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THE KILIFI COUNTY CLIMATE CHANGE ACT, 2021

No. 1 of 2021

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THE KILIFI COUNTY CLIMATE CHANGE ACT, 2021

AN ACT of the County Assembly of Kilifi to put in place the framework and mechanisms for mobilization and facilitation of communities and other stakeholders in the county to respond effectively to climate change through appropriate adaptation and mitigation measures and actions and for connected purposes

ENACTED by the County assembly of Kilifi, as follows—

PART I—PRELIMINARY

Short title and commencement

1. This Act may be cited as the Kilifi County Climate Change Act, 2021 and shall come into upon publication in the *Kenya Gazette*.

Interpretation

2. In this Act unless the context otherwise requires—

“Adaptation” means adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects in order to moderate harm or exploit beneficial opportunities;

“Adaptive capacity” means the ability of a system to adapt to the impacts, cope with the consequences, minimize potential damages, or take advantage of opportunities offered by climate change or climate variability;

“Authority” means the National Environment Management Authority established by the Environmental Management and Coordination Act, 1999 as amended by the Environmental Management and Coordination (Amendment) Act, 2015;

“Civil Society Organizations” means as defined in the Non-Governmental Organizations Co-ordination Act (No. 19)1990;

“Climate change” means a change in the climate system which is caused by significant changes in the concentration of greenhouse gases as a consequence of human activities and which is in addition to natural climate change that has been observed during a considerable period of time;

“Community Based Organizations” means as defined in the Kenya Public Benefits Organization Act (No.18) 2013;

“Directorate” means the Climate Change Directorate established under section 9(1) of the Climate Change Act, 2016;

“Environment” has the meaning assigned to it in section 2 of the Environmental Management and Coordination Act;

“Executive Committee Member” means the County Executive Committee Member for the time being in charge of environmental matters in the County Government of Kilifi;

“Fund” means the County Climate Change Fund established under section 46 of this Act;

“Fund Administrator” means the Fund Administrator appointed in accordance with section 49 of this Act;

“Mitigation” means preventing, reducing or slowing down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases;

“Planning Committee” means the County Climate Change Planning Committee established under section 17 of this Act;

“Private entity” means a body or person with functions of a private nature, and includes bodies registered under the Public Benefits Organisations Act, 2013;

“Public Benefits Organizations” means as defined in the Kenya Public Benefits Organization Act (No.18) 2013.

“Public entity” means a body or person with functions of a public nature;

“Resilience” means the ability of a social, economic or ecological system to absorb disturbances while retaining the same basic structure and ways of functioning, the capacity for self-organization and the capacity to adapt to stress and change;

“Steering Committee” means the County Climate Change Steering Committee established under section 5 of this Act;

“Vulnerability” means the conditions determined by physical, social, economic and environmental factors or processes, which increase the susceptibility of a system to the impact of hazards;

“Ward Planning Committee” means the Ward Climate Change Planning Committee established under section 26 of this Act.

Objects and purposes

3. (1) The object of this Act is to enhance climate resilience through development, management, implementation, regulation and monitoring of adaptation and mitigation measures and actions.

(2) Without prejudice to subsection (1), this Act shall be applied by the county government in all sectors of the economy to—

- (a) mainstream climate change responses into development planning, decision making and implementation;
- (b) implement coordinated and integrated response to climate change and its impacts by all actors and stakeholders;
- (c) facilitate effective management of climate change impacts by enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change;
- (d) promote, support and facilitate community-based and community initiated adaptation and mitigation activities;
- (e) enforce duties and provide incentives for the private sector to contribute to achievement of low carbon climate resilient development;
- (f) facilitate public participation in climate change response through capacity development, awareness creation, consultation, representation and access to information;
- (g) establish frameworks and mechanisms for mobilization, transparent and accountable management of financial and other resources for climate change response;
- (h) establish and implement mechanisms to promote and facilitate climate change research and development, training and capacity building;
- (i) integrate climate change into the exercise of power and functions of all levels of the county government, including in decentralized units and enhance cooperative climate change governance between the county, neighbouring counties and the national government;
- (j) contribute to national efforts to address the adverse impacts of climate change.

Guiding values and principles

4. The application and interpretation of this Act and the making or implementation by the county government of any policy on climate change shall be guided by the following values and principles—

- (a) Community driven and bottom-up planning of response to climate change;

- (b) Commitment to informed participation of communities in planning and implementation of climate change response interventions;
- (c) Recognition, respect and integration of indigenous knowledge of communities in climate change response;
- (d) Planning and implementation of climate change response to be anchored in and supportive of devolution;
- (e) Flexible learning approach to addressing challenges of climate change;
- (f) Investment in public goods to foster adaptation to climate change;
- (g) Inclusion of all major actors in planning and implementation of climate change response;
- (h) Protection of the climate system for the benefit of present and future generations;
- (i) Ensuring a just transition for all towards an environmentally sustainable economy and society in the light of county circumstances and developmental goals;
- (j) National values and principles of governance spelt out in Article 10 of the Constitution;
- (k) Values and principles of public service spelt out in Article 232 of the Constitution;
- (l) Promotion and protection of the right to a clean and healthy environment in accordance with Article 42 of the Constitution;
- (m) Commitment to fulfillment of the state obligations in respect of the environment as stipulated under Article 69 of the Constitution.

PART II—CO-ORDINATION AND OVERSIGHT

County Climate Change Steering Committee

5. There is established a Committee to be known as the Kilifi County Climate Change Steering Committee.

Functions of Steering Committee

6. The Steering Committee shall coordinate and oversee climate change response in the county, and in this connection shall—

- (a) ensure mainstreaming of climate change into county planning and development processes;

- (b) coordinate formulation and monitor implementation of the County Climate Change Action Plan, County Climate Finance Framework and any other county climate change policies, plans and strategies;
- (c) supervise the administration of the County Climate Change Fund established under this Act;
- (d) review, approve and monitor implementation of Regulations for administration and management of the Fund;
- (e) review and make recommendations on the biennial report on implementation of the County Climate Change Action Plan and any other reports on climate change response interventions in the county;
- (f) advise the county government on legislative, policy and other measures necessary for climate change response and attainment of low carbon climate change resilient development;
- (g) approve and oversee the implementation in the county of a comprehensive programme of climate change education, awareness creation and capacity building;
- (h) provide policy direction on research, training and dissemination of information relating to climate change to the public and other stakeholders in the county;
- (i) ensure positive linkages, interactions and synergy between the county, neighbouring counties and the national government in climate change response programming and action;
- (j) ensure a coordinated approach to climate change response programming and action within the county government, between the county government and national government, and among the different stakeholders in the county; and
- (k) perform any other functions that may further the foregoing objectives and/or may be assigned by the county government.

Composition of Steering Committee

7. (1) The Steering Committee shall comprise of not more than 12 members who shall be appointed by the Governor.

(2) The members of the Steering Committee shall be—

- (a) County Executive Committee Member responsible for matters related to environment who shall be the chairperson;
- (b) the County Attorney;

- (c) Chief Officer responsible for matters related to Environment;
- (d) Chief Officer responsible for matters related to Agriculture;
- (e) Chief Officer responsible for matters connected to Water;
- (f) Chief Officer responsible for matters related to Finance;
- (g) Chief Officer responsible for matters related to Energy;
- (h) County Drought Co-ordinator;
- (i) Three other members appointed by the County Executive Committee Member who shall be persons from within the County representing—
 - (i) either Public Benefit Organizations or Community Based organizations or Civil Society Organizations active on climate change within the County;
 - (ii) the business community; and
 - (iii) faith based organizations.

(3) A person shall not qualify to be nominated for appointment under subsections (2)(h) unless the person has demonstrable experience, expertise and interest in issues of climate change, natural resource management and/or environmental conservation and has actively and publicly engaged with these issues in the county

(4) Without prejudice to the provisions of subsection (3) a person shall qualify to be nominated for appointment under subsection (2)(e) if such person is—

- (a) is a citizen of Kenya;
- (b) fulfills the requirements of Chapter 6 of the Constitution; and
- (c) has at least five years' experience in a relevant field.

(4) Not more than two thirds of the membership shall belong to the same gender and the Governor shall take this into consideration in the appointment of members under sub sections (2)(i) of the Steering Committee.

Term of Office

8. Members of the Steering Committee appointed under section (7)(2)(i), shall serve for a term of three years, renewable once.

Secretary of the Steering Committee

9. The Chief Officer in charge of Environment shall serve as the secretary of the Steering Committee.

Removal from Office

10. (1) A member of the Steering Committee may be removed from office only for—

- (a) violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office;
or
- (d) incompetence or neglect of duty.

(2) The Governor may, upon the recommendation of the Steering Committee terminate the appointment of a member appointed under section 7(2)(i) on any of the grounds specified under subsection (1).

Vacation of Office

11. A person shall cease to be a member of the Steering Committee if such person—

- (a) resigns in writing, to the Governor;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is declared bankrupt;
- (d) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- (e) dies.

Filling of vacancy

12. Where a vacancy occurs in the membership of the Steering Committee under section 10 or 11, the Governor shall, if the vacancy relates to any of the positions specified under section 7 (2) (i), appoint a new member in accordance with the provisions of this Act.

Conduct of Business and Affairs of the Steering Committee

13. (1) The conduct and regulations of the business and affairs of the Steering Committee shall be provided in the First Schedule to this Act.

(2) Except as provided in the First Schedule, the Steering Committee may regulate its own procedure.

Allowances for members of the Steering Committee

14. Members of the Steering Committee shall be paid such allowances as the Salaries and Remuneration Commission may determine

Delegation of powers by the Steering Committee

15. (1) Subject to the provisions of this Act, the Steering Committee may, either generally or in a particular case, delegate the exercise of any of its functions under this Act to any Subcommittee or to any member of the Steering Committee or officer or agent thereof.

Co-opting of Members

16. The Steering Committee may co-opt any person to be a member of the Committee where the matter under consideration affects the interest of the person concerned.

**PART III—INSTITUTIONAL FRAMEWORK FOR PLANNING
AND IMPLEMENTATION***A. Kilifi County Climate Change Planning Committee***Establishment of Planning Committee**

17. There is established the Kilifi County Climate Change Planning Committee.

Composition of Planning Committee

18. (1) The Planning Committee shall comprise of the following not more than 9 members who shall be appointed by the Governor—

- (a) Chief Officer in charge of environment who shall be the chairperson;
- (b) Director in charge of matters related to climate change;
- (c) Director in charge of matters related finance;
- (d) Director in charge of matters related to agriculture;
- (e) Director in charge of matters related to water;
- (f) Four other members appointed by the County Executive Committee Member who shall be persons representing—
 - (i) umbrella organization representing the largest number of public benefit organizations in the county;
 - (ii) business community in the county nominated by the county business community network;

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(iii) women in the county nominated by the county women's network;

(iv) youth in the county nominated by the county youth network

(g) the Administrator of the Fund, who shall be the Secretary, and an *ex-officio* member with no voting rights.

(2) The County Executive Committee Member shall ensure compliance with the two thirds gender principle in the appointment of members under sub sections (1) (f).

(3) The Committee may co-opt not more than two other members to offer technical expertise.

(4) A person shall be qualified for appointment as a Member under sub-section (1) (g) if the person—

(a) holds at least a diploma from a recognized institution of higher learning;

(b) has knowledge and experience of at least two years in a related field;

(c) meets the requirements of Chapter Six of the Constitution; and

(d) is a resident of the County.

Term of Planning Committee

19. Members of the Planning Committee appointed under-section 17(1)(g) shall serve for a term of 3 years renewable once.

Functions of Planning Committee

20. The functions of the Planning Committee shall be—

(a) to coordinate planning, and implementation of projects and activities for climate change response in the county;

(b) to coordinate implementation of the County Climate Change Action Plan and the County Climate Finance Framework;

(c) establish guidelines to be used by Ward Planning Committees in formulating climate response projects for funding by the County Climate Change Fund;

(d) support Ward Planning Committees in development and implementation of climate response projects;

(e) coordinate development and implementation of the County Climate Change Fund Regulations;

- (f) advise the Steering Committee on strategies, priority programmes, projects and activities for climate change response in the county;
- (g) formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the county;
- (h) support and implement research, training and dissemination of climate change knowledge and information in the county;
- (i) formulate and implement a county monitoring, evaluation and reporting framework for climate change response.

Conduct of Business and Affairs of the Planning Committee

21. (1) The conduct and regulations of the business and affairs of the Planning Committee shall be provided in the Second Schedule to this Act.

(2) Except as provided in the Second Schedule, the Planning Committee may regulate its own procedure.

Allowances for members of Planning Committee

22. Members of the Planning Committee shall be paid such allowances as the Salaries and Remuneration Commission may determine.

Removal from Office

23. (1) A member of the Planning Committee may be removed from office only for—

- (a) violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the member's functions or otherwise;
- (c) physical or mental incapacity to perform the functions of office;
or
- (d) incompetence or neglect of duty.

(2) The County Executive member may, upon the recommendation of the Planning Committee terminate the appointment of a member of the Planning Committee on any of the grounds specified under subsection (1).

Vacation from Office

24. A person shall cease to be a member of the Planning Committee if such person—

- (a) resigns in writing, to the County Executive member;

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- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is declared bankrupt;
- (d) is unable to perform the functions of his or her office by reason of mental or physical infirmity; or
- (e) dies.

Filling of Vacancy

25. Where a vacancy occurs in the membership of the Planning Committee under section 22 or 23, the County Executive member shall, if the vacancy relates to any of the positions specified under section 17 (1) (g), appoint a new member in accordance with the provisions of this Act.

*A. Ward Climate Change Planning Committee***Establishment of Ward Planning Committees**

26. There shall be established The Kilifi County Ward Climate Change Planning Committee in each ward.

Composition of Ward Planning Committee

27. (1) A Ward Planning Committee shall be composed of not more than 7 members representing the diverse interests in the community, namely—

- (i) one male elder;
- (ii) one female elder
- (iii) one male youth;
- (iv) one female youth;
- (v) one male person living with disability;
- (vi) one female person living with disability;
- (vii) one person representing Community-Based Organizations in the Ward and actively engaged in climate change response activities who shall be nominated by an officially recognized Ward level network of Community-Based Organizations;
- (viii) the Ward Administrator who shall be the Secretary, and an *ex-officio* member with no voting rights.

(2) Nomination of members falling under subsections (1)(i), (ii), (iii), (iv), (v) and (vi) shall be conducted by representatives of the respective groups at a meeting convened by the Ward Administrator in Consultation

with the area member of County Assembly at the Ward headquarters for that purpose and presided over by the Sub county Environment Officer or a representative thereof.

(3) The Ward Administrator shall ensure that all interest groups are equitably represented by location at the nominations meeting, and the list of persons attending the meeting disaggregated by interest group and location shall constitute part of the record of the meeting.

(4) The notice convening the meeting under subsection (2) shall be issued not less than 14 days prior the date thereof, and shall be widely publicized through public barazas, community radio stations, and other all forms of media available in the ward.

(5) Nomination of the representative of Community-Based Organizations shall be done through a meeting convened by the relevant network for that specific purpose, and communicated to the Ward Administrator in writing with a certified copy of the resolution.

(6) Where there is no officially recognised ward level network of Community-Based Organizations, the Ward Administrator will consult with the area Member of County Assembly to agree on the appropriate representative under subsection (1)(vii).

(7) Within 30 days of the conclusion of the nominations, the Ward Administrator shall present the list of nominees to the Sub county Environment Officer who shall formally appoint the members, publicise the list as widely as possible within the ward, and share it with the Kilifi County Planning Committee for information.

Qualifications for appointment to Ward Planning Committees

28. (1) A person shall not qualify for appointment to serve on the Ward Planning Committee, unless he or she—

- (a) is a resident of the ward;
- (b) fulfils the requirements of Chapter Six of the Constitution on leadership and integrity;
- (c) demonstrates basic knowledge of climate matters and has engaged in activities aimed at addressing the challenges of climate change in the county;
- (d) indicates willingness to serve the community.

(2) Without prejudice to the provisions of subsection (1), persons nominated under section 26(1)(iii), (iv), (v), (vi) and (vii) shall have a minimum of form four level of education.

Functions of Ward Planning Committees

29. (1) The functions of the Ward Planning Committee shall be—

- (a) to co-ordinate and mobilize communities and other stakeholders in the ward to design and implement climate change response activities;
- (b) to co-ordinate research, knowledge management, public education, awareness creation, and capacity building on climate change, its impacts and strategies for responding thereto;
- (c) to co-ordinate, facilitate and manage community consultations on priority climate change response activities;
- (d) facilitate public participation in climate change governance, implementation of agreed climate change response activities, and monitoring of those activities;
- (e) co-ordinate and facilitate provision of technical support to communities in the ward in developing proposals on climate change response projects for funding by the County Climate Change Fund;
- (f) to oversee implementation of climate change response projects funded by the County Climate Change Fund and report thereon to the Planning Committee;
- (g) to perform any other functions that may be assigned to it by the Planning Committee.

Term of Office

30. Save for the Ward Administrator, members of the Ward Planning Committee shall serve for one non-renewable term of five years

Conduct of Business and Affairs of the Ward Planning Committee

31. (1) The conduct and regulations of the business and affairs of the Ward Planning Committee shall be provided in the Third Schedule to this Act.

(2) Except as provided in the Schedule, the Ward Planning Committee may regulate its own procedure.

Allowances for members of Ward Planning Committees

32. Members of the Ward Planning Committee shall be paid such allowances as the Salaries and Remuneration Commission may determine.

**PART IV—MEASURES AND ACTIONS FOR RESPONDING TO
CLIMATE CHANGE****County Climate Change Action Plan**

33. (1) The Executive Committee Member shall in consultation with the Steering Committee and relevant sectors and through a participatory process involving relevant stakeholders, formulate a Kilifi County Climate Change Action Plan.

(2) The Kilifi County Climate Change Action Plan shall be for a period of five years and shall run concurrently with the current National Climate Change Action Plan

(3) Without prejudice to the provisions of subsection (1), the Executive Committee Member shall within one year of the coming into force of this Act coordinate development of an interim Kilifi County Climate Change Action Plan for the remainder of the period of the current National Climate Change Action Plan

(4) The Kilifi County Climate Change Action Plan shall be reviewed and updated every five years through the same participatory process as the one followed in its formulation.

Contents of Kilifi County Climate Change Action Plan

34. The Kilifi County Climate Change Action Plan shall—

- (a) be aligned to the current National Climate Change Action Plan and respond to the specific needs and circumstances of the county;
- (b) contain a climate change needs and response assessment for the county;
- (c) articulate a climate change response implementation plan informed by the climate change needs and response assessment, and specifying measures and mechanisms for—
 - (i) guiding the county toward the achievement of low carbon climate resilient sustainable development;
 - (ii) mainstreaming climate change into county development plans, programmes, strategies and projects;
 - (iii) adaptation to and mitigation against climate change;
 - (iv) enhancing research, capacity building and knowledge management on climate change and climate change response;

- (v) enhancing public awareness for effective participation in climate change response;
- (vi) monitoring, evaluation and periodic review to integrate learning and best practice in the implementation of the Kilifi County Climate Change Action Plan

Approval of the Kilifi County Climate Change Action Plan

35. The Kilifi County Climate Change Action Plan shall be approved by the Steering Committee and laid before the Cabinet for approval and then the County Assembly for adoption.

Biennial review of the Kilifi County Climate Change Action Plan

36. The Planning Committee shall undertake a biennial review of the implementation of the Kilifi County Climate Change Action Plan and report to the Steering Committee.

PART V—DUTIES RELATING TO CLIMATE CHANGE

Climate change duties of public entities

37. (1) The Steering Committee may, on recommendation of the Executive Committee Member and in consultation with relevant Executive Committee Members, impose duties relating to climate change on any public entity operating within the county.

(2) The imposition of climate change duties under subsection (1) shall be effected through regulations and preceded by public sensitization and consultations.

(3) Any public entity on which a climate change duty has been imposed shall in performing the said duty act in a manner best suited to the successful implementation of this Act and the County Climate Change Action Plan.

(4) Without prejudice to the provisions of subsection (1), every public entity operating in the county shall have the duty to—

- (a) mainstream climate change into sectoral strategies, plans and other frameworks for implementing its statutory functions;
- (b) perform its statutory functions in a manner that contributes to the implementation of the County Climate Change Action Plan;
- (c) support the Steering Committee and the County Government in its planning, programming, implementation and monitoring of climate change response in the county; and

- (d) report annually to the Steering Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.

Climate change duties of private entities

38. (1) The Steering Committee may, on recommendation of the Executive Committee Member and in consultation with relevant Executive Committee Members, impose duties relating to climate change on any private entity operating within the county.

(2) The Steering Committee shall make regulations governing the nature and procedure for reporting on performance of climate change duties by private entities, including monitoring and evaluation of compliance.

Monitoring and reporting on compliance

39. (1) The County Director of Environment shall on behalf of the Steering Committee, monitor, investigate and report on whether public and private entities are in compliance with the assigned climate change duties, and in performance of this function she or he shall—

- (a) have all powers necessary for purposes of monitoring and investigation including the power to enter premises of any private entity and make an enquiry; and
- (b) at a reasonable hour, for the purposes of monitoring and investigation, enter any private land or premises to make an inspection or other task related to this function.

(2) The County Director of Environment shall report to the Steering Committee on the performance of functions under subsection (1) on annual basis, and such report shall form part of the report by the Steering Committee to the County Assembly

Steering Committee may require private entity to report on performance

40. Notwithstanding the provisions of section 37, the Steering Committee may—

- (a) by notice in the Gazette, require a private entity that is subject to climate change obligations to prepare reports on the status of its performance thereof and prescribe the period for reporting; and
- (b) require any private entity that fails to perform its climate change duties to prepare a report within a specified time, on the actions it has taken, is taking or intends to take to ensure future performance of those duties.

Annual County Climate Change Response Report

41 (1) The Steering Committee shall, within three months after the end of every financial year, publish publicly and submit a report on implementation of the Kilifi County Climate Change Action Plan and other climate change response actions and impacts to the County Assembly for review, discussion and debate.

(2) The County Assembly shall, within three months of receiving the report, provide recommendations and proposed actions to the Steering Committee.

(3) A copy of the report issued under subsection (1) shall be forwarded to the Directorate for information purposes.

PART VI—PUBLIC PARTICIPATION AND ACCESS TO INFORMATION**Values and principles to apply to planning and implementation**

42. The planning and implementation of climate response in the county shall be informed by the values and principles specified in section 4 of this Act

County strategy for climate change education and public awareness

43. (1) Within one year of this Act coming into force, the Planning Committee shall develop a comprehensive county strategy for public education and awareness creation on climate change.

(2) The strategy shall be developed through a participatory process involving all stakeholders in the county, and validated at public meetings organized by Ward Planning Committees in every ward.

(3) The strategy shall be approved by the Steering Committee and its implementation mainstreamed into the County Climate Change Action Plan.

Public sensitization to precede formulation of climate change response plans

44. (1) The Planning Committee and Ward Planning Committees shall ensure that the development of any climate change response programme, plan, project or activity in the county is preceded by comprehensive campaign of public sensitization and awareness creation to facilitate informed public participation.

(2) The Planning Committee and the Ward Planning Committees shall report to the Steering Committee on public sensitization campaigns undertaken with reference to every climate change response programme,

plan, project or activity in the county and demonstrate how the sensitization has made impact on the threshold of decision making.

(3) The report on public sensitization and awareness creation on climate change programmes, plans, projects and activities shall be included in the reports of the Steering Committee.

Capacity building for effective public participation

45. (1) The Steering Committee shall ensure that the Planning Committee and Ward Planning Committees implement comprehensive programmes of capacity building to equip individual citizens and communities in the county for effective participation in climate change governance and response.

(2) The Planning Committee and Ward Planning Committees shall support and facilitate communities to establish Community-Based Organizations and other frameworks for mobilization and engagement with climate governance and response issues in the county.

Access to information

46. The Steering Committee, the Planning Committee, the Ward Planning Committee shall publish, publicize and ensure access to all important climate change information in their possession.

PART VII—COUNTY CLIMATE CHANGE FUND

Establishment of County Climate Change Fund

47. (1) There is hereby established the County Climate Change Fund to provide funding for priority climate change actions and interventions identified by communities and other stakeholders and approved by the Steering Committee

(2) The Fund shall be vested in the County Treasury, administered by the Fund administrator designated by the County Executive Committee Member for Finance and Economic Planning.

Sources of the Fund

48. The Fund shall be financed through—

- (a) Initial capital appropriated by the County Assembly, being not more than 0.5 percent of the county development budget and a subsequent annual appropriation by the County Assembly, which shall be not more than 0.5 percent of the annual development budget of the County;
- (b) Money received from the Climate Change Fund of the National Government;

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- (c) International Climate Finance received by the county directly or through the National Designated Authority, National Implementing Entity or other agency;
- (d) Donations, endowments, bequests, grants and gifts from individuals, public and private entities local or foreign;
- (e) Charges, fees, levies or fines received by the county government in connection with activities that adversely impact on climate in the county;
- (f) Interest and any other money that may lawfully accrue to the Fund in any form.

Fund Administrator

49. (1) Pursuant to Section 116 (2) of the Public Finance Management Act, 2012, the Executive Committee Member in charge of Finance shall designate a person responsible for administering the Fund.

(2) The functions of the Fund Administrator shall be guided by provisions of the Public Finance Management Act, 2012 relating to funds and regulations set out in this Act.

Regulations

50. (1) The Executive Committee Member shall, in consultation with the Executive Committee Member in charge of Finance and the Steering Committee, develop Regulations for the better carrying into effect the provisions of this Act.

(2) The Regulations made under subsection (1) shall provide for the following, among other matters—

- (a) formulation of the County Climate Finance Framework;
- (b) Functions of the Fund Administrator;
- (c) operation of the Fund;
- (d) eligibility criteria for accessing money from the Fund;
- (e) development of project proposals, application for and disbursement of money from the Fund;
- (f) procurement of services and goods;
- (g) complaints mechanism; and
- (h) monitoring, evaluation, reporting and learning.

PART VIII—FINANCIAL PROVISIONS**Funding operations of Steering and Planning Committees**

51. (1) The operational expenses incurred by the Steering Committee, the Planning Committee and Ward Planning Committees in the performance of their respective functions, and such other operational expenses incurred in the administration of the Fund shall be set aside at the beginning of the financial year and shall not be more than three (3 %) per centum of the total allocation to the Fund in the financial year.

(2) The personal emoluments of County Government officers working or involved in the management of the Fund shall be provided for under the recurrent expenditure of the County Government but any other emoluments or payments to such officers from the Fund shall be determined by the County Executive Committee Member.

Annual estimates for Steering and Planning Committees

52. At least three months prior to the commencement of each financial year, the Executive Member shall cause to be prepared the estimates of revenue and expenditure of the Steering Committee, the Planning Committee and the Ward Planning Committees for the year.

Financial year of Steering and Planning Committees

53. The financial year of the Steering Committee, the Planning Committee and the Ward Planning Committees shall be the period of twelve months ending the thirtieth June in each year.

Accounts and audit of Steering and Planning Committees

54. The Steering Committee shall cause to be kept all proper books and records of income, expenditure and assets of the Fund.

PART IX—MISCELLANEOUS PROVISIONS**Protection from personal liability**

55. (1) No action taken or thing done by a member, officer or agent of the Steering Committee, the Planning Committee or the Ward Planning Committee in good faith and in performance of functions or execution of powers vested in the said committees by this Act, shall render the member, officer or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Steering Committee, the Planning Committee or Ward Planning Committees of liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by negligence in the

exercise of any power conferred by this Act or any other written law or by failure wholly or partially of any works.

Offences and penalties

56. Any person who—

- (a) without lawful excuse ignores or fails to obey any instructions issued by any member or officer or agent of the Steering Committee, the Planning Committee or Ward Planning Committee in exercise of the powers or performance of the functions of the Committees under this Act; or
- (b) willfully obstructs any member or officer or agent of the Steering Committee, the Planning Committee or Ward Planning Committee in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to any member or officer or agent of the Steering Committee, the Planning Committee or Ward Planning Committee in exercise of powers or the performance of the functions of the said Committees under this Act,

commits an offence and shall be liable upon conviction to the punishment provided for under section 33(1) of the Climate Change Act, 2016

FIRST SCHEDULE**(s. 13)****PROVISIONS AS TO THE CONDUCT OF BUSINESS AND
AFFAIRS OF THE STEERING COMMITTEE****Meetings**

1. (1) The Steering Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The Chairperson shall convene the ordinary meetings of the Steering Committee for the transaction of the business of the Steering Committee.

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the Steering Committee, convene a special meeting of the Steering Committee at any time where he considers it expedient for the transaction of the business of the Steering Committee.

(4) Unless three quarters of the total number of the members of the Steering Committee otherwise agree, at least fourteen days written notice of every meeting of the Steering Committee shall be given to every member of the Steering Committee by the Secretary.

(5) The quorum for the conduct of the business of the Steering Committee shall be two-thirds of the total number of members including the Chairperson or the person presiding.

(6) The Chairperson shall preside at every meeting of the Steering Committee at which he is present and in his absence, the members of the Steering Committee present shall elect one person from their number to preside over the meeting of the Steering Committee and he shall have all the powers of the Chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the Steering Committee shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the Steering Committee shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of this Schedule, the Steering Committee may determine its own procedure and the procedure for any committee of the Steering Committee and for the attendance of other persons at its meetings thereof.

Conflict of Interest

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or any other matter before the Steering Committee and is present at a meeting of the Steering Committee at which a contract, proposed contract or any other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

(2) A disclosure of interest made under paragraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the Authority by any person generally or specially authorized by the Steering Committee for that purpose.

SECOND SCHEDULE

s. 20

**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND
AFFAIRS OF THE PLANNING COMMITTEE****Meetings**

1. (1) The Planning Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) The Chairperson shall convene the ordinary meetings of the Planning Committee for the transaction of the business of the Planning Committee.

(3) Despite the provisions of sub-paragraph (1), the Chairperson shall, upon a written request by at least five members of the Planning Committee, convene a special meeting of the Planning Committee at any time where he considers it expedient for the transaction of the business of the Planning Committee.

(4) Unless three quarters of the total number of the members of the Planning Committee otherwise agree, at least fourteen days written notice of every meeting of the Planning Committee shall be given to every member of the Planning Committee by the Chairperson.

(5) The quorum for the conduct of the business of the Planning Committee shall be two-thirds of the total number of members including the Chairperson or the person presiding.

(6) The Chairperson shall preside at every meeting of the Planning Committee at which he is present and in his absence, the members of the Planning Committee present shall elect one person from their number to preside over the meeting of the Planning Committee and he shall have all the powers of the Chairperson.

(7) Unless a unanimous decision is reached, a decision on any matter before the Planning Committee shall be by a majority of the votes of the members present and voting and in the case of an equality of votes, the Chairperson or person presiding over the meeting shall have a casting vote.

(8) The proceedings of the Planning Committee shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of this Schedule, the Planning Committee may determine its own procedure and the procedure for any committee of the Planning Committee and for the attendance of other persons at its meetings thereof.

Conflict of Interest

2. (1) If a member is directly or indirectly interested in any matter before the Planning Committee and is present at a meeting of the Planning Committee at which that matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

(2) A disclosure of interest made under sub-paragraph (1) shall be recorded in the minutes of the meeting at which it is made.

THIRD SCHEDULE**(s. 30)****PROVISIONS AS TO THE CONDUCT OF BUSINESS AND
AFFAIRS OF THE WARD PLANNING COMMITTEE**

1. The Committee shall meet at least once in every three months to conduct the business of the Committee.

2. The chairperson may on his or her own motion, or upon request by a member, call a special meeting of the Committee at any time, where he or she considers it expedient for the transaction of the business of the Committee.

3. Other than a special meeting, or unless three quarters of members agree, at least seven days' written notice of every meeting of the Committee shall be given to every member of the Committee by the Secretary.

4. The quorum at a meeting of the Committee shall be half of the members or such greater number as may be determined by the Committee in respect of an important matter.

5. The chairperson shall preside at the meetings of the Committee and in the absence the chairperson, the vice-chairperson or a member of the Committee elected by the members present from among their number shall preside.

6. The matters of the Committee shall be decided by a majority of the members present and voting and in the event of equality of votes, the person presiding shall have a casting vote.

7. The proceedings of the Committee shall not be invalidated by reason of a vacancy among the members or a defect in the appointment or qualification of a member.

8. At the first meeting of the Committee, the members shall elect a Chairperson and a vice-chairperson, not being an *ex-officio* member, from among its members.

