

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 11 (Tana River County Acts No. 8)*



REPUBLIC OF KENYA

---

***KENYA GAZETTE SUPPLEMENT***

**TANA RIVER COUNTY ACTS, 2017**

---

---

**NAIROBI, 16th October, 2017**

---

---

CONTENT

Act—

PAGE

The Tana River County Public Participation Act, 2017 ..... 1

# THE TANA RIVER COUNTY PUBLIC PARTICIPATION ACT

No. 8 of 2017

*Date of Assent: 30th May, 2017*

*Date of Commencement: See Section 1*

## ARRANGEMENT OF SECTIONS

*Section*

### **PART I — PRELIMINARY**

- 1—Short title and commencement
- 2—Interpretation
- 3—Objects and purposes of the Act
- 4—Conflict of laws

### **PART II — CO-ORDINATION OF PUBLIC PARTICIPATION IN THE COUNTY EXECUTIVE**

- 5—Guiding principles
- 6—Establishment of the Directorate
- 7—Functions of the Directorate
- 8—Powers of the Directorate
- 9—Officers of the Directorate
- 10—Committees of the Directorate
- 11—Appointment and qualifications of members
- 12—Term of office
- 13—Remuneration of members of the Directorate and its Committees
- 14—Removal of Directorate
- 15—Vacation of office
- 16—Filling of vacancy
- 17—Secretary to the Directorate
- 18—Meetings of the Directorate
- 19—Protection from personal liability

### **PART III — CO-ORDINATION OF PUBLIC PARTICIPATION IN THE COUNTY ASSEMBLY**

- 20—The Office of Public Participation
- 21—Composition of the Office
- 22—Functions of the Office
- 23—Relevant Committee of the County Assembly

**PART IV— PUBLIC PARTICIPATION MECHANISMS**

24—Development of a culture of public participation

25—Mechanisms, processes and procedures of public participation

**PART V — PUBLIC FORA**

26—General public forum

27—Sub-county, ward, village, city and urban area public fora

**PART VI— SUB-COUNTY PUBLIC FORUM**

28—Establishment of the sub-county public forum

29—Meetings of sub-county forum

30—Sub county forum power to petition

31—Sub county public forum sub-committees

32—Functions of sub-county public forum

**PART VII — WARD PUBLIC FORUM**

33—Establishment of the ward public forum

34—Meetings of ward public forum

35—Functions of ward public forum

36—Ward forum power to petition

**PART VIII — VILLAGE PUBLIC FORUM**

37—Establishment of the village public forum

38—Village forum power to petition

39—Meetings of village public forum

40—Functions of the village public forum

**PART IX — COUNTY BUDGET AND ECONOMIC FORUM**

41—Establishment of the County Budget and Economic Forum

42—Other consultative forums

**PART X — PUBLIC COMMUNICATION**

43—Principles of public communication

44—Objectives of communication

45—County communication framework

46—Notification of public participation forum

47—County Assembly meetings to be open to the public

48—Communication to local communities

49—Documents to be made public

50—Website

51—Communication of information concerning public participation

**PART XI — PUBLIC PARTICIPATION AND AFFIRMATIVE ACTION**

52—Nature of public participation and affirmative action

53—Coordination and monitoring of public participation activities

**PART XII — PETITIONS**

**PART XII A — PETITION TO THE COUNTY EXECUTIVE**

54—Form of petition

55—Procedure for presenting a petition

56—Consideration of petition

57—Procedure in investigation

58—Publication of decision on petition

59—Register of petitions

60—Appeal against decision on a petition

**PART XII B — PETITION TO THE COUNTY ASSEMBLY**

61—Petition to County Assembly

**PART XIII — FINANCIAL PROVISIONS**

62—Funds of the Directorate

63—Financial year

64—Annual estimates

65—Accounts and audit

66—Bank accounts

**PART XIV — MISCELLANEOUS**

67—Performance management plans

68—Annual report

69—Executive Committee's power of direction

70—Access and management of information

71—Publicity of county government contacts

72—Offences and penalties

73—Regulations

74—Review

**SCHEDULES**

First Schedule

Public Participation Guidelines

Second Schedule

Meetings and Procedure for the Directorate

Third Schedule

Form of Public Petition

**THE TANA RIVER COUNTY PUBLIC  
PARTICIPATION ACT, 2017**

**AN ACT of the County Assembly of Tana River to give effect to paragraph 14 of part 2 of the Fourth Schedule of the Constitution and Part VIII of the County Governments Act; to establish a framework, modalities and a platform for facilitating public participation in county government policy processes and service delivery and for connected purposes.**

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

**PART I — PRELIMINARY**

1. This Act may be cited as the Tana River County Public Participation Act, 2017 and shall come into operation upon publication in the *Gazette*.

Short title and commencement.

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

Interpretation.

“administrator” means sub-county administrator, ward administrator, village administrator;

“Clerk” means the Clerk to the County Assembly of Tana River;

“Constitution” means the Constitution of Kenya, 2010;

“County Assembly” means the County Assembly of Tana River;

“county public officer” means any person appointed by the county government and holding or acting in any county public office whether paid or unpaid or on contractual or permanent terms but does not include a person engaged on part-time basis in a county public body paid at an hourly or daily rate;

“County Secretary” means the County Secretary of Tana River appointed under section 44 of the County Governments Act, 2012;

“Directorate” means the directorate established under section 6 of this Act;

“County Executive Committee” means Tana River County Executive Committee established in accordance with Article 176 of the Constitution;

“County Executive Committee Member” means the County Executive Committee member responsible for matters of Public Participation.

“*Gazette*” means a gazette published by the authority of the county government or a supplement of such gazette;

“County Government” means County Government of Tana River;

“office” means the Office of Public Participation established under section 6 of this Act;

“person” includes a natural person, company, association or other body of persons whether incorporated or unincorporated;

“public or community” when used in relation to public participation in this Act, means—

- (a) person who are residents of the county
- (b) the rate payers within the county
- (c) any resident civic organization or nongovernmental, private sector or labour organization with an interest in the governance of the county
- (d) non-resident persons who because of their temporary presence in the county make use of services or facility provided by the county

“public participation” means an open, democratic and accountable process through which individual citizens, community, interested groups and other stakeholders engage a representative sector of the County Government with a view of influencing public opinion, or promoting or furthering lawful action by the public or the County Government, in relation to an issue of public interest, but does not include communication or conduct—

- (a) in respect of which an information has been laid or an indictment has been preferred in a prosecution conducted by the Director of Public Prosecutions;
- (b) that constitutes unlawful discrimination under Article 27 of the Constitution of Kenya;

- (c) that constitutes a breach of any statute in Kenya;
- (d) that contravenes any order of any court,
- (e) that intentionally or recklessly causes damage to or destruction of real property or personal property,
- (f) that intentionally or recklessly causes physical injury,
- (g) that constitutes trespass to real or personal property,
- (h) by way of advertising for commercial goods or services; or
- (i) that is otherwise considered by a court to be unlawful or an unwarranted interference by the defendant with the rights or property of a person.

**3. (1) The object and purpose of this Act is to—**

- (a) provide a framework for participation by the public in affairs of the county through actively informing the form and content of legislation, policy and development plans formulated by the County Government;
- (b) provide for a framework for informed, effective, efficient and sustainable engagement of the Public in the county in the formulation of policy, legislation, development plans, budgeting and implementation of the development and programmes by the County Government;
- (c) provide for a framework for public participation in service delivery by the County Government;
- (d) generally give effect to the principles of public participation as set out in Articles 1(2) and 10, Chapter 4, Articles 35, 61, 69, 118, 1119, 196, 174, 184, 201 and 232, and the Fourth Schedule of the Constitution;
- (e) give effect to the objects and principles of devolution set out under Article 174 (c) and (d) of the Constitution; and
- (f) give effect to part VIII of the County Governments Act, 2012.

Objects and purposes of this Act.

(2) Public participation forums shall enable citizens to hold the County Government accountable and to demand

for feedback on progress of service delivery and contribute in decision making process that include planning for service provision, budgeting, implementation and policy making.

4. Whenever there is a conflict between this Act and any other written law, having a bearing on achievement of the overriding objective of this Act as set out in section 3, the provisions of this Act shall prevail.

Conflict of laws.

5. Subject to section 87 of the County Governments Act and other statutory provisions, public participation in the county government activities will be guided by the following principles—

Guiding principles.

- (a) the communities, organizations and citizens to be affected by a decision shall have a right to be consulted and involved in the decision making process;
- (b) public contributions shall be taken into consideration when making the decisions;
- (c) promotion of sustainable decisions by recognizing and communicating the needs and interests of all participants, including decision makers;
- (d) facilitation of the involvement of communities, organizations and the public potentially affected by or interested in a decision;
- (e) mandatory participants consultation and input in designing how they participate;
- (f) participants equitable access to the information they need to participate in a meaningful manner;
- (g) communication to participants on how their input affected the decision;
- (h) adherence to the national values and principles of governance set out under Article 10 of the Constitution;
- (i) adherence to the values and principles of public service set out by Article 232 of the Constitution;
- (j) adherence to the principles of leadership and integrity set out in Chapter Six of the Constitution; and
- (k) adherence to the principles of Public participation set out in Section 87 of the County Governments Act, 2012.

**PART II—CO-ORDINATION OF PUBLIC PARTICIPATION IN THE COUNTY EXECUTIVE**

6. (1) There is established a directorate to be known as the Directorate of Public Participation.

Establishment of the directorate.

(2) The Directorate shall be headed by the Director of Public Participation who shall be a public officer from the department responsible for Public Participation within the county government.

7. (1) The functions of the Directorate shall be to—

Functions of the Department.

- (a) co-ordinate public participation by other departments or agencies;
- (b) facilitate capacity building and provide support to other county government departments on public participation processes;
- (c) mobilize and organize the public, stakeholders and local communities to participate in county governance and decision making processes;
- (d) facilitate the realization of the purpose of this Act as well as integration of the principles stipulated under section 5 in public participation processes;
- (e) monitor and evaluate public participation processes undertaken by each department or agency;
- (f) sensitize the public on county structures and opportunities for public participation;
- (g) receive public complaints on issues emerging from public participation processes and liaising with respective departments for redress;
- (h) prepare an annual report on public participation in accordance with the County Governments Act;
- (i) advise the County Executive Committee Member generally on the appropriate policies, plans and strategies for enhancing public participation in the county; and
- (j) carry out any other function in furtherance to the objects and purpose of this Act and as may be assigned by the County Executive Committee Member.

(2) The Directorate of public participation shall facilitate and co-ordinate public participation in the governance of the county as provided for under paragraph 14 of part 2 of the Fourth Schedule of the Constitution including the participation of communities, organisations and Citizens forming the public in the decentralized units within the county.

(3) In the performance of its functions and obligations under subsection (1), the Directorate will facilitate and oversee the effective coordination of the operations of the Directorate and shall—

- (a) establish structures for public participation as is required under section 91 of the County Governments Act, 2012;
- (b) ensure that public participation activities are inclusive of the broad spectrum of the public and not limited to the traditional sector stakeholders;
- (c) provide the public with a clear context for which public participation is to be undertaken and how decisions will be made.
- (d) inform the public of existing or potential linkages with other policy initiatives, issues or public participation activities;
- (e) inform the public on whether financial resources correspond to the nature and scope of the public participation planned;
- (f) provide information on whether there is sufficient and adequately trained staff to carry out the planned public participation;
- (g) ensure that clear and reasonable timelines are established for public input and comment and that these timelines are communicated to the participants;
- (h) ensure that the public participation device used is appropriate to the nature of the policy initiatives, issues involved, the target groups affected and the staff and resources available;
- (i) establish a feedback process to the public including opportunities for the public to forward additional comments or input to the decision taken;

- (j) develop an evaluation framework to the public participation plan;
  - (k) ensure that the public, affected groups, and stakeholders are informed of the results of the Public participation process and how their input was used in the decision taken;
  - (l) ensure that public participation processes adhere to the relevant legislation, regulations, policies or guidelines affecting the rights and responsibilities of the public, officers and the different participants involved;
  - (m) establish whether there is support for the development of new public participation techniques and technologies;
  - (n) provide logistical support and strategies to the County Assembly, including the development of consultation plans and information facilitating public participation in any matter before the Assembly;
  - (o) maintain an up to date database or inventory of all its activities;
  - (p) for the purpose of creating the culture of, and respect for the principles of Public participation, facilitate public education and training programmes in relating to Public participation;
  - (q) carry on research on matters relating to Public participation generally;
  - (r) prepare and submit reports to the County Assembly on the status of the implementation of its functions and obligations under this Act;
  - (s) prepare and submit an annual report to the Governor for submission to the county assembly on the status of Public participation in the affairs of county governance; and
  - (t) perform any other function as may be assigned by legislation.
- (4) In the performance of its function and obligations under this section, the Directorate shall be guided by the guidelines provided in the First Schedule.

**8.** (1) The Directorate may do or perform all such other things or acts as may be necessary for the proper discharge of its functions under this Act or as may lawfully be done by a public office.

Powers of the Directorate.

(2) Without prejudice to the generality of subsection (1), the Directorate shall have power to—

- (a) advise the county executive committee on matters of policy relating to public participation as envisaged in the Constitution;
- (b) enforce set standards regarding public participation;
- (c) manage, supervise, secure and administer the assets of the Directorate in such manner as best promotes the purpose for which the Directorate is established;
- (d) delegate any of its powers to any officer, employee, agent, section or committee of the Directorate;
- (e) undertake any activity necessary for the fulfillment of any of its functions under this Act.

**9.** The County Public Service Board in consultation with the County executive committee Member shall designate such technical staff as are necessary for the proper discharge of the functions of the Directorate under this Act.

Officers of the Directorate.

**10.** (1) The directorate may establish committees for the better carrying out of its functions.

Committees of the Directorate.

(2) A committee established under subsection (1) shall comprise—

- (a) public officers of the Directorate;
- (b) six members nominated by any of the representative organizations specified in subsection 3 and appointed by the Governor with the approval of the County Assembly.

(3) The members appointed under subsection (2)(b) shall be nominees of the following organizations—

- (a) An umbrella body representing professional associations in the county;

- (b) An association representing the private sector in the county
  - (c) A cluster representing the registered associations of the informal sector in the county
  - (d) A cluster representing the registered neighborhood associations in the county;
  - (e) A cluster representing the civil society and nongovernmental organizations; and
  - (f) An association of urban areas and cities.
- (4) In appointing the members of the Directorate under subsection (2)(b), the Governor and the County Assembly shall ensure that—
- (a) the committee reflects the regional and ethnic diversity of the people within the county; and
  - (b) not more than two-thirds of the members are of the same gender.

**11.** (1) A person is qualified for appointment as member of the committee if that person—

Appointment and qualifications of members of the committee.

- (a) is a citizen of Kenya;
- (b) holds a degree from a recognized university in Kenya;
- (c) has knowledge and relevant experience in community service or social work; and
- (d) meets the requirements of leadership and integrity set out in Chapter Six of the Constitution.

(2) A person shall be disqualified for appointment as a member under subsection (1) if such person—

- (a) is declared to be of unsound mind;
- (b) is an un-discharged bankrupt; or
- (c) has been removed from office for contravening the provisions of the Constitution or any other written law.

**12.** A member of a committee of the Directorate shall be appointed for a single term of three years, which shall not be renewable.

Term of office.

**13.** The members of the Directorate and its committees shall be paid such allowances as the County Public Service

Remuneration of members of the Directorate and its

Board shall determine upon the advice of the Salaries and Remuneration Commission.

committees.

**14.** (1) A member may be removed from office for—

Removal of Directorate.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct;
- (c) incompetence or negligence of duty;
- (d) bankruptcy;
- (e) is found guilty of professional misconduct by the relevant professional body;
- (f) in any particular case, failure to declare his or her interest in any matter being considered or to be considered by the Directorate or committee;
- (g) absence from three consecutive meetings of the Directorate without reasonable explanation; and
- (h) in the case of the public officers, on ceasing to hold their respective public offices.

(2) Before a member is removed from office under subsection (1)(a) to (g), the member shall be given opportunity to provide defence against any allegations against him or her.

**15.** A person shall cease to be a member of the Directorate or committee if that person—

Vacation of office.

- (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) ceases to be a member of the nominating body under sections 10(2)(b) and 10(3) of this Act.

**16.** Where a vacancy occurs in the membership of the Directorate under section 14 or 15, a new member shall be appointed in accordance with the provisions of this Act.

Filling of vacancy.

17. There shall be a Secretary to the Directorate who shall be recruited by the County Public Service Board through a competitive process.

Secretary to the Directorate.

18. (1) The business and affairs of the Directorate shall be conducted in accordance with the Second Schedule.

Meetings of the Directorate.

(2) Except as provided in the Second Schedule, the Directorate may regulate its own procedure subject to the law governing meetings and proceedings of boards of State Corporations.

(3) The Directorate may invite any person to attend any of its meetings and to participate in its deliberations, but that person shall not vote on any matter requiring decision of the Directorate.

19. No matter or thing done by a member of the Directorate or any officer, employee or agent of the Directorate shall, if the matter or thing is done in good faith while executing the functions, powers or duties of the Directorate, render the member, officer, employee or agent personally liable for any action, claim or demand whatsoever.

Protection from personal liability.

### **PART III—CO-ORDINATION OF PUBLIC PARTICIPATION IN THE COUNTY ASSEMBLY**

20. (1) There is established an office to be known as the Office of Public Participation which shall be an office in the County Assembly service.

The Office of Public Participation.

(2) The County Assembly Service Board shall where necessary designate such staff as are necessary to work in the office of public participation.

21. The office of public participation shall consist of—

Composition of the Office.

- (a) the Clerk or his or her representative; and
- (b) heads of the following departments or sections—
  - (i) legal;
  - (ii) hansard;
  - (iii) finance;
  - (iv) research; and
  - (v) sergeant-at-arms.

**22.** The Office shall be responsible for—

Functions of the Office.

- (a) providing support and advise to the County Assembly on managing public participation process;
- (b) facilitating committees of the County Assembly when carrying out public participation programs;
- (c) preparing reports on public participation facilitated by the County Assembly;
- (d) facilitating and supporting Committees of the County Assembly to develop networks and partnerships with key stakeholders for the purposes of enhancing public participation; and
- (e) carrying out any other function that may be assigned by the County Assembly Service Board.

**23.** The relevant Committee of the County Assembly in charge of matters of public participation shall be responsible for—

Relevant Committee of the County Assembly.

- (a) providing general direction to the public participation processes in the County Assembly;
- (b) preparing annual report on County Assembly public participation processes for consideration by the County Assembly;
- (c) providing link between the Office and the County Assembly.

#### **PART IV—PUBLIC PARTICIPATION MECHANISMS**

**24.** (1) The county government shall develop a system of governance that encourages participation by the public in its affairs, and shall for that purpose—

Development of a culture of Public Participation.

- (a) create appropriate conditions for participation in—
  - (i) the formulation and implementation of laws, policies and regulations;
  - (ii) the preparation, implementation and review of the integrated development plan;

- (iii) the establishment, implementation and review of its performance management system;
  - (iv) the monitoring and review of its performance, including the outcomes and impact of its performance;
  - (v) the preparation of development plans;
  - (vi) the preparation of its budget; and
  - (vii) making of strategic decisions relating to delivery of service.
- (b) contribute to building the capacity of—
- (i) the public to enable them participate in the affairs of the county; and
  - (ii) sub-county administrators, ward administrators and village administrators and members of the staff to foster community participation.
- (c) apply its resources, and allocate funds annually as may be appropriate for the implementation of paragraphs (a) and (b).

**25.** (1) Participation by the local public in the affairs of the county shall take place through—

- (a) decentralized structures for participation in terms of—
  - (i) the sub-counties equivalent to the constituencies within the county established under Article 89 of the Constitution;
  - (ii) the wards within the county established under Article 89 of the Constitution;
  - (iii) village units within the county as may be determined by the County Assembly;
  - (iv) the urban areas and cities within the county established in accordance with the Urban Areas and Cities Act (No. 13 of 2011); and
  - (v) such other or further units as the County Government may determine;

Mechanisms, processes and procedures of public participation.

- (b) other appropriate mechanisms, processes and procedures established by the county;
- (c) sub-county administrators in accordance with section 50 (3) (g) of the County Governments Act;
- (d) ward administrators in accordance with section 51 (3) (g) of the County Governments Act;
- (e) village administrators in accordance with section 52 (3)(a) of the County Governments Act; and
- (f) generally applying the provisions for public participation as provided for in this Act.

(2) The County Government shall establish appropriate mechanisms, processes and procedures to enable the local community to participate in the affairs of the county especially the legislative process, and shall for this purpose provide for—

- (a) the receipt, processing and consideration of petitions, complaints and suggestions lodged by members of the public;
- (b) notification and public comment procedures when a Bill is introduced in the County Assembly;
- (c) public meetings and hearings by the appropriate decentralized unit and other political structures and political office bearers of the county, when appropriate;
- (d) consultative sessions with locally recognized community organizations and, where appropriate, traditional authorities;
- (e) report back to the public;
- (f) information communication technology based platforms; and
- (g) county calendar of events.

(3) The County Government shall ensure that the mechanisms, processes and procedures for public

participation provide for participation by the widest sections of the public, and these may include—

- (a) public meetings and hearings;
- (b) workshops;
- (c) internet, social media or any other digital media based interactive platforms;
- (d) public forums;
- (e) public juries and panels;
- (f) focus group discussions;
- (g) open days or exhibitions;
- (h) public care desks and information centres;
- (i) establishing community TV and radio stations;
- (j) broadcasting the County Assembly proceedings to the members of the public;
- (k) notice boards;
- (l) suggestion boxes;
- (m) websites and social networking facilities;
- (n) service charters;
- (o) county magazines or monthly newsletters  
Information bulletins;
- (p) traditional media; and/or
- (q) any other mechanism, process or procedure of Public participation that may be suitable for the county.

(4) When establishing mechanisms, processes and procedures in terms of subsection (2) the County Government shall take into account the special needs of—

- (a) people who cannot read or write;
- (b) persons living with disabilities;
- (c) marginalized groups and minorities;
- (d) women and other disadvantaged groups.

**PART V — PUBLIC FORA**

26. (1) On the request of the County Executive Committee, a County Government organ, member of the Senate, Member of Parliament, Member of County Assembly or any other entity; the Directorate shall facilitate the convening of a public forum.

General Public  
Forum.

(2) Despite subsection (1) the Directorate shall convene a public forum at least once every six months to discuss any matter of public importance affecting the public or any community in the county or the delivery of services by the County Government.

(3) The Directorate shall, when a forum is convened, ensure that the forum is fully publicized to enable the attendance and participation of a wide section of the population, including persons living with disabilities and marginalized groups and communities.

(4) The Directorate shall appoint a secretary for every forum to take the minutes of the proceedings of the forum and shall publicize the minutes throughout the county—

- (a) taking note of the issues arising from the forum for action or response by the relevant organ or organs of the county government or other entity; and
- (b) giving feedback on the action taken on the issues raised.

(5) The Directorate shall facilitate meaningful participation of the public in the forum including—

- (a) ensuring accessibility to the forums; and
- (b) the use of language that is understood by the public including persons living with disabilities.

(6) No meeting shall be convened for the purpose of promoting, opposing or discussing the election of any person as a member of the County Government or as a Member of Parliament, Senate or County Assembly.

(7) Nothing in this section shall be construed as derogating from the provisions of any other written law relating to the holding of public meetings.

27. (1) On the request of a sub-county administrator, or member of the county assembly in the areas, the Directorate shall facilitate the convening of a public forum to discuss and give views on—

Sub-county, Ward, Village, City and Urban Area Public Fora.

- (a) issues of interest in the sub-county, ward and village area;
- (b) the implementation of county policies and plans in the sub-county, ward or village area;
- (c) the administration and functioning of the sub-county area, ward or village area;
- (d) the delivery of services by the county public service in the sub-county area, ward or village area.

(2) The provisions of subsections (2) to (6) of section 26 shall apply to a forum convened under this section.

#### **PART VI — SUB-COUNTY PUBLIC FORUM**

28. (1) A Sub-county public forum shall be established at the sub-county level to enable direct Public engagement in planning and budgeting, implementation and monitoring of development projects.

Establishment of the sub county public forum.

(2) The Sub-county public forum shall comprise public ward representatives, civil society organizations representatives, community and religious leaders.

(3) Technical county government officers and development partners may sit on the forum as *ex-officio* members.

(4) The Sub-county public forum shall be headed by the Sub-county administrator.

(5) The Sub-county public forum shall have powers to form sub-committees for specific functions to address issues of allocation of funds, audit, and procurement among others.

(6) The officials of the Sub-county public forum shall be appointed by the County Executive Committee.

(7) The County Executive Committee Member shall publish the names of the Sub-county public forum in the *Gazette* and the local newspapers and shall invite public opinion on the matter.

(8) A code of conduct shall govern the members of the forums and their committees.

**29.** (1) The Sub-county public forum meetings shall be open to all members of the public.

Meetings of Sub-County Forum.

(2) The County Assembly shall ensure that a member of the County Assembly attends at least three of the Sub-county public forum meetings.

(3) A calendar of all Sub-county public forum meetings shall be maintained and publically disseminated.

(4) The Sub-county public forum shall facilitate the convening of a public participation forum to discuss and give views on—

- (a) issues of interests in the sub-county;
- (b) the implementation of county policies and plans in the sub-county;
- (c) the administration and functioning of the sub-county; or
- (d) the delivery of services by the county public service in the sub-county.

(5) No meeting shall be convened for the purpose of promoting, opposing or discussing the election of any person as a member of the County Government or as a member of Parliament, Senate or County Assembly.

(6) Nothing in this section shall be construed as derogating from the provisions of any other written law relating to the holding of public meetings.

(7) The public attending the forum shall be allowed to speak direct or through representatives.

**30.** The Sub-county public forum shall have the power to petition the County Assembly.

Sub-county forum  
Power to petition.

**31.** (1) The sub-county public forum may establish committees for the better carrying out of its functions.

Sub-county public  
forum  
subcommittees.

(2) The Sub-county public forum may delegate roles, responsibilities and powers to the sub-committees.

(3) The Sub-county public forum shall establish a Public oversight committee to oversee sub-county and county project implementation.

(4) The forum shall also establish the sub-county public Audit Sub-committee to audit the implementation of the sector sub-county projects.

(5) The Sub-county public forum and committees shall have the right to access all information held by the county executive.

**32. (1) The Sub-county public forum shall—**

- (a) review and recommend annual prioritized projects;
- (b) transmit the final prioritized project list which shall constitute the annual county plan, to the county executive for approval;
- (c) receive the county implementation status reports on a quarterly basis which status report shall capture all allocations, expenditure, projects, status;
- (d) receive county expenditure reports prepared by the county executive;
- (e) prepare quarterly oversight report providing comments or reactions to the implementation status report;
- (f) submit any arising complaints to the county executive and assembly for follow up;
- (g) report back to the community on the responses to the complaints made;
- (h) receive annual monitoring reports prepared by the county sectoral offices;
- (i) receive public monitoring reports from the oversight committee;
- (j) make recommendations based on the monitoring reports and forward the same to the county executive;
- (k) prepare and submit an annual report to the Governor for submission to the county assembly on the status of public participation in the affairs of county governance.

Functions of sub  
county public  
forum.

## PART VII—PUBLIC WARD PUBLIC FORUM

**33.** (1) Ward public forums shall be established at the ward level to enable direct public engagement in planning and budgeting, implementation and monitoring of development projects.

Establishment of the Ward public forum.

(2) The Ward public forum shall comprise village representatives, representatives of civil society organizations working in the ward, religious and community or traditional leaders.

(3) The Ward public forum shall nominate two ward representatives to represent the ward at the sub-county Public Forum.

(4) The Ward public' forum shall be headed by the Ward administrator.

(5) A code of conduct shall govern the members of the forums and their committees.

(6) The forums and its committees will be representative of all members of society including marginalized groups such as persons living with disabilities.

(7) The convener of the forum must ensure that the forum is fully publicized to enable attendance and participation of a wide section of the population, including marginalized groups and communities.

**34.** (1) The ward public forum meetings shall open to all members of the public.

Meetings of Ward public forum.

(2) The County Assembly shall ensure that a member of the Assembly attend at least three of the ward public forum meetings in a year.

(3) A calendar of all ward public forum meetings shall be maintained and publically disseminated.

(4) The ward public forum shall facilitate the convening of a Public participation forum to discuss and give views on—

- (a) issues of interests in the ward;
- (b) the implementation of county policies and plans in the ward;

- (c) the administration and functioning of the ward; or
- (d) the delivery of services by the county public service in the ward.

(5) No meeting shall be convened for the purpose of promoting, opposing or discussing the election of any person as a member of the County Government or as a Member of Parliament, Senate or County Assembly.

**35.** The ward public forum shall—

Function of the  
Ward public forum.

- (a) review and recommend annual ward prioritized projects;
- (b) transmit the final prioritized project list which shall constitute the annual county plan, to the Sub-county public forum;
- (c) receive the county implementation status reports on a quarterly basis which status report shall capture all allocations, expenditure, projects, status;
- (d) receive county expenditure reports;
- (e) prepare quarterly oversight report providing comments or reactions to the implementation status report;
- (f) submit any arising complaints to the county executive and assembly for follow up;
- (g) report back to the community on the responses to the complaints made; and
- (h) prepare and submit an annual report for submission to the county assembly on the status of public participation in the affairs of county governance.

**36.** The Ward Public Forum shall have the power to petition the County Assembly directly.

Ward forum power  
to petition

## **PART VIII — VILLAGE PUBLIC FORUM**

**37.** (1) Village public forums shall be established at the village to enable direct Public engagement in planning and budgeting, implementation and monitoring of development projects.

Establishment of  
the Village public  
forum.

(2) The village public forum shall comprise village residents, representatives of civil society organizations working in the village, religious and community or traditional leaders.

(3) The village public' forum shall be headed by the village administrator.

(4) The village public forum shall nominate two village representatives to represent the village at the ward public forum.

(5) A code of conduct shall govern the members of the forums and their committees.

(6) The forums and its committees will be representative of all members of society including marginalized groups such as persons with disabilities.

(7) The convener of the forum must ensure that the forum is fully publicized to enable attendance and participation of a wide section of the population, including marginalized groups and communities.

**38.** The village public forum shall have power to petition the county assembly directly.

Village forum  
Power to petition.

**39.** (1) The village public forum meetings shall open to all members of the public.

Meetings of the  
Ward public forum.

(2) The County Assembly shall ensure that a member of the County Assembly attends at least three of the village public forum meetings.

(3) A calendar of all village public forum meetings shall be maintained and publically disseminated.

(4) The village public forum shall facilitate the convening of a public participation forum to discuss and give views on—

- (a) issues of interests in the village;
- (b) the implementation of county policies and plans in the village;
- (c) the administration and functioning of the village;  
or
- (d) the delivery of services by the county public service in the village.

(5) No meeting shall be convened for the purpose of promoting, opposing or discussing the election of any person as a member of the County Government or as a Member of Parliament, Senate or County Assembly.

(6) Nothing in this section shall be construed as derogating from the provisions of any other written law relating to the holding of public meetings.

(7) The forums shall be open to all public of the village who desire to attend and Public shall be allowed to speak through representatives or directly.

**40.** The village public forum shall—

- (a) review and recommend annual village prioritized projects;
- (b) transmit the final prioritized project list which shall constitute the annual county plan, to the ward public forum;
- (c) receive the county implementation status reports on a quarterly basis which status report shall capture all allocations, expenditure, projects, status;
- (d) receive county expenditure reports;
- (e) prepare quarterly oversight report providing comments or reactions to the implementation status report;
- (f) submit any arising complaints to the county executive and assembly for follow up;
- (g) report back to the community on the responses to the complaints made; and
- (h) prepare and submit an annual report for submission to the county assembly on the status of public participation in the affairs of county governance.

Function of the Village public forum.

## **PART IX—COUNTY BUDGET AND ECONOMIC FORUM**

**41.** (1) There is hereby established the Tana River County Budget and Economic Forum.

(2) The Tana River County Budget and Economic Forum shall consist of—

Establishment of the County Budget and Economic Forum.

- (a) the Governor, who shall be the chairperson;
  - (b) other members of the County Executive Committee;
  - (c) a number of representatives, not being public officers, equal to the number of County Executive Committee members appointed by the Governor from persons nominated by the organizations specified in sub-section (3).
  - (d) the members specified in paragraph (c) shall be nominated by the representative organizations specified in subsection 3.
- (3) The members appointed under subsection (2)(d) shall be nominees of the following organizations—
- (a) an umbrella body representing professional associations in the county;
  - (b) an association representing the private or business sector in the county;
  - (c) a cluster representing the registered associations of the informal sector in the county;
  - (d) a cluster organization representing labour associations in the county;
  - (e) a cluster organisation representing women associations in the county;
  - (f) a cluster organisation representing associations of persons living with disabilities in the county;
  - (g) a cluster organisation representing the elderly persons in the county;
  - (h) a cluster organisation representing faith based groups in the county; and
  - (i) such other groups as may be required or determined in accordance with the provisions of the Public Finance Management Act.
- (4) The purpose of the Forum shall be to provide a means for the consultation by the County Government on—
- (a) preparation of the county development plan;
  - (b) preparation of county financial plans;
  - (c) preparation of the county fiscal strategy paper;

- (d) preparation of the county budget review and outlook paper;
- (e) matters relating to budgeting, the economy and financial management in the county.

(5) The County Executive Committee member, in consultation with the county executive committee member for finance, may make such regulations as may be necessary to provide for the better carrying out of this section.

42. (1) On the request of the County Executive Committee, the Directorate shall facilitate the convening of such consultative forums, other than the County Budget and Economic Forum, as may be required by any law.

Other Consultative Forums.

(2) The consultative forums may be convened by the Directorate, in consultation with the relevant County Executive Committee member responsible for each department to address among other local issues—

- (a) proposed county policy papers;
- (b) proposed county legislation;
- (c) proposed public private partnerships;
- (d) proposed county integrated plans; and
- (e) such other matters as the County Executive Committee may determine from time to time.

(3) The County Executive Committee member shall prepare such regulations as may be necessary to give effect to the establishment and conduct of the proceedings of the consultative forums.

#### **PART X—PUBLIC COMMUNICATION**

43. Public communication shall be based on the following principles—

Principles of public communication.

- (a) integration of communication in all development activities;
- (b) observation of access to information by county media in accordance Article 35 of the Constitution; and
- (c) observation of media ethics, standards and professionalism.

- 44.** The county government shall use the media to—
- (a) create awareness on devolution and governance;
  - (b) promote public understanding for purposes of peace and cohesion;
  - (c) undertake advocacy on core development issues such as agriculture, education, health, security, economics, sustainable environment among others; and
  - (d) promotion of the freedom of the media.

Objectives of communication.

**45.** (1) The Directorate, in consultation with the county department responsible for communication, shall establish mechanisms to facilitate dissemination of information on the various public participation forums to the public in the form of media with the widest public outreach in the county, which may include —

County communication framework.

- (a) television stations;
- (b) information communication technology centres;
- (c) county websites;
- (d) community radio stations;
- (e) public meetings; and
- (f) traditional media.

(1) The Directorate and the office shall encourage and facilitate other means of mass communication including traditional media.

**46.** (1) When convening any public forum under this Part III, the Directorate and the office shall ensure that—

Notification of Public Participation Forum.

- (a) a notice is published in at least one national daily newspaper having wide circulation within the county at least 21 days prior to the proposed forum; and
  - (b) the notice is announced in at least one community radio station within the county at least 21 days prior to the proposed forum.
- (2) The notices in subsections 1(a) and (b) shall—

- (a) include an information statement summarizing particulars of the subject matter of the proposed consultative forum;
- (b) inform public on various ways in which to access any documents relating to the subject matter of the proposed consultative forum; and
- (c) invite the public to submit written comments or representations in respect of the proposed subject matter of the forum indicating the time and date within which such written comments or representations should be made;

(3) The Directorate or the office may, in its own discretion, use such other means of communication in addition to those prescribed in subsection (1) above to notify and invite the public to the Public forum convened under this Act.

**47.** (1) The meetings of the County Assembly shall be open to the public and any organs of State where the following reports are submitted for deliberation by the County Assembly or at which decisions concerning the following reports are to be taken—

County Assembly meetings to be open to the public.

- (a) annual report on the implementation status of the county policies and plans;
- (b) annual performance reports in respect of the county performance management plan;
- (c) annual reports of all loans made to the County Government;
- (d) annual report on Public participation in the affairs of the County Government;
- (e) any report on the deviation from the financial objectives in the relevant County Fiscal Strategy Paper; and
- (f) such other reports as may be deemed necessary from time to time.

(2) The Directorate shall liaise with the County Assembly to ensure that the public is notified, of the date, time and venue of the meeting at which the reports specified in subsection (1) shall be deliberated.

(3) The general sittings of the County Assembly shall be open to the public, or any media, and the County Assembly is prohibited from excluding the public, or any media, from any sitting unless in exceptional circumstances where the Speaker has determined that there are justifiable reasons for doing so.

48. (1) When anything is to be notified by an administrator through the media to the local community in terms of this Act or any other applicable legislation, it shall be done—

Communication to local communities.

- (a) in the local newspaper;
- (b) in the newspaper or newspapers circulating in its area and determined by the County Assembly as a newspaper of record; and
- (c) by means of radio or television broadcasts covering the area of the community.

(2) Notification to the public shall be in the official languages and having regard to language preferences and usage of the area

(3) A copy of every notice shall be published in the *Gazette* or the media in terms of this Act or any other applicable legislation, at least twenty-one days before the meeting and shall also be displayed at the sub-county or ward or village offices.

(4) A notice shall indicate the subject matter, time, date and venue of the meeting.

(5) (a) When the administrator invites the local community to submit written comments or representations on any matter before the County Assembly, it shall be stated in the invitation that any person who cannot write may come during office hours to a place where a staff member of the County Assembly named in the invitation will assist that person to transcribe that person's comments or representations.

(b) No administrator shall invite the local community to submit written comments or representations on any matter before the County Assembly without the authority of the Speaker.

- (6) (a) When an administrator requires a form to be completed by a member of the local community, he or she shall designate someone to give reasonable assistance to persons who cannot read or write, to enable such persons to understand and complete the form;
- (b) If the form relates to the payment of money or to the provision of any service, the designated assistant shall include an explanation of its terms and conditions.

**49.** (1) All documents that are required to be made public by the county in terms of the requirement of this Act, the Public Finance Management Act or other applicable legislation, shall be conveyed to the local community by—

Documents to be made public.

- (a) displaying the documents at the county's head and satellite offices and libraries;
- (b) displaying the documents on the county's official website, if the county has a website as envisaged by section 50; and
- (c) notifying the local community, in accordance with section 8, of the place, including the website address, where detailed particulars concerning the documents can be obtained.

(2) If appropriate, any notification in terms of subsection (1) (c) shall invite the local community to submit written comments or representations to the county in respect of the relevant documents.

**50.** (1) The county government shall—

Website.

- (a) establish its own official website; and
- (b) place on that official website information required to be made public in terms of this Act, the Public Finance Management Act or any other laws.

(2) The County Secretary must ensure that the county's official website is maintained and regularly updated if in existence, or provide the relevant information as required by subsection 2.

**51.** (1) An administrator shall communicate to his or her community information concerning—

Communication of information concerning public participation.

- (a) the available mechanisms, processes and participation procedures to encourage and facilitate community participation;
- (b) the matters with regard to which community participation is encouraged;
- (c) the rights and duties of members of the local community; and
- (d) county governance, management and development.

(2) When communicating the information mentioned in subsection (1), an administrator must take into account—

- (a) language preferences and usage in the community; and
- (b) the special needs of people who cannot read or write.

#### **PART XI—PUBLIC PARTICIPATION AND AFFIRMATIVE ACTION**

**52.** In carrying out their functions, the Directorate and the office shall ensure that the county government and County Assembly respectively and their agencies put in place affirmative action programmes to ensure that persons living with disabilities, minorities and marginalized groups—

Nature of participation and affirmative action programmes.

- (a) participate in all matters that affect them and are represented in governance and other spheres of life;
- (b) are provided with special opportunities in all areas of economic, educational, social, religious and political fields;
- (c) are provided with special opportunities for access to employment;
- (d) develop their ethnic and cultural values, languages and practices; and
- (e) have reasonable access to water, health services and infrastructure;
- (f) pursue their personal development;

- (g) live in dignity and respect and be free from abuse;
- (h) are free from discrimination, whether direct or indirect; including but not limited on the basis of language, dress, marital status, religion, conscience, belief, culture, national ethnic or social origin, health status, sex, disability, pregnancy, colour, age, caste, birth, descent or other status;
- (i) are free from hostility, violence and abuse as a result of their ethnic, cultural, linguistic, religious or other identity.

**53.** (1) The Directorate in consultation with the relevant County Executive Committee member shall co-ordinate and monitor the county executive's public participation activities in the sub-county, ward and village levels.

Co-ordination and monitoring of public participation activities.

(2) The office in consultation with the relevant County Assembly committee shall co-ordinate and monitor the County Assembly's public participation activities in the sub-county, ward and village levels.

(3) The Clerk shall facilitate and oversee the effective coordination of Public participation and shall—

- (a) ensure to inform the public on whether financial resources correspond to the nature and scope of the public participation planned;
- (b) ensure that there is sufficient and adequately trained staff to carry out planned public participation;
- (c) ensure that the sub-counties, wards and villages have clear and reasonable timelines, for public input and comment and that these timelines are communicated to the participants;
- (d) ensure that the sub-counties, wards and villages have established a feedback process to the public including opportunities for the public to forward additional comments or input to the decision taken;
- (e) develop an evaluation framework to the public participation plan;

- (f) advise the County Assembly on matters of policy relating to public participation;
- (g) ensure that the public, affected groups, and stakeholders are informed of the results of the public participation process and how their input was used in the decision taken;
- (h) prepare and submit reports to the County Assembly on the status of public participation implementation under this Act;
- (i) perform any other function as may be assigned by legislation.

### PETITIONS

#### PART XIII A—PETITIONS TO THE COUNTY EXECUTIVE

**54.** A petition to the County Executive shall be in the form set out in the *Third Schedule* and shall—

Form of petition.

- (a) be handwritten, printed or typed;
- (b) be in English or Kiswahili and
- (c) be written in respectful, decorous and temperate language devoid of abusive, obscene or insulting language;
- (d) be free of alterations and interlineations in its text;
- (e) be addressed to the county secretary;
- (f) have its subject-matter indicated on every sheet if it consists of more than one sheet;
- (g) be clearly numbered on every sheet if it consists of more than one sheet;
- (h) confirm that efforts have been made to have the matter addressed by the relevant body and that there has been no response on the matter from the relevant body or that the response has not been satisfactory;
- (i) confirm that the issues in respect of which the petition is made are not pending before any court or other constitutional or legal body;

- (j) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners in regard to the matter to which it relates;
- (k) contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;
- (l) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;
- (m) not have any letters, affidavits or other documents annexed to it; and
- (n) if the petitioner is unable to sign, be signed by a witness in whose presence the petitioner shall make his or her mark or thumb impression on the petition.

**55.** (1) A petitioner shall submit his or her petition to the County Executive by delivering the petition to the county secretary.

Procedure for presenting a petition.

(2) The county secretary shall, within fourteen days of the date of receipt of the petition, review the petition to ascertain whether the petition meets the requirements of this Act.

(3) Where the county secretary considers that a petition does not comply with section 54 of this Act, he or she may give such directions as are necessary to ensure that the petition is amended to comply with that section.

**56.** (1) The county secretary shall, if satisfied that the petition meets the requirements of this Act, forward the petition to the County Executive Committee or the relevant county department for consideration.

Consideration of a petition.

(2) The County Executive Committee or the relevant county department relating to the petition may appoint a committee to investigate the subject matter of the petition.

57. (1) The county executive committee, the relevant county department or a committee appointed in relation to a petition may hold a public hearing and may—

- (a) invite individuals to submit memoranda or appear before the committee to give evidence on a petition;
- (b) invite any person holding public office to appear before them to give evidence relating to a petition;
- (c) employ qualified persons to assist it in the discharge of their functions;
- (d) with the support from the Directorate, hold public hearing in relation to the petition, where the county executive committee deems it necessary to hold such public hearing.

(2) The evidence given by a person invited under sub section (1) shall be taken down in writing and a copy of it availed to the person who gave the evidence.

(3) The presentations and comments given during a public hearing shall be recorded and shall constitute a public record to which members of the public shall have reasonable access on such terms and conditions as the Directorate may determine without derogating from the provisions of Article 35 of the Constitution.

(4) The county executive committee, the relevant county department or the committee may at its own discretion refuse to hear or to listen to any unruly or unmanageable person giving evidence.

(5) Any document received at the investigation of a petition shall not be withdrawn or altered without the knowledge and approval of the county executive committee.

(6) A document submitted to the investigation of a petition may be released to the person who submitted it at the conclusion of the deliberations.

(7) The committee appointed *under section 28* shall, as soon as practicable after the conclusion of the investigation, submit its findings and recommendation to the county executive committee or the relevant county department for a final decision to be made on the petition.

(8) The county secretary shall, within fifteen days of the decision of the County executive or the relevant county department, notify in writing, the petitioner of the decision.

58. The County Secretary shall, within fourteen days after the decision is communicated to the petitioner or petitioners, with support from the Directorate —

Publication of decision on petition.

- (a) give notice of the decision to the public by posting a copy in a conspicuous place at the offices of the county government;
- (b) post a copy of the decision on the county government’s website and inform the public that a copy or extract of the decision is available on its website;
- (c) publish the decision in the *Gazette*, print or electronic media; or
- (d) publish the decision in such other manner as may be appropriate for the dissemination of information.

59. (1) The County Secretary shall keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the county executive committee or the relevant department.

Register of petitions.

(2) The register of petitions under subsection (1) shall be accessible to the public during working hours.

60. Any petitioner who is dissatisfied by the decision of the county government or the relevant department may appeal to the Commission on Administrative Justice pursuant to the Commission on Administrative Justice Act, 2011.

Appeal against decision on a petition.

**PART XIIB—PETITIONS TO THE COUNTY ASSEMBLY**

61. Petitions to the County Assembly shall be presented in accordance with provisions of the Tana River County Petition to County Assembly (Procedure) Act, 2016.

Petitions to County Assembly.

**PART XIII—FINANCIAL PROVISIONS**

62. The funds of the Directorate shall consist of—

Funds of the Directorate.

- (a) monies allocated by the County Assembly for the purposes of the Directorate;

- (b) such monies or assets as may accrue to the Directorate in the course of the exercise of its powers or in the performance of its functions under this Act; and
- (c) all monies from any other source provided, donated or advanced to the Directorate.

**63.** The financial year of the Directorate shall be the period of twelve months starting on the first day of July and ending on the thirtieth day of June in each year.

Financial year.

**64.** (1) Before the commencement of each financial year, the Directorate shall cause to be prepared estimates of the revenue and expenditure of the Directorate for that year.

Annual estimates.

(2) The annual estimates shall make provision for all the estimated expenditure of the Directorate for the financial year concerned and, in particular, shall provide for—

- (a) payment of the salaries, allowances, gratuities and other charges in respect of the staff and members of the Directorate;
- (b) maintenance of buildings and grounds of the Directorate;
- (c) funding of training, research and development of activities of the Directorate;
- (d) the funding of the schedules and organisation of public participation meetings;
- (e) the creation of such funds to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Directorate may think fit.

(3) The annual estimates shall be approved by the Directorate before the commencement of the financial year to which they relate and shall be submitted to the county secretary for tabling in the County Assembly.

(4) No expenditure shall be incurred for the purposes of the Directorate except in accordance with the annual estimates approved under subsection (3).

**65.** (1) The Directorate shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the Directorate.

Accounts and audit.

(2) Within a period of three months after the end of each financial year, the Directorate shall submit to the Auditor-General the accounts of the Directorate in respect of that year together with a—

- (a) statement of the income and expenditure of the Directorate during that year; and
- (b) statement of the assets and liabilities of the Directorate on the last day of that financial year.

(3) The annual accounts of the Directorate shall be prepared, audited and reported upon in accordance with the provisions relating to public audit.

**66.** The county executive committee member responsible for finance may open bank accounts on behalf of the Directorate and appoint a person responsible for maintaining such bank accounts as shall be necessary for the performance of its functions.

Bank accounts.

#### PART XIV — MISCELLANEOUS

**67.** (1) A performance management plan shall be prepared by the Directorate and approved by the county executive committee in relation to the mandate of the Directorate.

Performance management plan.

(2) The performance management plan shall describe the key outputs that the Directorate shall achieve in any financial year and such output shall be defined in terms of performance indicators and targets.

(3) The County Executive Committee may request for an independent report on the implementation of the performance management plan.

**68.** (1) The Directorate shall, at the end of each financial year cause an annual report to be prepared.

Annual report.

(2) The Directorate shall submit the annual report to the Governor and the County Assembly not later than six weeks after the end of the year to which it relates.

(3) The annual report shall contain, in respect of the year to which it relates—

- (a) the financial statements of the Directorate;
- (b) a description of the activities and outcomes of Public participation; and
- (c) any other information, that the Directorate may consider relevant.

(4) The Directorate shall cause the annual report to be published and publicised in the Gazette and in at least one newspaper with national circulation and such other manner as the Directorate may determine.

**69.** The County Executive Committee Member shall oversee the performance of the activities of the Directorate under this Act and may, in writing, give such directions on matters of policy not inconsistent with the provisions of this Act.

Executive committee's power of direction.

**70.** (1) The Directorate shall publish and publicise all important information affecting the county within its mandate.

Access and management of information.

(2) A person may request for information within the mandate of the Directorate in the public interest.

- (3) A request for information under subsection (2)—
  - (a) shall be addressed to the Secretary of the Directorate or such other person as the Directorate may designate for that purpose;
  - (b) may, where the Directorate incurs expense in providing the information, be subject to payment of a reasonable fee; and
  - (c) may be subject to confidentiality requirements of the Directorate.

(4) Subject to the provisions of Article 35 of the Constitution and the law relating to freedom of information and data protection, the Directorate may decline to give information to an applicant where—

- (a) the request is unreasonable in the circumstances; or
- (b) the applicant fails to satisfy any confidentiality requirements imposed by the Directorate.

(5) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.

(6) Every member and staff of the Directorate shall sign a confidentiality agreement.

71. Subject to section 91 of the County Governments Act, the Directorate shall, in such manner as it considers appropriate, publish a notice for public information specifying—

Publicity of county government contacts.

- (a) the location of their respective offices; and
- (b) their address or addresses, telephone numbers and other means of communication or contact.

72. (1) Any person who attempts to influence an administrator, the Directorate or the office or any other staff member or an agent of the Directorate or the office, not to enforce an obligation in terms of this Act, or any other applicable legislation or by-law or decision relating to public participation, is guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding two years or both.

Offences and penalties.

(2) An administrator, or any member or staff or an agent of the Directorate or the office who accedes to an attempt mentioned in subsection (1), is guilty of an offence and on conviction shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding two years.

- (3) A person who—
  - (a) without justification or lawful excuse, obstructs, hinders, threatens a member of the Directorate or the Office or a member of staff acting under this Act;
  - (b) submits false or misleading information;
  - (c) without reasonable excuse, fails to appear before a meeting of the Directorate or the office when required to do so;
  - (d) misrepresents to or knowingly misleads a member of the Directorate or the office or a member of staff of the Directorate acting under this Act,

commits an offence and is liable on conviction to a fine not exceeding five hundred thousand Kenya shillings or to imprisonment for a term not exceeding two years or to both.

(4) Any person who violates or fails to comply with any provision of this Act for which no other penalty is provided, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty thousand Kenya shillings or imprisonment for a term not exceeding eighteen months or both.

73. (1) The county executive committee member responsible for matters relating to information may, in consultation with the Directorate, make regulations for the better carrying into effect of the provisions of this Act.

Regulations.

(2) The county executive committee member may make regulations or issue guidelines concerning—

- (a) minimum standards for county, including minimum standards relating to funding, when implementing the provisions of this Act; and
- (b) any matter that may facilitate—
  - (i) the participation of the local community in the affairs of the county; or
  - (ii) the application of this Act.

(3) When making regulations or issuing guidelines to provide for or to regulate the matters of this Act, the County Executive Committee member must take into account the capacity of the county and decentralized units therein to comply with those matters.

(4) The Directorate may make regulations under this Act to provide for the following matters—

- (a) structures for participation;
- (b) mechanisms, processes and procedures for participation;
- (c) receipt, processing and consideration of petitions, and complaints lodged by members of the public;
- (d) notification and public comment procedures;
- (e) public meetings and hearings;

- (f) special needs of people who cannot read or write, people with disabilities, women and other disadvantaged groups;
  - (g) matters with regard to which public participation is encouraged;
  - (h) the rights and duties of members of the public; and
  - (i) any other matter that enhanced Public participation.
- (5) A provision of a regulation made under this Act may—
- (a) apply generally or be limited in its application;
  - (b) apply differently according to different factors;
  - (c) authorize any matter or thing to be done from time to time; or
  - (d) do any combination of those things.

(6) Pursuant to Article 94(6) of the Constitution, the legislative authority delegated to the Executive Committee Member in this section shall be exercised only for the purpose and intent specified in this section and in accordance with the principles and standards set out in the Interpretation and General Provisions Act and the Statutory Instruments Act.

**74.** A person who is aggrieved by a decision of the Directorate under this Act may apply to the Directorate for review of the decision.

Review.

**SCHEDULES****FIRST SCHEDULE****PUBLIC PARTICIPATION GUIDELINES**

The following guidelines shall guide the administrators while conducting public participation activities:

1. Build a realistic timeframe for the consultation, allowing reasonable period for each stage of the process.
2. Be clear as to the type of the public, community or profession to be consulted, the issues or matter for consultation and for what specific purpose.
3. Ensure that the consultation document is as simple and concise as possible, providing the summary of the issues or matter for consultation and clearly setting out the questions to be address.
4. Publish and distribute the documents as widely as possible, including but not limited to providing hard copies, television advertisements, websites, community radio announcements and traditional media.
5. Ensure that all responses are carefully and open-mindedly analysed and the results made widely available to the public, including an account of the views expressed and the reasons for the decisions taken.
6. Disclose all information relevant for the public to understand and evaluate the decision.
7. Ensure that stakeholders have fair and equal access to the public participation process and their opportunity to influence decisions.
8. Ensure that all commitments made to the public, including those by the decision-maker, are made in good faith.
9. Undertake and encourage actions that build trust and credibility for the process among all the participants.
10. Be personally responsible for the validity of all data collected, analyses performed, or plans developed by it or under its direction.
11. Ensure that there is no misrepresentation of work performed or that was performed under the relevant body's direction.
12. Examine all of its relationships or actions, which could be legitimately interpreted as a conflict of interest by clients, officials, the public or peers.
13. Should not engage in conduct involving dishonesty, fraud, deceit, misrepresentation or discrimination.
14. Should not accept fees wholly or partially contingent on the client's desired result where that desired result conflicts with its professional judgment.

**SECOND SCHEDULE (s.18(1))****MEETINGS AND PROCEDURE FOR THE DIRECTORATE**

1. The County Secretary shall convene the first meeting of the Directorate.

2. The Directorate shall decide when and where it meets and the secretary of the Directorate shall convene all meetings after the initial meeting.

3. The director of Public participation shall preside over the meetings of the Directorate and its committees, and in his or her absence, by a person duly designated in writing by the director.

4. The Directorate and the committees shall have at least four meetings in every financial year and not more than four months shall elapse between one meeting and the next meeting.

5. Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every member of the Directorate or the committees.

6. The director of Public participation and the secretary of the Directorate shall not be of the same gender.

7. If any person has a personal or fiduciary interest in any matter before the Directorate, and is present at a meeting of the Directorate or any committee at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.

8. A disclosure of interest made under paragraph 7 shall be recorded in the minutes of the meeting at which it is made.

9. A person who contravenes paragraph 7 commits an offence and is liable, upon conviction, to a fine not exceeding three million shillings, or to imprisonment for a term not exceeding seven years, or to both.

10. No member or staff of the Directorate shall transact any business or trade with the Directorate.

11. Subject to paragraph 12, the quorum of the meeting shall not be less than half of the appointed members.

12. Where there is a vacancy in the Directorate, the quorum of the meeting shall not be less than three appointed members.

13. A question before the meeting shall be decided with a supporting vote of at least two thirds of the members present.

14. The Directorate shall keep minutes of proceedings of its meetings and decisions taken.

**THIRD SCHEDULE**

**SECTION 28**

**FORM OF PUBLIC PETITION**

**I or We the undersigned,**

(Here, identify in general terms, who the petitioner or petitioners are, for example, Citizens of Kenya, residents of.....sub-county, constituency, ward or village, workers of ..... industry, etc.)

**DRAW the attention of the House or County Government to the following:**

(Here briefly state the reasons underlying the request for the intervention of the House or County Government by outlining the grievances or problems by summarizing the facts which the petitioner or petitioners wish the House or County Government to consider.)

**THAT**

[Here confirm that efforts have been made to have the matter addressed by the relevant body, and it failed to give satisfactory response.]

**THAT**

[Here confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.]

**HEREFORE your humble petitioner(s) Pray that County Assembly or County Government—**

(Here, set out the prayer by stating in summary what action the petitioner(s) wish County Assembly or Government to take or refrain from.)

**And your PETITIONER(S) will ever pray.**

|                           |                        |                         |
|---------------------------|------------------------|-------------------------|
| <i>Name of petitioner</i> | <i>National ID. or</i> | <i>Signature or</i>     |
| <i>Full Address</i>       | <i>Passport No.</i>    | <i>Thumb impression</i> |
| .....                     | .....                  | .....                   |
| .....                     | .....                  | .....                   |
| .....                     | .....                  | .....                   |
| .....                     | .....                  | .....                   |

*(Subsequent Pages)*

PETITION concerning.....

(Here, repeat the summary in first page)

\*This form may contain such variations as the circumstances of each case may require.

