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***KENYA GAZETTE SUPPLEMENT***

**TRANS NZOIA COUNTY ACTS, 2021**

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IMPROVEMENT FUND ACT, 2021**

**No. 1 of 2021**

*Date of Assent: 21st January, 2021*

*Date of Commencement: See Section 1*

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**THE TRANS NZOIA COUNTY HEALTH SERVICES  
IMPROVEMENT FUND ACT, 2021**

**AN ACT of the County Assembly of Trans Nzoia to provide for the establishment of a Fund for the improvement of health care service delivery, to provide for levying of user fees and other contributions to the Fund and for connected purposes.**

**ENACTED** by the County Assembly of Trans Nzoia as follows—

**PART I—PRELIMINARY**

**1.** This Act may be cited as the Trans Nzoia County Health Services Improvement Fund Act, 2021 and shall come into operation upon assent by the Governor.

Short title

**2.** In this Act, unless the context otherwise requires—

Interpretation

“Board” means the Trans Nzoia County Health Services Management Board;

"Collecting Entity" includes a County Hospital, Sub-County Hospital, any Public Health Office or other health facility as the County Executive Committee Member may declare by notice in the Kenya Gazette or Trans Nzoia County Gazette;

“County Public Service Board” means the Trans Nzoia County Public Service Board;

"Director for Health Services" means the County Director of Health appointed by the County Public Service Board;

"County Executive Committee Member" means County Executive Committee Member for the time being responsible for matters relating to Health;

"Exemption" means an automatic excuse from payment based on the client meeting a certain criterion set down in circulars by the Department of Health;

"Financial year" means the period of twelve months ending on the 30<sup>th</sup> June each year;

"Fund" means the County Health Services Improvement Fund established by section 5;

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"Officer Administering the Fund" means the Authorized Officer of the Department responsible for matters relating to Health;

"Secretary" means Secretary to the Board appointed under section 11;

"User Fees" means cost sharing charges paid by a client seeking services at a collecting entity.

"waiver" means a release from payment based on financial hardship.

**3.** The object and purpose of this Act is to provide for the establishment, functions, powers, responsibilities and administration of the Trans Nzoia County Health Services Improvement Fund.

Objects and purpose of the Act

**4.** In the performance of the functions and exercise of powers under this Act, the Fund shall be guided by values and principles set out in Articles 10 and 232 of the Constitution of Kenya, 2010.

Guiding principles

**PART II—ESTABLISHMENT AND ADMINISTRATION OF THE FUND**

**5.** (1) There is established a Fund to be known as Trans Nzoia County Health Services Improvement Fund.

Establishment of the Health Services Improvement Fund

(2) The Fund shall be managed by the County Health Services Management Board which shall be—

- (a) a body corporate with perpetual succession and a seal, and
- (b) capable of suing and being sued in its corporate name

(3) The Officer Administering the Fund shall be the Chief Officer for the department of health services.

**6.** The object and purposes of the Fund are—

Object and purpose of the Fund

- (a) to supplement financial resources from the county treasury in order to support primary, secondary and tertiary health services in the county;
- (a) to ensure sustainable operation of health services in the county
- (b) to improve the quality of health care services to

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community members; and

- (c) to ring fence monies appropriated to the Department by the County Assembly.

**7.** (1) The management of the Fund shall vest with the Board which shall consist of—

Composition of  
the Board

- (a) a Non-County Executive Chairperson appointed by the County Executive Committee Member from persons who are not public officers;
- (b) One person with a degree in health services management, appointed by the County executive Committee Member;
- (c) the Chief Officer for the time being responsible for Health Services;
- (d) the County Director for Health Services who shall also be the Secretary to the Board;
- (e) one person with disability nominated by the association of persons with Disabilities and appointed by the County Executive Committee Member;
- (f) one person nominated by the County Youth Council and appointed by the County Executive Committee Member; and
- (g) the head of the Accounting Section of the Department of Health.

(2) The appointment of the Chairperson and the other non-County Executive members referred to under sub section (1) shall be subject to approval by the County Assembly and the said members shall hold office for a period of three years and shall be eligible for re-appointment for a further term of three years only.

(3) A person shall not be appointed as Chairperson under sub-section (1) (a) unless that person—

- (a) holds a degree from a university recognized in Kenya; and
- (b) has at least five years' experience in health management, financial, business or economic management.

**8.** (1) A member of the Board may be removed from office for—

Removal from and  
vacancy of office

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- (a) violation of the Constitution or any other written law;
- (b) gross misconduct, whether in the performance of the member's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of the office; or
- (d) incompetence or neglect of duty.

(2) The County Executive Committee Member may, upon the recommendation of the Board, terminate the appointment of a member of the Board on any of the grounds specified under subsection (1).

(3) The office of a member of the Board shall fall vacant if the member—

- (a) resigns in writing addressed to the County Executive Committee Member through the Secretary;
- (b) is adjudged bankrupt by a court of competent jurisdiction;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months or if the offence directly or adversely downgrades his or her status as a member of the Board;
- (d) is absent from three consecutive meetings of the board without a reasonable excuse; or
- (e) dies.

(4) Before a member is removed from office under subsection (1), the member shall be given an opportunity to defend himself or herself against the allegations.

(5) Where the office of the Chairperson or member becomes vacant under subsection (3), the Secretary shall forthwith notify the vacancy to the appointing authority for appropriate action.

**9.** The functions of the Board shall be to—

- (a) recommend budgets, programs and plans of all the health facilities and collecting entities in the County for approval by the Officer Administering the Fund;

Functions of the  
County Health  
Services  
Improvement  
Services  
Management  
Board

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- (b) prepare the Fund's annual budget and plan;
- (c) propose variations to user fees to be charged;
- (d) to recommend policies for exemptions and waiver of any charges or fees payable by a recipient of services;
- (e) recommend strategies on resource mobilization;
- (f) resolve any conflicts that may arise amongst health facilities with regard to matters relating to user fees;
- (g) identify implementation challenges and seek corrective actions;
- (h) recommend policies for the management of the Fund and forward the same to the County Executive Committee Member for adoption;
- (i) undertake revenue and non-revenue mobilization of the Fund;
- (j) receive gifts, donations, grants or endowments made to the Fund and the Board and maintain an updated register for the same;
- (k) to provide estimates for inputs required for the delivery of health care services in the county;
- (l) to have the final responsibility on overseeing the use of implements acquired for health care service delivery;
- (m) to receive internal audits from the various health care facilities in the county;
- (n) to ensure that proper systems for stock management are in place;
- (p) to receive needs assessment from health care facilities on pharmaceuticals and non-pharmaceuticals;
- (q) to perform and exercise all other functions and powers conferred on the Board by this Act or any other law; and
- (r) to provide leadership and stewardship for health care service delivery in the County.



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**10.** (1) The Board shall meet at least four times in a year but the Chairperson— Meetings of the Board

- (a) may convene a special meeting of the Board if there is need to do so; and
- (b) shall convene a special meeting upon the request, in writing, by at least four members of the Board.

(2) The Chairperson shall preside at all the meetings of the Board and in his or her absence the members present shall elect one among them to preside at that meeting.

(3) All questions at a meeting of the Board shall be determined by consensus of the members present and only by a simple majority vote when there is a deadlock.

(4) The Secretary shall cause the proceedings of the meetings of the Board to be kept and entered into the Minute book reserved for that purpose.

(5) The minimum quorum for meetings shall be five (5) members.

(6) Subject to the provisions of this Act, the Board shall regulate its own proceedings.

(7) A member of the Board who is a public officer may, in writing, appoint another competent public officer to attend meetings of the Board in the member's absence and the alternate member shall, when attending a meeting, be deemed to be a member of the Board.

**11.** (1) The County Director for Health Services shall be the Secretary to the Board and as such, shall be responsible for the management of the day-to-day activities of the Board. Secretary to the County Health Services Improvement Management Board

(2) The Secretary shall be the head of the Secretariat and shall be responsible to the Board in ensuring that the Secretariat satisfactorily carries out duties and performs functions assigned to it by the Board.

(3) The Secretary shall be an ex officio member of the Board and shall have no right to vote at the meetings of the Board.

**12.** (1) There is established a Hospital Management Board for each County Hospital. County Hospital Management Boards

(2) A County Hospital Management Board shall

consist of—

- (a) A non-executive Chairperson appointed by the County Executive Committee Member;
- (b) The County Commissioner or his/her representative, who shall be an ex officio member;
- (c) The County Director of Medical Services or his or her representative, who shall be an ex officio member;
- (d) The Medical Superintendent for the hospital, who shall be the secretary;
- (e) The Health Administrative Officer;
- (f) Five persons possessing at least a university degree, one from each Sub County, appointed by the County Executive Committee Member with the approval of the County Assembly, as follows—
  - (i) One person nominated by women groups;
  - (ii) one person nominated by faith based organizations;
  - (iii) one person to represent persons with disabilities;
  - (iv) two persons, a man and a woman, to represent the youth.

(3) The County Executive Committee Member shall cause the names of chairperson and members of a County Hospital Management Board to be published in the Kenya Gazette within 30 days after their appointment.

(4) At least one third of be of either the membership of the County Hospital Management Board shall be of either gender.

**13.** A County Hospital Management Board shall—

- (a) Be responsible for the supervision of funds allocated to the respective hospital;
- (b) Open and operate bank accounts to be approved by the County executive Committee Member responsible for matters relating to Finance;

Functions of  
County Hospital  
Management  
Boards

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- (c) Recommend activities to be included in the hospital work plans based on the County Health sector Strategic Plan;
- (d) Cause to be kept books of account and records of accounts of the income, expenditure, assets and liabilities of the hospital as prescribed by the Accounting Officer of the department of health;
- (e) Cause to be prepared and submitted to the administrator of the Fund monthly, quarterly and annual financial reports as may be prescribed; and
- (f) Cause to be kept permanent records of all its deliberations.

**14.** (1) There is established a Hospital Management Board for each Sub-County hospital.

Sub-County  
Hospital  
Management  
Boards

(2) A Sub County Hospital Management Board shall consist of nine members who shall be—

- (a) The chairperson, appointed by the County Executive Committee Member;
- (b) The area Sub-County Administrator appointed under Section 50(b) of the County Governments Act, 2012 or his or her representative nominated in writing;
- (c) The Sub County Medical Superintendent or his or her equivalent, who shall be the secretary;
- (d) A person with knowledge and experience in health matters appointed by the County Executive Committee Member;
- (e) Five persons who shall be residents of the Sub County, appointed by the County Executive Committee Member representing the following categories of persons—
  - (i) One person who shall have knowledge and experience in finance and administration matters;
  - (ii) Four people to represent special interest groups including, Persons Living with Disability, youth, women and minorities.

(3) The County Executive Committee Member shall cause the names of the Chairperson and members of the Sub County Hospital Management Board published in the Kenya Gazette within 30 days following their appointment.

(4) At least one third of the membership of a Sub-County Hospital Management Board shall be of either gender.

(5) Membership of a Sub County Hospital Management Board shall respect and reflect the ethnic diversities in the Sub-County.

**15.** The functions and powers of the Sub County Hospital Management Boards shall, with necessary modifications, be the same as those of the County Hospital Management Boards under Section 13 of this Act.

Functions of the  
Sub-County  
Hospital  
Management  
Boards

**16.** (1) There is established a Management Committee for each health Centre in the county.

Health  
Management  
Committees

(2) A Health Centre Management Committee shall consist of eight members.

(3) A health management committee shall consist of—

- (a) The local Ward Administrator or village administrator;
- (b) the officer in charge of the health facility, who shall be the secretary;
- (c) the area chief or assistant chief, who shall be an ex officio member;
- (d) five other members, who are residents of the geographical area within which the health centre is located, elected by the local community under the supervision of the County Executive Member or his or her nominee—
  - (i) one person who shall have knowledge and experience in finance and administration and
  - (ii) four other persons representing gender, youth and persons with disabilities;

(4) Each Health Centre Management Committee shall, in consultation with the local community, nominate a chairperson from amongst its numbers.

(5) The chairperson appointed under subsection (4),

shall possess at least post-secondary level of education.

(6) A member of the Committee appointed pursuant to Section 16 (3) (d) shall hold office for a period of three years and shall be eligible for re-election for one further term.

(7) The Health Centre Management Committee may, if necessary, appoint a sub-committee from its members that shall carry out specific functions assigned to it by the committee.

(8) The Health Centre Management Committee shall meet four times in each financial year and shall maintain records of its deliberations.

(9) The quorum for the meeting of a health Centre management committee shall be seven of all the members excluding the secretary.

(10) The Health Centre Management Committee shall be responsible to the Accounting Officer of the Fund.

**17.** (1) There is established a Management Committee for each dispensary in the county.

Dispensary  
Management  
Committee

(2) The Dispensary Management Committee shall consist of eight members.

(3) The Dispensary management committee shall consist of—

- (a) The local Village Administrator;
- (b) the officer in charge of the dispensary, who shall be the secretary;
- (c) the area Assistant chief, who shall be an ex officio member;
- (d) five other members who are residents of the area within which the health centre is located, elected by the local community under the supervision of the County Executive Member—
  - (i) one person who shall have knowledge and experience in finance and administration and
  - (ii) four other persons representing gender, youth and persons with disabilities.

(4) Each Dispensary Management Committee shall, in consultation with the local community, nominate the

chairperson from amongst its numbers.

(5) The chairperson appointed under subsection (4), shall possess at least post-secondary level of education.

(6) A member of the Committee appointed under Section 17(3)(d) shall hold office for a period of three years and shall be eligible for re-election for two further terms of three years each.

(7) The Dispensary Management Committee may, if necessary, appoint sub-committee from its members that shall carry out specific functions assigned to it by the committee.

(8) The Dispensary Management Committee shall meet four times in each financial year and shall maintain records of its deliberations.

(9) The quorum for the meeting of the Dispensary management committee shall be seven of all the members excluding the secretary.

(10) The Dispensary Management Committee shall be responsible to the Accounting Officer of the Fund.

**18.** The Health Centre Management Committee or a Dispensary Management Committee shall—

- (a) supervise and control the administration of the funds allocated to the facilities;
- (b) open and operate a bank account at a bank approved by the County Executive Committee member responsible for finance;
- (c) cause to be prepared work plans and procurement plans;
- (d) cause to be kept books of accounts and records of accounts of the income, expenditure, assets and liabilities of the facility as prescribed by the officer administering the Fund;
- (e) prepare and submit certified periodic financial and performance reports as may be prescribed;
- (f) cause to be kept a permanent record of all its deliberations, submission and approval of budgets and other activities.

Functions of the  
Health Centre  
Management  
Committees and  
Dispensary  
Management  
Committees

**PART III—USER FEES AND OFFICER  
ADMINISTERING THE FUND**

**19.** (1) The fees payable as user charges under the cost-sharing program shall specified in the Finance Act. User Fees

(2) The user charges received by the health facilities under cost sharing are hereby exempted by this Act from being deposited in the County Revenue Fund in accordance with the provisions of Section 109 (2) (b) of the Public Finance Management Act.

**20.** The prevailing legal, financial and procurement regulations and procedures shall apply in the administration of the Fund. Application of  
Financial and  
Procurement  
Regulations

**21.** (1) The officer administering the Fund shall— Officer  
administering the  
Fund

- (a) supervise and control the administration of the Fund;
- (b) in consultation with the Board open and operate a bank account at a bank approved by the County Executive Committee Member responsible for finance;
- (c) develop a criterion for the appropriation of the Fund for approval by the Board;
- (d) in consultation with the Board, impose conditions on the authorized expenditure;
- (f) institute prudent measures for proper utilization for monies deposited in the Fund, and issue suitable internal controls and appropriate mechanisms for accountability, including audit of accounts by internal auditor of the department responsible for matters relating to finance;
- (h) cause to be kept books of accounts and records relating to all receipts, payments, assets, and liabilities of the Fund and or any other activities and undertakings financed by the Fund;
- (i) prepare, sign and transmit to the County Executive Committee Member for Finance in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund specifying all contributions to the Fund and the expenditure

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incurred from the Fund, and such details as the Treasury may from time to time direct, in accordance with the provisions of the Public Audit Act; and

- (j) furnish such additional information as may be required that is proper and sufficient for the purpose of examination and audit by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act.

(2) The Officer administering the Fund shall be discharging his or her duties in consultation with the Board.

#### **PART IV—FINANCIAL PROVISIONS OF THE FUND**

**22.** The Fund shall consist of—

Capitalization of  
the Fund

- (a) monies allocated and appropriated to the Fund from the county government's budget;
- (b) any grants, gifts, donations, loans or other endowments given to the Fund;
- (c) monies collected as user fees by collecting entities;
- (d) income generated from the proceeds of services rendered;
- (e) monies that may accrue to the Fund in the course of the exercise or performance of the functions of the Board under this Act; and
- (f) monies from any other lawful source accruing to the Fund.

**23.** (1) There shall be paid from the Fund the following expenditures as and when approved by the Board—

Fund Expenditure

- (a) Money for medical supplies of health facilities in the county;
- (b) Money to improve the quality of health care services in the health facilities approved by the Board;
- (c) Operational expenses incurred in the administration of the Fund;



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- (d) Monies as are necessary for the functioning and operation of the Board under this Act; and
- (e) Money for the provision of food to patients.

**24.** (1) The Board shall open a bank account for the Fund and such other accounts as may be approved of the County Executive Committee Member for Finance. Bank account of the Fund

(2) The signatories to the bank accounts maintained under subsection (1) shall be the Officer Administering the Fund, Secretary to the Board and two other persons appointed by the Board with the approval of the County Executive Committee Member.

(3) The signing instructions shall be such that the signature of the Secretary to the Board shall be mandatory on all payment cheques or other instrument intended for actual release of money from the fund, in addition any two of the other three signatories.

**25.** (1) The Officer Administering the Fund shall obtain bank statements on a monthly basis from all collecting entities and prepare a comprehensive financial report for submission to the Board. Bank statements

(2) Each collecting entity shall, on the request of the authorized officer and with the approval of the County Executive Committee Member responsible for finance, operate a bank account in its own name.

(3) Every collecting entity shall ensure that—

- (a) all monies collected are banked before the close of business on each day; and
- (b) no such monies shall be utilized without the approval of the Board or the committee as may be stipulated under the Public Finance Management Act.

(4) The Authorized Officer shall designate the following three signatories for each bank account in 25(2) above as follows—

- (a) The respective Medical Superintendent who shall be the mandatory signatory;
- (b) The respective Health Administrative Officer;
- (c) The hospital accountant; and

- (d) For all other collecting entities, the signatories shall be the Chief Officer of Health, the County Director for Health Services and a third nominee by the County Executive Committee Member for health.

(5) Each collecting entity shall every month, review and approve its bank reconciliation statement and submit an expenditure report to the Officer Administering the Fund in the prescribed manner.

(6) The Officer Administering the Fund shall obtain bank statements on a monthly basis from all collecting entities and prepare a comprehensive financial report for submission to the Board.

(7) The collecting entities shall ensure that basic books of accounts and financial records are properly maintained by ensuring that-

- (a) The collecting entity's financial management system and procedures are up to date and conform to the required accounting standards; and
- (b) The financial management system and procedures have the capacity to capture useful information and produce required reports for monitoring and decision making.

(8) The collecting entities shall ensure that certified financial reports are prepared and submitted to the Officer Administering the Fund in sufficient time and in the prescribed manner.

**26.** The financial year of the Fund shall be the period of twelve months beginning on the first day of July and ending on the thirtieth day of June in the following year.

Financial year

**27.** (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Board and the Fund for that year.

Estimates of income and expenditure

(2) The annual estimates shall make provisions for all the estimates of expenditure of the Committee and the Fund for the relevant financial year and shall provide for-

- (a) The payment and reimbursement of members of the Board of monies in respect of expenses

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incurred during the attendance of meetings or in the course of carrying out their duties.

(3) The financial estimates referred to under subsection (1) and (2) shall—

- (a) Differentiate between recurrent and disbursement expenditure; and
- (b) Itemize every activity that the Board intends to undertake in respect of the Fund in the coming financial year under a separate vote head.

(4) 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 County Executive Committee Member for tabling in the County Executive Committee for its approval.

(5) Upon the approval of the estimates by the County Executive Committee, all monies appropriated for purposes of the Fund and the Board shall be paid into the relevant accounts established under section 24.

**28.** (1) The Board shall, within a period of three months after the end of each financial year or within such longer period as the County Executive Committee Member may approve in writing, submit to the County Executive Committee Member a report of the operations of the Fund during that year.

Annual report

(2) The County Executive Committee Member shall lay the reports before the County Executive Committee and cause it to be tabled before the County Assembly, including the balance sheet and the statements of accounts, within a period of fourteen days of the receipt of the report and statements, or, if the County Assembly is not sitting, within fourteen days of the commencement of its next sitting.

**29.** (1) The Board shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Fund.

Accounts and audit

(2) Within a period of three months after the end of each financial year, the Board shall submit to the External Auditor the accounts prepared under subsection (1) in respect of that year together with a statement of-

- (a) The income and expenditure of realized by all

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collecting entities during that year;

- (b) The income and expenditure realized by the Fund and
- (c) The net change in assets and liabilities of the Committee in the respective financial year.

(3) The annual accounts referred to under this section shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 of the Constitution and the Public Audit Act.

#### **PART V—MISCELLANEOUS PROVISIONS**

**30.** (1) The County Executive Committee Member may deploy such qualified officers and staff as are necessary for the proper functioning and management of the Fund and upon terms and conditions that the Board with the approval of the County Executive Committee Member may determine.

Officers and staff  
of the Fund

(2) A management structure of the Board shall be developed, established and where necessary varied by the County Executive Committee Member with the approval of the Governor.

**31.** The Chairperson and members of the Board shall be paid such allowances and other benefits that the County Executive Committee Member shall determine, guided by the recommendations of Salaries and Remuneration Commission.

Remuneration of  
members and staff

**32.** No act, matter or thing done or omitted to be done by any member of the Board, or any member of staff or other person in the service of the Board; or any person acting under the direction of the Board, shall, if that act, matter or thing was done or omitted to be done in good faith in the execution of a duty or direction, render that member or person personally liable to any civil liability.

Protection from  
personal liability

**33.** (1) The County Executive Committee Member may, after consultation with the Board, make regulations generally, for the governance, control and administration of the Fund and effective operation of this Act and in particular for—

Regulations

- (a) the criteria for granting exemptions and waivers;

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- (b) the criteria for gazetting health facilities that are receiving monies from the Fund;
- (d) the constitution and procedure of meetings of the Board.

(2) Regulations made under subsection (1) shall be approved by the County Assembly before their implementation.

**34.** In the event of winding up of the Fund, the cash balances shall be transferred to the County Revenue Fund while other assets of the Fund shall be transferred to the department for the time being responsible for matters relating to Health services. Winding up