

SPECIAL ISSUE

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**MANDERA COUNTY GAZETTE
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CONTENT

Act—	PAGE
The Mandera County Fire and Rescue Act, 2014	1

THE MANDERA COUNTY FIRE AND RESCUE ACT, 2014

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ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1—Short title
- 2—Interpretation
- 3—Objective of the Act
- 4—Guiding principles

**PART II—ESTABLISHMENT, POWERS AND FUNCTIONS OF
THE FIRE BRIGADE**

- 5—Establishment of Fire Brigade
- 6—Constitution of the Fire Brigade
- 7—Liability of members of Fire Brigade
- 8—Attendance
- 9—Fire alarm system
- 10—Control of Service
- 11—Power of entry to premises on fire
- 12—Closure of Streets
- 13—Entry by other Persons
- 14—Obstruction of fire officers
- 15—False alarms
- 16—Making of fires
- 17—Prevention of Fire
- 18—Obtaining of information
- 19—Charges
- 20—General power to deal with other forms of emergencies

PART III— COLLABORATION WITH OTHER AGENCIES

- 21—Collaboration strategies
- 22—Directions as to arrangements
- 21—Equipment, facilities, services and organizations
- 22—Directions for public safety purposes
- 23—Training institutions and centres

PART IV— WATER SUPPLY

- 24—Duty to secure water supply
- 25—Supply by other persons
- 26—General Penalty
- 27—Regulations

THE MANDERA FIRE AND RESCUE ACT, 2015

AN ACT of County Assembly of Mandera to make provision for fire and rescue services, to establish a Fire Brigade and its functions; to make provision about employment and powers of a Chief Fire Officer and other staff the supply of water; and for connected purposes

ENACTED by the County Assembly of Mandera as follows—

1. This Act may be cited as the Mandera Fire and Rescue Services Act, 2014 Short title

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

“emergency” means an event or situation that causes or is likely to cause—

- (a) one or more individuals to die, be seriously injured or become seriously ill; or
- (b) serious harm to the environment and includes the life and health of plants and animals

“executive member” means the county executive committee member responsible for matters relating to fire and rescue services in the county;

“equipment” means a vehicle, or any other apparatus, intended to be used by the Fire Brigade in the performance of its functions.

“Chief Fire Officer” means the Chief Fire Officer of the fire brigade or any person acting as such appointed under this Act;

“fire” means a fire which is endangering or is likely to endanger the life or property of any person;

“Fire Brigade” means the fire service of the county;

“fire fighting” includes any act necessary or expedient, or reasonably believed so to be, to extinguish a fire or to save or protect life or property from fire;

“senior brigade officer present” means the senior member of the fire brigade present at the incident in question; and

“special service” means a service performed by the fire brigade other than firefighting.

3. The purpose of this Act is to provide a framework for the fire disaster management system. Objective of the Act

4. In the performance of its functions or the exercise of the powers conferred under this ACT, the Fire Brigade must— Guiding principles

- (a) adopt an inclusive multi-disciplinary and multi-sectoral approach in fire fighting;
- (b) factor climate into fire prevention;
- (c) disseminate information on fire safety; and
- (d) be guided by the—
 - (i) national values and principles of governance set out by Article 10 of the Constitution; and
 - (ii) values and principles of public service set out by Article 232 of the Constitution

PART II—ESTABLISHMEN, POWERS AND FUNCTIONS OF THE FIRE BRIGADE

5. There shall be a Fire Brigade for Mandera County which shall be under the control of the Department of Public Works, which may delegate such control to decentralized units of the county. Establishment of Fire Brigade

6. The Fire Brigade shall consist of a Chief Fire Officer and such fire officers of other ranks appointed by the Mandera County Public Service Board Constitution of the Fire brigade

7. Neither the Department nor any member of the Fire Brigade shall be under any liability in respect of any acts performed in good faith in the course of firefighting or in the rendering of any special service. Liability of members of fire brigade

8. It shall be the responsibility of the Chief Fire Officer to determine whether the Fire Brigade shall attend at or remain at the scene of any fire or perform or continue any special service Attendance

2014

Mandera County Fire and Rescue

No. 10

9. The Chief Fire Officer may permit the owner or occupier of any premises on which an automatic fire alarm system has been installed to connect the same to the Fire Brigade premises at the expense of the owner or occupier, but neither the Department nor any member of the fire brigade shall be in any way liable for or in respect of the same.

Fire alarm system

10. The senior fire officer present at the scene of any fire shall have sole control of all operations in connection with fire fighting and in connection with services performed by the fire brigade, but may, in his discretion, in the case of a special service delegate his control to some other person.

Control of Service

11. The senior fire officer present, with or without other members of the fire brigade, may enter and if necessary break into any premises in the town which are or appear to be on fire and any premises or land adjoining or near the same which it is necessary to enter for firefighting purposes, without obtaining the consent of any person, and may fight any fire thereon and do any acts thereon which he may deem necessary for rescuing any person or property therein or fighting fire.

Power of entry to premises on fire

12. A senior fire officer present may temporarily close any street, passage or through way in or near which a fire exists

Closure of Streets

13. Where the fire brigade is in attendance at any premises which are on fire, any person who breaks into or enters the premises without the express permission of a senior fire officer present, except for the purpose of saving the life of any other person, shall be guilty of an offence.

Entry by other Persons

14. (1) Any person who willfully obstructs, molests or interferes with any member of the fire brigade in the execution of his duty, or who willfully interferes with or damages any vehicle, appliance or equipment being used or brought into use by the fire brigade for fire fighting shall be guilty of an offence

Obstruction of fire officers

(2) and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

15. (1) Any person who knowingly gives or causes a false fire alarm to be given to the fire brigade or to any member of the fire brigade shall be guilty of an offence.

False alarms

(2) and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

16. Any person who makes a fire or causes a fire as defined in this Act to be made shall be guilty of an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding 4 years, or to both.

Making of fires

(1) If the Chief Fire Officer has reasonable cause to believe that any building, structure or premises, by reason of—

Prevention of Fire

- (a) the method or material of their construction;
- (b) the nature of their use;
- (c) the nature of the things kept therein; or
- (d) the method of such keeping are likely to catch fire, he may require the person in charge or appearing to be in charge thereof to allow him free access thereto and afford him all reasonable facilities to inspect the same and if such ingress or facilities are denied to him, any magistrate may by warrant authorize him to enter and inspect the premises, using reasonable force for the purpose if necessary.

(2) If the Fire Brigade, after inspection by the Chief Fire Officer aforesaid is of the opinion that any premises, by reason of any such matters as aforesaid in subsection (1) above, are likely to catch fire, it may by notice in writing served upon the owner, require him within a specified time

- (a) to remove any building or structure on the premises; or
- (b) not to use the building, structure or premises in any particular manner specified in the notice; or
- (c) not to keep therein or thereon things of a particular nature, or
- (d) Otherwise to remove the danger of fire to the

satisfaction of the town, as the case may be.

(3) Any person aggrieved by a notice served under subsection (2) may within 14 days after service thereof, appeal to the Department, and the Department may confirm or disallow such notice, or may vary any of the terms thereof.

(4) The Department or its servants may enter upon any land in respect of which a notice has been served under subsection (2) has not been complied with, and may do such work on or about the premises as is, in its opinion, necessary to remove the danger of fire, and any expenses incurred by the Department in respect of such work shall be recoverable by the Department from the owner as a civil debt.

(5) Without prejudice to the powers of the Department under subsection (4), any person who fails to comply with any of the requirements of a notice served under subsection (2) shall be guilty of an offence, and shall be liable to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months or to both such fine and imprisonment, and in the case of a continuing offence, to a fine not exceeding ten thousand shillings for each day on which the offence continues.

18. (1) The Chief Fire Officer or any fire officer may, for the purpose of obtaining information for future possible firefighting operations, if generally or specifically authorized thereto in writing by the Department and on production of his authority require the owner or occupier of any premises within the town or any person appearing to be in charge thereof to allow him free entry therein, and may inspect the premises and any building thereon.

Obtaining of
Information

(2) Any person who denies entry to or obstructs an officer requiring entry under subsection (1) or inspecting premises there under shall be guilty of an offence and is liable on conviction to a fine not exceeding twenty thousand shillings, or to imprisonment for a term not exceeding six months, or to both.

19. Where the fire brigade attends at any premises or place for the purpose of fire fighting or of performing a special service, there shall be no charges paid by the owner

Charges

or occupier of the premises, or in the case of movable property, by the owner thereof, whether he requested the attendance or not, charges at the rate specified by the Department in regulations

20. (1) The executive member may, by notice in the county Gazette, confer on the Fire Brigade functions relating to emergencies, other than fires and road traffic accidents in relation to which the Fire Brigade has functions.

General power to deal with other forms of emergencies

(2) A notice under this section may require functions conferred on the Fire Brigade under this section to be discharged outside the Authority's area.

(3) A notice under this section may make provision as to what the Fire Brigade must or may do for the purpose of a function conferred under this section, and may in particular require or authorise the Fire Brigade —

- (a) to secure the provision of personnel, services and equipment;
- (b) to secure the provision of training for personnel;
- (c) to make arrangements for dealing with calls for help and for summoning personnel;
- (d) to make arrangements for obtaining information needed for the purpose of discharging the function;
- (e) to make arrangements for ensuring that reasonable steps are taken to prevent or limit damage to property resulting from discharging the function.

(4) A notice under this section may confer a function, including a function of providing particular equipment, on the Fire Brigade.

PART III—COLLABORATION WITH OTHER AGENCIES

21. The Fire Brigade may enter into arrangements with—

Collaboration strategies

- (a) a Fire and Rescue Authority or Brigade in another county; or
- (b) any other person;

for the discharge to any extent by that other Fire and

Rescue Authority or person of a function conferred on the Fire Brigade under part II of this Act.

(2) Despite subsection (1), the Fire Brigade may enter into arrangements with a person under subsection (1) in relation to its function of extinguishing fires only if the person employs fire-fighters.

(3) Arrangements under this section may include provision as to the terms on which a function is to be discharged and this may include provision on payment.

22. (1) The executive member may direct the Fire Brigade to—

Directions as to
arrangements

- (a) enter into arrangements under section 21(3) in the terms specified in the direction;
- (b) make one or more specified variations to any such arrangements; or
- (c) cancel any such arrangements

23. (1) The executive member may provide and maintain, or contribute to the provision and maintenance of, any equipment, facilities and services that the executive member considers appropriate for promoting the efficiency and effectiveness of fire and rescue authorities or services.

Equipment,
facilities, services
and organizations

(2) The executive member may establish and maintain, or contribute to the establishment and maintenance of, any organisations the executive member considers appropriate for promoting the efficiency and effectiveness of the Fire Brigade.

(3) Charges may be imposed for the use of equipment, facilities and services provided by—

- (a) the executive member under subsection (1); or
- (b) an organisation established or maintained by the executive member under subsection (2);.

(4) The executive member, may by notice in the county Gazette, make provision requiring the Fire Brigade to—

- (a) use and maintain equipment and facilities specified in the notice or of a description specified in the

notice; or

- (b) use services specified in the notice or of a description specified in the notice.

24. (1) The executive member may, if it is considered necessary for public safety purposes, by notice in the county Gazette, give general or specific directions to the Fire Brigade about the use or disposal of property or facilities.

Directions for
public safety
purposes

(2) The notice given under subsection (1) may include provision on the—

- (a) use or disposal by the Fire Brigade of property or facilities belonging to or under its control;
- (b) use by the Fire Brigade of property or facilities belonging to or under the control of a person who has made, or is willing, to avail the property or facilities; and
- (c) payments to be made by the Fire Brigade to another Fire and Rescue Services Authority or to any other person, in respect of the use of property or facilities.

(3) The references in subsection (2) to property or facilities belonging to a person include land occupied by the person.

25. (1) The Executive Member may establish and maintain—

Training institutions
and centres

- (a) a central training institution, or
- (b) one or more local training centres,

for one or more of the purposes mentioned in subsection (2).

(2) The training institutions or centres are for the following purposes—

- (a) the provision of education and training to employees of the Fire Brigade;
- (b) the provision of advice and assistance to the Fire Brigade in connection with the provision of such education and training;
- (c) the supervision and regulation of the provision of

2014

Mandera County Fire and Rescue

No. 10

education and training on fire and rescue services;

- (d) the provision of education and training to persons who—
- (i) provide; or are to provide such education and training;
 - (ii) the provision of education and training to persons who are not employees of the Fire Brigade in matters which the Fire Brigade has functions; and
 - (iii) the provision of advice and assistance in connection with the provision of education and training.

PART IV – WATER SUPPLY

26. (1) The Fire Brigade must take all reasonable measures for securing that an adequate supply of water is available for the Fire Brigade's use in the event of fire.

Duty to secure
water supply

(2) The Fire Brigade may use any suitable supply of water for the purposes of extinguishing a fire or protecting life or property in the event of a fire.

(3) Despite subsection (2), the Fire Brigade must pay reasonable compensation for the water.

27. For the purposes of section 24 (1), the Fire Brigade may enter into an agreement with any person—

Supply by other
persons

- (a) to secure the use of water under the control of a person;
- (b) improve access to any such water; or
- (c) to lay and maintain pipes and to carry out other works in connection with the use of such water.

28. The executive member may make regulations for the better carrying out of the purposes of this Act by the approval of the Mandera County Assembly.

Regulations