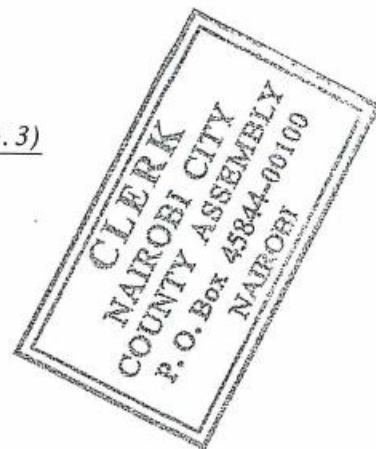


SPECIAL ISSUE

Nairobi City County Gazette Supplement No. 3 (Bills No. 3)



REPUBLIC OF KENYA



**NAIROBI CITY COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 11th May, 2015

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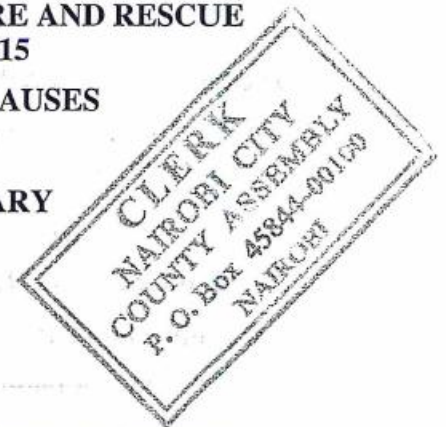
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**THE NAIROBI CITY COUNTY FIRE AND RESCUE
SERVICES BILL, 2015**

A Bill for

AN ACT of Nairobi City County Assembly to make provision for fire and rescue services, to establish a Fire and Rescue Services Authority and its functions and powers; to make provision about employment by the Authority; to make provision about education and training and pension schemes; to make provision about the supply of water for fire fighting; and for connected purposes

ENACTED by the Nairobi City County Assembly as follows—

PART I—PRELIMINARY

Short Title

1. This Act may be known as the Nairobi City County Fire and Rescue Services Act, 2015.

Interpretation

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

“authority” means the Fire and Rescue Authority;

“emergency” means an event or situation that causes or is likely to cause—

(a) one or more individuals to die, be seriously injured or become seriously ill; or

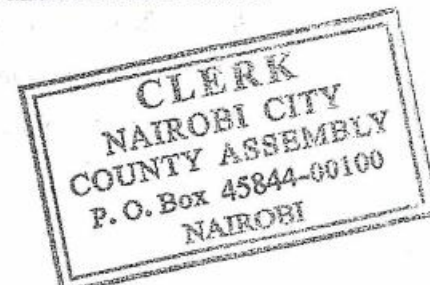
(b) serious harm to the environment and includes the life and health of plants and animals;

“executive member” means the county Executive Committee Member responsible for matters relating to fire and rescue services in the county;

“equipment” means a vehicle, or any other apparatus, intended to be used by the Authority in the performance of its functions;

“fire and rescue services” includes the prevention, fighting and investigation of fires; and

“fire officer” means an employee of the Fire and Rescue Services Authority.



Objects and Purpose of the Act

3. The object of this Act is to establish a legal and institutional framework for the fire disaster management system that includes collaboration among the different players in the sector.

Guiding Principles

4. In the performance of its functions or the exercise of the powers conferred under this Act, the Authority shall—

- (a) adopt an inclusive multi-disciplinary and multi-sectoral approach in fire fighting;
- (b) factor climate variations into fire and rescue services;
- (c) disseminate information on fire safety;
- (d) establish and encourage volunteer community fire fighters initiatives; and be guided by the—
 - (i) national values and principles of governance set out by Article 10 of the Constitution; and
 - (ii) values and principles of Public Service set out by Article 232 of the Constitution.

**PART II—THE FIRE AND RESCUE SERVICE
AUTHORITY****Establishment of the Authority**

5. (1) There is established the Fire and Rescue Services Authority in the county.

(2) The Authority is a body corporate with perpetual succession and a common seal and is in its corporate name capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money; and
- (d) doing or performing all such other things or acts as may be necessary in furtherance of its purpose and functions.

The Board

6. (1) There is a board of the Authority which consists of—

- (a) chairperson appointed by the Governor;
- (b) a person working in the fire and rescue services industry;

- (c) a representative nominated in writing by the Chairperson of an association representing persons working in the public fire and rescue services industry;
 - (d) a representative of the private sector nominated in writing by the Chairperson of an association representing the interests of persons working in the private fire and rescue services industry;
 - (e) a person nominated in writing by the Secretary-General of the Kenya Red Cross Society; and
 - (f) the Chief Fire Officer appointed under section 18 who shall be the secretary of the board.
- (2) The appointment of the board members listed in subsection (1)(b), (c) and (d) shall be done by the Executive Member.

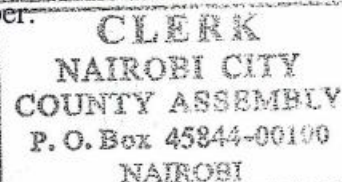
Functions of the Board

7. The board shall—

- (a) be the policy making organ of the Authority;
- (b) source and receive funding for the activities of the Authority;
- (c) advise the County Government on all matters relating to fire and rescue services;
- (d) periodically review standards of the Authority and make sure they conform to internationally accepted standards;
- (e) maintain the authorities assets and equipment;
- (f) develop guidelines relating to the health and fitness of professional and volunteer fire-fighters;
- (g) develop training programs and evaluation systems for persons involved in the provision of fire protection services and to provide programs to improve practices relating to fire protection services;
- (h) protect the long term viability of the Authority;
- (i) ensure that the Authority has a functioning and well equipped branch in each ward; and
- (j) review the terms and conditions of service of the employees of the Authority.

Powers of the Board

- 8. (1)** The board has all powers necessary for the proper performance of the functions of the Authority under this Act.



(2) Without prejudice to the generality of the foregoing, the Board has the power to—

- (a) receive any grants, gifts, donations or endowments and make legitimate disbursements there from;
- (b) delegate any of its powers; and
- (c) undertake any activity necessary for the fulfilment of any of the functions of the Authority.

Procedure for Appointment of Members

9. The recruitment and appointment of the board members listed in section 6 shall be carried out—

- (a) in a competitive and transparent manner;
- (b) based on merit; and
- (c) in line with the constitutional requirements for Public Service.

Qualifications for Appointment of Chairperson and Members

10. (1) A person is qualified for appointment as Chairperson or member if such person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya; and
- (c) has at least five years experience in—
 - (i) the management of public affairs; or
 - (ii) a field that is relevant to the functions of the Authority;and
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

Term of Office

11. (1) The chairperson and Board members hold office on a part-time basis for a term of four years and are eligible for re-appointment once.

(2) Where the Chairperson or a member opts to apply for re-appointment under subsection (1), the re-appointment shall be considered based on the performance of the applicant.

Chief Fire Officer

12. (1) There is a Chief Fire Officer of the Authority who shall be appointed by the Executive Member, on recommendation of the Board, on such terms and conditions as may be specified in the instrument of appointment.

(2) The appointment of the Chief Fire Officer of the Authority shall be through a competitive recruitment process.

(3) The Chief Fire Officer is the Chief Executive Officer of the Authority.

(4) A person is qualified for appointment as Chief Fire Officer if that person—

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognized in Kenya;
- (c) has at least five years experience in—
 - (i) the management of public affairs; or
 - (ii) a profession directly relevant to the functions of the Authority.
- (d) has experience in public administration; and
- (e) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

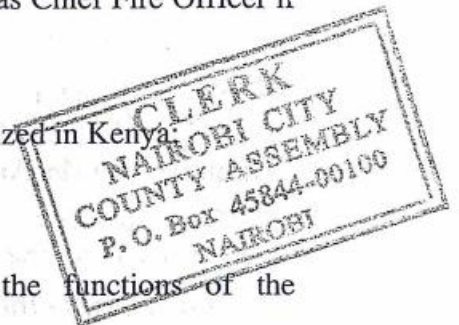
(5) The Chief Fire Officer is subject to the direction of the board and is responsible to it for the—

- (a) implementation of the decisions of the board;
- (b) day to day management of the affairs of the Authority;
- (c) organization and management of the employees;
- (d) fire and rescue services; and
- (e) any other function that may be assigned by the board.

(6) The Chief Fire Officer holds office for a term of five years and is eligible for re-appointment once based on performance.

Removal of the Chief Fire Officer

13. (1) The Chief Fire Officer may be removed from office by the Executive Committee Member on recommendation of the board, in accordance with the terms and conditions of service, for—



- (a) inability to perform the functions of the office arising out of physical or mental infirmity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty;
- (d) a violation of the Constitution; or
- (e) any other ground that would justify removal from office under the terms and conditions of service.

(2) Before the appointing authority makes a decision under subsection (1), the Chief Fire Officer shall be given—

- (a) sufficient notice of the allegations made against them; and
- (b) an opportunity to provide a defence against any of the allegations, either in person or by a legal representative.

Employees of the Authority

14. The Authority may engage such other employees as it may consider sufficient for the performance of its functions under this Act.

Common Seal of the Authority

15. (1) The affixing of the common seal of the Authority may be authenticated by the signature of the Chairperson and the Chief Fire Officer.

(2) A document not required by law to be made under seal and all decisions of the Authority may be authenticated by the signatures of the chairperson and the Chief Fire Officer.

(3) Where the Chairperson or the Chief Fire Officer is absent, the board may nominate a member to authenticate the seal on behalf of either the Chairperson or the Chief Fire Officer.

(4) The common seal of the Authority shall be kept in such custody as the board may direct and shall not be used except on the order of the Authority.

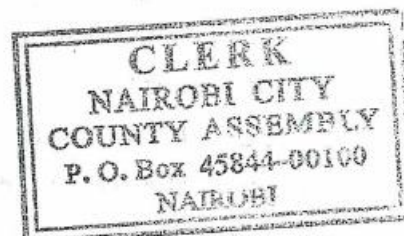
(5) The common seal of the Authority when affixed to a document and authenticated is officially noticed and unless the contrary is proved, an order or authorization of the Authority under this section is presumed to have been given.

PART III—FUNCTIONS AND POWERS OF THE AUTHORITY

Core Functions

16. (1) The Authority shall—

- (a) promote fire safety in its area, and in doing so, make arrangements to provide information and publicity in respect of the steps to be taken to prevent—
- (i) a fire;
 - (ii) death by fire;
 - (iii) floods;
 - (iv) injury by fire; or
 - (v) collapse of a building.
- (b) advice on how to prevent fires and restrict their spread in buildings and other property;
- (c) investigate the cause, origin and circumstances of any fire or of any explosion or condition that in the opinion of the Chief Fire Officer might have caused a fire, explosion, loss of life or damage to property;
- (d) provide information and advice on fire safety matters and fire protection matters by means of public meetings, newspaper articles, publications, electronic media and exhibitions and otherwise as the fire marshal considers advisable;
- (e) keep a record of every fire reported to the Chief Fire Officer;;
- (f) develop and maintain statistical records and conduct studies in respect of fire protection services;
- (g) secure the provision of the personnel, services and equipment necessary efficiently to meet all normal requirements;
- (h) secure the provision of training for personnel;
- (i) extinguish fires when they arise;
- (j) protect life and property in the event of a fire in its area;
- (k) identify and facilitate a means of escape from buildings and other property in case of fire;
- (l) in the event of a road traffic accident, protect people from harm to the extent it considers it reasonable to do so;
- (m) rescue victims in the event of road traffic accidents in its area;
- (n) provide rescue to any person or animal endangered as a result of a road traffic accident or any other accident, including one which does not involve the existence of a fire;



- (o) perform humanitarian services, including the protection of life and property, in the event of a disaster; and
 - (p) do such other thing necessary for the discharge of its functions under this or as may be provided for by any law.
- (2) The Authority shall also make arrangements to—
- (a) deal with calls for help and for summoning personnel;
 - (b) obtain information needed for the discharge of functions; and
 - (c) ensure that reasonable steps are taken to prevent or limit damage to property resulting from action taken for the discharge of functions.

Other Services

17. (1) The Authority may provide the services of any persons employed by it or any equipment maintained by it to any person for any purpose that appears to the Authority to be appropriate.

(2) The Authority may also provide services under this Act within its area as well as out of the area of the Authority.

Power to respond to other Eventualities

18. (1) The Authority may take any action it considers appropriate—

- (a) in response to an event or situation mentioned in subsection (2);
- (b) for the purpose of enabling action to be taken in response to such an event or situation.

(2) The event or situation is one that causes or is likely to cause—

- (a) one or more persons to die, be injured or become ill; or
- (b) harm to the environment, including the life and health of plants and animals.

(3) The power conferred by subsection (1) includes power to secure the provision of equipment.

PART IV—RIGHTS OF ENTRY IN EMERGENCIES AND OTHER FIRE INVESTIGATIONS

Powers of a Fire Officers in an Emergency

19. (1) A fire fighter or such other person as may be authorized by the Chief Fire Officer may, without a warrant enter in lands or premises—

- (a) that are adjacent to the lands or premises on which a fire or emergency has occurred or is occurring, for the purposes of fighting the fire or of providing rescue or emergency services;
- (b) that are adjacent to the lands or premises on which there is a serious threat to the health and safety of any person or the quality of the natural environment, for the purpose of removing or reducing the threat;
- (c) on which a fire is occurring, or that are adjacent to those lands or premises, for the purposes of pulling down or removing buildings, structures or things on or attached to the lands or premises on which a fire is occurring or that are adjacent to those lands or premises if, in the opinion of the fire fighter, it is necessary to do so to prevent the spread of the fire;
- (d) if a fire has occurred on the land or premises; or
- (e) if he or she has reason to believe that a substance or device that is likely to cause a fire may be situated on the land or premises.

(2) A person who enters on land or premises under subsection (1), may, without a warrant, enter on adjacent land or premises if the entry is necessary for the purposes of conducting an investigation into the cause of a fire or of determining whether a substance or device that is likely to cause fire is situated on the land or premises.

(3) Upon entering on land or premises under subsection (1) and (2), the fire fighter may—

- (a) close, and prevent entry to, the land or premises for the length of time necessary to complete the examination of the land or premises;
- (b) remove from the land or premises, retain and examine any article or material, and take such samples or photographs, make videotapes and other images electronic or otherwise that in his or her opinion may be of assistance in determining the cause of the fire under investigation;
- (c) make such excavations on the land or premises as he or she considers necessary;

- (d) require that any machinery, equipment or device be operated, used or set in motion under specified conditions; and
- (e) make any reasonable inquiry of any person, orally or in writing.

(4) If a fire fighter or such other person as may be authorized by the Chief Fire Officer has reasonable grounds to believe that a risk of fire poses an immediate threat to life, he or she may, without a warrant, enter on any land or premises and, for the purpose of removing or reducing the threat, may —

- (a) remove persons on the land or premises;
- (b) post a fire watch;
- (c) remove combustible or explosive material or anything that may constitute a fire menace;
- (d) dispose of any material or thing that was removed under clause (c), in accordance with any directives issued by the Fire Marshal;
- (e) eliminate ignition sources;
- (f) install temporary safeguards, including fire extinguishers and smoke alarms;
- (g) make minor repairs to existing fire safety systems;
- (h) do any other thing that the fire officer has reasonable grounds to believe is urgently required to remove or reduce the threat to life.

(5) A Chief Magistrates Court may issue a warrant authorizing the fire officer named in the warrant to enter on land or premises and exercise any of the powers referred to in subsection (3) if the magistrate is satisfied on evidence under oath that there are reasonable grounds to believe that entry on the lands or premises is necessary for the purposes of conducting an investigation into the cause of a fire or of determining whether a substance or device that is likely to cause fire is situated on the land or premises and,

- (a) the Fire Officer has been denied entry to the land or premises or has been obstructed in exercising any other of those powers with respect to the land or premises; or
- (b) there are reasonable grounds to believe that the Fire Officer will be denied entry to the land or premises or obstructed in exercising any other of those powers with respect to the land or premises.

(5) Before making a notice under this section, the Executive Committee Member shall consult the relevant county governments and stakeholders.

PART V- COLLABORATION WITH OTHER AGENCIES

Collaboration Strategies

21. (1) The Authority may enter into an arrangement with—

- (a) an entity of the National Government;
- (b) a Fire and Rescue Services Authority in another county; or
- (c) any other relevant stakeholders.

for the purposes of discharging its functions under this Act in a better, efficient and effective manner.

(2) An arrangement under this section may include provision as to the terms on which a function is to be discharged and this may include provision on payment.

(3) The Authority shall formulate contingent plans and operational procedures for handling a fire related emergency.

Directions as to Arrangements

22. (1) The Executive Committee Member may direct the Authority to—

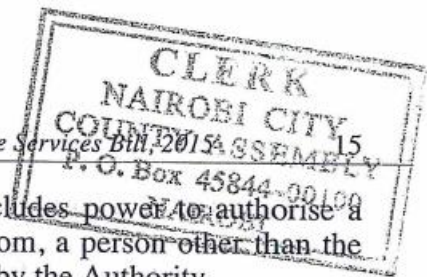
- (a) enter into arrangements under section 27 in the terms specified in the direction;
- (b) make one or more specified variations to any such arrangements; or
- (c) cancel any such arrangements.

(2) The Executive Committee Member may give a direction under subsection (1) through their own initiative or at the request of an Executive Committee Member responsible for matters relating to fire and rescue services from another county.

Charging of Fees

23. (1) The Executive Committee Member may, by Regulation, authorise the Authority to charge a person of a specified description for any action of a specified description taken by the Authority.

(2) An order under subsection (1) may authorise charging for extinguishing fires, or protecting life and property in the event of fires but shall not authorise charging for emergency medical assistance.



(3) The power in subsection (1) includes power to authorise a charge to be imposed on, or recovered from, a person other than the person in respect of whom action is taken by the Authority.

(4) If the Authority is authorised by an order under subsection (1) to charge for taking action of a particular description and the Authority decides to do so—

- (a) the amount of the charge is to be set by the Authority;
- (b) the Authority may charge different amounts in different circumstances; or
- (c) the Authority may not charge anything.

(5) In setting the amount of a charge, the Authority shall ensure that, taking one financial year with another, the income of the Authority from charges does not exceed the cost to the Authority of taking the action for which the charges are imposed.

(6) Before making an order under this section, the Executive Committee Member shall consult any persons the Executive Committee Member considers appropriate.

PART VI—FIRE SAFETY AND PREVENTION

Equipment, Facilities, Services and Organizations

24. (1) The Executive Committee Member may provide and maintain, or contribute to the provision and maintenance of, any equipment, facilities and services the Executive Committee Member considers appropriate for promoting the efficiency and effectiveness of the Authority.

(2) The Executive Committee Member may establish and maintain, or contribute to the establishment and maintenance of, any entity that the Executive Committee Member considers appropriate for promoting the efficiency and effectiveness of the Authority.

Directions for Public Safety Purposes

25. (1) The Executive Committee Member may, if it is considered necessary for public safety purposes, by notice in the County Gazette, give general or specific directions to the Authority about the use or disposal of property or facilities.

(2) The notice given under subsection (1) may include provision on the—

- (a) use or disposal by the Authority of property or facilities belonging to or under its control;

- (b) use by the Authority of property or facilities belonging to or under the control of a person who has made, or is willing, to avail the property or facilities;
- (c) payments to be made by the Authority to another Fire and Rescue Services Authority or to any other person, in respect of the use of property or facilities.

(3) The references in subsection (2) to property or facilities belonging to a person include land occupied by the person.

(4) Before issuing a notice under this section, the Executive Committee Member shall ensure that the public is involved in arriving at a decision.

Training Institution and Centres

26. (1) The Governor may establish a central training institution or one or more local training centres for one or more of the purposes mentioned in subsection (2).

(2) The training institution or centres are for the following purposes—

- (a) the provision of education and training to employees of the Authority;
- (b) the provision of advice and assistance to the Authority in connection with the provision of such education and training;
- (c) the supervision and regulation of the provision of education and training on fire and rescue services;
- (d) the provision of education and training to persons who provide or are to provide such education and training;
- (e) the provision of education and training to persons who are not employees of the Authority in matters which the Authority has functions; and
- (f) the provision of advice and assistance in connection with the provision of education and training.

(3) The Executive Committee Member is responsible for the maintenance of any institution or centre that is established under subsection (1).

Decorations, Medals and Certificates

27. The Governor may, on advice by the Executive Committee Member, award decorations or medals to any person for—

- (a) in respect of excellent service in the fire and rescue services industry; or

(b) in respect of exceptional service rendered under this Act

PART VII—WATER SUPPLY FOR FIRE FIGHTING

Duty to Secure Water Supply

28. (1) The Authority, through the Executive Committee Member, shall take all reasonable measures for securing an adequate supply of water for use in fire fighting.

(2) The Authority may use any suitable supply of water for the purposes of extinguishing a fire or protecting life or property in the event of a fire.

(3) Despite subsection (2), the Authority shall pay reasonable compensation for the water.

Supply by other Persons

29. For the purposes of section 35 (1), the Authority may enter into an agreement with any person—

- (a) to secure the use of water under the control of a person;
- (b) improve access to any such water; or
- (c) to lay and maintain pipes and to carry out other works in connection with the use of such water.

Fire Hydrants

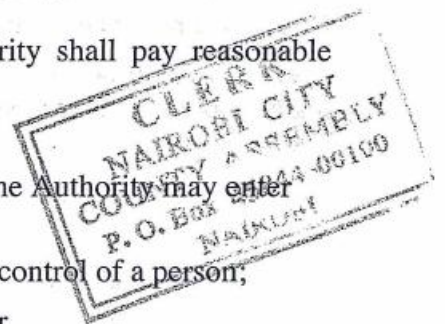
30. (1) A water undertaker shall cause the function of every fire hydrant provided by it to be clearly indicated by a notice or a distinguished mark.

(2) A water undertaker may place such a notice or mark on a wall or a fence adjoining a highway or public place.

(3) A person commits an offence if they use a fire hydrant otherwise than for —

- (a) the purpose of fire fighting;
- (b) for any purpose approved by the Authority; or
- (c) any purpose authorized by any person to whom the fire hydrant belongs.

(4) A person commits an offence if they damage or obstruct a fire hydrant otherwise than in consequence of use for the purpose mentioned in subsection (6).



(5) A person who proposes to carry out works for the purpose of supplying water to any part of the area of the Authority shall give notice of at least six weeks, in writing, to the Authority.

(6) A person who proposes to carry out works affecting a fire hydrant shall give at least seven days notice in writing to the fire and rescue service authority in whose area the hydrant is situated.

(7) A person commits an offence if without reasonable excuse they fail to give notice in writing as required under this section.

(8) A person convicted of an offence under subsection (7) is liable to a fine not exceeding five thousand shillings.

(9) For the purposes of this section, a water undertaker means a company appointed under the Water Act to provide water to a defined geographical area which includes fire hydrants.

PART VIII—FINANCIAL PROVISIONS

31. The funds of the Authority consist of—

- (a) monies allocated by the County Assembly for the purposes of the Authority;
- (b) such monies or assets as may accrue to the Authority in the course of the exercise of its powers or in the performance of its functions under this Act; and
- (c) all monies from any other source provided, donated or lent to the Authority.

Financial Year

32. The financial year of the Authority is the period of twelve months ending on the thirtieth of June in each year.

Annual Estimates

33. (1) Before the commencement of each financial year, the Authority shall cause to be prepared estimates of the revenue and expenditure of the Authority for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Authority for the financial year concerned and, in particular, shall provide for the—

- (a) payment of the salaries, allowances and other charges in respect of the staff of the Authority;
- (b) payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the Authority;

- (c) maintenance of the buildings and grounds of the Authority;
- (d) funding of training, research and development of activities of the Authority;
- (e) creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment; and
- (f) such other matters as the Authority may consider fit.

(3) 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 Executive Committee Member for transmission to and tabling in the County Assembly.

(4) Expenditure of the Authority shall not be incurred except in accordance with the annual estimates approved under subsection (3).

Accounts and Audit

34. (1) The Authority shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Authority.

(2) Within a period of three months after the end of each financial year, the Authority shall submit to the Auditor-General the accounts of the Authority in respect of that year together with a—

- (a) statement of the income and expenditure of the Authority during that year; and
- (b) statement of the assets and liabilities of the Authority on the last day of that financial year.

(3) The annual accounts of the Authority shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

Bank Accounts

35. The Authority shall open and maintain such bank accounts as is necessary for the performance of its functions.

PART IX—INSPECTIONS

Inspector

36. (1) A fire officer authorized by the Chief Fire Officer is an inspector for the purposes of this Part.

(2) An inspector may, without a warrant, enter and inspect land and premises for the purposes of assessing fire safety.

(3) The power to enter and inspect land and premises without a warrant may be exercised at all reasonable times.

(4) An inspector who enters land or premises under this section may take with him or her, a police officer or such other person as he or she considers advisable to assist.

(5) On the request of an owner or occupant of the land or premises, an inspector shall identify himself or herself and shall explain the purpose of the entry.

(6) An inspector conducting an inspection may —

(a) examine a document or other thing that is relevant to the inspection;

(b) demand the production for inspection of a document or other thing that is relevant to the inspection;

(c) remove any thing that is relevant to the inspection for review and examination and remove any document that is relevant to the inspection for review and copying;

(d) conduct tests, take and remove samples, take photographs and make videotapes and other images, electronic or otherwise, that are relevant to the inspection;

(e) in order to produce a document in readable form, use data storage, information processing or retrieval devices or systems that are normally used in the premises being inspected; and

(f) question a person on matters relevant to the inspection.

(7) If an inspector demands that a document or other thing be produced for inspection, the person who has custody of the document or thing shall produce it and, in the case of a document, shall on request provide any assistance that is reasonably necessary to interpret the document or to produce it in a readable form.

(8) A document or other thing that has been removed from land or premises shall —

(a) be made available to the person from whom it was removed on request and at a time and place that are convenient for the person and for the inspector; and

- (b) if it is possible to return the document or thing to the person, be returned within a reasonable time.

(9) A Chief Magistrates Court may issue a warrant authorizing an inspector named in the warrant to enter on lands or premises and exercise any of the powers referred to in subsection (6) if the magistrate is satisfied on evidence under oath that there are reasonable grounds to believe that entry on the lands or premises is necessary to assess fire safety and—

- (a) the inspector has been denied entry to the lands or premises or has been obstructed in exercising any other of those powers with respect to the lands or premises; or
- (b) there are reasonable grounds to believe that the inspector will be denied entry to the lands or premises or obstructed in exercising any other of those powers with respect to the lands or premises.

(10) A warrant issued under subsection (9) shall—

- (a) specify the times, which may be at any time during the day or night, during which the warrant may be carried out;
- (b) state when the warrant expires; and
- (c) be extended the date on which a warrant expires for such additional periods as the court considers necessary.

(11) A person authorized by a warrant issued under subsection (9) to enter land or premises for the purpose of doing a thing may call on police officers as necessary and may use force as necessary to make the entry and do the thing.

(12) An inspector who has carried out an inspection of land or premises under this section may order the owner or occupant of the land or premises to take any measure necessary to ensure fire safety on the land and premises and may for that purpose order the owner or occupant—

- (a) to remove buildings or structures from the land or premises;
- (b) to make structural and other repairs or alterations, including material alterations, to the buildings or structures;
- (c) to remove combustible or explosive material or any thing that may constitute a fire hazard;
- (d) to install and use specified equipment or devices as may be necessary to contain hazardous material on the land or

premises and, in the event of a fire, to remove or transport the material;

- (e) to discontinue the manufacturing, production or fabrication of any material, device or other thing that creates or poses an undue risk of fire or explosion;
- (f) to do anything respecting fire safety including anything relating to the containment of a possible fire, means of egress, fire alarms and detection, fire suppression and the preparation of a fire safety plan;
- (g) to remedy any contravention of the fire Regulations.

PART X—MISCELLANEOUS PROVISIONS

Regulations

37. (1) The Executive Member shall, upon recommendation by the Authority, make Regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such Regulations may—

- (a) prescribe any method, matter or thing relating to fire protection;
- (b) govern standards for reducing the risk of, or consequences of, a fire that would seriously endanger the health or safety of any person or the quality of the natural environment for any use that can be made of it;
- (c) require and regulate fire protection equipment and systems and govern the maintenance of the equipment and systems;
- (d) require and regulate procedures respecting fire safety and the keeping and furnishing of records and reports;
- (e) exempt any class of building, structure, lands or premises from compliance with the regulations or any provision of them and attach terms and conditions to the exemptions;
- (f) govern the qualifications and training of persons servicing, maintaining, testing or repairing fire protection devices, equipment or systems and the licensing of those persons;
- (g) provide for the organization and procedure for the employment, pension of the Authority;
- (h) provide for the uniforms, and identification of members of the Authority;

- (i) provide for the safety requirements to be complied with on premises in order to reduce the risk of a fire or other danger, or to facilitate the evacuation of the premises in the event of such danger;
- (j) provide for the storage, transportation or handling of explosives, fireworks, petroleum or any other flammable or combustible substance, gas or any other dangerous substance;
- (k) provide for the services that may be charged by the Authority and the amount to be charged for those services; and
- (l) any matter which the Executive Committee Member in consultation with the board considers necessary or expedient so as to achieve the objects of this Act.

(3) Any regulation regarding the salaries, remuneration, qualifications and experience of a member of the Authority shall not be made without consultation with the County Public Service Board.

(4) The principles and standards applicable to the delegated power referred to under subsection (1) are those found in—

- (a) the Statutory Instruments Act, 2013;
- (b) the Interpretation and General Provisions Act,
- (c) the general rules of international law as specified under Article 2(5) of the Constitution; and
- (d) any treaty and convention ratified by Kenya under Article 2(6) of the Constitution.

Protection from Personal Liability

38. A fire officer shall not be personally liable for any acts done while performing their functions under this Act, such protection will however not apply where such an officer acts in a negligent and unprofessional manner.

Offences

39. (1) A person is guilty of an offence if—

- (a) they knowingly give or cause to be given a false alarm of fire to a person acting on behalf of the Authority;
- (b) one hinders, obstructs or interferes with a fire officer in the exercise of his or her powers and duties;
- (c) prevents an inspector from entering land or premises under section 19 or 20, refuses to answer questions on matters

relevant to the inspection or provides the inspector with information, on matters relevant to the inspection, that the person knows, or ought reasonably to know, to be false or misleading; and

- (d) they fail to discharge their functions under this Act according to the expected standards.

(2) Upon conviction of an offence under subsection (1), a person is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(3) A person who commits an offence under this Act for which no penalty is prescribed is liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding six months, or to both.

SCHEDULE

(S. 13)

PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE AUTHORITY

Meeting

1. (1) The Authority shall have at least four meetings in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Meetings shall be convened by the Chief Fire Officer in consultation with the Chairperson and shall be held at such times and such places as the Chairperson shall determine.

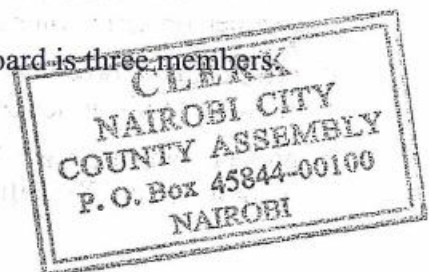
(3) The Chairperson shall preside over all meetings and in the absence of the Chairperson, by a person elected by the board at the meeting for that purpose.

(4) The Chairperson may at any time convene a special meeting of the board, and shall do so within one month of the receipt by the Chairperson of a written request signed by at least five other members.

(5) Unless four members otherwise agree, at least seven days' notice of a meeting shall be given to every member.

Quorum

2. The quorum of a meeting of the board is three members.



Voting

A decision of the board shall be by a majority of the members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote.

Minutes

3. Minutes of all meetings shall be kept and entered in records kept for that purpose.

Disclosure of Interest

4. (1) If a person is present at a meeting of the board or any committee at which any matter is the subject of consideration and in which matter that person or that directly or indirectly interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest.

(2) The person making the disclosure of interest under subsection (1) shall not, unless the board or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting at which it is made.

(4) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

(5) A member or employee of the Authority shall not transact any business or trade with the Authority.

Committees of the Board

5. (1) During its term, the board may establish committees for the better carrying out of its functions.

(2) The board may co-opt persons to its committees established under subsection (1) for a particular reason and such persons hold office for a period as the board may determine.

(3) The persons co-opted under subsection (2) shall not be more than two at any particular time.

Meetings

6. (1) The business and affairs of the board shall be conducted in accordance with the Schedule.

(2) Except as provided in the Schedule, the Board may regulate its own procedure.

(3) The Board may invite any person to attend any of its meetings and to participate in its deliberations, but such a person shall not have a vote in any decision of the Board.

Removal from Office

7. (1) The Chairperson or a member may be removed from office by the appointing Authority for—

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or negligence of duty; or
- (d) absence from three consecutive meetings of the board without a reasonable explanation.

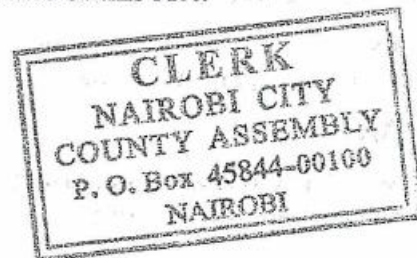
(2) Before the appointing authority makes a decision under subsection (1), the person shall be given an opportunity to provide a defence against any of the allegations.

Vacation of Office

8. A person ceases to be a member of the board if the person—

- (a) resigns in writing, to the appointing Authority;
 - (b) is convicted of a criminal offence and sentenced to a term of imprisonment of more than six months;
 - (c) is declared bankrupt; or
 - (d) dies.
- (e) Filling of vacancy

Where a vacancy occurs in the membership of the board under sections 15 or 16, the appointing authority shall, if the vacancy relates to any of the positions specified under section 6(1), appoint a new member in accordance with the provisions of this Act.



MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to establish a legal and institutional framework for the fire disaster management system that includes collaboration among the different players in the sector. The Bill seeks to make provision for fire and rescue services, to establish a Fire and Rescue Services Authority and its functions and powers. It also seeks to make provision about employment by the Authority. Other things the Bill provides for include education, training and pension schemes for the employees of the Authority. Finally, the Bill makes provision for the supply of water for fire fighting.

The structure of the Bill is as follows:

PART I (clauses 1–4) of the Bill contains preliminary provisions. Clause 1 states the title of the Bill and clause 2 deals with interpretation of terms as used in the Bill. Clause 3 states the objects of the Bill while clause 4 sets out the guiding principles.

PART II (clauses 5–21) of the Bill deals with establishment and composition of the Fire and Rescue Service Authority. Clause 5 states that the Authority is a body corporate with perpetual succession and a common seal. Clause 6 establishes a board whose function is to oversee the operations of the Authority. Clause 7 provides for the functions of the board. Clause 8 provides for the powers of the board while clause 9 provides for the recruitment and appointment of the Board Members and is to the effect that it shall be carried out in a competitive and transparent manner, based on merit and in line with the constitutional requirements for public service. Clause 10 provides for qualifications for appointment of the Authority's Chairperson and members. Clause 11 provides for term of office of Board Members. Clause 12 provides for the remuneration of the Board Members. Clause 13 establishes the office of the Chief Fire Officer who is the secretary of the board, it provides for the procedure of appointment and the functions of the Chief Fire Officer. Clause 14 provides for the removal of the Chief Fire Officer while 15 provides that the Authority may engage such other employees as it may consider sufficient for the performance of its functions under the Act. Clause 16 provides for the common seal of the Authority and that it should be authenticated by the signature of the Chairperson and the Chief Fire Officer.

PART III is on the functions and powers of the Authority. Clause 17 states the functions of the Authority is to promote fire safety in its area, and in doing so, make arrangements to provide information and publicity in respect of the steps to be taken.

PART IV provides for rights of entry to be exercised by fire officers in case of emergencies and other fire investigations and this part covers the powers that such fire fighters might exercise with or without warrants.

PART V is on collaboration between the Authority and other stakeholders.

PART VI is on fire safety and prevention and provides for equipment, facilities, services and organizations where the Executive Committee Member may provide and maintain, or contribute to the provision and maintenance of, any equipment, facilities and services the Executive Committee Member considers appropriate for promoting the efficiency and effectiveness of the Authority. It also covers directions for public safety purposes, training institution and centres and award of decorations or medals for services rendered in relation to fire and rescue services. This is a way of motivating persons in the fire and rescue services.

PART VII provides for water supply for fire fighting.

PART VIII is on financial provisions it provides for the funds of the Authority. These consist of monies allocated by the County Assembly for the purposes of the Authority. It also provides for the financial year of the Authority to the period of twelve months ending on the thirtieth of June in each year. It further provides for the requirement of preparation of the authority's annual estimates.

PART IX deals with the right of fire officers to perform inspections on any premises to confirm whether such premises comply with fire safety Regulations.

PART X is on miscellaneous provisions it is to the effect that the board shall, in consultation with the Executive Committee Member, make Regulations generally for the better carrying out of the provisions of this Act. It also provides for protection from personal liability and also provides the offence of knowingly giving or causing to be given a false alarm of fire to a person acting on behalf of the Authority commits an offence. It further provides for the general penalty. This provides for instances when an offence is provided without a penalty.

The Schedule is on provisions relating to the conduct of business and affairs of the Authority.

Paragraph 1 provides for the number of meetings to be held in a year which is at least four meetings in every financial year. Further,

not more than four months shall elapse between the date of one meeting and the date of the next meeting.

Paragraph 2 provides for the quorum of the members while paragraph 3 provides for the manner of voting. Paragraph 4 of the Schedule provides that minutes of all meetings should be kept and entered in records kept for that purpose while Paragraph 5 provides for declaration of interest on any matter being discussed at a meeting of the board.

Dated the 7th May, 2015.

Member of the County Assembly.

