

SPECIAL ISSUE

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SIAYA COUNTY ACTS, 2019

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CONTENT

Act—	PAGE
The Siaya County Equitable Development Act, 2019	1

THE SIAYA COUNTY EQUITABLE DEVELOPMENT ACT, 2019

No. 4 of 2019

Date of Assent: 30th April, 2019

Date of Commencement: See Section 1

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

1— Short title and Commencement.

2— Interpretation.

3— Purpose of Act.

PART II—EQUITABLE DEVELOPMENT MECHANISMS

4— Development requirements per ward.

5— Equal allocation of development funds.

6— Equitable allocation of development funds.

7— Reports on absorption of development funds.

8— Public Participation.

9— Monitoring and evaluation.

10— Align projects to CIDP and ADP.

11— Completion of all projects commenced.

12— Right to information by residents.

PART III—ADMINISTRATION

13— Ward Development Committee.

14— Functions of the Ward Development Committee.

15— Project Management Committee.

16— Functions of the Project Management Committee.

17— Remuneration of the Management Committees

PART IV—FINANCIAL MANAGEMENT

18— Records of disbursements.

PART V—MISCELLANEOUS PROVISIONS

19— Role of the County Assembly General Oversight Committee

20— 21. Regulations

SCHEDULE

Provisions relating to conduct of business and affairs of the Development Committee

THE SIAYA COUNTY EQUITABLE DEVELOPMENT ACT, 2019

AN ACT of the County Assembly of Siaya to provide for the realization of equitable allocation of resources for development projects within the wards of the county; to provide for the establishment of Ward Project Development Committees, to provide for monitoring of projects to ensure all development funds allocated to projects are properly used for the purpose for which they were appropriated and for connected purposes

ENACTED by the County Assembly of Siaya as follows—

PART I—PRELIMINARY**Short title and Commencement**

1. This Act may be cited as the Siaya County Equitable Development Act, 2019 and shall come into operation on such date as the County Executive Committee Member may, by notice in the Gazette, appoint.

Interpretation

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

“County executive committee member for finance” means the member of a County Executive Committee responsible for the financial affairs of the County and for the County Treasury;

“government” means the County Government of Siaya;

“county development funds” means funds appropriated by the County Assembly for development purposes in any financial year;

“county secretary” means the office established under section 44 of the County Governments Act;

“county treasury” means the entity established under section 103 of the Public Finance Management Act;

“Medium term” means a period of not less than three years but not more than five years;

“development committee” means the Ward Project Development Committee established under section 13 of this Act.

“Project Management Committee” means the committee established under section 15 of this Act.

Purpose of Act

3. The purpose of this Act is to—
- (a) promote equality in distribution of development resources within the wards in the county;
 - (b) enhance public participation in project identification, prioritization, implementation and oversight of projects;
 - (c) enhance accountability in use of development funds of the county; and
 - (d) ensure development projects are aligned to the County Integrated Development Plans.

PART II—EQUITABLE DEVELOPMENT MECHANISMS**Development requirements per ward**

4. (1) The County Executive Committee Member shall, not later than the 28th day of February in each year, on the advice of the Development Committee, and with the approval of the County Assembly set a minimum development requirement for each ward for the coming financial year.

(2) The County Executive Committee Member shall ensure that the funds identified in (1) above are incorporated in the County Fiscal Strategy Paper of the following year.

(3) Over the medium term – upon the coming into effect of this Act, the County Executive Committee Member for Finance, in consultation with the County Assembly, shall ensure that a minimum of thirty percent (30%) of the county government's budget shall be allocated to the development expenditure.

Equal allocation of development funds

5. (1) In each financial year, the County Executive Committee Member for Finance shall ensure that at least thirty five percent (35%) of the funds appropriated for development purposes are shared equally among the Wards in the County.

Affirmative Action

(2) In each financial year, the County Executive Committee Member for Finance shall ensure that two percent (2%) of the funds appropriated for development purposes is allocated for the projects towards the interest of the youth, women and People with Disability (PWD).

Equitable allocation of funds

6. (1) In each financial year, the County Executive Committee Member for Finance shall ensure that sixty-three percent (63%) of the funds appropriated for development purposes are equitably shared across the County.

(2) Where the project is one of the flagship projects of the county, the responsible County Executive Committee Member of the responsible department shall ensure that wide consultations are carried out in identifying the project and the location and approval of the county assembly is obtained.

(3) Where the recipient is the County Assembly, such money shall be appropriated in accordance with the ordinary budgetary process.

(4) In sharing out the funds under subsection (1) above, the County Executive Committee Member for finance shall develop and use a formula with approval of the County Assembly

(5) In developing the formula in (4) above, the County Executive Committee Member for finance shall consider the population, land area of each ward and to give special consideration to the arid and semi- arid areas.

Reports on Absorption of Development Funds

7. (1) All Accounting Officers shall submit to the County Assembly quarterly financial and non-financial reports of development funds.

(2) The reports submitted in (1) above shall include reasons for non-absorption or slow absorption of funds.

(3) The report submitted under subsection (1) above shall stand committed to the relevant Sectoral Committee to be dealt with in accordance with the County Assembly Standing Orders, within 20 days of such committal.

(4) The County Assembly shall, upon receipt of the report from the committee under subsection (3) above debate the report within 30 days.

(5) Within 7 days after submission of the reports in (1) above, all the Accounting Officers shall ensure the posting of the reports in the official County Government website.

Public participation

8. (1) County Government officers shall promote and sustain public participation in development projects and to this effect, shall

involve the people to be affected by any development project in the county, sub-county, ward or any other lower level of decentralization.

- (2) The people in subsection (1) above shall—
- (a) be involved in the preparation of a development plan for their wards and prioritization of projects to be undertaken;
 - (b) during the implementation of any project, be informed through the Development Committee, of the funds allocated to each project and the commencement and completion dates of the project;
 - (c) at the completion and launch of the project, be informed of the value of the project.

The views of the communities and the people shall be recorded in the minutes of the meeting by the Development Committee and forwarded together with the project report to the County Assembly.

Monitoring and evaluation

9. (1) The County Executive Committee Member responsible for a project shall within sixty days of completion of a project, submit a report on the outcomes of the project to the people in the ward to the County Assembly.

14. Within ninety days after the end of the financial year, the County Government shall hold a one-day open forum in each ward where the ward administrator shall report on all projects implemented in the ward in the financial year ending and members of the public shall give their comments and ask questions seeking any clarification on the projects.

Align projects to CIDP and ADP

10. County Executive Committee Members shall ensure that all projects within the wards have been approved and are contained in the County Integrated Development Plan and or the Annual Development Plan

11. (1) The County Executive Committee Members shall ensure that all projects commenced in their respective departments are completed within the stated timeline.

(2) The County Executive Committee Member may include in the annual development plan any projects, which may have been commenced earlier but have stalled and allocate funds for their completion.

(3) The County Executive Committee Member may not allocate funds to different projects with a similar impact to an existing stalled

project in the same ward.

Right to information by residents

12. (1) Any resident of a ward may seek in writing to the Development Committee, and upon giving reasons, seek to have more information about a project.

(2) If the information required under subsection (1) is not within the knowledge of the Development Committee, the Committee shall channel the same to the relevant County Executive Committee Member.

PART III— ADMINISTRATION

Ward Development Committee

13. (1) There is established in each ward a Wards Project Development Committee composed of—

- (a) one person representing religious organizations in the ward;
- (b) one person representing the youth in the ward;
- (c) one person representing the women in the ward;
- (d) one person representing persons with disability in the ward;
- (e) one person representing the organization dealing in matters children in the ward;
- (f) one person representing business community in the ward; and
- (g) the ward administrator who shall be the secretary to the committee.

(2) The members of the Development Committee in (a), (b), (c), (d), (e) and (f) above will be competitively appointed by the County Public Service Board and approved by the County Assembly.

(3) The Development Committee may co-opt not more than two members with specialized knowledge or expertise when need arises to assist in the discharge of specific functions of the committee and on such terms as the County Executive Member for the time being in charge of Governance and Administration may determine.

(4) The members of the Development Committee shall serve for a term of three years renewable once.

(5) The members of the Development Committee will serve on such terms and conditions of service as shall be determined by the County Executive Member for the time being in charge of Governance and Administration.

(6) The County Executive Member for the time being in charge of Governance and Administration shall with approval of the County Assembly, make Regulations regarding the qualifications of the members of the Development Committee.

(7) The members of the Development Committee will elect a chairperson from amongst the membership.

- (a) subject to subsection (6) above, the office of a member shall fall vacant if a member—
- (b) resigns by a letter addressed to the secretary of the Development Committee;
- (c) dies;
- (d) is incapacitated such that he cannot perform his duties;
- (e) misses three consecutive meetings of the Development Committee without reasonable cause;
- (f) is declared bankrupt;
- (g) is of unsound mind;
- (h) is found guilty of an offence punishable by imprisonment of over six months;
- (i) is found to hold an undeclared interest in a project in the ward;
or
- (j) when one contravenes provisions of chapter six of the Constitution of Kenya.

(8) Whenever a vacancy occurs in the Development Committee by reason of resignation, incapacitation, demise of member or removal of member for the reasons stated above, the County Public Service Board shall fill the vacancy from the same category of persons from where the vacancy arose.

Functions of the Development Committee

- 14.** The functions of the Development Committee shall be to—
- (a) co-ordinate all county funded development projects in the ward;
 - (b) deliberate on project proposals from the ward and draw up a priority list, both immediate and long term to be shared with the county Executive Committee Members for inclusion in the budget.
 - (c) ensure that members of the public are continuously informed

and involved in development projects of the County Government;

- (d) receive and disseminate public views on development projects in the wards;
- (c) organize and co-ordinate meetings between the county government and the people of the wards on development projects;
- (f) ensure that the funds allocated for the different projects are spent on the relevant projects and connected purposes;
- (g) ensure that projects implemented in the wards involve and benefit the residents of the relevant wards from inception to conclusion.

(2) The Development Committee shall have the powers necessary for the proper performance of its functions under this Act and in particular but without prejudice to the generality of the foregoing, the committee shall have power to—

- (a) monitor and evaluate projects within the ward;
- (b) ensure the contractors comply with the contracts and terms of award of the contract;
- (c) build the capacity of residents to actively and meaningfully participate in projects identification and monitoring and evaluation of ongoing projects;
- (d) co-ordinate activities of the Project Management Committees;
- (e) Prepare and submit quarterly reports on development projects implemented in the wards to the relevant County Executive Committee Member.

(3) Subject to subsection (4), the business and affairs of the Development Committee shall be conducted in accordance with the first Schedule.

(4) Except as provided in the first schedule, the Development Committee may regulate its own procedure.

Project Management Committee

15. (1) There is established a Project Management Committee for each project composed of the following—

- (a) the village administrator of the area or a nominee of the ward administrator, resident of the village where project is to be

undertaken, who shall be secretary to the committee;

- (b) one person representing the private sector from the project area;
- (c) one person representing religious organizations from the project area;
- (d) one person representing youth from the project area;
- (e) one person representing women from the project area;
- (f) one person representing professionals in the project area;
- (g) one person representing the organization dealing in matters children in the ward; and
- (h) one person representing persons with disability from the project area.

(2) The Project Management Committee may co-opt a maximum of two people with expertise in the subject matter of the project;

(3) The members of the project management committee except for the village administrator will be appointed by the County Executive Committee Member responsible for the project following an election by the residents living near the project area.

(4) The Project Management Committee shall elect its chairperson from amongst its members

Functions of the Project Management Committee

16. The Project Management Committee shall be responsible for the effective implementation and management of the project for which it is appointed including but not limited to the following—

- (a) Undertake management of specific development projects in the ward;
- (b) prepare work plans based on estimates and cause to be kept books of account and records of income, expenditure and liabilities of the project;
- (c) supervise implementation of the project to be in line with the approved bills of quantities;
- (d) ensure linkages between county planning, budgeting and execution;
- (e) assessment of works done and approval of certificates of payment based on the contractual terms and the level of completion; and

- (f) monitoring of project to ensure it is undertaken in line with the prepared work plan and report to the County Executive Committee Member responsible in case of any delays.

Remuneration of the Management Committees

17. (1) The members of the Development Committees established in Sections 13 and 15 above shall be remunerated in such a way as shall be set by the County Executive Committee member responsible for finance and with the approval of the County Assembly.

(2) In setting the remuneration in subsection (1) above, the County Executive Committee member for finance shall always be guided by the Salaries and Remuneration Commission or any other body performing similar functions as those of the Commission.

PART IV – FINANCIAL MANAGEMENT

Records of disbursements

18. (1) Project Management Committee shall keep a record of disbursements made for any development project it is responsible for and submit the same at the end of every month to the Ward Development Committee;

(2) The Ward Development Committee shall keep and update accurate monthly records of all disbursements made for development projects and activities in every ward;

(3) The Chairperson of the Ward Development Committee shall submit an annual report on the activities, operations and expenditure of the committee under the Act to the County Assembly through the relevant County Executive Committee Member.

PART V – MISCELLANEOUS PROVISIONS

Role of the County Assembly General Oversight Committee

19. (1) The County Assembly General Oversight Committee shall be responsible for the following—

- (a) ensuring compliance with the provisions of this Act;
- (b) reviewing the formula of sharing development revenue between the wards before approval by the county assembly;
- (c) review the impact of the Act to assess the development impact in the ward in that year and where necessary review the Act;
- (d) such other duties as may be assigned by the county assembly.

Regulations

20. The Executive Committee Member, may with the approval of the County Assembly, make regulations generally for the better carrying into effect the purposes of this Act.

SCHEDULE**PROVISIONS RELATING TO CONDUCT OF BUSINESS AND AFFAIRS OF THE DEVELOPMENT COMMITTEE****Meetings**

(1) The Development Committee shall meet at such place as the Chairperson may determine and the meetings shall be convened by the Chairperson.

(2) The Development Committee shall have at least four meetings in every financial year and not more than three months shall elapse between one meeting and the next meeting.

(3) Unless three quarters of the members otherwise agree, at least seven days' notice in writing of a meeting shall be given to every Member by the secretary.

(4) The Chairperson may, at his or her discretion or at the written request made by at least half of the Members of the Development Committee and within seven days of the request, convene an extraordinary meeting at such time and place as the Chairperson may appoint.

(5) Every meeting of the Development Committee shall be presided over by the Chairperson and in his or her absence, the Vice Chairperson shall preside.

(6) The Members of a Development Committee shall elect a Vice Chairperson from among themselves—

(a) at the first sitting of the Development Committee; and

(b) whenever it is necessary to fill the vacancy in the office of the Vice-Chairperson.

(7) Where the Chairperson or Vice-Chairperson is absent, the Members shall appoint from among themselves, a person to Chair the meeting of the Development Committee.

(8) The Development Committee may invite any person to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of the Development Committee.

Quorum

21. (1) The quorum of the Development Committee at any meeting shall be half of the appointed Members of the Development Committee.

(2) Where the persons present at a meeting of the Development Committee do not constitute the quorum necessary to hold a meeting under this Act or where by reason of exclusion of a member from a meeting, the number of Members present falls below the quorum necessary to hold a meeting, the Development Committee shall postpone the consideration of the matter in question until there is a quorum.

Minutes

22. The secretary shall cause minutes and proceedings of all the meetings of the Development Committees to be entered into the minute-book kept for that purpose.

