

SPECIAL ISSUE

Kenya Gazette Supplement No. 15 (Tana River County Acts No. 3)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

TANA RIVER COUNTY ACTS, 2021

NAIROBI, 1st November, 2021

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THE TANA RIVER COUNTY CLIMATE CHANGE ACT, 2021

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

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

1. This Act may be cited as the Tana River County Climate Change Act, 2021 and shall come into force on the fourteenth day after its publication in the *Gazette*.

Short title and
commencement

2. In this Act unless the context otherwise requires—

Interpretation

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

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

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

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

“climate change unit” means the County Climate Unit established to support coordination of climate change matters in the County as envisaged by section 19(3) of the Climate Change Act, 2016;

“constitution” means the Constitution of Kenya, 2010;

“county” means Tana River County;

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

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

“County Government” means the Tana River County Government;

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

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

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

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

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

“planning committee” means the County Climate Change Planning Committee established under section 15 of this Act;

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

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

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

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

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

“Ward planning committee” means the Ward Climate Change Planning Committee established under section 23 of this Act.

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

Objects and
purposes of this
Act

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

- (a) mainstream climate change responses into development planning, decision making and implementation;
- (b) implement coordinated and integrated response to climate change and its impacts by all actors and stakeholders;
- (c) facilitate effective management of climate change impacts by enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change;
- (d) promote, support and facilitate community-based and community initiated adaptation and mitigation activities;
- (e) enforce duties and provide incentives for the private sector to contribute to achievement of low carbon climate resilient development;
- (f) facilitate public participation in climate change response through capacity development, awareness creation, consultation, representation and access to information;

- (g) establish frameworks and mechanisms for mobilization and transparent and accountable management of financial and other resources for climate change response;
- (h) establish and implement mechanisms to promote and facilitate climate change research and development, innovations, technology development, training and capacity building;
- (i) integrate climate change into the exercise of power and functions of all levels of the county government, including in decentralized units and enhance cooperative climate change governance between the county, neighbouring counties and the national government; and
- (j) contribute to national efforts to address the adverse impacts of climate change.

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

Guiding
principles

- (a) community driven and bottom-up planning of response to climate change;
- (b) commitment to informed participation of communities in planning and implementation of climate change response interventions;
- (c) recognition, respect and integration of knowledge, perspectives and experiences of communities in climate change response;
- (d) planning and implementation of climate change response to be anchored in and supportive of devolution;
- (e) flexible learning approach to addressing challenges of climate change;
- (f) investments focused on achieving equitable benefits;
- (g) inclusion of all major actors in planning and implementation of climate change response;

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- (h) protection of the climate system for the benefit of present and future generations;
- (i) ensuring a just transition for all towards an environmentally sustainable economy and society in the light of county circumstances and developmental goals;
- (j) national values and principles of governance spelt out in Article 10 of the Constitution;
- (k) values and principles of public service spelt out in Article 232 of the Constitution;
- (l) promotion and protection of the right to a clean and healthy environment in accordance with Article 42 of the Constitution;

Commitment to fulfillment of the state obligations in respect of the environment as stipulated under Article 69 of the Constitution.

PART II—CO-ORDINATION AND OVERSIGHT

5. There is established the County Climate Change Steering Committee.

Establishment of
County Climate
Change Steering
Committee
Functions of
Steering
Committee.

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

- (a) ensure mainstreaming of climate change into county planning and development processes;
- (b) coordinate formulation and monitor implementation of the County Climate Change Action Plan, County Climate Finance Framework and any other county climate change policies, plans and strategies;
- (c) mobilize funds into and administer the County Climate Change Fund established under this Act;
- (d) review, approve and monitor implementation of Regulations for administration and management of the Fund;
- (e) review and make recommendations on the biennial report on implementation of the County

Climate Change Action Plan and any other reports on climate change response interventions in the county;

- (f) advise the county government on legislative, policy and other measures necessary for climate change response and attainment of low carbon climate resilient development;
- (g) approve and oversee the implementation in the county of a comprehensive programme of climate change education, awareness creation and capacity building;
- (h) ensure positive linkages, interactions and synergy between the county, neighbouring counties and the national government in climate change response programming and action;
- (i) ensure a coordinated approach to climate change response programming and action within the county government, between the county government and national government, and among the different stakeholders in the county;
- (j) coordinate the formulation of a climate change reporting framework, and the preparation and dissemination of an annual report on climate change response activities in the county; and
- (k) perform any other functions that may further the foregoing objectives and/or may be assigned by the Governor.

7. (1) The Steering Committee shall comprise of 11 members who shall be appointed to the Committee by the Governor.

Composition of
Steering
Committee

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

- (a) Deputy Governor as chairperson;
- (b) County Executive Committee Member in Charge of Environment and Climate change matters as Secretary;
- (c) County Executive Committee Member in charge of finance;

- (d) County Executive Committee Member in charge of agriculture, livestock and fisheries;
- (e) County Executive Committee Member in charge of health;
- (f) County Drought Coordinator or the national government official for the time being responsible for coordination of drought response in the county;
- (g) County representative of the National Environment Management Authority;
- (h) one representative of the private sector in the county;
- (i) one representative of women in the county;
- (j) one representative of youth in the county;
- (k) Fund Administrator, as an *ex-officio* member with no voting rights.

(3) A person shall only qualify to be nominated for appointment under subsections (2) (h) (i), and (j) if the person has demonstrable experience, expertise and interest in issues of climate change, natural resource management and/or environmental conservation and has actively and publicly engaged with these issues in the county.

(4) Without prejudice to the provisions of subsection (3) a person shall not qualify to be nominated for appointment under subsections (1) (h), (i), and (j) unless such person is—

- (a) a citizen of Kenya;
- (b) fulfils the requirements of Chapter 6 of the Constitution; and
- (c) is a resident of Tana River County.

(5) The Governor shall ensure compliance with the two thirds gender principle in the appointment of members of the Steering Committee.

8. Names of persons nominated for appointment under section 7 (2) (h), (i), and (j) shall be presented to the County Assembly for approval.

Approval of
appointments by
the County
Assembly

9. Members of the Steering Committee appointed under section (7 (2) (h), (i), and (j) shall serve for one renewable term of three years.

Term of the
Steering
Committee

10. (1) A member of the Steering Committee may resign from the Committee by issuing one month's notice in writing to the Governor.

Removal of
Member of the
Steering
Committee

(2) A member of the Steering Committee may be removed from the Committee by the Governor on any one or a combination of the following grounds—

- (a) failure to attend two consecutive meetings of the Steering Committee without reasonable cause duly communicated to the chairperson of the Committee;
- (b) serious violation of the Constitution or any other written law;
- (c) gross misconduct;
- (d) physical or mental incapacity;
- (e) bankruptcy.

(3) A person who is a member of the Steering Committee by virtue of his or her office shall cease to be a member of the Committee upon being transferred from the county or ceasing to hold that office.

(4) A person who is a member of the Steering Committee under section 7 (2) (h), (i), and (j) shall cease to be a member of the Committee upon ceasing to be a member of the interest group.

(5) Whenever a member of the Steering Committee is removed or otherwise ceases to be a member of the Committee, the Executive Committee Member for the time being in charge of matters Climate Change shall advise and/or propose a replacement to the Governor within 30 days of the vacancy.

11. The County Department at the time responsible for matters Climate Change (here referred to as Climate Change Unit) shall serve as the Secretariat of the Steering Committee.

Functions of the
County
Management
Committee.

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12. (1) Members of the Steering Committee shall at their first meeting elect a vice-chairperson from amongst the members appointed under section 7(1)(i), (j), (k) and (l).

Meetings of the
Steering
Committee

(2) The Steering Committee shall meet at least once every quarter in each financial year.

(3) The quorum for meetings of the Steering Committee shall be two thirds of the membership.

(4) A resolution of the Steering Committee shall require an affirmative vote of at least one half of the members present at a meeting, excluding the chairperson's vote which shall be a casting vote.

(5) In the absence of the chairperson, the vice-chairperson shall chair meetings of the Steering Committee, and in the absence of both the chairperson and the vice-chairperson members in attendance shall elect one of them to chair the meeting.

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

13. Members of the Steering Committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission.

Allowances for
members of the
Steering
Committee

14. Subject to the provisions of this Act, the Steering Committee may, either generally or in a particular case, delegate the exercise of any of its functions under this Act to any Subcommittee or to any member of the Steering Committee or officer or agent thereof. The delegation of any such powers shall be by affirmation through votes cast during a meeting of the Steering Committee members.

Delegation of
powers by the
Steering
Committee

PART III – INSTITUTIONAL FRAMEWORK FOR PLANNING AND IMPLEMENTATION

A. COUNTY CLIMATE CHANGE PLANNING COMMITTEE

15. There is established the County Climate Change Planning Committee, which shall comprise of 11 members

Establishment of
Planning
Committee

appointed to the Committee by the County Executive Committee Member for the time being in charge of climate change matters.

16. The functions of the Planning Committee shall be—

Functions of
Planning
Committee

- (a) to co-ordinate planning, and implementation of projects and activities for climate change response in the county;
- (b) to co-ordinate implementation of the County Climate Change Action Plan and the County Climate Finance Framework;
- (c) establish guidelines to be used by Ward Planning Committees in formulating climate response projects for funding by the County Climate Change Fund;
- (d) support Ward Planning Committees in development and implementation of climate response projects;
- (e) co-ordinate development and implementation of the County Climate Change Fund Regulations;
- (f) advise the Steering Committee on strategies, priority programmes, projects and activities for climate change response in the county;
- (g) formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the county;
- (h) to coordinate research and knowledge management on climate change, its impacts and strategies for responding thereto;
- (i) prepare and disseminate an annual report on climate change response activities in the county;
- (j) formulate and implement a county monitoring, evaluation and reporting framework for climate change response; and
- (k) perform any other functions assigned to it by the Steering Committee.

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Composition of
Planning
Committee

17.(1) Members of the Planning Committee shall be—

- (i) Chief Officer in charge of climate change matters who shall be the chairperson;
- (ii) Director in charge of the climate change unit, who shall be the Secretary;
- (iii) County Director in charge of finance and planning;
- (iv) County Director in charge of agriculture, livestock and fisheries;
- (v) County Director in charge of health;
- (vi) County Director of Meteorology;
- (vii) one representative of the private sector in the county nominated by the County Executive Committee Member for the time responsible for matters Climate Change and approved by the County Assembly;
- (viii) one representative of women in the county nominated by the County Executive Committee Member for the time responsible for matters Climate Change and approved by the County Assembly;
- (ix) one representative of youth in the county nominated by the County Executive Committee Member for the time responsible for matters Climate Change and approved by the County Assembly; and
- (x) the Administrator of the Fund, who shall be an *ex-officio* member with no voting rights.

(2) Members of the Planning Committee shall at their first meeting elect a vice-chairperson from among the members appointed under subsection (1) (vii) (viii) and (ix).

18. (1) Members of the Planning Committee shall be appointed by the County Executive Committee Member for the time being in charge of climate change matters.

Appointment and
Term of Planning
Committee

(2) Members of the Planning Committee appointed under section 17 (1) (vii) (viii) and (ix) shall serve for one renewable term of three years (1) to be Officer of the Fund in respect of one or more wards as may be appropriate.

19. (1) A member of the Planning Committee may at any time resign from the Committee by giving one month's notice to the County Executive Member for the time being in charge of Climate Change.

Removal of
member of
Planning
Committee

(2) A member of the Planning Committee may be removed from the Committee by the County Executive Member for the time being in charge of Climate Change on any one or a combination of the following grounds—

- (a) failure to attend two consecutive meetings of the Planning Committee without reasonable cause duly communicated to the chairperson of the Committee;
- (b) serious violation of the Constitution or any other written law;
- (c) gross misconduct;
- (d) physical or mental incapacity; and
- (e) bankruptcy.

(3) A person who is a member of the Planning Committee by virtue of his or her office shall cease to be a member of the Committee upon being transferred from the county or ceasing to hold that office.

(4) A person who is a member of the Planning Committee under section 17 (1) (vii) (viii) and (ix) shall cease to be a member of the Committee upon ceasing to be a member of the interest group.

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

20. The County Climate Change Unit shall serve as the Secretariat of the Planning Committee.

Secretariat of
Planning
Committee

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Meetings of
Planning
Committee

21. (1) The Planning Committee shall meet at least once every quarter in each financial year.

(2) The Planning Committee may choose to rotate the location of its regular meetings to different wards in the county for purposes of engaging directly with communities and familiarizing itself with their climate change related challenges.

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

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

(5) In the absence of the chairperson, the vice chairperson shall preside over a meeting, and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting; provided that no two consecutive meetings shall be held without either the chairperson or the vice-chairperson being present.

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

1) The Member of the County Executive Committee, with the concurrence of the County Management Committee shall for each financial year allocate funds to each Ward in accordance with section 26.

22. Members of the Planning Committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission.

Allowances for
members of
Planning
Committee

WARD CLIMATE CHANGE PLANNING COMMITTEE

23. There shall be established a Ward Climate Change Planning Committee in each ward.

Establishment of
Ward Planning
Committees

24. The functions of the Ward Planning Committee shall be—

Functions of
Ward Planning
Committee

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

25. (1) A Ward Planning Committee shall be composed of 8 members representing the diverse interests in the community, namely—

- (i) one male elder;
- (ii) one female elder;

Composition of
Ward Planning
Committee

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

(2) Nomination of members falling under subsections (1) (i), (ii), (iii), (iv), (v), and (vi) shall be conducted by representatives of the respective groups at a meeting convened by the Ward Administrator at the Ward headquarters (or a central convenient location agreed upon mutually by the leadership of the ward) for that purpose and presided over by the Sub-county Administrator or a representative thereof.

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

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

(5) Within 30 days of the conclusion of the nominations, the Ward Admin shall present the list of nominees to the County Chief Officer in Charge of Climate Change matters who shall formally appoint the members in consultation with the sub county administrator and publicize the list as widely as possible within the ward.

26. (1) The first activity of the Ward Planning Committee at its first sitting shall be the election of a chairperson and a vice-chairperson from among the members.

Officers of the
Ward Planning
Committee

(2) The chairperson and the vice-chairperson shall not be members of the same gender.

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

Qualifications for
appointment to
Ward Planning
Committees

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

(2) Without prejudice to the provisions of subsection (1), persons nominated under section 25 (1) (i), (ii), (iii), (iv), (v) and (vi) shall have a minimum of form four level of education, provided that where this requirement may impose inordinate constraints, the County Executive Committee Member shall determine the appropriate educational qualification.

28. Save for the Ward Administrator, members of the Ward Planning Committee shall serve for one renewable term of three years.

Term of Ward
Planning
Committees

29. (1) A member of the Ward Planning Committee may at any time resign from the Committee by giving one month's notice to the Sub county Administrator.

Removal of
Member of Ward
Planning
Committee

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

- (a) failure to attend two consecutive meetings of the Ward Planning Committee without reasonable cause duly communicated to the chairperson of the Committee;
- (b) serious violation of the Constitution or any other written law;
- (c) gross misconduct;

- (d) physical or mental incapacity;
- (e) bankruptcy;

(3) A person who is a member of the Ward Planning Committee under section 25(1) (vii) shall cease to be a member of the Committee upon ceasing to be a member of the Community-Based Organization or upon being recalled by the umbrella organization for good cause and through a written communication from an authorized official of the umbrella organization or the Sub county Administrator.

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

30. (1) The Ward Planning Committee shall meet at least once in every quarter.

Meetings of Ward
Planning
Committee

(2) Save for the inaugural and emergency meetings, which shall be held at the ward headquarters, regular meetings of the Ward Planning Committee shall be convened and held in the different locations of the ward on a rotational basis.

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

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

(5) In the absence of the chairperson, the vice chairperson shall preside over a meeting, and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting.

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

(7) A Ward Planning Committee may invite to its meetings any technical staff whose expertise and skills may

be needed for purposes of a matter before the Committee, and the Ward Administrator shall ensure that technical staff in the ward are available to advise the Committee as and when necessary.

31. Members of the Ward Planning Committee shall serve on a voluntary basis, but may be reimbursed reasonable transport costs at a rate to be determined by the County Treasury and the Fund Administrator.

Reimbursement
of members of
Ward Planning
Committees

PART IV—MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE

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

County Climate
Change Action
Plan

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

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

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

33. The County Climate Change Action Plan shall—

Contents of
County Climate
Change Action
Plan

- (a) be aligned to the current National Climate Change Action Plan and respond to the specific needs and circumstances of the county;
- (b) contain a climate change needs and response assessment for the county;
- (c) articulate a climate change response implementation plan informed by the climate change needs and response assessment, and specifying measures and mechanisms for—

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- (i) guiding the county toward the achievement of low carbon climate resilient sustainable development;
- (ii) mainstreaming climate change into county development plans, programmes, strategies and projects;
- (iii) adaptation to and mitigation of climate change;
- (iv) enhancing research, capacity building and knowledge management on climate change and climate change response;
- (v) enhancing public awareness for effective participation in climate change response;
- (vi) monitoring, evaluation and periodic review to integrate learning and best practice in the implementation of the County Climate Change Action Plan.

34. The County Climate Change Action Plan shall be approved by the Steering Committee and laid before the County Assembly for adoption.

Approval of
County Climate
Change Action
Plan

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

Biennial review
of County
Climate Change
Action Plan

PART V—DUTIES RELATING TO CLIMATE CHANGE

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

Climate change
duties of public
entities

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

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

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

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

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

Climate change
duties of private
entities

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

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

Monitoring and
reporting on
compliance

- (a) have all powers necessary for purposes of monitoring and investigation including the power to enter premises of any private entity and make an enquiry; and
- (b) at a reasonable hour, for the purposes of monitoring and investigation, enter any private

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land or premises to make an inspection or other task related to this function.

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

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

Steering Committee may require private entity to report on performance

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

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

Annual County Climate Change Response Report

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

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

PART VI—PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

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

Values and principles to apply to planning and implementation County strategy for climate change education and public awareness

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

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

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

43. (1) Notwithstanding the provisions of section 38(3) the Planning Committee and Ward Planning Committees shall ensure that the development of any climate change response programme, plan, project or activity in the county is preceded by comprehensive campaign of public sensitization and awareness creation to facilitate informed public participation.

Public sensitization to precede formulation of climate change response plans

(2) The Planning Committee and the Ward Planning Committees shall report to the Steering Committee on public sensitization campaigns undertaken with reference to every climate change response programme, plan, project or activity in the county and demonstrate how the sensitization has made impact on the threshold of decision making.

(3) The report on public sensitization and awareness creation on climate change programmes, plans, projects and activities shall be included in the reports of the Steering Committee under sections 31 and 36 of this Act.

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

Capacity building for effective public participation

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

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

Access to information

PART VII—COUNTY CLIMATE CHANGE FUND

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

Establishment of
County Climate
Change Fund

(2) The Fund shall be vested in the County Treasury, administered by the Steering Committee and managed by the Fund Administrator appointed by the County Executive Committee Member for the time being in charge of the Treasury in consultation with the County Executive Committee Member.

47. The Fund shall be financed through—

Sources of the
Fund

- (a) initial capital appropriated by the County Assembly, being not less than two percent of the county development budget;
- (b) money appropriate annually by the County Assembly, which shall be not less than two percent of the annual development budget of the county;
- (c) money received from the National Climate Change Fund;
- (d) international Climate Finance received by the county directly or through the National Designated Authority, National Implementing Entity or other agency;
- (e) donations, endowments, bequests, grants and gifts from individuals, public and private entities local or foreign;
- (f) charges, fees, levies or fines received by the county government in connection with activities that adversely impact on climate in the county;
- (g) interest and any other money that may lawfully accrue to the Fund in any form.

48. (1) The County Executive Committee Member in charge of Finance shall, in consultation with the County Executive Committee Member, develop Regulations for

County Climate
Change Fund
Regulations

administration and management of the Fund within 30 days after publication of this Act.

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

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

PART VIII—FINANCIAL PROVISIONS

49. (1) Functions of the Steering Committee, the Planning Committee and Ward Planning Committees and the secretariats thereof shall be financed through a vote in the estimates of revenue and expenditure of the relevant Department of the County Executive.

Funding
operations of
Steering and
Planning
Committees

(2) Participation of representatives of State and County Executive Departments in the Steering Committee, the Planning Committee and Ward Planning Committees shall be financed by the Fund in accordance with Guidelines from the Salaries and Remuneration Commission.

(3) Finances and accounts of the Steering Committee, the Planning Committee and Ward Planning Committees shall be administered and managed in accordance with the provisions of the Public Finance Management Act and the Public Finance Management (County Governments) Regulations.

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

Annual estimates
for Steering and
Planning
Committees

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

Financial year of
Steering and
Planning
Committees

52. The Steering Committee, the Planning Committee and Ward Planning Committees shall cause to be kept all proper books and records of account and income, expenditure and assets, and shall cause the accounts to be audited within a period of three months after the end of each financial year.

Accounts and
audit of Steering
and Planning
Committees

PART IX—MISCELLANEOUS PROVISIONS

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

Protection from
personal liability

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

54. Any person who—

Offences and
penalties

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

or agent of the Steering Committee, the Planning Committee or Ward Planning Committee in exercise of powers or the performance of the functions of the said Committees under this Act;

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

55. The County Executive Committee Member shall make Regulations for the proper administration of this Act within 30 days after publication of this Act.

Regulations