

SPECIAL ISSUE

Kenya Gazette Supplement No. 9 (Migori County Bills No. 4)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

MIGORI COUNTY BILLS, 2025

NAIROBI, 31st October, 2025

CONTENT

Bill for Introduction into the County Assembly of Migori—	PAGE
The Migori County Property Hire and Lease Bill, 2025.....	1

**THE MIGORI COUNTY PROPERTY HIRE AND LEASE BILL,
2025**

ARRANGEMENT OF CLAUSES

Clause

PART I— PRELIMINARY

- 1— Short title.
- 2— Interpretation.
- 3— Objectives of this Act.
- 4— Guiding principles.

PART II— HIRE AND LEASE PROCEDURE

- 5— County to hire or lease its property etc.
- 6— Application to hire or lease.
- 7— Form of contract.
- 8— Usage and adherence to terms and conditions.
- 9— Period of hire or lease.
- 10— Property to be kept in good condition.
- 11— Periodic inspection.
- 12— Subleasing or subletting.
- 13— Hiring or leasing not to transfer title.
- 14— No adverse possession of any property.
- 15— Recovery proceedings.

PART III—REVENUE PROVISIONS

- 16— Prescribing Fees.
- 17— Collection of Revenue.
- 18— Enforcement of Revenue Collection.
- 19— Waiver of Fees.

PART IV —OFFENCES AND PENALTIES

- 20— Offences.
- 21— Obstructing authorized officers.

22— General penalties.

PART IV—MISCELLANEOUS PROVISIONS

23— Protection from Personal Liability.

24— Regulations.

**THE MIGORI COUNTY PROPERTY HIRE AND LEASE BILL,
2025**

A Bill for

AN ACT of the County Assembly of Migori to provide for the hiring and leasing of property, items, facilities and services belonging to the County Government, for the payment of hiring and leasing charges and for connected purposes

ENACTED by the County Assembly of Migori, as follows—

PART I— PRELIMINARY

Short title

1. This Act may be cited as the Migori County Property Hire and Lease Act, 2025 and shall come into operation upon publication in the *Kenya Gazette*.

Interpretation

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

“adverse possession” means the unauthorized occupation or use of County property that does not create any legal right or interest against the County Government;

“County Assembly” means the County Assembly of Migori;

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for the property, item, facility or service that is the subject of hire or lease;

“County Government” means the County Government of Migori established under Article 176 of the Constitution;

“County property” includes all movable and immovable assets owned, controlled, or managed by the County Government, including land, buildings, infrastructure, vehicles, equipment, and any other facilities or resources designated for public use;

“environmental sustainability” means the responsible use and management of natural and built resources to meet present needs without compromising the ability of future generations to meet their own needs;

“fees” means the charges prescribed under this Act or any other applicable law for the hire or lease of county property, facilities, equipment, or services;

“hire” means the temporary use of County property, facilities, equipment, or services by a person or entity upon payment of a prescribed fee and subject to agreed terms and conditions;

“lease” means a contractual arrangement granting a person or entity the right to use County property, facilities, or equipment for a specified period upon payment of a prescribed fee and subject to agreed terms and conditions;

“public asset” means any property, infrastructure, or resource owned, managed, or controlled by the County Government for public benefit;

“standard contract” means the legally binding agreement, as prescribed by the County Attorney and approved by the County Executive Committee, governing the terms and conditions of hire or lease of County property, facilities, or services;

“subletting” or “subleasing” means the unauthorized transfer of rights or obligations under a hire or lease agreement to a third party without the express approval of the County Government;

“unauthorized use” means any use of County property, facilities, or equipment that is not in accordance with the terms of this Act, an agreement made under it, or any other applicable law.

Objectives of this Act

3. The objects and purposes of this Act are—

- (a) to control the hiring and leasing of County Public properties and services;
- (b) to encourage the residents of Migori County to make use of the available public properties to better their livelihood;
- (c) enhance transparency, accountability, and integrity in the administration of hire and lease agreements while preventing fraud, corruption, and abuse of office;
- (d) facilitate effective monitoring, inspection, and enforcement mechanisms to ensure compliance with the terms and conditions of hire and lease agreements; and
- (e) promote environmental sustainability and responsible use of county property to support long-term economic and social development.

Guiding principles

4. In fulfilling their mandates under this Act, all offices, officers, and institutions bearing any responsibility under this Act shall act in

accordance with the values and principles set out in Articles 10(2), 201, and 232(1) and Chapter Six of the Constitution, as well as provisions of relevant national and county legislation. In particular, they shall observe and respect—

- (a) the social, economic, political, religious, cultural, and other diversities of the people of Migori County;
- (b) inclusiveness, non-discrimination, and gender equality equity;
- (c) integrity, transparency, and accountability;
- (d) prudence and responsibility in the utilization and management of public funds and assets, as well as clarity in fiscal reporting;
- (e) the need to ensure equity in the allocation of resources;
- (f) the rights of the public to participate in policy-making and legislative processes;
- (g) the need to ensure impartial, responsive, prompt, effective, efficient, and equitable service provision;
- (h) the rights of the public to be provided timely and accurate information;
- (i) the need for protection of the vulnerable and the marginalized groups and communities; and
- (j) the rules of natural justice.

PART II— HIRE AND LEASE PROCEDURE

County to Hire or lease its property etc.

5. The County Government may hire or lease to any person, upon such terms and conditions as may be prescribed—

- (a) any property owned by the County;
- (b) open spaces in both rural and urban areas;
- (c) County-owned equipment and machinery;
- (d) motor vehicles;
- (e) public amenities, including parks, and recreational facilities;
- (f) County-employed labour services;
- (g) County buildings, office spaces, and conference facilities;
- (h) County-owned ICT infrastructure; and
- (i) any other property, facility, or service as may be prescribed.

Application to hire or lease

6. (1) A person who intends to hire or lease any property, facility, or service under section 5 shall submit an application to the relevant County Executive Committee Member in the prescribed form, accompanied by the prescribed fee and such other information as may be required.

(2) The County Executive Committee Member shall consider an application submitted under sub-section (1) and, where satisfied that the application meets the prescribed requirements, shall, within seven days of making that determination, notify the applicant in writing of—

- (a) the availability of the property, facility, or service for hire or lease; and
- (b) the requirement to execute a standard form contract for the hire or lease.

(3) An applicant who receives a notification under sub-section (2) shall execute the contract for the hire or lease within seven days of receipt of the notification or within such other period as may be prescribed.

(4) Subject to the approval of the County Executive Committee, the Office of the County Attorney shall develop and prescribe standard form contracts for the hire or lease of County property, facilities, or services.

Form of contract

7. (1) A contract for hire or lease under this Act shall be in writing in the prescribed form and shall be signed by the relevant county executive committee member and the county executive committee member responsible for Finance, or by persons duly authorized by them, and the person hiring or leasing.

(2) A contract for hire or lease under this Act shall contain such terms and conditions as may be prescribed and shall indicate the prescribed rates or fees payable for the hiring or leasing of the relevant subject matter, indicating manner of payment.

Usage and adherence to terms and conditions

8. A person hiring or leasing of the County Government's property, items, facilities or services shall adhere to the terms and conditions stipulated in the contract for the hiring or leasing of the subject matter.

Period of hire or lease

9. The duration of hire or lease of property, item, facility or services shall be stipulated in the contract, and may be extended from time to time on such terms and conditions as may be prescribed.

Property to be kept in in good condition

10. (1) A person hiring or leasing any property under this Act shall keep the property in good condition, and shall not let the property fall in disuse or neglect and, notwithstanding any other provision in the contract, shall be responsible for returning or restoring the subject property to the state it was at the time he or she took possession of the same.

(2) The County Executive Committee Member responsible shall maintain records of hired and leased items and submit the copies of these records to the County Assembly not later than 90 days from the end of each financial year.

Periodic inspection

11. (1) The County Government shall conduct periodic inspections of all hired or leased property, items, facilities, or services to ensure compliance with the terms and conditions of the hire or lease agreement.

(2) The County Government or its authorized officers shall have the right to inspect the subject matter at any reasonable time, with prior notice to the hirer or lessee, except in cases of emergency or suspected misuse, where no prior notice shall be required.

(3) During an inspection, the authorized officers may—

- (a) assess the condition and proper use of the subject matter;
- (b) verify compliance with maintenance and operational requirements;
- (c) issue directives for necessary repairs, maintenance, or corrective actions; and
- (d) document findings and report any breaches of the hire or lease agreement.

(4) A hirer or lessee shall—

- (a) grant access to the county government or its authorized officers for the purpose of conducting inspections;
- (b) provide any relevant records, documents, or information relating to the use and maintenance of the subject matter as may be required; and
- (c) implement any corrective measures or recommendations issued pursuant to an inspection.

(5) Where an inspection reveals non-compliance with the hire or lease agreement, the County Government may—

- (a) issue a notice requiring corrective action within a specified period;
- (b) impose penalties as may be prescribed;
- (c) suspend or revoke the hire or lease agreement; or
- (d) take any other lawful action as may be necessary to protect the interests of the County Government.

Sub-leasing or subletting

12. (1) A person who hires or leases any property or item, facility or service from the County Government shall not sub-lease or sub-let that property or item, facility or service without the approval of the relevant county executive committee member.

(2) A person who contravenes sub-section (1) commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings, or imprisonment for a term not exceeding two years, or both.

Hiring or leasing not to transfer title

13. The leasing or hiring of any of property or other item or facility by the County Government to any person shall not transfer to that person the title to that property or other item or facility.

No adverse possession of any property

14. For the avoidance of doubt, ownership or possession to any property hired or leased under this Act shall not accrue by adverse possession to the person hiring or leasing the property in question.

Recovery proceedings

15. The County Government may initiate recovery proceedings against any person who fails or refuses to pay the prescribed fee or charge in respect of any property, item, facility or services hired or leased from the County Government.

PART III—REVENUE PROVISIONS

Prescribing Fees

16. (1) The fees payable for the hire or lease of county property, items, facilities, or services shall be as prescribed in the Schedule to this Act.

(2) The County Executive Committee Member responsible for Finance, in consultation with the relevant county government departments, may review and propose amendments to the fees set out in the Schedule,

subject to approval by the County Executive Committee and the County Assembly in accordance with all the applicable laws and procedures.

(3) No person shall hire or lease any county property, item, facility, or service without payment of the prescribed fees, unless otherwise exempted under this Act.

(4) The Schedule to this Act shall not limit or override any fees prescribed under any other applicable law.

(5) The fees prescribed under any other relevant law shall—

- (a) reflect the nature, value, and intended use of the subject matter;
- (b) ensure cost recovery, sustainability, and equitable access to county resources;
- (c) be reviewed periodically to account for prevailing economic conditions; and
- (d) be published in the county gazette and any other official medium as may be prescribed.

(6) The County Assembly shall exercise oversight over the determination, revision, and implementation of the fees prescribed in the Schedule in accordance with all relevant laws.

Collection of Revenue

17. (1) The collection of fees, charges, and any other revenue arising from the hire or lease of County property, items, facilities, or services shall be undertaken in accordance with this Act, all the applicable county laws on revenue administration, the Public Finance Management Act, and any other applicable laws governing county revenue collection.

(2) The County Executive Committee Member responsible for Finance shall—

- (a) designate the County department, officer, or agency responsible for the collection of revenue under this Act;
- (b) ensure that all revenue collected is deposited into the County Revenue Fund in accordance with the Public Finance Management Act, or any other relevant law; and
- (c) establish mechanisms to ensure transparency, accountability, and efficiency in revenue collection.

(3) The County Government may adopt the following methods for revenue collection—

- (a) direct payments through county-designated bank accounts;

- (b) mobile or electronic payment systems;
 - (c) online payment platforms;
 - (d) physical collection points at designated county offices; or
 - (e) any other method as may be prescribed.
- (4) A person liable to pay fees or charges under this Act shall—
- (a) make full payment before being granted access to the hired or leased property, item, facility, or service, unless otherwise specified in the agreement;
 - (b) retain proof of payment for verification purposes; and
 - (c) comply with any prescribed payment deadlines.
- (5) Late or non-payment of any fees due under this Act shall attract penalties, including—
- (a) interest on the outstanding amount at a rate prescribed in the Schedule;
 - (b) suspension or termination of the hire or lease agreement; and
 - (c) any other enforcement measures as may be prescribed under the Revenue Administration Act.
- (6) The County Executive Committee Member responsible for Finance shall ensure proper records of all revenue collected under this Act are maintained and submit an annual report to the County Assembly for oversight and audit purposes, in accordance with all relevant laws.

Enforcement of Revenue Collection

18. (1) The enforcement of revenue collection under this Act shall be carried out in accordance with all the applicable County laws on revenue administration, the Public Finance Management Act, and any other applicable laws governing county revenue administration.

(2) The County Executive Committee Member responsible for Finance shall ensure the implementation of enforcement measures to secure the timely and full collection of all fees, charges, and other revenue due under this Act.

(3) Where a person fails, neglects, or refuses to pay any fees or charges prescribed under this Act, the County Government may take enforcement actions, including but not limited to—

- (a) issuing a demand notice requiring payment within a specified period;

- (b) imposing penalties, surcharges, or interest on the outstanding amount as prescribed in the Schedule to this Act and the Revenue Administration Act;
- (c) suspending or revoking the hire or lease agreement until full payment is made;
- (d) seizing or repossessing the hired or leased property, item, facility, or service, where applicable;
- (e) denying future access to county property, items, facilities, or services; and
- (f) initiating legal proceedings for recovery of the outstanding fees, charges, and any accrued penalties.

(4) A person who obstructs or hinders the enforcement of revenue collection under this Act commits an offence and shall, upon conviction, be liable to—

- (a) a fine as prescribed in the Schedule to this Act or any other applicable law;
- (b) imprisonment for a term prescribed under this Act or any other applicable laws; or
- (c) both such fine and imprisonment.

(5) The County Government may collaborate with law enforcement agencies, and any other relevant institutions to facilitate the enforcement of revenue collection under this Act.

(6) All enforcement actions taken under this section shall be documented, and annual report shall be submitted to the County Assembly for oversight and accountability.

Waiver of Fees

19. (1) The County Executive Committee Member responsible for Finance may, on the recommendation of the relevant department, waive or reduce fees payable for the hire or lease of county property, facilities, equipment, or services in exceptional circumstances, where—

- (a) the waiver is in the public interest, including for charitable, humanitarian, or community development purposes;
- (b) the applicant is a government entity or a public institution engaged in activities that promote the welfare of the residents of the County;
- (c) the waiver is necessary to support emergency response, disaster management, or other urgent public service needs; or

- (d) any other reason that the County Executive Committee may determine to be justifiable and beneficial to the County.
- (2) A request for waiver shall be made in writing to the County Executive Committee Member responsible for finance, stating the reasons for the request and any supporting documentation.
- (3) The County Executive Committee Member shall, within fourteen days of receiving a request under sub-section (2), issue a written determination granting or rejecting the waiver, specifying the reasons for the decision.
- (4) Any waiver or reduction of fees granted under this section shall be reported biannually to the County and included in the County's financial records for transparency and accountability.
- (5) A waiver granted under this section shall not exempt the hirer or lessee from complying with the terms and conditions of the hire or lease agreement.
- (6) The waiver of fees under this section shall be subject to all other applicable laws on waivers, public finance, and financial management.
- (7) The County Executive Committee member responsible for Finance may make regulations prescribing the criteria, procedure, and documentation required for the waiver or reduction of fees under this section.

PART IV —OFFENCES AND PENALTIES

Offences

- 20.** (1) A person commits an offence under this Act if he or she—
- (a) knowingly provides false or misleading information in an application for the hire or lease of county property, items, facilities, or services;
 - (b) uses County property, items, facilities, or services for a purpose other than that for which they were hired or leased without prior authorization;
 - (c) subleases, sublets, or transfers county property, items, facilities, or services without the written approval of the County Government;
 - (d) willfully damages, destroys, or negligently allows the deterioration of any county property, item, facility, or service under a hire or lease agreement;

- (e) unlawfully retains county property beyond the expiry or termination of the hire or lease agreement without the County Government's consent;
- (f) fails, refuses, or neglects to pay any prescribed fees, charges, penalties, or surcharges within the stipulated time;
- (g) fraudulently alters, falsifies, or forges any document related to the hire or lease of county property; or
- (h) engages in any corrupt, fraudulent, or unlawful conduct in connection with the hire or lease of county property, items, facilities, or services.

(2) A person who commits an offence under sub-section (1) shall, upon conviction, be liable to a fine not exceeding one million shillings or imprisonment for a term not exceeding three years, or both.

(3) Where an offence under this Act is committed by a corporate entity, the responsible officers, including directors, managers, and any person acting in such capacity, shall be personally liable unless they prove that the offence was committed without their knowledge or consent.

(4) A person who commits an offence under subsection (3) shall, upon conviction, be liable to a fine not exceeding one million shillings or imprisonment for a term not exceeding three years, or both.

(5) In addition to any penalty imposed under this section, the court may order—

- (a) the cancellation or suspension of the hire or lease agreement;
- (b) the repossession of county property, items, facilities, or services;
- (c) restitution for any damage or loss suffered by the County Government; and
- (d) disqualification from entering into future hire or lease agreements with the County Government for a specified period.

(6) The County Government shall maintain a register of persons and entities who have been convicted of offences under this Act and may use such records to determine eligibility for future hire or lease applications.

Obstructing authorized officers

21. A person who obstructs or interferes with or assists a person to obstruct or interfere with any person in the performance of a function conferred on that person under this Act commits an offence and is liable on conviction to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding seven months, or to both.

General penalties

22. Any person who contravenes or fails to comply with any of the provisions of this Act and where no penalty has been prescribed commits an offence and is liable on conviction to a fine not exceeding thirty thousand shillings, or to imprisonment for a term not exceeding seven months, or to both.

PART IV—MISCELLANIOUS PROVISIONS**Protection from Personal Liability**

23. (1) No action or suit shall be instituted against the County Government, any County Executive Committee Member, public officer, or any other person acting under lawful authority for anything done in good faith in the execution of powers or performance of duties under this Act.

(2) The protection under sub-section (1) shall not extend to—

- (a) acts or omissions committed in bad faith, with gross negligence, or in willful disregard of the law;
- (b) any fraudulent, corrupt, or unlawful conduct in the administration of hire or lease agreements;
- (c) personal liability arising from a breach of contract, where the officer acts outside the scope of their authority; or
- (d) any other matter for which liability is expressly provided under this Act or any other applicable law.

(4) Nothing in this section shall prevent any person from seeking legal redress against the County Government for damages or losses suffered due to unlawful or wrongful acts committed in the execution of this Act.

Regulations

24. (1) The County Executive Committee Member responsible for Finance, in consultation with the relevant County Government departments, may make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of sub-section (1), the regulations may provide for—

- (a) the procedure for applying for the hire or lease of county property, items, facilities, or services;
- (b) the form and content of standard hire or lease agreements, as prescribed by the County Attorney and approved by the County Executive Committee;

-
- (c) the terms and conditions governing the hire or lease, including uses, restrictions, and renewal procedures;
 - (d) the mechanisms for revenue collection, enforcement, and compliance monitoring;
 - (e) the procedures for periodic inspection, maintenance, and reporting on condition of hired or leased property;
 - (f) the penalties for non-compliance with the terms of hire or lease agreements;
 - (g) the conditions under which exemptions, waivers, or reductions in fees may be granted;
 - (h) the process for dispute resolution arising from the hire or lease of county property;
 - (i) the manner in which revenue collected under this Act shall be recorded, audited, and reported; and
 - (j) any other matter necessary for the proper implementation of this Act.

(3) The regulations made under this section shall be tabled before the County Assembly for approval before taking effect.

(4) Notwithstanding sub-section (3), the County Executive Committee Member may issue guidelines for the interim administration of this Act, pending the enactment of formal regulations.

SCHEDULE
CHARGES ON HIRE OR LEASE OF COUNTY PROPERTY

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide a legal and institutional framework for the hiring and leasing of property, facilities, and services owned by the County Government of Migori.

The Bill seeks to ensure that all County assets are managed efficiently, transparently, and accountably to maximize public benefit and revenue generation. It establishes procedures for application, approval, contracting, inspection, and enforcement in relation to the hire and lease of county property.

The enactment of this legislation will:

- (i) Promote proper utilization and protection of County assets.
- (ii) Enhance own-source revenue through well-structured fees and charges.
- (iii) strengthen accountability and integrity in the management of public property.
- (iv) Ensure compliance with the Constitution and relevant national laws.

The Bill further provides for penalties for unauthorized use or occupation of county property and empowers the County Executive Committee Member responsible for Finance to make regulations for its effective implementation.

This Bill therefore seeks to fill an existing legal and policy gap and ensure that the use of county property contributes directly to the socio-economic development of Migori County.

CALEB ONGELE,
Chairperson, Finance Committee

