

**SPECIAL ISSUE**

*Homabay County Gazette Supplement No. 4 (Acts No. 2)*



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**HOMABAY COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2016**

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**NAIROBI, 10th May, 2016**

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2016

*Homa Bay County Flag, Emblems and Names*

**No. 2**

**THE HOMA BAY COUNTY FLAG, EMBLEMS AND  
NAMES ACT, 2016**

**No. 2 of 2016**

*Date of Assent: 14th April, 2016*

*Date of Commencement: See Section 1*

**ARRANGEMENT OF SECTIONS**

*Section*

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**SCHEDULES**

**FIRST SCHEDULE**

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**THE HOMA BAY COUNTY FLAG, EMBLEMS AND NAMES ACT, 2016**

**AN ACT of the Homa Bay County to provide for the county flag and other symbols and to prevent the improper use of the county flag and of certain symbols, names, words and likenesses for professional or commercial purposes, and for matters incidental thereto**

**ENACTED** by the County Assembly of Homa Bay as follows—

**PART I—PRELIMINARY PROVISIONS**

1. This Act may be cited as the County Flag, Emblems and Names Act, 2016 and shall come into force on the fourteenth day after its publication in the Kenya Gazette and County Gazette.

Short title and commencement.

2. In this Bill unless the context otherwise requires—

Interpretation.

“Specified Emblem” means any emblem, seal, flag, pennant, insignia, ensign or coat-of-arms of a kind specified in Part I of the First Schedule;

“Specified Likeness” means any photograph, drawing or other pictorial representation of the person for the time being holding any of the offices or dignities specified in Part III of the First Schedule;

“Specified Name” means any of the names and words specified in Part II of the First Schedule and includes any abbreviation of any such name;

**PART II—COUNTY FLAG, EMBLEMS AND NAMES**

3. (1) The flag of which the design and description are set out in Part I of the Schedule to this Act is hereby declared to be the Homa Bay County Flag (in this Act referred to as the County Flag).

County Flag and Emblems Declared.

(2) The coat of arms device of which the blazon and description are set out in Part II of the Schedule to this Act is hereby declared to be the Coat of Arms of the Homa Bay County (in this Act referred to as the Homa Bay County Coat of Arms).

(3) The seal of which the design is set out in Part III of the Schedule to this Act is hereby declared to be the Public Seal of the Homa Bay County (in this Act referred to as the Homa Bay County Pubic Seal).

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4. A person who shows disrespect, in speech, manner or writing, to or with reference to the Homa Bay County Flag, or to any symbol or any representation thereof, shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

Insulting County  
Flag and Emblems  
an offence

5. (1) Notwithstanding anything contained in any law for the time being in force, no person shall, except with the written permission of the Governor—

Prohibition and  
improper use of  
county flag and  
emblems.

- (a) use the flag, any specified symbol or any imitation thereof, in furtherance of, or display the same as an advertisement for, any trade, business, calling or profession; or
- (b) use any county symbol, specified name or specified likeness, or any colourable imitation thereof, in the title of any patent, or in any trade mark or design; or
- (c) manufacture or import any article or goods bearing the flag or any specified emblem or any article or goods on which any title, trade mark or design is used in contravention of paragraph (b) of this subsection.

(2) Subsection (1) (a) shall not apply to the publication of a *bona fide* news item (whether in a newspaper, website or by any other medium) or to the publication in a newspaper of any article connected with any *bona fide* news item other than a news item in the furtherance of, or as advertisement for, any trade, business, calling or profession.

(3) Any permission given under subsection (1) of this section may be given subject to such conditions as the Governor may deem fit.

(4) Any person who contravenes the provisions of this shall be guilty of an offence and liable to a fine not exceeding five thousand shillings, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

6. Notwithstanding anything contained in any law for the time being in force, no authority empowered or required by law to register any company, firm or other body of persons, or any trade mark or design, or to grant a patent,

Prohibition of  
registration of  
certain companies,  
e.t.c.

shall—

- (a) register any company, firm or other body of persons under any name; or
- (b) register a trade mark or design which bears any emblem, name word or likeness; or
- (c) grant a patent in respect of an invention which bears a title containing emblem, name or word.

If the use of such name, emblem, word or likeness would be in contravention of section 7 of this Act, and any purported registration or grant made contrary to this section shall be absolutely void and ineffective for all purposes.

7. (1) No person shall display at any place or on any premises any flag or banner or permit any flag or banner to be so displayed, being in either case a flag or banner (other than a specified emblem) which is reputed to belong, or is held out by any authority as belonging to Homa Bay County or of any particular part thereof (other than the area the county).

Prohibition of display of certain flags.

(2) Any person who contravenes subsection (1) of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and such imprisonment.

(3) This section shall bind the Government.

8. No prosecution for any offence punishable under this Act shall be instituted except with the previous sanction in writing from the Office of Director of Public Prosecutions.

Sanctions for prosecution

9. (1) If a police officer has reasonable cause to believe that something which has been used, displayed, manufactured or imported contrary to this Act is to be found on any premises, he/she may require the person in charge or appearing to be in charge of the premises to allow him/her to enter the premises and to afford him/her all reasonable facilities for a search thereof, and if entry cannot within a reasonable period be so obtained the officer may without warrant enter the premises (using force if necessary) and search therein.

Power of Seizure.

(2) If a police officer finds on any premises anything in respect of which he/she has reasonable cause to believe that an offence under this Act has been committed by any

person, he/she may seize that thing, and where he/she does so shall bring it before a magistrate, who shall order it to be forfeited if he is satisfied that it has been used, displayed, manufactured or imported contrary to this Act, or else shall order it to be restored to the person from whom it was seized.

**10.** (1)The following persons shall fly the County flag on their official vehicles during official duty—

Officials authorized to fly the county flag.

- (a) the Governor;
- (b) the Deputy Governor;
- (c) the Speaker of the County Assembly; and
- (d) the County Executive Committee Member

**11.** (1)The County Flag shall be hoisted on the following occasions and places—

Hoisting the County Flag.

- (a) at all official functions attended by the Governor, the Deputy Governor or a member of the County Executive Committee;
- (b) at the headquarters of the County Government; Sub-County Administrators headquarters; Ward Administrators headquarters; and Village Administrators headquarters;
- (c) at the County Assembly; and
- (d) in all devolved public institutions.

**12.** The County Secretary shall be the custodian of the County Seal and shall ensure its proper use.

Custodian of the county seal.

### **PART III—MISCELLANEOUS PROVISIONS**

**13.** The County Secretary may, by notice in the Gazette, amend the first schedule to this Act.

Power to Amend the First Schedule

**14.** The County Secretary may make regulations with the approval of the County Assembly—

Regulations

- (a) prescribing the occasions upon which, the persons by whom and the manner in which the County Flag may be flown or displayed, as the case may be;
- (b) prohibiting, controlling or restricting the use of any specified emblem, specified likeness or specified name;
- (c) generally for carrying this Act into effect.

**FIRST SCHEDULE****PART I—EMBLEMS**

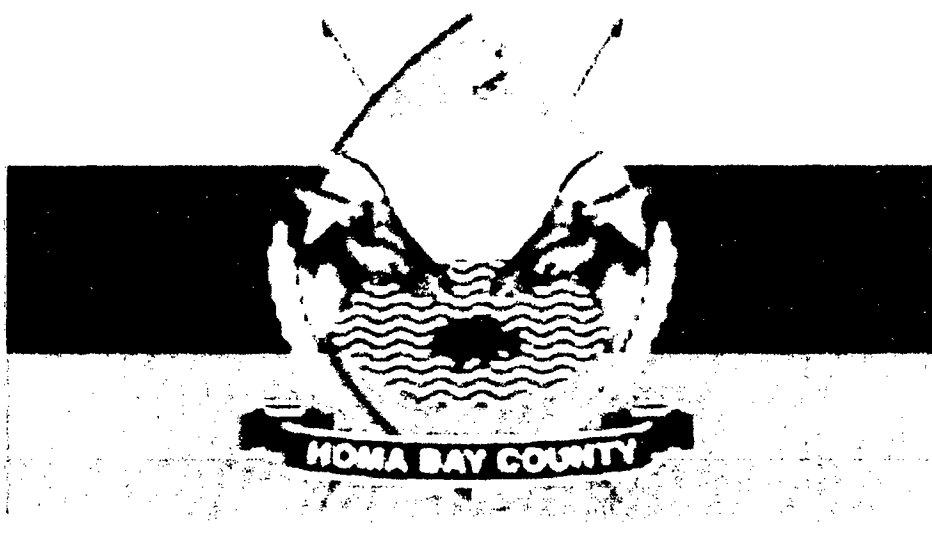
1. The County Flag
2. The County Coat of Arms
3. The County Public Seal

**PART II—NAMES AND WORDS**

1. The name of the Governor

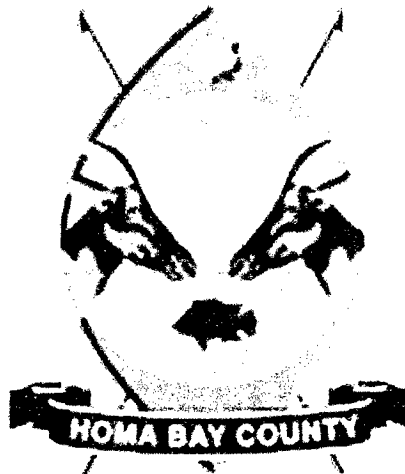
**PART III—OFFICES AND DIGNITIES**

1. The Governor
2. The Speaker

**SECOND SCHEDULE****PART I—THE COUNTY FLAG****DESCRIPTION**

The three major strips of equal width coloured from top to bottom, Orange, Blue and Green and a narrow white strip running vertically on the extreme left edge. The flag bears a symmetrical shield bearing a cotton bud, the pineapple fruit, a fish in the silhouette of a lake, the supporters of the shield bearing two roan antelopes bordered by two strands of millet on either side.



**PART II—THE COUNTY COAT OF ARMS****DESCRIPTION**

The County Court of Arms is the official insignia of Homa Bay County it contains a shield bearing a cotton bud, the pineapple fruit, a fish in the silhouette of a lake, the supporters of the shield bearing two roan antelopes bordered by two strands of millet on either side. These elements come together to create a symbol of the natural resources the County is endowed with thereby being a source of economic stability and pride to its people.

**PART III—THE COUNTY PUBLIC SEAL****DESCRIPTION**

The Homa Bay County Seal is a simplified line art representation of the Homa Bay County Court of Arms to be applied as an embossing on official County documents.





