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**SPECIAL ISSUE**

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**KENYA GAZETTE SUPPLEMENT**

**MOMBASA COUNTY ACTS, 2017**

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**NAIROBI, 17th July 2017**

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**THE MOMBASA COUNTY ENVIRONMENTAL HEALTH AND  
SANITATION ACT, 2017**

**No. 12 of 2017**

*Date of Assent: 10th July, 2017*

*Date of Commencement: 17th July, 2017*

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**THE MOMBASA COUNTY ENVIRONMENTAL HEALTH AND  
SANITATION ACT, 2017**

**AN ACT of the County Assembly of Mombasa to provide for a regulatory and enforcement framework for environmental health and sanitation; to provide for the establishment of environmental health and sanitation standards; to provide for sanitation services development and investment plans; to provide for certain general powers of the County Executive Committee Member responsible for environmental health and sanitation; and for connected purposes**

ENACTED by the County Assembly, as follows—

**PART I—PRELIMINARY**

**Short title and Commencement**

1. (1) This Act may be cited as the Mombasa County Environmental Health and Sanitation Act, 2017 and shall come into effect upon publication in the Gazette.

**Interpretation**

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

“authorized officer” means the Director of Health, Public Health Officer, Environmental Health Officer, Public Health Assistant or any other person(s) authorized in writing by the Chief Officer of Health, for the purpose of this Act;

“chief officer” means the Chief Officer of the County Government responsible for environmental health and sanitation matters;

“collection” means the gathering of waste, including the preliminary sorting and storage of waste for the purposes of transport to a waste treatment facility;

“constitution” means the Constitution of Kenya, 2010;

“county” includes, where appropriate, the County Government unless otherwise provided;

“department” means the County Government Department responsible for health matters;

“directorate” means the County Government directorate responsible for environmental health and sanitation matters;



“director of public health” means a person appointed as County Director of Public Health by the County Public Service Board;

“disposal” means removal of waster including its deposits, destructions, discharge (whether into water or into the air or into a sewer or drain or otherwise) or burial (whether underground or otherwise);

“dwelling” means any house, room, shed, hut, cave, tent, vehicle, vessel or boat or any other structure or place whatsoever, any portion whereof is used by any human being for sleeping or in which any human being dwells;

“environmental health impact assessment” means a statement of the direct and indirect effects that a proposed development will have or is likely to have on environmental health;

“executive member” means the County Executive Committee Member for the time being responsible for environmental health and sanitation matters;

“food” means any article used for food or drink other than drugs or water, and any article intended to enter into or be used in the preparation of such food, and flavouring matters and condiments;

“hazardous waste” means controlled waste which has the potential, even in low concentrations, to have significant adverse effect on the environment and human health on account of its inherent chemical and physical characteristics, such as toxic, ignitable, corrosive, or other properties;

“industrial waste” includes waste produced or arising from manufacturing or industrial activities or processes; and waste from any premises—

- (a) used for the purposes of or in connection with the provision to the public of transport services by land, air or water;
- (b) used for the purposes of or in connection with the supply to the public of gas, water or electricity by land, air or water or electricity or the provision of sewerage services;
- (c) used for the purpose of or in connection with the provision to the public of postal or telecommunication services; or
- (d) forming part of a hospital or nursing home.

“infectious disease” means every disease, which can be communicable directly or indirectly by any person suffering there from to any other person;

“insanitary conditions” means such conditions or circumstances as might contaminate food, with dirt or filth or might render the same injurious or dangerous to health;

“owner” includes any person, other than the government, receiving the rent or profits of any lands or premises from any tenant or occupier therefore or who would receive such rent or profits if such land or premises were let whether on his own account or as an agent for any person, other than the government, entitled thereto or interested therein; the term includes any lessee or licensee from the government and any superintendent, overseer or manager of such lessee or licensee residing on the holding;

“pollution” means any direct or indirect or indirect alteration of the physical, thermal, chemical, biological, or radioactive properties of any part of the environment by discharging, emitting, or depositing wastes so as to effect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to environmental health, safety or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause contravention of any condition, limitation, or restriction which is subject to a license under this Act;

“premises” includes misuses, building, lands, and hereditaments in very tenure and machinery, plant or vehicle used in concretion with any trade carried on at any premises;

“recovery” means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function or waste being prepared to fulfil that function, in the plant or in the wider economy, and waste recovery activity shall be construed accordingly;

“recycling” includes the reclamation of waste, recovery of materials, reprocessing of wastes, resource recovery and re-use of waste;

“refuse” includes garbage, tins bottles, ashes, sweeping from dwellings, refuse from gardens or stables or waste products from any factory or workshop;

“regulations” mean regulations made under this Act;

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“re-use” means any operations by which products or components that are not waste are used again for the same purpose for which they were conceived;

“rules” include regulations made or deemed to be made under this Act;

“sanitary convenience” includes closets and urinals;

“sanitation promotion” means activities undertaken to stimulate household demand for, and the supply of, the sanitation hardware necessary to maintain a healthy environment: latrines, toilets and sewer connections;

“sell” includes offer, advertise, keep, expose, transmit, convey, deliver, or prepare for the sale or exchange, dispose of for any consideration whatsoever or transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid;

“sewerage” means a system of sewer pipes, manholes, pumps etc. for the transport of sewage;

“soil” includes earth, sand, rock, shells, minerals, vegetation, and the flora and fauna in the soil and derivatives thereof such as dust;

“trade premises” means any premises (other than a factory) used or intended to be used for carrying on any trade or business;

“treatment” means subjecting waste to any process including resource recovery, re-use, reprocessing, reclaiming or recycling; and the term ‘treat’ shall be construed accordingly;

“village committee” means a Village Environmental Health and Sanitation Committee established under section 26 of this Act;

“waste” includes—

- (a) any substance which constitutes scrap materials or an effluent or other unwanted surplus substance arising from the application of any process, and also includes any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoilt;
- (b) any matter prescribed to be waste and any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume, composition or manner likely to cause an alteration of the environment; or

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- (c) the following substances and any combination thereof which are discarded by any person or are accumulated or stored by any person for the purpose of recycling—
- (i) undesirable or superfluous by-products;
  - (ii) residue or remainders of any process or activity;
  - (iii) any gaseous, liquid or solid matter.

“wastewater” means the spent or used water from industrial plants, trade premises, homes, communities, farms and businesses that contains enough harmful material to damage the water’s quality;

“waste generator” means anyone—

- (a) whose activities produce waste (in this Act referred to as the ‘original waste producer’); or
- (b) who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of such waste.

“waste holder” means the waste producer or the person who is in possession of the waste;

“waste management” means the waste producer or the person who is in possession of the waste;

“waste management” means the collection, transport, recovery and disposal of waste including—

- (a) the supervision of such operations;
- (b) the aftercare of disposal sites; and
- (c) actions taken as a dealer or broker.

“waste management facility” means a waste disposal site, licensed under section 16 of the Act, for the purpose of controlled waste management;

“waste service” means service, facility, approval or other thing which the County Government may or is required to render, supply, grant, issue or otherwise provide in the performance of any of its functions under this Act to any person or in respect of any premises.

### **Object of Act**

**3.** The object of this Act is to—

- (a) provide an institutional framework for the promotion of environmental health and provision of sanitation services by the County Government and other authorised service providers;

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- (b) provide an institutional framework for the licensing of sanitation service providers and the regulation of sanitation services;
- (c) provide an enabling environment of the realization of the right to reasonable standards of sanitation and to clean and healthy environment;
- (d) provide for the preparation and adoption of environmental health and sanitation services integrated development and investment plans;
- (e) provide a framework for resource mobilization, financing and performance management for environmental health and sanitation;
- (f) establish a system for county environmental health and sanitation information management systems;
- (g) provide fiscal and other non-financial incentives to promote compliance and reward exemplary services, performance and innovation in environmental health and sanitation promotion;
- (h) provide for disincentives or fees to induce proper sanitation management or prevent or abate poor environmental sanitation practices; and
- (i) transpose national standards and norms in respect of environmental health and sanitation within the county context.

**Application of Act**

4. (1) This Act shall bind the County Government, its organs and agents.

(2) Nothing in sub-section (1) shall be construed to debar the County Assembly from amending or repealing this Act, so far as its legislative power permits.

**PART II—GENERAL PRINCIPLES****Guiding Principles**

5. The interpretation, application and administration of this Act shall be guided by the following principles—

- (a) the national values and principles of governance under Article 10 of the Constitution;

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- (b) creation of an enabling environment and appropriate incentives to ensure equitable accessible, reliable, sustainable and affordable sanitation services;
- (c) delegation of functions in relation to the promotion of environmental health and the provision of sanitation services taking into account the objects of devolution under Article 174 of the Constitution;
- (d) the allocation of financial and administrative resources to match allocated environmental health and sanitation functions;
- (e) public participation by users, beneficiaries and other stakeholders of sanitation services;
- (f) promotion of equitable access to sanitation services to vulnerable groups within society, including women, older members of the society, persons with disabilities, children, youth, members of minority or marginalized groups;
- (g) promotion of fair administrative action by sanitation authorities, authorized officers and service providers; and
- (h) promotion of public-private partnerships and private sector participation in delivery of sanitation services and ensuring clean and healthy environment.

**Right reasonable standards sanitation**

6. (1) Every person has the right to reasonable standards of sanitation, which includes the right to seek redress where the right has been, is being or is likely to be, denied, violated, infringed or threatened, in a court or tribunal of competent jurisdiction in addition to any other legal remedies that are available in respect of the same matter.

(2) The County Government shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realization of the right under sub-section (1).

**Duty to protect and Promote environmental health and sanitation**

7. (1) The County Government shall take legislative, policy and other measures to protect and promote environmental health and sanitation within its area of jurisdiction.

(2) The duty of the County Government to protect and promote environmental health and sanitation under sub-section (1) shall include the duty to provide environmental health and sanitation services to all persons within its area of jurisdiction.

**Right to a Clean and Healthy Environment**

8. (1) Every person has the right to a clean and healthy environment, which includes the right of access to the various public elements or segments of the environment for recreational, educational, health, spiritual and cultural purposes.

(2) The right to a clean and healthy environment under sub-section (1) includes the right to—

- (a) have obligations relating to the environment fulfilled by any duty bearer;
- (b) information relating to the environment; and
- (c) seek redress in a court or tribunal of competent jurisdiction in addition to any other legal remedies that are available in respect to the same matter.

**Right to Clean and Safe Water**

9. (1) Every person has the right to clean and safe water.

(2) The County Government shall take legislative, policy and other measures, including the setting of standards, to achieve the progressive realization of the right under sub-section (1).

**Duty to protect and Improve the environment**

10. (1) It shall be the duty of every person to protect and improve the environment and ensure ecologically sustainable development and use of natural resources, including surface and groundwater.

(2) The duty of every person to protect and improve the environment under sub-section(1) includes the obligation to—

- (a) prevent, stop or refrain from any act or omission harmful to the environment; and
- (b) co-operate with state organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

**Precautionary principle**

11. (1) It shall be the duty of every person or governmental agency or any other entity whose act causes, has caused or may cause significant harm to the environment or public health to take all reasonable precaution to prevent or minimize such harm from occurring, continuing or recurring.

(2) The County Government shall adopt a cautious and risk-averse approach in legislation, policy formulation and administration in matters affecting environmental health and sanitation.

### **Polluter pays principle**

12. (1) Subject to any other law, it shall be the duty of every person, governmental agency or any other entity whose act causes, has caused or may cause significant pollution to the environment or otherwise pose a risk to public health to take reasonable measures to bear the costs of measures to eliminate or reduce such harm or risk.

(2) Regulations prescribed under this Act may exempt a person, group of persons, governmental agency or any other entity from the application of this principle in the application of this Act.

## **PART III—ADMINISTRATION AND CO-ORDINATION**

### **Functions of the County Executive Committee Member**

13. (1) The functions of the County Executive Committee member responsible for environmental health and sanitation matters in connection with the administration of this Act shall be—

- (a) to further the objects of this Act by taking action to preserve, protect or promote environmental health and sanitation within the county;
- (b) to promote proper standards of environmental health and sanitation within the county by ensuring that adequate measures are taken to give effect to the provisions of this Act and to ensure compliance with this Act;
- (c) to develop policies or codes of practice that are relevant to—
  - (i) identifying risks to environmental health; or
  - (ii) setting standards in connection with any activity, material, substance or equipment relevant to environmental health and sanitation; or
  - (iii) providing for other matters relevant to the operation or administration of this Act, for matters that may be subject to regulations under this Act, or for such other matters as the County Executive Committee member thinks fit;
- (d) to the extent that may be necessary, practicable or desirable, to co-operate and co-ordinate with national or international actors consistent with the objects of this Act;



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- (e) to be a primary source of advice to the County Government about health preservation, protection and promotion;
- (f) any other functions assigned to the County Executive Committee member by this Act, or considered by the County Executive Committee member to be relevant to the operation of this or any other relevant Act.

(2) The County Executive Committee member may develop or adopt procedures for the provision of advice to the Government—

- (a) to ensure the promotion or implementation of policies or measures that are designed to enhance the health of individuals and communities; and
- (b) to ensure that the County Executive Committee member is consulted or involved in the development of policies or measures that may have a significant impact on environmental health and sanitation.

(3) In addition, the County Executive Committee member has the power to do anything necessary, expedient or incidental to—

- (a) performing the functions of the County Executive Committee member under this Act; or
- (b) administering this Act; or
- (c) furthering the objects of this Act.

**Power to commission inquiry or require reports**

**14.** (1) The county Executive Committee member may cause to be made such inquiries as he or she may see fit in relation to any matters concerning environmental health and sanitation in any place within the area of jurisdiction of the County Government.

(2) Subject to any other written law, the County Executive Committee member may require any authority to provide a report on any matter relevant to the administration or operation of this act.

(3) A requirement under subsection (2) may be that a report be provided—

- (a) on a periodic basis specified by the County Executive Committee member; or
- (b) on or in relation to the occurrence of an act or event specified by the County Executive Committee member.

(4) The authority must provide the report in accordance with the requirements of the County Executive Committee member.

### **Delegation by County Executive Committee member**

**15.** (1) The County Executive Committee member may delegate a function or power conferred on the County Executive Committee member under this Act—

- (a) to a specified person or body ; or
  - (b) to a person occupying or acting in a specified office or position.
- (2) A delegation—
- (a) may be made subject to conditions or limitations specified in the instrument of delegation; and
  - (b) if the instrument of delegation so provided, may be further delegated by the delegate; and
  - (c) is revocable at will and does not prevent the delegator from acting personally in a matter.

### **Functions of the Chief Officer**

**16.** (1) The functions of the Chief Officer responsible for environmental health and sanitation matters in connection with the administer of this Act shall be—

- (a) to develop and implement strategies to protect or promote environmental health and sanitation;
- (b) to ensure that this Act, and any designated health legislation, are complied with;
- (c) to advise the County Executive Committee member about proposed legislative or administrative changes related to environmental health and sanitation and about other matters relevant to public health;
- (d) to oversee and foster collaboration and coordination to promote environmental health and sanitation and the furtherance of the objects of this Act;
- (e) at the request of the County Executive Committee member or on his or her own initiative, to investigate and report on matters of public health significance;
- (f) after advising the County Executive Committee member, to make public statements on matters relevant to public health;

- (g) any other functions assigned to the Chief Officer of Health by this Act or any other Act or by the County Executive Committee member.

(2) The Chief Officer in the performance of functions under this Act, insofar as the Chief Officer thinks necessary and appropriate, consult with other persons or bodies involved in the administration of this Act.

**Powers of Chief Officer of Health to intervene to prevent or reduce risks to environmental health**

17. (1) If—

- (a) the Chief Officer becomes aware of the existence of, or potential for the occurrence of, a situation putting a section of the community or a group of individuals at an increased risk of avoidable mortality or morbidity; and
- (b) the Chief Officer considers that effective solutions exist for the reduction or elimination of those risks the Chief Officer may request the participation of any public authority within the county whose intervention may be useful in identifying or producing a response to the circumstances being faced.

(2) A public authority that receives a request under subsection (1) must consider the request and then respond to the Chief Officer within fourteen days.

(3) A response under sub-section (2) shall include details about—

- (a) any steps already being taken by the public authority that may be relevant in the circumstances;
- (b) any plans that the public authority may have that may be relevant in the circumstances;
- (c) any steps that the public authority is willing to take in the circumstances; and
- (d) any other matter relating to the public authority that appears to be relevant.

(4) The Chief Officer—

- (a) shall advise the County Executive Committee member if or when—
  - (i) the Chief Officer makes a request of a public authority under sub-section (1); or

- (ii) a public authority provides a response under sub-section (2);  
and
- (b) without limiting paragraph (a), must take reasonable steps to advise the County Executive Committee from time to time on action being taken to address any situation that puts a section of the community or a group of individuals at an increased risk of avoidable mortality or morbidity.

### **Annual reporting by Chief Officer**

**18.** (1) The Chief Officer shall be required to prepare a written report annually about—

- (a) environmental health and sanitation trends, activities and indicators in the county;
- (b) the implementation of environmental health and sanitation plans and strategies established under Part IX of this Act; and
- (c) the administration of this Act.

(2) A report must also address any issue identified by the County Executive Committee for inclusion in the report.

(3) A report shall be furnished to the County Executive Committee within three (3) months after it is prepared.

(4) The County Executive Committee must, within 15 days after receipt of a report under this section, cause a copy of the report to be transmitted to the County Assembly.

### **Delegation of powers by Chief Officer**

**19.** (1) The Chief Officer may delegate a function or power conferred on the Chief Officer under this or any other Act—

- (a) to a specified person or body; or
- (b) to a person occupying or acting in a specified office or position.

(2) A delegate—

- (a) may be made subject to conditions or limitations specified in the instrument of delegation;
- (b) if the instrument of delegation so provides, may be further delegated by the delegate; and
- (c) is revocable at will and does not prevent the delegator from acting personally in a matter.

**Establishment of Directorate**

20. There shall be established a Directorate in the County Government Department responsible for environmental health and sanitation matters to be known as the Directorate of Environmental Health and Sanitation.

**Functions of Directorate**

21. (1) The Directorate shall have the following powers and functions—

- (a) undertake the promotion and preservation of public health through the county;
- (b) monitor food hygiene, environmental pollution, vector control and waste management within the jurisdiction of the county;
- (c) develop and implement county policies and plans to ensure maximum enjoyment of the right to reasonable standards of sanitation and provision of appropriate sanitation services to the people in urban and rural areas having regard to those who cannot afford such services by reason of vulnerability or marginalization;
- (d) enhance sector-wide and cross-sector coordination by developing annual, medium term and long term plans to guide the environmental health and sanitation sector and its intersection with other related sectors;
- (e) develop, administer and coordinate environmental health and sanitation activities and interventions which shall include public health, preventive and rehabilitative programmes;
- (f) issue licenses or permits for sanitation services where the powers are vested in the Department by law or executive order issued in accordance with the law;
- (g) develop mechanisms for public participation, public awareness, education and stakeholder engagement in environmental health and sanitation;
- (h) promote and co-ordinate human resources develop and institutional capacity within the County Government to effectively implement environmental health and sanitation programmes;
- (i) order immediate restoration, restitution, improvement or remediation or prohibition notices or orders on grounds of contravention of this Act or any other law;

- (j) perform such other functions as may be provided by law or as may be necessary to achieve the objectives of the Act.

(2). In the performance of its functions under this Act, the Directorate shall have due regard to the collective interests of the people of the county and of national interests over the interests of any specific interest group or sector of society.

### **Appointment of Directors and Officers**

22. (1) There shall be appointed a Director and Deputy Director of Environmental Health and Sanitation and such other officers as may be deemed necessary from time to time by the County Public Service Board.

(2) The Director shall, subject to the direction of the County Chief Officer of the County Government Department responsible for environmental health and sanitation matters, be responsible for the administration of the Directorate.

(3) The Director may delegate to any authorized officer any powers of the office in writing.

(4) The Director and officers of the Directorate shall be fit and proper persons and shall hold such qualifications and such experience in the field of environmental health and sanitation.

### **Establishment of County Interagency Co-ordination Committee**

23. (1) There shall be established an unincorporated body to be known as the County Inter-agency Environmental Health and Sanitation Committee.

(2) The Committee shall be composed of—

(a) the County Executive Committee member responsible for

- (i) environmental health and sanitation affairs as chairperson;
- (ii) water affairs;
- (iii) environment affairs;
- (iv) trade affairs;
- (v) agriculture and veterinary affairs;
- (vi) Public Works and Roads Affairs; and

(b) representatives of the key civil society and private sector stakeholder bodies in the County;

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(c) the Chief Officer in charge of environmental health and sanitation matters, as the secretary.

(3) The objective of the Committee is to ensure a coordinated, efficient, effective and consultative approach to environmental health and sanitation and may for that purpose—

- (a) formulate county policies;
- (b) implement, monitor, evaluate and review strategies; and
- (c) mobilize resources for purposes of administration of this Act.

(4) The Committee shall convene at least once every three (3) months.

(5) The County Executive Committee member is responsible for environmental health and sanitation affairs shall promulgate regulations in respect of the structure, powers, functioning and administration of the Committee and its organs.

**Technical Advisory Group**

**24.** (1) The Committee shall constitute a Technical Advisory Group whose members shall be experts in fields relevant to environmental health and sanitation.

(2) Subject to subsection (1), the Committee shall appoint seven persons from the public, private and civil society sectors as members of the Technical Advisory Group on such terms and conditions as the Committee may determine.

(3) The functions of the Technical Advisory Group shall be to advise the Committee on—

- (a) the formulation of county policies, standards, guidelines and regulations relating to environmental health and sanitation;
- (b) the areas of research and development in respect of environmental health and sanitation; and
- (c) any other matter referred to it by the Committee.

(4) The Committee may by regulations delegate regulatory powers to the Technical Advisory Group where a sanitation service is provided directly by the Department, Directorate or another Department of the County Government.

**Sub County and ward environmental health and sanitation committees**

**25.** (1) The Committee may establish Sub-county and Ward Environmental Health and Sanitation Committees to coordinate, monitor,

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evaluate and review environmental health and sanitation activities and interventions in their respective sub counties and wards, and to perform such other functions as may be deemed necessary to achieve the objectives of this Act.

(2) The County Executive Committee member responsible for environmental health and sanitation shall prescribe regulations relating to the functions, powers and procedures of the Sub-county and ward Environmental Health and Sanitation Committees.

**Village environmental health and Sanitation committees**

**26.** (1) There shall be established in every village, a Village Environmental, Health and Sanitation Committee, which shall consist of the area village administrator, assistant chief, area public health officer and area community health extension worker and an additional seven (7) to thirteen (13) members representing residents, sanitation service providers, community health committees, women, youth and persons with disabilities.

(2) The village committees established under sub-section (1) shall so far as practicable promote a community based approach to the provision of environmental health and sanitation services by—

- (a) promoting community ownership of environmental health and sanitation programmes;
- (b) providing local leadership in environmental health and sanitation matters;
- (c) facilitating quarterly community dialogue and feedback on environmental health and sanitation activities;
- (d) conducting household surveys in the village and maintaining a village environmental health and sanitation register;
- (e) generating local solutions to local environmental health and sanitation problems;
- (f) creating public awareness about the essentials of environmental health and sanitation;
- (g) facilitating development of village-level environmental health and sanitation plans in accordance with published guidelines;
- (h) facilitating and coordinating provision of environmental health and sanitation services in the village.
- (i) sensitization of communities on their environmental and health and sanitation rights and responsibilities;



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- (j) promoting residents participation in county planning and budgeting processes at the village level;
- (k) promoting local resource mobilization initiatives for sanitation;
- (l) monitoring all environmental health and sanitation activities that are conducted in the village;
- (m) preparing and submitting monthly, quarterly and annual village environmental health and sanitation reports in accordance with published guidelines; and
- (n) discussing any material consequences resulting from poor environmental health and sanitation and suggesting necessary action to prevent such.

(3) The Director shall compile and submit reports of the village environmental health and sanitation committees to the County Inter-agency Coordination Committee.

(4) The procedures of a village environmental health and sanitation matters shall prescribe regulations relating to the constitution, functions, powers and procedures of Village Environmental Health and Sanitation Committees.

### **Intervention and Emergency Directions**

27. (1) The County Executive Committee member responsible for environmental health and sanitation matters may, where he or she is of the opinion that is necessary to do so in order to deal with a serious risk to public health or public safety or to deal with a serious risk to public health or public safety or to deal with the likelihood of material or serious environmental harm arising within the county make orders necessary to contain such risk to public health, public safety or the environment.

(2) Every order or direction under subsection (1) shall so far as practicable be preceded by

## **PART IV – PROVISION OF SANITATION SERVICES**

### **Establishment of a Sanitary Authority and Sanitary Service Providers**

28. (1) The County Government is hereby designated as a sanitary authority.

(2) The County Government may perform the function of sanitation service provision through the department responsible for environmental health and sanitation or it may arrange for the exercise and performance of

that function by one or more agents, to be known as a sanitation service provider.

- (3) A sanitation service provider shall be responsible for—
- (a) the provision of sanitation services within the area specified in its authorizing legislation, regulations, order or license; and
  - (b) the development of assets for sanitation services provision.

### **Duty of County Government to provide Sanitation Services**

**29.** (1) It shall be the duty of the County Government to ensure efficient, affordable, economical and sustainable provision of and access to sanitation services within its area of jurisdiction.

(2) Subject to the provisions of this Act, the County Government may—

- (a) establish a company, firm or other body for the delivery of a particular service or carrying on of a particular function; or
  - (b) contract any person, company, firm or other body for the delivery of a particular service or carrying on a particular function.
- (3) The duty to provide environmental health and sanitation services shall be subject to—
- (a) the need for an equitable allocation of resources to all users and potential users within the jurisdiction of the county;
  - (b) the duty of sanitation services users to comply with reasonable conditions in respect of provision of sanitation services including payment reasonable charges for such services;
  - (c) the obligation to discriminate directly or indirectly against any person or group of persons;
  - (d) the right of the relevant sanitation service authority to limit or discontinue the provision of sanitation services if there is a failure to comply with reasonable conditions set for the provision of such services; and
  - (e) the power to differentiate between categories of users and geographical areas when setting standards, costs and level of services.

(4) For the purposes of this Act, sanitation services include but are not limited to the activities specified in the First Schedule.

**Duty of Sanitation Service Users**

**30.** A user of sanitation services has the duty to—

- (a) to adhere to the rules of a sanitation service or facility when using the services or using the facility;
- (b) to cooperate with the sanitation service provider in the provision of sanitation services;
- (c) to treat sanitation service providers and workers with dignity and respect;
- (d) to make accessible his or her premises or land for the purposes of the performance of any duty by a service provider or any authorized officer under this Act; and
- (e) to make payments in respect of charges or fees in respect of sanitation services.

**Licensing requirements**

**31.** (1) No person may operate as a sanitation service provider by way of a business or for payment of service charges without the approval of the County Government or any other sanitary authority.

(2) Any approval in terms of sub-section (1)—

- (a) shall be for a prescribed period; and
- (b) may be granted subject to conditions.

(3) Any person who, at the commencement of Act, was acting as a sanitation services provider without approval from the County Government, may continue to do so until the expiry of reasonable notice, which notice must not be longer than one year, given by the County Government or any other sanitation authority—

- (a) that it requires the provider to enter into a contract; or
- (b) that the continuation will be subject to approval as contemplated in sub-section (1).

(4) A utility or a service provider shall not operate except in accordance with a licence issued under the relevant enabling Act.

(5) Sub-section (4) shall not apply to a person who provides sanitation supply or sanitation services for that person's own use.

**Application for sanitation service provision licences**

**32.** (1) Any person may apply to the County Government for a licence to operate a utility or to be a service provider.

(2) An Application under sub-section (1) shall—

- (a) be accompanied by an environmental health impact assessment issued under regulations made under this Act or any other written law;
- (b) be in such forms as may be prescribed by regulations made under this Act or any other written law; and
- (c) specify the following—
  - (i) the name of the utility or service provider;
  - (ii) the address and principal place of business of the utility or service provider ;
  - (iii) the shareholders in the utility or the owners of shareholders of the service provider;
  - (iv) the names and qualifications of the senior staff of the utility or service provider;
  - (v) the sanitation service and period of timer applied for;
  - (vi) the type of sanitation facilities to be provided and used;
  - (vii) the short and long term plans of the utility or service provider outlining plans for the provision of an efficient affordable and sustainable sanitation service, performance targets; and
  - (viii) any other details as may be prescribed by law.

(3) An application referred to in sub-section (2) shall be submitted in standard forms prescribed under this Act.

### **Issuance or denial sanitation services licences**

**33.** (1) The County Government or other sanitation authority shall assess the conformity of the application for the issuance of a license with the provisions of this Act and any other written law.

(2) Within fifteen (15) days after the submission of an application for the issuing of a license, the County Government or mother sanitation authority shall make public the said application and shall ensure any interested parties access thereto.

(3) The County Government or other sanitation authority shall, within a reasonable time after receipt of the application, pronounce a decision, to issue or refuse to issue the license to the utility or service provider.

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(4) The issuance of a sanitation license may be subject to any conditions set by any other law.

(5) A decision of the County Government or other sanitation authority rejecting an application shall be accompanied by the reasons for rejection.

**Duty to display documents**

**34.** (1) At all times while a person holds a sanitation service licence, the holder of the licence shall cause copies of the licence to be displayed on the premises or other conspicuous place in such characters and in such positions as to be conveniently read by persons having duties on those premises which are or may be affected by the matters or conditions set out in the licence.

(2) Any person who puts up a false document or without reasonable cause pulls down or defaces any document posted in pursuance of subsection (1) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty thousand shillings (Sh.50,000) or to imprisonment for a term of not less than three (3) months.

**Conditions of licence**

**35.** A utility or sanitation service provider issued with a licence shall—

- (a) comply with the provisions of this Act and any other written law;
- (b) enforce regulatory standards, notices, and orders;
- (c) keep a record of its sanitation services in a form specified by law and submit to the County Government every year from the commencement of the licence;
- (d) comply with any other condition which the sanitation authority may consider relevant for the proper operation of the utility or service provider, and
- (e) not transfer to a third party, directly or indirectly, without the prior approval of the County Government or other issuing authority.

**Amendment of licence**

**36.** The County Government or other issuing authority may amend a licence on the application of the holder of a licence—

- (a) where some other person has succeeded to the interest in the business enterprise belonging to the holder of the licence, by substituting for the name of the holder the name of the successor;

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- (b) where the name of the business enterprise is altered, by substituting the name so altered; or
- (c) for any other reasons submitted by the applicant of the licence which the County Government may consider to be necessary for the improvement of the provision of sanitation services.

**Renewal of sanitation services licence**

**37.** (1) A sanitation service licence may on application by the holder of the licence be renewed by the County Government or other issuing sanitation authority.

(2) The holder of a sanitation service licence must, before the expiry date of the license and within the period specified in the license, apply for the renewal, of the license to the sanitation authority of the area in which the activity is carried out by lodging an application in the form required by the sanitation authority.

**Revocation and Suspension of sanitation service licence**

**38.** (1) The County Government or other issuing authority of a sanitation service licence may suspend or cancel any licence if the holder of the licence—

- (a) obtained the licence by fraud or deliberate or negligent submission of false information;
- (b) transfers or otherwise assigns a licence without prior approval of the issuing authority;
- (c) contravenes this Act or any other applicable law or any terms and conditions of the licence;
- (d) fail, without reasonable cause, to comply with an enforcement notice issued by an authorized officer, or
- (e) fails without reasonable cause, to provide the sanitation services within the reasonable time limits.

(2) The County Government or other issuing authority shall, before suspending or cancelling a license in accordance with subsection (1), give its written notice to the holder of the license of its intention to suspend or cancel the licence and specify the grounds for the suspension or cancellation and require the utility or service provider to show cause, within a period of not more than thirty days, why the license should not be suspended or cancelled.

(3) The issuing authority shall not suspend or cancel a licence, under this section, if the holder of the licence takes remedial measures, to the satisfaction of the authority, within the period of thirty days referred to in subsection (2).

(4) If the holder of a licence, notified under sub-section (2), fails to show cause, to the satisfaction of the issuing authority or does not take remedial measures to the satisfaction of the authority, within the time specified in that sub-section it may suspend or cancel the licence.

(5) Notwithstanding any other provisions of this Act, where a licence has been suspended or cancelled, the competent authority in the issuing authority may, in the public interest after giving the proprietor an opportunity of being heard, direct that the utility or service provider be operated under the management and control of a statutory manager.

(6) Subject to any other written law, a statutory manager may be appointed by the competent authority for such period and upon such terms and conditions as the appointing authority thinks fit.

(7) Any expenses connected with the appointment of a statutory manager and the management of a utility or service provider by the statutory manager shall be a charge on the revenues of the utility or service provider to which the statutory manager is appointed.

(8) Any person who is aggrieved by any decision under this section may appeal to the high Court or the Environment and Land Court.

### **Surrender of sanitation service licences**

**39.** (1) Where the holder of a licence is unable to commence operations within twelve (12) months from the date of issue of a licence, the holder of such licence shall, forthwith, notify the issuing authority of such failure giving reasons thereof, and therefore issuing authority shall, if satisfied with the reasons, specify the period within which such holder shall comply with the terms of the licence.

(2) Where the holder of a licence is unable to supply sanitation services, in accordance with the licence, the holder of the licence, shall notify the issuing authority, of such fact, in writing and shall surrender the licence thereto.

(3) Where a period of twelve months from the date of issue of a licence has expired without the holder of the licence supplying sanitation services in accordance with the terms of the licence and no notification has been made in accordance with this section, the licence shall lapse and shall, subject to this Act or any other applicable law, be cancelled.

(4) The licensing authority shall publish such information to the public.

### **Register utilities and Service license**

**40.** The County Government shall keep a register of utilities and service providers issued with licences under this Part and shall, at least once every year, publish a list of all utilities and service providers holding a licence under this Act or county legislation.

## **PART V—PREVENTION AND CONTROL OF INFECTIOUS DISEASES**

### **Applicable Principles**

**41.** (1) The following principles apply to the management and control of notifiable infectious diseases—

- (a) the spread of a notifiable infectious disease should be prevented or minimized with the minimum restrictions on the rights of any person;
- (b) a person at risk of contracting a notifiable infectious disease should take all reasonable precautions to avoid contracting the notifiable infectious disease; and
- (c) a person who has, or suspects that they may have, a notifiable infectious disease should—
  - (i) ascertain whether he or she has a notifiable infectious disease and what precautions he or she should take to prevent any other person contracting the notifiable infectious disease; and
  - (ii) take all reasonable steps to eliminate or reduce the risk of any other person contracting the notifiable infectious disease.
- (d) a person who is at risk of contracting, has or suspects he or she may have a notifiable infectious disease is entitled—
  - (i) to receive information about the notifiable infectious disease and any appropriate available treatment;
  - (ii) to have access to any appropriate available treatment.

(2) In this Act, a notifiable infectious disease means any diseases itemized in the second schedule.

(3) Notwithstanding sub-section (2), the County Executive Committee member in charge of public health matters may—



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- (a) declare that any notifiable infectious diseases other than those specified under the Second Schedule to this Act shall be notifiable diseases under this Act;
- (b) declare that only such provisions of this Act as are stipulated in such notice shall apply to any notifiable infectious disease; and
- (c) restrict the provisions of this Act, as regards the notification of any disease, to any area defined in such notice.

**Public Health Surveillance Programmes, etc**

**42.** (1) The Director may, from time to time, institute public health surveillance programmes or undertake epidemiological investigations or surveys of people, animals or vectors in order to determine the existence, prevalence or incidence, or to determine the likelihood of a possible outbreak, of—

- (a) any infectious disease; or
- (b) any other disease which the County Executive Committee member or the cabinet Secretary responsible for health matters, by notification, declares to be a disease to which this section applies.

(2) For the purpose of any public health surveillance programme, epidemiological investigation or survey under sub-section (1), the Director may require any person—

- (a) to furnish him or her, within such times as he may specify, with—
  - (i) such information as he or she may require; and
  - (ii) any sample of any substance or matter in the possession or control of that person, whether taken pursuant to this Act or otherwise, as he or she may consider necessary or appropriate.
- (b) to submit to such medical examination as he or she thinks fit.

(3) If a person who is required by the Director under sub-section (2) to furnish the Director with any information or sample, or to submit to any medical examination, fails, without reasonable excuse, to do so he or she shall be guilty of an offence.

**Requirement to notify infectious disease**

**43.** (1) Every medical practitioner who has reason to believe or suspect that any person attended or treated by him or her is suffering from

a notifiable infectious disease or is a carrier of that disease shall notify the public health officer, office in charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act.

(2) Every person in charge of a laboratory used for the diagnosis of disease who becomes aware of the existence of a notifiable infectious disease in the course of his work shall notify the officer in charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act.

(3) Any person who is aware or who suspects that any other person is suffering or has died from or is a carrier of an infectious disease shall notify the area ward administrator, chief, local public health officer, local community health extension worker, officer in-charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act.

(4) Any person in-charge of any school, educational institution or other boarding facility shall, with the least practicable delay, notify the area village administrator, assistant chief, area public health officer, area community health extension worker, officer in-charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act, if he or she knows or has reason to believe that any person in the school, educational institution or other boarding facility is suffering from or has died of an infectious disease.

(5) Any area village administrator, assistant chief, area public health officer, area community health extension worker or officer in charge of the nearest government health facility receiving notification under this section shall, with the least practicable delay, notify the Director.

(6) Any person who contravenes this section commits an offence.

### **Medical Examination and Treatment**

**44.** (1) The Director may require any person whom is, or is suspected to be, a case of carrier or contact of an infectious disease to submit to medical examination or medical treatment within or at such time, and at such place, as the Director may determine.

(2) Where the person who is, or is suspected to be, a case or carrier or contact of an infectious disease is a minor, the Director may require the parent or guardian of the minor to have the minor medically examined or

treated at such times and at such hospital or other place as the Director may determine.

(3) Any person who fails, without reasonable excuse, to comply with the requirement of the Director under this section shall be guilty of an offence.

### **Declaration of an infected local area**

**45.** (1) The County Executive Committee member may, where he or she is satisfied that there is an outbreak of an infectious disease in any area within the jurisdiction of the county, or that any area is threatened with an epidemic of any infectious disease declare such area to be an infected local area.

(2) The County Executive Committee member may, by regulations made under this Act prescribe the measures to be taken to control, or prevent the spread of any infectious disease within or from an infected local area.

(3) During the continuance in force of an order made under sub-section (1), it shall be lawful for any authorized officer to direct any person or class or category of persons living in an infected local area or in any part thereof to subject himself or themselves—

- (a) to treatment or immunization;
- (b) to isolation, observation or surveillance the period of, which being specified according to circumstances; or
- (c) to any other measures as the authorized office considers necessary to control the disease.

(4) It shall be lawful for an authorized officer to use such proportional force, with or without assistance, as may be necessary and to employ such methods as may be sufficient to ensure compliance with any direction issued under sub-section (3)

(5) Any person who refuses to comply with any direction issued under sub-section (3) commits an offence.

### **Infected persons not to act in a manner likely to spread infectious disease**

**46.** (1) No person who knows or has reason to believe that he or she is suffering from an infectious disease shall expose other persons to the risk of infection by his presence or conduct in any public place or any other place used in common by persons than the members of his family or household.

(2) No person who knows or has reason to believe that he or she is suffering from any infectious disease specified in the Second Schedule, shall do any act which he knows or has reason to believe is likely to lead to the spread of such infectious disease.

(3) Any person who contravenes this section commits an offence.

(4) This section shall not apply to any person whose presence or conduct in such place as mentioned in sub-section (1) is necessary for the purpose of obtaining medical treatment.

### **Control of contaminated articles and infected animals**

47. (1) No person who knows or has reason to believe that any article is contaminated or that any animal is infected or contaminated shall give, lend, sell transmit, use or expose such article or animal without prior disinfection.

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

(3) This section shall not apply to any person who transmits, with proper precautions, any article or animal for the purpose of, having it disinfected.

### **Destruction and Disposal of infected animals, food and water**

48. (1) An authorized officer may order the destruction of any animal and the disposal of any food or water wherever found if he considers such animal, food or water to be a source for the transmission of an infectious disease.

(2) Without prejudice to any proceedings under sub-section (2), where an order made by an authorized officer under sub-section (1) has not been complied with, an authorised officer, health officer or a police officer may without warrant and with such force as may be necessary, enter the premises where the animal, food or water (as the case may be ) is to be found, and take or cause to be taken such measures as have been specified in the order for the destruction of the animal or the disposal of the food or water.

(3) The costs and expenses incurred by the authorized officer or health officer under sub-section (3) shall be paid by the person in default and may be recovered as a debt due to the Government.

### **Isolation of infected persons and suspects**

49. (1) The Director or an authorized officer may order any person who is, or is suspected to be a case or carrier or contact of any infectious disease to be detained and isolated in a hospital or other place for such

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period of time and subject to such conditions as the Director may determine.

(2) The Director may order any person who is, or is suspected or continues to be suspected to be a case or carrier or contact of an infectious disease, or who has recently recovered from or been treated for, such disease, to remain and to be isolated and (if necessary) be treated, in his own dwelling place—

- (a) for such period of time as may be necessary for the protection of the public, and
- (b) subject to, such conditions as the Director may consider necessary for, this purpose.

(3) Where the person who is to be isolated under sub-section (1) or (2) is a minor, the Director may order then parent or guardian of the minor—

- (a) to take the minor, within the time specified in the order, to the place in which he or she is to be isolated;
- (b) to ensure that the minor remains in isolation in his or her own dwelling place, for such period of time and subject to such conditions as may be specified by the Director.

(4) Any person against whom an order under sub-section (1) and (2) is made shall be guilty of an offence if he or, she—

- (a) fails, without reasonable excuse, to proceed to the place in which he is to be isolated within the time specified in the order,
- (b) without the permission of the Director, leaves or attempts to leave the place in which he or she is being isolated, or fails, without reasonable excuse, to comply with any condition to which he or she is subject.

(5) Any person, being the parent or guardian of a minor, who fails, without reasonable excuse, to comply with an order of the Director under sub-section (3) shall be guilty of an offence.

### **Designation of isolation areas**

**50.** (1) The County Executive Committee member may, for the purpose of preventing the outbreak or spread of an infectious disease, by notification declare any premises to be an isolation area.

(2) A notification under sub-section (1) shall be effective until the expiration of such period as may be specified in the notification or until it

is revoked by the County Executive Committee member, whichever occurs first.

(3) The Director may, in relation to an isolation area, by order – prohibit any person or class of persons from entering or leaving the isolation area without the permission of the Director—

- (a) prohibit or restrict the movement within the isolation area of any person or class of persons;
- (b) prohibit or restrict the movement within the isolation area of any person or class of persons;
- (c) prohibit or restrict the movement of goods;
- (d) require any person or class of persons to report at specified times and places and submit to such medical examinations, answer such questions and submit to such medical treatment as the Director thinks fit;
- (e) authorize the destruction, disposal or treatment of any goods, structure water supply, drainage and sewerage system or other matter within the isolation area known or suspected to be a source of infections; and
- (f) prohibit, restrict, require or authorize the carrying out of such other act as may be prescribed.

(4) An authorized officer, health officer or a police officer may take any action that is necessary to give effect to an order under sub-section (3).

(5) Any person who, without reasonable excuse, contravenes an order under sub-section (3) shall be guilty of an offence.

### **Observation or surveillance of cases, carriers and contacts**

**51.** (1) The Director or an authorized officer may, in his or her discretion, order any person who is, or is suspected to be, a case or carrier or contact of an infectious disease to undergo surveillance for such period of time and subject to such conditions as the Director or authorized officer thinks fit.

(2) Where the person who is to undergo surveillance under sub-section (1) is a minor, the Director or other authorized officer may order the parents or guardian of the minor to have the minor undergo surveillance

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for such period of time and subject to such conditions as the Director or authorized officer thinks fit.

(3) Any person subjected to surveillance by the Director under subsection (1) who fails, without reasonable excuse, to comply with any condition relating to his surveillance imposed by the Director shall be guilty of an offence.

(4) Any person, being the parent or guardian of a minor, who fails, without reasonable excuse, to comply with an order of the Director under sub-section (2) shall be guilty of an offence.

**Order for examination corpse**

**52.** Where any [person has died whilst being, or suspected of being, a case or carrier or contact of an infectious disease, the Director or an authorized officer may order a post-mortem examination of the body of that person for the purpose of—

- (a) determining the cause or circumstances of the death of that person; or
- (b) investigating into any outbreak or suspected outbreak of, or preventing the spread of, that disease.

**Disposal of remains of a person who has died of an infectious disease**

**53.** (1) Where—

- (a) a person has died or is suspected to have died of an infectious disease; and
- (b) an authorized officer has given directions as to the manner in which the corpse of such person is to be buried or cremated, including the prohibition of the sale or distribution of food and water during the burial.

No person shall bury or cremate such corpse otherwise than in accordance with the directions of the authorized officer.

(2) Any person who contravenes subsection (1) commits an offence.

**Disinfection and closure or disuse of premises or vessels**

**54.** (1) The Director or an authorized officer may, where he or she has reason to believe that there has been a person with an infectious disease on any premises, or that there exist on any premises conditions likely to lead to the outbreak or spread of any infectious disease, do any or all of the following—

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- (a) examine or cause to be examined any person found on the premises with a view to ascertaining if the person is suffering or has been suffering from an infectious disease;
- (b) examine the premises and any article or animal on the premises with a view to ascertaining if they are contaminated or infected, as the case may be;
- (c) prohibit the sale or distribution of food or water in the premises for such period as may be specified in the notice;
- (d) order the premises or any part thereof to be disinfected, disinfected and deratted;
- (e) order the premises or any part thereof to be closed until, the premises have been thoroughly disinfected, disinfected and deratted; and
- (f) order the disinfection of all contaminated articles and infected or contaminated animals on the premises or, if such article or animal is incapable of being thoroughly disinfected, order its destruction;
- (g) do any other act to prevent the outbreak or the spread of any infectious disease.

(2) Any owner or occupier who fails to comply with the requirements of, the notice served under sub-section (1) shall be guilty of an offence.

(3) Without prejudice to any proceedings under sub-section (2), where a notice issued by the Director or an authorized officer under sub-section (1) has not been complied with, a person authorized in that behalf by the Director or an authorized officer may, without warrant and with such force as may be necessary, enter the premises or vessel, to, which the notice relates and take or, cause to be taken such measures as have been specified in the notice.

(4) The cost and expenses incurred by the Director under sub-section (3) shall be paid by the person in default and may be recovered as a debt due to the County Government.

### **Destruction of structures**

**55.** (1) Subject to the provisions of this Act and any other written law, the Director may order the destruction of any structure where a case of infectious disease has occurred if the structure is incapable of being thoroughly disinfected.

(2) The Director shall report to the Chief Officer every order made under sub-section (1)



**Power to order disinfection of certain vehicles**

56. Where an authorized officer is satisfied that any vehicle has been used to convey any person suffering from an infectious disease, the authorised officer may order or cause such vehicle to be disinfected.

**Prohibition or restriction of meetings, gatherings and public entertainments**

57. (1) Where it appears to the Director that the holding of any meeting, gathering or any public entertainment is likely to increase the spread of any infectious diseases, the Director may order prohibit or restrict, subject to such conditions as he may think fit, for a period not exceeding fourteen (14) days, the meeting, gathering or public entertainment in any place.

(2) An order under sub-section (1) may be renewed by the Director from time to time for such period, not exceeding fourteen (14) days, as the Director may, by notice in writing, specify.

(3) Any person who holds, is present at or has taken part in any meeting, gathering or public entertainment in contravention of an order by the Director under sub-section (1) shall be guilty of an offence.

(4) An authorized officer, health officer or a police officer may take any action that is necessary to give effect to an order under sub-section (1).

(5) Any person who is aggrieved by any order of the Director under sub-section (1) may, within seven (7) days from the date of, the order, appeal to the County Executive Committee member.

(6) Notwithstanding that any appeal under sub-section (5) is pending, an order made by the Director under sub-section (1) shall take effect from the date specified by the Director, unless the County Executive Committee otherwise directs.

**PART VI—FOOD SAFETY AND SANITATION CONTROL****Food hygiene and Sanitation plans**

58. (1) The County Government department responsible for environmental health and sanitation matters shall develop a plan to be reviewed every five years for food safety and sanitation.

(2) Notwithstanding the generality of sub-section (1), a food sanitation and hygiene plan shall define—

- (a) the scope and items for which monitoring and enforcement shall be implemented intensively;
- (b) the infrastructural requirements for food testing and analysis;
- (c) financial and human resource requirements;
- (d) mechanisms for guidance to promote self-regulation or voluntary food sanitation management; and
- (e) mechanisms for coordination with other relevant regulatory organs.

(3) The County Government department responsible for environmental health and sanitation matters shall advise the County Government and its organs on the development of the necessary human capital, financial resources, institutional arrangements and enabling infrastructure to implement the plan under sub-section (1) and (2).

**Powers of authorized officers in respect of food hygiene and sanitation**

59. An authorized office of the department of the County Government responsible for environmental health and sanitation matters shall have the power—

- (a) at all reasonable hours to enter any institution or food establishment within the jurisdiction of the County for the purpose of ascertaining compliance with the requirements of this part or orders made under this Act;
- (b) at all reasonable hours to enter any other premises, vessel or facility used for the production preparation, processing, storage, sale or distribution of food for the requirements of this part or orders made under this Act;
- (c) to inspect and examine, detain, seize or remove for the purpose of examination any article of food in any premise or place where such food is sold, prepared, processed, packaged, stored, or displayed;

- (d) where he or she is of the opinion that any food article is unfit for human consumption to order it to be treated, disposed of, or destroyed.

**Licensing and Control of undertakings that sell food to the public**

**60.** (1) No person or entity shall operate a food establishment for public without securing a sanitary licence from the County Government department responsible for environmental health and sanitation matters.

(2) No person or entity to whom a licence has been issued under the provisions of this section shall lend, hire, sell, transfer or otherwise dispose of such permit to any other person or entity except in accordance with regulations made under this Act.

(3) A licence issued under this section shall be valid for a prescribed period and may be renewed for the same period where the applicant has complied with permit conditions and the requirements of this Act or other applicable law.

(4) A licence may be suspended or revoked if the holder of the licence—

- (a) obtained the licence by fraud or deliberate or negligent submission of false information;
- (b) transfers or otherwise assigns a licence without prior approval of the issuing authority;
- (c) contravenes this Act or any terms and conditions of the licence;  
or
- (d) fails without reasonable cause, to comply with an enforcement notice issued under this Act or any other written law.

(5) For the purposes of this Act a food establishment means an operation that stores, prepares, packages, serves, vends, or otherwise provides or distributes food for human consumption whether free of charge or not, such as a school, college, hospital, nursing home, care centre or any other similar institution.

(6) The County Executive Committee member responsible for environmental health and sanitation matters shall prescribe the procedure and manner of making such an application, the applicable fees and the conditions for the grant or renewal of such permits.

**Health Certificates**

**61.** (1) No person shall be employed in the preparation of food in a food establishment without a health certificate issued by the County Government department responsible for the environmental health and sanitation matters.

(2) A health certificate shall be issued or reissued as the case may be only after the required physical and medical examination have been performed and appropriate immunizations, if applicable, administered or maintained at prescribed intervals.

(3) A health certificate issued under sub-section (1) may, at any time, be revoked or suspended—

- (a) where the holder is known or suspected to suffer from an infectious or communicable disease;
- (b) where the holder appears to have an illness, infection or open lesion, sore, infected wound or any other abnormal source of microbial contamination;
- (c) where the licensed operator of a food establishment knowingly employs any person who is suffering from or is suspected to be suffering from an infectious disease;
- (d) where the licensed operator of a food establishment does not comply with sub-section (2);
- (e) where the licensed operator of a food establishment refuses to comply with any lawful order or requisition made with any requisition made under sub-section (3); and
- (f) under any other circumstances prescribed by regulations promulgated under this Act.

(4) The County Executive Committee member responsible for environmental health and sanitation matters shall prescribe the form and manner of application for a health certificate for the purposes of sub-section (1).

**Prohibition of sale of food**

**62.** (1) No one shall sell, collect, prepare, manufacture, keep, transmit, display or otherwise offer for sale any food for human consumption which is—

- (a) rotten, stale, unwholesome or unripe foods which are likely to harm the human body;

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- (b) foods which contain or are likely to contain poisonous or harmful substance;
- (c) foods that are or are likely to be contaminated by microbes which may cause disease or harm to the body; or
- (d) foods that are likely to harm the human body due to uncleanliness or adulteration.

(2) No person shall sell, collect, manufacture, import, process, use, cook, store, sub-divide, transport or offer for sale any milk, meat, bones, organs or blood of animals which have contracted the disease.

(3) An authorized officer may issue a closing order prohibiting the sale, preparation, packaging, display or distribution of food on grounds of public health.

**Conditions for sale of food in public places**

**63.** (1) It shall be the duty of every person who sells, prepares, packages, stores, or displays any food for sale or distribution in a fairground, public park, market or similar place or event to ensure that such food —

- (a) is adequately protected from flies, dust, vermin, and spoilage; and
- (b) is kept in safe and sanitary conditions free of contamination.

(2) The County Executive Committee member responsible for environmental health and sanitation matters shall prescribe rules for the purposes of subsection (1).

**Production of food articles and raw materials**

**64.** (1) Every person who owns, operates or is in charge of the growing or harvesting of food articles or raw materials to be used in the preparation of food shall ensure that such operations are conducted under clean and sanitary conditions free from any contamination.

(2) Notwithstanding the generality of sub-section (1), the harvesting operations for food articles or raw materials shall ensure that —

- (a) unfit food articles or raw materials are segregated out during harvesting and disposed of in such place and such manner that they may not contaminate any other food or water supply; and
- (b) harvesting devices do not constitute a source of contamination to food articles or raw materials.

**Power of inspection and Seizure of food**

**65.** (1) An authorized officer may, at any reasonable time enter any food establishment, facility or premise used for the sale, preparation, packaging, conveyance or storage of food to inspect and examine any food found therein and—

- (a) take samples of food from such food establishment, facility or premise;
- (b) seize any food or item during the course of such inspection; or
- (c) prevent the sale or distribution where it is found, or there is reason to believe, that such food is unfit for human consumption.

(2) An authorized officer shall take the necessary care and issue the necessary orders or guidance to the owner, operator or person in charge of a food establishment, facility or premises with regard to food hygiene and sanitation in order to prevent sanitation hazards or violation of this Act or orders issued under it or any other written law.

(3) An authorized officer shall carry at all times and, upon demand, present an identity card issued by the County Government.

(4) Any person who obstructs an authorized officer or otherwise interferes with the exercise of any powers conferred by this section shall be guilty of an offence and liable to a fine not exceeding Kenya Shillings fifty thousand (KSh. 50,000) or an imprisonment for a term not exceeding nine (9) months or both.

**Improvement notice, prohibition order and notices generally**

**66.** (1) Any authorized officer may serve an improvement notice or prohibition order on the owner or operator of a food establishment, facility or premise where the authorized officer considers on reasonable grounds that the sale, offer for sale, processing, manufacture, conveyance or storage of food therein does not comply with an enforceable requirements under this Act or regulations made there under.

(2) An improvement notice or prohibition order shall take the form of a direction that requires specified enforceable requirement to be complied with within a stipulated period after service of notice on the operator or owner.

(3) Where an improvement notice or prohibition order has not been complied with, an authorized officer may cause to be served on the operator or owner of a food establishment, facility or premise a second

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notice or order calling on such operator or owner to show cause, at a time and place, why the sanitary permit should not be suspended or revoked.

(4) Any decision taken in terms of this section shall be taken in accordance with requirements of the right to administrative action that is expeditious, efficient, lawful reasonable and procedurally fair.

(5) A person who contravenes the requirements of sub-section (2) commits an offence.

**Food plants and Equipment to meet structural requirements**

**67.** (1) No person shall use any plant, facility, premise or place for or in connection with the preparation, processing, manufacture, storage, conveyance, handling of food for sale which—

- (a) does not meet the structural requirements relating to the dimensions, design, lighting and ventilation suitable to facilitate maintenance and sanitary operations for food processing purposes as set out under rules made under this Act or any other law;
- (b) is used as a living or sleeping quarter or any other purpose which would be likely to contaminate the food or to affect injuriously its wholesomeness, fitness or cleanliness; and
- (c) does not provide effective screening or other protection against birds, animals and vermin, including but not limited to insects and rodents.

(2) Where any food plant or establishment by the reason of its construction or disrepair is in such a condition that any food in the premises may be exposed to contamination or deterioration, an authorized officer may serve a notice in writing on the owner, operator, or person in charge of a good plant or establishment—

- (a) requiring the cleaning, reconstruction or repair of the facility or premises in the specified manner and period; or
- (b) prohibiting the use of the facility or premises until the conditions stated in such notice have been fulfilled.

(3) All plant equipment and utensils shall be—

- (a) suitable for their intended use;
- (b) so designed and of such material and workmanship as to be adequate cleanable; and
- (c) properly maintained.

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(4) The County Executive Committee member responsible for environmental health and sanitation matters shall prescribe rules in respect of the construction, equipment, operation and maintenance of food plants.

**Slaughterhouse Abattoirs**

**68.** (1) The County Government department responsible for environmental health and sanitation matters may establish, construct, maintain, let and manage slaughterhouses and abattoirs; and

(a) authorize and regulate the operation or closure of slaughterhouses or abattoirs by whomsoever established.

(2) No person shall slaughter or dress livestock for human consumption in locations other than designated slaughter houses and abattoirs except—

(a) cases of persons, other than persons carrying on meat retail businesses or other business handling meat principally for consumption by said persons and their family members;

(b) cases where livestock have been injured or have fallen into an incurable state due to unforeseen accidents and have to be immediately slaughtered;

(c) cases where the meat therefrom is not intended for consumption by humans animals or birds and suitable means are available for the disposal of every part of such animal;

(d) cases where livestock suffer from difficult delivery or other conditions designated by law or order and have to be immediately slaughtered;

(e) cases where it is necessary to destroy any dangerous animal and where it could not safely be taken to any authorized place of slaughter;

(f) cases where the livestock is intended for consumption by such person or the household, exclusively; or

(g) other cases designated by lawful executive order.

(3) No livestock shall be slaughtered in a slaughterhouse or abattoir other than livestock approved upon inspections performed in accordance with the law.

(4) The County Executive Committee member responsible for environmental health and sanitation matters shall, in consultation with the County Executive Committee members responsible for trade, water,



livestock and public works prescribe regulations respecting the establishment, construction, equipment, control and closing of slaughterhouses and abattoirs.

**Health and Sanitation precautions in good plants or establishments**

**69.** (1) Every person who owns, operates or is in charge of a food plant or establishment shall take all; reasonable measures and precaution to ensure that—

- (a) no person suffering from any communicable disease or while a carrier of such disease, or while affected with boils, sores, infected wounds, open lesions or other sources of microbiological contamination, shall work in a food establishment, facility or plant in a capacity in which there is a reasonable possibility of food ingredients becoming contaminated by such person or such disease being transmitted to the other employees, customers and users;
- (b) thorough medical examination is carried out in a public health facility or by a medical officer of health on all employees prior to their employment and at regular intervals of not more than six (6) months, and the health certificates are kept at the food plant or establishment and on demand by the authorized officers should be produced;
- (c) all persons while working in direct contact with food, food ingredients or food contact surfaces comply with requirements as to general cleanliness and personal hygiene and dressing; and
- (d) proper supervision is provided by competent supervisory personnel to ensure the compliance with the requirements of this Act or any other applicable law.

(2) An owner, operator or person in charge of a food plant or establishment or facility shall provide and maintain—

- (a) clean and sanitary toilet facilities for employees, customers and other users;
- (b) hand-washing facilities at or near the toilet facilities with an adequate supply of soap contained in suitable dispensers, running water and suitable hand driers;
- (c) the supply of running water in all areas where the preparation of food and the cleaning of equipment or utensils is conducted; and

- (d) facilities for drainage of effluents or disposal of waste in a manner compatible with the requirements of public health and environmental protection.

(3) it shall constitute an offense for any owner, operator, employee or person in charge of a food plant or establishment who contravenes the provisions of sub-section (1) and (2).

(4) The County Executive Committee member responsible for environmental health and sanitation matters shall prescribe rules for the purposes of sub-section (1).

### **Regulations respecting food hygiene and Sanitation generally**

**70.** The County Executive Committee member responsible for environmental health and sanitation matters shall prescribe regulations—

- (a) providing for the inspection of food plants factories, stores, shops and other places where any article of food is manufactured or prepared or kept;
- (b) providing for the inspection of slaughterhouses, and the animals therein, and prohibiting, restricting or regulating the slaughtering of animals;
- (c) in respect of the taking and examination of samples of articles of food and the removal of detention pending examination nor inquiry of animals or articles which are suspected of being diseased or unsound or unwholesome or unfit for human consumption;
- (d) providing for the procedure for the detention, seizure or destruction of any diseased, unsound or unwholesome article of food, or which has been exposed any infection or contamination;
- (e) in respect of the medical supervision of food handlers, including the provision of requisite hand washing and sanitary facilities of such food handlers;
- (f) requiring the medical examination of any person in any premises on which an article of food intended for sale is collected, kept, sold or exposed for sale, or of any person who has been engaged in the collection, preparation, keeping conveyance, or distribution of any food; and
- (g) prescribing the places at which and the conditions under which animals are slaughtered for human consumption.

**PART VII—CONTROL OF HOUSING AND PUBLIC NUISANCE****Control of use of land and Buildings**

**71.** (1) the County Government may, subject to any other applicable law, control the development and use of land and buildings in the interest of public health and sanitation and the proper and orderly development of its area.

(2) Notwithstanding the generality of sub-section (1), the County Government shall—

- (a) consider and approve all development applications and grant development permissions;
- (b) ensure the proper execution and implementation of approved development plans;
- (c) formulate zoning regulations in respect of use and density of development; and
- (d) acquire, reserve and maintain land planned for any public facility.

(3) A person shall not develop or use land other than in accordance with the county spatial development plan, physical planning laws and any other relevant laws or regulations.

(4) Any land classified or building erected for any purpose shall not be subsequently used for other purposes materially different from its purpose without prior consent of the County Government as to the intended change of user.

**Application for and approval and disapproval of development license**

**72.** (1) No person shall construct a building or an extension of a building within the county except in accordance with the requirements relating to environment health and sanitation as provided for under this Act and any other applicable law.

(2) For the purposes of this Act, an application for approval under sub-section (1) shall be made on a form prescribed under regulations made pursuant to this Act which shall contain—

- (a) the name and address of the applicant and, if the applicant is not the owner of the land on which the building in question is to be erected, the owner of such land;
- (b) a location plan, site plan, layout drawing, fire installation drawing, and drainage installation drawing; and

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(c) such other plans and specifications as may be required under law.

(3) the department shall consider each application and the plans and specifications accompanying it, and may within forty-five (45) days after service of the application—

(a) where it is satisfied that the plans and specifications meet the requirements of this Act and any other applicable law, approve or approve subject to conditions; or

(b) where plans and specifications do not meet the requirements of this Act and any other applicable law, disapprove thereof.

(4) Any person erecting any building or extension of a building in contravention of the requirements of this section shall be guilty of an offence and be liable on conviction to a fine not exceeding Kenya Shillings five hundred thousand (KSh.500,000) or imprisonment for a term not exceeding one year or both.

**Regulations relating to health protection and sanitation in buildings**

**73.** (1) The County Executive Committee member responsible for environmental health and sanitation matters may, subject to any other applicable law, make regulations for all or any of the following matters—

(a) the deposit of plans, sections, specifications and written particulars in respect of an application for approval;

(b) the construction of buildings, the provision of proper lighting and ventilation, and the prevention of overcrowding;

(c) the periodical cleansing and white-washing or other treatment of premises and the cleansing of land attached thereto and the removal of rubbish or refuse therefrom;

(d) the drainage of land, streets or premises, the disposal of offensive liquids and the removal and disposal of rubbish, manure and waste matters;

(e) the standard or standards of purity of any liquid which, after treatment in any purification works, may be discharged therefrom as effluent;

(f) the keeping of animals or birds and the construction, cleanliness and drainage of places where animals or birds are kept;

(g) the sanitary control of markets and market building;

(h) the establishment and carrying on of offensive trades or factories which are liable to cause offensive smells or effluvia or to

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discharge liquid or other material liable to cause such smells or effluvia or to pollute watercourses, or are otherwise liable to be a nuisance or injurious or dangerous to health;

- (i) the control of houses let in lodgings, the fixing of the maximum number of lodgers, the minimum floor space allocated to each lodger, the adequate ventilation and lighting and periodical cleansing and lime washing at stated intervals of the premises, the provision of adequate sanitary appliances and other requirements having for their object the protection of the health of the lodgers or surrounding inhabitants;
- (j) the inspection of works, buildings, premises, factories and trade premises, and for the testing of drains and sewers, and the taking by an authorized officer of samples of materials to be used in the construction of buildings, or in the execution of other works, and the giving of notices and orders by an authorized officer;
- (k) the protection of public sewers; and
- (l) the examination and licensing of plumbers and drain layers.

(2) For the purposes of this section, regulations in relation to the construction of buildings shall include the following matters—

- (a) as regards buildings—
  - (i) control and regulation of the form and contents of plans and specifications, including those relating to environmental health and sanitation standards;
  - (ii) prohibition and regulation of the construction of buildings, the dimensions of rooms intended for human habitation and the materials to be used in the construction of buildings;
  - (iii) regulation of the space about buildings, the lighting and ventilation of buildings and the dimensions of rooms intended for human habitation;
  - (iv) regulation of the alteration or demolition of existing buildings, the underpinning and shoring or adjacent buildings or the attachment of fixtures and projections from the outside of existing and future buildings;
  - (v) regulation of the height of buildings, and the height of chimneys above the roof of the buildings of which they form part;

- (vi) obligation of owners to repair or demolish unsafe, dangerous or dilapidated buildings or walls; and
- (vii) prohibition of the use of or occupation of any building erected or altered otherwise than in accordance with this Act or any other law.

(b) as regards works and fittings—

- (i) requirement that all new buildings for additions to existing buildings, particularly outbuildings, latrines and all drains and sanitary apparatus of any kind pertaining thereto shall be situated in a manner as to ensure the best practicable hygienic and sanitary conditions;
- (ii) requirement that all new buildings shall be so sited on a plot as to ensure hygienic and sanitary conditions and to avoid as far as possible any public nuisance or annoyance to the owners or occupiers of neighboring plots;
- (iii) regulation of wells, tanks and cisterns for the supply of water for human consumption in connection with buildings;
- (iv) regulation of sanitary conveniences in connection with buildings and building works, the drainage of buildings, the cleansing, drainage and paving of courts, yards and open spaces used in connection with buildings and cesspools, and other means for the reception or disposal of foul matter in connection with buildings;
- (v) regulation of private sewers and communication between drains and sewers and between sewers; and
- (vi) regulation of excavations of any kind in connection with buildings and the enclosure of unenclosed land with excavations by suitable fences or the filling thereof.

(3) Regulations prescribed under this Act may exempt a person, group of persons, governmental agency or any other entity from the application of the provisions of this Act.

#### **Maintenance of buildings and dwellings in sanitary state**

**74.** (1) Except as otherwise provided under this Act, an owner or occupier of premises or a building shall—

- (a) provide and maintain the prescribed means or sufficient and satisfactory latrine or toilet facilities;

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- (b) provide suitable and effective means of drainage and disposal of all waste liquids and storm water;
- (c) maintain all buildings, hardened areas and storm water drains and private sewers in good order and condition;
- (d) maintain all sanitary fitments, waste pipes, soil pipes, drains, drainage connections and other drainage fittings and accessories in good order and condition;
- (e) cause all sewage discharged from any building to be conveyed by a drain to a connecting sewer and septic tanks;
- (f) endure that every room or other structure or accommodation used for human habitation or occupation is adequately lighted and ventilated;
- (g) paint, colour-wash, lime-wash or otherwise suitably renovate any exterior part of the premises when so required by the Director; and
- (h) avoid any insanitary condition thereon or any interference therefrom with the healthiness of the vicinity.

(2) Subject to the provisions of this Act, where it appears to an authorized officer that such premises or building are not maintained in accordance with the requirements of this Act, the authorized officer may by written notice require the owner of such building or premises to take specific action to comply with the requirements of this Act or any other applicable law.

**Right of entry and issuance of notice and order**

**75.** (1) An authorized officer of the County Government shall have the power at all reasonable hours to enter any building or premises for the purpose of ascertaining compliance with the provisions of this Act, regulations or order made under this Act.

(2) An authorized officer may serve an improvement notice or order requiring such owner or occupier, within such period specified in the notice as he or she may consider appropriate, to carry out such works so as to bring such building or premises into compliance with the Act.

- (3) Any owner or occupier shall be guilty of an offence if he or she—
  - (a) intentionally obstruct an authorized officer or other person in the exercise of any powers conferred by this section;

- (b) refuses or without reasonable excuse fails to provide facilities or assistance or any information or to permit entry or any inspection reasonably required by an authorized officer; or
- (c) fails to comply with any improvement notice or order issued by an authorized officer under sub-section (2).

### **Demolition of unfit dwellings**

76. (1) Where in the opinion of the Director a building is so dilapidated or so defectively constructed or so situated that repairs to or alterations of such premises are not likely to remove the nuisance or danger to health, the Director may apply to any court of tribunal of competent jurisdiction for the issuance of a demolition order requiring the owner or occupier of the premises to commence to demolish them on or before a specified day, being at least one (1) month from the date of issuing the order, and to complete the demolition and to remove the materials which comprised the premises from the site within forty five (45) days.

(2) An application for a demolition order shall be preceded at least thirty days by a notice of the intention to issue such an order issued on the owner of the premises who may make representations in respect thereof to the Director.

(3) The Director shall give notice to the occupier of the premises in respect of which a demolition order has been issued requiring such occupier to vacate the premises within a time to be specified in such notice.

(4) If any person fails to comply with an order for demolition issued under this section, the Director may cause the premises to be demolished and may recover from the owner the expenses incurred.

(5) No compensation shall be paid to the owner or occupier of any premises in respect of the demolition thereof as aforesaid.

### **Prohibition of nuisances generally**

77. (1) No person shall create or maintain a nuisance or any other condition liable to be injurious to public health or that might hinder in any manner the prevention or suppression of disease.

(2) For the purposes of this section, the following shall be deemed to constitute a nuisance—

- (a) any property that has been artificially altered from its natural condition so that it supports the development, attraction, or harbourage of vectors;



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- (b) any activity that supports the development, attraction, or harbourage of vectors, or that facilitates the introduction or spread of vectors;
- (c) a place, condition, or building, public or private, that is not maintained in a sanitary condition;
- (d) any fairground, public park, market or similar place in which food is prepared, packed, displayed, sold, or served to the public and that is not maintained in a sanitary condition;
- (e) any vessel, vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;
- (f) sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease transmission to a person or between persons;
- (g) a vessel, vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;
- (h) conveyance of the carcass of any animal through any public street except under cover and so as not to be exposed to view;
- (i) a place or condition harbouring rats in a populous area;
- (j) condition conducive for ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodation are offered to the public; and
- (k) the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies.

**Abatement of nuisance**

**78. (1)** A person shall abate any public health nuisance existing in or on a place the person owns, occupies or otherwise controls as soon as the nuisance exists.

(2) An authorized officer may issue a written notice ordering the abatement of the nuisance to any person responsible for the nuisance specifying the nature of the public health nuisance and designating a reasonable time within which the nuisance must be abated.

(3) A person who creates, maintains or fails to abate a public health nuisance within the time specified by the notice shall be guilty of an offence.

## **PART VIII—SANITATION IN PUBLIC AND INSTITUTIONAL SETTINGS**

### **Public toilet and Latrine facilities**

**79.** (1) The County Government or any other public authority or person in control of or responsible for the maintenance of any premises or place to which the public has access or use of shall provide and maintain sanitary an adequate number of toilet or latrine facilities in such premises or places.

(2) Where the accommodation comprise on outdoor toilet facility, the owner shall ensure that—

- (a) the outdoor toilet facility—
  - (i) is located and maintained so that no nuisance is created;
  - (ii) is maintained in a clean and sanitary condition and in good working order; and
  - (iii) is protected so that vermin do not have access to the contents; and
- (b) in the case of an outdoor toilet facility with pit, the pit contents are appropriately disposed, treated or covered when such outdoor toilet facility is abandoned or removed.

### **Hotels, Motels, Resort, Courts, Inns, Lodging houses or Others**

**80.** (1) Every owner, manager, operator or person in charge of a hotel, motel, resort, court, inn, lodging house or other similar accommodation or boarding facility shall ensure compliance with the provisions of this Act and any other applicable law.

(2) An owner, manager, operator or person in charge of a hotel, motel, resort, court, inn, lodging house or other similar accommodation or boarding facility shall—

- (a) provide ample supply of clean and safe water for the general conduct of the establishment or facility;
- (b) equip the establishment or facility with an approved system of sewage disposal maintained in a sanitary condition;

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- (c) keep the premises sanitary and provide every practical facility or appliance essential for that purpose;
- (d) provide and maintain facilities and procedure for enforcing food hygiene and sanitation standards; and
- (e) provide clean and sanitary sheets, towels, napkins, and pillowcases.

(3) A hotel, motel, resort, court, inn, lodging house or other similar accommodation or boarding facility that does not conform to this part shall constitute a public health nuisance.

(4) The County Executive Committee member responsible for environmental health and sanitation matters shall prescribe rules for the purposes of this section.

**Establishment and Sanitary control of Public and Private markets**

**81.** (1) The County Government shall have powers to—

- (a) establish, construct, maintain, or let public markets;
- (b) authorize and regulate the operation or closure of markets by whomsoever established;
- (c) control any places used for the purpose of selling publicly, or exposing for sale any cattle, donkeys, horses, sheep, goats, pigs, poultry or other livestock.

(2) Every owner manage or operator of a market shall—

- (a) provide ample supply of clean and safe water for the general conduct of the establishment or facility;
- (b) equip the establishment or facility with an approved system of sewage disposal maintained in a sanitary condition;
- (c) keep the premises sanitary and provide every practical facility or appliance essential for that purposes; and
- (d) maintain facilities and procedures for enforcing food hygiene and sanitation standards.

**Health and sanitation measure in fairgrounds, picnic camps, recreational parks and rest areas**

**82.** (1) No fairground, picnic camp, recreational park, rest area or similarly situated facility shall be open for public patronage without a sanitary permit issued by the County Government department responsible for environmental health and sanitation matters.

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(2) A fairground, picnic camp recreational park, rest area or similarly situated facility or event whether publicly or privately owned shall be maintained at all times free of any public health nuisance and shall provide and maintain—

- (a) an adequate supply of clean and safe water for drinking and running water for hand-washing;
- (b) sanitary toilet and hand-washing facilities for its employees and users;
- (c) containers or receptacles for the collection of refuse or litter which shall be collected at regular intervals;
- (d) adequate number of personnel to ensure efficient operation, hygienic maintenance and elimination of harborage of vermin;
- (e) adequate drainage facilities to prevent flooding or any surface runoffs;
- (f) connectivity to sewerage system or infrastructure for the collection and disposal of excreta and sewage; and
- (g) adequate comfort rooms and resting sheds for users.

(3) Any preparation, sale offer for sale, display, or distribution of food in a fairground, picnic camp, recreational park, rest area or similarly situated facility shall be done in conformity with the provisions of this Act or any other laws or regulations concerning food safety and hygiene.

**Sanitation in educational facilities and other institutional settings**

**83.** (1) Every school, educational institution or similar establishment whether private or public shall maintain health and environment standards to the highest level attained to prevent, reduce or eliminate public or environmental health or sanitation risks.

(2) Subject to the provisions of the Act and any other written law, it shall be a requirement for every school, educational institution or similar establishment to obtain a sanitary license issued under this Act.

(3) The County Government department responsible for environmental health and sanitation may not issue a sanitary license to an institution which does not provide and maintain—

- (a) an adequate supply of clean and safe water for drinking and running water for hand washing;
- (b) sanitary toilet facilities for each gender and for persons with disabilities;

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- (c) containers or receptacles for the collection of refuse or litter including facilities for safe and hygienic disposal of sanitary pads which shall be collected at regular intervals;
- (d) adequate drainage facilities to prevent flooding or any surface runoffs; and
- (e) connectivity to a sewerage system or where such is not available, infrastructure of the collection and disposal of effluent and sewage.

(4) The County Executive Committee member responsible for environmental health and sanitation matter in consultation with the relevant authorities may take regulations and orders relating to the promotion of sanitation in schools, educational institutions and other comparable institutional settings.

**Sanitation where the public congregates**

**84.** (1) The County Government shall, in the interests of health and sanitation, take all lawful, necessary and reasonably practicable measures for the regulation of temporary mass gathering whether public or private.

(2) Every convener, organizer or host of any congregation, gathering or assembly of more than fifty (50) persons in or on any public place or private premises wholly or partly open to the air shall keep clean and free from litter that part of the public place or private premises on which such congregation, assembly, gathering or procession is held.

(3) The County Executive Committee member responsible for environmental health and sanitation matter may promulgate regulations under this section requiring a convener, organizer or host of a congregation, assembly or gathering—

- (a) to notify the County Government department responsible for environmental health and sanitation matters of such gathering or event;
- (b) to ensure that the grounds are provided with receptacles for litter or refuse collection in a number and of a type so as to adequately meet the needs of such gathering or event;
- (c) to arrange for litter or refuse collected at or during the event to be removed from the grounds in a timely matter;
- (d) to provide portable toilet facilities at or near the toilet facilities with an adequate supply of soap, running water and suitable hand driers.

(4) Any preparation, sale offer for sale, display, or distribution of food at a public assembly, gathering or procession shall be done in conformity with the provisions of the Act or any other laws or regulations concerning food safety and hygiene.

(5) The requirement for notification under this section shall not be construed as imposing a requirement for a sanitary permit for the convening or conduct of a public congregation, gathering or assembly where no such requirement is imposed by law.

### **Sanitation of businesses, trade premises and other workplaces**

**85.** (1) Every business premises, industrial establishment, agricultural plantation, mining site or other workplace shall be kept in a clean and sanitary state free from any nuisance or environmental health risk.

(2) No person or entity shall operate any business premises, industrial establishment, agricultural plantation, mining site or other workplace without first obtaining a sanitary permit issued under this Act.

(3) Subject to national legislation on occupational health, every owner, operator or person in charge of any business premises, industrial establishment, plantation, mining or other workplace shall—

- (a) ensure that the buildings or premises meets the prescribed construction and maintenance standards;
- (b) provide and maintain in clean and sanitary conditions toilet or latrine facilities for each gender and for persons with disabilities so far as practically possible and hand washing facilities for all employees, customers and other users;
- (c) provide an adequate supply of clean and safe water for drinking and running water for hand washing;
- (d) provide containers or receptacles for the collection of refuse or litter which shall be collected at regular intervals;
- (e) provide and maintain adequate drainage systems and facilities for the collection, treatment and disposal of effluent and sewage;
- (f) ensure that the business premises, industrial plant or workplace shall not be overcrowded as to cause risk of injury to the health of the persons employed therein; and

- (g) prevent any public nuisance within any such business premises, industrial establishment, agricultural plantation, mining or any other workplace.

### **PART IX—POLLUTION CONTROL**

#### **Prevention and Control of pollution policy**

**86.** (1) The County Executive Committee member responsible for environmental health and sanitation matters shall in consultation with regulatory institutions established under national legislation in respect of environmental health and sanitation, environmental management and coordination and water resources management as well as the County Executive Committee members responsible for water, energy, trade, environment and agriculture, town committees, municipality boards, establish an county policy for the prevention, control, abatement, mitigation and monitoring of—

- (a) pollution of air;
- (b) pollution of land;
- (c) pollution of water bodies and supplies;
- (d) pollution of food and food articles;
- (e) any other form of pollution which is likely to affect the environment and health.

(2) The County Government department responsible for environmental health and sanitation shall develop a plan for the implementation of the county pollution control policy.

#### **Protection water supplies and sources from pollution**

**87.** (1) No person shall, unless licensed under the relevant laws, emit, discharge or deposit any pollutants or waste into any water source in contravention of the acceptable conditions established under the Act or national legislation.

(2) A person who emits, discharges or deposits any waste, poison, toxic, oil or mixture containing oil or other noxious or obstructing matter or pollutant or permits any person to dump or discharge such matter into any water source in contravention of water pollution control standards established under this Act or any other applicable law shall be guilty of an offence and liable to imprisonment for a term of not more than two years or to a fine of not more than five hundred thousand shillings (KSh.500,000) or to both such fine and imprisonment.

**Prohibition of bathing and washing**

88. (1) No person shall bathe or wash in or within a prescribed distance on the shores of any lake, river stream, creek, canal, pond, dam, reservoir or any other watercourse.

(2) No person shall soak or wash in any river, canal, ditch, drain or watercourse any hides, dye cloths or other matter likely to render the water polluted, offensive or noxious.

(3) Nothing in this section shall be held to prevent the grazing or tethering of livestock in areas embracing any wetland, riverbank, lakeshore or watershed where such grazing or tethering would not tend to render the water unwholesome or injurious to health or the environment.

**Prohibition of pollution of soil**

89. (1) No person shall, unless licensed, pollute or cause or permit to be polluted any soil or surface of any land in contravention of conditions prescribed under this Act or any other applicable law.

(2) A person who emits, discharges or deposits any waster, poison, toxic, oil or mixture containing oil or other noxious or obstructing matter or pollutant or permits any person to dump or discharge such matter into any soil or surface in contravention of soil pollution control standards established under this Act or any other applicable law shall be guilty of an offence and liable to imprisonment for a term not exceeding two years or to a fine not exceeding one million shillings (KSh.1 million) or to both.

**Prohibitions of pollution to the atmosphere**

90. (1) No person shall, unless licensed, emit or discharge any wastes or pollutants into the atmosphere in contravention of the acceptable conditions established under this Act and any other applicable law.

(2) Notwithstanding the generality of sub-section (1), a person shall be deemed to emit or discharge wastes or pollutants into the atmosphere if such person—

- (a) places any noxious matter in a place where it may be released into the atmosphere;
- (b) operates a motor-vehicle, motor-boat, ship, aircraft or other similar conveyance in such a manner as to cause air pollution in contravention of the established emission standard;
- (c) causes or permits the discharge of odours which by virtue of their nature, concentration, volume or extent are obnoxious or offensive;



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- (d) burns any wastes of any trade, process or industry; or
- (e) uses any fuel burning equipment not equipped with any device or control equipment required to be fitted to such equipment.

**Prohibition of noise pollution**

**91.** (1) No person shall, unless licensed, emit or cause or permit to be emitted any noise greater in volume, intensity or quality in contravention of the acceptable conditions established under this Act and any other applicable law.

(2) Subject to the provisions of any other applicable law, any person who emits noise in excess of the noise emission standards established under this Act shall be guilty of an offence and shall be liable to a fine not exceeding fifty thousand shillings (Sh50, 000) or a community service order or both.

**Prohibition of littering**

**92.** (1) A person who throws, drops, spills, abandons, discards or in any other way dumps or causes or permits to be thrown, dropped, spilled, spilled, abandoned, discarded or dumped, any litter, refuse, offal, or rubbish on any land, water body, street, roadway, alley, thoroughfare or site in or on any place to which the public has access, except in a container, receptacle or place which has been specially indicated, provided or set apart for such purpose, shall be guilty of an offence and liable to a fine not exceeding fifty thousand shillings or imprisonment to a term not exceeding six months.

(2) The County Government or any other public authority or person in control of or responsible for the maintenance of any premises, place or vehicle to which the public has access or use of shall—

- (a) provide litter bins, containers, receptacles or places adequate and suitable for the discarding of litter by the public; and
- (b) ensure that the litter is disposed of before it becomes a nuisance, a ground for a complaint or causes a negative impact on health or the environment.

(3) Any person who removes or otherwise tampers with a receptacle guilty of an offence.

**Removal of Litter**

**93.** (1) Every person in control of or responsible for the maintenance of any place to which the public has access, shall within a reasonable time after any litter has been thrown, dropped, spilled, abandoned, discarded or

dumped at such place other than in accordance with the law remove such litter or causes harm to the environment.

(2) The County Government department responsible for environmental health and sanitation matters may give notice or order to the owner, occupier or any other person in charge of such premises requiring such person to remove the litter where such has been thrown, dropped, spilled, abandoned, discarded or dumped.

### **Street cleansing**

**94.** (1) The County Government through the department responsible for environmental health and sanitation shall make arrangements for the care, control and cleaning of streets, thoroughfares and sidewalks within the county.

(2) No person shall—

- (a) sweep or cause or permit to be swept from any land, premises or vessel any dust, dirt, ashes, refuse or rubbish onto or into any footway, back-lane, drain or road;
- (b) place or cause or permit to be placed upon frontage of a house, flat, building or any other structure any dust, dirt, ashes, refuse or demolition material or any sort of refuse;
- (c) mount any poster or banner by pasting or nailing it on any lamp post, traffic bollard, refuse bin, painted wall, tree or structure on any street, thoroughfare, sidewalk or any other unauthorized surface or place;
- (d) cause the water in any sink, drain, ditch or gutter or any other offensive matter to run onto any street;
- (e) convey in any vehicle, cart or otherwise any offensive substance through or along any street except in receptacles which are watertight and airtight; and
- (f) disturb the surface of any street, sidewalk, sanitary lane or other public place neither vested in the County Government, without the previous consent in writing of the department, nor otherwise than in accordance with such conditions as it may determine.

(3) The owner, occupier or other person in charge of any land or premises whose frontage abuts on any footway or street shall keep the frontage of his or her land or premises clean and free from any refuse, rubbish, litter, or garbage.

(4) Any person who mounts posters or banners by pasting or nailing such material on lamp posts, traffic bollards, refuse bins, painted walls, trees or structures on any street, thoroughfare, sidewalk or any other unauthorized surface or place shall be issued with a notice within reasonable time by an authorized officer to remove or cleanse the nuisance at his or her own cost, or alternatively, the department may arrange for the cleansing of such nuisance at a cost to be recovered from that person as a simple contract debt in any court or tribunal or agency of competent jurisdiction, in addition to any fine or sentence that may be imposed under this section.

(5) A person who contravenes sub-sections (2) and (3) shall be guilty of an offence and be liable to a fine not exceeding two hundred and fifty thousand shillings (KSh.250,000) or an imprisonment for a term not exceeding one year or both.

### **Prohibition of open defecation**

**95.** (1) No person shall—

- (a) urinate or defecate in or upon any land, forest, bush, street, alley, canal, drain, ditch, river, lake, beach or watercourse or in any place to which the public has access to except in a sanitary convenience provided for such purpose; and
- (b) cause or permit urine or faecal matter to flow or drain into any lake, river, canal, ditch, drain, dam or watercourse.

(2) A person who contravenes sub-section (1) shall be guilty of a misdemeanor and liable to a fine not exceeding ten thousand shillings (sh10,000) or a community service order or both.

(3) The County Executive Committee member responsible for environmental health and sanitation matters may promulgate or issue orders for the combat of open defecation within the county.

### **Disposal of dead animals**

**96.** (1) A person who owns, possesses or is otherwise in-charge of a dead animal, or where such person cannot be identified a person who owns, occupies or is in charge of the property on which the dead animal is found shall within twenty four (24) hours after the death or discovery of such animal dispose therefore.

(2) Any person responsible for disposal of a dead animal must dispose of it in a manner so as to endanger public health or become a public nuisance or cause pollution or surface or groundwater.

(3) A person responsible for disposal of a dead animal may dispose of it by burial, landfilling, incineration, composting, rendering or any other method that is not otherwise prohibited under this Act or any other law.

(4) A person disposing of a dead animal by burial shall place it so that every part of the carcass is covered by at least three (3) feet of soil at a location not less than one hundred (100) feet from any well, spring, stream or other surface water or in any other manner likely to contaminate groundwater.

(5) Where an animal dies or is accidentally killed and the owner or person in possession of the animal is unknown, cannot be found or neglects to dispose of it, the County Government department responsible of environmental health and sanitation shall immediately dispose of it.

#### **Remediation, reparation, restoration, restitution and compensation**

97. The County Executive Committee member responsible for environmental health sanitation matters shall prescribe rules in respect of recovery of costs by the County Government for environmental remediation or recovery or payment to any third parties of reparation, costs of restoration, restitution or compensation by an offender under this Part, subject to determinations by a court, tribunal or other agency of competent jurisdiction.

### **PART X—WASTE MANAGEMENT**

#### **Establishment of an integrated county waste management plan and strategy**

98. (1) The County Government department responsible for environment health and sanitation matters shall in consultation with regulatory institutions established under national legislation in respect of environmental health and sanitation, environmental management and coordination and water resources management as well as the County Executive Committee members responsible for water, energy, trade, environment and agriculture, establish a county waste management policy and an integrated county waste management plan and strategy for the implementation of this Act and any other written law.

(2) Notwithstanding the generality of sub-section (1), the integrated waste management plan and strategy shall incorporate components of—

- (a) a household waste management plan;
- (b) an industrial waste management plan;
- (c) a commercial waste management plan;

- (d) healthcare waste management plan;
- (e) electronic waste management plan; and
- (f) hazardous waste management plan.

(3) The integrated waste management plan and strategy may include information on—

- (a) the quantities of household , industrial, electronic, commercial, medical or hazardous waste expected to be generated during the plan period;
- (b) waste disposal sites and public and private waste management facilities for the period specified in the plan;
- (c) staff, equipment and other material used for operating the publicly owned sites and facilities at present and needed during the period specified;
- (d) the method by which, in a given period, the County Government intends to manage waste and a prioritization of the different methods of waste management for the given period of time;
- (e) estimated costs of the different methods of waste management contemplated in the plan, and how these costs may be covered by tariffs, fees, or other means;
- (f) mechanisms for the management by use of County Government resources and means or by use of means provided by the private sector, during that period;
- (g) targets by the County Government for the reduction, reuse, recycling and recovery of waste; and
- (h) strategies for implementation.

(4) Every sanitation service provider or department of the County Government shall give effect to the county integrated waste management plan and strategy when exercising a power, function, or servicing relating to waste management.

(5) Subject to the provisions of the County Government Act and Urban Areas and Cities Act, the county integrated waste management plan and strategy shall be incorporated in the County Integrated Development Plan (CIDP).

**General Duty in respect of waste**

99. (1) A generator or holder of waste shall be required to, within the holder's power, take all reasonable measures—

- (a) avoid the generation of waste and where such generation cannot be avoided, to reduce the amounts of toxicity of waste that is generated;
- (b) comply with requirements for collection of waste varying by type, origin and properties by placing such waste in receptacles approved, designated or provided by the service providers for the purpose in a manner and location approved or authorized;
- (c) take all measures to prevent the mixing of hazardous waste with other waste or of recoverable waste with non-recoverable waste;
- (d) ensure that waste is treated, and where not reusable, recyclable or recoverable, disposed of in a manner not deleterious to health or the environment or causative of a public health nuisance;
- (e) provide briefing and periodic training to personnel handling hazardous waste and prevent any employee or any person under his or her supervision from contravening this Act;
- (f) plan and implement the measures necessary to avoid the spread of pollution after the closure of the projects and operations, as well as of the waste disposal facility or installation;
- (g) prevent waste from being used for an unauthorized purpose; and
- (h) draw up a contingency plan for response to accidents as may occur upon carrying out waste-related operations.

(2) The duty of a holder of waste shall not be construed as a limitation on the obligation of the County Government in respect of waste management.

**Waste Management County Government, town Committee city or Municipality board Department**

100. (1) The County Government department responsible for environmental health and sanitation or waste management shall organize for the collection, transportation, treatment and disposal of waste in accordance with this Act and any other written law.

(2) The department may establish and maintain or sanction the establishment, operation and maintenance of such waste management

facilities by licensed sanitation providers as may be necessary and adequate for various categories of waste.

(3) The County Government may compel the use of sanitation services by persons to whom such services are available or are required to be made available.

(4) The County Executive Committee member responsible for environmental health and sanitation matters shall in consultation with the National Environmental Sanitation Coordination and Regulatory Authority (NESCRA) and the National Environment Management Authority (NEMA) prescribe rules and regulations in respect of the collection, transportation, and disposal of various categories of various categories of waste and the licensing requirements therefore.

#### **License requirement for waste management activities and facilities**

**101.** (1) A person shall not undertake a waste management activity or establish, operate or maintain a waste management facility save in accordance with a license issued under this Act and any other relevant law.

(2) For the purpose of this Act, an application for a license under subsection (1) shall be made on a form prescribed under regulations made pursuant to this Act which shall contain particulars of—

- (a) the name of the entity or service provider;
- (b) the principal place of business of the entity or service provider;
- (c) the shareholders or owners of the entity or service provider;
- (d) technical capability plan of the applicant and any service provider to be engaged if any;
- (e) the financial capability of the entity or service provider;
- (f) a business plan which shall include inter alia-the object of the plan the overall strategies, policies and performance targets; and
- (g) any other details which may be prescribed by regulations.

(3) The department shall, within sixty (60) days of receipt of a complete application, review such application, and

- (a) where it meets the requirements of this Act or any other applicable law, approve subject to conditions; or
- (b) where it does not meet the requirements of this Act or any other applicable law, disapprove thereof.

(4) An application for a permit shall be the subject of public consultation.

(5) A license issued under this section shall be valid for a prescribed period and may be renewed for the same period where the applicant has complied with license conditions; the provisions of this Act any other applicable law.

(6) The County Government department responsible for environmental health and sanitation matters shall keep a register of all licensed waste management service providers and facilities.

### **Exemptions**

**102.** (1) Notwithstanding the provisions of this Act, a permit shall not be required for the purpose of this Act—

- (a) for the provision of sanitation services for domestic purposes by any person providing such services in accordance with law;
- (b) where the provision of sanitation services wholly within the boundaries of the land or premises owned or occupied by any one landholder or occupant does not naturally extend beyond boundaries of that land.

(2) Sub-section (1) does not apply in relation to any activity there under which is carried on in prescribed circumstances and the relevant law or regulation made under this Act requires a permit for the carrying on of that activity in those circumstances.

(3) Regulations made under this Act may provisions with respect to the provision of sanitation services in any manner for which a permit is not required.

### **Collection of Waste**

**103.** (1) The County Government department responsible for environmental health sanitation or a licensed sanitation service provider shall, for a prescribed fee, arrange for the collection of household or any other authorized category of waste.

(2) For the purpose of sub-section (1), the department or licensed service provider may by notice served on the occupier or owner of premises or vessel, require such occupier or owner to place or segregate waste for collection in receptacles approved, designated or provided, in the manner specified in such notice.

(3) The owner, occupier or any person in charge of any building or land which, by the nature of the trade, manufacture or business at any time



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being carried on therein, produces commercial waste shall provide or arrange to be provided one or more sound and sufficient covered receptacles for the collection of commercial waste.

(4) The department may make such arrangements, without charge, for the collection, recovery or disposal of waste from certain premises or geographical areas or in emergency situations.

**Transportation of waste**

**104.** (1) No person other than the County Government department responsible for environmental health and sanitation and waste management, may collect waste for removal and transportation from premises unless such person is—

- (a) authorized by law to collect such waste, where such authorization is required; or
- (b) not prohibited from collecting such waste.

(2) The requirement for authorization under paragraph (1) (a) does not apply to—

- (a) the transportation of waste between different places within the same premises;
- (b) the lawful transportation of waste in transit through the county and such waste is not deposited in the county; or
- (c) house holders transporting their own household waste from their premises to the nearest collection, recycling or disposal point.

(3) The department or any person who transports waste shall take all reasonable measures to prevent any spillage of waste or littering from a vehicle, cart or other vessel.

(4) A person who transports waste for disposal or any other purpose other than disposal shall before consigning such waste to some other person or facility; ensure that the facility or the place or person to whom the waste is consigned is authorized to deal with such waste.

(5) A person who contravenes this section shall be guilty of an offence and be liable to a fine not exceeding Kenya Shillings five hundred thousand (KSh. 500,000) or an imprisonment for a term not exceeding one year or both.

**Disposal and Removal of waste**

**105.** (1) The County Government department responsible for environmental health and sanitation and waste management or a person so

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authorized shall, for a prescribed fee arrange for the disposal of waste occurring within the county.

(2) No person shall dispose of or deposit waste or cause or permit waste to be disposed of—

- (a) in or any land, water body or at any facility unless the disposal of waste is authorized by law; or
- (b) in any other manner that is likely to cause pollution of the environment or harm to health.

(3) Where a person disposes waste in contravention of this Act or any other law, the department may arrange for the recovery or disposal of such waste at a cost to be recovered from that person as a simple contract debt in any court of tribunal or agency of competent jurisdiction.

**Special requirements relating healthcare waste**

**106.** (1) The County Government department responsible for environmental health and sanitation in consultation with the Ministry responsible for health affairs and regulatory institutions established under national legislation in respect of environmental health and sanitation, environmental management and coordination, shall establish healthcare waste management guidelines for health care facilities to—

- (a) protect public health and safety;
- (b) provide a safer working environment;
- (c) minimize waste generation and environmental impacts of medical waste disposal, and
- (d) ensure compliance with legislative and regulatory requirements.

(2) Every major generator of health care waste shall prepare and submit a medical waste management plan to the County Government department responsible for environmental health and sanitation.

(3) A major generator of healthcare waste shall take all reasonable measures to ensure that medical waste generated at it's facility is handled, stored, transported, treated and disposed of in strict compliance with this Act and any other written law relating to waste management.

(4) Every major generator of healthcare waste shall—

- (a) segregate medical from general waste at the point of generation, and take all reasonable measures to maintain such segregation at all times thereafter;

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- (b) ensure that healthcare waste stored in a generating facility shall be stored in such manner that putrefaction will not occur and infectious agents will not come in contact with the air or individuals;
- (c) ensure that medical wastes shall not be stored on the premises of the producing department for more than thirty (30) days;
- (d) ensure medical waste shall not be stored outdoors or in any unsecured area to prevent access by unauthorized individuals;
- (e) collect medical waste in containers which comply with the minimum requirements for the packaging of medical waste including capped or leak or spill resistant containers;
- (f) place as appropriate high risk waste in capped or tightly secured leak resistant and spill containers;
- (g) collect medical waste in clearly marked or coded containers indicating the contents in accordance with established standards;
- (h) ensure containers used to collect, transport, or store medical waste are clearly labeled with a biohazard symbol or with the words "medical waste" written in clear and legible letters according to set standard;
- (i) place sharps waste in a sharps containers at the point of generation and keep such waste in sharps container at all times thereafter;
- (j) clearly indicate the name or registration number of that generator on all containers containing its medical waste by using marking or a digital identification;
- (k) seal waste containers to prevent leakage or expulsion of contents in leak resistant receptacles;
- (l) consign waste only to a transporter or facility that is authorized;
- (m) conduct an ongoing training and education programme for employees or agents involved in managing medical waste; and
- (n) ensure adequate budgetary allocations to cover the cost of managing medical wastes including operation and maintenance costs.

(5) The County Executive Committee member responsible for environmental health and sanitation matters shall promulgate regulations

and may make any order in respect of the handling, storage, transportation, treatment, recovery and disposal of medical waste.

## **PART XI—SEWERAGE AND STORM WATER MANAGEMENT**

### **Sewage disposal**

**107.** (1) A person shall not throw out, deposit or bury excreta from human bodies whether solid or liquid, or dispose of those substances other than in an approved sewage system or other approved mean of disposal.

(2) A building or premises where people work, live or frequent shall have an approved means for the disposal of sewage.

(3) A person shall not install or cause to be installed a sewage system or portion of a sewage system unless the person installing or causing the installation of that system has received a license granted in term of this Act.

(4) A license shall expire twenty-four (24) months from the date of issue and if the installation of a sewage system has not been completed or commenced on expiration of the certificate of approval the inspector may renew the certificate of approval for not more than twelve (12) months.

(5) A deviation from the terms or conditions of a certificate of approval shall render it null and void.

### **Power to undertake sewerage and drainage**

**108.** (1) The County Government department responsible for environmental health and sanitation may establish and maintain sewerage and drainage works within functional area.

(2) The department may, for the purpose of carrying out any drainage or sewerage works—

- (a) construct, maintain or alter the course of a public sewer—
  - (i) in, under, through or over any street, public road, street, square or open place or under any cellar or vault below any street, public road, street, square or open place; and
  - (ii) in, under, through or over any land not forming part of a street, public road, street, square or open place after giving reasonable notice to every owner and occupier of that land;
- (b) construct sewage disposal works on any community land or public land or land acquired, or lawfully appropriated for the purpose.

(3) In the exercise of its powers under paragraph 2(a)(ii), the County Government shall not be liable to pay any compensation to an owner or occupier of any private lands but shall make good, or at its option, shall pay for any damaged one or occasioned by reason of the exercise of the said powers, the amount whereof being determined, in default of agreement, by arbitration.

(4) The department shall keep deposited at its offices, for inspection by any person at all reasonable hours, free of charge, a map showing and distinguishing all public sewers existing or in course of construction within the county or under its control.

(5) Where some of the public sewers are reserved for soil and waste water only or for storm water only, the map referred to in subsection (4) shall show also the purposes which each sewer is intended to serve.

#### **Vesting of sewers and right of access thereto**

**109** (1) All sewers, drains, pipes, ventilating shafts or the conveniences of the disposal of sewage or drainage constructed by or which are under the control of the County Government, shall be bested in the County Government.

(2) An authorized officer or any other servant or agent of the County Government shall at all times have a right of access to private property for the purpose of inspection, maintenance, alteration or repairs of such sewers, drains, pipes, ventilating shafts or other conveniences vested in the County Government, and may do all things necessary to uncover and expose such sewers, drains, pipes, shafts or other conveniences for the purpose of inspection, alteration or repair.

(3) The County Government in the exercise of any of the powers conferred by this section shall, in its discretion, either repair all damaged one or caused thereby or pay compensation for any such damage not so repaired, the amount of any such compensation being determined, in default of agreement, by arbitration.

#### **Owners to make and maintain drains to public sewers**

**110.** (1) The Director may, where a public sewer or nay part thereof, is available, give notice in writing to the owner occupier of any land, premises or private sewer situated within the county and capable, in the opinion of the Director, of being drained in to such sewer, to construct such drains and fittings from and in connection with such land or private sewer to communicate with the public sewer in accordance with prescribed rules relating to connection to a public sewer.

(2) The Director may, after giving the prescribed notice to the owner occupier of any drains, order such drains and fittings to be constructed by such owner or occupier with such time as it may limit in that behalf.

(3) Upon the expiry of the limit under sub-section (2), the Director may arrange to extend such drain and recover the costs thereof from the owner provided that the department shall, before carrying out such work, give not less than fourteen (14) days' notice to such owner of its intention to carry out such work.

(4) All drains and fittings communicating with any sewer shall from time be repaired and cleansed, under the inspection or direction of an authorized officer, at the expense of the owner or occupier of the land in respect of which the said drain shall have been constructed.

(5) Nothing in the section shall entitle any; person to discharge directly or in directly into any public sewer any liquid or other matter the discharge of which into public sewers is prohibited under this Act or any other applicable law or order made there under.

#### **Application for connection to public sewer**

**111.** (1) A person who wishes or who is required to have his or her drains or private sewers made to communicate with a public sewer shall make an application for a permit in such manner as may be prescribed.

(2) The department shall within twenty-one (21) days of the receipt thereof by notice to the applicant approve the same if it is satisfied that the owner of the said building is entitled to cause such drain to empty into the said sewer, and that the making of such sewer connection would not contravene any of the provisions of this Act and that the communication would be prejudicial to the sewer system.

(3) Subject to payment of the prescribed fee, the department shall, withal reasonable dispatch, cause the communication to be made to the public sewer in such manner as may be prescribed or as the department may decide.

(4) Any lateral drains constructed shall vest in the County Government and the maintenance, repair and renewal of the same from time to time shall be carried out by the department at the expense of the owner of the premises served by such drain or private sewer.

(5) Any person who unlawfully causes a drain or sewer to communicate with a public sewer and any person who fails to comply with or act in contravention of any of the provisions of this section, shall be guilty of an offence and the department may close, demolish or remove any

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sewer connection made in contravention of the provisions of this section, and may recover as a civil debt recoverable summarily from the person so offending any expenses incurred by it in so doing.

**Prohibitions relating to sewers and sewage**

**112.** (1) No person shall discharge or suffer or permit to be discharged in to any public sewer, storm water drain, or into any drain or private sewer communicating with a public sewer—

- (a) any matter likely to injure the sewer or drain, or to interfere with the free flow of its contents, or to affect prejudicially the treatment and disposal of its contents;
- (b) any chemical refuse or waster steam. Or any liquid of a temperature higher than one hundred and ten degrees Fahrenheit of approximately forty three degrees Celsius, being refuse or steam, which, or a liquid which when so heated, is either alone or in combination with the contents of these sewer or drain, dangerous or the cause of a nuisance, or prejudicial to environment and health;
- (c) any other matter as may be prescribed by law.

(2) The department may by written notice served upon the owner or occupier of any premises, prohibit from a date specified in such notice, not being earlier than fourteen day from the date of service of such notice any such matter or matters as aforesaid being caused or permitted to fall, flow or enter, or to be carried or washed, in to any sewer belonging to the County Government either directly or indirectly.

(3) Any person who fails to comply with the requirements of any such notice after service thereof upon him shall be guilty of an offence and shall be liable to a fine not exceeding Kenya Shilling two million (KSh. 2 million) or to imprisonment for a period not exceeding one (1) year to both.

**Private waste water systems and drains**

**113.** (1) Every owner, occupier or other person in charge of premises or a building shall provide and maintain. Where a public sewerage system is not available, an alternative waste water management system approved by the County Government department responsible for environmental health and sanitation matters prior to construction.

(2) Any building or premises or institution without a waste water disposal system may by notice be required to construct such facilities under the supervision of an authorized officer or agent.

(3) no person shall construct any septic tank, storage tank, sewage except with the written permission of the department, and then only subject to conditions as may; be imposed by regulation relating to—

- (a) the structural integrity of construction materials;
- (b) distance from building and plot boundaries;
- (c) distance from water supplies and sources;
- (d) situation and means of access; and
- (e) any other requirements.

### **Provisions for protection of sewers and drains**

**114.** (1) Any person who, without the written consent of the department—

- (a) erects or causes to be erected any building over any sewer belonging to or vested in the County Government or any; other county authority;
- (b) excavates, removes, or cause to be excavated, opened up or removed, the ground under or near to any such sewer, drain or pipe ;
- (c) makes or causes to be made any; opening into any such sewer, drain or pipe, for the purpose of discharging sewage or drainage into the same or otherwise; or
- (d) injures or destroys, causes to be injured, obstructed, diverted or destroyed, any such sewer, drain or pipe or any works or things in connection there with, shall be guilty of an offence and shall be liable to a fine not exceeding two hundred thousand shillings (KSh. 200,000) or to imprisonment for a period not exceeding six (6) months or to both.

(2) The department may alter demolish or otherwise deal with any buildings erected over any such sewer, drain or pipe in contravention of sub-section (1) as it may think fit, and may make good any damaged one to such sewer, drain, or pipe in contravention of sub-section (1) and may close up any opening made therein in contravention of sub-section (1), and the expenses so incurred shall, in addition to any fine or sentence that may be imposed under this section, be recoverable from the offender.

### **Sewage haulage and disposal permits**

**115.** (1) Subject to the provisions of this Act relating to the provision of sanitation services, no person may provide any hauling service for the



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collection, removal, transfer, storage, transportation or disposal of sewage from or on any premises except in terms of a permit issued by the department.

(2) An application for a permit in terms of sub-section (1) shall be in the prescribed form and shall contain information relating to—

- (a) the type, volume, mix and constituents of the waster that is expected to be transported in the course of business daily, monthly and annually;
- (b) details and plans of the duly authorized waste management facility and plans of property; where sewage will be transferred or store;
- (c) details of measures to be taken to prevent contamination to the air, ground or water on, underneath or adjacent to the site;
- (d) the type, design, capacity, make and registration number of the vehicles with vacuum trucks securely mounted there on which are to be used to carry or store the sewage; and
- (e) details of the qualifications of each driver employed to drive the vehicles.

(3) A sewage hauler shall—

- (a) ensure that sewage, effluent or any waste water under its control there by shall be transported in a manner that will not create a health hazard, environmental harm or public nuisance;
- (b) facilitate access by authorized officers responsible for ensuring observance of environmental health and sanitation standards;
- (c) provide and maintaining good condition any equipment, vessel, truck or trailer used in the collection, removal, transfer, storage, transportation or disposal of sewage; and
- (d) post and maintain a copy of the permit in each truck, trailer or vessel and registered office.

(4) A person who contravenes the requirements of this section shall be guilty of on an offence and be liable to a fine not exceeding Kenya Shillings one hundred thousand (KSh.100,000) or to imprisonment for a term not exceeding six months, or to both.

(5) The County Executive Committee member responsible for environmental health and sanitation matter shall make regulations to give effect to this section.

**Standards in respect of the use of sewerage systems**

**116.** (1) All sewer systems shall be installed and operated in accordance with prescribed rules.

(2) A sewage system or a part of it shall not emit, discharge or deposit sewage or effluent on to the surface of the ground except where the system is designed so that properly treated effluent is discharged in to the soil.

(3) Sewage or effluent shall not emit, discharge, seep, leak or otherwise escape from the sewer system or a part of that system into a piped water supply, well water supply, a fresh water watercourse or surface water.

(4) Sewage or effluent shall not emit, discharge, seep, leak or otherwise escape from the sewage system or part of the system other than from a place or part of the sewer system where the system is designed or intended to discharge sewage or effluent.

(5) A sewer system or part of a sewer system shall not emit, discharge, deposit or allow the emission, discharge or deposit of micro-organisms of intestinal origin in to the natural environment in a manner that may be a hazard to health.

(6) Sewage effluent from a septic tank shall be discharged into an approved o-site sub surface disposal system or a pipeline to an approved water body.

(7) A person shall not operate a malfunctioning sewer system.

(8) For the purpose of this Act, a sewer system which does not function as designed and which is not corrected by the responsible person shall be considered to be a malfunctioning system.

**Storm Water Management Plan**

**117.** (1) There shall be a water shed storm water management plan in accordance with the prescribed standards.

(2) An authorized officer shall ensure that the storm water management plan is development is developed and implemented through a consultative process.

(3) The storm water management plan shall among others—

(a) identify, survey and inventory existing conditions that affect storm water runoff;

(b) address issues of peak flows, flooding, ground water recharge, stream erosion and water quality.

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(4) A person or entity engaged in land development activity, construction of a building or any physical infrastructure that is exposed to water precipitation or an owner of such constructed infrastructure shall develop and implement a storm water management plan on a sub-catchment basis in accordance with the prescribed standards.

(5) Any person constructing a road shall ensure that there is a built in storm water management plan and system for that road.

(6) Any construction of a building, physical infrastructure or a road shall not approved unless the construction has a storm water management plan.

(7) A person who contravenes this section commits an offence and shall—

- (a) if a corporate body be liable to a fine of Kenya Shillings five hundred thousand (KSh. 500,000); or
- (b) if an individual to a fine not exceeding Kenya Shillings fifty thousand (KSh. 50,000) or imprisonment for a term not exceeding three (3) months or to both.

**Reduction of runoff water**

**118.** (1) A proprietor of a building shall—

- (a) install rain barrels with sufficient capacity to store water from the building;
- (b) not permit storm water to become runoff; and
- (c) reuse or recycle storm water collected for other purposes in the premises.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding Kenya Shillings twenty thousand (KSh. 20,000) or to imprisonment for a term not exceeding one month.

**Riparian buffers**

**119** (1) The Directorate may, in collaboration with other government agencies and local residents mobilize residents to develop or restore riparian buffers along rivers, waterways or any water body.

(2) A person shall not interfere with a restored riparian buffer in a way that exposes it to run off water.

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(3) A person who contravenes sub-section (2) commits an offence and shall—

- (a) if a corporate body be liable to a fine not exceeding Kenya Shillings fifty thousand (KSh. 50,000); and
- (b) if an individual be liable to a fine of Kenya Shillings five thousand (KSh. 5,000) or to imprisonment for a term not exceeding two months.

**PART XII—CEMETERIES, CREMATORIA AND FUNERAL PARLOURS**

**Public and Private cemeteries**

**120.** (1) The County Executive committee member responsible for environmental health and sanitation matters shall appoint and notify the public of sufficient and proper places to be the sites of and to be used as cemeteries.

(2) No person, group or entity shall establish, maintain or operate a cemetery without a license issued under this Act and any other written Law.

(3) Subject to sub-section (4), it shall be obligatory where cemeteries have been so designated or authorized to bury or dispose of the dead in such cemeteries in conformity with rules under this Act.

(4) Notwithstanding the provision of sub-section (2), a permit shall not be required for the purposes of this Act for family burial sites situated wholly within the boundaries of either individual freehold land or community land.

(5) The county Executive Committee member responsible for environmental health and sanitation matters shall develop rules in respect of the establishment, operation and control of private cemeteries and burial of remains on private property.

**Establishment of crematoria**

**121.** (1) The County Government department responsible for environmental health and sanitation matters may establish, operate or maintain crematoria.

(2) No person, group or entity shall establish, maintain or operate a crematorium without a license issued under this Act and any other written law.

**Disposal of dead persons**

122. (1) It shall be unlawful for any person to bury or dispose of human remain in place or in a manner other than those authorized under this Act.

(2) A burial ground shall be at least 25 meters distant from any dwelling house.

(3) No burial ground shall be located within 50 meters from a source of any water supply.

(4) The County Executive Committee member responsible for environmental health and sanitation matters shall develop rules in respect of disposal of dead persons.

**Burial of destitute persons**

123. Subject to any other applicable law, it shall be the duty of the department to make arrangements to provide for the burial of any destitute persons or any unclaimed body found within the county.

**Funeral parlors and other establishments**

124. (1) It shall be unlawful for any person or group to establish, maintain or operate a funeral parlor, morgue, mortuary or any other similar funeral establishment without a sanitary license issued under the provisions of this Act and any other written law.

(2) No person shall be employed as an embalmer or undertaker in a funeral parlor, morgue, mortuary or any other similar funeral establishment without a valid practicing certificate issued by a competent authority recognized by law.

**PART XIII—SANITATION INFORMATION SYSTEM,  
PERFORMANCE MANAGEMENT AND FINANCING**

**Establishment of county environmental health and Sanitation information systems**

125. (1) The Chief Officer shall establish and maintain a county environmental health and sanitation information system which shall be kept in a proscribed format as to be a constituent part of the national environmental health and sanitation information system.

(2) Subject to any law relating to access to information or requirement for payment of a prescribed fee, member of the public shall have the right to access to information contained in the national environmental health and

sanitation information system or any county environmental health and sanitation information system.

**Purpose of the county environmental health and sanitation information systems**

**126.** (1) The purpose of the county environmental health and sanitation information systems shall be—

- (a) to provide data for the development, implementation and monitoring of policies and strategies for environmental health and sanitation;
- (b) to provide a framework that facilitates the exchange of diffuse health information;
- (c) to provide information to sanitation service institutions, consumers and the public—
  - (i) to enable them to monitor the performance from sanitation service provision;
  - (ii) for research purposes; and
  - (iii) for any other lawful reason.

(2) Regulations made under this Act shall specify requirements and the nature of information required for the maintenance of the county environmental health and sanitation information systems.

**County environmental health and sanitation plans and strategy frameworks**

**127.** (1) The Chief Officer shall establish a county environmental health and sanitation plan and strategy framework.

(2) The County environmental health and sanitation plans and strategy frameworks under sub-sections (1) and (2) shall incorporate components of—

- (a) the types, availability and objectives of sanitation services;
- (b) the scope of demand or need for sanitation services;
- (c) infrastructure necessary for provision of sanitation services;
- (d) estimated capital and operational costs of sanitation services and the financial arrangements for funding those water services, including the tariff structures;

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- (e) a resource mobilization and financing strategy for the implementation of the plans; and
- (f) investment programmes, business plans and investment plans.

**Establishment of integrated performance management and accountability framework**

**128.** (1) It shall be the duty of the County Government or other service provider—

- (a) to establish a performance management and accountability framework for the implementation and monitoring of its environmental health and sanitation development plan;
- (b) promote a culture of performance management within its governance, management and operations; and
- (c) administer its affairs in an economical, cost-effective, efficient and accountable manner.

(2) An integrated performance management and accountability framework shall be published in an appropriate medium during its preparation so as to bring its contents to the attention of the public.

**Monitoring and review of integrated performance management and accountability framework**

**129.** (1) The County Government or other service provider shall establish mechanisms to monitor and review its integrated performance management and accountability framework.

(2) Notwithstanding the generality of sub-section (1), there shall be developed and implemented a system of peer review of the integrated performance management and accountability framework of County Government or other service provider in accordance with guidelines published under this Act or any other written law.

(3) The County Government or other service provide shall, so far as practicable, involve local communities in the implementation and review of the integrated performance management and accountability framework and, in particular, allow such local communities to participate in the setting of appropriate key performance indicators and performance targets for the County Government or other service provider as the case may be.

### **Core components of integrated performance management and accountability framework**

**130.** (1) The County Government or other service provider shall in terms of its integrated performance management and accountability framework and in accordance with any regulations and guidelines that may be prescribed under this act or any other written law—

- (a) set appropriate key performance indicators as a yardstick for measuring performance, including outcomes and impact with regard to the development priorities and objectives set out in its environmental health and sanitation strategic frameworks;
- (b) set measurable performance targets with regard to each of those development priorities and objectives;
- (c) with regard to each of those development priorities and objectives and against the key performance indicators and targets set in terms of paragraphs (a) and (b)—
  - (i) monitor performance; and
  - (ii) measure and review performance at least once per year;
- (d) take steps to improve performance with regard to those development priorities and objectives where performance targets are not met; and
- (e) establish a process of regular reporting to appropriate governance organs.

(2) The system applied by the County in compliance with sub-section (1) (c) shall be devised in such a way that it may service as an early warning indicator of under- performance.

## **PART XIV—ENFORCEMENT POWERS**

### **Power to enforce provisions of Act**

**131.** (1) The Director shall have then powers to enforce the provisions of this Act.

(2) The Director may by written notification delegate any power except the power to delegate to any other officer so appointed or designated under this Act.

### **Power to obtain information**

**132.** (1) The Director or any authorized officer may obtain, from any person, such information including books, records, returns, reports and any



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other document, as the Director or such officer deems necessary to enable him or her to carry out his or her functions under this Act.

(2) If so requested by the Director or an authorized officer, a person shall provide such information as the Director may require and the Director may make copies of such information or take extracts therefrom.

(3) A person who gives information under this section shall not give information which is false or misleading.

(4) Any person who contravenes sub-section (2) or (3) shall be guilty of an offence and shall be liable to a fine not exceeding Kenya Shilling fifty thousand (KSh.50,000) or to imprisonment for a term not exceeding four months or to both.

**Power of search and seizure**

**133.** (1) Subject to sub-section (2) an authorized officer may enter any premises for the purpose of conducting a search and may seize any item during the course of an investigation in connection with the enforcement of this Act or any other applicable law.

(2) No authorized officer shall enter, conduct a search or seize any item in terms of sub-section (1) unless such officer has obtained —

- (a) the consent in writing of the owner, occupant or other person in charge of the premises; or
- (b) a search warrant.

(3) An authorized officer shall carry at all and, upon demand, present an identity card issued by the County Government.

(4) Any person who obstructs or interferes with any person in the performance of his functions under this section shall be guilty of an offence and shall be liable to a fine not exceeding Kenya Shillings fifty thousand (KSh. 50,000) or to imprisonment for a term not exceeding four months or to both.

**Power of arrest**

**134.** Any person who commits an offence under this Act may be arrested by an authorized officer or inspector without warrant and handed over to the nearest police officer.

**Right of entry and inspection**

**135.** (1) An authorized officer may, at any reasonable hour for the proper performance of the duty, enter any land, building or premises and

take with him such assistance and equipment as may be considered necessary to make any inspection or to perform any work or to do anything which is required or authorized under this Act or any other applicable law.

(2) Any person authorized under subsection (1) shall, on demand by the occupier of the land, produce an identity card issued by the County Government.

### **Prohibition order, improvement notice and other administrative orders**

**136.** (1) Any authorized officer may serve an improvement notice or prohibition order on the occupier or owner of land, building, premises or vessel where the authority considers on reasonable grounds—

- (a) that the land, building, premises or vessel does not comply with an enforceable requirement under this Act or regulations made thereunder;
- (b) that a public facility in the vessel or on the land, building or premise is not being operated in compliance with the requirements of this Act or regulations made thereunder; and
- (c) an improvement notice or prohibition order may specify then actions to be taken to comply with a requirement of the Act.

(2) An improvement notice or prohibition order shall take the form of a direction that requires specified enforceable requirement to be complied with within a stipulated period after service notice on the occupier or owner.

(3) An improvement notice or prohibition order may specify the actions to be taken to comply with a requirement of the Act.

(4) Any decision taken in terms of this section shall be taken in accordance with the requirements of the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

(5) A person who contravenes the provisions of this section commits an offence.

## **PART XV – MISCELLANEOUS AND GENERAL PROVISIONS**

### **Menstrual hygiene management**

**137.** (1) The County Government or other authority or person in control of or responsible for the maintenance of an institution, workplace

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or any premises or place to which the public has access shall in accordance with regulations made under this section—

- (a) provide and maintain separate and adequate sanitary facilities for each gender and for persons with disabilities;
- (b) provide facilities for the practice of good menstrual hygiene management;
- (c) create public awareness about the essentials of menstrual hygiene management; and
- (d) make arrangements for safe and hygienic disposal of sanitary pads and other menstrual waste management materials which shall be collected at regular intervals.

**Offenses**

**138.** (1) A person who—

- (a) violates restrictions on the operation of sanitation services or waste manage activities without a license as required by sections 31 and 101; or
- (b) violates an order, requirement or directive under sections 49,50,51,52,54, 56,57, 106 and 110;
- (c) violates the provisions of sections 60,61,77,85,88,107,113,120,121,122 and 124;
- (d) continues to conduct business under section 60 despite an order to suspend manufacturing under sections 62,66 and 67;
- (e) removes or damages, without permission, a seal or notice posted by an authorized officer under sections 38, 54, 60, 67,74,76,78,93,103,110 and138;
- (f) submits a false report or gives false information in violation of section 134; or
- (g) not being an authorized officer appointed under section 22 of this Act or any other applicable law, holds himself for herself out to be an authorized officer, shall be guilty of an offence and shall be punished by imprisonment for not more than six months or by a fine not exceeding five hundred thousand shillings (KSh. 500,000) or both.

(2) A person who—

- (a) violates the provisions of sections 64, 71, 90 and 105;
- (b) violates an order directive under sections 65; or
- (c) fails to meeting standards for facilities under sections 80, 81 and 82 shall be guilty of an offence and shall be punished by imprisonment for not more than five (5) years or by a fine not exceeding Kenya Shillings two million (KSh. 2 million or both).

### **General Penalty**

**139.** (1) A person who commits an offence under this Act, or under any Regulations made under this Act, shall, if no other penalty is prescribed in respect of the offence, be liable to a fine not exceeding Kenya Shilling one million (KSh.1million) or to imprisonment for a term not exceeding two (2) years, or to both such fine and imprisonment.

(2) Where any penalty provision of this Act is in conflict with any other provision of law in force, the more stringent penalty shall apply.

### **Register of utilities and service license**

**140.** The Department shall keep a register of utilities and service providers issued with license under this Act and shall, at least once every year, publish a list of all utilities and service providers holding a license under this Act.

### **Notices may be printed or written**

**141.** Notices, orders and other documents under this Act may be in writing or print, or partly writing and partly in print, and where the same requires authentication by the County government, the signature thereof by the Chief Officer shall be sufficient authentication.

### **Service of notices**

**142.** (1) Any notice required to be served in pursuance of this Act shall be served by delivering it personally to the person required to be served, or, if such person is absent or cannot be found—

- (a) by delivering it personally to the person required to be served, or, if such person is absent or cannot be found—
  - (i) by leaving it at the person's usual or last known place of abode or place of business;
  - (ii) by sending it by electronic communication or post, addressed to the person's usual or last known address;
- (b) in the case of a notice required to be served on a state organ, company or other corporate body, by delivering it to its principal

officer or by leaving it at his or her office with a person employed there, or by registered post.

(2) If any land holder is not known and, after diligent inquiry, cannot be found, such notice may be served on him or her by leaving it, addressed to him or her, with an occupier of the land or, if there is no apparent occupier, by causing it to be put in a conspicuous position on the property in Kenya last known to have been occupied by him or her.

(3) Any notice required to be given to a land holder may be addressed to the owner of land or premises described in the address in respect of which the notice is given.

(4) Any person who without reasonable cause pulls down or defaces any notice posted in pursuance of sub-section (1) and (2) shall be guilty of an offence and liable on conviction to a fine not exceeding Kenya Shilling fifty thousand or to imprisonment for a term of not less than three months.

(5) A power of function conferred by a license or otherwise conferred under this Act may be exercised or performed by another entity or person acting under an agreement with the licensee and shall be deemed, when exercised or performed by that to other entity or person, to have been exercised or performed under the license.

### **Public education and awareness**

**143.** (1) The County Government department responsible for environmental health and sanitation shall institute initiatives and steps regarding research, education, training, collaboration with relevant county departments and county officer responsible for public affairs, information and participation.

(2) Notwithstanding the obligation of the County government under subsection (1), every person whose activity presents a substantial risk to health or the environment shall provide education about the associated risks and the manner in which such may be mitigated.

### **Regulations**

**144.** The county Executive Member responsible for environmental health and sanitation matters in consultation with regulatory institutions established under national legislation in respect of environmental health and sanitation, environmental management and coordination and water services and resources management as well as the County Executive Committee members responsible for water, energy, trade, environment and agriculture may make Regulations generally for the better carrying into effect the provisions of this Act.

**FIRST SCHEDULE****(S.29)****SANITATION SERVICE ACTIVITIES**

1. Refuse or Garbage removal.
2. Refuse or Garbage collection.
3. Refuse storage.
4. Refuse transportation.
5. Refuse or Waste recovery or recycling.
6. Refuse or Waste disposal.
7. Refuse or Waste treatment.
8. Sewage haulage.
9. Maintenance of sanitary facilities for refuse disposal.
10. Incineration.
11. Establishment or operation of landfills.
12. Water treatment and distribution services.
13. Waste water treatment and disposal.
14. Cleaning services for public places and buildings.
15. Control of pests and vectors and vermin services including fumigation.
16. Cemeteries, crematoria and funeral parlour services.
17. Collection, transportation and disposal of dead animals.

**SECOND SCHEDULE**

(S.41)

**INFECTIOUS DISEASES****PART I**

1. Chancroid.
2. Cholera.
3. Diphtheria.
4. Dysenteries (all forms).
5. Ebola.
6. Gonococcal infections (all forms).
7. Leprosy.
8. Measles.
9. Plague.
10. Poliomyelitis (acute).
11. Rabies.
12. Relapsing fever
13. Syphilis (all forms).
14. Tetanus (all forms).
15. Tuberculosis (all forms).
16. Typhoid and paratyphoid fevers.
17. Typhus and other rickettsioses.
18. Viral encephalitis.
19. Viral hepatitis.
20. Whooping cough.
21. Yellow fever
22. Any other life threatening microbial infection.

**PART II**

Human immune deficiency virus infection (all forms)

**THIRD SCHEDULE**

(s.26)

**MEMBERSHIP AND PROCEDURES OF VILLAGE ENVIRONMENTAL HEALTH AND SANITATION COMMITTEE****Application of this schedule Membership**

1. This Schedule applies to Village Environmental Health and Sanitation Committees.

2. (1) in the Constitution of a Village Environmental Health and Sanitation Committee, appointments shall have regard to—

- (a) the guiding principle under section 5 of the Act;
- (b) the educational qualifications, relevant experience, character and integrity of persons proposed for appointment;
- (c) gender and community diversity; and
- (d) representation of diversity of users of sanitation services.

(2) Except for members serving by virtue of their office, members of a Committee shall be identified for appointment through an open, consultative and competitive process.

(3) The Committee may co-opt a member by a resolution supported by a half of the members.

**Term of office**

3. (1) A member other than one serving by virtue of their office shall hold office for such term, not exceeding three (3) years, as may be specified in the instrument of appointment.

(2) A member shall be eligible for re-appointment for one further term.

**Vacancy in office of member**

4. (1) The office of a member shall become vacant if—

- (a) he or she dies, resigns or is removed from office;
- (b) he or she absents himself or herself from four consecutive meetings of the committee of which reasonable notice has been given to the member, unless—
  - (i) the committee has granted the member leave to be absent from those meetings; or



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- (ii) within four weeks after the last of the four meetings, the member is excused by the committee for having been absent from the meetings;
- (c) the member becomes bankrupt, applies to take the benefit of any law for the relief of bankrupt or insolvent debtors, compounds with his or her creditors or makes an assignment of his or her remuneration for their benefit;
- (d) he or she is adjudged or declared by any competent court or tribunal to be of unsound mind; or
- (e) he or she is convicted of an offence punishable by imprisonment for twelve months or more.

(2) If the office of a member becomes vacant, the appointing authority shall fill the vacancies as prescribed in this Act.

**Chairperson**

5. (1) A Village Committee shall elect a Chairperson from among its members.

(2) A member may be elected to act in the office of Chairperson during the illness or absence of the Chairperson, and a member so appointed shall have all the powers and be able to carry out all the functions of the Chairperson.

**Terms and Conditions of service**

6. The terms and conditions of service of a member and chairperson of a Village Committee, including the remuneration, allowances and other expense to which the member shall be entitled to, shall be prescribed by Regulations made under this Act.

**Disclosure of pecuniary interest**

7. (1) A member of a Village Committee who has a direct or indirect pecuniary interest—

- (a) in a matter which is being considered, or is about to be considered, at a meeting of the Committee; or
- (b) in a thing being done or about to be done by the Committee, shall, as soon as possible after the relevant facts have come to the member's knowledge, disclose the nature of the interest at a meeting of the Committee.

(2) A disclosure to the Committee that the member concerned—

- (a) is a member, or is in the employment, of a specified company or any other body;
- (b) is a partner, or is in the employment, of a specified person; or
- (c) has some other specified interest relating to a specified company or other body or specified person, shall be deemed to be a sufficient disclosure of the nature of the interest in any matter or thing relating to that company or other body or to that person which may arise after the date of the disclosure.

(3) The Committee shall cause particulars of any disclosure made under sub-paragraph (1) or (2) to be recorded in a book kept for the purpose and that book shall be open at all reasonable hours to the inspection, free of charge, of any person.

(4) After a member has, or is deemed to have disclosed the nature of an interest in any matter or thing under sub-paragraph (1) or (2), the member shall not, unless it is otherwise determined—

- (a) be present during any deliberation or take part in any decision of the Committee with respect to that matter; or
- (b) exercise or perform any powers or functions under this Act with respect to the subject matter of the disclosure.

(5) A determination under sub-paragraph (4) may only be made by the Director in charge of environmental health and sanitation matters.

(6) sub-paragraph (4) does not apply to a member whose interest consistently of the fact that the member is the holder of a permit or license issued under this Act.

(7) A contravention of this paragraph does not invalidate any decision of the Committee or the exercise or performance of any power or function under this Act.

(8) A reference in this paragraph to a meeting of the Committee includes a reference to a meeting of any sub-committee of the Committee.

### **General procedure**

8. (1) Except as otherwise provided by or under this Act—

- (a) meetings of a Village Committee shall be held as often as may be necessary for the dispatch of their business but they shall not be less than four (4) any financial year;

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- (b) a meeting of a Village Committee shall be held on such date time and place as the chairperson may decide;
- (c) the chairperson shall, on the written application of one-third of the members convene a special meeting of the Committee;
- (d) unless the majority of the total membership of the Committee otherwise agree, at least fourteen days written notice of every meeting of the Committee; and
- (e) the procedure for the convening of meetings and for the conduct of business at those meetings shall be as determined by the Chairperson.

(2) Subject to the provisions of this schedule, a Village shall constitute its own procedures.

**Quorum**

9. A third of the members of a Village Committee shall constitute a quorum at any meeting of the Committee.

**Presiding members**

10. The Chairperson or, in the absence of the Chairperson, the acting Chairperson or in his or her absence, a member appointed by the members then present shall preside at a meeting of a Village Committee.

**Decisions**

11. A decision supported by a majority of the votes cast at a meeting of a Village Committee at which a quorum is present shall be the decision of the Committee.

**Record of proceedings**

12. (1) The chairperson, acting chairperson or any other presiding member at a meeting of a Village Committee shall cause a record of the proceedings at the meeting to be made.

(2) Records made for the purposes of this paragraph may be destroyed after the expiry of the period prescribed by Regulations made under this Act.

**Convening of first meeting**

13. The first meeting of the Committee shall be called by the Sub-County Public Health Officer or a responsible authority.

**Establishment of subcommittees**

**14.** (1) A Village Committee may for the purpose of performing its functions under this Act constitute any sub-committee, the chairperson of which shall be a member of the Committee, and may delegate to that sub-committee any of its functions.

(2) The Committee may appoint as members of a sub-committee established under sub-section (1), persons who are or are not members of the Committee and such persons shall hold office for such period as the Committee may determine: Provided that at least half of the members of a committee shall be members of the Committee.

(3) Subject to say specific or general directions of the Committee any subcommittee established under subsection (1), may regulate its own procedure.

