon conviction of an offence under subsection (1), a person is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

Despite subsection (1), a person commits an offence for knowingly failing to respond to a fire drill.

General penalty

45. A person who contravenes a provision in this Act for which a penalty has not been provided for, commits an offence and is liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

SCHEDULE (S. 14)

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE AUTHORITY

- Meetings
1. (1) The Authority shall have at least four meetings in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
(2) Meetings shall be convened by the chief executive officer in consultation with the chairperson and must be held at such times and such places as the chairperson shall determine.
(3) The chairperson must preside over all meetings and in the absence of the chairperson, by a person elected by the Board at the meeting for that purpose.
(4) The chairperson may at any time convene a special meeting of the Board, and shall do so within one month of the receipt by the chairperson of a written request signed by at least five other members.
(5) Unless four members otherwise agree, at least seven days' notice of a meeting shall be given to every member.
- Quorum.
2. The quorum of a meeting of the Board is four members.
- Voting.
3. A decision of the Board shall be by a majority of the members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote.
- Minutes
4. Minutes of all meetings shall be kept and entered in records kept for that purpose.
- Disclosure of interest
5. (1) If a person is present at a meeting of the Board or any committee at which any matter is the subject of consideration and in which matter that person or that directly or indirectly interested in a private capacity, that person must as soon as is practicable after the commencement of the meeting, declare such interest.
(2) The person making the disclosure of interest under subsection (1) must not, unless the Board or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

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- (3) A disclosure of interest made under subsection (1) must be recorded in the minutes of the meeting at which it is made.
- (4) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.
- (5) A member or employee of the Authority shall not transact any business or trade with the Authority.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to establish a legal and institutional framework for fire and disaster management system that includes collaboration among the different players in the sector. The Bill seeks to make provision for fire and rescue services, to establish a fire and rescue services Authority and its functions and powers. It also seeks to make provisions about employment by the Authority. The Bill also makes provisions for education, training and pension schemes for the employees of the Authority. The Bill also makes provisions for the supply of water for firefighting, fire safety and prevention, financial and miscellaneous.

The structure of the Bill is as follows:

Part I (Clauses 1-4) of the Bill contains Preliminary provisions. Clause 1 states the short title and Clause 2 deals with Interpretation of the terms as used in the Bill. Clause 3 states the objects of the Bill while Clause 4 sets out the guiding principles.

Part II (Clause 5-21) of the Bill deals with the establishment and composition of the Fire and Rescue Service Authority. Clause 5 states the establishment of the Fire and Rescue Service Authority while Clause 6 establishes a Board of the Authority.

Clause 7 provides for the functions of the Board. Clause 8 provides for the powers of the Board while Clause 9 provides for the procedure for appointment of Members of the Board. Clause 10 provides for the Qualifications and appointment of the Authority's chairperson and members. Clause 11 provides for power of the Board to establish committees. Clause 12 provides for the term of office of the chairperson and the Board while Clause 13 provides for the Remuneration of members. Clause 14 provides for meetings of the Board.

Clause 15 makes provision for the Removal from office of the Chairperson or a member of the Board while Clause 16 provides for instances when a person ceases to be a Board Member. Clause 17 makes provisions for filling a vacancy in the Board while Clause 18 provides for the appointment of the Chief Executive Officer.

Clause 19 provides for removal of the Chief Executive Officer. Clause 20 makes provisions for employees of the Authority while Clause 21 provides for the Common Seal of the Authority.

Part III (Clause 22-26) makes provisions for the Functions and Powers of the Fire and Rescue Service Authority. Clause 22 provides for the functions of the Authority. Clause 23 provides for other services the authority may provide of any persons employed by it to any person for any purpose the Authority deems appropriate.

Clause 24 provides for power of the Authority to respond to other eventualities while Clause 25 makes provisions for the powers of a fire fighter in an emergency. Clause 26 provides the general power of the Executive Committee Member to deal with other forms of emergencies.

Part IV (Clause 27-29) Clause 27 makes provisions for collaborations with other agencies. Clause 27 provides for collaboration strategies. Clause 28 provides for directions as to arrangements while Clause 29 provides for charging of fees.

Part V (Clause 30-33) makes provisions for Fire Safety and Prevention. Clause 30 provides for the equipment, facilities, services and organizations. Clause 31 provides for the directions for public safety purposes. Clause 32 makes provisions for training institutions and centres while Clause 33 makes provisions for decorations, medals and certificates.

Part VI (Clause 34-36) provides for Water Supply. Clause 34 provides for the Authority's duty to secure water supply while Clause 35 provides for supply of water to the Authority by other persons and Clause 36 provides for fire hydrants.

Part VII (Clause 37-41) provides for Financial Provisions. Clause 37 provides for the funds of the Authority. Clause 38 provides for the financial year of the Authority to the period of twelve months ending on the thirtieth of June in each year. Clause 39 provides for the requirement of preparation of the Authority's Annual Estimates. Clause 40 provides for accounts and Audit requirement while Clause 41 provides for the Authority to open and maintain bank accounts as is necessary for the performance of its functions.

Part VIII (Clause 42-45) provides for Miscellaneous Provisions. Clause 42 provides on the power of the Executive Committee Member, in consultation with the Authority, to make regulations for the better carrying out of the provisions of the Act. Clause 43 makes provisions for protection from personal liability while Clause 44 provides for Offences. Clause 45 provides for the general penalty for instances where an offence has been provided without a penalty.

The Schedule is on provisions relating to the conduct of business and affairs of the Authority. Paragraph 1 provides for the number of meetings to be held in a financial year. Paragraph 2 provides for the quorum of the members. Paragraph 3 provides for the manner of voting. Paragraph 4 provides that minutes of all meetings shall be kept and entered in records kept for that purpose while paragraph 5 makes provisions for declaration of interest on any matter being discussed at a meeting of the Board.

Dated the 22nd August, 2016

Hon. Edward Kazungu Dele

Chairperson; Lands, Housing and Settlement Committee

