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No. 4 of 2022

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THE HOMA BAY COUNTY CLIMATE CHANGE ACT, 2022**AN ACT of the Homa Bay County Assembly to provide appropriate legal framework and mechanisms for mainstreaming climate change actions**

ENACTED by County Assembly of Homa Bay as follows—

PART I — PRELIMINARY**Title and commencement**

1. This Act may be cited as the Homa Bay County Climate Change Act 2022 and shall come into force upon Gazettement.

Interpretation

2. In this Act unless the context otherwise requires—

"adaptation" means an adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects 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;

"constitution" means the Constitution of Kenya, 2010;

"county" means Homa Bay County;

"county assembly" means the County Assembly of Homa bay County;

"county government" means the Homan Bay County Government;

"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 Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change;

“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;

“Governor” means the Governor of Homa Bay County;

Interest groups means any association of individuals or organization, formalized on the basis of shared concern as regards climate change impacts;

"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;

“Technical Committee” means the County Climate Change Technical 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;

“Professional body” means an organization or institute that holds individual members who are personnel associated with a specific profession, interest or occupation;

"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 Committee” means the Ward Climate Change Committee established under Section 23 of this Act.

Objects and purpose

3. (1) The object of this Act is to allow for mainstreaming of climate change actions in the County including adaption, resilience to climate change for sustainable development in the County.

(2) Without prejudice to sub-section 1, other objects of this Act include to:

- (a) Implement coordinated and integrated response to climate change and its impacts.
- (b) Promote and support community led adaptation and mitigation activities
- (c) Establish frameworks and mechanisms for mobilization of funds and accountable management of financial and other resources for climate change response.
- (d) Establish and implement mechanisms to promote and facilitate climate change research and development, innovations, technology development, training and capacity building.
- (e) Integrate climate change into the exercise of power and functions of all levels of county government including in decentralized units and enhance cooperative climate change governance between the county, neighbouring counties, and the national government
- (f) Contribute to the national efforts to address the adverse impacts of climate change

PART II – COORDINATION AND OVERSIGHT**County Executive Committee Member in charge of Water, Irrigation, Sanitation Environment, Energy, Forestry and Climate Change**

4. The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall be in charge of implementation of the climate change plan enshrined under Section 30 of this Act

Establishment of County Climate Change Steering Committee

5. There is hereby established the 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, decision making, implementation 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 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 the 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 program of climate change education, awareness creation and capacity building;
- (h) provide policy direction on research, training and dissemination of information relating to climate change to the public and other stakeholders in the County;
- (i) ensure positive linkages, interactions and synergy between the County, neighboring counties and the national government in climate change response programming and action;
- (j) 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;
- (k) 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,
- (l) Perform any other functions that may further the foregoing objectives and/or as may be assigned by the Governor.

Composition of Steering Committee

7. (1) The Steering Committee shall comprise 11 members who shall be appointed by the Governor on the recommendation of the County Executive Committee Member Designated in charge of Climate Change.

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

- (a) Governor as chairperson;
- (b) County Executive Committee Member designated in charge of climate change as Secretary;
- (c) County Executive Committee Member in charge of the County Finance;
- (d) County Executive Committee Member in charge of agriculture;
- (e) Three (3) community representatives nominated by Executive Committee Member designated in charge of climate change and appointed by the Governor of whom
 - (i) one will be a woman,
 - (ii) one will be a youth and
 - (iii) one will be a person with disability
- (f) One representative from development partners working within the County;
- (g) One representative from a recognized professional body dealing with climate change in the County;
- (h) Chairperson of Climate Change Fund.
- (i) A representative from a faith-based organization

(3) A person shall only qualify to be nominated for appointment under subsections 7(2) (e), (g) and (i) if the person has attained a degree from an institution recognized in Kenya in a course that touches on matters climate change, demonstrated experience, or expertise and interest on issues of climate change, natural resource management and/or environmental conservation and has actively and publicly engaged with these issues in the County subject to the approval of the assembly.

(4) Without prejudice to the provisions of subsection (2) a person shall not qualify to be nominated for appointment under subsections (e) and (g) unless such person is—

- (a) a citizen of Kenya;
- (b) fulfils the requirements of Chapter 6 of the Constitution; and

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

Gazettement of the Steering Committee

8. Upon appointment, the Governor shall cause the appointed members to be gazetted in the County gazette within fourteen (14) days of their appointment and before their first sitting.

Term of the Steering Committee

9. Members of the Steering Committee appointed under Section 7(2) (e), (g) and (i) shall serve for one non-renewable term of three 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.

(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/or,
- (e) bankruptcy.

(3) A person who is a member of the Steering Committee under section 7(2)(e), (f), (g) or (i) 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 a good cause and through a written communication from an authorized official of the interest group to the chairperson of the Committee.

(4) Whenever a member of the Steering Committee is removed or otherwise ceases to be a member of the Committee, the Executive Committee Member shall advise and/ or propose a replacement to the Governor within 30 days of the vacancy.

Meetings of the Steering Committee

11. (1) Members of the Steering Committee shall at their first meeting elect a vice-chairperson from amongst the members appointed under section 7(2)(e) and (g).

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

(3) The Steering Committee shall meet at least twice in each financial year.

(4) The quorum for meetings of the Steering Committee shall be two-thirds of the membership, at least two (2) of whom shall be those appointed under Subsection (2) (e) and (g).

(5) 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.

(6) 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.

(7) The Steering Committee may invite to its meetings any person, which 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

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

13. Such allowances shall be paid by monies appropriated by the County Assembly to the Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change department

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.

PART III – INSTITUTIONAL FRAMEWORK FOR PLANNING AND IMPLEMENTATION

A. CLIMATE CHANGE TECHNICAL COMMITTEE

Establishment of Climate Change Technical Committee

15. There is hereby established the Climate Change Technical Committee.

Functions of the Committee

- 16.** The functions of the 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 Technical Committees in formulating climate response projects for funding by the County Climate Change Fund;
 - (d) support Technical Committees in development and implementation of climate response projects;
 - (e) coordinate the development and implementation of the County Climate Change Fund Regulations;
 - (f) advise the Steering Committee on strategies, priority program, 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) 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.

Membership of Technical Committee

- 17.** (1) Members of the Committee shall be:
- (i) County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change who shall be the chairperson
 - (ii) Director in charge of climate change matters who shall be the secretary;
 - (iii) Chief Officer in charge of finance and planning;
 - (iv) Director in charge of disaster management and administration;

- (v) Chief Officer in charge of agriculture, livestock and fisheries;
- (vi) Director in charge of Public health;
- (vii) County representative of the National Environment Management Authority or a designated representative;
- (viii) County Director of Meteorology
- (ix) County Ecosystem conservator.
- (x) Two (2) representatives of Civil Society Organizations involved in climate change activities in the County.
- (xi) The Fund Administrator,

(2) Members of the Technical Committee shall at their first meeting elect a vice-chairperson from among the members nominated for appointment under subsection (1)(vii) and(x).

Appointment and Term of Technical Committee

18. (1) Members of the Technical Committee under Section 17(x) shall be appointed by the Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change with the approval of the steering committee.

(2) Members of the Technical Committee appointed under section 17(1) (ix), (x) and (xi) shall serve for one term of three years subject to renewal for one additional term on the basis of performance.

Removal of member of the Technical Committee

19. (1) The removal of members appointed under Section 18 (1) shall be governed by Section 10(2).

Meetings of Technical Committee

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

(2) The quorum for meetings of the Technical Committee shall be two-thirds of the members, at least one (1) of whom must be those appointed under 17 (x).

(3) A resolution of the Technical 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.

(4) In the absence of the chairperson and the vice chairperson, the members shall elect one of them to preside over the meeting.

(5) The Technical Committee may coopt any person knowledgeable on the items of its agenda to attend its meetings.

Allowances for members of Technical Committee

21. Members of the Technical Committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission from time to time.

B. WARD CLIMATE CHANGE COMMITTEE**Establishment of Ward Climate Change Committees**

22. There is hereby established a Ward Climate Change Committee in all the wards in Homa Bay County.

Functions of Ward Climate Change Committees

23. The functions of the Ward Climate Change Committees shall be to—

- (a) coordinate and mobilize communities and other stakeholders in the Ward to design and implement climate change response activities;
- (b) facilitate research and knowledge management at the ward level on climate change, its impacts and strategies for responding thereto;
- (c) Conduct public education, awareness creation, and capacity building at the ward level on climate change, its impacts and strategies for responding thereto;
- (d) coordinate, facilitate and manage community consultations on 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) support to communities in the Ward in developing proposals on climate change response projects for funding by the County Climate Change Fund;
- (g) Implement climate change response activities;
- (h) Monitor and report on all climate change activities;
- (i) Perform any other functions that may be assigned to it by the County Technical Committee from time to time;
- (j) To come up with ward climate change adaptation action plans.

Composition of Ward Climate Change Committee

24. (1) The ward Committee shall be composed of 9 members representing the diverse interests in the community who shall be:

- (i) Ward Administrators who shall be the chair;
- (ii) Ward officer for the department in charge of Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall be the Secretary;
- (iii) Ward Agricultural Officer
- (iv) Ward forest officer
- (v) One representative of the youth
- (vi) One representative of the People with Disabilities
- (vii) Two community representatives from each ward with strict observance of gender rule.
- (vii) one person representing Community-Based Organizations in the Ward and actively engaged in climate change response activities;

(2) Appointment of members falling under subsections 24 (v), (vi), (vii) and (viii) shall be done by the technical Committee which shall ensure the process is competitively done.

First Meeting of the Ward Climate Change Committee

25. (1) The first activity of the Ward Climate Change Committee at its first sitting shall be the election of 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 Climate Change Committees

26. (1) A person shall not qualify for appointment to the 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.

Term of Ward Climate Change Committees

27. Members of the Committee appointed under Section 24 (v), (vi), (vii) and (viii) shall serve for one term of three years subject to renewal for one additional term on the basis of performance.

Removal of Member of Ward Climate Change Committee

28. (1) A member of the Committee may at any time resign from the Committee by giving one month's notice to the chairperson of the Ward Climate Change Committee.

(2) The removal of members appointed under Section 24 (v), (vi), (vii) and (viii) shall be governed by Section 10(2).

Meetings of Ward Climate Change Committee

29. (1) The Committee shall meet at least twice in every quarter of each financial year.

(2) Quorum of the ward climate change committee shall be two thirds of its membership.

(3) The Committee may co-opt not more than two persons in any meeting based on a specific required expertise as and when needed.

(4) A notice convening committee meetings shall be issued not less than 14 days prior to the date thereof, and shall be widely publicized through public barazas, the media, and by a notice placed prominently at the sub county office.

Remuneration of members of Ward Climate Change Committee

30. Members of the Ward Committee shall be paid such allowances as are stipulated by guidelines from the salaries and remuneration commission from time to time.

PART IV – MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE

County Climate Change Action Plan

31. (1) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall formulate a County Climate Change Action Plan in consultation with the relevant stakeholders.

(2) In formulating the action plan, the CEC shall be informed by; scientific knowledge of climate change, technological innovation relevant to climate change, fiscal circumstances of the county, social circumstances and the constitution.

(3) 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.

(4) 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.

Contents of County Climate Change Action Plan

32. 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 including adaptation, resilience mitigation and disaster management 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 toward the achievement of low carbon climate-resilient sustainable development;
 - (ii) mainstreaming climate change into county integrated development plans, programs, 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; and,
 - (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

33. The County Climate Change Action Plan shall be approved by the Steering Committee and tabled in the County Assembly for adoption before the end of every financial year.

Biennial review of County Climate Change Action Plan

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

PART V – DUTIES RELATING TO CLIMATE CHANGE**Climate Change audits and penalties**

35. (1) The Steering Committee may, on the recommendation of the Executive Committee Member Environment and in consultation with relevant Executive Committee Members may conduct a climate change audit on the activities and operation of any private or public entity operating within the County.

(2) Based on the findings of the audit in Section (1) above the steering committee may recommend specific actions to be taken by the private entity to enhance mitigation, resilience and adaptation to climate change.

(3) Any private entity on which a recommendation as in Section (2) has been made 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) Where any private entity receives the recommendation as in Section (3) and fails to perform the recommended actions an offence shall be deemed to have been committed and the directors shall be liable to an offence punishable under this Act.

(5) Any offence under this section will be punishable by

- (i) Suspension of the operating license of the entity within the County.
- (ii) A fine not exceeding one million Kenya Shillings.
- (iii) Imprisonment for a term not exceeding three (3) months.

(6) The Environment and Land court shall have jurisdiction over any trial or appeal.

Mainstreaming Climate change actions in public entities

36. 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 the County Integrated development plan, County annual development plan, County fiscal policies, County annual budget and other frameworks for implementing its statutory functions;

- (b) perform its statutory functions in line with County Climate Change Action Plan;
- (c) Prepare and submit annual report at the end of every financial year to the Steering Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.
- (d) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall table the said report under subsection c to the county assembly for approval at the end of every financial year

Mainstreaming Climate change actions in private entities

37. Without prejudice to the provisions of subsection (1), every private entity operating in the County shall have the duty to:

- (a) In complying with relevant provisions from Environment Management and Coordination Act 2016 (EMCA) in corporate specific provisions for climate change adaptation and mitigation actions in their Environment impact assessment (EIA) reports;
- (b) perform its proposed functions in line with County Climate Change Action Plan;
- (c) Prepare and submit an annual report to the Steering Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.
- (d) Any private entity that fails to file a report within 30 days of the end of the year as provided under Section (c) above commits an offence under this Act.

Climate Change Inspection and enforcement

38.(1)The ward committee team enshrined under Section 25 (1) shall have the mandate to conduct the inspection and enforcement of the climate change action plan and report to the technical committee

(2) The inspection and enforcement team shall have all powers necessary for purposes of inspection and investigation including the power to enter premises of any private entity and make an enquiry.

(3) The Technical Committee shall report to the Steering Committee on the performance of functions under subsection (1) on an annual basis, and such report shall form part of the report by the Steering Committee to the County Assembly

Steering Committee may require a private entity to report on performance

39. 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.
- (c) Recommend appropriate punishment for failure in Section 35(5).

Annual County Climate Change Response Report

40. (1) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall, within three months after the end of every financial year, publish and submit a report on the 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 (3) months of receiving the report, provide recommendations and proposed actions to the County Executive Committee Member designate.

(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

County strategy for climate change education and public awareness

41. (1) Within one year of this Act coming into force, the Technical Committee shall conduct a comprehensive capacity needs assessment for climate change adaptation and mitigation.

(2) Based on the needs assessment the technical committee shall develop a capacity building program through a participatory process.

(3) The program shall be presented to the Steering Committee for approval and implementation.

(4) The program developed thereof shall be reviewed annually.

Public participation and capacity building in formulation of climate change response plans

42 (1) Notwithstanding the provisions of Section 41(1) the Technical Committee and Sub County Committees shall ensure that the development of any climate change response program, plan, project or activity is preceded by a comprehensive campaign, public sensitization and awareness creation to facilitate informed public participation.

(2) The County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change shall ensure public participation is done in line with relevant County laws.

Access to information

43 (1) The Steering Committee, the Technical Committee and the Ward Committee shall publish, publicize and ensure access to all important climate change information in their possession in an appropriate format to make it useable by different actors

PART VII – COUNTY CLIMATE CHANGE FUND

Establishment of County Climate Change Fund

44.(1) There is hereby established the County Climate Change Fund to provide funding for priority climate change actions.

County Climate Change Fund Regulations

45.(1) The Executive Committee Member in charge of Finance shall, in consultation with the County Executive Committee Member for Water, Irrigation, Sanitation, Environment, Energy, Forestry and Climate change, develop Regulations for administration and management of the Fund

(2) The Regulations made under subsection (1) shall provide for the following, among others:

- (a) formulation of the County Climate Finance Framework;
- (b) appointment and removal of the Fund Board and 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 mechanisms; and,
- (h) monitoring, evaluation, reporting and learning.

PART VIII – FINANCIAL PROVISIONS

Funding operations of Steering and Technical Committees

46.(1) Functions of the committees shall be financed through appropriation by the County Assembly to the department of Environment, and other funds receivable by the County Government for the purposes of climate Change Actions from time to time.

(2) The funds shall be administered and managed in accordance with the provisions of the Public Finance Management Act and the Public Finance Management (County Governments) Regulations.

PART IX – MISCELLANEOUS PROVISIONS

Protection from personal liability

47.(1) No action taken or thing done by a member, officer or agent of the Steering Committee, the Technical Committee or the Ward 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 what so ever, Except where a crime is proved to have been committed.

Offences and penalties

48.(1) 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 Technical Committee or Ward Committee in exercise of the powers or performance of the functions of the Committees under this Act; or
- (b) willfully obstructs any member or officer or agent of the Steering Committee, the Technical Committee or Ward 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 Technical Committee or Ward Committee in the exercise of powers or the performance of the functions of the said Committees; or
- (d) Fails to file a report within the provided timelines; or
- (e) Knowingly commits an act of omission or commission contrary to any provisions of this Act.

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

(2) When an offense under this Act is committed by a body corporate, the body corporate and every director or officer of the body corporate who had the knowledge of commission of the offense and fails to exercise due diligence to ensure compliance with this Act shall be guilty of an offence

Forfeiture, cancellation and other orders

49. (1) The Court before which a person is charged with an offense under this Act or any regulations made thereunder may in addition to any other order.

- (a) Upon the Conviction of the accused or;
- (b) If it is satisfied that an offense is committed notwithstanding that no person has been convicted of the offense;

Order that the item or items by means by which the offense was committed be forfeited to the County.

(2) In making the order for forfeiture the court may also order that cost of any disposal thereof be borne by the person convicted thereunder.

(3) The Court may further order that any license, permit or any authorization given under this Act unto which the offense relates be cancelled.

(4) The Court may further issue an order requiring that a convicted person restores at his/her own cost the environment as near as it may be to its original state prior to the offense.