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**KENYA GAZETTE SUPPLEMENT**

**BOMET COUNTY ACTS, 2021**

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ENFORCEMENT ACT, 2021**

**No. 6 of 2021**

*Date of Assent: 17th January, 2019*

*Date of commencement: See Section 1*

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**THE BOMET COUNTY INSPECTORATE, COMPLIANCE AND  
ENFORCEMENT ACT, 2021**

**AN ACT of the County Assembly of Bomet to provide for the  
establishment of Bomet County Enforcement Inspectorate Unit  
and for matters connected thereto**

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

**PART I—PRELIMINARY**

**Short title and commencement**

1. This Act may be cited as the Bomet County Inspectorate, Compliance and Enforcement Act, 2021 and shall come into force upon publication in the *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 Bomet County established under section 57 of County Governments Act, 2012;

“Committee” means the disciplinary committee established under Section 8 of the Act;

“Compliance 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 Bomet or a subsidiary county law;

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

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

“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.

“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(3);

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

### **Objects of the Act**

3. The objects of this Act are—

- (a) to deliver an effective and independent inspectorate service within the county that shall among others ensure compliance with county legislations and provisions of the Constitution by county the residents
- (b) to regulate the actions of County Inspectorate officers;
- (c) to give effect to the provisions of Article 187 of the Constitution that require the county executive committee to implement county legislation within the county and national legislation to the extent that the legislation so requires; and
- (d) establish by law, pursuant to Article 185(2) of the Constitution, an inspection mechanism so as to ensure the effective performance and exercise of the powers conferred on the county government under part two of the Fourth Schedule of the Constitution.

### **PART II—ESTABLISHMENT OF THE COUNTY LAWS ENFORCEMENT INSPECTORATE SERVICE**

#### **Establishment of Inspectorate Unit and Inspectorate Stations**

4. (1) There is hereby established a Service known as Bomet County Laws Enforcement Inspectorate Service.

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

(3) The Inspectorate Service shall consist of the following units—

- (a) an inspection unit;
- (b) a fire and emergency services unit;
- (c) a disaster and rescue service unit;

- (d) a traffic unit;
- (e) such other unit as the Board with the approval of the Assembly may prescribe.

(4) All persons who immediately before the commencement of this Act were officers in the enforcement and inspectorate service shall upon commencement of this Act become members of the service in accordance with this Act in such ranks as the Board shall designate.

#### **Functions of the Inspectorate Unit**

5. (1) The Inspectorate Unit shall be responsible for—
- (a) protecting and guarding the property of the county, including public utilities;
  - (b) enforcement of compliance with the Bomet County Laws and Regulations;
  - (c) ensure legal compliance with all county revenue collection requirements including cess, royalties, service fee, trade licenses, permits and land rates;
  - (d) regulate and control traffic on county roads, keep order and prevent obstructions in county public places;
  - (e) offer firefighting and emergency services;
  - (f) co-ordinate disaster management;
  - (g) respond to complaints relating to regulated activities, from residents of the county or persons affected by the regulated activity;
  - (h) assist the police or any other authority in the investigation of violations of county laws for purposes of preparation for court proceedings;
  - (i) ensure a clean and safe environment in areas such as food standards, products safety, animal health and welfare based on standards developed by the relevant national and county government entities;
  - (j) carry out inspections within the County to ensure compliance with set standards in respect of the functions of the County Government as specified under Part 2 of the Fourth Schedule of the Constitution; and
  - (k) prevention of crime in the county.

(2) In addition to the matters listed at sub-section 1, the Unit shall be responsible for compliance enforcement 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.

(3) A Unit shall, in the performance of its functions under subsection (1)—

- (a) keep proper records relating to any enforcement action taken under this act or any other law;
- (b) use specialized equipment approved by the relevant national government entities to determine compliance with county laws on matters such as weights and measures and noise level;
- (c) prepare reports, statements and attend court to give evidence or testimony related to the prosecution of county law offenders; and
- (d) collaborate with the relevant national and county agencies for the conduct of investigations and effective performance of its functions.

#### **Allocation of Funds**

6. (1) The County Assembly shall allocate adequate funds to enable the inspectorate to perform its functions and the budget of the inspectorate shall be a separate vote.

(2) The County Chief Officer in-charge of Inspectorate shall ensure that every unit is allocated sufficient funds to finance its activities.

#### **Training Institution**

7. The Inspectorate shall establish and maintain an Inspector Training Institution for purposes of training and retraining of its officers. in accordance with training curriculum—

- (a) training in the institution referred to in subsection (6) shall be conducted in accordance with the training curriculum;
- (b) the inspectorate may collaborate with other training institutions to provide training to its officers;
- (c) the Board shall develop guideline on the curriculum, examination and certification of inspectorate trainees.

#### **Oath of Office**

8. An inspectorate officer shall upon being enlisted make and sign before an officer authorized by law to administer oath in English or *Swahili*.

**Inspectorate officers prohibited from conflict of interest**

9. No member of the inspectorate unit shall engage in any trade, business or employment, if the trade, business or employment is in conflict of interest with the performance of the inspectorate officer's duties.

**PART III—APPOINTMENT, DEPLOYMENT, RANKING AND DISCIPLINE OF OFFICERS****Appointment of Inspectorate officers**

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

(2) The Board shall ensure that recruitment and appointment of officers into the Service reflects—

- (a) ethnic and geographical diversity of the people of the county;
- (b) uphold the principle that not more than two-thirds of the appointments shall be of the same gender;
- (c) ensure equity of opportunity amongst all the wards in the County.

**Deployment, promotion and ranking of officers**

11. (1) The Board shall be responsible for deployment, promotion and 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 *Gazette*.

**Establishment of the Disciplinary Committee**

12. (1) There is established an internal disciplinary committee that shall be responsible for maintaining discipline in the Inspectorate units.

(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 County Human Resource Department;
- (d) a representative from the County Legal Office or department; and
- (e) a representative from the County Public Service Board.

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

**Powers of the Disciplinary Committee**

13. (1) The Disciplinary committee shall have power to—

- (a) receive and investigate a complaint regarding an inspectorate officer;
- (b) summon and interrogate witnesses;
- (c) call for or require the production of documents for examination;
- (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**

14. (1) Any officer aggrieved by the decision of the County Public Service Board upon the recommendations of the Disciplinary Committee may appeal to the Public Service Commission.

(2) 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 OFFICERS****Power of entry by authorized officer**

15. (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 compliance enforcement.

(2) If an officer acting under subsection (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 reasonably suspects that an activity is about to or being undertaken contrary to any county laws and where entry has been refused.

**Power to arrest**

16. (1) Where an Officer has a reasonable grounds to 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 that is involved in the execution of the activity.

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

**Production in court or police station**

17. 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.

**Power to impound goods**

18. (1) Where an officer has reasonable grounds to believe that a person is trading in goods contrarily 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**

19. Where an officer reasonably believes that a vessel is parked or controlled in any manner contrarily 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**

20. An officer may impound any animal that is kept contrary to any county law.

**Identification of an Officer**

21. (1) An enforcement officer shall produce a service identity document when exercising a power under this Act or any other law.

(2) A uniform worn by enforcement officers shall be embedded with distinctive identification to ensure that the enforcement officer is—

- (a) distinguishable from non-law enforcement personnel; and
- (b) easily recognized by the public as an enforcement officer.

**Unapproved building and structures**

22. (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 (7) 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 (7) 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**

23. (1) The surcharge mentioned in section 15(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**

24. Any notice required to be given shall be deemed and 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 an officer**

25. 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**

26. 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 Kenya shillings 50,000 or to imprisonment for a term not exceeding one year or to both.

### **Destruction of county property**

27. (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**

28. 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 Kenya Shillings 50,000 or to imprisonment for a term not exceeding one year or to both.

## **PART VI—MISCELLANEOUS PROVISIONS**

### **Fines and other public**

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

### **Arrangements with other public offices**

30. The Governor and the member of the County Executive Committee 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; and

- (c) the relevant public authorities dealing with matters of incarceration of criminal suspects and convicts.

### **Regulations**

**31.** 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
- (c) prescribe the administrative organization of the inspectorate service
- (d) describe, the wearing, issuing of uniform, accoutrements and necessities by the inspectorate;
- (e) monitor and evaluate the performance of the functions of the inspectorate;
- (f) facilitate the involvement of the public in the activities of the inspectorate;
- (g) establish an inspectorate reform unit for ensuring continuous and sustainable inspectorate reforms.

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

1. The Structure of the Inspectorate Enforcement Department shall be as follows in order of their rank—

- (i) Chief Officer in charge of Inspectorate;
- (ii) Director of enforcement;
- (iii) Principal enforcement officer;
- (iv) County enforcement officer;
- (v) Sub-county enforcement commander;
- (vi) Senior superintendent;
- (vii) Superintendent;
- (viii) Chief inspector;
- (ix) Inspector;
- (x) Senior sergeant;
- (xi) Sergeant;
- (xii) Officers;

**STRUCTURE OF THE INSPECTORATE ENFORCEMENT DEPARTMENT.**

2. The Structure of the Inspectorate Enforcement Department shall be as follows in order of their rank—

- (xiii) Chief Officer in charge of Inspectorate;
- (xiv) Director of enforcement;
- (xv) Principal enforcement officer;
- (xvi) County enforcement officer;
- (xvii) Sub-county enforcement commander;
- (xviii) Senior superintendent;
- (xix) Superintendent;
- (xx) Chief inspector;
- (xxi) Inspector;
- (xxii) Senior sergeant;
- (xxiii) Sergeant;
- (xxiv) Officers.

**SECOND SCHEDULE**

**OATH/AFFIRMATION OF OFFICE**

“I .....do swear /do solemnly and sincerely affirm that I’ll be faithful and bear true allegiance to the Constitution and the Governor of Bomet County during my .....without favour or affection, malice or ill will; that I will at all times do my utmost to reserve the peace and prevent offences against the peace; that while I shall continue to hold the said office; to the best of my skill and knowledge, discharge all duties thereof faithfully according to law; I will subject myself to the Constitution, all Acts, orders rules now or in the future within the jurisdiction of the Inspectorate and that I will discharge my duties and the duties of the Inspectorate according to law without fear, favour, affection or ill will. (So help me God)

**OATH/AFFIRMATION OF SECRECY**

I..... (full names) DO HEREBY SWEAR BY THE ALMIGHTY GOD/SOLEMNLY AND SINCERELY AFFIRM THAT I will not, without due authority, disclose or make known to any person any information acquired by me by reason of the duties performed by me on behalf or under the direction of the Inspectorate or by reason of any office or employment held by me pursuant to the Bomet County Inspectorate, Compliance and Enforcement Act.

SO H ELP MEGOD.

**THIRD SCHEDULE (s.27)**  
**OFFENCES AGAINST DISCIPLINE**

1. It shall be an offence against discipline for any inspectorate officer to—

- (a) unlawfully strike, or use or threaten violence against any inspectorate officer or any other person;
- (b) use any obscene, abusive or insulting language in any form to any Inspectorate officer;
- (c) uses threatening or Insubordinate or disrespectful language, word, act or demeanor to an Inspectorate officer senior to him in rank;
- (d) cause a disturbance in any inspector premises;
- (e) be drunk while on duty;
- (f) drink intoxicating liquor or psychotropic substances or drugs, or smoke in uniform when actively engaged on duty in a public place;
- (g) willfully disobey any lawful command or order;
- (h) absent himself/herself without leave;
- (i) be found sleeping while on duty;
- (j) leave his post or place of duty before he/she is regularly relieved, except in fresh pursuit of an offender who it is his/her duty to apprehend;
- (k) while under arrest or in detention, leave or escape from such arrest or detention before he/she is set at liberty by proper authority;
- (l) neglect or refuse to assist in the apprehension of any inspectorate officer charged with any offence, when lawfully ordered so to do;
- (m) resist any lawful arrest;
- (n) without reasonable cause, fail to attend at any parade, instruction class or court or any other duty which he is required to attend;
- (o) sell, pawn, lose by neglect, make away with or willfully or negligently damage, or fail to report any loss or damage to, any arm, ammunition, accoutrement, uniform or other article of

personal issue or any vehicle or other property committed to his charge belonging to the County Government or for which the Government is responsible; or be in improper possession of any public or private property; or commit any act of plunder or wanton destruction of any property;

- (p) be negligent in the performance of his duty;
- (q) appear on duty untidy or dirty in his/her person, arms, clothing or equipment;
- (r) make or sign any false statement in any document or official record;
- (s) without proper authority, disclose or convey any information concerning any inspection or any inspectorate manner ;
- (t) feign any disease or infirmity;
- (u) without proper authority demands or exacts from any person any carriage, portage or provisions;
- (v) commit an act which amounts to corruption by under of any law in force in Kenya;
- (y) make any false statements upon joining the Inspectorate; or
- (z) refuse or neglect to make or send any report or return which it is his/ her duty to make or send; or
- (aa) knowingly make any false accusation or complaint or statement against any inspectorate officer or other person, affecting the character of such person, or willfully suppress any material fact.