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REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**MACHAKOS COUNTY BILLS, 2023**

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CONTENT

	PAGE
Bill for Introduction into the County Assembly of Machakos—	
The Machakos County Inspectorate Service Bill, 2023 .....	1



**MACHAKOS COUNTY INSPECTORATE SERVICE BILL, 2023**

**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3—Objects and Purpose.
- 4—Standards of Service.

**PART II—THE INSPECTORATE SERVICE**

- 5—Establishment of the Service.
- 6—Functions of the Service.
- 7—Officers of the Inspectorate.
- 8—Removal from office.
- 9—Vacancy of office.
- 10—Functions and powers of the Director.
- 11—Functions and powers of the Deputy Directors.
- 12—Limitation of fundamental rights and freedoms of Inspectorate Officers.

**PART III—RECRUITMENT AND TRAINING OF INSPECTORATE OFFICERS**

- 13—Recruitment of Inspectorate Officers.
- 14—Qualifications of Inspectorate Officers.
- 15—Inspectorate Officers prohibited from conflict of interest.
- 16—Training Programmes.
- 17—Training of Inspectorate Officers.

**PART IV—POWERS AND DUTIES OF INSPECTORATE OFFICERS**

- 18—Notices.
- 19—Power to arrest.
- 20—Power to seize and hold things.
- 21—Power of entry.

- 22—Power to inspect.  
 23—Seizure during inspection.  
 24—Order for restoration.  
 25—Power to supervise.  
 26—Power to evict.  
 27—Power to impound vessel.  
 28—Power to control traffic.  
 29—Power to stop vehicles.  
 30—Identification of an Inspectorate Officer.  
 31—Use of non-violent means.  
 32—Reporting System.  
 33—Exercise of powers in accordance with the law.  
 34—Oath of office.

#### **PART V—DISCIPLINE**

- 35—Governing law.  
 36—Responsibilities of Inspectorate Officers.  
 37—Offences against discipline.  
 38—Disciplining Officers.  
 39—Inspectorate Disciplinary Committee.

#### **PART VI—FINANCIAL PROVISIONS**

- 40—Financial year.  
 41—Source of the funds of the Service.  
 42—Annual estimates.  
 43—Accounts and audit.

#### **PART VII—OFFENCES**

- 44—Impersonation of an Inspectorate Officer.  
 45—Assault in execution of duty.  
 46—Obstruction of an Officer.  
 47—Inspectorate Officer not to torture or assault.  
 48—General Penalty.

**PART VIII—MISCELLANEOUS PROVISIONS**

49—Protection from personal liability.

50—Transition.

51—Regulations.

**SCHEDULES**

**FIRST SCHEDULE—COUNTY INSPECTORATE SERVICE STRUCTURE**

**SECOND SCHEDULE—OATH/AFFIRMATION OF OFFICE AND SECRECY**

**THIRD SCHEDULE—OFFENCES AGAINST DISCIPLINE**

**FOURTH SCHEDULE—CONDITIONS AS TO USE OF FORCE**

**FIFTH SCHEDULE—CODE OF CONDUCT**

**MACHAKOS COUNTY INSPECTORATE SERVICE BILL, 2023****A Bill for—**

**AN ACT of the Machakos County Assembly to create an enabling environment for the exercise of the functions of the County Government under Part 2 of the Fourth Schedule of the Constitution; to provide for the enforcement of Machakos County laws, to establish the Machakos County Inspectorate Service and for connected purposes**

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

**PART I—PRELIMINARY****Short title**

1. This Act may be cited as the Machakos County Inspectorate Service Act, 2023.

**Interpretation**

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

“Board” means the Machakos County Public Service Board established under section 57 of the County Governments Act, 2012;

“County” means Machakos County;

“County assembly” means the County Assembly of Machakos;

“County Government” means the County Government of Machakos;

“County Officer” includes any officer employed, directly or indirectly, by the Board or by the County Government through appointment or election;

“Chief Officer” means the Chief Officer responsible for matters relating to the enforcement of County laws;

“Department” means the Department responsible for matters relating to the enforcement of County laws;

“Director” means the person appointed as such under section 7;

“Disciplinary Committee” means the Machakos County Inspectorate Disciplinary Committee established under section 39;

“Executive Committee Member” means the Executive Committee Member responsible for matters relating to the Inspectorate;

“Gazette” means the *Kenya Gazette* or County Gazette;

“Governor” means the Governor of Machakos;

“Inspectorate” means the Machakos County Inspectorate Service established by section 5;

“Inspectorate Officer” means an Officer of the Service appointed to serve as such in the Inspectorate;

“premises” includes —

- (a) commercial buildings;
- (b) drains;
- (c) houses, flats, rooms, bungalows, or maisonettes belonging to or rented for residential purposes by the County Government;
- (d) land;
- (e) open places, covered or enclosed, whether maintained or not under statutory authority, of any place within the limits of the County;
- (f) railway carriage or other conveyances and tents;
- (g) structures of any kind;
- (h) vans; and

“Service” means the Machakos County Inspectorate Service established under section 5.

### **Objects and Purpose**

3. The objects and purpose of this Act are to—
- (a) establish a mechanism for the enforcement of County laws;
  - (b) create an enabling environment for the exercise of the functions of the County Government under Part 2 of the Fourth Schedule of the Constitution;
  - (c) support National Government law enforcement agencies in performing their functions relating to County laws;
  - (d) set out a framework within which the County government will contribute to the protection of the rights of its residents as regards its functions;
  - (e) put in place structures for the management of enforcement services in the County; and
  - (f) make provision for the responsible, judicious, effective conduct of enforcement officers in their work.

**Standards of Services**

4. In the exercise of the power and performance of the functions conferred by this Act and in attaining the objects and purpose of this Act, the Service shall, among other things—

- (a) have the technical, infrastructural, and administrative competence to ensure that the requirements of the service are fulfilled;
- (b) adopt quality service as a core principle;
- (c) be guided in their activities by the relevant provisions of the Constitution and any other written law; and
- (d) be an institution of exemplary service delivery and technical competence by applying and promoting such other values as the service may by regulations, prescribe.

**PART II –THE INSPECTORATE SERVICE****Establishment of the Service**

5. (1) There is established, the Machakos County Inspectorate Service.

(2) The Inspectorate shall be a department within the County Public Service.

(3) The Inspectorate shall consist of such number of officers as may be determined by the Board.

(4) The ranks of the Inspectorate shall consist of—

(a) commissioned officers including the—

- (i) Director who shall be the head of the Service;
- (ii) two Deputy Directors who shall deputize the Director;
- (iii) Chief Inspectors in charge of the Sub-counties; and
- (iv) Inspectors who shall deputize the Chief Inspectors.

(b) non-commissioned officers including—

- (i) senior sergeant;
- (ii) sergeant;
- (iii) corporal; and
- (iv) constable.



### **Functions of the Service**

6. The Functions of the Inspectorate Service are to—
- (a) ensure the enforcement of County laws;
  - (b) prevent the violation of County laws;
  - (c) protect and guard County Government property including public utilities;
  - (d) respond to complaints relating to the violation of County laws;
  - (e) assist National Government law enforcement agencies in the apprehension of violators of County laws;
  - (f) collaborate with National Government law enforcement agencies in the investigation of violations of County laws;
  - (g) assist national government law enforcement agencies in the maintenance of law and order in the County; and
  - (h) perform any other functions assigned under this Act or any other law.

### **Officers of the Inspectorate**

7. (1) The Director and Deputy Director shall be competitively recruited by the Board and appointed by the Governor upon approval by the County Assembly.

(2) A person qualifies for appointment as the Director of the Service if that person possesses the following qualifications—

- (a) a degree in any of the following disciplines from a recognized university—
  - (i) law;
  - (ii) security management;
  - (iii) public administration;
  - (iv) criminology;
  - (v) economics;
  - (vi) sociology; or
  - (vii) psychology.
- (b) has at least ten years working experience in the public service;
- (c) has served in the service in the rank of a Chief Inspector;
- (d) meets the requirements of Chapter Six of the Constitution; and

(e) experience at a senior position in the Police Service shall be an added advantage.

(3) A person qualifies for appointment as a Deputy Director of the Service if that person possesses the following qualifications—

(a) a degree in any of the following disciplines from a recognized university—

- (i) law;
- (ii) security management;
- (iii) public administration;
- (iv) criminology;
- (v) economics;
- (vi) sociology; or
- (vii) psychology.

(b) has at least five years working experience in the public service;

(c) has served in the Service in the rank of a Chief Inspector;

(d) meets the requirements of Chapter Six of the Constitution; and

(e) experience at a senior position in the Police Service shall be an added advantage.

(4) All other officers of the Inspectorate shall be competitively recruited by the Board on such terms and conditions as it may determine.

(5) The Director and Deputy Directors shall hold office for a term of five years and shall be eligible for re-appointment for one further term.

#### **Removal from office**

**8.** (1) The Director and the Deputy Directors may be removed from office on any of the following grounds—

- (a) incompetence;
- (b) gross misconduct;
- (c) abuse of office;
- (d) gross violation of the Constitution or any other law;
- (e) inability to perform the functions of the office due to physical or mental incapacity;
- (f) being convicted of an offence; or

(g) bankruptcy.

(2) Any person may, in writing, petition to the Board for the removal of the Director or the Deputy Director.

(3) The Board shall consider the petition under sub-section (2) and make recommendations to the County Assembly.

(4) In considering a petition under sub-section (3), the Board shall afford the Director or the Deputy Director an opportunity to defend themselves either in person or through a legal representative.

#### **Vacancy of office**

9. (1) The office of the Director or Deputy Director becomes vacant when the holder—

- (a) resigns, by notice in writing, addressed to the Board;
- (b) is removed from the office in accordance with this Act; or
- (c) dies.

(2) Within three months of the occurrence of a vacancy under sub-section (1), the Board shall recruit another person to fill the vacancy.

#### **Functions and powers of the Director**

10. The functions and powers of the Director are to—

- (a) oversee the general management of the Inspectorate Service;
- (b) ensure the effective and efficient day-to-day administration and operation of the Service;
- (c) prepare budgetary estimates and develop a policing plan before the end of each financial year, setting out the priorities and objectives of the Service and justifications thereof;
- (d) determine the distribution and deployment of Inspectorate Officers;
- (e) ensure the implementation of policy and operational direction of the Service;
- (f) determine the establishment, maintenance and jurisdiction of Inspectorate stations, posts, outposts, unites and unit bases;
- (g) oversee the establishment and management of Inspectorate training institutions and programmes for Inspectorate recruits and other Officers;
- (h) ensure cooperation and collaboration of the Service with the National Police Service and other relevant national institutions;

- (i) promote co-operation with other inter-county agencies; and
- (j) perform any other function necessary for the meeting of the objectives of this Act.

### **Functions and powers of the Deputy Director**

- 11.** The functions and powers of the Deputy Director are to—
- (a) be the principal assistant to the Director;
  - (b) oversee the implementation of County laws and policies;
  - (c) co-ordinate enforcement operations in the County;
  - (d) monitor and assess the performance of Inspectorate Officers;
  - (e) recommend training and training programs for the Inspectorate Officers;
  - (f) extend professional knowledge and specialized experience to the Service;
  - (g) prepare a training curriculum and program for Inspectorate Officers;
  - (h) head the Inspectorate Training programme; and
  - (i) co-ordinate any other operations of the Service as may be directed from time to time.

### **Limitation of fundamental rights and freedoms of Inspectorate Officers**

**12.** (1) Subject to this section, an Inspectorate Officer is entitled to all rights set out in the Constitution.

(2) Subject to Article 24, 25 and 35 of the Constitution, the rights and fundamental freedoms of an Inspectorate officer may be limited for purposes, in the manner and to the extent set out by law.

(3) A limitation of a right or fundamental freedom under subsection (2) shall be reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom and shall be limited only for purposes of ensuring—

- (a) the protection of classified information;
- (b) the security and safety of Inspectorate Officers;
- (c) the independence and integrity of the Inspectorate; and
- (d) the enjoyment of rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others.