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**TANA RIVER COUNTY ACTS, 2025**

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**NAIROBI, 31st July, 2025**

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**THE TANA RIVER COUNTY INSPECTORATE SERVICE ACT,  
2025**

**No. 4 of 2025**

*Date of Assent: 11th June, 2025*

*Date of Commencement: 31st July, 2025*

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**THE TANA RIVER COUNTY INSPECTORATE SERVICE  
ACT, 2025**

**AN ACT of the County Assembly of Tana River to provide for the  
establishment of a County Inspectorate Service and for matters  
connected therewith and incidental thereto**

**ENACTED** by the County Assembly of Tana River, as follows—

**PART I — PRELIMINARY**

**Short title**

1. This Act may be cited as the Tana River County Inspectorate Service Act, 2025.

**Interpretation**

2. In this Act, —

“Animal” means an animal that is trained and may be used to assist a law enforcement officer in the performance of the officer’s official duties and may include horse, dog, cat, dolphin or bird;

“Arrest” means the act of apprehending a person suspected of committing of an offence or by the action of legal authority;

“Board” means the Tana River County Public Service Board established in accordance with the provisions of section 57 of the County Government Act;

“Chief Officer” means the County Chief Officer for the time being responsible for matters related to county public service administration;

“Compliance enforcement” includes action taken to establish compliance of any requirement by a county law or, enforcing compliance of county laws and national legislation, within the county, to the extent that the legislation so requires;

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to the Inspectorate;

“County Law” means any Act or subsidiary law enacted by the County Assembly of Tana River;

“County Secretary” means a person for the time being appointed as the County Secretary of Tana River County;

“Court” means a Court having competent jurisdiction;

“disciplined forces” includes Kenya police Service, Kenya Defence Forces, Kenya Wildlife Service, Kenya Forest Service, and Kenya National Youth Service;

“Designated County Department” means the department responsible for licencing, issuing, collecting services fee or approving an activity;

“Inspectorate” means the Tana River County Inspectorate established by Section 4 of this Act;

“Inspectorate Officer” means an officer appointed to serve as an inspectorate officer in the Inspectorate;

“Member of Parliament” includes a Senator and a Woman Representative;

“Premise” means any building or structure where a regulated activity is undertaken or is about to be undertaken but does not include residential houses;

“Public utilities” means public markets, parking places, bus parks, stadia, public recreation sites, government offices, government properties and any other public places under the management of the County Government;

“reasonable force” acting in a manner not detrimental to another, to protect oneself, or property belonging to the County Government from attack or destruction or to prevent a crime or to effect a lawful arrest;

“Reasonable time” means any period of time between six O’clock in the forenoon and six O’clock in the afternoon of any day of the week;

“Regulated activity” means any activity, trade or business whose undertaking, a county law requires obtaining of a license, permit, approval or payment of service fee, by or to designated county department;

“Service” means the inspectorate service established under Section 4;

“Vehicle” includes motor vehicles, motorbikes, tuk-tuks, wagons, bicycles, handcarts, and skates; and

“Vessel” includes ships, boats, and canoes.

### **Objects of the Act**

3. The objects of this Act are to—

- (a) promote, within the county, the operationalization of the provisions of paragraphs (a) and (b) of Article 183(1) and Article 189 (1) (b) of the Constitution;

- (b) provide for an institutional framework for the enforcement and compliance of the County laws; and national legislation, within the county, to the extent that the legislation so requires; and
- (c) regulate the actions of the Inspectorate Officers.

## **PART II — COMPOSITION AND ADMINISTRATION OF THE INSPECTORATE SERVICE**

### **Establishment of the Service**

**4.** (1) There is established a service to be known as the Tana River County Inspectorate Service.

(2) The Service shall be a Unit under the department related to the administration of the County Public Service.

### **Functions of the Service**

**5.** The functions of the Service shall be to—

- (a) ensure compliance with enforcement of all county laws;
- (b) protect and guard any property belonging to the County, including public utilities, and any other public place under the management of the County Government;
- (c) carry out inspections to ensure acquisition and compliance with trade licenses and permits;
- (d) ensure compliance with all county revenue collection requirements;
- (e) regulate and control traffic in collaboration with the Police;
- (f) maintain order and prevent obstructions in public places within the County;
- (g) co-ordinate disaster management in collaboration with other County Government agencies;
- (h) offer firefighting and emergency services;
- (i) assist the Police or any other authority in the investigation of violation of county laws for purposes of court proceedings; and
- (j) perform any other function that may be prescribed by this Act or any other written law from time to time.

### **Divisions of the Unit**

**6.** The Inspectorate Service shall consist of the following divisions—

- (a) an enforcement division;
- (b) a fire and emergency services division;
- (c) a disaster and rescue services division;
- (d) a traffic division;
- (e) such other division as the Board, with the approval of the County Assembly, may prescribe.

### **Command of the Service**

7. (1) There is established the office of the Chief Inspector of the Inspectorate Service.

(2) The Chief Inspector shall—

- (a) be appointed by the Governor with the approval of the County Assembly;
- (b) exercise overall command over the Service, and
- (c) perform any other functions prescribed by legislation.

(3) Each Division of the Service shall be headed by a Deputy Chief Inspector appointed by the County Public Service Board.

(4) The County Executive Committee Member may lawfully give a direction to the Chief Inspector with respect to any matter of policy for the Service, but no person may give a direction to the Chief Inspector with respect to—

- (a) the investigation of any particular offence or offences; or
- (b) the enforcement of the law against any particular person or persons.

(5) Any direction given to the Chief Inspector by the County Executive Committee Member under sub-section (4), shall be in writing.

### **Qualification for appointment of Chief Inspector**

8. A person shall, subject to Section 10, qualify for appointment as Chief Inspector if such person—

- (a) is a citizen of Kenya;
- (b) holds a minimum of a Bachelors degree from a university recognized in Kenya or equivalent qualifications;
- (c) has had a distinguished career in their respective fields;

- (d) demonstrates absence of breach of the relevant professional code of conduct;
- (e) meets the requirements of leadership and integrity in Chapter Six of the Constitution; and
- (f) has served in a senior management position for at least five years and has knowledge and experience in matters relating to any of the following disciplines—
  - (i) criminal justice;
  - (ii) policy development and implementation;
  - (iii) finance and public administration;
  - (iv) strategic management;
  - (v) security;
  - (vi) law;
  - (vii) sociology; or
  - (viii) Government.

#### **Qualification for appointment as Deputy Chief Inspector**

**9.** A person is qualified for appointment as Deputy Chief Inspector if that person has all the requirements stipulated under paragraphs (a), (b), (c), (d), and (e) of section (8)(1) of this Act; and

- (a) has served in any of the disciplined forces for at least ten years; or
- (b) is serving in an inspectorate service with a rank of Inspector or Chief Fire Officer or an equivalent position.

#### **Ineligibility**

**10.** (1) No person shall be eligible for appointment as Chief Inspector or Deputy Chief Inspector, if that person—

- (a) is a Member of Parliament or a County Assembly, a Governor or Deputy Governor;
- (b) has served as a member of the governing office of a trade union or an office in a political party in Kenya in the preceding five years;
- (c) has, at any time within the preceding five years, held office, or stood for election as a candidate for election as a Member of Parliament or of a County Assembly; Governor or Deputy Governor;

- (d) has at any time been, the holder of an office in any political organization that sponsors or otherwise supports, or has at any time sponsored or otherwise supported, a candidate for election as a Member of Parliament or of a County Assembly; Governor or Deputy Governor;
- (e) has previously been convicted of any criminal offence;
- (f) has violated the Constitution; or
- (g) is an undischarged bankrupt.

(2) Sub-section (1)(c) and (d) cease to apply to a person after two general elections have been held since the person ceased to be such a candidate or office holder.

#### **Procedure for appointment of the Chief Inspector**

**11.** (1) The Governor shall, within fourteen days after a vacancy occurs in the office of the Chief Inspector, nominate a person for appointment as a Chief Inspector and submit the name of the nominee to the County Assembly.

(2) The County Assembly shall, within thirty days after it first meets after receiving the name of the nominee—

- (a) consider the suitability of the nominee;
- (b) either approve or reject the nominee for appointment; and
- (c) the Speaker of the County Assembly shall notify the Governor of the decision of the County Assembly.

(3) If the County Assembly approves the nominee, the Governor shall, within seven days after receiving the notification to that effect, appoint the nominee as the Chief Inspector.

(4) If the County Assembly rejects a nominee submitted by the Governor, the County Assembly shall request the Governor to submit a new nominee and the provisions of this section shall apply with respect to the new nominee.

(5) If, at the lapse of the period stated under sub-section (2), the County Assembly has neither approved nor rejected the nomination of the person for appointment as a Chief Inspector, the nominee shall be deemed to have been approved by the County Assembly.

#### **Appointment of Deputy Chief Inspectors**

**12.** (1) Deputy Chief Inspectors shall be appointed by the County Public Service Board.

(2) The position of a Deputy Chief Inspector shall be filled by the Board within thirty days from the date that a vacancy arises.

(3) Where the Board fails to fill a vacancy within the stipulated timeline under sub-section (2), the Governor, in consultation with the Chief Inspector, shall appoint a relevant interim deputy chief inspector who shall hold office for a period not exceeding six months, pending the appointment of a substantive deputy chief inspector by the Board.

(4) If at the lapse of the six months, the Board has not appointed a substantive Deputy Chief Inspector, the Governor shall forward the name of the interim Deputy Chief Inspector to the County Assembly for approval and the provisions of sub-sections (2), (3), (4) and (5) of section 11 shall apply with the necessary modifications.

(5) If the County Assembly rejects an interim Deputy Chief Inspector, then the position of the relevant Deputy Chief Inspector shall become vacant and the provisions of sub-sections (1), (2), (3), and (4) shall apply.

(6) A person nominated to serve as interim Deputy Chief Inspector but has been rejected by the County Assembly shall be ineligible for re-nomination as an interim Deputy Chief Inspector unless in between the nominations the position was substantively filled and a vacancy arose after a substantive office holder leaves office.

### **Responsibilities of the Chief Inspector**

**13.** The functions of the Chief Inspector shall be to—

- (a) implement policy decisions as directed by the County Executive Committee Member;
- (b) oversee and co-ordinate the operations and functioning of the Inspectorate Service;
- (c) determine the establishment and maintenance of inspectorate posts in the County and determine the operational boundaries of the such posts;
- (d) recommend the distribution and deployment of officers in the Service;
- (e) recommend training institutions, centers or places for the training of officers joining the Service and other officers;
- (f) research and benchmark against best practices;
- (g) promote co-operation with the national police service and other security agencies;

- (h) provide the command structure of the Service for efficient administration;
- (i) designate officers-in-charge of inspectorate posts;
- (j) issue and document Service Standing Orders;
- (k) co-operate with other public or private bodies to provide requisite statistics;
- (l) prepare and submit to the County Executive Committee Member an annual work plan of the Service;
- (m) supervise and evaluate performance of officers; and
- (n) perform such other duties as may be assigned by the Board or any other written law.

#### **Delegation of duty**

**14.** (1) The Chief Inspector shall perform the functions or exercise the powers of the office in person or may, where appropriate, delegate to an officer subordinate to him.

(2) A delegation under this Act—

- (a) shall be in writing;
- (b) shall be subject to any conditions the Chief Inspector may shall not divest the Chief Inspector of the responsibility concerning the exercise of the powers or the performance of the duty delegated, and
- (c) may be withdrawn, and any decision made by the person so delegated may be withdrawn or amended by the Chief Inspector.

(3) The Board may, at any time, institute an audit, investigation, inquiry or visit to determine whether the delegated powers are properly exercised by the authorized officer.

(4) Where the audit, investigation, inquiry or visit establishes that an authorized officer has breached any condition or improperly exercised delegated powers, the Chief Inspector shall take corrective measures including revoking the delegation.

#### **Conflict between divisions**

**15.** The Chief Inspector shall give direction in situations of conflict between the different mandates of the different Divisions within the Service.

### **Standing Orders**

**16.** (1) The Service Standing Orders issued by the Chief Inspector under section 13(1)(j) shall—

- (a) be administrative orders;
- (b) be for the general control, administration, good order, direction and information of the Service; and
- (c) not be inconsistent with the Constitution, this Act or any written law or any Regulations made thereunder.

(2) The Service Standing Orders shall be made available to each serving officer and where possible, be accessible to the public.

### **Term of Office**

**17.** The Chief Inspector shall be appointed for a single non-renewable term of seven years but may be removed before the expiry of the term subject to the provisions of section 18 of this Act.

### **Removal from office**

**18.** (1) The Chief Inspector may be removed from office by the Governor only on the grounds of—

- (a) serious violation of the Constitution or any other law, including a contravention of Chapter Six;
- (b) gross misconduct whether in the performance of the office holder's functions or otherwise;
- (c) breach of the Public Officers Code of Ethics;
- (d) physical or mental incapacity rendering the person incapable of performing the functions of the office;
- (e) incompetence;
- (f) abuse of office;
- (g) neglect of duty;
- (h) bankruptcy;
- (i) engagement in politics while still in office; or
- (j) conviction of a crime whose penalty exceeds an imprisonment term of six months.

(2) A Member of the County Assembly, supported by a vote of not less than seventy-five percent of all the members of the County Assembly, may

propose a motion requiring the Governor to dismiss the Chief Inspector, on any of the grounds set out in sub-section (1).

(3) A person desiring the removal of the Chief Inspector on any ground specified in sub-section (1) may present a petition to the County Assembly setting out the alleged facts constituting that ground.

### **Vacation of office**

**19.** The office of the Chief Inspector or Deputy Chief Inspector shall become vacant, if the holder—

- (a) resigns from office by a notice in writing addressed to the Governor in case of the Chief Inspector or the County Public Service Board in case of a Deputy Chief Inspector;
- (b) is removed from office in accordance with the Constitution or this Act; or
- (c) dies.

### **Staff of the Service**

**20.** (1) The Board may appoint such officers and other staff of the Service as are necessary upon such terms and conditions of service as the Board, on the recommendation of the Salaries and Remuneration Commission, may determine.

(2) The Board shall ensure that the appointments made under sub-section (1), comply with paragraphs (g), (h) and (i) of Article 232 (1) of the Constitution.

### **Ranks**

**21.** (1) The Service shall consist of the ranks set out in the First Schedule.

(2) Inspectorate officers shall have seniority according to their position as set out in the First Schedule.

### **Uniforms**

**22.** (1) The Chief Inspector shall, with the approval of the County Executive Committee, prescribe the uniforms of a suitable kind and design, with suitable insignia and identification badge, to be worn by the relevant ranks of officers at all material times.

(2) An officer in uniform shall at all times affix a nametag or identifiable Service number in a clearly visible part of the uniform.

**General provisions on recruitment**

**23.** The recruitment and composition of the Inspectorate shall, so far as is reasonably practicable—

- (a) uphold the principle that not more than two-thirds of the appointments shall be of the same gender;
- (b) reflect the regional and ethnic diversity of the County;
- (c) ensure equity of opportunity amongst all the wards in the County; and
- (d) comply with the values and principles set out under the Constitution, and in particular, Articles 10, 27 and 232 of the Constitution.

**Oath or affirmation of office**

**24.** (1) The Chief Inspector shall, before assuming office, take and subscribe to the oath or affirmation of office prescribed in the Second Schedule.

(2) The oath or affirmation shall be administered only by persons indicated on the oath as specified in the schedule.

**Designation of Inspectorate posts**

**25.** (1) The Chief Inspector, may in consultation, with the County Chief Officer establish and designate inspectorate posts at all decentralized units as he or she considers fit.

(2) Each post shall have an officer-in-charge.

(3) In designating Inspectorate posts, the Chief Inspector shall ensure that the Inspectorate posts are equitably distributed amongst the different wards in the County.

(4) The Inspectorate posts shall be the unit for Inspectorate service delivery.

(5) Each Inspectorate post shall—

- (a) be the centre for the administrative and command functions of the Inspectorate in respect of the area of jurisdiction; and
- (b) provide room for operational creativity to the inspectorate officers under the Inspectorate.

**Deployment**

**26.** (1) Deployment of officers shall be done on the recommendation of the Chief Inspector, subject to the approval of the Chief Officer.

(2) The Board shall be responsible for confirmation, redesignation, promotion and demotion of officers.

### **Code of conduct**

27. (1) Inspectorate officers shall subscribe to such code of conduct as the Board may prescribe.

(2) The Board shall from time to time take measures to review the code of conduct by taking into account the priorities and changing needs of the inspectorate service.

(3) The Board shall, when reviewing and making recommendations relating to the code of conduct, take into account —

- (a) the national values and principles of governance in Article 10 of the Constitution;
- (b) the values and principles of public service in Article 232(1) of the Constitution;
- (c) the provisions of Chapter Six of the Constitution;
- (d) any statutory provisions governing the conduct of a profession or occupation;
- (e) any views of affected parties; and
- (f) any applicable legislation, convention or treaty.

### **Training**

28. The Inspectorate may collaborate with other training institutions to provide training to its officers.

### **Access to Inspectorate services**

29. The Inspectorate shall ensure reasonable access to its services in all parts of the County, so far as it is appropriate to do so, having regard to the nature of its services.

## **PART III — GENERAL FUNCTIONS, POWERS, OBLIGATIONS AND RIGHTS OF OFFICERS IN THE SERVICE**

### **General powers of Inspectorate officers**

30. (1) Subject to the Bill of Rights, an inspectorate officer may exercise such powers and shall perform such duties and functions as imposed or conferred on or assigned to an Inspectorate officer.

(2) An inspectorate officer of any specified rank or holding any specified office, shall perform any duty, power or discretion imposed or conferred by this Act or any other law.

(3) In the performance of such duty or the exercise of such power or discretion, an officer may be subject to the lawful orders and directions of any inspectorate officer to whom the inspectorate officer is directly subordinate, and any senior inspectorate officer, if the occasion arises where it is expedient to do so.

(4) An Inspectorate officer shall perform official duties or exercise inspectorate powers in a manner that is lawful.

#### **Officer deemed to be on duty**

**31.** An Inspectorate officer shall for the purposes of this Act, be considered to be always on duty when required and shall perform the duties and exercise the powers granted to him under this Act or any other law at any place within the County where he or she may be deployed.

#### **Duties and Powers of officers**

**32.** An Inspectorate officer shall obey and execute all lawful orders in respect of the execution of the duties of office which he or she may from time to time receive from his or her superiors and may—

- (a) at any reasonable time, enter any place in which the officer believes on reasonable grounds that—
  - (i) a regulated activity is being undertaken for the purposes of inspection for compliance; or
  - (ii) any person or persons is in any way contravening the provisions of any law;
- (b) apprehend any person who is in breach of any law or standards that is within the jurisdiction of the Inspectorate and for whose apprehension sufficient ground exists;
- (c) order immediate stoppage of an activity, if satisfied that a regulated activity is taking place contrary to the law;
- (d) inspect and impound goods in any premises where there is reasonable suspicion that a regulated activity is about to or is being undertaken contrary to any laws.

#### **Stoppage**

**33.** (1) An Inspectorate officer on duty may stop any person whom the officer witnesses doing any unlawful act or thing or finds in possession

of any unlawful thing, or suspects of doing any unlawful act or thing or being in possession of anything for which a permit, licence, or certificate or pass is required under any written law and has no such permit, licence or certificate.

(2) A person who fails to produce a licence, permit, certificate or pass within forty-eight hours when called upon to do so, may be arrested without a warrant unless he gives his name and address and otherwise satisfies the officer that he will duly answer any summons or any other proceedings which may be issued or be taken against him or her.

(3) An Inspectorate officer who abuses the powers under this Section commits an offence.

### **Use of non-violence**

**34.** (1) Subject to sub-section (2), an inspectorate officer shall perform the functions and exercise the powers conferred by the Constitution and this Act by use of non-violent means.

(2) Despite sub-section (1), an inspectorate officer may use force in accordance with the rules on the use of force contained in the Third Schedule.

### **Arrests**

**35.** (1) An Inspectorate officer may arrest a person with or without a warrant.

(2) An arrest under this Act, shall be subject to the Constitution and the rules contained in the Fourth Schedule.

(3) An officer who abuses the powers under this section commits an offence.

### **Inspection**

**36.** (1) Subject to the provisions of sections 44, and 45, an inspectorate officer may inspect premises, vehicles or vessels.

(2) During inspections an inspectorate officer may, where necessary, seize items or property.

(3) Inspection and seizure under this Act shall be subject to the Constitution and the rules contained in the Fifth Schedule.

### **Working hours**

**37.** (1) Working hours of Inspectorate officers shall be reasonable and they shall be allowed a minimum time of rest during and in between shifts.

(2) Where excessive overtime is required inspectorate officers shall be compensated with commensurate periods of rest.

### **Prohibition from taking other employment**

**38.** (1) No member of the Service, shall engage in any trade, business or employment, outside the scope of his duties as an officer of the Service if the trade, business or employment is in conflict of interest with the performance of the Inspectorate officer's duties.

(2) A member of the Service who intends to engage in other forms of employment shall apply for and obtain approval from the Board.

(3) The Board may approve or reject the application under sub-section (2).

(4) The Board shall maintain a register of all persons granted approval under sub-section (3), indicating the particulars thereof, and shall submit copies of the register to the County Executive Committee Member.

(5) The laws on anti-corruption, the Public Officers Ethics Act, and other relevant laws shall apply to members of the Service.

### **Public property not to be used privately**

**39.** (1) Unless specifically authorized by rules, no Inspectorate officer shall be entitled to keep or use for private benefit any article that has been supplied to the officer at the public expense, but shall hold every such article at the order and disposal of the County.

(2) An Inspectorate officer who keeps or uses an article in contravention of sub-section (1) commits a disciplinary offence.

### **Record keeping**

**40.** (1) An officer-in-charge of an inspectorate post, shall keep record in such form as the Chief Inspector may, in consultation with the relevant Deputy Chief Inspector, direct and shall record all complaints and charges preferred, the names of all persons arrested and the offences with which they are charged.

(2) Any complaint made against any inspectorate officer shall be recorded and reported to the Board.

(3) An Inspectorate officer who fails to record and report any complaint made under this section, commits an offence.

(4) The Chief Inspector shall ensure the development of procedures which facilitate uniform keeping of records at all inspectorate posts.

**Obedience to orders and warrants and detection of crimes, etc.**

**41.** (1) An Inspectorate officer shall—

- (a) obey and execute all lawful orders and warrants issued in respect of the execution of the duties of office which he or she may, from time to time, receive from his or her superiors in the Service;
- (b) provide assistance to members of the public when they are in need;
- (c) maintain law and order;
- (d) protect life and property;
- (e) preserve and maintain public peace and safety;
- (f) take all steps necessary to prevent the commission of offences and public nuisance;
- (g) detect offenders and bring them to justice; and
- (h) apprehend all persons whom he or she is legally authorised to apprehend and for whose apprehension sufficient ground exists.

(2) An inspectorate officer who fails to comply with an unlawful order shall not be subjected to disciplinary proceedings.

**Power to require bond for attendance of court**

**42.** (1) An Inspectorate officer investigating an alleged offence may require any person to execute a bond in such sum and in such form as may be required, subject to the condition that the person shall duly attend court if and when required to do so.

(2) Sub-section (1) shall not apply to offences against discipline.

(3) A person who refuses or fails to comply with a requirement lawfully made under sub-section (1) commits an offence.

**Power to take photographs**

**43.** (1) An Inspectorate officer, may take, or cause to be taken in his presence, for the purposes of record and identification, the measurements, and photographs, of any person in lawful custody or who is subject to supervision.

(2) The Chief Inspector shall prescribe in the Service Standing Orders the form upon which photographic evidence may be taken in accordance with this section.

(3) The Inspectorate officer, shall certify on the prescribed form that the photos have been taken by him, or caused to be taken in his presence, in accordance with the directions contained on such form, and that the particulars entered on such form are to the best of his knowledge and belief accurate and true.

(4) Subject to sub-section (1), if a person is not charged with an offence punishable by imprisonment or is discharged or acquitted by a court, and has not previously been convicted of an offence so punishable, all records of such photographs, thereof, and any negatives and copies of such photographs shall immediately be destroyed or handed over to such person.

(5) A person who refuses to permit his or her photographs to be taken under this Section commits an offence.

(6) Where a person refuses to permit taking of his or her photograph under sub-section (5), reasonable force may be used to facilitate the taking of photographs of the person convicted.

#### **Power to enter premises**

**44.** (1) An Inspectorate officer may not enter a dwelling place except with the consent of the occupant or upon reasonable suspicion of the commission of an offence and the entry is necessary for the enforcement of the provisions of this Act or any other written law.

(2) Subject to the Constitution, an Inspectorate officer may demand that a person residing in or in charge of premises allow him or her free entry thereto and afford him all reasonable facilities for a search of the premises, if the officer has reasonable cause to believe that—

- (a) anything necessary to the investigation of an alleged offence is in any premises and that the delay caused by obtaining a warrant to enter and search those premises would be likely to imperil the success of the investigation; or
- (b) any person in respect of whom a warrant of arrest is in force, or who is reasonably suspected of having committed a cognizable offence, is in any premises,

(3) If, after notification of his or her authority and purpose under sub-section (2), entry cannot without unreasonable delay be so obtained, the officer may enter such premises without warrant and conduct the search, and may, if necessary, in order to effect entry, break open any outer or inner door or window or other part of such premises.

(4) An Inspectorate officer who exercises the powers conferred under this section shall—

- (a) identify himself or herself beforehand;
- (b) record the action;
- (c) record the items taken; and
- (d) make a report regarding such exercise and make it available for the superior.

(5) The time of such entry shall be between six O'clock in the forenoon and six O'clock in the afternoon of any day of the week.

#### **Power to stop vehicles, or vessels without warrant**

45. (1) An Inspectorate officer may stop, search and detain any vehicle or vessel which the inspectorate officer has reasonable cause to suspect is being used in the commission of or to facilitate the commission of an offence.

(2) A person who fails to obey a reasonable signal given by an inspectorate officer in uniform requiring the person to stop any vehicle or vessel commits an offence and is liable on conviction to imprisonment for a term not exceeding twelve months or to a fine not exceeding one hundred thousand shillings, or to both.

(3) An inspectorate officer may arrest a person under sub-section (3) without a warrant unless the person gives his name and address and otherwise satisfies the inspectorate officer that the person will duly answer any summons or other proceedings which may be issued or taken against that person.

(4) Where necessary, an officer may impound a vehicle or vessel and tow it to the nearest inspectorate post or police station.

(5) An officer shall have the power to follow, intercept and without a warrant, impound any vehicle evading payment of cess at cess collection points.

(6) An inspectorate officer who exercises the powers conferred under this section shall—

- (a) record the action;
- (b) record the items taken;
- (c) make a report regarding such exercise and make it available for the superior.

#### **Impounding of goods**

46. (1) Where an officer has reasonable grounds to believe that a person is trading in goods contrary to any County law, the officer may impound the

goods and cause them to be stored at an inspectorate post until the person complies with the law or the case against him or her is determined by the Court.

(2) Where it is not reasonably practicable, having regard to the urgency of the situation, an officer may impound the goods without a warrant.

(3) An officer who impounds goods shall, within forty-eight hours of the impound, report the impound to the relevant Court and apply for an order for the detention of the goods.

(4) If the forty-eight hours under sub-section (3) end outside ordinary Court hours, or on a day that is not an ordinary Court day, the officer shall report the impound on the next Court day.

(5) An order for the detention of goods shall be valid for a period of thirty days and may, on application by the officer, be extended by the relevant Court for a further period as may be necessary to enable, the production of the goods during Court proceedings relating to an offence.

(6) Any goods impounded that are subject to rapid decay shall be disposed of with the authority of a magistrate after a full inventory has been taken and any other records of the same including photographs submitted to Court.

(7) The relevant Court may make an order for release of any goods impounded under this section if —

- (a) the officer is not able to prove that there are reasonable grounds to suspect that the goods have been or were being used for the commission of an offence; or
- (b) no proceedings have been instituted in the Court for an offence in respect of those goods, within ninety days of the date of the detention order.

(8) Sub-section (1) shall not preclude the relevant county organ from dealing with the impounded goods in any other manner permitted by an order of the Court or by any other law.

(9) An officer who impounds goods shall keep record of such items including—

- (a) name of the person from whom the goods were impounded;
- (b) the place where the goods were impounded;
- (c) name and type of the goods;
- (d) the quantity of impounded items;

- (e) date and time the impound was made;
- (f) reason for the impound;
- (g) identity of the goods including serial numbers where possible;
- (h) condition or status of the goods at the time of impound;
- (i) name of the police station in which the arrested person is detained;  
and
- (j) any other information that the officer finds relevant.

#### **Animals belonging to the Service**

47. (1) The Inspectorate Service and its Officers or agents shall be responsible for handling animals belonging to the Inspectorate.

(2) Where an animal belonging to the Inspectorate Service causes damage or injury, the person handling the animal shall be liable for the damage or injury caused, except as otherwise provided by this Act.

(3) Where any damage is caused by an animal which belongs to a dangerous species, the person who is handling the animal is liable for the damage, except as otherwise provided by this Act.

(4) Where damage is caused by an animal which does not belong to a dangerous species, the handler of the animal is liable for the damage, if—

- (a) the damage is of a kind which the animal, unless restrained, was likely to cause or which, if caused by the animal, was likely to be severe;
- (b) the likelihood of the damage or of its being severe was due to characteristics of the animal which are not normally found in animals of the same species or are not normally so found except at particular times or in particular circumstances; and
- (c) those characteristics were known to that handler or were at any time known to a person who at that time had charge of the animal or were known to another handler of the animal who is an officer or agent of the Inspectorate Service.

(5) The Inspectorate Service and its officers or agents shall not be liable for damage or injury under this Section if—

- (a) any damage is due wholly to the fault of the person suffering it.
- (b) any damage is suffered by a person who has voluntarily accepted the risk thereof.

- (c) any damage is caused by an animal kept on any premises or structure to a person trespassing there, if it is proved either—
  - (i) that the animal was not kept there for the protection of persons or property; or
  - (ii) if the animal was kept there for the protection of persons or property that keeping it there for that purpose was not unreasonable.

(6) In determining whether any liability for damage under subsection 5(a) is excluded, the damage shall not be treated as due to the fault of the person suffering it by reason only that he could have prevented it by fencing.

(7) Where an Inspectorate officer or an agent of the Inspectorate Service, incurs damage incidental to his duties, such officer or agent shall not be treated as accepting it voluntarily unless it is proved that the damage was caused by either negligence or unforeseen reasons.

(8) Any person who suffers injury or damage caused by an animal belonging to the Inspectorate Service shall be compensated commensurate to the level of damage or injury incurred.

#### **Power to apply for summons**

**48.** (1) Subject to this Act or any other law, an inspectorate officer may lay any lawful complaint before a Magistrate or apply before a subordinate court for summons, warrant or other legal process.

(2) Every inspectorate officer shall be competent to serve or execute any summons, warrant or other process whether directed to him or to any other officer.

#### **Private use of inspectorate officers**

**49.** An inspectorate officer shall not be deployed or be stationed for duty on private property or for private use.

#### **Restrictions on resignations**

**50.** (1) No officer below the rank of Deputy Chief Inspector shall resign from the Service before the expiry of three months, or such lesser period as the Chief Inspector may in particular case accept, after giving notice to the Chief Inspector and the Board of his or her intention to resign.

(2) An officer who is under disciplinary proceedings may not resign from the Service without the written permission of the Chief Inspector.

**Leaving the Service**

**51.** An officer may leave the Service only by the modes prescribed under this Act or the regulations.

**Surrender of public property on resignation**

**52.** (1) An inspectorate officer who is dismissed from the Service, or resigns from office, or otherwise leaves the Service, shall forthwith deliver over to the person authorized by regulations or appointed for that purpose, every article which has been supplied to him and which he or she has not been expressly authorized to keep or use for his private benefit.

(2) Any person who—

- (a) fails to comply with sub-section (1); or
- (b) returns such property in a damaged condition, the damage not being attributable to the proper discharge of his duties in the Service,

commits an offence, and shall be liable on conviction, whether or not any penalty is otherwise imposed, for the cost of replacing such property, or, as the case may require, for the cost of repair, and such cost shall be recoverable by the Government by deduction from any moneys due to such person, and shall be a debt due from such person to the Government.

**Protection from personal liability**

**53.** (1) Nothing done by an officer, member of staff or agent of the Inspectorate shall, if done in good faith for the purpose of executing the powers, functions or duties of the Inspectorate under this Act or any other law, render such officer, member of staff or agent personally liable for any action, claim or demand.

(2) Sub-section (1) shall not—

- (a) preclude a person from bringing legal proceedings against the Chief Inspector in respect of an act or omission of the kind referred to in that subsection if the person can satisfy the Court that the inspectorate officer or other person would, but for that subsection, have incurred liability for the act or omission.
- (b) relieve the Inspectorate of the liability to pay compensation or damages to a person for an injury suffered by the person, their property, or any of their interests arising directly or indirectly from the exercise of any power conferred by this Act.

(3) Nothing in this section shall exempt an officer, member of staff or agent of the Service from individual responsibility for unlawful or criminal acts committed by that officer, member of staff, or agent of the Service.

### **Rights of inspectorate officers**

54. Subject to section 54, an inspectorate officer shall be entitled to all the rights set out in the Constitution.

### **Protection from personal liability**

55. (1) Subject to Articles 24, 25 and 35 of the Constitution, the rights and fundamental freedoms of an officer of the Service may be limited for the purposes, in the manner and to the extent set out by law.

### **Limitation of rights and fundamental freedoms of inspectorate officers**

(2) A limitation of a right or fundamental freedom under sub-section (1) shall be reasonable and justifiable in an open and democratic society based on human dignity, equality and freedom and shall be limited only for purposes of ensuring—

- (a) the protection of classified information;
- (b) the maintenance and preservation of security;
- (c) the security and safety of officers of the Service;
- (d) the independence and integrity of the Service; and
- (e) the enjoyment of the rights and fundamental freedoms by any individual does not prejudice the rights and fundamental freedoms of others.

(3) A limitation of a right or fundamental freedom under this section shall relate to—

- (a) the right to privacy to the extent of allowing—
  - (i) a person, home or property to be searched;
  - (ii) possessions to be seized;
  - (iii) information relating to a person's family or private affairs to be required or revealed; or
  - (iv) the privacy of a person's communications to be investigated;
- (b) the freedom of expression to the extent of limiting the freedom to impart information for officers of the Service;

- (c) the freedom of the media;
- (d) the right to access to information to the extent of protecting the Service from—
  - (i) demands to furnish persons with information; and
  - (ii) publicizing information affecting the county or the nation;
- (e) the freedom of association to the extent of limiting the right of officers of the Service from joining or participating in the activities of any kind of association other than those authorized under this Act;
- (f) the right to assemble, demonstrate, picket and petition public authorities to the extent of ensuring discipline in the Service; and
- (g) the right to fair labour relations to the extent of prohibiting officers of the Service from joining and participating in the activities of a trade union and going on strike.

(4) An officer shall not be barred from voting at any election if, under the laws governing the said election, he or she has a right to vote.

#### **PART IV — DISCIPLINE OF OFFICERS OF THE SERVICE**

##### **Command and discipline of the Service**

**56.** (1) The Chief Inspector shall be responsible for matters relating to the command and discipline of the Service subject to disciplinary control of the Board.

(2) The Chief Inspector shall execute command by issuing lawful orders, directives or instructions to and through the Deputy Chief Inspectors.

(3) The Chief Inspector shall ensure that disciplinary proceedings are carried out without delay.

##### **Disciplinary powers**

**57.** (1) The County Public Service Board shall exercise overall disciplinary powers over the conduct of inspectorate officers in accordance with the role specified under section 59(1)(c) of the County Governments Act.

(2) The Board shall —

- (a) receive and investigate complaints against the Inspectorate officers;

- (b) promote uniform standards of discipline and good order in the Service; and
- (c) keep a record of the facts of any complaint or investigation made to it.

(2) Without prejudice to sub-section (2), the Board may where necessary investigate and recommend appropriate action in respect of any officer found engaging in any unlawful conduct.

(3) In the performance of its functions, the Board shall be subject to Article 47 of the Constitution.

(4) The Board shall investigate misconduct and hear complaints—

- (a) from members of the Service or members of the public;
- (b) at the direction of a senior officer;
- (c) on its own initiative;
- (d) on the direction of the County Executive Committee Member; or
- (e) at the request of the County Assembly.

(5) The Board may take the disciplinary actions specified under section 59.

(6) Where the Board recommends disciplinary action, it shall submit a copy of the recommendations to the County Secretary.

### **Disciplinary offences**

**58.** (1) An inspectorate officer in the Service shall be subject to the law and regulations relating to the Service.

(2) The offences against discipline include the offences prescribed under the Sixth Schedule.

(3) An inspectorate officer who commits a criminal offence shall be liable to criminal proceedings in a Court of law.

### **Penalties for disciplinary offences**

**59.** An inspectorate officer who commits an offence against discipline is liable to be punished by—

- (a) reprimand;
- (b) an order of restitution;
- (c) a fine not exceeding a third of basic salary;

- (d) stoppage of salary increments for a specified period of time, but not exceeding one year;
- (e) reduction of salary by not more than one third of the basic salary for a period not exceeding for three months;
- (f) demotion or reduction in rank;
- (g) transfer to another inspectorate division within the county;
- (h) retirement in public interest;
- (i) interdiction;
- (j) suspension;
- (k) dismissal;
- (l) any combination of the punishments provided under this Section;  
or
- (m) any other lawful action.

#### **Recovery of fines by deduction from salary**

**60.** (1) A fine imposed for an offence against discipline shall be recoverable by one or more deductions from the monthly salary payable to the officer on whom the fine is imposed.

(2) Notwithstanding sub-section (1), no deduction, nor the aggregate of deductions, if more than one fine is outstanding at the same time, shall exceed one-fourth of the gross salary payable in any month.

#### **Representation**

**61.** At any disciplinary proceedings, an officer shall be at liberty to be represented by an advocate of their own choice.

#### **Appeal**

**62.** (1) A member of the Service aggrieved by a decision made under this PART may appeal to the Public Service Commission in accordance with the provisions of section 77 of the County Governments Act.

(2) The right to appeal does not bar any person from applying for judicial review against the decision of the Board.

### **PART V — OFFENCES**

#### **Obstruction of an Officer**

**63.** A person who —

- (a) willfully assaults, resists or obstructs an officer in the due execution of the officer's duties;
- (b) willfully assaults, resists or obstructs any person acting in aid of the officer;
- (c) attacks an animal which belongs to the Inspectorate and is used for enforcement purposes; or
- (d) intentionally or recklessly destroys property belonging to the Inspectorate,

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months or both.

#### **Loss or damage to property**

**64.** (1) An officer of the Service shall not pawn, sell, lose by neglect, make away with or wilfully or negligently damage any article entrusted to or lawfully in the possession of the Service and supplied to him or her, or any property seized or taken charge of by him or her in the course of his duty.

(2) Notwithstanding anything contained in any other law, an officer who violates sub-section (1), may, in addition to any other penalty, be ordered to make good, either wholly or partially, the value of such property or the amount of such loss or damage, as the case may be, and such value or such amount may be recovered by deductions from his pay, including allowances, other than rent allowance and trade pay.

(3) An officer who pawns, sells, loses by neglect, makes away with or wilfully or negligently damages any uniform commits an offence and is, on conviction, liable to imprisonment for term not exceeding one year, or a fine not exceeding one hundred thousand, or to both.

#### **Destruction of County Property**

**65.** (1) Any person who defaces, vandalizes or destroys any property belonging to the County Government, commits an offence and shall, upon conviction, be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or both.

(2) In addition to the penalties prescribed in sub-section (1), a person so convicted under this provision shall be liable to pay damages or costs of repair to the County Government for the property destroyed.

#### **Desertion**

**66.** (1) An Inspectorate officer who absents himself or herself from duty without leave or just cause for a period exceeding fourteen days shall, unless the contrary is proved, be considered to have deserted from the Service.

(2) Upon reasonable suspicion that an inspectorate officer has deserted the Service, the person in charge of the post where such person deserted shall submit a report to the Deputy Chief Inspector of the Division which such person belongs.

(3) An inspectorate officer who deserts from the Service commits an offence and is liable on conviction to summary dismissal.

### **Prohibition against torture or cruel treatment**

**67.** (1) It shall be unlawful for an inspectorate officer to subject any person to torture or other cruel, inhuman or degrading treatment.

(2) An inspectorate officer who subjects a person to torture commits a criminal offence and shall, on conviction, be liable to imprisonment of not more than ten years.

(3) An Inspectorate officer who subjects a person to cruel, inhuman or degrading treatment commits a criminal offence and is liable, on conviction, to imprisonment for not more than ten years.

### **Impersonation**

**68.** (1) A person other than an inspectorate officer who, without the written authority of the Chief Inspector—

- (a) puts on or assumes, either in whole or in part,
  - (i) the uniform, name, designation or description of an inspectorate officer, or
  - (ii) a uniform, name or designation, resembling or intended to resemble the uniform, name or designation of an Inspectorate officer; or
- (b) in any way pretends to be an inspectorate officer for any purpose which he would not by law be entitled to do of his own authority,

commits an offence and shall be liable, on conviction, to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding five years, or to both.

(2) Notwithstanding sub-section (1) a person may, with the approval of the Chief Inspector, use inspectorate uniforms for artistic purposes.

### **Obtaining admission to the Service by fraud**

**69.** A person who, for the purposes of obtaining admission into the Service, knowingly—

- (a) uses or attempts to pass off a forged or false certificate, letter or other document; or
- (b) makes a false answer to a question which is put to him or her,

commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both.

#### **False or misleading statements**

**70.** (1) No person shall knowingly make a false or misleading statement to an inspectorate officer who is carrying out duties under this Act.

(2) A person who contravenes sub-section (1) commits an offence.

#### **Assault in execution of duty**

**71.** A person shall, upon conviction, be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding one year or to both, if that person—

- (a) assaults, resists or wilfully obstructs or hinders an inspectorate officer in the due execution of the inspectorate officer's duties;
- (b) assaults, resist or wilfully obstructs any person acting in aid of the Inspectorate officer;
- (c) attacks an animal belonging to the Inspectorate; or
- (d) intentionally or recklessly, destroys inspectorate property.

#### **General penalty**

**72.** A person who contravenes the provisions of this Act for which no penalty is specified or fails to comply with any order or directions given under this Act, shall be punishable with a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or both.

### **PART VI — PROVISIONS ON DELEGATED POWERS**

#### **Regulations**

**73.** (1) The County Executive Committee Member, in consultation with the Board, shall make regulations on—

- (a) code of conduct of members of the Service, and
- (b) the mode of leaving the Service.

(2) The Chief Inspector shall make regulations for giving further direction on the lawful use of force, and the regulations shall include, among other things—

- (a) a list of lawful means to use force;
- (b) training requirements to be allowed to use these means; and
- (c) procedures for reporting the use of the means of force, indicating whether the use of such means was necessary or not.

## **PART VII — TRANSITIONAL AND CONSEQUENTIAL PROVISIONS**

### **Transition**

74. (1) Upon coming into effect of this Act, all persons who were performing the respective functions of the Inspectorate shall continue to hold their respective positions or such ranks as the Board shall designate only if they meet the qualifications specified in this Act, any other written law or qualifications approved by the Board.

(2) Notwithstanding subsection (1), all officers or employees of the Inspectorate shall undergo suitability test by the Board to assess their suitability and competence to continue in service with regards to compliance with this Act, the requirements of Chapter Six of the Constitution, the Leadership and Integrity Act, the Public Officers Ethics Act and any other written law applicable to public officers.

(3) A person who is disqualified under sub-sections (1) or (2) shall automatically cease to hold office at the lapse of six months after the commencement of this Act.

(4) At the lapse of one year after the commencement of this Act, the County Public Service Board shall present a report to the County Assembly on the compliance of the transition provisions.

**FIRST SCHEDULE**

[Section 21]

**RANKING**

|                                                |                                                                            |                                                                             |                                                                                            |                                                         |
|------------------------------------------------|----------------------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------|---------------------------------------------------------|
| The Official County Inspectorate Service Ranks | Chief Inspector                                                            |                                                                             |                                                                                            |                                                         |
|                                                |                                                                            |                                                                             |                                                                                            |                                                         |
|                                                | Deputy Chief Inspector - <b><i>Inspection and Enforcement Division</i></b> | Deputy Chief Inspector - <b><i>Fire and Emergency Services Division</i></b> | Deputy Chief Inspector - <b><i>Disaster and Rescue Services Division</i></b>               | Deputy Chief Inspector - <b><i>Traffic Division</i></b> |
|                                                | Inspector                                                                  | Chief Fire Officer                                                          | Officers to be seconded from the fire and emergency services; and the enforcement division | Officers to be seconded from the enforcement division   |
|                                                | Senior Sergeant                                                            | Deputy Chief Fire Officer                                                   |                                                                                            |                                                         |
|                                                | Sergeant                                                                   | Station Officer                                                             |                                                                                            |                                                         |
|                                                | Corporal                                                                   | Fire inspector                                                              |                                                                                            |                                                         |
|                                                | Constable                                                                  | Other Fire Officers as approved and designated by the Board                 |                                                                                            |                                                         |

**SECOND SCHEDULE**

[Section 24]

**OATH OR AFFIRMATION OF OFFICE OF THE CHIEF  
INSPECTOR**

I ..... (*full names*) having been appointed as Chief Inspector of the Tana River County Inspectorate Service, do swear/solemnly affirm, that I will without fear or favour, affection, malice or ill will, discharge the functions of the office of Chief Inspector, and that I will not, directly or indirectly, reveal any information acquired in the performance of duties, to unauthorized persons or otherwise than in the course of duty; that I will at all times do my utmost to reserve peace and to prevent offences; that while I shall continue to hold the said office, to the best of my skill and knowledge, discharge all the duties thereof faithfully according to law and; I will subject myself to the Constitution, all Acts, orders and regulations now or in future in service relating to my service in the Tana River County Inspectorate Service; and that I will discharge all the duties of an Inspectorate Officer according to law, without fear, favour, affection or ill-will.

So help me God.

Signed .....

Sworn/Declared before me this day ..... of ..... 20 .....

***Judge/ Magistrate/ Commissioner for Oaths***

**THIRD SCHEDULE**

[Section 34]

**USE OF FORCE**

1. An Inspectorate officer shall always attempt to use non-violent means first and force may only be employed when non-violent means are ineffective or without any promise of achieving the intended result.

2. The force used shall be proportional to—

- (a) the objective to be achieved;
- (b) the seriousness of the offence; and
- (c) the resistance of the person against whom it is used, and only to the extent necessary while adhering to the provisions of the law and the Standing Orders.

3. When the use of force results in injuries—

- (a) the officers present shall provide medical assistance immediately and unless there are good reasons, failing to do so shall be a criminal offence; and
- (b) shall notify relatives or close friends of the injured or affected persons.

4. An officer who uses any form of force shall immediately, report to the officers' superior explaining the circumstances that necessitated the use of force and the supervisor shall judge the rightfulness and decide on the next step, subject to these regulations.

5. Any use of force that leads to death, serious injury and other grave consequences shall be reported immediately by the officer in charge or another direct superior of the person who caused the death or injury, to the Police who shall investigate the case.

6. Paragraph (5) shall not preclude the Chief Inspector from conducting investigation into the matter.

7. An officer who makes a report to the Police in accordance with paragraph (5) shall—

- (a) secure the scene of the act for purposes of investigation; and
- (b) notify the next of kin, their relative or friend of the death or injury as soon as reasonably practical.

**8.** It shall be a disciplinary offence for an officer to fail to report in accordance with these regulations.

**9.** An officer shall not tamper or otherwise damage any evidence from the scene of the act.

**10.** Following the orders of a superior is not an excuse for unlawful use of force.

**FOURTH SCHEDULE**

[Section 35]

**ARREST AND DETENTION**

1. In the performance of the functions and exercise of the powers of arrest and detention set out in the Constitution and this Act or any other law, an inspectorate officer shall carry out an arrest and detention only as provided for in law.

2. Where an officer has reasonable grounds to believe that an offence has been committed or is about to be committed under any county law, the officer may arrest —

- (a) the person committing or who is about to commit the offence;
- (b) where the offence relates to a regulated activity —
  - (i) the proprietor of the business;
  - (ii) the employee of the proprietor perpetrating the regulated activity; or
  - (iii) any other person whom the officer reasonably believes is involved in the execution of the activity.

3. Subject to Article 49 of the Constitution, an inspectorate officer may without a warrant, arrest a person who—

- (a) is accused by another person of breaching any law within his or her enforcement jurisdiction in any case in which the inspectorate officer believes upon reasonable ground that such breach has been committed;
- (b) obstructs an inspectorate officer while in the execution of duty;
- (c) commits a breach of peace in the presence of the inspectorate officer;
- (d) is in possession of anything which is reasonably suspected to have been used to commit an offence;
- (e) evades payment of cess at a cess collection point;
- (f) the inspectorate officer suspects, upon reasonable grounds, of having committed or being about to commit a breach of law; or
- (g) whom the inspectorate officer has reasonable cause to believe a warrant of arrest has been issued.

4. An officer shall accord an arrested or detained person all the rights set out under Articles 49, 50 and 51 of the Constitution.

5. An officer may, where necessary and in accordance with the Third Schedule, use reasonable force to execute arrest.

6. Every arrested person shall, within twenty-four hours from the time of arrest, be produced in Court or handed over to the police station in the jurisdiction within which the offence has been committed to be dealt with in accordance with the law.

7. Where an officer intends to carry out an arrest, he or she shall produce their enforcement identification card and shall explain to the suspect the reason of arrest in a language or manner they understand;

8. The officer carrying out the arrest shall explain to the suspect of his or her rights while in custody;

9. Every police station shall be a lock-up facility for detaining arrested persons.

10. A detained person shall be entitled to enjoy all the rights that do not relate to the restriction of liberty.

11. An officer-in-charge of an inspectorate post shall keep record of all arrested persons including—

- (a) name of the arrested person;
- (b) age and gender of arrested person;
- (c) date and time of arrest;
- (d) reason for arrest;
- (e) identity of the arresting officer;
- (f) date and time the arrested person was transferred to the police for detention.
- (g) name of the police station in which the arrested person is detained; and
- (h) any other information that the officer finds relevant.

12. No detained person shall be held in any other place except a designated lock-up facility.

**FIFTH SCHEDULE**

[Section 36]

**INSPECTION AND SEIZURE**

1. During an inspection, an inspectorate officer may, seize anything by means of which or in relation to which the officer believes, on reasonable grounds, that the law has been contravened and a full inventory thereof shall be made at the time of such seizure by the officer.

2. The inspectorate officer may direct that anything seized be kept or stored in the place where it was seized or that it be removed to another place.

3. Unless authorized by an officer, no person shall remove, alter or interfere in any manner with any other thing seized.

4. Any person from whom a thing was seized may, within thirty days after the date of seizure, apply to Court for an order of restoration, and shall send notice containing the prescribed information to the relevant department within the prescribed time and in the prescribed manner.

5. The Court may order that the thing be restored immediately to the applicant if, on hearing the application, the Court is satisfied that—

(a) the applicant is entitled to possession of the thing seized; and

(b) the thing seized is not and will not be required as evidence in any proceedings in respect of an offence under this Act.

6. Where upon hearing an application made under paragraph 9 the Court is satisfied that the applicant is entitled to possession of the thing seized but is not satisfied with respect to the matter mentioned in paragraph 9 (b), the Court may order that the thing seized be restored to

the applicant on the expiration of seven days from the date of determination of the application if no proceedings in respect of an offence have been commenced before time.

**SIXTH SCHEDULE**

[Section 58]

**OFFENCES AGAINST DISCIPLINE**

The following acts shall constitute an offence against discipline if committed by an officer of the Inspectorate Service —

- (a) unlawfully striking, or using or threatening violence against any officer or any other person;
- (b) use of any obscene, abusive or insulting language in any form to any officer;
- (c) use of threatening or insubordinate or disrespectful language, word, act or demeanour to an officer senior in rank;
- (d) causing disturbance in any inspectorate premises;
- (e) being drunk while on duty;
- (f) drinking intoxicating liquor or psychotropic substances or drugs, or smoking in uniform when actively engaged on duty in a public place;
- (g) willfully disobeying of any lawful command or order;
- (h) absenting oneself without leave;
- (i) sleeping while on duty;
- (j) leaving a post or place of duty before being regularly relieved, except in fresh pursuit of an offender who it is the officer's duty to apprehend;
- (k) leaving or escaping while under arrest or in detention, before one is set at liberty by proper authority;
- (l) neglecting or refusing to assist in the apprehension of an officer charged with any offence, when lawfully ordered so to do;
- (m) resisting any lawful arrest;
- (n) negligently allowing any person, who is committed to an officer's charge, or whom it is an officer's duty to guard, to escape;
- (o) failure to attend without reasonable cause, at any parade, instruction class or Court or any other duty which he is required to attend;
- (p) selling, pawning, losing by neglect, making away with or willfully or negligently damaging, or failing to report any loss or damage to, any accoutrement, uniform or other article of personal issue or any vehicle or other property committed to an officer's charge belonging to the Government or for which the Government is responsible;

- (q) being in improper possession of any public or private property;
- (r) Committing any act of plunder or wanton destruction of any property;
- (s) being negligent in the performance of duty;
- (t) appearing on duty untidy or dirty in an officer's person, clothing or equipment;
- (u) making or signing any false statement in any document or official record;
- (v) without proper authority, disclosing or conveying, any information concerning any investigation or other inspectorate service matter;
- (w) malingering, or feigning any disease or infirmity;
- (x) knowingly and willingly transmitting any venereal disease or HIV/AIDS;
- (y) without proper authority demanding or exacting from any person any carriage, portage or provisions;
- (z) committing an act which amounts to corruption under any law in force in Kenya;
- (aa) making any false statements upon joining the Service;
- (bb) refusing or neglecting to make or send any report or return which it is an officer's duty to make or send;
- (cc) knowingly making any false accusation or complaint or statement against an officer or other person, affecting the character of such officer or person, or willfully suppressing any material fact;
- (dd) making or signing any false statement in any document or official record;
- (ee) acting or behaving in a manner that constitutes cowardice under the Standing Orders;
- (ff) Willfully disobeying, whether in hospital or elsewhere, any order and so cause or aggravate any disease or infirmity; or delay its cure;
- (gg) engaging in any other gainful employment or office without the authority of the board;
- (hh) blocking or interfering with communication;
- (ii) committing an act which amounts to hate speech under section 13 and 62 of the National Cohesion and Integration Commission Act.