

**SPECIAL ISSUE**

*Makueni County Gazette Supplement No. 14 (Acts No. 5)*



REPUBLIC OF KENYA

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**MAKUENI COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2015**

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**NAIROBI, 10th December, 2015**

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**CRITERIA FOR VETTING AND APPROVAL OF NOMINEES FOR  
APPOINTMENT TO PUBLIC OFFICE BY COUNTY ASSEMBLY**

**THE MAKUENI COUNTY VETTING AND APPROVAL OF PUBLIC OFFICERS ACT, 2015**

**No. 5 of 2015**

*Date of Assent : 3rd December, 2015*

*Date of Commencement : 24th December, 2015*

**AN ACT of the County Assembly of Makueni to provide for the procedure of vetting and approval of constitutional and statutory appointments and for connected purposes**

**ENACTED** by the County Assembly of Makueni as follows—

**Short title**

1. This Act may be cited as the Makueni County Vetting and Approval of Public officers Act, 2015.

**Interpretation**

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

“appointing authority” means any person who, under the Constitution or any other law is required to make an appointment for which the approval of the County Assembly is required;

“appointment” includes any re-appointment to the same body, whether or not in the same capacity;

“candidate” means a person who has been proposed or nominated for appointment to a public office;

“clerk” means the Clerk of the County Assembly of Makueni;

“committee” means the relevant committee of the County Assembly or such other committee as the Speaker may, for the convenience of the Assembly decide;

“day” means a calendar day but shall exclude weekends and public holidays;

“public officer” means any State Officer; or any person, other than a State Officer, who holds a public office;

“speaker” means the Speaker of the County Assembly of Makueni;

“statute” means an Act of Parliament or a county legislation.

**Powers of Appointment**

3. An appointment under the Constitution or a statute for which the approval of the County Assembly is required shall not be made unless the

appointment is approved or deemed to have been approved by the County Assembly in accordance with this Act.

#### **Notification of Vetting Requirements**

4. Any advertisement inviting applications for consideration for appointment to an office to which this Act applies shall indicate that candidates so nominated shall be required to appear before the County Assembly for vetting.

#### **Notification of Nomination**

5. (1) An appointing Authority shall, upon nominating a person for an appointment to which this Act applies, notify the County Assembly accordingly.

(2) A notification under subsection (1) shall be—

(a) in writing;

(b) be lodged with the Clerk of the County Assembly.

(3) A notification of nomination shall be accompanied by information concerning the nominee, having regard to the issues mentioned in section 7.

(4) For purposes of this Act, a notification of nomination shall be deemed to be duly given on the day on which it complies fully with subsections (2) and (3).

(5) Where a notification of nomination does not comply fully with subsections (2) and (3), the Clerk shall return the same to the appointing Authority within two days of receipt of the notification for the appointing Authority to comply.

(6) Where the notification is received when the County Assembly is not in session, the notification shall be deemed to have been given on the day when the County Assembly reconvenes after the recess period.

#### **Approval Hearing**

6. (1) Upon receipt of a notification of appointment, the Clerk shall cause the notification to be read in the County Assembly by the Speaker after which it shall be referred to the relevant committee.

(2) The committee shall determine the time and place for holding of the approval hearing and inform the Clerk.

(3) The Clerk shall notify a candidate of the time and place for the holding of an approval hearing and invite the candidate to the hearing at least seven days before the hearing.

(4) The Clerk shall notify the public of the time and place for holding an approval hearing at least seven days prior to the hearing.

(5) Subject to this Act, all committee proceedings on public appointments shall be open and transparent.

(6) Despite subsection (6), a committee may, on its own Motion or on the application of a candidate or any other concerned person, determine that the whole or part of its sittings shall be held in camera.

(7) An approval hearing shall focus on a candidate's academic credentials, professional training and experience, personal integrity and background.

(8) The criteria specified in the Schedule shall be used by a committee during an approval hearing for the purposes of vetting a candidate.

(9) Any person may, prior to the approval hearing, and by a written and signed statement on oath, provide the Clerk with evidence supporting or contesting the suitability of a candidate to hold the office to which the candidate has been nominated.

(10) A candidate may, at any time by notice in writing addressed to the Clerk, withdraw from the approval process and the candidate's nomination shall thereupon lapse.

#### **Issues for Consideration**

7. The issues for consideration by the County Assembly in relation to any nomination shall be—

- (a) the procedure used to arrive at the nominee;
- (b) if the candidate who scored the highest marks is not picked, the appointing Authority shall include an explanation on why another candidate was appointed instead;
- (c) any constitutional or statutory requirements relating to the office in question; and
- (d) the suitability of the nominee for the appointment proposed having regard to whether the nominee's abilities, experience and qualities meet the needs of the body or position to which nomination is being made;
- (e) compliance with Articles 10, 232 and Chapter six of the Constitution of Kenya, 2010.

#### **Period for Consideration and Report**

8. (1) Unless otherwise provided in any law, a committee shall

consider a nomination and table its report in the County Assembly for debate and decision within twenty one days from the date on which the notification of nomination was given in accordance with section 5.

(2) At the conclusion of an approval hearing, the committee shall prepare its report on the suitability of the candidate to be appointed to the office to which the candidate has been nominated, and shall include in the report, such recommendations as the committee may consider necessary.

#### **Failure of County Assembly to act on Nomination**

9. If after expiry of the period for consideration specified in section 8, the County Assembly has neither approved nor rejected a nomination of a candidate, the candidate shall be deemed to have been approved.

#### **Rejection of Nomination**

10. Where the nomination of a candidate is rejected by the County Assembly, the appointing Authority may submit to the County Assembly, the name of another candidate, and the procedure for approval specified in this Act shall apply accordingly; provided that the appointing Authority may resubmit the name of a rejected candidate if the rejection was as a result of any other reason other than because of incompetence.

#### **Notification of Decision**

11. The Clerk shall notify the appointing Authority of the decision of the County Assembly within seven days of the decision.

#### **Powers of the Committee**

12. (1) The committee shall have power to summon any person to appear before it for the purpose of giving evidence or providing information during approval hearing.

(2) For purposes of subsection (1), the committee shall have the same powers as the high court to—

- (a) enforce the attendance of witnesses and examine them on oath, affirmation or otherwise;
- (b) compel the production of documents; and
- (c) issue a commission or request to examine witnesses abroad.

(3) Any person who—

- (a) disobeys any order made by a committee for attendance or for production of papers, books, documents or records; or

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- (b) refuses to be examined before, or to answer any lawful and relevant question put by, a committee, commits an offence and shall be liable, upon conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.



SCHEDULE (Section 6 (9))

CRITERIA FOR VETTING/APPROVAL OF NOMINEES FOR APPOINTMENT TO PUBLIC OFFICE BY THE COUNTY ASSEMBLY/QUESTIONNAIRE

Notes:

- (a) The questionnaire applies to appointments to public office arising under the Constitution or any other law where County Assembly is required to approve the appointment.
(b) The questionnaire shall be used by the relevant committee of the County Assembly to vet a nominee appearing before the committee.
(c) The questionnaire shall be filled and submitted by the nominee to the relevant County Assembly Committee through the Clerk at least one day before the nominee appears before the committee.
(d) Submission of false information in the questionnaire is an offence and may result in prosecution.
(e) Any form of canvassing by a nominee shall lead to disqualification.

The nominee should respond to all the questions in the questionnaire;

- 1. Name: (state full name)
2. Position: (state office to which you have been nominated).
3. Sex:
4. Date of Birth: (state year and place of birth).
5. Marital Status:
6. Daytime phone number:
7. Mobile phone number:
8. Email Address:
9. ID Number:
10. PIN Number:
11. Nationality:

- 12. Postal Address: .....
- 13. County of birth: .....
- 14. County of residence: .....
- 15. Ward of birth: .....
- 16. Ward of residence: .....
- 17. Knowledge of Languages: (*Specify Languages*).  
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- 18. Education: (List, in reverse chronological order, each university, college, or any other institution of higher education attended and indicate, in respect of each, the dates of attendance, academic award obtained, whether a degree, diploma or certificate was awarded, and the dates on which each such was awarded).  
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- 19. Employment Record: (List in reverse chronological order all government agencies, business or professional corporations, companies, firms or other enterprises with which you have been affiliated as an officer, director, partner, proprietor, employee or consultant)  
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- 20. Honours and Awards: (List any scholarships, fellowships, honorary degrees, academic or professional honours, honorary society memberships, military awards and any other special recognition for outstanding service or achievement and in respect of each, state the date of award and the institution or organization that made the award).  
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- 21. Professional Association (where applicable): (List all professional associations of which you are or have been a member and give any positions held and the respective dates when each such position was held).  
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- 22. Memberships: (List all professional, business, fraternal, scholarly, civic, charitable or other organizations, (other than those listed in

response to Question 16 (to which you belong or have belonged).

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23. Published Writings—

(a) List the titles, publishers and dates of books, articles, reports letters to the editor, editorial pieces or other published materials you have authored or edited;

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(b) Supply four (4) copies of any reports, memoranda or policy statements you prepared or contributed in the preparation of any bar association, committee, conference or organization of which you were a member.

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24. Public Office, Political Activities and Affiliations—

(a) List chronologically any public offices you have held or are currently holding, including the terms of service and whether such positions were elective or appointed;

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(b) List all memberships and offices held in, whether compensated or not, to any political party or election committee. If you have ever held a position or played a role in a political campaign, identify the particulars of the campaign, including the candidate, dates of the campaign, your title and responsibilities. Also include any linkage you have to a political party at present;

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(c) Have you ever been dismissed or otherwise removed from office for contravention of the provisions of Article 75 of the Constitution?

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(d) Have you ever been adversely associated with practices that depict bias, favouritism or nepotism in the discharge of public duties?

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25. Outside commitment during service in office: (Do you have any plans, commitments, businesses or agreements to pursue outside employment with or without compensation during your service in office? If so explain).

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26. Sources of Income: (List sources and mounts of all income received during the calendar year preceding your nomination and in the current calendar year).

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27. Tax Status: (state whether you have fully complied with your tax obligations to the state up to the end of the financial year immediately preceding the nomination for appointment).

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28. Statement of Net Worth: (state you financial net worth).

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29. Potential Conflicts of Interest:

(a) Identity the family members or other persons, parties, categories of litigation or financial arrangements that are likely to present potential conflicts-of-interest when you first assume the position to which you have been nominated;

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(b) Explain how you will resolve any conflict of interest, including the procedure you will follow in determining these areas of

concern. 30. Pro-Bono/Charity Work/Donations to Charity: (Describe what you have done by way of pro bono or charity work, listing specific instances, the amount contributed and the amount of time devoted to each).

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31. Have you ever been charged in a court of law in the past three years? If so, specify the nature of the charge, the present status of the matter, or where the matter is concluded, the judgment of the court, or otherwise, how the case was concluded.

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32. Have you ever been adversely mentioned in an investigatory report of Parliament, any other Commission of Inquiry or of any County Assembly in the last three years?

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33. Do you have any objection to the making of enquiries with your present employer/referees in the course of consideration of your nomination?

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34. References: (List three persons who are not your relatives who are familiar with your character, qualification and work).

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