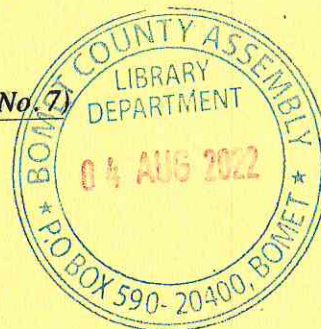


SPECIAL ISSUE

Kenya Gazette Supplement No. 13 (Bomet County Bills No. 7)



REPUBLIC OF KENYA



KENYA GAZETTE SUPPLEMENT

BOMET COUNTY BILLS, 2018

NAIROBI, 29th August, 2018

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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI



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KENYA GAZETTE SUPPLEMENT

BOMET COUNTY BILLS, 2018

NAIROBI, 20th August, 2018

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**THE BOMET COUNTY CENTRE FOR DEVOLVED
GOVERNANCE BILL, 2018**

A Bill for

**AN ACT of the County Assembly of Bomet to establish the Centre for
Devolved Governance to provide for the powers, functions and
administration of the Centre and for connected purposes**

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 Centre for Devolved Governance Act, 2018, and shall come into operation on such date as the Governor may, by notice in the *Gazette* appoint and different dates may be appointed for different provisions.

Interpretation

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

“governor” means the the Bomet County Governor elected in accordance with Article 180 of the Constitution;

“gazette” means the Kenya Gazette or the County Gazette published under the Authority of the County Government of Bomet;

“campuses of the centre for devolved governance” means the Centre for Devolved Governance and such other campuses as the Governor may, declare to be campuses of the Centre under section 4;

“council” means Council of the Centre for Devolved Governance established under section 5;

“director-general” means the Chief Executive Officer or Chief Executive Officer appointed under section 12;

“centre for devolved governance” means the Centre for Devolved Governance established under section 3.

**PART II—ESTABLISHMENT AND FUNCTIONS OF THE
CENTRE FOR DEVOLVED GOVERNANCE**

Establishment of the Centre for Devolved Governance

3. (1) There is established a county government capacity building, training and conference centre to be known as the Bomet County Centre for Devolved Governance.

(2) The Centre for Devolved Governance shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name be 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 functions or acts, including entering into contracts as may be necessary or expedient for the furtherance of the provisions of this Act and which may lawfully be done by a body corporate.

(4) The headquarters of the Centre for Devolved Governance shall be in the headquarters of the County, but the Centre may establish branches at any place within Bomet County.

Campuses of the Centre

4. (1) The Governor may, on the advice of the Council, by Order in the Gazette, establish campuses within the County whose functions and powers shall be provided by that Order.

Functions of the Centre

5. (1) The Centre shall provide learning and development programmes to build capacity for the Public Service in the county and any other county that may enter into mutual agreement with the County Government of Bomet.

(2) Notwithstanding the generality of subsection (1), the Centre shall—

- (a) provide training, consultancy and research services designed to inform public policy, promote county development and standards of competence, and integrity in the Public Service in line with nationally set standards;
- (b) promote continuous learning for public service excellence;
- (c) provide programmes that promote a culture of servant leadership, self-less service, transparency and accountability among public servants;
- (d) facilitate the establishment of professional networks and think tanks to develop and grow public sector leaders;
- (e) develop linkages and collaborations with institutions of learning, professional organizations, private sector, other centres of

government learning and other similar institutions nationally and globally;

- (f) monitor, evaluate and communicate the impact of strengthened education and training programmes for county and national leadership and management;
- (g) research, develop and deliver programs tailored to promote the CDG's mandate and clients' needs;
- (h) collaborate with national and global institutions in conducting training and examinations and award certificates, diplomas and other forms of suitable awards to successful candidates;—

Provide continuous professional development training for county staff;

Provide facilities for hospitality service for the county public service and any other clients approved by the CDG; and

- (j) do any other function necessary, or expedient for the discharge of its functions under this Act.

The Council

6. (1) There shall be a Council of the Centre, which shall consist of—

- (a) a non-executive chairperson, who shall be a person with considerable experience in executive management, sourced competitively and appointed by the Governor;
- (b) the Chief Officer for the time being, of the department under which the CDG is anchored;
- (c) the County Secretary;
- (d) the Chief Finance Officer in the ministry for the time being responsible for Finance;
- (e) the Chief Officer in charge of Human Resource;
- (f) the Clerk to the County Assembly;
- (g) one renowned educationist from the private sector;
- (i) the secretary to the County Public Service Board;
- (k) the Chief Executive Officer/ Director-General, who shall be the secretary; and

(n) The composition of the council must conform to the one-third-gender rule, and include marginalized groups as provided for by the constitution.

(2) A person shall not be appointed as member of the Council unless that person possesses a minimum of a Bachelor's degree, has experience of at least five years in a senior management position representative and who has demonstrated leadership skills.

(3) All members of the Council, appointed under subsection (1) (a), (f) and (i) shall be appointed by the Governor subject to vetting and approval by the county assembly, by a notice in the County Gazette.

(4) The chairperson and the members of the Council appointed under subsection (1) (a), (f), (i) and (j) shall hold office for a term not exceeding three years and shall be eligible for re-appointment for one further term.

(5) The Director General shall hold office for a period of six years and shall be eligible for re-appointment for one further term.

(6) The appointment of a member to the Council shall cease if the member—

- (a) resigns, in writing, under his hand addressed to the Chairman of the Council;
- (b) is adjudged bankrupt;
- (c) is convicted of a criminal offence and sentenced to imprisonment;
- (d) dies;
- (e) conducts himself in a manner that is contrary to the provisions of the Leadership and Integrity Act, 2012 or in a manner considered to be inconsistent with membership of the Council and that brings the Centre into disrepute;
- (f) removal under subsection 5 (e) must be follow procedures in Section 6, Subsection (7), (8);
- (g) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Council.

(7) The Council may co-opt any person to assist it for such purposes and such period as the Council may determine, but persons so co-opted may not vote on any matter before the Council.

(8) Removal of any member shall be subject to the approval of the County Assembly.

(9) Removal under subsection 6 (7) will be by a two third majority vote of the County Assembly of Bomet.

Committees of the Council

7. (1) The Council may establish committees consisting of members of the Council to deal with such matters as the Council may specify.

(2) The Council may co-opt persons who are not members of the Council to committees established under subsection (1) for expertise or tasks beyond the council's capacity and such persons shall hold office for such period as the Council may determine.

(3) The Council shall not co-opt more than three persons at any given time to its committees.

(4) The Director General shall provide the Committees with secretarial support from within the existing office staff, or external staff may be engaged on temporary contracts for the duration of the committee task.

(5) Staff engaged under sub-section 7 (4) may be nominated by the committee but approved by the Director General.

Functions of the Council

8. The Council shall—

- (a) oversee the study programs and calendar of activities in every academic year;
- (b) provide strategic advice and direction to the Centre;
- (c) be responsible for the Centre's development and fund-raising goals;
- (d) approve and support the implementation of policies that facilitate the development of the Centre;
- (e) ensure quality controls and standards are maintained in all Centre Programs;
- (f) utilize the capacity and synergy in the public sector, private sector and other key stakeholders, both local and international, through collaborative engagement and networking for knowledge and experience sharing to promote good leadership and governance in the Centre;
- (g) liaise with external institutions and agencies;

- (h) monitor the performance of the Centre and make policy decisions that enhance the performance of the Centre generally;
- (i) monitor and evaluate the impact of the Centre on social and economic development of the county;
- (j) oversee the property and funds of the Centre in such manner and for such purpose as shall promote the functions of the Centre;
- (k) approve and submit, through the Director General, financial estimates in respect of the Centre for consideration by the County Executive Committee;
- (l) receive, on behalf of the Centre, grants-in-aid, gifts, donations, fees, subscriptions or other monies; and
- (m) perform such other functions as are incidental to the foregoing.

Meetings of the Council

9. (1) The Chairperson shall preside over all meetings of the Council but in the absence of the chairperson the members present shall appoint one member from among themselves to preside at the meeting.

(2) The quorum for the conduct of business at a meeting of the Council shall half plus one of the total council membership with the DG/CEO present.

(3) The members of the Council shall attend the meetings of the Council in person or through a representative.

(4) Except as provided for in this section, the Council shall comply with the provisions of the State Corporations Act Cap. 446 governing the meetings and proceedings of Boards of State Corporations.

Academic Board

10. (1) There shall be an Academic Board of the Centre for Devolved Governance which shall consist of—

- (a) the Director-General/Chief Executive Officer, who shall be the Chairperson;
- (b) the Directors in charge of—
 - (i) Academic Affairs.
 - (ii) Finance and Administration; and
- (c) the Directors of the Centre Departments;

(2) The Director in charge of academic affairs shall be the secretary of the Academic Board.

- (3) The Academic Board shall—
- (a) develop and review the delivery of learning curriculum;
 - (b) determine entry level for every course and program;
 - (c) determine the standards and criteria for certification;
 - (d) review and moderate examinations;
 - (e) review and approve research for award of merit certificates; and
 - (f) ensure quality assurance.

Committees and Procedure of the Board

11. (1) The Council shall constitute and develop procedures governing the appointments of the board.

(2) The academic board appointed as per 11(1), may establish committees to deal with such matters as it deems fit and relevant to its function.

(3) The academic board may co-opt persons to committees established under subsection 11(2) for a particular reason and such persons shall hold office for a period as the board may determine.

(4) The academic board shall regulate the committees' procedure.

Common Seal

12. (1) Subject to this section, the common seal of the Centre shall be kept in such custody as the Council may direct and shall not be used except in the manner authorized.

(2) All deeds, instruments, contracts and other documents shall be considered to be duly executed by or on behalf of the Centre—

- (a) where they are required to be under seal, or sealed with the common seal of the Centre and authenticated by the chairperson of the Council and the Director-General; or
- (b) where they are not required to be under seal, if executed in that behalf by a member authorized by the Council for that purpose.

(3) A deed, instrument, contract or any other document executed in accordance with subsection (2) shall, in law, bind the Centre for Devolved Governance, its assignees and its successors and may be varied or discharged in the same manner that it was executed.

Director General /Chief Executive Officer

13. (1) There shall be a Director General of the Centre appointed by the Governor, on approval by the County Assembly following a

competitive process of recruitment, who shall be the Chief Executive Officer.

(2) A person shall not qualify to be appointed as the Director General unless—

- (a) that person is of at least 40 years of age and above;
- (b) has a minimum of a Masters degree in social sciences or relevant field from a local or international university recognized in Kenya and with at least five years' experience on a senior managerial position;
- (c) has a bachelor's degree in social sciences or relevant field from a university recognized in Kenya with experience of not less than 10 years in executive management and leadership position; and
- (d) must satisfy the requirements of chapter six (6) of the constitution of Kenya 2010.

Functions of the Director General:

(3) The Director-General shall—

- (a) shall be the head and Chief Executive Officer of the institution;
- (b) shall perform all duties that pertains to the administration, management and supervision of the institution;
- (c) shall coordinate the implementation of the curriculum and development programs of the institution;
- (d) shall be responsible for budget implementation and resource mobilization for implementation of activities in the institution;
- (e) shall be responsible for Monitoring and Evaluation, Audit Matters and Quality Assurance;
- (f) shall coordinate external and internal networks towards development and expansion of the institution; and
- (g) in consultation with the Council perform any other duties assigned by the council and in accordance with this Act and other relevant statutes.

(4) The Director-General shall be the Secretary to the Council and shall in consultation with the chairperson convene meetings of the council.

Staff of the Centre

14. The Council in consultation with the public service board—

- (1) shall subject to the State Corporations Act Cap. 446, employ the Director-General, and such directors and staff as it considers necessary for the efficient discharge of the functions of the Centre.

(2) may from time to time engage essential staff or experts where there is dire requirement to perform certain functions for specified period of time on contractual terms.

(3) May from time to time make provisions for the engagement of interns.

(4) May make provisions for engagement of visiting or sabbatical lecturers.

PART III—FINANCIAL PROVISIONS

Funds, Assets and Liabilities of the Centre

15. The funds, assets and liabilities of the Centre shall consist of—

(a) such sums allocated from the annual budget for the purposes of this Act out of monies provided by the County Assembly;

(b) any sums or property which may in any manner become payable to, or vest in the Centre in respect of tuition fees, facility rental, hospitality services, grants, loans, fines, gratuities, gifts, bequeaths or any other matter incidental to the carrying out of its functions; and

(c) all moneys from any other source or sources provided for or donated or lent to the Centre.

Provisions on 15 (a)(b)(c)(d) are subject to the approval of the terms and conditions attached to that donation by the council.

Strategic Plans, Budget and Annual Reports

16. (1) The Council shall, as soon as practicable after the commencement of this Act and in a period not exceeding three months, prepare or cause to be prepared a five year strategic plan pertaining to the Centre for Devolved Governance which shall be submitted to the Council for approval:

(2) The Council shall, not later than the end of February in every year, prepare and submit to the county executive for approval an annual budget with respect to Public Financial Management Act 2012, incorporating estimates of the Centre's revenue and expenditure for the next financial year.

(3) A plan or budget submitted to the Governor under this Act, unless earlier disapproved by the Governor, shall be approved by the County Executive Committee with or without such modifications not later than one months after it has been submitted.

(4) The Council shall, within a period of three months after the end of each financial year or within such longer period as the Governor may approve, submit to the Governor annual report on the operations and activities of the Centre for information.

(5) The financial year of the Centre shall be the period of twelve months ending on the thirtieth June in each year.

Accounts, Audit and Annual Reports

17. (1) The Council shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Centre.

(2) The accounts of the Centre shall be prepared and submitted for examination annually by the Controller and Auditor General in accordance with the Public Audit Act, 2003.

PART IV—GENERAL PROVISIONS

Protection of members and Staff of the Centre from personal liability

18. No action committed by an employee of Centre or staff during the performance of duties assigned shall give rise to liability if the action was done in good faith and due diligence for the purpose of carrying out the provisions of this Act.

Regulations

19. The County Secretary may make regulations for the better carrying out of its functions and the purposes of this Act, and in particular with respect to—

- (a) staff appointment and discipline;
- (b) staff welfare including pension scheme, gratuities, superannuation or provident fund; and
- (c) general management of the Centre.

Transitional Provisions

20. (1) For the purpose of this section “interim staff” currently deployed to Centre shall be deemed to be Centre for Devolved Governance staff.

(2) All the members of staff of the Centre employed at the time of commencement of this Act, shall become employees of the Centre and will assume their new designations, subject to such terms and conditions as the Council shall determine.

(3) Despite subsection (2), all the members of staff of the Centre in the employment immediately before the commencement of this Act shall,

upon the commencement of this Act be given an option to serve in the Centre and if not, be redeployed in the County Public Service.

(4) All moveable and immovable assets and properties that are in use before the coming in of this act shall upon the commencement of the act be deemed to be assets and properties of Centre.

(5) The council shall commence the process of recruitment of the Director General upon the commencement of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Bomet County Centre for Devolved Governance Bill, 2017 makes provision for the establishment of the Centre for Devolved Governance. It also seeks to provide for the powers, functions and administration of the Centre.

Part I—of the bill deals with the preliminaries including the short title and the commencement.

Part II—addresses the establishment and the functions of the Centre which includes amongst others building capacity for the Public Service in the county and any other county that may enter into mutual agreement with the County Government of Bomet. The Centre shall also provide training, consultancy and research services designed to inform public policy, promote county development and standards of competence, and integrity in the Public Service in line with nationally set standards;

There is a council established under section 6 of the Bill which shall oversee the study programs and calendar of activities in every academic year as well as provide strategic advice and direction to the Centre. It will also Ensure quality controls and standards are maintained in all Centre Programs.

There is also an Academic Board of the Centre established under section 10 of the Bill whose functions shall be to develop and review the delivery of learning curriculum and determine the standards and criteria for certification.

PART III—of the Bill makes provisions for finances. Section 15 deals with the funds, assets and liabilities of the Centre while section 16 deals with Strategic Plans, Budget and Annual Reports.

PART IV—makes general provisions which include protection of members and staff of the Centre from personal liability.

This bill is not a money bill in terms of Article 144 of the Constitution.

Dated 14th August, 2018

SAMWEL KETER,
Chairperson, Committee on Administration, Justice and Legal Affairs.

