

SPECIAL ISSUE

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REPUBLIC OF KENYA

**TURKANA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2014

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**THE TURKANA COUNTY POWERS AND
PRIVILEGES ACT, 2014**

No. 5 of 2014

Date of Assent: 9th September, 2014

Date of Commencement: 23rd October, 2014

AN ACT of the Turkana County Assembly to declare and define certain powers, privileges and immunities of the County Assembly and of the members of the County Assembly; to secure freedom of speech in the County Assembly; to make provision regulating admittance to and conduct within the precincts of the County Assembly; to give protection to the persons employed in the publication of the reports and other papers of the County Assembly; and for purposes incidental to or connected with the matters aforesaid

ENACTED by the Turkana County Assembly as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Turkana County Assembly Powers and Privileges Act, 2014.

Short title

2. In this Act, except where the context otherwise requires—

Interpretation

“Assembly” means the County Assembly;

“Chamber” means the chamber in which the proceedings of the Assembly are conducted, and includes any galleries and places therein provided for members of the public or representatives of the press, and any lobbies, offices or precincts used exclusively in connection with the proceedings of the House;

“Clerk” means the person appointed to be Clerk to the Assembly;

“Committee” means any standing, sessional, select or other committee of the Assembly;

“Journals or hansard” means the minutes of the Assembly or the official record of the votes or proceedings thereof;

“Member” means a member of the Assembly;

“Officer of the Assembly” includes any officer of the Assembly, any person acting within the precincts of the Assembly under the orders of the Speaker and any police officer on duty within the precincts of the Assembly;

“precincts of the Assembly” includes the Chamber, every part of the building in which the Chamber is situated, the offices of the Assembly, the galleries and places provided for the use or accommodation of members, strangers, members of the public and representatives of the press, and any forecourt, yard, garden, enclosure or open space attached thereto and used or provided for the purposes of the Assembly:

Provided that any part of the buildings, forecourt, yard, garden, enclosures or open space may, by an order signed by the Speaker and published in the *Gazette*, be excluded from the foregoing definition, either generally or for specific purposes, and either temporarily or permanently;

“Sergeant-at-Arms” means the person appointed to be the Sergeant-at-Arms of the Assembly;

“Speaker” means the person elected to be Speaker of the Assembly under the Constitution, and includes the Deputy Speaker elected under the Constitution or any member while for the time being presiding at a sitting of the Assembly under the Constitution;

“Standing Orders” means the Standing Orders of the Assembly for the time being in force;

“Stranger” in relation to the Assembly means any person other than the Speaker, a member of the Assembly or an officer of the Assembly.

PART II — PRIVILEGES AND IMMUNITIES

3. Where any member has been sentenced to death or imprisonment, adjudged to be of unsound mind, adjudged bankrupt, or convicted of any offence prescribed under section 193(2) of the Constitution, the decision shall not have effect for the purposes of section 194 of the Constitution until the expiration of the period prescribed by a written law for the entry of any appeal, or further appeal, which is open to the member in respect of that decision or,

Postponement of
disqualification to
enable appeal

if an appeal is entered within that period, until the final determination of the appeal or further appeal, as the case may be.

4. No civil or criminal proceedings shall be instituted against any member for words spoken before, or written in a report to, the Assembly or a committee, or by reason of any matter or thing brought by him/her therein by petition, Bill, resolution, motion or otherwise.

Immunity from legal proceedings

5. No member shall be liable to arrest for any civil debt except a debt the contraction of which constitutes a criminal offence, whilst going to, attending at or returning from a sitting of the Assembly or any committee.

Freedom from arrest for civil debt during session

6. No process issued by any court of Kenya in the exercise of its civil jurisdiction shall be served or executed within the precincts of the Assembly while it is sitting, nor shall any such process be served or executed through the Speaker or any officer of the Assembly unless it relates to a person employed within the precincts of the Assembly or to the attachment of a member's salary.

Service of civil process

7. No stranger shall be entitled, as of right, to enter or to remain within the precincts of the Assembly.

Right to enter Assembly

8. (1) The Speaker may from time to time issue such orders as he/she deems necessary or expedient for the better carrying out of the purposes of this Act, and without prejudice to the generality of the foregoing power may by such orders make provision for—

Speaker's orders

- (a) regulating the admittance of strangers to and the conduct of strangers within the Chamber;
- (b) regulating the admittance of strangers to and the conduct of strangers within the precincts of the Assembly and any part thereof other than the Chamber; and
- (c) the deduction from any moneys due to a member in pursuance of the County Assembly remuneration of any amount payable by that member in respect of refreshments or other facilities made available to members within the precincts of the Assembly.

(2) Copies of orders made by the Speaker under this section shall be authenticated by the Clerk and exhibited in

a conspicuous position in the precincts of the Assembly; and the copies when so authenticated and exhibited shall be deemed to be sufficient notice to all persons affected thereby.

9. (1) The Speaker may, from time to time as he/she deems expedient, issue directions in the form of a Code of Conduct regulating the conduct of members of the Assembly whilst within the precincts of the Assembly other than the Chamber.

Code of Conduct

10. (1) There shall be established a committee, to be known as the Committee of Privileges, consisting of the Speaker and ten other members of the Assembly under the chairmanship of the Speaker.

Committee of Privileges

(2) The members of the Committee of Privileges other than the Speaker shall be nominated by the Sessional Committee of the Assembly.

(3) The quorum of the Committee of Privileges established under subsection (1) shall be six including the chairman, but otherwise, subject to this Act, the Committee shall regulate its own meetings and its own procedure.

(4) The Committee of Privileges shall, either of its own motion or as a result of a complaint made by any person, inquire into any alleged breach by any member of the Assembly of the Code of Conduct issued under section 9, or into any conduct of any member of the Assembly within the precincts of the Assembly (other than the Chamber) which is alleged to have been intended or likely to reflect adversely on the dignity or integrity of the Assembly or the member thereof, or to be contrary to the best interests of the Assembly or the members thereof.

(5) The Committee of Privileges shall, after such inquiry as is referred to in subsection (4), report its findings to the Assembly together with such recommendations as it thinks appropriate.

(6) The Assembly shall, in accordance with rules made by it (which rules need not be published in the *Gazette*), consider the report and the recommendations thereon and may take such disciplinary action against the member concerned as may be provided by those rules.

(7) Any disciplinary action such as is referred to in subsection (6) may include suspension from the service of the Assembly.

11. Where any member of the Assembly is, under the Standing Orders or under section 10, suspended from the service of the Assembly, he/she shall, during the period of suspension and for the purposes of this Act, be deemed to be a stranger and in addition he/she shall not enter the precincts of the Assembly without the written consent of a Speaker.

Suspended member deemed to be stranger

12. No proceedings or decision of the Assembly or the Committee of Privileges acting in accordance with this Act shall be questioned in any court.

Proceedings not to be questioned in courts

13. The Speaker, the Sergeant-at-Arms and any other officer authorized in that behalf by orders issued under section 8(1)(a) or (b), may at any time order any stranger to withdraw from the Chamber or the precincts of the Assembly.

Power to order withdrawal of strangers

PART III — EVIDENCE

14.(1) The Assembly or any standing committee thereof may, subject to the provisions of sections 18 and 20, order any person to attend before it and to give evidence or to produce any paper, book, record or document in the possession or under the control of that person.

Power to order attendance of witnesses

(2) The powers conferred by subsection (1) on a standing committee may be exercised by any other committee which is specially authorized by a resolution of the Assembly to exercise those powers in respect of any matter or question specified in the resolution.

15.(1) Any order to attend to give evidence or to produce documents before the Assembly or a committee shall be notified to the person required to attend or to produce the documents by a summons under the hand of the Clerk issued by the direction of the Speaker.

Attendance to be notified by summons

(2) In every summons under subsection (1) there shall be stated the time, when and the place where the person summoned is required to attend and the particular documents which he/she is required to produce, and the

summons shall be served on the person mentioned therein either by delivering to him/her a copy thereof or by leaving a copy thereof at his/her usual or last known place of abode in Kenya with some adult person and to append signature upon receipt on the delivery book; and there shall be paid or tendered to the person so summoned, if he/she does not reside within four miles of the place of attendance specified in the summons, such sum for his/her expenses as may be prescribed by Standing Orders of the Assembly.

(3) A summons under this section may be served by an officer of the Assembly or by a police officer.

16. The Assembly or any committee may require that any facts, matters and things relating to the subject of inquiry before it be verified or otherwise ascertained by the oral examination of witnesses, and may cause any such witnesses to be examined upon oath, which the Speaker or the chairman of the committee, as the case may be, or other person specially appointed for that purpose may administer.

Witnesses may be examined on oath

17. (1) Where any person ordered to attend to give evidence or to produce any paper, book, record or document before the Assembly refuses to answer any question that may be put to him/her or to produce the paper, book, record or document on the ground that it is of a private nature and does not affect the subject of inquiry, the Speaker may excuse the answering of the question or the production of the paper, book, record or document, or may order the answering or production thereof.

Objection to answer question or to produce papers

(2) Where any person ordered to attend or to give evidence or to produce any paper, book, record or document before any committee refuses to answer any question that may be put to him/her or to produce the paper, book, record or document on the ground that it is of a private nature and does not affect the subject of inquiry, the chairman of the committee may report his refusal to the Speaker with the reasons therefor; and the Speaker may thereupon excuse the answering of the question or the production of the paper, book, record or document, or may order the answering or production thereof.

18. (1) Every person summoned to attend to give evidence or to produce any paper, book, record or document before the Assembly or a committee shall be entitled, in respect of that evidence or the disclosure of any

Privileges of witnesses

communication or the production of any paper, book, record or document, to the same right or privilege as before a court of law.

(2) Except with the consent of the President, no public officer shall—

- (a) produce before the Assembly or a committee any paper, book, record or document; or
- (b) give evidence before the Assembly or a committee, relating to the correspondence of any naval, military or air force matter, nor shall secondary evidence be received by or produced before the Assembly or a committee of the contents of any such paper, book, record or document.

(3) Except upon the direction of the President, no public officer shall refuse—

- (a) to produce before the Assembly or a committee any paper, book, record or document; or
- (b) give evidence before the Assembly or a committee, relating to the correspondence of any civil department or to any matter affecting the public service; and secondary evidence shall not be received by or produced before the Assembly or a committee of the contents of any such paper, book, record or document which the President has directed shall not be produced.

19. (1) No Member or Officer of the Assembly, and no person employed to take minutes of evidence before the Assembly or any committee, shall give evidence elsewhere in respect of the contents of those minutes of evidence or of the contents of any document laid before the Assembly or that committee or in respect of any proceedings or examination held before the Assembly or that committee without special leave first obtained.

(2) The special leave referred to in subsection (1) may be given during a recess or adjournment by the Speaker, or in the absence or other incapacity of the Speaker, the Clerk.

Evidence of proceedings in the Assembly or any committee not to be given without leave

20. Where at any time any question arises in the Assembly or in a committee in regard to—

- (a) the right or power of the Assembly or a committee to hear, admit or receive oral evidence; or
- (b) the right or power of the Assembly or a committee to peruse or examine any paper, book, record or document or to summon, direct or call upon any person to produce any paper, book, record or document before the Assembly or committee; or
- (c) the right or privilege of any person (including a member of the Assembly or committee) to refuse to produce any paper, book, record or document or to lay any paper, book, record or document before the Assembly or committee, that question shall, subject to the preceding provisions of this Act, and except in so far as express provision is made in those provisions for the determination of that question, be determined in accordance with the usage and practice of the Parliament of Kenya

Questions relating to evidence and production of documents before the Assembly or committee to be determined in accordance with usage of the Kenya National Parliament

PART IV — OFFENCES AND PENALTIES

21. Any person who before the Assembly or any committee intentionally gives a false answer to any question material to the subject of inquiry which may be put to him/her during the course of any examination shall be guilty of an offence under section 108 of the Penal Code (Cap. 63) and liable to the penalty prescribed by the appropriate section for that offence.

False evidence

22. Any person, being a stranger, who—

- (a) enters or attempts to enter the Chamber or the precincts of the Assembly in contravention of any order of the Speaker; or
- (b) fails or refuses to withdraw from the precincts of the Assembly or the Chamber when ordered under section 8 so to do; or
- (c) contravenes any order made under this Act regulating the admittance of strangers to or the conduct of strangers within the precincts of the Assembly or the Chamber, or any rule or order

Offences relating to admittance to the Assembly or the Chamber

made by the Speaker under the Standing Orders, shall be guilty of an offence and liable, on conviction before a subordinate court of the first class, to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

23. Any person who—

Other offences

- (a) disobeys any order made by the Assembly or a committee for attendance or for production of papers, books, documents or records, unless his/her attendance or production is excused under section 17; or
- (b) refuses to be examined before, or to answer any lawful and relevant question put by, the Assembly or a committee, unless refusal is excused under section 17; or
- (c) offers to any Member or Officer of the Assembly any bribe, fee, compensation, gift or reward in order to influence him/her in his/her conduct as such Member or Officer, or for or in respect of the promotion of or opposition to any Bill, resolution, matter, rules or thing submitted to or intended to be submitted to the Assembly or any committee; or
- (d) assaults, obstructs, molests or insults any Member coming to, being within or going from the precincts of the Assembly, or endeavours to compel any member by force, insult or menace to declare himself/herself in favour of or against any proposition or matter pending or expected to be brought before the Assembly or any committee; or
- (e) assaults, interferes with, molests, resists or obstructs any officer of the Assembly while in the execution of his duty; or
- (f) creates or joins in any disturbance which interrupts or is likely to interrupt the proceedings of the Assembly or any committee while the Assembly or committee is sitting; or

- (g) presents to the Assembly or a committee any false, untrue, fabricated or falsified document with intent to deceive the Assembly or committee; or
- (h) Publishes any false or scandalous libel on the Assembly or its proceedings; or
- (i) Speaks words defamatory of the Assembly or its proceedings, shall be guilty of an offence and liable, on conviction before a subordinate court of the first class, to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

24. (1) No Member shall accept or receive either directly or indirectly any bribe, compensation, gift or reward for or in respect of the promotion of or opposition to any Bill, resolution, matter or thing submitted or intended to be submitted for the consideration of the Assembly or any committee.

Members not to receive reward for promotion of or opposition to Bills, etc.

(2) Any person who acts in contravention of this section shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding ten thousand shillings, or to both such imprisonment and fine, and every bribe, fee, compensation, gift or reward accepted or received by him shall be forfeited.

PART V – MISCELLANEOUS

25. Upon any inquiry touching the privileges, immunities and powers of the Assembly or of any member, any copy of the journals printed or purporting to be printed by the Government Printer shall be admitted as evidence of those journals to all courts and places without any proof being given that such copy was so printed.

Journals printed by order of the Assembly to be admitted as evidence

26. Any person who prints or causes to be printed a copy of any Act now or hereafter in force, or a copy of any report, paper, minutes or votes and proceedings of the Assembly as purporting to have been printed by the Government Printer or by or under the authority of the Assembly, or by the Speaker, and it is not so printed, or tenders in evidence any copy purporting to be so printed knowing that it was not so printed, shall be guilty of an

Penalty for printing false copy of Act, journal, etc.

offence and liable, on conviction before a subordinate court of the first class, to imprisonment for a term not exceeding three years.

27. Any person, being a defendant in any civil or criminal proceedings instituted for or on account or in respect of the publication by him/her or by his/her servant, by order or under the authority of the Assembly, of any reports, papers, minutes, votes or proceedings, may, on giving to the plaintiff or prosecutor twenty-four hours' written notice of his intention, bring before the court in which the proceedings are being held a certificate under the hand of the Speaker stating that the reports, papers, minutes, votes or proceedings in respect whereof the proceedings have been instituted were published by him/her or by his/her servant by order or under the authority of the Assembly together with an affidavit verifying the certificate, and the court shall thereupon immediately stay the proceedings, and every process issued therein shall be deemed to be finally determined.

Protection of persons responsible for publications authorized by the Assembly

28. In any civil or criminal proceedings instituted for publishing any extract from or abstract of any report, paper, minutes, votes or proceedings referred to in section 26, if the court is satisfied that the extract or abstract was published *bona fide* and without malice, judgment or verdict, as the case may be, shall be entered for the defendant or accused.

Publication of proceedings without malice

29. Neither the Speaker nor any officer of the Assembly shall be subject to the jurisdiction of any court in respect of the exercise of any power conferred on or vested in the Speaker or such officer by or under this Act or the Standing Orders.

Courts not to exercise jurisdiction in respect of acts of Speaker and officers of the Assembly

30. Every officer of the Assembly shall, for the purposes of this Act and of the application of the provisions of the criminal law, have all the powers and enjoy all the privileges of a police officer.

Officers of the Assembly to have powers of police officer

31. No prosecution for an offence under this Act shall be instituted except with the written sanction of the Attorney-General or the Legal Advisor of the county

Attorney-General to sanction prosecutions

32. Every offence under this Act shall be cognizable to the police.

Offences cognizable

