

SPECIAL ISSUE

Kenya Gazette Supplement No. 10 (Makueni County Bills No. 4)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

MAKUENI COUNTY BILLS, 2022

NAIROBI, 31st October, 2022

CONTENT

Bill for Introduction into the County Assembly of Makueni—	PAGE
The Makueni County Climate Change Bill, 2022.....	1

MAKUENI COUNTY CLIMATE CHANGE BILL, 2022

ARRANGEMENT OF CLAUSES

PART I—PRELIMINARY

Clause

- 1—Short title.
- 2—Interpretation.
- 3—Objects and purposes.
- 4—Guiding values and principles.

PART II —COORDINATION AND OVERSIGHT

- 5—Establishment of County Climate Change Steering Committee.
- 6—Functions of Steering Committee.
- 7—Composition of Steering Committee.
- 8—Approval of appointments by the County Assembly.
- 9—Term of the Steering Committee.
- 10—Removal of Member of the Steering Committee.
- 11—Secretary and Secretariat of the Steering Committee.
- 12—Meetings of the Steering Committee.
- 13—Allowances for members of the Steering Committee.
- 14—Delegation of powers by the Steering Committee.
- 15—Establishment of the Climate Change Board.
- 16—Composition and Terms of Office of the Climate Change Board.
- 17—Functions of the Board.
- 18—Meetings of the County Climate Change Fund Board.

PART III —INSTITUTIONAL FRAMEWORK FOR PLANNING AND IMPLEMENTATION

A. COUNTY CLIMATE CHANGE PLANNING COMMITTEE

- 19—Allowances for members of the Board.
- 20—Powers of the Board.
- 21—Establishment of the Planning Committee.
- 22—Functions of the Planning Committee.

23—Composition of the planning Committee.

24—Appointment and term of Planning Committee.

25—Removal of member of Planning Committee.

26—Secretariat of Planning Committee.

B. WARD CLIMATE CHANGE PLANNING COMMITTEE

27—Meetings of Planning Committee.

28—Allowances for members of Planning Committee.

29—Establishment of Ward Planning Committees.

30—Functions of the Ward Planning Committee.

31—Composition of Ward Planning Committees.

32—Officers of Ward Planning Committee.

33—Qualifications for appointment to Ward Planning Committee.

34—Term of Ward Planning Committees.

35—Removal of members of Ward Planning Committee.

PART IV—MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE

36—Meetings of Ward Planning Committee.

37—Reimbursement of Ward Planning Committee.

38—County Climate Change Action Plan,

39—Contents of County Climate Change Action Plan.

PART V—DUTIES RELATING TO CLIMATE CHANGE

40—Approval of County Climate Change Action Plan.

41—Biennial review of County Climate Change Action Plan.

42—Climate Change duties of Public entities.

43—Climate change duties of Private entities.

44—Monitoring and reporting on Compliance.

PART VI—PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

45—Steering Committee may require Private entity to report on Performance.

46—Annual County Climate Change response report.

47—Values and Principles to apply to Planning and implementation.

48—County Strategy for Climate Change Education and Public awareness.

49—Public sensitization to precede formulation of Climate Change response Plan.

PART VII —COUNTY CLIMATE CHANGE FUND

50—Capacity building for effective Public Participation.

51—Access to information.

52—Establishment of County Climate Change Fund.

53—Disbursement of Funds.

PART VIII—FINANCIAL PROVISIONS

54—Fund Administrator.

55—Source of the Fund.

56—County Climate Change Fund Regulations.

57—Funding Operations of steering and Planning Committees.

PART IX—MISCELLANEOUS PROVISIONS

58—Annual estimates for steering and Planning Committee.

59—Financial year of steering and Planning Committees.

60—Accounts and audit of steering and Planning Committee.

62—Protection from Personal liability.

62—Offences and Penalties.

63—Regulations.

THE MAKUENI COUNTY CLIMATE CHANGE BILL, 2022**A Bill for**

AN ACT of the Makueni County Assembly 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 Makueni County Assembly, as follows—

PART I— PRELIMINARY**Short title**

1. This Act may be cited as the Makueni County Climate Change Act, 2022.

Interpretation

2. In this Act unless the context otherwise requires—

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

“adaptive capacity” means the ability of a system to adapt to the impacts, cope with the consequences, 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;

“board” means the Makueni climate change board established under Section 15 of this Act;

“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 Makueni County;

“county assembly” means the County Assembly of Makueni County;

“county government” means the Government of Makueni County;

“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;

“executive committee member” means the County Executive Committee Member for the time being in charge of environmental matters in Makueni County;

“fund” means the County Climate Change Fund established under section 50 of this Act;

“fund administrator” means the Administrator of the County Climate Change Fund established under section 50 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 19 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; and

“ward planning committee” means the Ward Climate Change Planning Committee established under section 27 of this Act.

Objects and purposes

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.

(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, neighboring counties and the national government; and
- (j) contribute to national efforts to address the adverse impacts of climate change

Guiding values and principles

4. (1) 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—

- (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;
- (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;
- (m) commitment to fulfilment of the state obligations in respect of the environment as stipulated under article 69 of the Constitution; and
- (n) exercise integrity, transparency and accountability in discharging duties and responsibilities pertaining to climate change response.

PART II—COORDINATION AND OVERSIGHT

Establishment of County Climate Change Steering Committee

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

The steering committee shall provide a forum comprised of the key stakeholders on climate change in the County which shall include—

- (a) financing partners;
- (b) agents of the two levels of government; and
- (c) representatives of the Ward Climate Change Planning Committees.

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, review, approval 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) review, approve and monitor implementation of Regulations for administration and management of the Fund;
- (d) review and make recommendations on the annual report on implementation of the County Climate Change Action Plan and any other reports on climate change response interventions in the county;
- (e) advise the county government on legislative, policy and other measures necessary for climate change response and attainment of low carbon climate resilient development;
- (f) approve and oversee the implementation of a comprehensive programme on climate change education, awareness creation and capacity building in the county;
- (g) provide policy direction on research and monitoring, training and dissemination of information relating to climate change to the public and other stakeholders in the county;
- (h) ensure positive linkages, interactions and synergy within the county and also 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.

Composition of Steering Committee

7. (1) The Steering Committee shall comprise of 17 members who shall be appointed to the Committee by the Governor.

- (2) The members of the Steering Committee shall be—
 - (a) the Governor as chairperson;
 - (b) Executive Committee Member in charge of Environment as Secretary;
 - (c) Executive Committee Member in charge of the County Treasury as the Vice Chairperson;
 - (d) Executive Committee Member in charge of agriculture, livestock and fisheries;
 - (e) Executive Committee Member in charge of health;
 - (f) Executive Committee Member in charge of water and irrigation;
 - (g) Climate Change Fund Board Chairperson;
 - (h) County Drought Coordinator or the national government official for the time being responsible for coordination of drought response in the county;
 - (i) County representative of the National Environment Management Authority;
 - (j) one representative of a duly registered public benefit organizations working in the county nominated by the umbrella organization representing the largest number of public benefit organizations in the county;

- (k) one representative of the private sector in the county nominated by the umbrella organization representing the private sector in the county;
- (l) one representative of women in the county nominated by the umbrella organization representing the largest number of women's organizations in the county;
- (m) one representative of youth in the county nominated by the umbrella organization representing the largest number of youth organizations in the county;
- (n) one Representatives of the County Climate Change Planning Committees;
- (o) one representative of Participating Development Partners;
- (p) one Representative of Professionals in the County; and
- (q) Fund Administrator, as an ex-officio member with no voting rights.

(3) A person shall only qualify to be nominated for appointment under subsections (1) (i), (j), (k) and (l) 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 (2) a person shall not qualify to be nominated for appointment under subsections (1) (i), (j), (k), (l), (m), (n) and (o) unless such person is—

- (a) a citizen of Kenya;
- (b) fulfils the requirements of Chapter 6 of the Constitution; and
- (c) has at least five years' experience in the relevant field.

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

Approval of appointments by the County Assembly

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

Term of the Steering Committee

9. Members of the Steering Committee appointed under 7(2) (i), (j), (k), (l), (m), (n) and (o) shall serve for one non-renewable term of five years.

Removal of Member 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.

(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; and
- (e) bankruptcy.

(3) A person who is a member of the Steering Committee by virtue of his or her office under section 7(2) (a), (b), (c), (d), (e), (f), (g) or (h) 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) (i), (j), (k), (l), (m), (n) and (o) shall cease to be a member of the Committee upon ceasing to be a member of the interest group or upon being recalled by the interest group for good cause and through a written communication from an authorized official of the interest group to the chairperson of the Committee.

(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 the Treasury shall advise propose a replacement to the Governor within 30 days of the vacancy.

Secretariat of the Steering Committee

11. The Climate Change Unit shall serve as the Secretariat of the Steering Committee.

Meetings of the Steering Committee

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

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

(3) 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.

(4) 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.

(5) 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.

Allowances for members 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.

Delegation of powers by 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

Establishment of the Climate Change Board

15. There is established a County Climate Change Fund Management Board to manage the County Climate Change Fund.

Composition of the Climate Change Board

16. (1) The Board shall comprise of—

- (a) a chairperson, who shall not be a public officer;
- (b) Chief Officer responsible for Finance or a representative;
- (c) Chief Officer responsible for Environment;
- (d) Chief Officer responsible for Agriculture or representative;
- (e) Chief Officer for responsible Health or representative;

- (f) Chief officer responsible for water or representative;
- (g) County Development Planning Officer;
- (h) County Drought Coordinator;
- (i) two representatives of Faith Based Organizations;
- (j) representative(s) of participating donors or development Partners;
- (k) representative of Public Benefit Organizations; and
- (l) two Representatives of key economic actors in the County (representing both genders).

(2) The Board shall be appointed through a competitive process by the Governor upon approval by County Assembly in consultation with the County Executive member responsible for Environment.

(3) The Board shall serve for a three-year term but shall be eligible for re-appointment for one more term.

(4) Members of the Board will retire on rotational basis, with one third of the members retiring each year.

Functions of the Board

17. The functions of the Board are—

- (a) approve the County Climate Change Budget;
- (b) allocate resources, in line with the legal and constitutional requirements of equity;
- (c) mainstream climate change projects, programmes and activities in county planning and budgeting, and ensure their approval and inclusion in the County Integrated Development Plan;
- (d) monitor disbursements;
- (e) oversee budget execution;
- (f) oversee implementation of climate programmes and projects;
- (g) monitor and evaluate climate change programmes and projects;
- (h) provide links between the steering committee, the County Treasury and County Assembly;
- (i) coordinate capacity building at Ward and County level;
- (j) be responsible for financing cross ward and cross county climate change programmes; and
- (k) mobilize funds.

Meetings of the County Climate Change Fund Board

18. (1) The Board shall meet at least once every quarter in each financial year.

(2) The quorum for meetings of the Board shall be two thirds of the membership.

(3) A resolution of the Board 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.

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

Allowances for members of the Board

19. Members of the Board shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission as other county Boards.

Powers of the Board

20. The County Climate Change Fund Board shall—

- (a) receive and consolidate project and program proposals from the WCCPC and other stakeholders;
- (b) coordinate mainstreaming of the prioritized climate change interventions in county planning and budgeting process;
- (c) ensure funded projects and activities are included in the County Integrated Development Plan;
- (d) shall prepare the annual budget that is consistent with the set resource allocation criteria under the Public Finance Management Act. The budget will include total costs of planned projects, both recurrent and capital and also for administrative and supervisory services.

PART III — INSTITUTIONAL FRAMEWORK FOR PLANNING AND IMPLEMENTATION**COUNTY CLIMATE CHANGE PLANNING COMMITTEE****Establishment of the Planning Committee**

21. There is established the County Climate Change Planning Committee, which shall comprise of 14 members appointed to the Committee by the Executive Committee Member for the time being in

charge of climate change matters in consultation with the Executive Committee Member for the time being in charge of the County Treasury.

Functions of the Planning Committee

- 22.** Functions of the Planning Committee shall be—
- (a) to coordinate planning, and implementation of projects and activities for climate change response in the county;
 - (b) to coordinate 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) coordinate 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;
 - (k) perform any other functions assigned to it by the Steering Committee.

Composition of Planning Committee

- 23.** (1) Members of the Planning Committee shall be—
- (a) Chief Officer responsible for environment as the Chairperson;
 - (b) Chief Officer responsible for finance and planning, as Vice Chairperson;
 - (c) Chief officer responsible for water;

- (d) Chief officer responsible for Agriculture;
- (e) three Representatives of Ward Planning Committees;
- (f) County Director of Meteorological Services;
- (g) two youth representatives;
- (h) a woman group representative;
- (i) a representative of persons with disability;
- (j) a representative of a faith-based organisation;
- (k) a Representative of key economic sectors in the county;
- (l) a representative from a county wide NGO;
- (m) County Drought Coordinator; and
- (n) the Administrator of the Fund, who shall be an ex-officio member with no voting rights.

Appointment and Term of Planning Committee

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

(2) Members of the Planning Committee appointed under section 19 (1) (g), (h), (i), (j), (k), (l) and (m) shall serve for one non-renewable term of five years.

Removal of member of Planning Committee

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

(2) A member of the Planning Committee may be removed from the Committee by the Executive Member for the time being in charge of Finance 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; or
- (e) bankruptcy.

(3) A person who is a member of the Planning Committee by virtue of his or her office under section 19 (1) (a), (b), (c), (d), or (f) 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 19 (1) (g), (h), (i), (j), (k) and (l) shall cease to be a member of the Committee upon ceasing to be a member of the interest group or upon being recalled by the interest group for good cause and through a written communication from an authorized official of the interest group to the Executive Committee Member for the time being in charge of the County Treasury.

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

Secretariat of Planning Committee

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

Meetings of Planning Committee

27. (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.

Allowances for members of Planning Committee

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

B.WARD CLIMATE CHANGE PLANNING COMMITTEE

Establishment of Ward Planning Committees

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

Functions of Ward Planning Committee

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

- (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;

- (i) perform any other functions that may be assigned to it by the Planning Committee.

Composition of Ward Planning Committee

31. (1) A Ward Planning Committee shall be composed of 9 members representing the diverse interests in the community, namely—

- (a) one male elder;
- (b) one female elder;
- (c) one male youth;
- (d) one female youth;
- (e) one male person living with disability;
- (f) one female person living with disability;
- (g) a representative of relevant sectors appointed by the Ward Administrator;
- (h) one person representing Community-Based Organizations in the Ward and actively engaged in climate change response activities who shall be nominated by an umbrella organization representing the largest number of such organizations in the Ward;
- (i) 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) (a), (b), (c), (d), (e), (f) and (h) shall be conducted by representatives of the respective groups at a meeting convened by the Ward Administrator at the Ward headquarters for that purpose and presided over by the Subcounty Environment Officer 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 other all forms of media available in the ward.

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

(6) Where there is no officially recognized ward level network of Community-Based Organizations, the Ward Administrator will consult with the chiefs in the ward to agree on the appropriate representative under subsection (1)(g).

(7) Within 30 days of the conclusion of the nominations, the Ward Administrator shall present the list of nominees to the Subcounty Administrator who shall formally appoint the members, publicize the list as widely as possible within the ward, and share it with the County Planning Committee for information.

Officers of the Ward Planning Committee

32. (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.

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

Qualifications for appointment to Ward Planning Committees

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

- (a) is a resident of the ward;
- (b) 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 31(1)(c), (d), and (g) shall have a minimum of form four level of education, provided that where this requirement may impose inordinate constraints, the Executive Committee Member - ward admin shall determine the appropriate educational qualification.

Term of Ward Planning Committees

34. (1) Save for the Ward Administrator, and subject to subsection (2) hereof, members of the Ward Planning Committee shall serve for one non-renewable term of five years.

(2) Without prejudice to the provisions of subsection (1), and in order to ensure continuity, the members of the Ward Planning Committee

shall at their first meeting decide by lot which five of them will retire at the end of three years.

Removal of Member of Ward Planning Committee

35. (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.

(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 by virtue of his or her office under section 24(1)(vii) 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 Ward Planning Committee under section 24(1)(viii) 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 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.

Meetings of Ward Planning Committee

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

(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.

Reimbursement of members of Ward Planning Committees

37. 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.

PART I—MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE

County Climate Change Action Plan

38. (1) The Executive Committee Member shall in consultation with the, Climate Change Fund Board and relevant sectors and through a participatory process involving relevant stakeholders, formulate a County Climate Change Action Plan for approval and implementation.

(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.

Contents of County Climate Change Action Plan

39. The County Climate Change Action Plan shall—

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

Approval of County Climate Change Action Plan

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

Biennial review of County Climate Change Action Plan

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

PART V—DUTIES RELATING TO CLIMATE CHANGE ENTITIES

Climate change duties of public entities

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

(2) The imposition of climate change duties under subsection (1) shall be affected 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.

Climate change duties of private entities

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

(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.

Monitoring and reporting on Compliance

44. (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 —

- (a) have all powers necessary for purposes of monitoring and investigation including the power to enter premises of any private entity and make an enquiry; and
- (b) at a reasonable hour, for the purposes of monitoring and investigation, enter any private land or premises to make an inspection or other task related to this function.

(2) The County Director 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.

Steering Committee may require private entity to report performance

45. Notwithstanding the provisions of section 34, the Steering Committee may —

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

Annual County Climate Change Response Report

46. (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.

(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

Values and principles to apply to planning and implementation

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

County strategy for climate change education and public awareness

48. (1) Within one year of this Act coming into force, the County 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 organised 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.

Public sensitization to precede formulation of climate change response plans

49. (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.

(2) The Planning Committee and the Ward Planning Committees shall report to the Board for review and forwarding to the Steering Committee on public sensitization campaigns undertaken with reference to every climate change response program, 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.

Capacity building for effective public participation

50. (1) The Board 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.

(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.

Access to information

51. The Board, the Planning Committee, the Ward Planning Committee shall publish, publicise and ensure access to all important climate change information in their possession.

PART VII – COUNTY CLIMATE CHANGE FUND

Establishment of County Climate Change Fund

52. (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.

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

Disbursement of funds

53. (1) The Board shall facilitate the opening of two bank accounts for all beneficiary Ward Climate Change Planning Committees in commercial banks approved by the County Climate Change Fund Board, in compliance with any regulations issued by either the County or National Treasury.

(2) The Ward Climate Change Planning Committees shall open two bank accounts, one for the operating expenses (sitting allowances for committee members and other administrative expenses), and the other for project funds.

(3) Disbursements shall be made only through the approved commercial banks.

(4) Disbursed funds will only be withdrawn for use for approved projects authorized signatories to such accounts.

(5) Disbursed funds shall be approved in accordance with the County Climate Change Fund regulations.

Fund Administrator

54. There is a Fund Administrator who shall be appointed by the Executive Committee Member in charge of Finance to oversee the day-to-day operations of the Fund.

Section on appointment —

The Fund Administrator shall—

- (a) ensure compliance with decisions of the Board and submit regular reports;
- (b) ensure timely and efficient disbursement of funds to County and Ward Climate Change Planning Committees for project implementation;
- (c) exercise oversight of Ward and County Climate Change Committees members to ensure greater efficiency in their facilitation to community project identification and implementation processes;
- (d) provide the accounting function and oversight to the County Climate Change Fund; and
- (e) any other functions the Board may decide.

Sources of the Fund

55. The Fund shall be financed through—

- (a) initial capital appropriated by the County Assembly, being not less than two percent (2%) of the county development budget;
- (b) money appropriate annually by the County Assembly, which shall be not less than two percent (2%) 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, bilateral and multilateral sources of financing and/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.

County Climate Change Fund Regulations

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

(2) The Regulations made under subsection (1) shall provide for the following standard operating procedures (SOPs), 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

Funding operations of Steering and Planning Committees

57. (1) Functions of the Board, 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 Executive Committee.

(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.

Annual estimates for Steering and Planning Committees

58. At least three months prior to the commencement of each financial year, the Executive 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.

Financial year of Steering and Planning Committees

59. 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.

Accounts and audit of Steering and Planning Committees

60. 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.

PART IX—MISCELLANEOUS PROVISIONS**Protection from personal liability**

61. (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.

(2) The provisions of subsection (1) shall not relieve the Board, 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.

Offences and penalties

62. Any person who—

- (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.

Regulations

63. The Executive Committee Member shall make Regulations for the proper administration of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose and objective of this Bill is 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.

The structure of the Bill is as follows—

Part I—(clauses 1-4) of the Bill contains preliminary provisions Clause 1 states the title of the Bill and clause 2 deals with interpretation of terms as used in the Bill Clause 3 sets out the objects and purpose of the Bill while clause 4 deals with guiding principles and values.

Part II—(clauses 5-18) of the Bill deals with co-ordination and oversight, where the County Climate Change Steering Committee alongside the Climate Change Board are created. The functions of the Board its composition, approval of appointments, secretary and secretariat among other provisions are made.

Part III—(clauses 19-35) of the Bill provides for matters relating to the institutional framework for planning and implementation This part makes provision for the establishment of the County Climate Change Planning Committee, its functions, composition, appointment term, removal from office, secretary and secretariat, meetings and allowances for its members. It also makes provisions for the establishment of the Ward Climate Change Planning Committees, their functions, composition, qualifications, term, removal from office, meetings and allowances for the members.

Part IV—(clauses 36-39) Here, the Bill provides for measures and actions for responding to climate change. It provides for the development of the County Climate Change Action Plan, its approval and review.

Part V—(clauses 40-44) In this part, the Bill provides for the duties relating to climate change. It provides for duties of public and private entities relating to climate change, monitoring compliance and reporting on the same.

Part VI—(clauses 45-49) The provisions concerning public participation are to be found in this part. They include the values and principles to be applied to planning and implementation, education and public awareness creation, capacity building and access to information.

Part VII—(clauses 50-53) These provisions are about the County Climate change Fund which is created in this part, the sources of the funds given and the making of regulations concerning the Fund.

Part VIII—(clauses 54-57) The financial provisions are to be found in this part where the Bill provides for the funding of the operations of the Board and Planning Committees, the making of their annual estimate accounts and audits and the financial year.

Part IX—(clauses 58-60): The final part contains miscellaneous provisions concerning protection from personal liability and the making of regulations. The enactment of this Bill shall occasion additional expenditure of public funds to be provided through the estimates.

This Bill is a money Bill within the meaning of section 21 of the County Governments Act No.17 of 2012 considering that it creates a Fund. This Bill does not limit any fundamental rights and freedoms.

Dated the 19th October, 2022.

JOSEPH MUTHINI MUEMA,
Chairperson, Committee on Environment and Climate Change.