

SPECIAL ISSUE

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REPUBLIC OF KENYA

**NAKURU COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2014

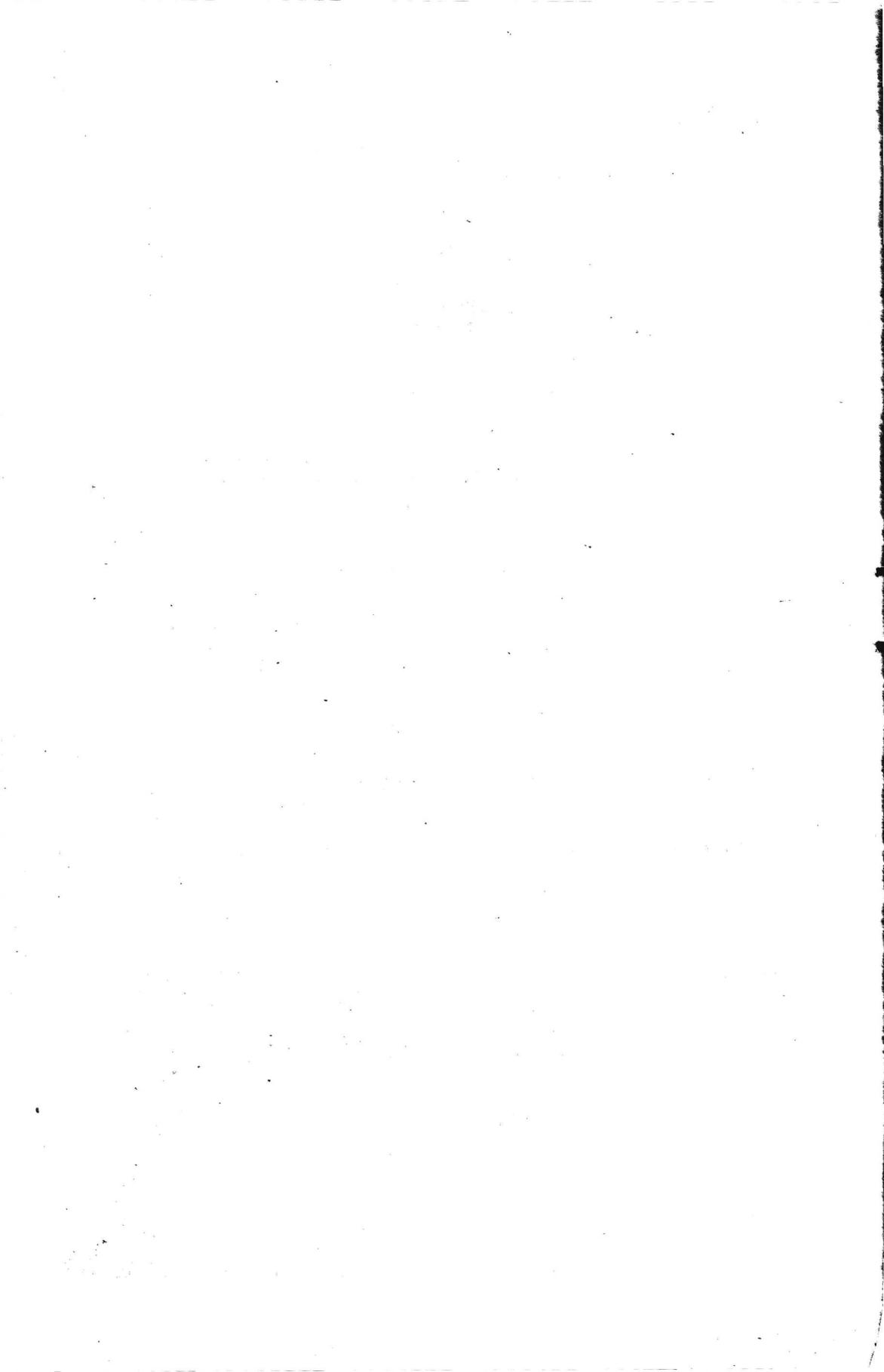
NAIROBI, 17th April, 2014

CONTENT

Bill for Introduction into the Nakuru County Assembly—

PAGE

The Nakuru County Solid Waste Management Fund Bill, 2014..... 1



**THE NAKURU COUNTY SOLID WASTE MANAGEMENT FUND
BILL, 2014
ARRANGEMENT OF CLAUSES**

Clauses

PART I—PRELIMINARY

- 1—Short title
- 2—Interpretation
- 3—Object of the Act

**PART II—ESTABLISHMENT AND MANAGEMENT OF THE
COUNTY SOLID WASTE MANAGEMENT FUND AND THE
COUNTY SOLID WASTE MANAGEMENT FUND BOARD**

- 4—Establishment and management of the County Solid Waste Management Fund
- 5—Functions of the Fund
- 6—Powers of the Fund
- 7—Establishment of the County Solid Waste Management Board
- 8—Functions of the Board
- 9—Powers of the Board
- 10—Meetings of the Board

**PART III—REGISTRATION AND LICENSING OF SOLID
WASTE MANAGEMENT MATTERS**

- 11—Solid waste management licensing
- 12—Application for a licence
- 13—Issue of licences
- 14—Application for renewal of a licence
- 15—Conditions of a licence
- 16—Revocation, alteration or suspension of licence
- 17—Surrender of licence
- 18—Appeals
- 19—Offences

PART IV—FINANCIAL PROVISIONS

- 20—Financial year
- 21—Annual estimates
- 22—Accounts and Audit
- 23—Annual Report

PART V—MISCELLANEOUS PROVISIONS

- 24—Regulations
- 25—General Penalty

**THE NAKURU COUNTY SOLID WASTE
MANAGEMENT FUND BILL, 2014**

A Bill for

AN ACT of the Nakuru County Assembly to provide for the establishment of the County Solid Waste Management Fund, establish the necessary institutional and regulatory mechanisms and for connected purposes.

ENACTED by the Nairobi County Assembly as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Nakuru County Solid Waste Management Fund Act, 2014. Short title

2. In this Act— Interpretation

“Board” means County Solid Waste Management Fund Board established under section 6;

“Director” means the Director appointed under section 4;

“Executive Member” means the County Executive Committee Member responsible for matters relating to solid waste management;

“Fund” means Solid Waste Management Fund established under section 4;

“solid waste” includes—

- (a) County Council solid waste;
- (b) Town solid waste;
- (c) agricultural and animal waste;
- (d) construction and demolition waste;
- (e) treatment waste; and
- (f) medical waste.

3. The object of this Act is to— Object of the Act

- (a) create the necessary institutional framework required to have an efficient solid waste management system in the county;

- (b) promote an environmentally friendly county that will reduce health risks associated with a polluted environment; and
- (c) encourage citizens to take responsibility for their environment.

PART II — ESTABLISHMENT AND MANAGEMENT OF THE COUNTY SOLID WASTE MANAGEMENT FUND AND THE COUNTY SOLID WASTE MANAGEMENT FUND BOARD

4. (1) There is established a Fund to be known as the County Solid Waste Management Fund.

Establishment and management of the County Solid Waste Management Fund

- (2) The Fund consists of—
 - (a) such monies as may be appropriated by the County Assembly for the purposes of the Board;
 - (b) such monies as may be payable to the Board pursuant to this Act or any other written law;
 - (c) grants, gifts, donations or other endowments given to the Fund; and
 - (d) monies from any other source provided or donated or lent to the Fund.
- (3) There shall be paid out of the Fund—
 - (a) all payments which are due as provided under this Act;
 - (b) the expenses incurred in the administration of the Fund; and
 - (c) any other matter incidental to the matters stated in paragraphs (a) and (b).

(4) The County Public Service Board shall ensure that the Fund has adequate human resource to enable it carry out the functions assigned under this Act.

(5) The human resource referred to in subsection (4) shall include the appointment of the Director who shall be

- (a) the administrator of the Fund; and
- (b) responsible for the regulation and licensing of

matters relating to solid waste.

5. The Fund shall—

Functions of the Fund

- (a) prepare the County Solid Waste Management Framework;
- (b) implement the Local Waste Management Plan;
- (c) ensure that the waste is collected, stored, transported, recycled, re-used or disposed of in an environmentally sound manner and
- (d) promote safety standards in relation to solid waste;
- (e) promote public awareness on the importance of efficient solid waste management;
- (f) foster understanding of the importance of efficient solid waste management to the conservation, protection and proper use of the environment; and
- (g) perform any other functions assigned to it under this Act.

6. The Fund shall have all the necessary powers for the execution of its functions under this Act.

Powers of the Fund

7. (1) There is established the County Solid Waste Management Board.

Establishment of the County Solid Waste Management Board

(2) The Board shall be composed of—

- (a) the Chief Officer for the time being responsible for matters relating to solid waste management who shall be the Chairperson;
- (b) the Chief Officer for the time being responsible for matters relating to the environment or a representative appointed in writing by the Chief Officer;
- (c) the Chief Officer for the time being responsible for matters relating to public works or a representative appointed in writing by the Chief Officer;
- (d) the Chief Officer for the time being responsible for matters relating to trade or a representative

appointed in writing by the Chief Officer;

- (e) a representative of the National Environment Management Authority;
- (f) a representative of the private sector; and
- (g) a representative of Non-Governmental Organizations dealing with solid waste management.

(3) The Director referred to in section 4 shall be the Secretary to the Board.

8. It shall be the duty of the Board to ensure a coordinated, efficient, effective and consultative approach in management of solid waste.

Functions of the Board

(2) To achieve the objectives set out under subsection (1), the Board shall—

- (a) formulate policies relating to the management of solid waste;
- (b) approve the Local Waste Management Plan in accordance with its guidelines;
- (c) monitor, evaluate and review implementation of the Local Waste Management Plan;
- (d) mobilize resources for purposes of efficient management of solid waste;
- (e) advise the County Executive Committee on matters of general policy; and
- (f) perform any other functions assigned to it under this Act.

9. The Board shall have all the necessary powers for the execution of its functions under this Act.

Powers of the Board

10. (1) The Board shall meet at least once every three months.

Meetings of the Board

(2) Subject to the provision of this Part, the Board may regulate its own procedure.

PART III—REGISTRATION AND LICENSING OF SOLID WASTE MANAGEMENT MATTERS

11. (1) No person shall maintain or operate a solid

Solid waste management

waste management establishment unless it is registered and licensed in accordance with this Act. licensing

(2) For the purposes of this part "solid waste management establishment" means any establishment that collects, transports, processes, disposes, manages or monitors solid waste.

(3) A person who contravenes subsection (1) commits an offence and upon conviction is liable to a fine not exceeding two million or to an imprisonment term of four years or both.

12. (1) An application for a licence under this Part shall be in writing to the Director and in the prescribed form and, shall be accompanied by the prescribed fee. Application for a licence

(2) The Director may—

- (a) issue a licence, in accordance with this Act;
- (b) refuse to issue the licence on any ground which may appear to the Director to be sufficient and inform the applicant, in writing, the reasons; or
- (c) cancel, vary or suspend any licence if, in the finding of the Director, the licence is found to have contravened the Act for the operation of the solid waste management establishment.

13. (1) The Director shall issue licences to applicants subject to such lawful conditions as the Director may determine. Issue of licences

(2) Every licence shall specify the premises upon which the business specified in the licence may be carried on.

(3) The Director, after consultation with the Executive Committee Member, shall prescribe the fees payable for the issue of licences under this Act.

(4) The Director shall, at least thirty days before granting a licence under this Act, give notice of the proposed grant in the County Gazette and in such other manner as the Director may determine.

(5) The notice referred to in subsection (3) shall—

- (a) specify the name or other particulars of the

person or class of persons to whom the licence is to be granted;

- (b) state the purpose for the proposed licence and indicate the date such licence is proposed to be issued to the successful applicant; and
- (c) invite objections to the proposed grant of licence and direct that such objections be lodged with the Director within fourteen days next following the date of the notice.

(6) The Director may after considering the objections, if any, made under this section, grant the licence applied for, subject to such terms and conditions as may be specified in the licence.

(7) The issuance of a licence to an applicant under this Act shall not be withheld without reasonable cause.

(8) A licence issued under this Act is not transferable.

(9) The Director shall ensure that an updated register is kept and maintained for all licences issued pursuant to this part.

14. (1) An application for the renewal of a licence under this Act shall be made to the Director not later than the first day of the month of June in which the current licence is due to expire.

Application for renewal of a licence

(2) Despite subsection (1), a late application may be made upon payment of a late application fee as may be prescribed by the Director.

15. (1) A licence issued under this Act shall be subject to such conditions as the Director may determine and as are specified in the licence.

Conditions of a licence

(2) The Director may at any time during the validity of a licence—

- (a) vary the conditions of the licence; or
- (b) impose conditions or further conditions on the licence.

16. The Director may revoke, alter or suspend a licence issued under this Act if—

Revocation, alteration suspension or of licence

- (a) an offence under this Act or in respect of the

licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder; or

- (b) a condition of the licence has been contravened or not complied with.

17. (1) The holder of a licence which is revoked shall immediately surrender it to the Director.

Surrender of
licence

(2) A licence holder may, at any time, surrender the licence to the Director and the licence shall cease to have effect forthwith.

18. An applicant for or the holder of a licence who is aggrieved by a decision of the Director on—

Appeals

- (a) the grant, refusal, renewal, variation or revocation; or
- (b) the conditions imposed on the grant, renewal or variation, of a licence, may appeal to the Executive Committee Member.

19. A person who—

Offences

- (a) burns solid waste without a permit;
- (b) interferes with a dumpsite or a landfill;
- (c) interferes with a drainage system;
- (d) litters in a public area; or
- (e) passes waste matter in a public area; commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand or to imprisonment for a term not exceeding one year or both.

PART IV—FINANCIAL PROVISIONS

20. The financial year of the Fund shall be the period of twelve months ending on the thirtieth June in each year.

Financial year

21. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Fund for that financial year.

Annual estimates

(2) The annual estimates shall make provision for all the estimated expenditure of the Fund 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 Board members, staff or agents of the Fund;
- (b) payment of pensions, gratuities and other charges and in respect of benefits which are payable out of the funds of the Fund;
- (c) the maintenance of the buildings and grounds of the Fund;
- (d) reserve funds to meet future or contingent liabilities in relation to retirement benefits, insurance or replacement of buildings or equipment; and
- (e) any other expenditure necessary or required for the purposes of this Act.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and forwarded to the Executive Committee Member for tabling before the relevant County Assembly Committee.

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

Accounts and
Audit

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

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

(3) The annual accounts of the Fund 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.

23. (1) The Board shall, at the end of each financial year cause an annual report to be prepared.

Annual Report

(2) Without limiting what may be included in the annual report, the annual report shall include—

- (a) the audited financial report of the Fund;
- (b) description of the activities of the Fund;
- (c) such other statistical information as the Fund may consider appropriate relating to the Fund's functions;
- (d) the impact of the exercise of any of its mandate or function;
- (e) any impediments to the achievements of the objects and functions of the Fund;
- (f) such other information as the Executive Committee Member may direct; and any other information relating to its functions that the Board considers necessary.

(3) The Board shall submit the annual report to the Governor three months after the end of the year to which it relates.

(4) The annual report shall be published and publicized in a manner that the Fund may determine.

PART V—MISCELLANEOUS PROVISIONS

24. The Executive Committee Member may, in consultation with the Chairperson of the Board, make regulations generally for the better carrying out into effect of any provisions of this Act.

Regulations

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

- (a) forms of applications, notices, licences and other documents for use under this Act;
- (b) fees payable under this Act;
- (c) such other matters as the Fund considers necessary.

25. A person who contravenes any provision of this Act for which no other penalty is prescribed, commits an offence and is liable, on conviction, to a fine not exceeding one million shilling or to a term of imprisonment not exceeding two years or to both.

General Penalty

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose of this Bill is to create the necessary institutional framework required to have an efficient solid waste management system in the county and promote an environmentally friendly county that will reduce health risks associated with a polluted environment by encouraging citizens to take responsibility for their environment.

Part I (Clauses 1-3) contains preliminary matters

Clauses 1 and 2 provide for the short title of the Bill and interpretation of terms respectively while clause 3 provides for the objects of the Bill.

Among the terms interpreted in clause 2 is "solid waste". This clause also interprets other terms as used in the Bill.

Part II (Clauses 4-10) provides for the establishment and management of the County Solid Waste Management Fund and the County Solid Waste Management Fund Board. Clause 4 establishes a Fund to be known as the County Solid Waste Management Fund while clause 5 sets out its functions. Clause 6 provides for powers for the execution of the Fund under this Act. Clause 7 establishes the County Solid Waste Management Board with its members listed in that section. The functions and powers of the Board are set out in clause 8 and 9 respectively. Clause 10 provides for meetings of the Board. It states that the Board shall meet at least once every three months.

Part III (Clauses 11-19) provides for the registration and licensing of solid waste management matters.

Clause 11 provide for solid waste management licensing while clause 12 provides for application for the licence. Clause 13 deals with the issuance of licences to applicants while clause 14 provides for application of renewal of a licence. There is a requirement for payment of prescribed fee by an applicant if the renewal of licence application is late. Clause 15 provides for conditions of licence while clause 16 provide for revocation, alteration or suspension of a licence. Clause 17 states that the holder of a suspended licence should surrender it to the Director and it ceases to have effect. Clause 18 gives a person aggrieved by the decision of the Director the right to appeal to the Executive Committee. Clause 19 is on offences.

Part IV (Clauses 20-23) sets out financial provisions

Clauses 20 provide that the financial year of the Fund will be the period of twelve months ending on the thirtieth June in each year. Clause 21 makes provision for annual estimates. It states that, the Board will

prepare estimates of the revenue and expenditure of the Fund for that financial year. Clause 22 requires the Board to maintain proper books and records of account of the income, expenditure, assets and liabilities. This clause also requires that the annual accounts of the Fund should 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. Clause 23 requires the Board to prepare an annual report at the end of each financial year.

Part VI (Clauses 24-25) sets out the miscellaneous provisions

Clause 24 gives the Executive Committee Member, in consultation with the Chairperson of the Board, power to make regulations while Clause 25 provide for a general penalty. This provides for instances when an offence is provided without a penalty.

The enactment of this Bill will occasion additional expenditure of public funds which shall be provided for through the estimates.

Dated the 15th April, 2014

HON. DAVID KIPKOECH MALEL
Chairperson Environment Committee.

