

## **ARRANGEMENT OF SECTIONS**

### **PART I— PRELIMINARY**

1— Short title

2— Interpretation

### **PART II— ESTABLISHMENT AND STATUS OF THE BOARD**

3— Establishment of the Board

4— Members of the Board

5— Additional qualifications for appointment as chairperson or member

6— Procedure for appointment of members of the Board.

7— Designation as secretary.

8— Headquarters.

9— Guiding principles of the Board.

10— Functions of the Board

11— Oath of office.

12— Powers of the Chairperson.

13— Vice Chairperson to act in absence of Chairperson.

14— Tenure of office.

15— Removal from and vacation of office.

16— Filling of vacancy.

17— Committees of the Board.

18— Procedures of the Board.

19— Terms and conditions of service.

20— Secretary to be head of secretariat.

21— Removal of secretary.

22— Appointment of staff

23— The common seal of the Board.

24— Protection from personal liability.

25— General Powers of the Board

26— Powers of a Court.

### **PART III— INVESTIGATIONS AND INQUIRY BY THE BOARD**

27— Powers relating to investigations.

28— Jurisdiction in investigations.

29— Limitation of jurisdiction

30— Complaints by persons aggrieved.

31— Form of complaint.

32— Discretion not to investigate.

33— Notice and hearing of investigation.

34— Persons likely to be prejudiced or affected to be heard.

35— Personal protection for statements made to the Board.

36— Action after investigations or inquiry.

**PART IV—REPORT AND RECOMMENDATIONS**

37— Report to complainant or organization.

38— Board to take appropriate disciplinary action.

**PART V— FINANCIAL PROVISIONS**

39— Funds of the Board.

40— Financial year.

41— Annual estimates.

42— Accounts and audit.

43— Bank accounts.

**PART VI — MISCELLANEOUS, SAVINGS AND  
TRANSITIONAL PROVISIONS**

44—Management of information.

45—Offences

46—Report of the Board to Governor and County Assembly.

47— Regulations.

48— Savings

**FIRST SCHEDULE — PROCEDURE FOR APPOINTMENT OF  
MEMBERS OF THE BOARD**

**SECOND SCHEDULE — OATH/ AFFIRMATION OF  
CHAIRPERSON/A MEMBER/ SECRETARY**

**THIRD SCHEDULE —MEETINGS AND PROCEDURE OF  
THE BOARD**

**A Bill for**

**AN ACT of Bomet County Assembly to establish Bomet County Public Service Board pursuant to Article 235 of the Constitution and sections 57, 58 and 59 of the County Governments Act to provide for the membership, powers and functions of the Board and for connected purposes.**

ENACTED by Bomet County Assembly as follows—

**PART I— PRELIMINARY**

1. This Act may be cited as the Bomet County Public Service Board Act, 2018 and shall come into operation upon publication. Short title and commencement.

2. (1) In this Act, unless the context otherwise requires— “chairperson” Interpretation  
means the chairperson of the Board appointed under section 6;

“board” means Bomet County Public Service Board;

“code of conduct” means any written standard issued by a lawful authority to guide the conduct of any county public officer or category of public officers;

“conditions of service” include any criterion or circumstance or factor for a person’s —

(a) appointment, secondment, deployment, promotion or discipline with respect to a public office.

(b) retention in employment as a public officer, or

(c) remunerative, retirement and other benefits;

“county assembly” means Bomet county assembly established under Article 176 of the Constitution;

“county executive committee” means the Bomet County Executive committee established in accordance with Article 176 of the Constitution;

“county gazette” means a gazette published by the authority of the Bomet county government or a supplement of that gazette;

“county public office” means an office in the county public service or an office in a public body but does not include any office specifically

*The Bomet County Public Service Bill, 2018*

exempted by the Constitution from the powers of the county government;

“county public officer” means any person appointed by the Bomet county government and holding or acting in a county public office whether paid, unpaid, or on contractual or permanent terms but does not include a person engaged on a part-time basis in a county public body paid at an hourly or daily rate;

“county public service” means the Bomet County Public Service;

“disciplinary control” means the imposition of any punishment against a public officer on account of misbehavior or breach of a code of conduct;

“executive committee member” means the Bomet county executive committee member responsible for matters related to public service;

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

“salaries and remuneration commission” means the salaries and Remuneration Commission established under Article 230 (1) of the Constitution; and

“secretary” means the secretary to the Board appointed by the Governor under section 58 (1) (c) of the County Governments Act.

**PART II—ESTABLISHMENT AND STATUS OF THE BOARD**

**3.** (1) There is hereby established a Board to be known as Bomet County Public Service Board established in accordance with section 57 of the County Governments Act.

Establishment of the Board

No. 17 of 2012

**4.** (1) The County Public Service Board shall comprise —  
(a) a chairperson nominated and appointed by the governor with the approval of the county assembly  
(b) not less than three but not more than five other members nominated and appointed by the governor, with the approval of the county assembly; and  
(c) a certified public secretary of good professional standing nominated and appointed by the governor, with the approval of the county assembly, who shall be the secretary to the board.

Members of the Board

*The Bomet County Public Service Bill, 2018*

(2) The secretary shall be the Chief Executive and Accounting Officer of the Board.

**5.** (1) A person shall be qualified for appointment as the Chairperson of the Board if that person has, in addition to the qualifications provided under section 58 (3) of the County Governments Act, knowledge and at least ten years experience in matters relating to administration or management.

Qualifications for appointment as Chairperson or member.

(2) A person shall be qualified for appointment as a member of the Board if that person has, in addition to the qualifications provided under section 58 (3) of the County Governments Act, knowledge and at least five years' experience in matters relating to any of the following fields —

- (a) law;
- (b) public administration;
- (c) economics;
- (d) management; or
- (e) social sciences; and
- (f) a distinguished career in the respective field.

(3) A person shall not be qualified for appointment as the chairperson or a member if that person —

- (a) is a member of Parliament or a County Assembly;
- (b) is a member of the governing body of a political party;
- (c) is a member of a County Government.
- (d) is an undischarged bankrupt; or
- (e) has been removed from office for contravening the provisions of the Constitution or any other law.

**6.** The procedure for appointment of the Chairperson and members of County Public Service Board shall be as set out in the First Schedule.

Procedure for appointment of members of the Board.

**7.** If a County public officer is designated as secretary to the Board, the appointment or renewal of appointment shall be on the recommendation of the Board.

Designation as secretary.

**8.** The headquarters of the Board shall be at the Bomet County Government headquarters.

Headquarters.

**9.** In fulfilling its mandate, the Board shall act in accordance with the values and principles set out in the Constitution and the laws of Kenya, and shall observe and respect—

Guiding principles of the Board.

- (a) the diversity of the people of Kenya;
- (b) impartiality, gender equality and gender equity;
- (c) inclusiveness, non-discrimination and protection of the marginalized groups;
- (d) all treaties and conventions ratified in Kenya.

*The Bomet County Public Service Bill, 2018*

**10.** (1) The functions of the County Public Service Board, as provided by section 59 of the County Governments Act shall be on behalf of the county government to —

Functions of the county public service board

- (a) establish and abolish offices in the county public service;
- (b) appoint persons to hold or act in offices of the county public service including in the Boards of cities and urban areas within the county and to confirm appointments;
- (c) exercise disciplinary control over, and remove persons holding or acting in those offices as provided for under Part VII of the County Governments Act;
- (d) prepare regular reports for submission to the county assembly on the execution of the functions of the board;
- (e) promote in the county public service the values and principles referred to in Articles 10 and 232 of the Constitution of Kenya;
- (f) evaluate and report to the county assembly on the extent to which the values and principles referred to in Articles 10 and 232 are complied with in the county public service;
- (g) facilitate the development of coherent, integrated human resource planning and budgeting for personnel emoluments in the county;
- (h) advise the county government on human resource management and development;
- (i) advise the county government on the implementation and monitoring of the national performance management system in the county;
- (j) make recommendations to the Salaries and Remuneration Commission, on behalf of the county government, on the remuneration, pensions and gratuities for county public service employees.

**11.** The Chairperson, members and the secretary shall each make and subscribe, before a magistrate or commissioner of oath, the oath or affirmation set out in the Second Schedule.

Oath of office.

**12.** (1) The Chairperson shall, within seven days of the appointment of the members, convene the first meeting of the Board at which the members shall elect the Vice- Chairperson of the Board from amongst the members.

Powers of the Chairperson

*The Bomet County Public Service Bill, 2018*

(2) The Chairperson shall —

- (a) preside over all meetings of the Board;
- (b) be the spokesperson for the Board; and
- (c) supervise and direct the work of the Board.

**13.** (1) If the office of Chairperson becomes vacant or if the Chairperson is unable to exercise the powers or perform the functions of his or her office owing to absence, illness or any other cause, the Vice-Chairperson shall exercise or perform those powers or functions.

Vice- Chairperson to act in absence of Chairperson

(2) The Chairperson and members of the Board shall serve on a full-time basis.

**14.** (1) The Chairperson and members of the Board other than the secretary shall be appointed for a non-renewable term of six years.

Tenure of office

(2) The Governor shall notify every resignation, vacancy or termination of service in the County and Kenya Gazette within seven days.

**15.** (1) The Chairperson or member of the Board may be removed from office by a vote of not less than seventy-five percent of all the members of the county assembly on grounds of-

Removal from and vacation of office.

- a) serious violation of this constitution or other law, including a contravention of chapter Six.
- b) gross misconduct, whether in the performance of the member's or office holders functions or otherwise;
- c) physical or mental incapacity to perform the functions of office;
- d) incompetence; or
- e) bankruptcy.

(2) The office of the Chairperson and members of the County Public Service Board shall become vacant if the holder -

- (a) dies;
- (b) by notice in writing addressed to the Governor resigns from office;
- or
- (c) is removed from office under subsection (1).

*The Bomet County Public Service Bill, 2018*

**16.** (1) Where a vacancy occurs in the membership of the Board under section 14, the appointment procedure provided under this Act shall apply. Filling of vacancy.

(2) A member appointed under subsection (1) to fill a vacancy shall serve for a term of six years but shall not be eligible for reappointment.

**17.** (1) The Board may, from time to time establish, committees as may be necessary for the better carrying out of its functions. Committees of the Board.

(2) The Board may -

(a) co-opt into the membership of a committee established under subsection (1) other persons whose knowledge and skills are necessary for the functioning of the committee; or

(b) hire such experts or consultants as are necessary for the functioning of the Board.

**18.** (1) The business and affairs of the Board shall be conducted in accordance with the Third Schedule. Procedures of the Board.

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

**19.** The salaries, allowances and other terms and conditions of service of the Chairperson and other members of the Board shall be determined by the Salaries and Remuneration Commission. Terms and conditions of service.

**20.** (1) The secretary shall be the chief executive officer of the Board and head of the secretariat and shall be responsible to the Board. Secretary to be head of secretariat

(2) The secretary shall hold office for a term of five years and shall be eligible for re-appointment for a further term of five years.

**21.** (1) The secretary may be removed from office by the Governor on the recommendation of the Board, in accordance with the terms and conditions of service for— Removal of secretary

(a) inability to perform the functions of the office of secretary arising out of physical or mental incapacity;

(b) gross misconduct or misbehavior;

(c) incompetence or neglect of duty;

(d) violation of the Constitution; or

(e) any other ground that would justify removal from office under the terms and conditions of service.

*The Bomet County Public Service Bill, 2018*

(2) Before the Secretary is removed from office under subsection (1), the Secretary shall be given—

(a) sufficient notice of the allegations made against him or her; and x

(b) an opportunity to present his or her defense against the allegations.

**22.** Subject to Part VII of the County Governments Act, the Board may appoint such number of staff as may be necessary for the proper discharge of its functions under this Act, and upon such terms and conditions of service as the Board may determine in consultations with Salaries and Remuneration Commission. Appointment of staff.

**23.** (1) The Common seal of the Board shall be kept in safe custody by the Secretary or as the Board shall direct and shall not be used except on the order of the Board. The common seal of Board.

(2) The common seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and, unless the contrary is proved, any necessary order or authorization of the Board under this section shall be presumed to have been duly given.

**24.** No matter or thing done by a member of the Board or any officer, employee or agent of the Board shall, if the matter or thing is done in good faith while executing the functions, powers or duties of the Board, render the member, officer, employee or agent personally liable for any action, claim or demand whatsoever. Protection from personal liability.

**25.** In addition to the powers conferred to it under Part VII of the County Government Act, the Board shall have powers to – General powers of Board.

(a) obtain, by any lawful means, any information it considers relevant, including requisition of reports, records, documents and any information from any person and to compel the production of that information for the proper discharge of its functions;

(b) interview any person or group of persons;

(c) take disciplinary action of staff or officers seconded to the County Public Service;

(d) hold, charge and dispose of movable and immoveable property;

*The Bomet County Public Service Bill, 2018*

(e)conduct audits of any county public institution to establish the level of compliance with the Constitution with regard to integrating values and principles of Public service and governance;

(f) require any county public institution to provide any special report on matters relating to the institution’s implementation of the values and principles of public service and governance.

(2) An officer aggrieved by the decision made by the County Public Services Board has a right to appeal to the Public Services Commission.

**26.** In the performance of its powers and functions under this Act, the Board shall have the powers of a court to—

Powers of a court

(a)question any person in respect of any subject matter under investigation before the Board; and

(b)require any person to disclose any information within that person’s knowledge relevant to any investigation by the Board.

**PART III—INVESTIGATIONS AND INQUIRY BY THE BOARD**

**27.** (1) The Board may, for the purpose of conducting any investigation or inquiry, employ the services of any county public officer or investigation agency of the county or national Government at the expense of the Board.

Powers relating to investigations

(2) For the purpose of investigating any matter or carrying out any inquiry, a public officer or agency whose services are employed under subsection (1) may, subject to the direction and control of the Board —

(a)require the discovery and production of any document; and

(b)requisition any public record or copy thereof from any public officer.

(3) The provisions of section 38 shall apply in relation to any statement made by a person before any public officer or agency whose services are employed under subsection (1) as they apply in relation to any statement made by a person in the course of giving evidence before the Board.

(4) The public officer or agency whose services are employed under subsection (1) shall investigate any matter and submit a report to the Board in that behalf.

*The Bomet County Public Service Bill, 2018*

(5) The Board shall satisfy itself on the correctness of the facts stated and the conclusion arrived at in the report submitted to it under subsection (4) and for that purpose, the Board may make such inquiry, including the examination of any person or persons who conducted or assisted in the investigation, as it deems fit.

**28.** (1) The Board shall investigate or carry out an inquiry upon any complaint, and may, on its own initiative, investigate or carry out an investigation on any matter relating to the carrying out of the functions or implementation of the values and principles of public service and governance in—.

Jurisdiction in investigation

- (a) relation to any person;
- (b) a public office; or
- (c) any other body or agency of the County .

(2) The Board shall endeavor, where appropriate, to resolve any matter brought before it by conciliation, mediation or negotiation.

**29.** The Board shall not investigate or inquire into —

Limitation of jurisdiction.

- (a) any matter pending before any court or judicial tribunal;
- (b) any criminal offence;
- (c) any matter relating to the relationship between the national government and the county;
- (d) anything in respect of which there is a right of appeal or other legal remedy unless, in the opinion of the Board, it is not reasonable to expect that right of appeal or other legal remedy to be resorted to; or
- (e) any matter for the time being under investigation by any other person or Board established under the Constitution or any other written law

**30.** (1) A person aggrieved by any matter relating to the County public service or the functioning of any officer or employee, may make a complaint to the Board in person or on his or her behalf as specified under subsection (2).

Complaints by persons aggrieved

(2) A complaint may be made on behalf of an aggrieved person—

- (a) if the aggrieved person is dead or otherwise not able to act for himself or herself, by a member of his or her family or other person suitable to represent the aggrieved person; or

*The Bomet County Public Service Bill, 2018*

(b) by a member of the County Assembly with the consent of the aggrieved person or other person who, under paragraph (a), is entitled to make the complaint on behalf of the aggrieved person.

**31.** (1) A person wishing to lodge any complaint under section 29 may do so orally or in writing addressed to the secretary or such other person as may be duly authorized by the Board for that purpose.

Form of complaint

(2) Where a complaint under subsection (1) is made orally, the person before whom the complaint is made shall cause the complaint to be recorded electronically or in writing.

(3) A complaint under subsection (1) shall be in a form and contain particulars that the Board may prescribe.

(4) Upon receipt of a complaint under subsection (1), the Board may

—  
(a) call for information or a report regarding the complaint from any responsible person within reasonable time that may be specified by the Board; and

(b) without prejudice to paragraph (a), initiate inquiry as it considers necessary, having regard to the nature of the complaint.

(5) If the information or report called for under subsection (4) (a) is not received within the time specified by the Board, the Board may proceed to inquire into the complaint without the information or report.

(6) If on receipt of the information or report the Board is satisfied that—

(a) no further action is required; or

(b) the required action is under the mandate of a national

Government or other county organ or body, the Board shall, in writing, inform the complainant accordingly and take no further action.

**32.** The Board may decline to investigate or inquire into a complaint if the Board considers that —

Notice and Discretion not to investigate.

(a) there is, in existence, adequate remedies under any written law or administrative practice; or

*The Bomet County Public Service Bill, 2018*

(b) the complaint is trivial, frivolous, vexatious or is not made in good faith.

**33.** (1) Before commencing an investigation or inquiry under this Act, the Board shall give notice of the intended investigation or inquiry to the administrative head of the County organ, public office or organization and the officer or employee to which the investigation or inquiry relates.

Persons likely to be prejudiced or affected to be heard hearing of investigation

(2) The hearings of any investigation or inquiry by the Board shall be open to the public.

**34.** (1) Subject to subsection (2), if at any stage of an investigation or inquiry the Board —

Action after investigation or inquiry

(a) considers it necessary to inquire into the conduct of any person; or

(b) is of the opinion that the reputation of any person is likely to be prejudiced by the investigation or inquiry, it shall give that person an opportunity to appear before the Board in person or by an advocate to give evidence in his or her own defense.

(2) This section shall not apply where the credibility of a witness is being impeached.

**35.** No statement made by a person in the course of giving evidence before the Board shall subject that person to any civil or criminal proceedings except for giving false evidence by in the statement.

Personal protection for statements made to the Board.

**36.** The Board may, upon any investigation or inquiry into a complaint under this Act take any of the following steps —

Report to complainant or organization

(a) where the investigation or inquiry into a complaint of discrimination discloses a criminal offence, refer the matter to the Director of Public Prosecutions or any other relevant authority or take any other action that the Board may deem fit against the concerned County organ, person or persons;

(b) recommend to the complainant a course of judicial or other redress which does not warrant an application under Article 22 of the Constitution;

(c) recommend to the complainant and to the relevant government agency or other body concerned in the alleged discrimination, other appropriate methods of settling the complaint or to obtain relief; or

(d) provide a copy of the investigation or inquiry report to all interested parties.

#### **PART IV — REPORT AND RECOMMENDATIONS**

**37.** (1) The Board shall inform the complainant, county agency, county public office and organization to which the investigation relates, on the results of the investigation or inquiry and the full report in writing.

Report to complainant or organization.

(2) The report shall include —

- (a) the findings of the investigation or inquiry ;
- (b) the recommendation of the Board and the reasons for the recommendation ; and
- (c) any other matter that the Board considers appropriate.

(3) The Board may require the county organ, public office or organization that was the subject of the investigation or inquiry to submit a report to the Board within a specified period on the steps, if any, taken to implement the recommendations of the Board.

(4) If the recommendations of the Board are not implemented within the specified time, the Board may submit the report to the County Assembly as the Board thinks fit.

**38.** If, after an investigation, the Board is of the opinion that there is evidence that a person, an officer or employee of the county organ, public office or organization to which an investigation was related is guilty of misconduct, the Board shall take the appropriate disciplinary action.

Board to take appropriate disciplinary action

#### **PART V—FINANCIAL PROVISIONS**

**39.** The funds of the Board shall consist of monies —

Funds of the Board

(a) allocated by the County Assembly for the purposes of the Board;

(b) or assets that may accrue to the Board in the course of the exercise of its powers or in the performance of its functions; and

(c) from any other source provided, donated or lent to the Board.

*The Bomet County Public Service Bill, 2018*

**40.** The financial year of the Board shall be the period of twelve months beginning on the first day of July and ending on the thirtieth day of June in the following year.

Financial year.

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

Annual estimates and audit.

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

(a) payment of the salaries, allowances and other charge in respect of the staff of the Board;

(b) payment of pensions, gratuities and other charges in respect of benefits which are payable out of the funds of the Board;

(c) maintenance of the buildings and grounds of the Board;

(d) funding of training, research and development of activities of the Board;

(e) creation of funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of records of account of the income, expenditure, assets and liabilities of the Board buildings or installations, equipment; and

(f) other matters as the Board may think fit..

(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 Board in respect of that year together with a statement of —

(a) the income and expenditure of the Board during that year; and

(b) the assets and liabilities of the Board on the last day of that financial year.

(3) The annual accounts of the Board shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 299 of the Constitution and the Public Audit Act.

(4) 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 Speaker for tabling in County Assembly.

*The Bomet County Public Service Bill, 2018*

(5) No expenditure shall be incurred by the Board except in accordance with the annual estimates approved under subsection (4).

**42.** (1) The Board shall cause to be kept all proper books and Accounts Bank Accounts

**43.** The Board shall open and maintain such bank accounts as is necessary for the performance of its functions.

**44.** (1) The Board and the staff of the Board shall maintain confidence in respect of all matters that come to their knowledge in the exercise of their duties. Management of information.

(2) Subject to the provisions of Article 35 of the Constitution, the Board and the staff of the Board shall not be called to give evidence in respect of any matter that comes to their knowledge in the exercise of their duties.

(3) Notwithstanding section(2), the Board may disclose in any report made by the Board under this or any other Act, any matter that, in the opinion of the Board, may be disclosed in order to establish grounds for the Board findings and its recommendations.

**45.** A person who—

Offences

(a) without justification or lawful excuse, obstructs, hinders or threatens a member or staff of the Board acting under law;

(b) submits false or misleading information;

(c) fails to honour summons; or

(d) misrepresent to or knowingly misleads the Board or a member of staff of the Board acting under law, commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

**46.** (1) As soon as practicable after the end of each financial year, the Board shall submit a report to the Governor and the County Assembly which report shall include -

Report of the Board to Governor and  
the County Assembly

(a) the financial statements of the Board;

(b) a description of the activities of the Board during that financial year;

(c) recommendations on specific actions to be taken in furtherance of the functioning of the Board;

(d) recommendations on legal and administrative measures to address specific concerns identified by the Board; and

*The Bomet County Public Service Bill, 2018*

(e) any other information relating to its functions that the Board considers relevant.

(2) The Board shall publish the report in the Gazette.

(3) The County Assembly may at any time require the Board to submit a report on a particular issue or matter.

**PART VI—MISCELLANEOUS, SAVINGS AND TRANSITIONAL PROVISIONS**

**47.** The Board shall make regulations for the better carrying into effect of the provisions of this Act and any other legislation. Regulations

**48.** (1) The Board shall be bound in all employment contracts, including contracts of service, if any, subsisting at the commencement of this Act and to which the County government or Local Authority was party. Savings

(2) All rights, powers and duties relating the public service, whether arising under any written law or otherwise which immediately before the coming into operation of this Act were vested in Local Authorities or County Government shall be transferred to, vested, imposed on, or be enforceable by or against the Board.

(3) All actions, suits or legal proceedings relating the public service, by or against the Local authorities shall be carried out, against the Board and no such suit, action or legal proceedings shall abate or be affected by the coming into operation of this Act.

(4) The officers deployed the County and serving on interim terms shall continue with the terms and conditions of service they held before being seconded including remuneration, allowances and pension or other benefits and shall not be altered to the officer's disadvantage, but may be altered to the officer's advantage accordance with section 138 (1) of the County Government Act, 2012.

**FIRST SCHEDULE s.6 PROCEDURE FOR APPOINTMENT OF MEMBERS OF THE BOARD**

1. Whenever there is a vacancy in the Board the Governor shall, within fourteen days of the occurrence of the vacancy, convene a selection panel for the purpose of selecting suitable candidates for appointment as Chairperson or member of the Board.

2. The selection panel shall, subject to this section, determine its own procedure.

3. The selection panel shall, within seven days of its convening, invite applications from qualified persons and publish the names and qualifications of all applicants in a manner provided for publication in the County and in two daily newspapers of national circulation.

4. The selection panel shall within seven days of receipt of applications under paragraph 3 consider the applications, interview and shortlist at least -

(a) three persons qualified for appointment as Chairperson; and

(b) eight persons qualified for appointment as members of the Board, and forward the names of the selected candidates to the Governor for nomination.

5. The Governor shall, within seven days of receipt of the names forwarded under paragraph 4, nominate one person for appointment as Chairperson and five persons for appointment as members of the Board, and forward the names of the persons nominated to the County Assembly.

6. The County Assembly shall, within twenty-one days of the day it next sits after receipt of the names of the nominees under paragraph 5, consider all the nominations received and may approve or reject any nomination.

*The Bomet County Public Service Bill, 2018*

7. Where the County Assembly approves the nominees, the Speaker shall, forward the names of the approved persons to the Governor for appointment.
8. The Governor shall, within seven days of the receipt of the approved nominees from the County Assembly, by notice in the County and Kenya Gazette, appoint the Chairperson and members approved by the County Assembly.
9. Where the County Assembly rejects any nomination, the Speaker shall, within three days, communicate the decision of the County Assembly to the Governor to submit fresh nominations.
10. Where a nominee is rejected by County Assembly under paragraph 9, the Governor shall, within seven days, submit to the County Assembly a fresh nomination from amongst the persons short listed and forwarded by the selection panel under paragraph 4.
11. If the County Assembly rejects all or any subsequent nominee submitted by the Governor for approval under paragraph 1, the provisions of paragraphs 4 and 5 shall apply.
12. In short listing, nominating or appointing persons as Chairperson or member of the Board, the selection panel, the County Assembly and the Governor shall—
  - (a) ensure that not more than two-thirds of the members are of the same gender;
  - (b) observe the principles of regional balance; and
  - (c) have due regard to the principle of fair representation for persons with disabilities.
13. Despite the foregoing provisions of this section, the Governor may by notice in the County and Kenya Gazette, extend the period specified in respect of any matter under this Schedule by a period not exceeding twenty-one days.

**SECOND SCHEDULE s. 11**  
**OATH / AFFIRMATION OF THE OFFICE OF CHAIRPERSON**  
**/ A MEMBER / SECRETARY**

I -----having been appointed  
(the Chairperson/member of /secretary to) Bomet County Public  
Service Board, do solemnly (swear/declare and affirm) that I will at all  
times obey, respect and uphold the Constitution of Kenya and all other  
laws of the Republic; that I will faithfully and fully, impartially and to  
the best of my ability, discharge the trust and perform the functions  
and exercise the powers devolving upon me by virtue of this  
appointment without fear, favour, bias, affection, ill-will or prejudice.  
(SO HELP ME GOD).

Sworn / Declared by the said -----  
-----  
-----

Before me this ----- Day -----  
----- of -----  
-----

Magistrate/Commissioner of oath

**THIRD SCHEDULE s. 18 MEETINGS AND PROCEDURE OF  
THE BOARD**

**Meetings**

1. (1) The Board shall decide when and where it meets and the meetings shall be convened by the chairperson in consultation with the secretary.

(2) Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member.

(3) A meeting shall be presided by the Chairperson or in his or her absence, by the Vice Chairperson.

(4) The members of the Board shall elect a vice-Chairperson from among themselves —

(a) at the first sitting of the Board; and

(b) whenever it is necessary to fill the vacancy in the office of the vice-Chairperson.

(5) The Chairperson and vice-Chairperson shall not be of the same gender.

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

**Conflict of interest**

2. (1) If any person has a personal or fiduciary interest in any matter before the Board and is present at a meeting of the Board or any committee at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.

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

(3) No member or staff of the Board shall transact any business or trade with the Board.

**Quorum**

*The Bomet County Public Service Bill, 2018*

**3.** (1) Subject to sub-paragraph (2), the quorum of the meeting shall not be less than half of the appointed members.

(2) Where there is a vacancy in the Board, the quorum of the meeting shall not be less than three Board members.

**Voting**

**4.** A question before the Board shall be decided with a supporting vote of at least two thirds of the members present.

**Rules of procedure and minutes**

**5.** The Board shall—

- (a) determine rules of procedure for the conduct of its business; and
- (b) keep minutes of its proceedings and decisions.

## **MEMORANDUM OF OBJECTS AND REASONS**

The principal object of this Bill is to provide a comprehensive framework for the operations of the Bomet County Public Service Board pursuant to the provisions of Article 235 of the Constitution and sections 57, 58 and 59 of the County Governments Act.

**Part I** provides for the short title and commencement date and interpretation of terms used.

**Part II** provides for the establishment and administration of the Board. This part also provides for a secretariat to be headed by a Secretary and supported by the requisite staff.

**Part III** provides for the procedural matters relating to the conduct of investigations and enquiries by the Board. Specifically, the powers and jurisdiction of the Board in relation to investigations and enquiries and the lodging of complaints, notice and hearings are provided for. This part also defines the persons likely to be affected or prejudiced by investigations or enquiries and considerations and elements of the rules of natural justice that the Board will have regard to. The actions to be taken after investigations or enquiries are also addressed.

**Part IV** prescribes the responsibility of the Board to make a report to the complainant, county agency, county public office and organization to which the investigation relates the results thereof and the powers of the Board to take disciplinary action where such investigation reveals misconduct on the part of the person investigated.

**Part V** sets out the financial provisions and addresses issues of funds to cater for the expenses of the Board, Accounts and Audit.

**Part VI** sets out miscellaneous and general provisions issues of management of information, Offences, Reports by the Board to the Governor and the County Assembly and the power to make Regulations.

The enactment of this Bill shall occasion additional expenditure as the public funds to the board are usually provided for in the estimates.

Dated 13<sup>th</sup> March 2018

**Hon. Robert Serbai**  
**Chairperson committee on labour and public service**

*The Bomet County Public Service Bill, 2018*