

SPECIAL ISSUE

Kenya Gazette Supplement No 2 (Kericho County Acts No 2)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KERICHO COUNTY ACTS, 2021

NAIROBI, 20th January, 2021

CONTENT

Act—

PAGE

The Kericho County Environment Management Act, 2021

1

**THE KERICHO COUNTY ENVIRONMENT MANAGEMENT
ACT, 2021**

No 2 of 2021

Date of Assent 19th January, 2021

Date of Commencement See Section 1

ARRANGEMENT OF SECTIONS

Section

PART I— PRELIMINARY

1—Short title and commencement

2—Interpretation

3—Objectives

4—Application of the Act

PART II —ADMINISTRATIVE PROVISIONS

5—Establishment of the Directorate

6—Functions of the Directorate

7—County, Sub-County, Ward Environment committees

8—Record keeping

9—Entitlement to clean and healthy environment

10—Court Redress

11—Issue of licenses

PART III—WASTE MANAGEMENT

12—Establishment of an integrated county waste management plan and strategy

13—Duty to manage waste

14—Material recovery

15—Categorization and handling of wastes

16—Prohibition against dangerous handling and disposal of waste

17—Charges for waste management

18—License to transport waste

19—Private and Public involvement in waste management

20—Zoning

- 21—Application for waste handling license
- 22—Cancellation of waste handling license
- 23—Duty to ensure safe refuse removal and disposal
- 24—Prohibition against littering
- 25—Obstruction of access for refuse removal
- 26—Provision of refuse receptacles
- 27—Approval of refuse receptacles
- 28—Junk waste disposal
- 29—Refuse receptacle site
- 30—County to provide street cleaning services
- 31—Owner or occupier to clean paved areas
- 32—County to provide street litter bins
- 33—Indiscriminate pasting of posters prohibited
- 34—Offences

PART IV—CONTROL OF AIR POLLUTION

- 35—Abatement of air pollution
- 36—Permitted operations
- 37—Causing air pollution contrary to license an offence
- 38—Directorate to liaise with lead agencies
- 39—Directorate to order inspection
- 40—Powers to refuse to grant or renew licenses and to cancel licenses
- 41—Responsibility of owner or operator
- 42—Smoking in public places
- 43—Smoking in public vessels
- 44—Display of signs in non-smoking areas
- 45—Owner to ensure no smoking
- 46—Public awareness campaigns

PART V—ENVIRONMENTAL CONSERVATION AND PROTECTION

- 46—Protection and conservation of rivers and wetlands
- 47—Protection of hilltops and riparian from degradation

PART VI—MANAGEMENT OF PARKS AND OPEN SPACES

- 48—Greening and beautification in urban areas
- 49—Permission to prune, cut trees, flowers or shrubs
- 50—Vegetation management
- 51—Use of Public Park or open space
- 52—Destruction of trees, flowers in Public Park, streets
- 53—Permission for photography in the parks and open spaces
- 54—Certificate to operate a tree nursery
- 55—Penalty

PART VII—NOISE POLLUTION CONTROL

- 56—Regulation of noise
- 57—Special places
- 58—Application for license
- 59—License fees

PART VIII —NUISANCES

- 60—Nuisance and impounding of animals
- 61—Protected area
- 62—Offences on nuisances

PART IX—OUTDOOR ADVERTISING

- 63—Illegal outdoor advertisement
- 64—Application for advertising
- 65—Offences on outdoor advertising
- 66—Directorate may prescribe rules

PART X—ENFORCEMENT

- 67—Authorized officers
- 68—Duties of authorized officers
- 69—Powers of authorized officers
- 70—Restriction to enter dwelling place
- 71—Obstruction of authorized officers
- 72—Service of Notices

PART XI—MISCELLANEOUS PROVISIONS

73—Offence by body corporate, partnerships, etc

74—Regulations

75—County Technical Environmental committee

76—Transitional provision

77—Requirement for EIA /EA Undertaking

78—General Penalty

79—Rules

FIRST SCHEDULE**SECOND SCHEDULE**

THE KERICHO COUNTY ENVIRONMENT MANAGEMENT ACT, 2021

AN ACT of the County Assembly of Kericho to provide for the management of the environment including, control of air pollution, noise pollution, waste management, and general nuisances in order to promote a clean, safe and healthy environment and to provide for matters incidental thereto

ENACTED by the County of Assembly of Kericho, as follows—

PART I—PRELIMINARY

Short Title

1 This Act may be cited as the Kericho County Environment Management Act, 2021 and shall come into operation on the date of publication in the *Gazette*

Interpretation

2 In this Act—

“Act” means Kericho County Environmental Management Act, 2021

“Agent” means a contractor, private firm, community group or any other person, organization or institution appointed by County to render refuse collection, transportation, treatment or disposal services on its behalf,

“air pollution” means any change in the composition of air caused by air pollutants, “air pollutant means any—

- (a) fume, smoke, particulate matter, vapour, gas, odorous substance or any combination thereof, or
- (b) any other substance or matter whether physical, chemical, biological, or radioactive, including source material, special nuclear material and byproduct materials, which is emitted into or otherwise enters the atmosphere from any object or activity and causes, or, if unabated, may cause air pollution but does not include water vapour, steam condensate or any other emission exempted under this Act,

“Approved” or “prescribed” means respectively approved or prescribed by the county or appointed officers by the regulations under the Environmental Act as the case may be

“Authority” means the National Environment Management Authority as established under section 7 of the Environment Management and Co-ordination Act

“authorized officer” means an authorized officer within the meaning of section 67 of this Act,

“beneficial use” means a use of environment or any element or segment of the environment that is conducive to public health, welfare or safety and which requires the Kericho County Environment Management Act, 2020 protection from the effects of waste, discharges, emissions and deposit,

“biomedical or clinical waste” means all waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice, which by nature of its toxic, infectious or dangerous content and includes human or animal tissue excretions, drugs and medical products, swabs, dressings and instruments or similar substances,

“Building” means any structure movable or fixed, of whatsoever kind, or any part thereof and included drainage work and excavation

“Board” means the County Public Service Board of Kericho,

“Carrier” means the person carrying toxic and hazardous waste including the named vehicle registration number as shown in Schedule C of the consignment note referred to as carrier’s certificate

“Clinical waste” means the waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice, investigation, treatment, care, teaching or research which by nature of its toxic, infectious or dangerous content may prove a hazard or give offence unless previously rendered safe and inoffensive Such waste includes human or animal tissue or excretion, drugs and medical products, swabs and dressings, instruments or similar substances and materials

“Collection authority” means the County, or any other authority, organization, private Company, or individual issued with a disposal license by the county to collect and dispose of any waste

“Constitution” means the Constitution of Kenya, 2010,

“County” Means Kericho County,

“County Government” means County Government of Kericho,

“County Assembly” means a county assembly established under Article 176 of the Constitution,

“County Environment Committee” means a Committee established in accordance with Article of EMCA, 2015

“Directorate” means Directorate responsible for environment management affairs in the county established under section 5 of this Act,

“disposal site” means County government’s designated solid waste disposal site,

“Domestic waste” means garbage, and all other forms of non-liquid refuse produced from domestic buildings, but do not include refuse from the gardens, or manure or other waste generated from processes of rearing animals,

“Dustbin” means a movable covered receptacle for the reception and storage of refuse and made of material and of such size and construction as specified in these by-laws,

“Garden refuse” means the refuse from the garden lawns, flower beds including grass, plants and cuttings of the hedge trees and manure,

“Disposer” means the person disposing of the waste referred to in schedule of the consignment note,

“Environment” means the physiological, chemical and biological conditions of the region, in which organism’s lives and includes land, air and water,

“Environmental Impact Assessment (EIA)” in relation to proposed and new action or actions means the discrete and systematic study of—

- (a) the impact of a proposed action may have both the natural and human environment,
- (b) the alternative of the proposed action,
- (c) the strategies to mitigate the negative impacts,

An Environmental Impact Assessment (EIA) of a proposed action therefore shall contain studies on how this actions will affect the people, animals, birds, micro-organism, aquatic life and any other living organisms, atmosphere, water resources, landscapes, soils, vegetation, buildings and any other form of life, structure of development within a given natural environment,

“Environment Audit Report (EAI)” in relation to existing action means the discrete and systematic study of—

- (a) the impact of the existing action or actions that ha both or have both the natural’ and human environment,
- (b) the alternatives of the proposed action,
- (c) the strategies to mitigate the negative impacts,

An EIA of a proposed action therefore shall contain studies on how this action will affect the people, animals, water resources, landscapes,

soils, vegetation, building or any other form of life, structure or development within a given nature environment,

‘Executive Committee member’ means the County Executive Committee member responsible for matters relating to the environment,

‘e-waste’ means electronic products that have become unwanted, non-wanted or obsolete,

“Governor” means a County governor elected in accordance with Article 180 of the Constitution,

‘industrial waste’ means waste generated by businesses from an industrial or manufacturing process,

“Injurious pollution” in relation to stream, lake or any inland waters means pollution injurious to the fauna or such body or water,

“Interpretation of smoking” smoke or smoking means the act of smoking tobacco, including a cigarette, cigar or pipe as evidences by the giving off of tobacco and the carrying of lighted cigar, pipe or other lighted smoking equipment,

“Land” includes any right over or in respect to immovable property,

“inter-generational equity” means that all people within the present generation have the right to benefit equally from the exploitation of the environment, and that they have an equal entitlement to a clean and healthy environment,

“magistrate” means Magistrate as entailed in the meaning of Magistrates Court Act, 2015,

“Franchise system” means a method of distributing products or services involving a franchisor, who establishes the brand's trademark or trade name and a business system, and a franchisee, who pays a royalty and often an initial fee for the right to do business under the franchisor's name and system,

“Noise” means any undesirable sound that is intrinsically objectionable or that may cause adverse effects on human health or the environment

“Junk waste” means items such as furniture, appliances, and other bulky material,

“Noise pollution” means the emission of uncontrolled noise that is likely to cause danger to human health or damage to the environment,

"owner" as regards immovable property includes any person, other than the County Government, receiving rents or profits of any lands or premises from any tenant or occupier thereof.

"Vibration" means an oscillatory motion of solid bodies of deterministic or random nature described by displacement, velocity or acceleration with respect to a given reference point;

"excessive vibration" means the presence of vibration which—

(a) is of such intensity, duration, frequency or character as to annoy, disturb, or cause or tend to cause adverse psychological or physiological effects on persons, or to damages or tend to damage personal or real property, and

(b) exceeds 0.5 centimeters per second beyond any source property boundary or 30 meters from any moving source,

"Occupier" includes any person in actual occupation of land or premises without regard to the title under which he occupies and in case of premises sub-divided and let to lodger or payable by lodgers or tenants whether on own account or as an agent for any person entitled thereto or interested therein.

"Owner" as regards immovable property, includes any person, other than the County, receiving the rents or profits of any lands or premises from any tenant or occupier thereof or who would receive such rents or profits if such premises were let whether on his own account or as an agent for any person, other than the County for any superintendent, overseer or manager of such lessee or license residing on the holding,

"Presumption" Where smoke is given off from cigarette, cigar, pipe or other lighted smoking equipment, it shall be, in the absence of evidence to the contrary, presumed that the substance being smoked is tobacco,

"Public places" means—

(a) is a building or portion of a building used or intended to be used by the public, whether free of charge or for a free civic, or political, travel, religious, social educational, commercial, entertainment, recreational or like purposes, ordinarily or occasionally as a public place of worship or a hospital, college, school, theatre, public hall or as a public assembly,

(b) the lobby, hallways or stairways of an institution or office building,

(c) a shopping center or shopping mall;

- (d) a food court used or intended to be used by the public, in any building, and a retail or wholesale store,

“pollutant” includes any substance whether liquid, solid or gaseous which —

- (a) may directly or indirectly alter the quality of any element of the receiving environment,
- (b) is hazardous or potentially hazardous to human health or the environment, and includes objectionable odours, radio-activity, noise, temperature change or physical, chemical or biological change to any segment or element of the environment,

“polluter-pays principle” means that the cost of cleaning up any element of the environment damaged by pollution, compensating victims of pollution, cost of beneficial uses lost as a result of an act of pollution and other costs that are connected with or incidental to the foregoing, is to be paid or borne by the person convicted of pollution under this Act or any other applicable law,

“pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological or radio-active properties of any part of the environment by discharging, emitting, or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to public health, safety or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause contravention of any condition, limitation, or restriction which is subject to a licence under this act or any other applicable law,

“project” includes any project, programme or policy that leads to projects which may have an impact on the environment,

‘Project report’ means a summary statement of the likely environmental effect of a proposed development referred to in section 58 of EMCA, 1999,

“proponent” means a person proposing or executing a project, programme or an undertaking specified in the Second Schedule of EMCA 1999,

“smoking” means inhaling or exhaling the smoke of any tobacco product and includes the holding of, or control over any ignited tobacco product or device containing an ignited tobacco product,

‘special area’ means an area declared by the county to be a special area under section 57 of this Act, with regard to regulation of noise levels,

“vehicle” means any device driven by mechanical, power on land or water, and includes any craft or aircraft, but does not include a wheeled chair used solely for the conveyance of a child or invalid,

“urban area” means an area designated as such under the Urban Areas and Cities Act (No 13 of 2011) as contemplated in Article 184 of the Constitution,

“water” includes drinking water, river, stream, water-course, reservoir, well, dam, canal, channel, lake, swamp, open drain, or underground water,

“wetland” means areas permanently or seasonally flooded by water where plants and animals have become adapted,

“waste” includes any matter prescribed to be waste and any matter, whether liquid, solid, gaseous, or radioactive, which is discharged, emitted, or deposited in the environment in such volume composition or manner likely to cause an alteration of the environment,

“Waste disposal Authority” means the authority taking charge in the advisory in the collection, storage and disposal of toxic and hazardous waste,

“Zone” means a zone into which the county is divided for the purposes of this Act

Objectives

3 The object and purpose of this Act shall be to—

- (a) to create the necessary institutional framework required to have an efficient waste management system within the County,
- (b) to create the necessary institutional framework to provide for the prevention, control and abatement of—
 - (i) air pollution to ensure clean and healthy ambient air,
 - (ii) noise pollution, and
 - (iii) Waste and disease causing pests, and ensure a clean healthy environment
- (c) promote an environmentally friendly county that will reduce health risks associated with a polluted environment, and
- (d) encourage residents to take responsibility for the environment

Application of the Act

4 The provisions of this Act shall be in addition to other requirements imposed by or under the National Environment Management Act or any other written law

PART II—ADMINISTRATIVE PROVISIONS**Establishment of Directorate**

5 (1) There is established a Directorate in the County Government Directorate responsible for environmental matters to be known as the Directorate of Environment

(2) The Directorate shall have all the necessary powers for the execution of its functions under this Act

(3) The Executive Committee member shall ensure that the Directorate has adequate human, financial and any other appropriate resource to enable it to carry out the functions assigned to it under this Act

(4) There shall be appointed a Director and Deputy-Director of Environment and such other officers as may be deemed necessary from time to time by the County Public Service Board

Functions of the Directorate

6 The functions of the Directorate shall be to—

- (a) monitor compliance of the environmental standards established under this Act,
- (b) develop in collaboration with other County and national government institutions strategies to ensure a clean and healthy environment in the county,
- (c) carry out research directly or in collaboration with other institutions and serve as the repository of data and statistics related to environmental management,
- (d) develop in collaboration with other county and national government departments strategies and plans for implementing this Act,
- (e) carry out public education and awareness on the benefits of a clean environment directly and in collaboration with other public or private bodies and institutions,
- (f) consider all matters brought to its attention by the national government and to report its findings thereof,

- (g) arrange for facilities of the disposal of litter in streets and public places,
- (h) designate in collaboration with the County Planning Directorate areas within the county to be dumping sites, and
- (i) perform any other function that may be assigned by any national or county legislation

County Sub-county and Ward Environment Committees

7 (1) The Governor by notice in the *Gazette*, appoint Members of County Environment Committee

(2) Every County Environment Committee shall be constituted in accordance with the provision of article 18 of the Environmental Management and Co-ordination (amendment) act, 2015

(3) The Executive Committee Member may establish Sub-county and Ward Environment Committees to coordinate, monitor, evaluate and review environmental management activities and interventions in their respective sub counties and wards, and to perform such other functions as may be deemed necessary to achieve the objectives of this Act

(4) The County Executive Committee Member responsible for environment matters shall prescribe regulations relating to the functions, powers and procedures of the Sub-county and ward Environment Committees

Record keeping

8 The Executive Member shall—

- (a) prescribe the activities which records shall be kept under this Act, the contents of such records, and the manner in which they shall be kept,
- (b) keep any other records available at the site of an establishment or undertaking and shall be made available at such reasonable time to any Environmental Officer or authorized officer for the purposes of -
 - (i) environmental audit,
 - (ii) environmental monitoring and evaluation,
- (c) pollution control,
- (d) inspection, and
- (e) any other purpose that may be prescribed by the Director of Environment from time to time,

- (f) designate in collaboration with the County Planning Directorate areas within the county to be dumping sites, and
- (g) perform any other function that may be assigned by any national or county legislation

Entitlement to Clean and Healthy Environment

9 Every person within the jurisdiction of the County is entitled to a clean and healthy environment and has the duty to safeguard and enhance the environment

(2) The entitlement under sub-section (1) includes the right of access and enjoyment of the various public elements and segments of the environment for recreational, educational, health, spiritual and cultural purposes

Court Redress

10 (1) If a person alleges that the entitlement conferred under section 9 has been, is being or is likely to be contravened, then without prejudice to any other action with respect to the same matter which is lawfully available, that person may apply to a High Court for redress and the High court may make such orders, or give such direction as it may deem appropriate to—

- (a) prevent, stop or discontinue any act or omission harmful to the environment,
- (b) compel any public officer to take measures to prevent or discontinue any act or omission harmful to the environment, court redress
- (c) require that any on-going activity to an environment audit in accordance with the provisions of this Act
- (d) compel persons responsible for the environmental degradation to restore the degraded environment as far as practicable to its immediate condition prior to the damage, and
- (e) provide compensation for any victim of pollution and the cost of beneficial uses lost as a result of pollution and other losses that are connected with or incidental therewith

(2) A person intending to file a suit under subsection (1) shall have the capacity to bring an action notwithstanding that such a person cannot show that the defendant's act or omission has caused or is likely to cause him any personal loss or injury provided that such action is not frivolous or vexatious or is not an abuse of the court process

Issue of licenses

11 (1) The Executive Committee Member shall issue licenses to applicants subject to such lawful conditions as the Executive Committee Member may determine

(2) Every license shall specify the premises upon which the business specified in the license may be carried on

(3) The Executive Committee Member for Finance shall through the annual Finance Act prescribe the fees payable for the issue of licenses under this Act

(4) The Directorate may after considering the objections, if any, made under this section, grant the license applied for, subject to such terms and conditions as may be specified in the license

(5) The issuance of a license to an applicant under this Act shall not be withheld without reasonable cause

(6) A license issued under this Act is not transferable

PART III—SOLID WASTE MANAGEMENT**Establishment of an Integrated County Waste Management Plan and Strategy**

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

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

- (a) a household waste management plan,
- (b) an industrial waste management plan,
- (c) a commercial waste management plan,
- (d) healthcare waste management plan,
- (e) electronic waste management plan, and
- (f) hazardous waste management plan

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

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

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

(5) Subject to the provisions of the County Governments Act and the Urban Areas and Cities Act, the County Integrated Waste management plan and strategy shall be incorporated in the County Integrated Development Plan (CIDP)

Duty to Manage Waste

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

- (a) avoid the generation of waste and where such generation cannot be avoided, to reduce the amounts or toxicity of waste that is generated,

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

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

Material recovery

14 The Executive Committee Member shall establish material recovery guidelines and undertake activities to facilitate and promote recovery of waste materials through reduction, re-use, recycling and composting of waste by the various actors in solid waste management

Categorization and Handling of Wastes

15 (1) The Executive committee Member shall, through waste regulations, divide wastes generated in the county into various categories depending on their physical or chemical characteristics and provide for the necessary manner of the handling of such waste so as to guarantee the health and safety of all, including but not limited to the waste handlers, as well as the wellbeing of the environment

(2) The categories of wastes referred to in subsection (1) shall include—

- (a) market waste,
- (b) biomedical or clinical waste,

- (c) e-waste,
- (d) construction and demolitions waste,
- (e) industrial waste,
- (f) agricultural waste,
- (g) hazardous waste,
- (h) junk waste,
- (i) plastic waste, and
- (j) any other category of waste as the county executive committee may determine

Prohibition against dangerous handling and disposal of waste

16 (1) No person shall discharge or dispose of any waste, whether generated within or outside the county, in such manner as to cause pollution to the environment or ill health to any person

(2) No person shall discharge or dispose of any wastes except under and in accordance with the provisions of this Act

Charges for waste management

17 The Executive Member in consultation with the Finance Department may by a notice in the gazette impose a charge on generators of wastes within the County for purposes of meeting the cost of waste management

License to Transport Waste

18 (1) No person shall transport any waste other than—

- (a) Licence to transport waste in accordance with a valid license to transport waste issued by the Directorate, and
- (b) to a waste disposal site established in accordance with this Act

(2) Any person who contravenes any provisions of this section commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or a term of imprisonment of not more than six months or both

Private and Public Involvement in Waste Management

19 (1) The County government shall allow for, and facilitate the participation of all persons including individuals, corporate entities, and community and neighborhood associations and organizations in all aspects

of waste management in order to attain and maintain high and sustainable standards in waste management within the county

(2) The Executive committee member, in consultation with the Directorate shall establish mechanisms for the involvement of the various actors in waste management in the County and these mechanisms may include—

- (a) franchise system,
- (b) management contracts paid for by the county government, or
- (c) any other arrangement for provision of specified waste management services

(3) No person or firm shall deal with garbage collection within the County without a valid license issued by the Department

(4) Any person, firm or group licensed to carry out garbage collection and transportation, or disposal of any waste and which flouts any clause or clauses or part thereof of waste management agreement or policy guidelines in private sector involvement in waste management commits an offence

Zoning

20 (1) The Executive committee member may by notice in the gazette divide the County into such zones for Zoning purposes of convenient management of waste collection and transportation and may from time to time alter such zones

(2) Any person or firm authorized to collect and transport waste shall be guilty of an offence if he or she operates outside the zone in which he or she is authorized to operate

Application for Waste Handling License

21 (1) A person intending to collect, sort, separate, salvage reuse recycle or transport any solid waste in the county shall make an application in a prescribed form to the Directorate where the activity is to take place and shall pay a prescribed fee

(2) Where the Directorate rejects an application made under this section, he or she shall within twenty one days of his decision notify the applicant of the decision specifying the reasons

(3) Any vehicle used for transportation of waste or any other means of conveyance shall be labelled in such a manner as may be prescribed

Cancellation of Waste Handling License

22 (1) The Executive Committee Member may where a licensee fails to comply with the whole or any part of the licensing conditions and upon giving notice cancel or vary a license issued under section 21 Cancellation of waste handling license

(2) Any person aggrieved by a cancellation of license under this section may upon complying with the licensing conditions re apply for a license

Duty to Ensure Safe Refuse Disposal

23 (1) Every person has a duty to ensure safe and sanitary disposal of his or her refuse

(2) Every occupier of any premises shall ensure safe and sanitary disposal of his and her refuse and show proof thereof

(3) It shall be sufficient proof of safe disposal of refuse if an occupier has an authenticated payment receipt from a licensed garbage collector

(4) Any person who fails to dispose of refuse in a safe and sanitary manner commits an offence and is liable upon conviction to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding twelve months or both

Prohibition against Littering

24 Any person who throws or causes litter to be thrown in a public place or deposits or otherwise disposes off litter in any place other than in the litter bins provided commits an offence and shall upon conviction be liable to a fine not exceeding thirty thousand shillings or to a term not exceeding three months imprisonment or both

Obstruction of Access for Refuse Removal

25 (1) No person shall erect, cause to be erected or permit the erection of any structure or otherwise obstruct an already provided access for the purpose of refuse removal from any premises

(2) Any person who contravenes the provisions of subsection (1) above commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or to six months imprisonment

Provision of Refuse Receptacles

26 The Director of Environment or any other authorized person may issue notice requiring the owner or occupier of any premises within the County to provide such number of refuse receptacles and of specific types

as it shall be deemed reasonable for the reception of domestic or trade refuse

Approval of Refuse Receptacles

27 (1) No person shall place or allow usage of a refuse receptacle in a public place which is not of such a design, size shape and quality recommended by the department

(2) Any persons who contravenes the provisions of sub-section (1) above commits an offence and shall be liable upon conviction to a fine not exceeding fifty thousand shillings or in default six months imprisonment or both such fine and imprisonment

Junk Waste Disposal

28 (1) No owner or occupier may keep or allow to be kept junk waste in public premises

(2) Where any junk waste is found abandoned in any public place, the authorized officer shall take immediate steps to remove such junk waste and dispose of it in such manner as he or she may deem fit

(3) Any disposal by the authorized officer under subsection (2) shall be at the expense of the owner of such premises or of the junk waste, where such owner is known

Refuse Receptacle Site

29 Every owner or occupier of any premises shall cause all refuse bins upon his premises to be placed and kept in an approved place upon his premises or elsewhere as directed by the Director of Environment or any other authorized person so as to be accessible to the County Government refuse removal staff or authorized service providers

County to Provide Street Cleaning Services

30 (1) The County Government through the Directorate responsible for environment affairs municipality Board or town committee shall make arrangements for the cleaning of streets thoroughfares and sidewalks within the County

(2) No person shall—

(a) sweep or cause or permit to be swept from any land, premises or vessel any dust, dirt, ashes, refuse or rubbish onto or into any footway, back-lane, drain or road,

(b) place or cause or permit to be placed upon frontage of a house, flat, building or any other structure any dust, dirt, ashes, refuse, rubbish or demolition material or any sort of refuse,

- (c) mount any poster or banner by pasting or nailing it on any lamp post, traffic bollard, refuse bin, painted wall, tree or structure on any street, thoroughfare, sidewalk or any other unauthorized surface or place,
- (d) cause the water in any sink, drain, ditch or gutter or any other offensive matter to run onto any street,
- (e) convey in any vehicle, cart or otherwise any offensive substance through or along any street except in receptacles which are watertight and airtight, and disturb the surface of any street, sidewalk, sanitary lane or other public place vested in the County Government, without the previous consent in writing of the department, nor otherwise than in accordance with such conditions as it may determine

Owner or Occupier to Clean Paved Areas

31 It shall be the duty of every occupier or owner or agent of house, trade premise or any other development to clean or cause to be cleaned and to remove all wastes and maintain cleanliness of the frontage of his /her house, trade premises or any other development to the satisfaction of the Directorate provided that the duty of the owner or occupier or agent shall not include cleaning of the main road, open space or public plot

County to Provide Street Litter Bins

32 The County Government through the Directorate responsible for environment affairs Municipality Board or Town committee may make arrangements to provide litter basket or bins for the disposal of litter only in the streets and public areas

Indiscriminate Pasting of Posters Prohibited

33 Any person, firm, society or organization, religious, political or otherwise which pastes or causes to be pasted a poster, hand Bill or an advertisement material on a litter bin, dust bin or any other unauthorized surface or place, shall be guilty of an offence

Offences

34 Any person guilty of an offence under the provisions of the preceding laws shall be liable on conviction to a fine not exceeding Kenya Shillings fifty thousand (KSh 50,000) or in default to imprisonment for a term not exceeding one month or to both such fine and imprisonment or in default to an imprisonment to a term not exceeding three months or to both such fine and imprisonment

PART IV—CONTROL OF AIR POLLUTION**Abatement of air pollution**

35 The Directorate is in addition to the responsibilities imposed under section 6 also undertake the—

- (a) promotion of alternative cooking technologies that are non-polluting,
- (b) development of well-ventilated buildings,
- (c) regulation of smoking in public places,
- (d) Promotion of tree planting and expansion of forest cover

Permitted Operations

36 The following operations shall be permissible under this Act provided that they are not used for the disposal of refuse—

- (a) back-burning to control or suppress wildfires,
- (b) firefighting rehearsals or drills conducted by fire service agencies,
- (c) traditional and cultural burning of savanna grasslands,
- (d) burning for purposes of public health protection, and
- (e) Emissions of air pollutants from all stationary and mobile sources as set out under the Regulations

Causing Air Pollution Contrary to License an Offence

37 No person shall—

- (a) act in a way that directly or indirectly causes, or is likely to cause immediate or subsequent air pollution, or
- (b) emit any liquid solid or gaseous substance or deposit any such substance, Contrary to the license issued under this Act or other relevant law

Directorate to Liaise with Lead Agencies

38 (1) The Directorate shall liaise with relevant lead agencies, from time to time regarding—

- (a) methods of abating and regulating air pollution,
- (b) determining protected areas and special areas,
- (c) clean up of any air pollution where necessary,
- (d) declaring any area exempted from the provisions of this Act

Directorate to Order Inspection

39 (1) The Directorate may, to ensure the provisions of this Act are being observed, in consultation with the relevant agencies, at any time order the inspection –

- (a) of a vehicle releasing visible exhaust emissions,
- (b) any waste incinerator, and
- (c) of fuel burning equipment

Powers to Refuse to Grant or Renew Licenses and to Cancel Licenses

40 (1) The Directorate may refuse to grant or renew a license or cancel a license, with respect to any license relating to—

- (a) the use of premises as a theatre, music hall, concert room or other place of amusement, or as a restaurant or eating house,
- (b) for the carrying on of any work or trade,
- (c) on grounds that—
 - (i) that the method adopted or proposed to be adopted by the applicant for preventing noxious or offensive vapors, gases or smells arising from such work or trade are not efficient
 - (ii) that the granting or renewal of such license would be calculated to cause nuisance or annoyance to persons residing in the neighborhood

(2) The Directorate may cancel any license granted by it on any such grounds as it may by law specify and, in addition, on any of the following grounds, whether specified in such law or not—

- (a) with respect to any license, that it is contrary to the public interest for such license to remain in force, and
- (b) additionally, with respect to any license specified in subsection (1) (b)—
 - (i) that the premises to which the license relates or any adjacent premises owned or occupied by the holder of the license are frequented by persons of bad character,
 - (ii) that the continuation of such license in force would be calculated to cause nuisance or annoyance to persons residing in the neighborhood, and
- (c) with respect to any license for the carrying on of any work or trade declared to be an offensive trade—

- (i) that the premises used by the holder of the license have become unsuitable for the purpose,
- (ii) that the methods adopted by the applicant for preventing noxious or offensive vapors, gases or smells arising from the work or trade have become ineffective

Responsibility of Owner or Operator

41 (1) The Directorate may, after consultation with the relevant agencies and the public, declare a facility to be a controlled facility for purposes of this Act

(2) Every owner or operator of a controlled facility shall ensure that emissions from his or her facility does not cause air pollution in any territory outside the jurisdiction of the County, in excess of the relevant ambient air quality levels prescribed

Smoking in Public Places

42 (1) No person shall smoke a tobacco product or hold a lighted tobacco product in an enclosed indoor area of a public place

(2) Notwithstanding the provisions of sub-section (1), the Directorate may by notice in the Gazette prohibit or restrict smoking in a specified outdoor public place where persons are likely to congregate within close proximity to one another or where smoking may pose a fire or other hazard,

(3) Any person who contravenes any of the provisions of this section shall be guilty of an offence

Smoking in Public Vessels

43 (1) No person shall smoke a tobacco product or hold a lighted tobacco product in a public vessel

(2) Any person who contravenes any of the provisions of this rule shall be guilty of an offence

Display of Signs in Non-Smoking Areas

44 (1) The owner or manager of a public place or any public vessel in which smoking is prohibited under this Act shall post clearly legible signs stating that smoking is prohibited

(2) The signs under sub-section (1) shall be displayed in the national languages and may in addition be displayed in the language most widely spoken by the people of the area

Owner to Ensure No Smoking

45 (1) The owner or manager of a public place or public vessel in which smoking is prohibited under this Act shall take reasonable steps to ensure that smoking does not take place in such place or vessel

(2) Without prejudice to the generality of sub-section (1), the owner or manager of the premises may—

- (a) ask the person who is smoking to immediately cease smoking,
- (b) demand that the person smoking should leave the premises or vessel,
- (c) seek the assistance of a health officer, police officer or authorized officer

(3) A person who contravenes any of the provisions of this section shall be guilty of an offence

**PART V—ENVIRONMENTAL CONSERVATION AND
PROTECTION**

Protection and conservation of rivers wetlands

46 (1) No person shall, without prior written approval of the Authority given after an environmental impact assessment, in relation to a river, or wetland in the county carry out any of the following activities —

- (a) erect, reconstruct, place, alter, extend, remove or demolish any structure or part of any structure in, or under the river or wetland,
- (b) excavate, drill, tunnel or disturb the river, or wetland,
- (c) introduce any animal whether alien or indigenous in a river or wetland,
- (d) introduce or plant any part of a plant specimen, whether alien or indigenous, dead or alive, in any river, or wetland,
- (e) deposit any substance in a river or wetland or in on, or under its bed, if that substance would or is likely to have adverse environmental effects on the river, or wetland,
- (f) direct or block any river or wetland from its natural and normal course, or
- (g) drain any, river or wetland

(2) No car washing activities shall be allowed in any areas including rivers, wetlands other than those designated for such All designated car

washing areas shall have provision for running piped water, a washing bay constructed of motor gravel, silt and soil traps and, drainage of the water to pond or vegetated areas or sewer line and failure to will be an offence

(3) The Executive member in consultation with the Authority may, by notice in the *Gazette*, issue general and specific orders, regulations or standards for the management of river banks, wetlands and such orders, regulations or standards may include management, protection, or conservation measures in respect of any area at risk of environmental degradation and shall provide for—

- (a) the development of an overall environmental management plans for a river, wetland or taking into account the relevant sectoral interests,
- (b) contingency plans for the prevention and control of all deliberate and accidental discharge of pollutants into the rivers,
- (c) plans for the protection of wetlands,
- (d) the regulations of harvesting of aquatic living and non-living resources to ensure optimism sustainable yield, Promotion of environmentally friendly tourism, and he management of biological resources,

Protection of Hilltops and Riparian from Degradation

47 1) The County shall, in consultant with the relevant lead agencies, issue guidelines and prescribe measures for the sustainable use of hill tops, hill slides , mountainous and riparian areas

(2) The guidelines issued and measures prescribed by the County under subsection (1) shall be by way of Gazette Notice and shall include those relating to—

- (a) appropriate farming methods,
- (b) carrying capacity of the areas described in subsection (1) in relation to animal husbandry,
- (c) measures to curb soil erosion,
- (d) disaster preparedness in areas prone to landslides,
- (e) the protection of areas referred to in subsection (1) from human settlements,
- (f) the protection of water catchment areas, and
- (g) any other measures the county considers necessary

(3) The Sub-county Environment Committees shall be responsible for ensuring that the guidelines issued and measures prescribed under subsection (2) in respect of their Sub-counties are implemented.

(4) Any person who contravenes any measure prescribed by the county under this section or who fails to comply with a lawful direction issued by a Sub-county environment committees under this section shall be guilty of an offence.

(5) Subject to subsection (2) the Governor may, in consultation with the Directorate of Forestry, enter into any contractual arrangement with a private owner of any land on such terms and conditions as may be mutually agreed for the purposes of registering such land as forest land.

(6) The county shall not take any action, in respect of any forest or mountain area, which is prejudicial to the traditional interests of the indigenous communities customarily resident within or around such forest or mountain area.

PART VI—MANAGEMENT OF PARKS AND OPEN SPACES

Greening and Beautification in Urban Areas

48 (1) The County may establish or allow private sector involvement in greening and beautification of the County parks on terms and conditions agreed by the involved parties. A memorandum of agreement or understanding will be entered between the County and the partner.

(2) The County shall cancel or withdraw the memorandum of understanding if partner fails to comply with all or any of the condition(s) agreed thereof.

(3) Any owner or occupier of any land in which an open space is available and/or which is suitable for greening, if so required by the county shall plant grass, flowers, shrubs or trees unless it is being prepared for any other immediate approved use.

Permission to Prune, Cut Trees, Flowers or Shrubs

49 No person shall cut, prune or permit cutting or pruning of trees, flowers or shrubs within the County's urban areas jurisdiction without first obtaining a written permission from the department, failure to which it is an offence.

Vegetation Management

50 (1) It shall be the duty of the owner or the occupier of a plot or premises to clear all vegetation within a radius of at least five(5) meters

from the boundaries of his/ her plot or premises, failure to which shall constitute an offence

(2) It shall be the duty of the owner or occupier of undeveloped plot to clear all vegetation therein failure to which shall be an offence

(3) Any person(s) who fails to trim his/her flower bed, hedge offence to a size which, in the opinion of the Directorate is reasonable shall be guilty of an offence

Use of Public Park or Open Space

51 (1) Any person who uses for any purpose any public park or any public open space without authority from the Directorate shall be guilty of an offence

(2) Any person who occupies a public space without authority of the County shall be guilty of an offence

Destruction of Trees, Flowers in Public Park, Streets

52 (1) Any person who steals or destroys or causes destruction whether willfully or not to flowers, shrubs, trees, seats or any other property in a public park or place shall be guilty of an offence

(2) Where deemed necessary, every owner or occupier of a premises or space shall be required to beautify the frontage of such a premises or space in accordance with the specifications provided by the Directorate

(3) It shall be an offence for any person or persons to display for sale or otherwise any wares or equipment or foods in a beautified area or public space

(4) Any person/persons who destroys or otherwise interferes with flowers, trees or any beautification material or equipment shall be required to replant or restore the area destroyed or interfered with to its original state

Permission for Photography in the Parks and Open Spaces

53 Any person who practices photography in the public parks roundabouts without the authority of the Directorate shall be guilty of an offence

Certificate to Operate a Tree Nursery

54 Any person or person who operates tree or flower nurseries without a tree nursery certificate from County shall be guilty of an offence

Penalty

55 Any person guilty of contravening the preceding laws expressly stated shall be guilty of an offence and upon conviction be liable to a fine not exceeding Kenya Shillings Ten Thousand (KSh 10,000) or to imprisonment not exceeding eighteen months or to both such fine and imprisonment

PART VII—NOISE POLLUTION CONTROL**Regulation of Noise**

56 The Directorate shall be responsible for—

- (a) the development of a county strategy on noise pollution,
- (b) regulation of noise in special areas,
- (c) regulation of high noise levels associated with commercial and associated machinery, public transportation and social activities

Special Places

57 (1) The Directorate shall, by notice, designate certain places to be special places for purposes of this Act

(2) A place designated to be a special place under this section shall, subject to section 57 (1), not be subjected to high noise levels

Application for License

58 (1) A person who desires to undertake an activity, whose noise levels may constitute a danger or a nuisance under this Act, shall apply to the Directorate for a license before carrying out such activity

(2) The Directorate shall—

- (a) where the activity is not taking place within a special area, issue a license subject to any conditions as it may impose,
- (b) where the activity is to take place within a special area, consult the community living in that area before making a decision on the issuance of a license

(5) The consultations between the Directorate and the community under subsection (2) shall be recorded and a copy thereof be placed with such community representative as may be agreed upon

(6) A person who carries out an activity contrary to this section commits an offence

License fees

59 (1) The Directorate shall liaise with Finance Department with the approval of the county assembly to determine the fees to be paid for license under this Part and different fees may be set for different activities. Provided that where an activity exceeds the period stated within the license, the Directorate shall on application, provided no breach of contract has occurred on the part of the applicant and on payment of such fee as may be prescribed, extend the license.

PART VIII—NUISANCES**Nuisance and Impounding of Animals**

60 (1) Any person who keeps within the County any animal or poultry which causes a nuisance to any of the residents in the neighborhood shall be guilty of an offence.

(2) Any person who, except with the written permission of Directorate and subject to such conditions as it may deem fit, keeps within an urban area, a game animal, reptile or any ass, mule, ox, bull, or cow, goat, sheep or pig shall be guilty of an offence.

(3) The Directorate may remove any of the species of animals referred to in subsection (2) which has been kept within the county or left in a street in contravention of this Act and impound the same.

(4) The owner of an animal or reptile, as specified under subsection (2), which is removed from the town or street in pursuance of subsection (3) shall not be entitled to recover the same until he or she has paid to the county, such fee as may be prescribed in the Regulations to cover expenses incurred by the county for the upkeep of the animal.

(5) If an owner contemplated under subsection (4) does not pay the fees and expenses due within a period of seven days from the date the said animal was impounded, the Directorate may sell or otherwise dispose of the animal by auction or any other means and the proceeds of such disposal, shall be set off against the outstanding fees and expense any incurred by the Directorate in the removal or disposal of the animal.

(6) A person shall be guilty of an offence, if such person has under his control or in his custody—

- (a) any animal, reptile or bird, which causes a nuisance or annoyance to any of the residents of the area, or
- (b) any animal, reptile or bird which is so kept as to be or likely to become injurious to the health of any person, or

- (c) any animal, reptile, poultry or bird which wanders on a street in such a manner as to cause obstruction, inconvenience to traffic or pose a danger to persons

(7) Any person who, except with the written permission of the Directorate subject to such conditions as it may deem fit, permits any animal referred to in subsection (1) to graze within a protected area shall be guilty of an offence

Protected Area

61 (1) The Directorate shall declare specified areas to be protected areas under this Act

(2) The Directorate before declaring an area to be a protected area shall consider the purpose for which it is being protected and the views of the community within that area

(3) A person who allows animals under his or her control to graze within a protected area commits an offence

Offences on Nuisances

62 Any person who in any street—

(a) without a permit—

(i) ignites any firework,

(ii) for the purpose of hawking, selling, distributing or advertising any article or event, shouts or uses any bell, gong, or other noisy instrument or loudspeaker,

(iii) lights or maintains or suffers to be lit or maintained any fire or brazier in the central area as defined in any laws of the County for the time being in force,

(iv) commits any act contrary to public decency,

(b) places or deposits and leaves any glass, earthenware, tin, carton, paper, sawdust or other rubbish so as to create or tend to create litter,

(c) throws down or leaves any orange peel, banana skin, or other substance likely to cause a person to fall down,

(d) to the inconvenience or danger of any person carries or conveys any bag of lime, charcoal, or other offensive material, timber or any pointed or edged tools or implements not properly guarded,

(e) plays any game in such a manner as to cause the likelihood of damage to property, or danger to any person,

- (f) rides, drives or propels a vehicle on a footpath,
- (g) while being in charge of any dog, allows such dog to foul any path and fails to remove the stool,
- (h) defecates or urinates on the street or any open space with an exception of a pregnant woman
- (i) touts for passengers, or,
- (j) without a permit draws graffiti on any public building,
- (k) urinate or defecate in or upon any land, forest, bush, street, alley, canal, drain, ditch, river, or watercourse or in any place to which the public has access to except in a sanitary convenience provided for such purpose, and
- (l) cause or permit any urine or faecal matter to flow or drain into any , river, canal, ditch, drain, dam or watercourse,

Shall be guilty of an offence

PART IX—OUTDOOR ADVERTISING

Illegal Outdoor Advertisement

63 Any person who, in or in view of, any street or public place, erects, fixes, places, maintains, displays or uses or permits to be erected, fixed, placed, maintained, displays or used, any advertisements devise without first obtaining a permit, or otherwise than in accordance with the terms and conditions of permit shall be guilty of an offence

Application for Advertising

64 Every application for a permit shall be made in writing to the chief officer and shall be accompanied by a plan or sketch showing, to the satisfaction of the Department, the position of the proposal advertising device or notice, its dimensions and the method of execution and stating the material of which it is to be composed or it is constructed, its color and such other information as the Directorate may require

Offences on Outdoor Advertising

65 Any person who without a permit—

- (a) draws, wheels or drives any vehicles or carries any board or placard used solely or chiefly for the purpose of exhibiting advertisements,
- (b) for the purpose of advertising, distributes any hand bill or other paper,
- (c) defaces the footway or roadway by writing or other marks,

Commits an offence

Directorate may Prescribe Rules

66 The Directorate may prescribe county laws to—

- (a) to prohibit or control the display of advertisements and advertising devices in or in view of any street or other public place or in such places or in such manner or by such means as would, in the opinion of the Department, be likely to affect injuriously the amenities of or to disfigure any neighborhood, and
- (b) to regulate the use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other moveable advertising devices, and
- (c) to regulate the distribution of handbills in or along any street or other public place,
- (d) to control street decorations, and to prohibit or control the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the accommodation of spectators at any procession,
- (e) the size of the billboards and the number that may be erected on a road reserve,
- (f) the fees payable

PART X—ENFORCEMENT**Authorized Officers**

67 (1) The County Executive Member shall appoint for each sub county, any person or class of persons in the employment of the County public service Board to be authorized officers for purposes of this Act

(2) Notwithstanding the provisions of this section, the following officers shall be deemed to be authorized officers for the purposes of this Act—

- (a) officers appointed as Enforcement Officers under County Legislation, the National Police Service Act, and Environmental Management and Co-ordination Act, and
- (b) any other person upon whom any written law vests functions of the maintenance of law and order

Duties of Authorized Officers

68 An authorized officer shall—

- (a) monitor compliance with the environmental standards established under this Act, and
- (b) perform such other functions as may be required under this Act,

Powers of Authorized Officers

69 (1) For the purposes of ensuring compliance with this Act, an authorized officer may, at any reasonable time—

- (a) enter any place in which the officer believes on reasonable grounds that any person or persons is in any way contravening the provisions of this Act and make examinations and enquiries,
- (b) require the production or examination of any licenses, permits or other relevant documents relating to such premises,
- (c) carry out periodic inspection of all establishments within their respective jurisdictional limits which manufacture, produce as by-products, import, store, sell or distribute or use any substances that are likely to have significant impact on the environment, and
- (d) with the written approval of the Executive member order the immediate closure of any manufacturing plant or other establishment or undertaking which is causing or is likely to cause significant pollution to the environment

(2) Pursuant to Article 24(2) of the Constitution, the right to privacy set out in Article 31 of the Constitution is limited to the extent specified in this section for the purpose of monitoring and ensuring compliance with this Act

(3) No suit, or other legal proceedings shall lie against an authorized officer for anything done in the performance of his duties, in good faith and without negligence under this Act

Restriction to Enter Dwelling Place

70 An authorized officer may not enter a dwelling place except with the consent of the occupant or under the authority of a warrant issued by a court of competent jurisdiction

Obstruction of Authorized Officers

71 Any person who assaults or obstructs an authorized officer, or other person duly authorized, in execution of their duty under this Act commits an offence and on conviction shall be liable on conviction of not less than one year but not more than four years, or to a fine of not less than two million shillings but not more than four million shillings, or to both such fine and imprisonment

Service of Notices

72 (1) Any notice required or authorized to be sent or served for the purposes of this Act may be sent or served—

- (a) by delivering it to the person to or on whom it is to be sent or served, or
- (b) by leaving it at the usual or last known place of abode or business of that person, or, in the case of a company, at its registered office or
- (c) by ordinary or registered post, or
- (d) by fixing or pasting it on a conspicuous place within the premises, or
- (e) by any method which may be prescribed

(2) However, if an authorized officer having attempted to send or serve a notice by one of the methods provided under subsection (1) and is satisfied that such notice has not been received by the person to whom it was addressed, he may advertise, in the Gazette and in one or more newspapers circulating in the county, the general purport of such document, and upon such advertising the document shall be deemed to have been received by that person

PART XI—MISCELLANEOUS PROVISIONS**Offence by Body Corporate, Partnerships, etc**

73 (1) Where an offence is committed under this Act by a body corporate, the body corporate and every director or officer of the corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act shall be guilty of the offence

(2) Where an offence is committed under this Act by a partnership, every partner or officer of the partnership who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act commits an offence

(3) A person shall be personally liable for an offence against this Act, whether committed by him or his or her own account or as an agent or servant of another person

(4) An employer or principal shall be liable for an offence against this Act, unless the employer or principal proves that the offence was committed against his or her express or standing directions

Regulations

74 (1) Subject to provisions of national or related pieces of legislation, the Executive Committee Member may, make Regulations for the better carrying out of this Act

(2) Without prejudice to the generality of subsection (1) the regulations may—

- (a) prescribe the forms of applications notices licenses, permits and other documents for use under this Act,
- (b) prescribe the fees payable under this Act,
- (c) set standards for the purpose of enhancing environmental quality of its residents ,
- (d) regulate the playing of musical instruments or the singing or performing for profit, in or on any public place,
- (e) regulate all businesses, factories and workshops which, by reason of noise, vibration or other cause, may be or become a source of danger, discomfort or annoyance to the neighbourhood
- (f) prohibit anything required by this Act to be prohibited,
- (g) prescribe the conditions subject to which such businesses, factories and workshops shall be carried on,
- (h) prohibit or control the display of advertisements and advertising devices, and
- (i) regulate the use and passage of advertising vans, sandwich boards, lanterns, flags, screens or other moveable advertising devices

County Technical Environmental Committee

75 The Executive Committee Member may establish a County Technical Environmental Committee for the purpose of advising in formulation of environmental standards and other relevant environmental issues

Transitional Provision

76 Any person who, at the commencement of this Act, owns or operates a waste disposal site or plant, shall apply to the Executive Committee Member for a license under this part, within four months after the commencement of this Act

Requirement for EIA /EA Undertaking

77 No person, being a proponent of a project, shall, before financing, commencing proceeding with, carried out, executing or conducting or causing to be financed, commenced, proceeded with, carried out, executed or conducted by another person any undertaking specified in the Second Schedule as prescribed in the Environment Management and coordination act 1999 without submitting a project report to the Authority and obtain a licence to that effect

General Penalty

78 (1) A person who is convicted of an offence under this Act, for which no other penalty is provided, shall on conviction be liable to a fine not exceeding shillings five hundred thousand or imprisonment for a period not exceeding two years or to both such fine and imprisonment

(2) A county may, by law, further prescribe that, in addition to any penalty, any expenses incurred by the county in consequence of the breach of any law made under this Act or in the execution of any work directed by any such law to be executed by any person and not executed by him, shall be paid by the person committing such breach or failing to execute such work

Rules

79 (1) The Directorate may make rules prescribing

- (a) the fees to be charged in respect of any license or permit issued under this Act,
- (b) the form of applications and permits,
- (c) any registers to be kept,
- (d) conditions subject to which the county shall issue permits relating to noise pollution, air pollution and advertising,
- (e) generally to give effect to the provisions of this Act

(2) All rules made under this Act shall be presented to county assembly as soon as possible after publication

FIRST SCHEDULE

As prescribed in Environment Management and Co-ordination Act, 1999

SECOND SCHEDULE

As prescribed in Environment Management and Co-ordination Act, 1999