

SPECIAL ISSUE

Kenya Gazette Supplement No. 9 (Kisumu County Bills No. 5)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KISUMU COUNTY BILLS, 2023

NAIROBI, 5th September, 2023

CONTENT

Bill for Introduction into the County Assembly of Kisumu—

PAGE

The Kisumu County Administration (Village Units) (Amendment) Bill, 2023 ... 1

THE KISUMU COUNTY ADMINISTRATION (VILLAGE UNITS) (AMENDMENT) BILL, 2023

A Bill for

AN ACT of the County Assembly of Kisumu to amend the Kisumu County Administration (Village Units) Act, 2019 and for connected purposes

ENACTED by the County Assembly Kisumu, as follows—

Short title

1. This Act may be cited as the Kisumu County Administration (Village Units) (Amendment) Act, 2023.

Amendment of section 2 of No. 1 of 2019

2. The Kisumu County Administration (Village Units) (in this Act referred to as the “principal Act”) is amended in section 2 by inserting the following new definitions in their alphabetical sequence—

“County Executive Committee Member” means the County Executive Committee Member responsible for all matters related to County Administration;

“Department” means Department responsible for all matters related to County Administration;

“Emergency” means a serious, unexpected, and often dangerous situation requiring immediate action in order to avoid harmful results.

Amendment of section 10 of the principal Act

2. The Principal Act is amended by inserting the following new Sections immediately after Section 10 (1) —

Approval procedures of the Village Administrator

10. (2). The County Assembly shall consider the following factors during the approval of the Village Administrator—

- (a) the procedure used to arrive at the nominee for the position of the Village Administrator in accordance with Section 52 of the County Governments Act, 2012;
- (b) suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body to which nomination is being made.

Amendment of section 12 of No. 1 of 2019

3. The principal Act is amended in Section 12 (3) by deleting the words “as shall be determined by the County Assembly” and replacing therefor with the words “in accordance with the Salaries and Remuneration Commission’s Regulations on payment of allowances for Councils of this nature.”

Amendment of section 15 of No. 1 of 2019

4. (1) The Principal Act is amended in Section 15 (1) (a) by deleting the words “whenever need arises but not less than every two months, and” and replacing therefor with the words “at least once every quarter and” .

(2) The Principal Act is amended in Section 15 (2) by deleting the entire *proviso*.

Insertion of new Section immediately after section 15 of Act

(3) The Principal Act is amended by inserting the following new Sections immediately after Section 15—

Council meetings

16. (1) The Village Council shall meet at least once every quarter.

(2) Despite sub-section (1), the Council may convene special meetings where necessary,

(3) Without prejudice to the generality of sub-section (2) above, special meetings shall be meetings convened for emergency matters only

(4) The quorum for meetings of the Council shall be a third of the members,

(5) A resolution of the Council shall require an affirmative vote of more than one half of the membership present at a meeting, excluding the chairperson’s vote which shall be a casting vote.

(6) In the absence of the chairperson, the members of the Council in attendance shall elect one of them to chair the meeting.

Amendment of section 19 of No. 1 of 2019

5. (1) Section 19 of the principal Act is amended by deleting the entire *proviso* and substituting therefor with the following new paragraph—

Regulations

19 (1) The County Executive Committee Member shall make Regulations for the better carrying into effect the provisions of this Act.

(2) Without prejudice to the general effect of subsection (1), the County Executive Committee Member shall make regulations for—

- (a) the procedure and criteria for appointment of the members of the Village Council provided for in Section 12 (1) (b) of the Principal Act;
- (b) operational standards of the Village Councils;
- (c) the continuous review, evaluation and monitoring of County Administration policies;
- (d) procedures for the suspension of a village council member;
- (e) procedures for the fulfillment of the two-thirds gender rule in the composition of the Village Council.

(3) Regulations made pursuant to this section shall be in accordance with the Statutory Instruments Act (No. 23 of 2013) and shall be approved by the County Assembly to come into effect.

MISCELLANEOUS PROVISIONS

Insertion of new Sections after section 19 of Act No. 1 of 2019

(2) Section 19 of the Principal Act is further amended by inserting the following new sections immediately after the Section—

Indemnity from personal liability

20. (1) The County Executive Committee Member, a member of staff or an authorized officer of the Department, shall not be personally liable in respect of any act done in the execution of powers or duties under this Act or its Regulations.

(2) Subsection (1) shall not relieve the Government of the liability to pay compensation or damages to any person for any injury, loss of property or interests caused by the exercise of any power conferred by this Act or by the failure, wholly or partially of any works.

Offences and penalties

21. (1) A person who—

- (a) without lawful excuse ignores or fails to obey the provisions of this Act or any policy instruction issued by the County Government or officer of the Department in exercise of the powers or the performance of the functions under this Act; or

(b) willfully obstructs any officer or agent of the County Administration in the discharge of their lawful duties; or

(2) Where an offence under subsection (1) is committed by a Village Council, every member of the Council or officer of the Department who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence under subsection (1).

(3) Where an offence under subsection (1) is committed by a partnership, every partner or officer of the partnership who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence under subsection (1).

(4) Any person who commits an offence under this Act for which no other penalty is provided is liable in the case of conviction, to a fine not exceeding two hundred thousand Kenya shillings or a term of imprisonment not exceeding six months, or to both;

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to amend the Kisumu County Administration (Village Units) Act, 2019 and for connected purposes.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

The Bill delegates legislative powers to the CEC Member responsible for County Administration to formulate Regulations for the operationalization of the provisions of this Act but DOES NOT limit any fundamental rights and freedoms.

Statement on how the Bill concerns the county government

The Bill concerns the County Government of Kisumu pursuant to the provisions of the Fourth Schedule of the Constitution of Kenya and Section 54 of the County Governments Act, 2012.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution. However, the implementation of this Act shall occasion additional expenditure of public funds.

MOSES OCHELE,
*Chairperson, Committee on Administration of Law,
Justice, Constitutional Affairs, Good Governance and Security.*