

**SPECIAL ISSUE**

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**SIAYA COUNTY ACTS, 2019**

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COUNTY GOVERNMENT OF SIAYA  
OFFICE OF THE COUNTY ATTORNEY



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**THE SIAYA COUNTY LAWS INSPECTORATE, COMPLIANCE  
AND ENFORCEMENT ACT, 2019**

**No. 6 of 2019**

*Date of Assent: 11th November, 2019*

*Date of Commencement: See Section 1*

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**THE SIAYA COUNTY LAWS INSPECTORATE, COMPLIANCE  
AND ENFORCEMENT ACT, 2019**

**AN ACT of the County Assembly of Siaya to provide for  
establishment of Siaya county laws enforcement inspectorate unit  
and for matters connected thereto**

**ENACTED** by the County Assembly of Siaya, as follows—

**PART I—PRELIMINARY**

**Short title and Commencement**

1. This Act may be cited as the Siaya County Laws Inspectorate, Compliance and Enforcement Act, 2019 and shall come into force upon publication in the *Kenya Gazette*.

**Interpretation**

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

“Animal” includes domestic animals, wild animals and poultry;

“Board” means the County Public Service Board of Siaya County established under section 57 of County Governments Act, 2012;

“Committee” means the Disciplinary Committee established under section 8 of this Act;

“Compliance and Enforcement” includes action taken to establish compliance of any requirement by a county law or enforcing compliance of county laws and pursuing punishment for committing an offence under a county law;

“County Law” means any Act of the County Assembly of Siaya or a subsidy county law;

“Court” means a magistrate court designed to handle criminal matters arising from county laws;

“Governor” means the governor of the County Government of Siaya;

“Member of County Executive Committee” means the county executive member responsible for matters pertaining to enforcement of county laws;

“Officer” means an officer appointed under section; 5

“Premise” means any building or structure where a regulated activity is undertaken or is about to be undertaken but does not include residential houses;

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“Regulated Activity” means any activity, trade or business whose undertaking, a county law requires obtaining of a license, permit, approval or payment of service fee, by or to relevant county organ;

“Relevant County Organ” means the organ or department responsible for licensing, issuing permits, collecting services fee or approving an activity;

“Unit” means the Inspectorate Unit established under section 4;

“Vessel” includes motor vehicles, motorbikes, bicycles and any other motorized or non-motorized vessel.

**Objects of the Act**

3. The objects of this act are—

- (a) to provide for institutional framework for the enforcement of the county laws; and
- (b) to regulate the actions of county inspectorate officers.

**PART II—ESTABLISHMENT OF THE COUNTY LAWS ENFORCEMENT INSPECTORATE SERVICES**

**Establishment of Inspectorate Unit and Inspectorate Stations**

4. (1) There is hereby established a unit known as Siaya County laws enforcement inspectorate unit.

(2) The member of the County Executive Committee shall publish in the *Kenya Gazette*, the establishment and location of every Inspectorate Unit station in the County.

**Functions of the Inspectorate Unit**

5. (1) The inspectorate unit shall be responsible for—

- (a) protecting and guarding the property of the county;
- (b) enforcement of compliance with the Siaya county laws and regulations;
- (c) inspection of compliance with trade licenses and permits;
- (d) protection of public entertainment sites;
- (e) enforcement of barrier cess and royalties;
- (f) service fee and land rates collection; and
- (g) prevention of crime against Siaya County Laws and Regulations.

(2) In addition to the matters listed at sub section I the unit shall be responsible for compliance information of any other matter that it may be required to do so by any other written law or as directed by any department in the county government provide that such directives are within the Siaya County Laws or any other written Law.

### **PART III —APPOINTMENT, DEPLOYMENT, RANKING AND DISCIPLINE OF OFFICERS**

#### **Appointment of Inspectorate officers**

6. (1) The County Public Service Board shall in consultation with the member of the county executive committee competitively recruit and appoint officers into the unit.

(2) The board shall ensure that recruitment and appointment of officers into the unit reflects gender balance, ethnic and geographical diversity of the people of the County.

#### **Deployment, promotion and Ranking of officers**

7. (1) The Board shall be responsible for deployment, promotion, demotion of the officers.

(2) The board shall develop the various ranks of officers in the unit and shall publish ranks in the Kenya and county Gazettes.

#### **Establishment of the Disciplinary Committee**

8. (1) There is established an internal disciplinary committee that will be responsible for maintaining discipline in the inspectorate unit.

(2) The committee shall comprise of—

(a) the Chairperson who shall be the Chief Officer in charge of the Inspectorate.

(b) three persons from the Inspectorate Unit chosen by the County Executive Committee Member.

(c) a representative from the Office of the County Attorney

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

#### **Powers of the Disciplinary Committee**

9. (1) The disciplinary committee shall have power to—

(a) receive and investigate a complaint regarding an inspectorate officer;

(b) sermon and interrogate witnesses;

(c) call for or require the production of documents examination;

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- (d) recommend the appropriate disciplinary action against an inspectorate officer to the public service Board,
- (2) The disciplinary actions the committee may recommend include—
- (a) Interdiction of an officer;
  - (b) Suspension;
  - (c) Dismissal;
  - (d) Demotion;
  - (e) Deduction of salary; or
  - (f) Transfer to another inspectorate unit within the County.

**Appeals**

10. (1) Any officer aggrieved by the decision of the disciplinary committee may appeal to the Siaya County Public Service Board.
- (2) Any officer aggrieved with the decision of the Siaya County Public Service Board may appeal to the Public Service Commission.
- (3) The right to appeal does not bar any person from applying for judicial review against the decision of the disciplinary committee.

**PART IV — POWERS OF ENTRY INTO A PREMISE**

**Powers of Entry into a Premise**

11. (1) An officer may, at all reasonable times, enter upon any premises or place in which there is a reasonable ground to believe that a regulated activity is being undertaken, for the purpose of compliance and enforcement.
- (2) If an officer acting under sub section (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 he or she reasonably suspects that an activity is about to or being undertaken contrary to any county laws and where entry has been refused.

**Powers of Arrest**

12. (1) Where an officer has reasonable grounds believe that an offence has been committed or is about to be committed under any county law, the officer may arrest—
- (a) the person committing or who is about to commit the offence;
  - (b) where the offence relates to a regulated activity—

- (i) the proprietor of the activity; or
- (ii) an employee of the proprietor; or
- (iii) any other person whom the officer reasonably believes is involved in the execution of the activity.

(2) An officer may use reasonable force to execute, arrest, where a person who is believed to have committed a crime under any county law resists an arrest.

(3) A limitation of a right or fundamental freedom shall be reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom.

#### **Production in court or police station**

13. Where an officer arrests any person under section 12 above, he or she shall immediately forward the person arrested to the nearest police station or, produce such person in court within 24 hours.

#### **Powers to impound goods**

14. (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 on the goods and cause them to be stored at the inspectorate station until the person involved complies with the law or the case against him is determined by the court

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

(3) Sub-section (1) shall not preclude the relevant county organ from dealing with the impounded goods in any other manner permitted by order of the court or by any other law.

#### **Impounding of vessels**

15. Where an officer reasonably believes that a vessel is parked or controlled in any manner contrary to any county law or without payment of prescribed parking fee, the officer may impound the vessel by clamping or towing it to the nearest Inspectorate Unit Station.

#### **Power to impound Animals**

16. Any officer may impound any animal that is kept contrary to any County law.

#### **Identification of an officer**

17. An officer shall sufficiently identify himself or herself while exercising any of the powers under this part.



**No. 6 Siaya County Laws Inspectorate, Compliance and Enforcement 2019****Unapproved building and structures**

18. (1) It shall be unlawful for any person to erect, build establish or keep any structure, building, shed, Kiosk or any other structure whatsoever or for whatever purpose on any area or public or private without approval of the County Government.

(2) Where it has come to the attention of the County Government that there is or are such structures mentioned in subsection (1) above which have been put, constructed or erected without County Government approval, the county government shall give the owner or occupier of such structure seven (14) days' notice to demolish the structure or obtain County Government approval.

(3) If the owner and or occupier does, not demolish or obtain approvals within seven (14) days, the County Government may demolish such structures and surcharge the owner of the plot or person who has constructed the costs of demolition.

**Costs of demolition**

19. (1) The surcharge mentioned in section 18 (3) herein above may—

(a) be added to rates payable by rent; and/or

(b) be recovered by the county government as a civil debt.

(2) An invoice raised by the County Government shall be prima facie evidence of expenses incurred by County Government for the demolition.

**Service of notice**

20. Any notice required to be given shall be deemed to have been served if—

(a) it is placed on a conspicuous place of the structure or buildings:

(b) served upon the owner; or

(c) served upon the occupant.

**PART V—OFFENCES****Impersonating of an officer**

21. 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 five hundred thousand or imprisonment for a period not exceeding three years, or to both.

**Obstruction of an officer**

22. Any person who willfully resists arrest, obstructs or interferes with the duties of an inspectorate officer commits an offence and shall be liable upon conviction to a fine not exceeding a sum of Kenya Shillings

fifty thousand (KSh. 50,000) or to imprisonment for a term not exceeding one year or to both.

#### **Destruction of county property**

23. (1) Any person who defaces or destroys any property being the property of the County Government commits an offence and shall be liable upon conviction to a fine not exceeding Kenya shillings 50,000 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 property destroyed.

#### **General Penalty**

24. Any person who is convicted of an offence under this act for which no penalty is prescribed shall upon conviction of that offence be liable to a fine not exceeding a sum of Kenya shillings Fifty thousand (KSh. 50,000) or to imprisonment for a term not exceeding one year or both.

### **PART VI — MISCELLANEOUS PROVISIONS**

#### **Fines**

25. All fines imposed and recovered by a competent court on an offender shall be paid and collected by the county as revenue

#### **Arrangement with other public bodies**

26. The Governor and the County Executive Committee Member shall put in place arrangements with—

- (a) the director of public prosecution for the purpose of facilitating prosecution of those who contravene county laws;
- (b) the judicial service commission of Kenya for the purpose of allocation and designation of magistrates to adjudicate on criminal matters arising from county laws and the transmission of fines paid by those convicted of county offences into the county revenue fund;
- (c) the relevant public authorities dealing with matters of incarceration of criminal suspects and convicts.

#### **Regulations**

27. The County Executive Committee Member may in consultation with the relevant departments and committees in the county government make regulations to—

- (a) further prescribe and regulate the conduct of inspectorate enforcement officers;
- (b) facilitate the implementation of this Act.

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**SCHEDULE****STRUCTURE OF THE INSPECTORATE ENFORCEMENT DEPARTMENT**

The structure of the inspectorate enforcement department shall be as follows in order of the ranks—

- (i) Chief Officer in charge of Inspectorate
- (ii) Director of enforcement.
- (iii) Sub County Enforcement Commander.
- (iv) Senior Superintendent.
- (v) Superintendent.
- (vi) Chief Inspector.
- (vii) Inspector.
- (viii) Senior Sergeant.
- (ix) Sergeant.
- (x) Officers.