

**SPECIAL ISSUE**

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**KENYA GAZETTE SUPPLEMENT**

**KILIFI COUNTY ACTS, 2016**

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ACT, 2016**

**No. 16 of 2016**

*Date of Assent: 12th September, 2016*

*Date of Commencement: 3rd October, 2016*

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**KILIFI COUNTY HEALTH SERVICES IMPROVEMENT FUND  
ACT, 2016**

**AN ACT of the Kilifi County Assembly to establish the Kilifi County Health Services Improvement Fund for the improvement of health care service delivery in hospitals; to provide for administration of the Fund; and for connected purposes**

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

**PART I—PRELIMINARY****Short Title and Commencement**

**1.** (1) This Act may be cited as the Kilifi County Health Services Improvement Fund Act, 2016.

**Interpretation**

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

“fund board” means the Fund Board administering the Kilifi County Health Services Improvement Fund established in section 5;

“chief officer” means the Chief Officer responsible for health services in the Department of Health;

“director for health services” means the County Director of Health Services appointed by the Kilifi County Public Service Fund Board;

“executive member” means the County Executive Committee Member responsible for Health Services;

“exemption” means an automatic excuse from payment based on the patient meeting a certain criteria set down in regulations by the Executive Member;

“fund” means the Health Services Improvement Fund established under section 3;

“health services improvement funds” means the meaning as provided in section 3;

“hospital” includes a county and sub-county hospital;

“hospital management fund boards” mean the administrative arm that manage hospitals;

“waiver” means a release from payment meeting a certain criteria set down in regulations by the Executive Member.



**PART II—ESTABLISHMENT OF THE FUND****Establishment of the Health Services Improvement Fund**

**3.** (1) There shall be established a fund to be known as the Kilifi County Health Services Improvement Fund.

- (2) There shall be paid into the fund—
- (a) such monies as appropriated by the County Treasury;
  - (b) grants or donations;
  - (c) monies received as user charges; and
  - (d) income generated from the proceeds of the services.

**Objects of the Fund**

- 4.** (1) The objects and purposes of the Fund are—
- (a) to provide financial resources for medical supplies and small-scale equipping of health Services in the county for basic operation and maintenance;
  - (b) to give decision making autonomy to hospitals to plan and manage the resources within their control;
  - (c) to support capacity building in the management of hospitals; and
  - (d) to improve the quality of health care services in the hospitals.

**PART III—ADMINISTRATIVE PROVISIONS****Establishment of the Kilifi County Health Services Improvement Fund Board**

**5.** (1) There shall be established a Fund Board for the Kilifi County Health Services Improvement Fund.

(2) The Fund shall be administered by the Fund Board and the Hospital Management Fund Boards according to such rules and guidelines as prescribed hereunder.

**Membership of the Fund Board**

**6.** (1) The Fund Board shall comprise of no more than seven members as follows—

- (a) a Chairperson appointed by the Governor;
- (b) the Chief Officer in charge of health services;
- (c) the Fund Administrator appointed by the County Treasury;

- (d) the County Director of Health Services, who shall be the secretary to the Fund Board; and
- (e) three (3) other persons who shall be appointed by the Executive Member fulfilling such criteria and drawn from such membership as provided in section 7.

### **Qualification for membership**

7. (1) The appointment of the chairperson under section (6)(1) (a) and members under sub-section (e) shall be subject to such criteria—

- (a) satisfying the requirements of Chapter Six of the Constitution; and
- (b) holding a minimum of a bachelor's degree from a university recognized in Kenya, Finance/Medical degree is an added advantage; or
- (c) on account of their training or experience.

(2) The members of the Fund Board to be appointed under section 6 (1)(e) shall be drawn from associations representing non-governmental organizations, professional associations and business drawn from the healthcare sector taking into account gender, disability and youth.

### **Terms of Office**

8. The chairperson and members of the Committee appointed under section (6) (1) (a) and (e) shall hold office for a term of three years and shall be eligible for reappointment for one further term.

### **Termination of Membership**

9. A member shall vacate his/her position as a member of the Management Committee if he/she;

- (a) is absent from three (3) consecutive meetings of the committee without written apology;
- (b) violates Chapter 6 of the Constitution;
- (c) ceases to be a resident of Kilifi County or Sub-County or work in the area of Hospital Jurisdiction;
- (d) voluntarily resigns from committee; and
- (e) dies;
- (f) is so incapacitated by prolonged physical or mental illness as to be unable to attend and discharge his/her duties

**Functions of the Fund Board**

- 10.** (1) The Fund Board shall—
- (a) provide oversight of the administration of the moneys drawn from the Fund;
  - (b) mobilize resources for the Fund;
  - (c) provide guidance to the management Fund Boards on—
    - (i) proposals on user fees where the management Fund Board seeks to propose new user fees or changes to the old fees structure;
    - (ii) disciplinary matters including but not limited to theft of funds , spending of revenue at source, spending without proper authorization, fraud, abuse of powers of exemptions and waivers;
    - (iii) monitor the performance of the hospital management Fund Boards
    - (iv) receive reports from the management Fund Boards for its consideration and adoption; and
    - (v) develop criteria for the granting of waivers and exemptions;

**Responsibilities of the Fund Board**

**11.** In administering the Fund, the Fund Board shall have the following responsibilities—

- (a) prepare, sign and transmit to the County Auditor in respect of each financial year and within three months after the end thereof, a statement of account relating to the Fund specifying all contributions to the Fund and the expenditure incurred from the Fund, and such details as the County Treasury may from time to time direct, in accordance with the provisions of the Public Audit Act;
- (b) furnish such additional information as may be required that is proper and sufficient for the purpose of examination and audit by the County Auditor in accordance with the provisions of the Public Audit Act;
- (c) develop the criteria for the allocation of funds for approval;
- (d) prepare annual distribution of resources by health Services;



- (e) impose conditions on the use of expenditure authorized and may impose any reasonable prohibition, restriction or other requirement concerning such use of expenditure;
- (f) institute prudent measures for the proper utilization for monies deposited in the Fund using suitable internal controls and appropriate mechanism for accountability including audit of accounts by internal auditors of the department responsible for matters relating to finance; and
- (g) cause to be kept proper books of accounts and records relating to all receipts, payments, assets and liabilities of the Fund and to any other activities and undertakings financed by the Fund.

### **Functions of the Hospital Management Fund Boards**

- 12.** (1) The Hospital Management Fund Boards shall—
- (a) approve budgets, programmes and plans of the health Services;
  - (b) prepare the fund's annual budget and plan to be adopted by the Fund Board;
  - (c) formulate strategies on resource mobilisation by health Services management committees;
  - (d) resolve any conflicts that arise amongst health Services whose nature is the allocation of resources, membership of the committees or joint programmes;
  - (e) inspect health services, prepare reports and forward to the Management Committee for *gazettement*;
  - (f) identify implementation challenges and seek corrective actions;
  - (g) make policy recommendations on cost sharing, public awareness on health and administration of the fund through the chairman to the Management Committee;
  - (h) determine such number of standing committees and composition of *ad hoc* committees.

### **Principles of Financial Management for Hospital Management Fund Boards**

- 13.** (1) In financial management, the Hospital Management Fund Boards shall—
- (a) review the proposed budgets to ensure they are linked to the priorities as outlined in the Quarterly Implementation Plans and Annual Work Plan;

- (b) ensure the proposed budgets are based on the available resources;
  - (c) approve the proposed budgets after review; and
  - (d) forward the approved budgets to the Health services improvement Fund Board for approval and submission to the Executive Member.
- (2) In supervising and controlling the administration of all funds, the Hospital Management Fund Boards shall—
- (a) ascertain the available funds and their sources;
  - (b) guide the Hospital on user fees, unit costs, exemptions and waivers, as prescribed by the Executive Member;
  - (c) ensure accounting procedures conform to the Fund regulations and the County Government Financial Management Guidelines;
  - (d) ensure compliance with financial planning cycle;
  - (e) ensure mitigation against financial risk; and
  - (f) ensure internal and external audits are conducted as required under the Fund.

### **PART III—FINANCIAL PROVISIONS**

#### **Opening and Operating Bank Accounts**

14. (1) Each hospital shall operate a bank account in its own name.
- (2) There shall be three mandatory signatories to the bank account—
- (a) the Fund Administrator or the Deputy Fund Administrator in case the Fund Administrator is away on official leave,
  - (b) the Hospital Administrator, and
  - (c) the Medical Superintendent for the hospital.
- (3) The Hospital accountant shall obtain bank statements on a monthly basis and prepare bank reconciliation statements.
- (4) The Hospital Management Fund Boards shall review and approve monthly bank reconciliation statements that will be presented to the Fund Board.
- (5) The Hospital Management Fund Boards shall ensure that basic books of accounts and financial records of the Fund are maintained by ensuring that—



- (a) the Hospital's Financial Management System is up to date and conforms to the required accounting standards; and
- (b) the financial management system has the capacity to capture useful information and produce required reports for monitoring and management decision making.

(6) The Hospital Management Fund Boards shall ensure that certified financial reports are prepared and submitted.

### **Annual Reports**

15. The Fund Board shall, within three months after the end of each financial year, prepare and submit to the County Executive Committee Member a report for the immediate preceding year.

### **Winding up of the Fund**

16. In the event of winding up of the Fund, the cash balances shall be transferred to the Exchequer while other assets of the Fund shall be transferred to the Department for the time being responsible for medical services.

## **PART IV—MISCELLANEOUS PROVISIONS**

### **17. Guiding Principles**

(1) The expenditure incurred by a hospital on the services shall be on the basis of, and limited to, the annual allocation or grants and authority to incur expenditure.

(2) The receipts, earnings, accruals and the balance of the services at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained by the respective hospital for the purpose for which the service is established.

### **18. Administrative Regulations**

In the performance of its functions under this Act, the Executive Member may, in consultation with the Executive Member for Finance, make regulations generally for the governance, control and administration of the Fund and in particular for—

- (a) the criteria for granting exemptions and waivers;
- (b) the criteria for gazetting hospitals that are receiving monies from the Fund, and
- (c) user fees and charges.

**Transition and Savings Provisions**

**19.** (1) All members of the Hospital management Fund Boards serving before the enactment of this Act shall continue to serve for a further 3 months or until the appointment of the Hospital Management Fund Boards as prescribed by the Executive Member.

(2) Legal Notice No. 155 of 16th October, 2009 ceases to apply with respect to hospital management Fund Boards, in so far as the composition and membership however all guidelines as to conduct of meetings and format of records shall be utilised until such time that the Executive Member can formulate the Regulations.