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Act—

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THE KWALE COUNTY CLIMATE CHANGE ACT, 2022

No. 4 of 2022

Date of Assent: 25th July, 2022

Date of Commencement: See Section 1

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THE KWALE COUNTY CLIMATE CHANGE ACT, 2022

AN ACT of the County Assembly of Kwale to provide for the establishment of an appropriate legal and institutional framework for integrating and mainstreaming climate change responses, measures and actions into county development planning and decision making processes, climate change finance mechanisms and for connected purposes

ENACTED by the Kwale County Assembly, as follows —

PART I — PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Kwale County Climate Change Act, 2022 and shall come into force on the fourteenth day after its 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, minimise potential damages, or take advantage of opportunities offered by climate change or climate variability

"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;

"climate change unit" means the County Climate Unit established to support coordination of climate change matters in the County as established under section 13 of this Act;

"climate finance" means financing channeled by local and international entities, the National Government, County Government to facilitate climate change adaptation and mitigation;

"climate finance framework" means a context specific policy items established under this Act to guide in the application of the Fund;

"constitution" means the Constitution of Kenya, 2010;

"county" means Kwale County;

"county assembly" means the County Assembly of Kwale;

"county planning committee" means the County Climate Change Planning Committee established under Section 5 of this Act

"committee" means the County Climate Change Planning Committee

"county government" means the Kwale County Government;

"county treasury" has the meaning assigned to it under section 103 of the Public Finance Management Act 2012;

"county executive committee member" means the County Executive Committee Member in charge of Climate Change;

"directorate" means the Climate Change Directorate established under *section 9 (1) of the Climate Change Act, 2016*;

"fund" means the County Climate Change Fund established under Section 37(1) of this Act and in accordance with the Public Finance Management Act, 2012;

"fund administrator" means the Administrator of the County Climate Change Fund appointed in accordance with the Public Finance Management Act, 2012;

"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

"Public Benefit Organization" has the meaning assigned to it under the Public Benefits Organizations Act 2013;

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

"private sector" all persons or entities within the County including individuals, partnerships, associations, corporations, and educational and nonprofit institutions, but shall not include public officers, state officer, parastatals or public institutions.

"public entity" means a body funded by exchequer;

"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 organisation and the capacity to adapt to stress and change;

"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 15 of this Act.

Objects and Purposes

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

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

(a) set forth the guiding principles for climate change measures and actions;

(b) establish an appropriate coordination and implementation mechanism for climate change measures and actions;

(c) establish a transparent and accountable financing mechanism for climate change measures and actions;

(d) strengthen climate resilience of communities in Kwale County & capacities for climate risks reduction & management;

(e) catalyze transition towards low-emissions development and green economy anchored on resource-use efficient technologies and processes;

(f) develop a framework to mainstream climate change considerations across sectors and into integrated planning and budgeting processes;

(g) facilitate public participation to enhance ownership and budget oversight and accountability for the county climate change response;

(h) develop a transparent and accountable monitoring, evaluation, and reporting platform to track progress in the implementation of climate actions;

(i) establish a framework for promoting collaboration and cooperation with public entities, private sector, civil society organizations and development partners;

(j) enhance research and use of evidence, including indigenous knowledge in climate action planning;

(k) maintenance of inventory and database;

(l) establish a framework for promoting adaptation and mitigation actions to curb effects of climate change by both private and public entities within the county;

(m) enhance education and awareness on climate change.

Guiding Values and Principles

4. The following guiding values and principles shall be applied by all persons and institutions in interpreting, implementing and/or discharging any functions under this Act—

(a) the national values and principles of governance spelt out in Article 10 of the Constitution of Kenya;

(b) the values and principles of public service spelt out in Article 232 of the Constitution of Kenya;

(c) the provisions of articles 42 and 69 of the Constitution of Kenya;

(d) Common but differentiated responsibility;

(e) Right to sustainable development;

(f) Polluter pays principle;

(g) Ecosystem-based approach;

(h) Partnerships;

(i) Inter-governmental cooperation;

(j) Social inclusion;

(k) Intra & Inter-generational Equity;

(l) Public participation and access to information;

(m) Integrity and transparency;

(n) Cost effectiveness.

PART II —INSTITUTIONAL FRAMEWORK

Establishment of the County Planning Committee

5. There is established the County Planning Committee which shall comprise of 15 members appointed to the Committee by the County Executive Committee Member

Functions of the County Planning Committee

6. (1) The County Planning Committee shall be responsible for strategic planning and coordination of climate change response measures and actions in the county.

(2) Without prejudice to the generality of the foregoing subsection, the County Planning Committee shall—

(a) coordinate the preparation of the County Climate Change Action Plan, County Climate Change Finance Framework and other climate change related plans, programmes and strategies;

(b) oversee the mainstreaming of climate change actions into county development planning and budget processes across all sectors;

(c) coordinate planning of County Government programmes, projects and activities for climate change response in the county;

(d) advise the County executive committee member on strategies, priority programmes, projects and activities for climate change response in the county;

(e) prepare guidelines and criteria for screening and approval of climate response projects for funding by the County Climate Change Fund;

(f) consider and make decisions on applications for funding of climate change programmes, projects and activities under the County Climate Change Fund;

(g) formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the county;

(h) develop the county's climate change research agenda, training and dissemination of climate change knowledge and information in the county;

(i) formulate and oversee the implementation of a county monitoring, evaluation, reporting and learning framework for climate change response; and,

(j) perform any other climate change related functions as may be assigned by the County Executive Committee Member

Composition of the County Planning Committee

7. Members of the County Climate Change Planning Committee shall be —

(a) Chief Officer in charge of climate change matters who shall be the chairperson;

(b) a representative of the climate change unit, who shall be the Secretary;

(c) a representative from the department in charge of finance and economic planning;

(d) a representative from the department in charge of agriculture, livestock and fisheries;

(e) a representative from the department in charge of Public health;

(f) a representative from the department in charge of water and sanitation;

(g) a representative from the department in charge of Gender and youth issues;

(h) a representative of the National Environment Management Authority in the county;

(i) a representative of the National Drought Management Authority in the county;

(j) a representative from the meteorological department in the County;

(k) a representative of the Kenya Forest Services;

(l) a representative of the Public Benefit organisations engaging in Climate Change projects in the county;

(m) a representative of the private sector;

(n) a representative of civil society organizations;

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

Appointment and Term of County Climate Change Planning Committee

8. (1) Members of the Planning Committee shall be appointed by the County Executive Committee Member

(2) Members of the Planning Committee appointed under Section 7 (xii), (xiii) and (xiv) shall serve for one non-renewable term of three years.

Removal

9. (1) A member of the Planning Committee may at any time resign from the Committee by giving one month's notice to the County Executive Committee Member.

(2) A member of the Planning Committee may be removed from the Committee by the County Executive Member on any one or a combination of the following grounds —

(a) failure to attend three consecutive meetings of the Planning Committee without reasonable cause duly communicated to the chairperson of the Committee;

(b) serious violation of the Constitution or any other written law;

(c) gross misconduct;

(d) physical or mental incapacity;

(e) bankruptcy.

(3) A person who is a member of the Planning Committee by virtue of his or her office under section 7 (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x) or (xi) shall cease to be a member of the Committee upon being transferred from the county or ceasing to hold that office.

(4) A person who is a member of the Planning Committee under section 7(xii), (xiii) or (xiv) shall cease to be a member of the Committee upon ceasing to be a member of the interest group or upon being recalled by the interest group for good cause and through a written communication from an authorized official of the interest group to the County Executive Committee Member.

(5) Whenever a member of the County Climate Change Planning Committee is removed or otherwise ceases to be a member of the Committee, the County Executive Committee Member shall ensure that a replacement is appointed within 30 days of the vacancy.

Secretariat of the County Climate Change Planning Committee

10. The Unit shall serve as the Secretariat of the Planning Committee.

Meetings of the County Planning Committee

11. (1) The County Climate Change Planning Committee shall meet at least once in each quarter of the financial year to conduct its business.

(2) The County Planning Committee may choose to rotate the location of its regular meetings to different wards in the county for purposes of engaging directly with communities and familiarizing itself with their climate change related challenges or at such other places as may from time to time be determined and communicated by the secretariat.

(3) The quorum for meetings of the County Planning Committee shall be two thirds of the members.

(4) In the absence of the chairperson at any meeting duly convened, the members present shall elect one among them to chair the meeting.

(5) A resolution of the County Planning Committee shall require an affirmative vote of more than one half of the members present at a meeting, excluding the chairperson's vote which shall be a casting vote.

(6) The County Planning Committee may invites to its meetings any technical staff of the national or county government who it considers will contribute to its deliberations, and the attendance and participation of such person shall be recorded in the Minutes of the County Planning Committee

Allowances for members of *County Planning Committee*

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

Establishment of the County Climate Change Unit

13. (1) There is established the County Climate Change Unit, as a substantive standalone division within the county department for the time being responsible for climate change.

(2) The Unit shall be headed by the County Director in charge of Climate Change.

(3) The County Director in charge of Climate Change shall report to the Chief Officer in charge of Climate change

(4) The Unit shall have such other staff as may be deployed or appointed by the County Executive Committee Member in charge of Climate Change for the efficient execution of the Unit's functions.

Functions of the Unit

14. . (1) The Unit shall be responsible for operational coordination and implementation of all climate change response measures and actions in the County.

(2) The Unit shall coordinate the integration and mainstreaming of climate change actions, interventions and duties imposed upon the County Government by the Climate Change Act (No.11 of 2016, Laws of Kenya) and the National Climate Change Action Plan into the County Integrated Development Plan and County Sectoral Plans.

(3) Without prejudice to the generality of the foregoing subsection, the Unit shall—

(a) coordinate the implementation of the County Climate Change Action Plan, County Climate Change Finance Framework and other climate change related policies, plans, programmes and projects;

(b) coordinate and provide technical support to relevant County Government departments to integrate and mainstream climate change response measures and actions into all County Government development policies, plans, programmes, projects, and activities;

(c) provide capacity building and technical support to communities and other stakeholders in the county to formulate and implement low emissions development strategies and actions to build resilience and enhance adaptive capacity to climate change;

(d) coordinate climate change related research activities, knowledge dissemination and public awareness in the County;

(e) coordinate public participation and facilitate access to information pertaining to climate change with regard to all development plans, programmes and projects in the County.

(f) coordinate monitoring, evaluation, and reporting of all climate change policies, plans, programmes, projects and activities in the County;

(g) leverage capacities from other departments, Ministries, Private companies, and public benefit organizations

(h) mobilize resources for the County Climate Change Fund established by this Act; and,

(i) perform any other climate change related function as may be assigned by the County Climate Change Planning Committee established under this Act.

Establishment of Ward Planning Committees

15. There is established the Ward Planning Committee in each ward within Kwale County.

Functions of the Ward Planning Committee

16. The Ward Planning Committee shall be responsible for coordination of climate change response measures and actions in the ward and in this connection shall—

(a) coordinate and mobilize the community and other stakeholders in the ward to identify, design and implement climate change response activities in the ward;

(b) coordinate public education, awareness creation and capacity building on climate change in the ward;

(c) coordinate, facilitate and manage community consultations on priority climate change response activities;

(d) facilitate public participation in climate change governance;

(e) coordinate 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; and

(f) oversee implementation of climate change related programmes and projects funded by the County Climate Change Fund and report thereon to the County Planning Committee.

Composition of Ward Planning Committee

17. (1) The Ward Planning Committee shall comprise of eleven (11) members appointed by the CECM as follows—

(a) five community representatives elected from the village units one of whom shall be the Chairperson;

(b) the Ward Administrator who shall be the secretary;

(c) the Ward Community Development Officer

(d) one representative of the Persons with Disability;

(e) one representative of community based organizations;

(f) Ward Agricultural Officer;

(g) Ward Public Health Officer.

(2) Nomination of members falling under subsections (1) (a) shall be conducted by the respective village units at a meeting convened by the Ward Administrator for that purpose and presided over by the Sub-county Environment Officer or a representative thereof.

(3) The notice convening the meeting under subsection (2) shall be issued not less than 14 days prior to the date thereof, and shall be widely publicized through public barazas, and any other forms of media available in the ward

(4) 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.

(5) During the elections, the ward administrator shall ensure that affirmative action, minorities and marginalized interests are addressed.

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

(7) The County Executive Committee Member shall publicise the list of appointed members as widely as possible within the ward.

Qualifications for appointment to Ward Planning Committees

18. (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) demonstrates basic knowledge of climate change and environmental issues and has engaged in activities aimed at addressing the said challenges in the county

(c) is a person of good standing and demonstrates willingness to serve the community

(2) Without prejudice to the provisions of subsection (1), persons nominated under section 17 (1)(a), (d), and (e) shall have a minimum of form four level of education, provided that where this requirement may impose inordinate constraints, the County Executive Committee Member shall determine the appropriate educational qualification.

Term of Ward Planning Committees

19. Save for the Ward Administrator, the Ward Community Development Officer, Ward Agricultural officer and Ward Public Health Officer; members of the Ward Planning Committee shall serve for one non-renewable term of three years

Removal of Member of Ward Planning Committee

20. (1) A member of the Ward Planning Committee may at any time resign from the Committee by giving one month's notice to the County Executive Committee Member.

(2) A member of the Ward Planning Committee may be removed from the Committee by the County Executive Committee Member on the recommendation of the Committee on any one or a combination of the following grounds —

(a) failure to attend three consecutive meetings of the Ward Planning Committee without reasonable cause duly communicated to the chairperson of the Committee;

(b) serious violation of the Constitution or any other written law;

(c) gross misconduct;

(d) physical or mental incapacity;

(e) bankruptcy.

(3) A person who is a member of the Ward Planning Committee by virtue of his or her office under section 17(1)(b) and (c) shall cease to be a member of the Committee upon being transferred from the county or ceases to hold that office.

(4) A person who is a member of the Ward Planning Committee under section 17(1)(d) shall cease to be a member of the Committee upon ceasing to be a member of the Community-Based Organization or upon being recalled by the Community based organizations for good cause and through a written communication from an authorized official of the organization to the County Executive Committee Member.

(5) Whenever a member of the Ward Planning Committee is removed or otherwise ceases to be a member of the Committee, the County Executive Committee Member shall ensure that a replacement is appointed within 30 days of the vacancy.

Meetings of the Ward Planning Committee

21. The Ward Climate Change Planning Committee shall meet at least once in every quarter of the financial year to conduct its business.

(2) Meetings of the Ward Climate Change Planning Committee shall be convened and held during working hours at the County Government Ward Offices or at such other places as may from time to time be determined and communicated by the secretariat.

(3) The quorum for meetings of the Ward Climate Change Planning Committee shall be two thirds of the members.

(4) In the absence of the chairperson at any meeting duly convened, the members present shall elect one among them to chair the meeting.

(5) A resolution of the Ward Planning Committee shall require an affirmative vote of more than one half of the membership present at a meeting, excluding the chairperson's vote which shall be a casting vote.

(6) Regular meetings of the Ward Planning Committee shall be scheduled in such a manner as to ensure that resolutions thereof are available in time for the next regular meeting of the Planning Committee.

(7) A Ward Planning Committee may invite to its meetings any technical staff whose expertise and skills may be needed for purposes of a

matter before the Committee, and the Ward Administrator shall ensure that technical staff in the ward are available to advise the Committee as and when necessary.

Allowances for members of Ward Planning Committee

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

PART III — CLIMATE CHANGE RESPONSE MEASURES AND ACTIONS

County Climate Change Action Plan

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

(2) The 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 and County Integrated Development Plan.

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

(4) The 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 County Climate Change Action Plan

24. The 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 emissions 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 County Climate Change Action Plan.

Approval of County Climate Change Action Plan

25. The County Climate Change Action Plan shall be approved by the County Executive Committee Member and laid before the County Assembly for adoption

Biennial review of County Climate Change Action Plan

26. The County Planning Committee shall undertake a biennial review of the implementation of the County Climate Change Action Plan and report to the County Executive Committee Member.

PART IV — DUTIES RELATING TO CLIMATE CHANGE

Climate change duties of public entities

27. (1) The County Executive Committee Member and in consultation with the Planning Committee, may 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 County Government in its planning, programming, implementation and monitoring of climate change response in the county; and

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

Climate change duties of private entities

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

(2) The County Executive Committee Member 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

29. (1) The County Director in charge of Climate Change shall with the assistance of the representative of the National Environment Management Authority and on behalf of the Planning 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 in charge of Climate Change shall report to the Planning Committee on the performance of functions under subsection (1) on annual basis, and such report shall form part of the report by the County Executive Committee Member to the County Assembly

Reporting on Climate change obligations of private entities

30. Notwithstanding the provisions of section 28, the County Executive Committee Member 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

31. The County Executive Committee Member shall, within three months after the end of every financial year, publish publicly and submit a report on implementation of the County Climate Change Action Plan and other climate change response actions to the County Assembly for review, and adoption.

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

(3) A copy of the report issued under subsection (1) shall be forwarded to the Climate Change Directorate of the National Government for record purposes.

PART V — PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

Values and principles to apply to planning and implementation

32. 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

33. (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.

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

Public sensitization to precede formulation of climate change response plans

34. (1) Notwithstanding the provisions of section 33(1) the County 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 shall report to the County Executive Committee Member 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 County Executive Committee Member under sections 31 and 36 of this Act.

Capacity building for effective public participation

35. (1) The County Executive Committee Member shall ensure that the 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 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

36. The County Executive Committee Member shall publish, publicize and ensure access to all important climate change information in their possession.

PART VI — COUNTY CLIMATE CHANGE FUND

Establishment of the County Climate Change Fund

37. (1) There shall be established the County Climate Change Fund.

Functions of the Fund

38. The function of the Fund is to provide funding for priority climate change actions and interventions identified by communities and other stakeholders and approved by the County Climate Planning Committee in consultation with the County Executive Committee member.

Administration of the Fund

39. (a)The Fund shall be vested in the department for the time being responsible for Climate Change and administered and Managed by a Fund Administrator appointed by the County Executive Committee Member in charge of County Treasury.

(b) The established Climate Change Fund shall be the financing mechanism for priority climate change actions and interventions approved by the County Planning Committee

Sources of the Fund

40. (1) The County Climate Change Fund shall comprise of—

(a) initial seed capital, being monies appropriated by the County Assembly and constituting not less than two percent of annual county development budget;

(b) such monies as may appropriated by the County Assembly constituting not less than two percent of annual county development budget,

(c) monies received from the Climate Change Fund of the National Government and/or other monies payable pursuant to any written law;

(d) monies from international climate finance mechanisms received directly by the Fund or through the National Government or other agencies;

(e) fees and charges levied on assets or goods or services which are linked to climate change pursuant to any written law;

(f) monies received by the Fund in the form of donations, endowments, grants and gifts; and

(g) any monies that accrue to the Fund in the form of interests or any other form.

(2) All monies received by the Fund, savings, accruals and any balances not spent at the end of the financial year shall be retained in the Fund to be used in subsequent years for purposes for which the fund is established.

County Climate Change Fund Regulations

41. (1) The County Executive Committee Member shall, in consultation with the County Executive Committee Member in charge of Treasury develop Regulations for administration and management of the Fund.

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

(a) formulation of the County Climate Finance Framework;

(b) appointment and removal 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 goods and services;

(g) complaints mechanism;

(h) monitoring, evaluation, reporting and learning;

(i) winding up as guided by Section 24(9) and (10) of the Public Finance Management Act, 2012.

PART VII — FINANCIAL PROVISIONS

Funding

42. (1) The functions of the committees and the unit established under this Act shall be financed through a budget vote in the annual estimates of revenue and expenditure of the relevant county government department responsible for climate change affairs.

(2) The operations and participation of the planning committees' representatives shall be financed by the fund in accordance with guidelines from SRC.

(3) Finances and accounts of the committee shall be administered and managed in accordance with the provisions of the Public Finance Management Act 2012, and the Public Finance Management (County Governments) Regulations 2015.

Financial Year and Annual Estimates

43. (1) The financial year shall be the period of twelve months ending on the thirtieth of June each year.

(2) The annual budget estimates shall make provision for all the estimated expenditure of the unit, county and ward planning committees for the financial year concerned, and in particular, shall provide for the —

(a) payment of retention, allowances and other charges in respect of the committee members and the staff of the unit.

(b) payment of salaries, pensions, gratuities, and other charges in respect of retirement benefits to the staff of the unit; and

(c) proper maintenance, repair, and replacement of the equipment and other movable property of the unit.

(3) The County Planning Committee shall approve the annual budget estimates before the commencement of the financial year to which they relate and once approved, the estimates shall be submitted to the County Executive Committee Member for approval.

(4) No expenditure shall be incurred for the purposes of the unit except in accordance with the annual budget estimates approved under subsection (3) or with the authorization of the County Planning Committee with prior written approval of the County Executive Committee Member.

Accounts and Audit

44. (1) The accounting officer on matters climate change shall cause to be kept all proper books and other records of accounts of income, expenditure, assets, and liabilities of the committee.

(2) Within a period of three months after the end of each financial year, the accounting officer shall submit to the Controller of Budget and the Auditor-General, the Financial Statements of the committee, in respect of that year.

(3) The accounts of the committee shall be audited and reported upon in accordance with the provision of the Public Audit Act, 2015.

PART VIII — REGULATIONS AND GUIDELINES

Power to make Regulations and issue Guidelines

45. (1) The County Executive Committee Member may, in consultation with the County Planning Committee will make Regulations for the better carrying into effect any provisions of this Act.

(2) The County Executive Committee Member may issue guidelines for better carrying into effect any provision of this Act

(3) In making any regulations or issuing guidelines, the County Executive Committee Member shall be guided by values and principles set out in Section 4 of this Act.

PART IX — MISCELLANEOUS PROVISIONS

Conflict of Interest

46. (1) If a person is present at a meeting of the a committee established under this Act at which a particular matter is the subject of consideration and in which matter that person or that persons spouse or other family member is directly or indirectly interested in a private capacity, that person shall, as soon as is practicable after the commencement of the meeting, declare such interest and shall not, unless the committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching such matter.

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

(3) A person who contravenes the provisions of subsection (1) commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(4) No member of any committee or staff of the county shall transact any business or trade with the unit.

Protection from Personal Liability

47. (1) No matter or thing done by a member of the unit or by any officer or agent of the unit, or by a member of any committee established under this Act shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the unit or committee under this Act, render the member, officer or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the County Government of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Offences and penalties

48. Any person who —

(a) without lawful excuse ignores or fails to obey any instructions issued by any member or officer of 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 of 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 of 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.