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**UASIN GISHU COUNTY ACTS, 2021**

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No. 5 of 2021

*Date of Assent: 1st September, 2021*

*Date of Commencement: See Section 1*

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**UASIN GISHU COUNTY CLIMATE CHANGE ACT, 2021**

**AN ACT for Uasin Gishu 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 Uasin Gishu County assembly as follows —

**PART I—PRELIMINARY**

**Short title and commencement**

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

**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, Cap 387 laws of Kenya;

“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 Uasin Gishu County;

“County Assembly” means the County Assembly of Uasin Gishu County;

“County Government” means the County Government of Uasin Gishu;

“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 Cap 387 Laws of Kenya;

“Executive Committee Member” means the County Executive Committee Member for the time being in charge of climate change matters in Uasin Gishu County;

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

“Fund Administrator” means the Administrator of the County Climate Change Fund established under this bill;

“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;

“Coordination Committee” means the County Climate Change Coordination Committee established under this bill;

“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 Bill;

“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;



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

“Low carbon climate resilient development,” means reducing or lowering greenhouse gas emission while undertaking climate smart activities.

**Objects and Purposes of the Act**

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

(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 climate, 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, Regional Economic Blocs, and the national government;

- (j) Contribute to national efforts to address the adverse impacts of climate change.

## **PART II—INSTITUTIONAL FRAMEWORK, POLICY, COORDINATION, IMPLEMENTATION AND OVERSIGHT**

### **A. COUNTY CLIMATE CHANGE STEERING COMMITTEE**

#### **Establishment of County Climate Change Steering Committee**

4. (1) There is established the County Climate Change Steering Committee.

(2) The County Climate Change Steering Committee shall comprise of 12 members appointed by the governor.

#### **Composition of the Steering Committee**

5. The Steering Committee shall comprise—

- (a) the Deputy Governor who shall be the chairperson;
- (b) the County Executive Committee Member, for the time being, in charge of Environment who shall be the Secretary;
- (c) the County Executive Committee Member, for the time being, in charge of the Finance and Economic Planning;
- (d) the County Executive Committee Member, for the time being, in charge of Agriculture and Irrigation;
- (e) the County Executive Committee Member, for the time being, in charge of Health and Sanitation;
- (f) the County Attorney;
- (g) NEMA representative who has technical expertise in matters of climate change;
- (h) one representative of the private sector nominated by the Chamber of Commerce;
- (i) one representative of the registered public benefit organization working in the county;
- (j) one representative of women;
- (k) one representative of the youth;
- (l) one representative of persons with disabilities;



- (m) Fund Administrator, as an ex-officio member with no voting rights.

#### **Functions of the steering Committee**

- 6. The functions of the Steering Committee are to—
  - (a) ensure mainstreaming of climate change into County planning and development processes;
  - (b) coordinate formulation and monitor implementation of the County Climate Change Action Plan, County Climate Finance Framework and any other county climate change policies, plans and strategies;
  - (c) mobilize funds into and administer the County Climate Change Fund established under this Act;
  - (d) review, approve and monitor implementation of Regulations for administration and management of the Fund;
  - (e) review and make recommendations on the biennial report on implementation of the County Climate Change Action Plan and any other reports on climate change response interventions in the county;
  - (f) advise the county government on legislative, policy and other measures necessary for climate change response and attainment of low carbon climate resilient development;
  - (g) approve and oversee the implementation in the county of a comprehensive programme of climate change education, awareness creation and capacity building;
  - (h) provide policy direction on research, training and dissemination of information relating to climate change to the public and other stakeholders 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

- (1) perform any other functions that may further the foregoing objectives and/or may be assigned by the Governor.

#### **Approvals of Appointments by County Assembly**

7. (1) Names of members under Section 5(h)(i)(j)(k) and (l) shall be presented to the County Assembly for approval.

(2) Members of the Planning Committee under Section 7(1) shall serve for one non-renewable term of five years.

#### **Removal of a member of the Steering Committee**

8. A person who is a member of the Steering Committee by virtue of his or her office under section 5 shall cease to be a member of the Committee upon being transferred from the county or ceasing to hold that office.

#### **Meetings of the steering Committee**

9. (1) Members of the Steering Committee shall at their first meeting elect a vice-chairperson from amongst the members under section 5;

(2) The Steering Committee shall meet quarterly in each financial year.

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

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

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

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

#### **Allowances for members of the Steering Committee**

10. 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**

11. 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.

**B. COUNTY CLIMATE CHANGE PLANNING COMMITTEE****Establishment of the County Climate Change Planning Committee**

12. (1) There is established the County Climate Change Planning Committee.

(2) The County Climate Change Planning Committee shall comprise of 14 members appointed by the Executive Committee Member.

**Composition of the Planning Committee**

13. The Planning Committee shall comprise—

- (a) Chief officer in charge of Environment who shall be the chairperson;
- (b) County director in charge of the Environment unit who shall be the secretary;
- (c) County director in charge of finance and planning;
- (d) County director in charge of agriculture, livestock and fisheries;
- (e) County director in charge of public health;
- (f) County director in charge of water and irrigation;
- (g) County representative of National Environmental Management Authority or a designated representative;
- (h) County drought coordinator or a designated representative;
- (i) County director of metrology or a designated representative;
- (j) one representative of 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 largest number of private sector organization in the county;

- (l) one representative of women in the county nominated by the umbrella organization representing the largest number of women 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; and
- (n) one representative of persons with disabilities nominated by the National Council for persons with disabilities;
- (o) the administrator of the Fund, who shall be an ex-officio member with no voting rights.

#### **Functions of the planning Committee**

- 14.** (1) The functions of the Planning Committee shall be to—
- (a) coordinate planning and implementation of projects and activities for climate change response in the county;
  - (b) coordinate and implement 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 developments and implementation of the county climate change fund regulations;
  - (f) advise the steering committee on strategies, priority programs, 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 function assigned to it by the steering committee.



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(2) Members of the Planning Committee shall at their first meeting elect a vice-chairperson from among the members nominated for appointment.

**Term of Planning Committee**

**15.** Members of the Planning Committee appointed under section 13(g)(h)(i)(j)(k)(l)(m) and (n) shall serve for one non-renewable term of five years.

**Resignation and Removal**

**16.** (1) A member of the Planning Committee under section 13 (g), (h), (i), (j) and (k) may at any time resign from the Committee by giving one month's notice to the County Executive Member for the time being in charge of Environment;

(2) A member of the Planning Committee may be removed from the Committee by the County Executive Member for the time being in charge of Environment 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) violation of the Constitution or any other written law;
- (c) gross misconduct;
- (d) mental incapacity;
- (e) bankruptcy;
- (f) death.

(3) A person who is a member of the Planning Committee by virtue of his or her office under section 12 (a), (b), (c), (d), (e) and (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 13 (g), (h), (i), (j), (k), (l) and (m) 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 climate change affairs.

(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 climate change affairs shall ensure that a replacement is appointed within 30 days of the vacancy.

#### **Meeting of the Planning Committee**

17. (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 sub counties/ 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 person or entity who it considers will contribute to its deliberations, and the attendance and participation of such persons shall be recorded in the Minutes of the Planning Committee.

#### **Allowances for members of the Planning committee**

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

### **C. COUNTY CLIMATE UNIT (CCU)**

#### **Establishment of County Climate Change Unit**

19. There shall be established a Climate Change Unit of the County Government of Uasin Gishu.



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### **Functions of the County Climate Change Unit**

20. The County Climate Change Unit shall perform the following functions—

- (a) planning and implementation of Climate Change action plan;
- (b) mainstreaming climate change;
- (c) preparation of quarterly and annual reports;
- (d) planning and budgeting for climate change programs and projects;
- (e) resource mobilization;
- (f) climate change data collection analysis and reporting;
- (g) undertaking climate change sensitization programs in the county;
- (h) enforcing the climate Change Act; and
- (i) any other responsibilities allocated.

### **Officers of the County Climate Change Unit**

21. The County Climate Change Unit shall comprise of—

- (a) County Director in charge of environment and climate change;
- (b) Monitoring and evaluation officer;
- (c) The Director in charge of Economic planning or a representative;
- (d) Director in charge of water or a representative;
- (e) County director of agriculture or a representative;
- (f) Finance officer trained on climate change financing; and
- (g) Any other officers seconded to serve in the unit as the need arises.

### **Allowances for the County Climate Change Unit**

22. Officers of the County Climate Change Unit shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission;

### **Appointment of County Climate Change Unit Officers**

23. The climate change unit officers shall be appointed by Chief Officer in charge of Environment.

**D. WARD CLIMATE CHANGE PLANNING COMMITTEE****Establishment of Ward Climate Change Planning Committee**

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

**Composition of Ward Climate Change Planning Committee**

25. (1) A Ward Climate 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 person male person living with disability;
- (f) one female person living with disability;
- (g) a representative of the 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; and
- (i) the Ward Administrator who shall be the chairperson and an ex-officio member with no voting rights;

(2) Nomination of members falling under subsections (a), (b), (c), (d), (e) and (f), and shall be conducted by representatives of the respective groups at a meeting convened by the Ward Administrator at the Ward headquarters for that purpose.

(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 day's 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



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network for that specific purpose, and communicated to the Ward Administrator in writing with a 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 village Administrators in the Ward to agree on the appropriate representative under subsection (1)(h).

(7) Within 30 days of the conclusion of the nominations, the Ward Administrator shall present the list of nominees to the Sub County Administrator who shall formally appoint the members, publicize the list as widely as possible within the ward, and forward it to the County Climate Change Unit.

**Officers of the Ward Climate Planning Committee**

26. (1) The first activity of the Ward Climate Change Planning Committee at its first sitting shall be the election a vice-chairperson.

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

**Qualifications for appointment to Ward climate change Planning Committees**

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

- (a) is a resident of the ward;
- (b) 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; and
- (d) Indicates willingness to serve the community.

(2) Without prejudice to the provisions of subsection (1), persons nominated under section 25 (1) (a), (b), (c), (d), (e) and (f), shall have a minimum of form four level of education, provided that where this requirement may impose inordinate constraints, the Executive Member shall determine the appropriate educational qualification.

**Functions of Ward Climate Change Planning Committee**

28. The functions of the Ward Climate Change Planning Committee shall be—

- (1) to coordinate and mobilize communities and other stakeholders in the ward to design and implement climate change response activities.
- (2) to facilitate research and knowledge management at the ward level on climate change, its impacts and strategies for responding thereto.
- (3) facilitate public education, awareness creation, and capacity building at the ward level on climate change, its impacts and strategies for responding thereto.
- (4) to coordinate, facilitate and manage community consultations on priority climate change response activities.
- (5) to 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.
- (6) to facilitate public participation in climate change governance, implementation of agreed climate change response activities, and monitoring of those activities.
- (7) to 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; and
- (8) to oversee implementation of climate change response projects funded by the County Climate Change Fund and report thereon to the technical Committee and perform any other functions that may be assigned to it by the technical Committee.

**Term of Ward climate change Planning Committees**

29. Save for the Ward Administrator, and subject to section 25 (1) hereof, members of the Ward Climate Change Planning Committee shall serve for one non-renewable term of five years.

**Removal of Member of Ward Climate Change Planning Committee**

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

(2) A member of the Ward climate change 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) violation of the Constitution or any other written law;
  - (c) gross misconduct;
  - (d) mental incapacity or death;
  - (e) Bankruptcy.
- (3) The Ward Administrator shall cease to be a member of the Ward Climate Change Planning Committee upon being transferred from the county or ceasing to hold that office.
- (4) A person who is a member of the Ward Climate Change Planning Committee under section 25 (1) (h) 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 to the Sub County Administrator.
- (5) Whenever a member of the Ward Climate Change 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 climate change Planning Committee**

- 31.** (1) The Ward climate change 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 climate change 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 climate change Planning Committee shall be two thirds of the members.
- (4) A resolution of the Ward climate change 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 climate change 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 climate change 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.

#### **Allowances for members of Ward climate change Planning Committees**

32. Members of the Ward Climate Change Planning Committee shall be paid allowances as per salaries and remuneration commission circulars.

### **PART III—MEASURES FOR RESPONDING TO CLIMATE CHANGE**

#### **County Climate Change Action Plan**

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

(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 County Executive Committee Member in charge of Environment 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**

**34.** The County Climate Change Action Plan shall—

- (a) be aligned to the current National Climate Change Action Plan (NCCAP) 2018-2022 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;
- (d) include a County Climate Change Mitigation Plan guiding the county toward the achievement of low carbon climate resilient development;
- (e) mainstream climate change into county development plans, programmes, strategies and projects;
- (f) include a County Climate Change Adaptation Plan;
- (g) include a County Climate Change Financing Strategy;
- (h) include Environmental and Social Safeguards Mechanisms;
- (i) include policy on vulnerable groups and people with disabilities;
- (j) include reporting on County Specific Determined Contribution;
- (k) include a Climate Change Actions Resource Mobilization Strategy;
- (l) Incentivize the private sector to support locally-led climate actions;
- (m) enhance research, capacity building and knowledge management on climate change and climate change response;
- (n) enhance public awareness for effective participation in climate change response;
- (o) contain a Monitoring, Reporting and Verification system.

**Approval of County Climate Change Action Plan**

**35.** 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**

36. 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 IV – DUTIES RELATING TO CLIMATE CHANGE****Climate change duties of public entities**

37. (1) The Steering Committee may require any public entity operating within the county to undertake such measures within its capability in relation to climate change.

(2) In taking the measures under subsection (1), a public entity shall act in a manner best suited for the successful implementation of this Act and the County Climate Change Action Plan.

(3) 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**

38. (1) The Steering Committee may require any private entity operating within the county to undertake such measures within its capability in relation to climate change.

(2) In taking the measures under subsection (1), a private entity shall act in a manner best suited for the successful implementation of this Act and the County Climate Change Action Plan

**Monitoring and reporting on compliance**

39. (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 on performance**

40. (1) The Steering Committee may require a private entity to report on performance.

(2) Notwithstanding the provisions of subsection (1), 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**

41. (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.

## **PART V—PUBLIC PARTICIPATION AND ACCESS TO INFORMATION**

### **Values and principles to apply to planning and implementation**

**42.** The planning and implementation of climate response in the county shall be informed by the objects specified in section 3 of this Act

### **County strategy for climate change education and public awareness**

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

(2) The strategy shall be developed through a participatory process involving all stakeholders in the county, and validated at public meetings organized by Ward climate change 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**

**44.** (1) Notwithstanding the provisions of section 47 (3) the Planning Committee and Ward Climate Change 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 climate change Planning Committees shall report to the Steering Committee on public sensitization campaigns undertaken with reference to every climate change response programme, plan, project or activity in the county and demonstrate how the sensitization has made impact on the threshold of decision making.

(3) The report on public sensitization and awareness creation on climate change programmes, plans, projects and activities shall be included in the reports of the Steering Committee under sections 45 of this Act.

### **Capacity building for effective public participation**

**45.** (1) The Steering Committee shall ensure that the Planning Committee and Ward Climate Change 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.



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(2) The Planning Committee and Ward climate change 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**

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

**PART VI—COUNTY CLIMATE CHANGE FUND**

**Establishment of County Climate Change Fund**

47. (1) There is hereby established in accordance with Section 116 of the Public Finance Management Act, 2012 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 administered by the Steering Committee and managed by the Fund Administrator appointed by the County Executive Committee Member for the time being in charge of Environment.

**Sources of the Fund**

48. The Fund shall be financed through—

- (1) Initial fund appropriated by the County Assembly, being not less than two percent of the county development budget;
- (2) Money appropriated annually by the County Assembly, which shall be not less than two percent of the annual development budget of the county;
- (3) Money received from the National Climate Change Fund;
- (4) International Climate Finance received by the County directly or through the National Designated Authority, National Implementing Entity or other agency;
- (5) Donations, endowments, bequests, grants and gifts from individuals, public and private entities, local or foreign;
- (6) Charges, fees, levies or fines received by the county government in connection with activities that adversely impact on climate in the county; and

(7) Interest and any other money that may lawfully accrue to the Fund in any form.

#### **Fund administrator**

49. There shall be Fund Administrator for the Fund who shall be the secretary to the Ward Climate Change Planning Committee. The Fund Administrator shall be director of Environment and must—

- (a) possess a relevant degree from a recognized university;
- (b) have management experience for a period of not less than five years; and
- (c) have relevant experience in any aspect of environment management;

#### **Functions of the Fund Administrator**

50. (1) The functions of the Fund Administrator shall include to—
- (a) head the Climate Change Unit;
  - (b) keep custody of the accounts of the Fund;
  - (c) ensure that the earnings of, or accruals to a county public fund are retained in the fund, unless the Executive Committee member for climate change directs otherwise; and
  - (d) ensure that money held in the fund, including any earnings or accruals referred to in subsection (3) is spent only for the purposes for which the fund is established.
- (2) On the winding up of a County Climate Change Fund the Administrator of the Fund shall—
- (a) pay any amount remaining in the fund into the County Exchequer Account;
  - (b) prepare accounts for the fund for each financial year;
  - (c) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General; and
  - (d) present the financial statements to the county assembly.

#### **Resignation and Removal of the Fund Administrator**

51. (1) The Fund administrator may at any time resign from office by issuing at least one-month notice in writing to the chairperson of the Planning Committee.



(2) The Fund administrator may be removed from office on either of the following grounds—

- (a) violation of the Constitution or any other written law;
- (b) gross misconduct, whether in the performance of the functions of the office or otherwise;
- (c) mental incapacity to perform the functions of office;
- (d) bankruptcy and
- (e) death.

## PART VII—DISBURSEMENT OF FUNDS

### Allocation of Fund to the Program

52. (1) The Fund Administrator shall develop, publish and circulate Information on the disbursements of funds available to each program, which shall be approved by the Steering Committee.

(2) Disbursement of funds shall be based on cash flow projections submitted by the implementing agency of the activities financed by the Fund and approved by the steering committee;

(3) The Fund Administrator shall be guided by the Climate Fund Sharing Criteria detailed in the schedule to this bill.

### Eligibility Criteria

53. (1) The County Climate Change Planning Committee shall develop and publish an eligibility criterion for Climate Finance projects that will be eligible for funding under this Act.

(2) The projects eligible to be funded under this Act—

- (a) must be a project that promotes climate resilience in the locality through Climate Mitigation or Adaptation;
- (b) must be a project that supports economic growth through Climate Adaptation;
- (c) must benefit a large number of people including vulnerable groups and have clear considerations for gender representation;
- (d) must contain detailed situation analysis with clear problem statement to facilitate clarity on level and urgency of vulnerability, and risks arising from delayed intervention;

- (e) must have a properly conducted environmental and social impact Assessment where necessary;
- (f) must have a clearly defined monitoring and evaluation plan with measurable indicators;
- (g) must have a sustainability plan;
- (h) must provide a platform for stakeholder engagement;
- (i) must enhance use of in-built skills and technology transfer; and
- (j) any other consideration that may be deemed relevant.

#### **Community Consultation Fora**

**54.** (1) Each Ward Climate Planning Committee shall convene community consultation forums in at least three different locations in the Ward before the Financial Year starts.

(2) The agenda for the community consultation forums shall be—

- (a) Climate Change Awareness;
- (b) the nature of projects that are eligible for Climate Finance through the Fund; and
- (c) Identifying priority projects from the community members.

(2) The Ward Planning Committee Secretary shall prepare a report on the community consultation forums under this part, and submit it to the Planning Committee.

#### **Development of Project Proposals**

**55.** (1) The Ward Climate Change Planning Committee shall develop project proposals from the project priorities identified in section 54 (2) above, and include any necessary technical details, including the procurement plan and the budget estimates for each project.

(2) The Ward Planning Committee shall submit the list project proposals indicating the priority ranking to the Climate Change Planning Committee for approval.

(3) Upon receiving the project proposals from the Ward climate change Planning Committee, the technical Committee shall within six weeks after receiving the project proposals—

- (a) approve the project proposals and communicate their decision to the respective Ward Planning Committee; or
- (b) reject project proposals with reasons given in writing and communicate this decision to the respective Ward climate change Planning Committee; or



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- (c) instruct the respective Ward climate change Planning Committee to make necessary amendments to a project proposal and approve the amended project proposal within a further three weeks from the date of resubmission.
- (4) Financing of the project proposals developed by the Ward Climate Change Planning Committee shall be subject to the amount of money allocated to the Ward.

**Validation of Projects Proposals**

56. (1) The Fund Administrator shall publish a list of approved and ranked climate change projects, including proposed procurement plans for each project.
- (2) Projects submitted and approved by the Planning Committee shall be published.
- (3) On approval by the Planning Committee, the Fund Administrator shall start the implementation process

**Procurement**

57. (1) Based on the National and County Procurement Regulations the Fund Administrator shall facilitate the establishment of appropriate procurement processes for each Ward Planning Committee.
- (2) The Fund Administrator shall ensure that all Ward Climate Change Planning Committees adhere to the relevant procurement procedures under the Public Procurement and Asset Disposal Act.
- (3) The Fund Administrator shall facilitate development of capacity Building on procurement for the Ward Climate Change Planning Committee.

**Complaints mechanism**

58. (1) Community members who are aggrieved by the decisions of the Ward climate change Planning Committee shall submit the complaints to the Fund Administrator.
- (2) The Fund Administrator shall forward the complaints to the County Planning Committee who shall make a final determination within a period of six weeks and submit a report to the Steering Committee with copy to the Fund Administrator.





## PART VIII—FINANCIAL PROVISIONS

### Funding operations of Steering and Planning Committees

59. (1) Functions of the Steering Committee, the Planning Committee and Ward Planning Committees and the secretariats thereof shall be financed through the Climate Change Fund.

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

(3) Finances and accounts of the Steering Committee, the technical Committee and Ward climate change Committees shall be administered and managed in accordance with the provisions of the Public Finance Management Act.

### Annual estimates

60. At least three months prior to the commencement of each Financial Year, the secretariat shall prepare the Annual Budgets following the processes of Government Budget Cycle and present the Budget for approval to the Steering Committee by 30th April.

### Financial year

61. The financial year of the Climate fund shall be 1st July of each year to 30th June.

### Accounts and audit

62. The secretariat specifically the Fund Administrator 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

63. (1) No action taken or thing done by a member, officer or agent of the Steering Committee, the Planning Committee or the Ward Climate Change 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 Steering Committee, the Planning Committee or Ward Climate Change 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**

**64.** 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 climate change Planning 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 climate change 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 technical Committee or Ward climate change 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**

**65.** The County Executive Committee Member in charge of Environment shall make Regulations for the proper administration of this Act including—

- (a) The banking plans and arrangements for the Fund; and
- (b) The disbursement for the Funds for approved projects.



**FIRST SCHEDULE****FUNDS SHARING AND ALLOCATION CRITERIA****Funds sharing Criteria**

1. The funds available for the Fund will be shared according to the following criteria—

(a) ten per cent of the moneys available in the Fund shall be allocated for administrative costs as follows—

(i) fifty per cent of the administrative costs shall be assigned to the climate change unit;

(ii) twenty-five per cent to ward climate change unit of the administrative costs shall be assigned; to the administrative costs of the Ward climate change Planning Committee;

(iii) fifteen per cent to County Planning committee;

(iv) ten per cent to County Steering Committee.

(b) twenty percent of the money's available in the fund shall be allocated to County wide projects as follows—

(i) ten per cent shall be assigned to Climate Change Awareness and information systems Activities;

(ii) twenty per cent shall be assigned to County Specific Research and development; and

(iii) seventy per cent of the fund shall be assigned to County Wide development projects.

(c) Seventy per cent of the available fund shall be allocated to projects received by the Ward Climate Change Planning Committee and Approved by the Planning Committee; and

(d) Moneys not spent at the end of any financial year shall be retained in the Fund for uses that are allowable under this Act.

**Funds Allocation Criteria**

2. Allocation of funds to various projects shall be done by the Technical Planning Committee using agreed criteria such as—

(a) **Relevance**, the intervention—

(i) will benefit many people including the most vulnerable Groups with clear evidence of gender considerations;

(ii) supports the economy, livelihoods or important services on which many people depend, and has been identified,

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  - (ii) supports the economy, livelihoods or important services on which many people depend, and has been identified,



prioritized and included in ward, sub-county, county and Cross-county plan or strategy for public good projects and promotes climate resilient growth and adaptive livelihoods;

(iii) proof that it is relevant to building resilience to climate Change and has been identified and prioritized through Community participation, based on identifiable vulnerabilities, as captured in risk assessment and vulnerability mapping reports available for the county.

(b) **Programme/Project description and risk analysis:** The target Programme/project is accompanied by detailed situation Analysis with clear problem statement to facilitate clarity on level and urgency of vulnerability, and risks arising from delayed intervention e.g. impact on community livelihoods, environment, economy, etc.

(c) **Gender and community cohesion considerations:** The Programme or project—

(i) demonstrates evidence of expected improvement on the Socio-economic status and resilience to the most vulnerable Groups and incorporates gender considerations; and

(ii) encourages harmony; builds relations and understanding among the beneficiaries.

(d) **Intervention Benefits—**

(i) Contributes to adaptation or mitigation and improving Community resilience and other community benefits including poverty reduction;and

(ii) Supports livelihoods through income generation, and improved livelihoods.

(e) **Non duplication of funding:** Avoids duplication, where similar projects have been undertaken or provides complementarity and value addition to other projects and has linkages with the existing projects with evidence of coordination.

(f) **Learning and Knowledge Management—**

(i) Provides platforms for effective stakeholder engagement and demonstrates sensitivity to diverse cultures and religions;

(ii) Provides opportunity for capacity building through training, awareness creation and sensitization, and capture,

Document and disseminate information and lessons learnt on climate change and its impacts.

- (g) **Sustainability:** Proof that the project is sustainable, beyond implementation with adequate arrangements to protect assets created after project completion and contributes to long-term Beneficial impacts to the community.
- (h) **Innovative strategies:** Proof that the project has innovativeness, Demonstrates use of indigenous knowledge (IK), innovations and technology.
- (i) **Efficiency and effectiveness/fiduciary management—**
  - (i) Programme or project is cost-effective and gives value for Money.
  - (ii) Administrative costs of the project to be incurred at the County and Ward level (usually estimated but not to exceed 5% of total project cost).
  - (iii) Contingency costs (estimated administrative costs not to Exceed 5%- 10% of the total project cost) or as may be Provided for in Public Finance Management Act Regulations.
  - (iv) Have clear accountability and reporting procedures;
- (j) **Implementation arrangements:** have a clear budgeted Monitoring evaluation, reporting and learning (MERL) plan with indicators and show organizational structure. The technical committee to finance only Climate change projects and activities that are included in the CIDP;
- (k) Any balances of unspent money will be carried forward to Finance the approved Programme/project in subsequent financial Period and no money may be used for unapproved projects or Activities.



