

**TRANS NZOIA COUNTY (DECENTRALIZED UNITS) ADMINISTRATION
BILL, 2016**

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**TRANS NZOIA COUNTY (DECENTRALIZED UNITS) ADMINISTRATION
BILL, 2016**

A BILL FOR:-

AN ACT of the County Assembly **of Trans Nzoia** to provide for the structure of the Trans Nzoia County decentralized units of administration and the delineation and establishment of the village units to give effect to Part VI of the County Government Act, 2012 and Paragraph 14 of Part II of the fourth Schedule of the Constitution **of Kenya, 2010** and for connected purposes,

ENACTED by the County Assembly of Trans Nzoia as follows:

PART I – PRELIMINARY

Short title and commencement

1. This Act may be cited as the Trans Nzoia County (Decentralized Units) Administration Act, 2016 and shall come into force upon publication in the Gazette

Application

2. This Act shall apply to Trans Nzoia County as established under the First Schedule and Article 6(1) of the Constitution but not to areas under the Urban Areas and Cities established under the Urban Areas and Cities Act.

Interpretation

3. In this Act unless the context otherwise requires:-

“Chief Officer” means a chief officer for the department of Public service management appointed in accordance with section 45 of the County Governments Act;

“Constitution” means the Constitution of Kenya, 2010;

“County Commissioner” means a person appointed under the National Government Co-ordination Act to co-ordinate national government affairs in the County;

“County Government Devolved Units Administration” means a system of government, not being of the national government established under this Act;

“Deputy Governor” means the deputy governor of Trans Nzoia County;

“Devolved Unit” means a sub-county, ward, village, **kijiji**, or other unit of the county government administration;

“Governor” means the governor of Trans Nzoia County;

“**kijiji**” means the first single unit of administration within the village created immediately on the commencement of this Act;

“Location” has the same meaning as that provided under the National Government Coordination Act;

“Relevant County Executive Member” means the member of the County Executive in charge of the department responsible for Public service Management

“Salaries and Remuneration Commission” means the commission for Salaries and Remuneration provided for under Articles 230 and 248 of the Constitution;

“Sitting” means a meeting of the Village Council of Elders;

“Sub-County Administrator” means a person appointed under this Act to be in charge of the administration of a sub-county;

“sub-location” means a unit of administration within the county existing under the national government structure;

“Village administrator” means a person responsible for the administration of a village under this Act;

“Village Council” means a council of elders established under this Act and the County Governments Act for purposes of administration of a village;

“Village Elder” has the same meaning assigned to it under section 53 of the County Governments Act;

“**vijiji**” means more than one **kijiji**;

“Ward” is a unit of administration created under this Act having same meaning as that under the County Governments Act;

“Ward Administrator” means a person responsible for the administration of a ward

“Director” means a director deployed under this Act to coordinate the administration of devolved units.

Object and
Purpose of the

4. The object and purpose of the Act is-

Act

- (a) To provide for the administrative structure of the County Government;
- (b) To provide for the delineation of the administrative units of the County Government;
- (c) To provide for legal mechanisms for future decentralization of the County Government;
- (d) To give effect to the provisions of the Constitution and the County Governments Act with regard to devolution;
- (e) To provide for a legal framework for delivery of service by the County Government;
- (f) To provide for the appointment of the administrators of devolved units;

**PART II – ESTABLISHMENT OF THE DECENTRALIZED
UNITS OF ADMINISTRATION AND THE APPOINTMENT OF
ADMINISTRATORS**

Establishment of
County
Government
Decentralized
Units

5. (1) There is established a system of administration to be called Trans Nzoia County Decentralized Units Administration.

(2) The Decentralized Units Administration shall comprise of –

- (a) The Director;
- (b) The Sub-County Administrator;
- (c) The Ward Administrator;
- (d) The village administrator;
- (e) The administrator of **kijiji**;

(3) All offices of devolved units administration shall be offices in

the County Public Service.

- (4) The Administrators shall be answerable, in the pecking order to the county executive committee through the relevant county executive member.

Appointment of
County
Government
Devolved Units
Administrators

6. (1) The County Public Service Board shall appoint administrators of the devolved units through a competitive process having regard to the interests of the women, youths, persons living with disabilities and other marginalized groups;

Provided that any appointment of a village elder as an administrator of kijiji shall be as per section 53(3) of the County Governments Act.

- (2) The County Public Service Board shall implement measures to ensure that not more than one administrator of a sub-county, ward or village unit is appointed from the same village.

Qualifications for
appointment as
Administrator

7. A person shall not be appointed as an administrator of a devolved unit unless –

- (1) In the case of a sub-county administrator , he or she-

- (a) Is a Kenyan citizen of atleast thirty years of age;
- (b) Has been a resident of the county for a continuous period of at least three years prior to the date of the appointment;
- (c) Holds atleast a first degree from a recognized university in law, finance, social sciences, planning or related field;
- (d) Has three years post graduate working experience in the relevant area and

(e) Has satisfied the requirements of Chapter Six of the Constitution.

(2) In the case of a ward administrator he or she –

(a) Is a Kenyan citizen

(b) has been a resident of the county for a continuous period of at least three years prior to the date of the appointment;

(c) holds at least a diploma from a recognized institution in law, finance, social sciences, procurement, planning, community development or related field;

(d) has three years post graduate working experience in the relevant area; and

(e) has satisfied the requirements of Chapter Six of the Constitution.

(3) In the case of a village administrator, he or she-

(a) is a Kenyan citizen

(b) has been a resident in the devolved unit for a continuous period of at least five years prior to the date of appointment

(c) holds at least a post-secondary certificate

(d) has satisfied the requirements of chapter six of the Constitution.

(4) In the case of an administrator of **kijiji**, he or she-

(a) is a Kenyan citizen

(b) has been resident in the devolved unit for a continuous period of at least five years prior to the date of appointment;

(c) owns some property within the devolved unit;

(d) has the ability to read, write and communicate in both English and Swahili languages;

(e) is generally of good repute and standing in the community; and is serving as a village elder on a village council in the respective devolved unit.

Remuneration of the Administrators

8. (1) The remuneration of the administrator of a devolved unit shall be determined by the County Public Service Board.

(2) Despite subsection (1), a person appointed as an administrator of the kijiji shall be entitled to payment of allowances only specified in the First Schedule to this Act as may be amended from time to time by the county executive on the advice of the County Public Service Board with the approval of the County Assembly.

Vacation of office of administrator

9. (1) An Administrator of a devolved unit may vacate office –

(a) in case of death;

(b) by resignation in writing submitted to the immediate senior administrator thirty days prior to the date of resignation;

(c) where the administrator is convicted of a criminal offence punishable by a prison term of not less than six months;

(d) if the administrator is found to be unfit to hold office after the due process;

(e) where, in the case of a village elder, appointed as an administrator of kijiji, he or she misses three consecutive meetings without the prior written permission of the village administrator or for reasonable and acceptable cause.

(2) For the purposes of subsection (1) (b), a resignation

letter shall be submitted to the immediate senior administrator in the pecking order with the sub county administrator submitting his or her resignation letter to the Director or in his or her absence, the Chief Officer.

- (3) Nothing in this section shall be construed to bar any disciplinary action or proceedings being taken against any administrator as may be necessary and appropriate in case of misbehavior or breach of duty.
- (4) A vacancy arising in the office of the administrator of a devolved unit shall, unless delayed by lawful cause, be filled within sixty days.

**PART III – FUNCTIONS AND DUTIES
OF ADMINISTRATORS**

Functions of the
Administrator

- 10.(1) The Administrator of a devolved unit shall be responsible for, but not limited to the respective functions assigned under the Second Schedule to this Act.
- (2) Notwithstanding subsection (1), the administrator of a devolved unit may perform any other function or duty assigned by the county executive either directly or through delegation.
- (3) The county Government shall ensure the administrators of the devolved units are adequately facilitated, financed and equipped to effectively perform the functions and duties assigned by this Act.

Duties of the
administrator

11. The administrator of a devolved unit shall be under duty to –
- (a) dress at all times while on duty in a neat attire that is approved by the county executive;
 - (b) establish efficient and reliable citizen and public participation systems and forums in his or her area of jurisdiction;
 - (c) implement sound and good communication systems with the residents of his or her area of jurisdiction;
 - (d) portray the good image of his or her office and the county government both in the public and private life;
 - (e) ensure efficient and satisfactory public service delivery in every sphere;
 - (f) set in place adequate machinery for consultation with the residents and the national government organs or other agencies within the devolved unit;
 - (g) keep proper and satisfactory records of all official activities in the devolved unit;
 - (h) submit the requisite reports to the relevant authorities as may be required or directed;
 - (i) have at all times a sound understanding of his or her area of jurisdiction;
 - (j) be ready to account for everything done by his or her office in the performance of these assigned or related functions;
 - (k) to subscribe to the Administration Consortium;
 - (l) to avoid involvement in political activities of any person or political party; and
 - (m) to treat with decorum and respect any person entitled to the services of such administrator.

PART IV – ESTABLISHMENT OF VILLAGE COUNCILS

Establishment of
Village Council

12. (1) There shall be established for every devolved unit of village administration a Village Council.
- (2) The Village Council shall comprise of –
- (a) the village administrator who shall be the chairperson;
 - (b) not less than three elders and not more than five elders appointed in accordance with section 7 of this Act; and
 - (c) a secretary appointed by the village administrator from amongst the elders with the approval of the Village Council.
- (3) The functions of the Village Council shall be those specified in the Second Schedule to this Act.
- (4) For Effective performance of the functions assigned under this Act, every elder shall be appointed as an administrator of Kijiji and may be assigned two or more vijiji by the village administrator.
- (5) In the performance of the functions assigned by this Act; the Village Council shall be guided by a programme of activities formulated in accordance with section 13 of this Act.

The Programme of
activities of the
Village Council

13. (1) Every Village Council shall, at least seven days prior to the last day of every month, prepare a programme of activities for the month specifying the date, time, venue and activity to be undertaken within the month and display the same –
- (a) on the notice board maintained at the office of the village administrator for the said purpose;
 - (b) at prominent places in every Kijiji identified by

the respective administrator.

- (2) The programme of activities referred to in subsection (1), shall be submitted to the Director and also posted on the County Government website and published in the county gazette.
- (3) Except in the case of an emergency, no Village Council shall hold an activity other than in accordance with the programme.
- (4) The Village Council shall hold at least one meeting in a week and not more than six meetings in a month.
- (5) Every meeting of a Village Council shall be chaired by the village administrator and in his or her absence, an elder elected from amongst the elders present at the meeting.
- (6) The secretary shall keep written records of all proceedings of the meetings and activities of the Village Council in both soft and hard form.
- (7) The meetings and activities of the Village Council shall be open to the public unless, except where, owing to the nature of the subject matter and for reasons to be recorded, it becomes necessary to exclude the public.
- (8) The quorum at every Village Council meeting shall be one half of the total membership.
- (9) The decision of the Village Council shall be by consensus and when a vote becomes necessary by a simple majority.

PART V – DELINEATION AND ESTABLISHMENT OF VILLAGE UNITS

Delineation and establishment of Village Units

14.(1) The county executive shall, subject to subsection (2), and the approval of the County Assembly, delineate and establish village units of administration for the purposes of this Act.

Boundaries of Devolved Units

15. (1) The administrative boundary of every devolved unit shall be defined –

(a) in the case of a sub-county along the constituency boundary existing in the county on the date of commencement of this Act;

(b) in the case of a ward, a long a ward boundary existing in the sub-county on the date of commencement of this Act;

(c) in the case of a village, along a sub-location boundary existing in the ward under the national government structure of administration on the first day of January the year 2002;

(d) in the case of **kijiji**, the boundary of a village existing in the sub-location under the national government structure of administration on the date of commencement of this Act; and

(2) Despite subsection (1), the sub-counties, wards, villages and **vijiji** recognized for the purpose of this act on the date of commencement shall be those specified in the Third Schedule.

(3) The boundaries of devolved units shall not be varied to exceed one third of the existing administrative units in the county in a period of ten years.

- (4) The devolved units created under this Act shall not become effective without the approval of the County Assembly.

**PART VI – COUNTY DIRECTOR OF
ADMINISTRATION AND INTER-GOVERNMENTAL
RELATIONS**

Deployment of the
County Director
of Administration

16. (1) There shall be deployed at the county headquarters by the County Public Service Board, the Director of Administration.
- (2) The Director shall hold the same qualifications as the sub-county administrator.
- (3) The Director shall be responsible for the coordination of administration of devolved units in the county.

Devolved units
administrators
intergovernmental
and non-state
relation

17. (1) Every administrator of a devolved unit shall-
- (a) work harmoniously with the national government officials and non-state bodies operating within his or her respective jurisdiction;
- (b) perform the functions assigned to him or her by this act on the basis of mutual co-operation and consultation with the national government officials and the non-state agencies in the county;
- (c) at all times, engage citizen and public participation in decision making in matters of public interest;
- (d) be open and transparent in his or her inter-governmental relationship;
- (e) Understand adequately the laws and regulations applicable to intergovernmental relations and implement them.

PART VII – COMPLAINTS AND DISPUTES RESOLUTION

Making of Complaints

18. (1) Every resident of the county has a right to present any complaint against the administrator of a devolved unit.

(2) There shall be maintained at the County Government headquarters, a citizen complaint register to receive every complaint against the administrator of a devolved unit or county government devolved units administration.

(3) A complaint may be made either verbally or in writing.

(4) Where a complaint is made verbally, it shall as soon as practicable, be reduced in writing by the person to whom the complaint is made but not later than six hours from the time of receipt of the complaint.

(5) The County Public Service Board shall, employ or deploy an officer at a citizen complaint desk maintained at a conspicuous place of the county headquarters where the register shall be maintained for purposes of receiving and registering complaints.

(6) A complaint presented in writing shall be deposited in the Complaints Box stationed next to the complaints desk whose key shall remain in the custody of the designated officer.

(7) The Complaint Box shall be opened at the close of every day and the complaints presented therein recorded in the Complaints Register which shall be submitted to the county executive through the county secretary by four o'clock in the afternoon of Thursday of every week.

(8) The county executive shall either deal with all

complaints received under this section in the manner provided by this Act and communicate the results in writing to those affected not later than seven days.

PART IX – REPORTS AND RECORDS

Reports of the
Administrators

19. (1) Every administrator shall prepare monthly reports of their activities and submit them in the pecking order to the Director on quarterly basis.
- (2) The reports submitted under subsection(1) by the ward and sub-county administrator shall include the consolidated reports received for the period from the lower level of administration and submitted not later than the seventh day of the fourth month for the ward administrator and not later than fifteenth day of every fourth month for the sub county administrator.
- (3) The Director shall, not later than the thirtieth day of the fourth month, submit consolidated report of the reports received from all administrators under this section to the county executive through the chief officer and the relevant county executive member.
- (4) The relevant county executive member shall prepare a consolidated annual report from the reports received under this section and submit the same to the Governor not later than the twenty fifth day of February of each year.
- (5) The Governor shall submit to the County Assembly the annual report received under this section not later than the last day of February every year.

Records of the

20. (1) Every administrator shall keep proper and

- accurate records of all transactions including-
- (a) the financial records where public funds have been received or spent;
 - (b) minutes of all meetings held or presided over by the administrator;
 - (c) records of all activities including visits to any site or inspection of any project;
 - (d) the records of all visitors received on every day; their status and mission;
 - (e) records of any other occurrence which the administrator may consider crucial to record.
- (2) The records referred to in subsection (1) shall be documented in writing and may also be in electronic form.
- (3) The records maintained under this section shall, unless restricted for reasons to be recorded or by operation of any written law be open to the public and shall form part of the periodic and annual reports to be submitted to the Governor, the county executive and the County Assembly in accordance with section of 19 of this Act.
- (4) The County Executive shall give directions in writing on the manner in which the records under section 19 of this Act shall be maintained by administrators.
- (5) The County Executive shall give directions in writing on the manner the records maintained by administrators under this section for at least six years shall be disposed off.
- (6) This section shall not confer any right upon an administrator to maintain official place of work.

PART IX – OFFENCES AND PENALTIES

Offences and penalties

21. (1) Any person who-
- (a) disobeys a lawful order issued by an administrator in due execution of his or her official duty under this act;
 - (b) uses abusive or derogatory language concerning an administrator or another person while at any meeting, office or place where the administrator is in attendance;
 - (c) publishes any false, misleading or alarming information about the office of an administrator of which he cannot prove when called upon;
 - (d) refuses or disobeys directions given by his or her senior in the line of administration;
 - (e) knowingly misleads or lies to a person placed in authority over him on official matters; or
 - (f) violates any provision of this Act;
- Commits an offence and is liable on conviction where no other sentence is provided, to a fine not exceeding Kenya shillings two hundred thousand or a term of imprisonment not exceeding twelve months or to both.
- (2) Any person who violates any provision of this Act for which he or she is convicted shall in addition to the punishment imposed by this section be liable to recovery from him or her of the loss suffered to the extent of the offence.

PART X – GENERAL PROVISIONS

Other duties of
the
Administrators of
devolved units

22. (1) Unless expressly prohibited by this Act, or any other written law, the administrator of a devolved unit shall exercise the authority of coordinating public service for all devolved functions within the administrator's unit.
- (2) While exercising the authority conferred by subsection (1), the administrator of a devolved unit may, with the written approval of the Governor, establish devolved unit intergovernmental forum at his or her level similar to the County Intergovernmental forum established for the county under section 54 of the County Governments Act.

Posting and
transfer of
administrators

23. (1) The Director may, in consultation with the Chief Officer and the relevant county executive member, transfer, post or deploy an administrator to perform the function of his or her office in any devolved unit of the county.
- (2) No administrator shall serve in the same administrative unit for more than three years.
- (3) This section shall not apply to the administrator of Vijji.

Protection against
personal liability

24. An administrator of or any person discharging any function under this act shall not be personally liable to any criminal or civil proceedings for anything done or omitted to be done if the doing or the omission was in good faith and in due performance of the functions of his or her office under this act or other law.

PART XI – REGULATIONS

Regulations 25. The relevant county executive member shall make regulations for the better carrying into effect the provisions of this Act.

SCHEDULES

First Schedule The scale of allowances payable to administrator of Kijiji

Second Schedule The functions of the sub-county, Ward, Village Administrators and the Village Council

Third Schedule The first devolved units and names created by the Act on commencement

THE FIRST SCHEDULE (Section 8(2))

SCALES OF ALLOWANCES FOR ADMINISTRATORS OF KIJJI

1. Administrator of kijiji (village council elder)
Allowance per sitting Kshs.1000.00
2. Secretary, Village Council
Allowance per sitting Kshs.1500.00

Dated.....day of 2016

Signed:.....

County Executive Member

DRAFT BILL

THE SECOND SCHEDULE

FUNCTIONS OF THE SUB-COUNTY, WARD, VILLAGE ADMINISTRATORS, KIJJI ADMINISTRATORS AND THE VILLAGE COUNCILS

PART I	PART II	PART III	PART IV	PART V
SUB-COUNTY ADMINISTRATOR	WARD ADMINISTRATOR	VILLAGE ADMINISTRATOR	VILLAGE COUNCIL	KIJJI ADMINISTRATOR
<p>1. Coordination, management and supervision of the general administrative functions in the sub-county including-</p> <p>(a) the development of policies and plans;</p> <p>(b) service delivery;</p> <p>(c) developmental activities to empower the community</p> <p>(d) the provision and maintenance of</p>	<p>1. Co-ordinate, manage and supervise the general administrative functions in the ward including-</p> <p>(a) the development of policies and plans;</p> <p>(b) service delivery;</p> <p>(c) developmental activities to empower the community</p>	<p>1. Co-ordinate, manage and supervise the general administrative functions in the village including-</p> <p>(a) ensuring and coordinating the participation of the village unit in governance;</p> <p>(b) assisting the village unit to develop the</p>	<p>1. ensuring and coordinating the participation of the village unit in governance;</p> <p>2. assisting the village unit to develop the administrative capacity for the effective exercise of the functions and</p>	<p>1. shall be in charge of the administration of kijiji on behalf of the village council;</p> <p>2. shall implement the functions of the village;</p> <p>3. perform any other function assigned by</p>

<p>infrastructure and facilities of the public services;</p> <p>(e) the county public service;</p> <p>(f) exercise any functions and powers delegated by the County Public Service Board;</p> <p>(g) facilitation and coordination of citizen participation in the development of policies and plans and delivery of services.</p> <p>2. Resolution of non criminal disputes in accordance with traditional disputes resolution mechanisms</p> <p>3. Perform any other function assigned by the Chief Officer; the</p>	<p>(d) the provision and maintenance of infrastructure and facilities of the public services;</p> <p>(e) the county public service;</p> <p>(f) exercise any functions and powers delegated by the County Public Service Board;</p> <p>(g) facilitation and coordination of citizen participation in the development of policies and plans and delivery of services.</p> <p>2. Resolution of non-judicial and non-criminal disputes</p>	<p>administrative capacity for the effect exercise of the functions and powers and participation in governance at the local level;</p> <p>(c) the exercise of any functions and powers delegated by the County Public Service Board;</p> <p>(d) chairing of the Village Council;</p> <p>(e) appointment with the approval of the County Assembly of village elders;</p> <p>(f) establishment of the Village Council;</p> <p>(g) supervision of</p>	<p>powers and participation in governance at the local level;</p> <p>3. monitoring the implementation of policies at the village unit;</p> <p>4. advising the ward administrator and the sub-county administrator on matters pertaining to the village;</p> <p>5. performing any other function necessary for the better administration</p>	<p>the village administrator</p>
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<p>Deputy Sub-County Administrator shall be the principal assistant to the sub-county administrator and shall act in the office in case of the absence of the sub-county administrator.</p>	<p>in accordance with traditional disputes resolution mechanisms</p> <p>3. Perform any other function assigned to him or her by the sub-county administrator or deputy sub-county administrator.</p>	<p>village elders.</p> <p>2. Resolution of non-judicial and non-criminal disputes in accordance with the traditional disputes resolution systems.</p> <p>3. Perform any other function assigned by the ward administrator</p>	<p>of the village unit</p>	
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THE THIRD SCHEDULE

NO	NAME OF SUB-COUNTY	NAME OF WARD	APPROX POP OF WARD	NO. OF VILLAGES	VILLAGE UNITS
1	KWANZA	KAPOMBOI	56,082	5	KAPOMBOI
					KOBOS
					NAMANJALALA
					LIYAVO
					KAPSITWET
	KWANZA	55,647	4	KWANZA	
				AMUKA	
				KAISAGAT	
				KARAUS	
				KEIYO	
KEIYO	56,679	3	KAPKOI		
			KOLONGOLO		
			KEIYO		
2	ENDEBE SS	BIDII	21,498	1	BIDII
		CHEPCHOINA	36,485	3	TWIGA
					KAPTEGA
					KIPTOGOT
	ENDEBESS	23,338	2	CHORLIM	

					ENDEBESS
		MATUMBEI	31,369	2	MATUMBEI
					MUMBERE
3	SABOTI	KINYORO	39,645	3	TELDET
					KINYORO
					KIPYOIWAN
		MATISI	40,662	4	GRASSLAND
					KIPSONGO
					MATISI
					RAFIKI
		TUWAN	39,662	2	TUWAN
					BONDENI
		SABOTI	34,988	2	SABOTI
					KIBOROA
		MACHEWA	19,990	1	MACHEWA
4	KIMININI	KIMININI	33,764	1	KIMININI
		WAITALUK	40,764	1	KAPKOI SISAL
		SIRENDE	23,677	1	SIRENDE
		HOSPITAL	30,234	2	MILIMANI
					NAISAMBU
		SIKHENDU	24,129	1	SIKHENDU

		NABISWA	38,731	1	NABISWA
5	CHERAN GANY	SINYERERE	25890	1	SINYERERE
		MAKUTANO	18,362	3	BIRIBIRIET
					KAPOLET
					KAPSARA
		KAPLAMAI	25,257	1	KIMOSON
		MOTOSIET	33,185	2	MOTOSIET
					NZOIA
		CHERANGANY/ SUWERWA	48,719	6	KACHIBORA
					GETA
					KIPTOI
					KAPTUMBO
					KAPTERIT
					KAPKARWA
		CHEPSIRO/KIPT OROR	39,402	4	KIBUSWA
					KIPSINGILAI
					MILIMANI
					TOP SUWERWA
		SITATUNGA		26,364	SITATUNGA

MEMORANDUM OF OBJECTS AND REASONS

This Bill provides for the structure of the Trans Nzoia County Government Decentralized Units of administration and the delineation and establishment of the Village Units to give effect to Part VI of the County Governments Act, 2012 and paragraph 14 of part II of the fourth schedule to the constitution of Kenya and for related purposes.

DATED THIS24TH.....DAY OF.....FEBRUARY..... 2016

HON JOEL MILIMO

MEMBER OF COUNTY ASSEMBLY NABISWA WARD