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TURKANA COUNTY BILLS, 2023

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THE TURKANA COUNTY LOCAL CONTENT BILL, 2023

A Bill for

AN ACT of the County Assembly of Turkana to provide for the promotion, development and enforcement of local content in all the sectors of the County’s economy; and for connected purposes

ENACTED by the County Assembly of Turkana, as follows—

PART I — PRELIMINARY

Short title

1. This Act may be cited as the Turkana County Local Content Act, 2023.

Interpretation

2. In this Act, unless the context otherwise requires —

“Committee” means the Turkana County Local Content Development Committee established under Section (5) of this Act;

“County” means Turkana County as established under the First Schedule of the Constitution of Kenya, 2010;

“County Executive Member” means the County Executive Committee Member for the Department;

“County Government” means the County Government of Turkana provided for under Article 176 of the Constitution;

“Department” means the County Department for the time being responsible for local content matters in the County and which shall be a department in the Governor’s Office;

“Director” means the Director of the County Directorate for the time being responsible for Local Content matters in the County;

“Directorate” means the County Directorate for the time being responsible for local content matters in the Department;

“Fund Administrator” means the person that shall be appointed by the County Executive Committee Member who for the time being is responsible for finance matters in the County to administer the Fund in accordance with the provisions the Public Finance Management Act, 2012;

“Investor” means a person, firm or entity who invests capital or resources in economic activities within the County for profit or other targeted returns, including anyone licensed under the Investment Promotion Act, 2004 or as the law may be amended from time to time to undertake

investment projects in Kenya and whose objective is to undertake the said projects within the County;

“Local Communities” means communities living in the Sub-County within which a project is being undertaken within the County;

“Local Content” means the use of locally available goods, services, labor, and financing in the County to promote economic growth and social development of the County and encourage local investments, ownership and participation;

“Local Enterprise” means a business, firm or entity operating within the County, whether as a supplier, contractor, consulting firm, subcontractor or otherwise, whose business enterprise is incorporated under the Laws of Kenya and whose principal place of business is in the County and whose shareholding is held in majority by local persons in the County;

“Local Goods” means supplies and products extracted, grown, produced, generated, processed or manufactured in the County and for this purpose, a ‘good’ shall be considered to be locally made or manufactured in the County if the cost of local materials, labor and services used in the making or manufacture of such goods constitutes at least fifty percent of the cost of the finished product;

“Local Person” means a natural person whose –ancestral origin is within the County; or primary place of residence is within the County;

“Public Benefit Organizations” means any organization undertaking humanitarian projects or initiatives within the County including but not limited to international humanitarian bodies, Non-Governmental Organizations, Community Based Organizations, societies, foundations, trusts and such other organizations;

“Person Operating within the County” means a person, investor, private entity, public benefit organization or any other entity performing works, services or supplying goods and materials within the County, whether for profit or not;

“Specialised Services” means professional or technical services that are unique and complex that require a high level of skill, knowledge, or expertise in a specific field or area, and that may not be readily available within the County;

“The Constitution” means the Constitution of Kenya, 2010;

“Value Addition” means the economic improvement and enhancement of value of a good or service;

“Value Chain” means a series of sequential consecutive stages in the life cycle of a good or service including the growth, exploration, extraction,

development, production or processing, treatment, transportation, refining and distribution for trading purposes.

Objects of the Act

3. The objects of this Act are to —
- (a) promote and enforce the use of locally available goods and services, and locally manufactured or made products in the County;
 - (b) promote the maximization of value-addition through the use of local expertise, goods, services and financing in the County to facilitate and promote human resource capacity building and the creation of employment opportunities in the value chain within the County;
 - (c) provide a framework for identification and implementation of local content development strategies within the County; and
 - (d) promote stakeholder engagement and co-ordination in the realization and implementation of the local content development strategies.

Guiding Values and Principles

4. The administration and application of this Act shall be guided by the following principles and values—

- (a) Equity and Accessibility;
- (b) Inclusivity and Mutual Co-operation;
- (c) Sustainability;
- (d) Transparency and Accountability;
- (e) Quality and Competitiveness; and
- (f) Public Participation.

PART II —INSTITUTIONAL FRAMEWORK FOR LOCAL CONTENT DEVELOPMENT

Establishment and composition of the County Local Content Development Committee

5. (1) There is established a committee to be known as the Turkana County Local Content Development Committee.

(2) The Committee shall comprise of—

- (a) the Chairperson who shall be a member of the public appointed by the Governor subject to the provisions of this Act and approved by the County Assembly;

- (b) the Director for the time being responsible for matters Local Content who shall be the secretary;
- (c) the County Commissioner or a person designated in writing;
- (d) the County Executive Committee Member who for the time being is responsible for the Public Service;
- (e) the advisor to the Governor who for the time being is responsible for advising the Governor on Local Content matters who shall be an *ex-officio* member;
- (f) the County Attorney or a person designated in writing who shall be an *ex-officio* member;
- (g) a representative of the person who for the time being is the County Executive Member responsible for Finance and Economic Planning, who shall be an *ex-officio* member;
- (h) a representative of Public Benefit Organizations undertaking projects within the County;
- (i) a representative from the Chamber of Commerce within the County;
- (j) a representative from the duly recognized inter-religious council within the County;
- (k) the Chairperson of the Turkana Council of Elders within the County;
- (l) two youth representatives of either gender from recognized youth organizations working within the County;
- (m) a representative of the women within the County; and
- (n) a representative of Persons Living with Disabilities (PWDs).

(3) The Committee Members shall elect, among themselves, the Vice Chairperson in their first sitting.

(4) Two-third gender rule shall apply in the nomination of members to serve in the Committee.

Appointment and Term of the Committee

6. (1) A person shall qualify for appointment as the Chairperson of the Committee, under this Act, if such a person—

- (a) is a citizen of Kenya and a local person within the County;
- (b) is a holder of a Bachelor's Degree from a University recognized in Kenya; and
- (c) meets the requirements of Chapter 6 of the Constitution.

(2) The Members of the Committee under section 5(2) (g) (h) (i) (k) (l) and (m) shall be nominated by their respective umbrella bodies for appointment by the County Executive Member.

(3) The Chairperson and Members of the Committee appointed under section 5(2) (g) (h) (i) (k) (l) and (m) shall serve for a term of three years and shall be eligible for re-appointment for a further final term of three years.

(4) The appointment of the Chairperson and the Members of the Committee appointed under section 5(2) (g) (h) (i) (j) (k) (l) (m) and (n) shall be by notice in the *Kenya Gazette*.

Functions of the Committee

7. The functions of the Committee shall be to —

- (a) advise the County Government on matters relating to the promotion and implementation of local content within the County;
- (b) monitor and facilitate the implementation and enforcement of local content in the County in accordance with the provisions of this Act;
- (c) set targets for the achievement of local content in relation to various investment projects and operations;
- (d) monitor and evaluate the continuous performance and compliance by persons operating within the County with the set local content requirements;
- (e) issuance of licenses and approvals to persons operating within the County who have met the requirements for local content within the County and revocation of the same where there is non-compliance;
- (f) develop the County Local Content Plan;
- (g) provide a platform for local persons to express their views on issues related to local content;
- (h) promote effective public participation of the local communities in the development and formulation process of local content development strategies and plans;
- (i) promote public awareness and education on local content requirements and opportunities;
- (j) liaise with the National Government on local content development in the extraction of natural resources for the benefit of local communities, local persons and enterprises;

- (k) conduct regular audits to identify the various sectors within which local content opportunities exist and develop the relevant local content development strategies;
- (l) monitor, evaluate and assess the effectiveness and uptake of the local content development plans and strategies;
- (m) promote collaboration and co-ordination among the relevant government agencies and stakeholders in the development and implementation of local content development strategies;
- (n) recommend to the County Executive Member the regulations, guidelines and standards for the implementation of local content within the County; and
- (o) perform any other functions that may be assigned by the County Executive Member in furtherance of the objects of this Act.

Vacancy and Removal of a Member from the Committee

8. (1) The office of the Chairperson or a Member of the Committee appointed under section 5(2) (g) (h) (i) (k) (l) and (m) shall become vacant if the holder:

- (a) dies;
- (b) resigns from office by notice in writing to the Governor, in relation to the Chairperson, and to the County Executive Member, in relation to a Member of the Committee appointed under section 5(2) (g) (h) (i) (k) (l) and (m);
- (c) is convicted of an offence and is sentenced to imprisonment for a term exceeding six (6) months;
- (d) has been absent from three (3) consecutive meetings of the Committee without reasonable cause duly communicated to the Chairperson of the Committee; or
- (e) is removed in accordance with subsection 2.

(2) The Chairperson or Member of the Committee may be removed from office for—

- (a) serious violation of the Constitution or any other law;
- (b) gross misconduct, whether in the performance of the office holder's functions or otherwise;
- (c) physical or mental incapacity rendering the holder unable to perform the functions of the office; and
- (d) bankruptcy.

(3) A person who is a member of the Committee by virtue of office shall cease to be a member of the Committee upon ceasing to hold that office.

(4) A person who is a member of the Committee by virtue of appointment under section 6(2) shall cease to be a member of the Committee upon ceasing to be a member of the umbrella body or upon being recalled by the umbrella body through a written communication from an authorized official of the umbrella body to the County Executive Member.

(5) Whenever a member of Committee is removed or otherwise ceases to be a member of the Committee, the County Executive Member shall ensure that the vacancy is filled as soon as is practicable in accordance with the provisions of the Act.

Conduct of Business and Affairs of the Committee

9. (1) The Committee shall meet once every quarter in a year.

(2) The Committee may choose to rotate the location of its regular meetings to different wards in the County for purposes of engaging directly with communities and familiarizing itself with the local content development strategies implementation, uptake and challenges.

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

(4) A resolution of the Committee shall require an affirmative vote of more than one half of the membership present at a meeting and 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 Committee may invite to its meetings any technical personnel or expert who it considers will contribute to its deliberations, and the attendance and participation of such person shall be recorded in the minutes of the County Local Content Development Committee.

Remuneration and Allowances of the Committee

10. The Chairperson and Members of the Committee shall be paid such remuneration and allowances as the County Executive Committee Member may, on the advice of the Salaries and Remuneration Commission, determine.

Establishment of *ad hoc* Local Content Development Sub-Committees

11. The County Executive Member may, on the recommendation of the Committee and whenever need arises, establish an *ad hoc* Local Content Development Sub-Committees within the County.

Functions, powers, composition and terms and conditions of service for *ad hoc* Local Content Development Sub-Committees

12. (1) The County Executive Member in consultation with the Committee may determine and specify the functions and powers, the duration for the committee, the criteria for membership, qualifications for persons to be appointed to membership, and such other terms and conditions of service for the *ad hoc* Local Content Development Sub-Committees.

(2) The County Executive Member shall ensure that all interest groups are equitably represented and the membership of the *ad hoc* Local Content Development Sub-Committees shall reflect diversity and inclusivity in the pattern of the Committee.

(3) Two-third gender rule shall apply in the nomination of members to serve in the *ad hoc* Local Content Development Sub-Committees.

PART III—LOCAL CONTENT DEVELOPMENT**Promotion of Local Content**

13. (1) The County Government shall ensure that, in collaboration with the National Government and subject to the provisions of any national legislation, equity is attained in the exploitation of natural resources within the County to the benefit of local communities.

(2) The County Government shall ensure that all investments and economic activities within the County prioritize the use of local content in line with the objectives of this Act.

(3) The County Government shall prioritize the employment and training of locals in all sectors of the economy.

(4) The County Government shall promote the development of local industries and businesses in the County.

(5) The County Government shall ensure that all procurement of goods, services, and works by the County Government and its agencies, as well as by persons operating within the County, prioritize local content.

Procurement of Goods, Services and Works

14. (1) The County Government shall take all measures necessary to ensure that local content is prioritized in procurement, where feasible and

in accordance with the principles of fairness, transparency and value for money.

(2) The County Government shall, in the procurement of goods and services, give preference to local persons and enterprises who meet the prescribed standards of quality and competitiveness, subject to the provisions of the Public Procurement and Asset Disposal Act, 2015.

(3) Where there are no local persons or enterprises who meet the prescribed standards of quality and competitiveness, the County Government may procure goods and services from outside the County or Kenya, but shall give preference to Kenyan goods and services.

(4) The County Government shall require all suppliers and contractors to provide a strategy for developing local content in their procurement of goods, services, and works and shall monitor compliance with these plans.

(5) The County Government shall, in evaluating tenders, give due consideration to the level of local content offered by each tenderer, and shall give preference to tenders with higher levels of local content, provided that the price and quality of the goods, services and works offered are comparable.

(6) Any person operating within the County shall ensure maximum usage of locally available goods and services by—

- (a) giving first consideration to local persons or enterprises in awarding contracts with respect to their operations in accordance with the regulations prescribed by the County Executive Member; and
- (b) procuring goods available or produced within the County and utilizing services rendered by local persons or enterprises in preference to similar goods or services outside the County unless such goods or services cannot, after reasonable effort to acquire such, be procured from within the County.

(7) Any person operating within the County shall maintain a fair and transparent bidding process for the acquisition of goods and services for purposes of facilitating their operations, which process shall—

- (a) ensure equal treatment of local persons or enterprises and afford them a fair opportunity to bid in the process;
- (b) give preference to local bidders in instances where the price differential with the non-local bidders does not exceed the percentage as may be prescribed by the County Executive Member; and
- (c) take into account the minimum local requirements imposed by the County Government.

(8) Notwithstanding anything to the contrary in this Act, the provisions of this Act shall not apply to specialized services, which cannot be adequately provided by local entities or persons.

Local Content in Asset Disposal

15. (1) The County Government, shall, in the disposal of its assets, give preference to local persons and enterprises to bid for the assets, subject to the provisions of the Public Procurement and Asset Disposal Act.

(2) The County Government, shall take all necessary measures to ensure that the disposal of its assets is done in a transparent and competitive process in accordance with the principles of fairness, transparency and value for money.

(3) Any person operating within the County, shall give first consideration and preference to local persons and enterprises in the disposal of their assets in accordance with the regulations prescribed by the County Executive Member.

(4) Any person operating within the County shall maintain a fair and transparent bidding process for the disposal of assets as prescribed by Public Procurement and Assets Act, which process shall—

- (a) ensure equal treatment of local persons or enterprises;
- (b) afford local persons and enterprises a fair opportunity to bid in the process; and
- (c) give preference to local bidders in instances where the price differential with the non-local bidders' does not exceed the percentage prescribed by the County Executive Member.

Promotion of Locally Manufactured or Made Products

16. (1) The County Government shall promote the use of locally manufactured or made products in all sectors of the economy.

(2) The County Government shall collaborate with local industries and businesses to ensure that their products meet the required standards and specifications.

(3) The County Government and any person operating within the County shall give preference to locally manufactured or made products in its procurement processes.

Local Content in Employment

17. (1) The County Government and any person operating within the County shall ensure that they provide equal opportunities to the local persons of the County in their recruitment and employment processes.

(2) The County Government and any person operating within the County shall promote and implement the employment of local persons in all levels and categories of employment.

(3) The County Government and any person operating within the County shall give first consideration to the employment of local persons who have the necessary expertise or qualification in various levels of operations within the value chain.

(4) Where there is no local person qualified or available to fill a vacancy, the person operating within the County shall provide appropriate training to enable local persons progressively qualify for the vacancy.

(5) The County Government and any person operating within the County shall minimize the employment of foreign personnel and ensure that foreign employees are engaged only in positions for which there are no local persons with the necessary qualifications and experience.

(6) Any person operating within the County shall, in meeting the requirements set out above—

- (a) maintain at least seventy percent of local persons in their employ or such other percentage as may be prescribed by the County Executive Member for all low cadre jobs;
- (b) maintain at least thirty percent of local persons in their employ or such other percentage as may be prescribed by the County Executive Member for all senior and managerial positions;
- (c) maintain records of all employees, including their nationality, residency, and job classifications; and
- (d) not engage in discriminatory practices towards the local persons in the provision of the conditions of employment or service.

(7) The Directorate shall maintain a database of professionals within the various industries in the County which shall be accessible to persons operating within the County.

Ownership and Participation

18. (1) Any person operating within the County shall ensure that the ownership structures of their operations reflect local ownership and participation through —

- (a) management of projects within the County by local persons; or
- (b) ownership of equity stake in joint ventures by local persons or enterprises; or
- (c) partnership with local persons or enterprises.

(2) The County Government shall set regulations for the mandatory minimum percentage of ownership and participation required for purposes compliance with subsection (1) above.

(3) The County Government shall have the power to require persons operating in the County to submit and maintain a local content strategy outlining their commitments and strategies for achieving local ownership and participation.

(4) The County Government may impose penalties or sanctions on businesses that fail to comply with the local content plan or do not achieve the required local ownership and participation within the specified timeframe.

(5) The County Government shall also ensure that any public benefit organization operating within the County shall have a local content strategy that outlines its commitment to promote local ownership and participation in its activities.

(6) The County Government may require businesses and public benefit organizations to partner with local communities, persons or enterprises in order to enhance local ownership and participation.

(7) Any business that fails to comply with the local content plan or provisions of this section shall be liable to legal action by the County Government, including but not limited to cancellation of licenses, approvals or permits, and other penalties or sanctions as deemed appropriate by the County Government.

Training and Capacity Building

19. (1) The County Government, through the Committee, shall establish and maintain a training and capacity building programme aimed at enhancing the capacity of local persons to effectively participate and benefit from the opportunities presented by the local content.

(2) The training and capacity building programme established under subsection (1) shall be developed in consultation with stakeholders and shall be tailored towards providing training and capacity development opportunities in the sectors of the economy where the County has identified as areas of priority.

(3) The programme shall include, but not be limited to, the following measures—

- (b) provision of training and capacity building for locals to enable them to acquire the necessary skills and knowledge to participate in the sectors covered by this Act;

- (c) provision of opportunities for locals to participate in mentorship and internships opportunities in the relevant sectors;
- (d) skills and technology transfer into and within the County;
- (e) identification of the current and future skills and competence gaps for targeted training and development of individuals;
- (f) promotion of the establishment of vocational and technical training institutions within the County;
- (g) collaboration initiatives with educational and training institutions for capacity building of the human resource; and
- (h) development of minimum standards, facilities, personnel and technology for training.

(4) The Committee shall review and evaluate the effectiveness of the training and capacity building programmes referred to in subsection (3) and make recommendations for improvement as part of its annual report to be tabled before the County Assembly.

(5) The County Government shall allocate resources towards the implementation of the training and capacity development programme, which shall be drawn from the funds set aside for local content initiatives in the County.

(6) The County Government, through the Committee, shall establish partnerships with private and non-governmental entities to promote the training and development of the capacity of local persons.

(7) The Committee shall, in collaboration with stakeholders, establish and maintain a database of local persons who have undergone training and capacity development under the programme established under subsection (1) and shall promote the participation of such persons in the County's procurement processes and other initiatives aimed at promoting local content.

Value Addition

20. (1) The County Government shall promote value addition to goods and services acquired or delivered in the County.

(2) The County Government, through the Committee, shall accredit and incentivize any person operating within the County who attains the prescribed percentage of local content value addition for their goods and services acquired or delivered in the County.

(3) The County Government shall, through the Committee, create strategic alliances with private entities and non-governmental organizations for the purposes of—

- (a) development of production or processing plants, refineries and acquisition of such other equipment as may be necessary for product value addition;
- (b) promoting local content value addition in various sectors within the County; and
- (c) building the technical capacity of local persons and enterprises to participate in value addition.

Incentives for Compliance

21. (1) The County Government may provide incentives to private entities and non-governmental organizations that comply with the local content requirements set out in this Act.

(2) The incentives referred to in subsection (1) may include, but shall not be limited to—

- (b) financial incentives, such as tax breaks or reduced fees for permits and licenses;
- (c) preferential treatment in the procurement processes;
- (d) access to credit facilities and financial support from the County Government;
- (e) capacity building programs and technical assistance;
- (f) recognition and awards for exemplary compliance with the local content requirements;
- (g) priority consideration for partnerships and joint ventures with the County Government;
- (h) access to special economic zones and industrial parks established by the County Government;
- (i) preference in the allocation of land and natural resources; and
- (j) any other incentives that may be prescribed by the County Government.

(3) The County Government shall establish guidelines and procedures for the administration of the incentives provided for in this section.

(4) The County Government shall review the incentives provided for in this section to ensure their effectiveness in promoting compliance with the local content requirements set out in this Act once in every financial year.

(5) The County Government may withdraw incentives provided under this section where an entity or a non-governmental organization is found to be in breach of the provisions of this Act.

Local Content Plan

22. (1) The Committee shall prepare the Local Content Plan within the first twelve months of its establishment that will guide the implementation of this Act.

(2) The Local Content Plan shall include measures to promote local content in all sectors of the economy of the County.

(3) The Local Content Plan shall be reviewed and updated every five years.

(4) The Plan shall be submitted to the County Assembly for approval.

Monitoring and Evaluation

23. The County Government shall put in place a monitoring and evaluation mechanism to assess the level of compliance with the local content requirements as provided under this Act.

Reporting

24. (1) The County Government, through the Committee, shall prepare and submit a report on the implementation of the Act to the County Assembly on an annual basis.

(2) The report shall contain information on the level of participation of local persons, enterprises and communities in the employment and procurement processes and any challenges encountered during the implementation of the provisions of this Act.

PART IV —PUBLIC PARTICIPATION AND CREATION OF AWARENESS

Public participation and creation of awareness

25. (1) Public participation under this Act shall be conducted in accordance with the relevant laws of Kenya.

(2) Within one year of this Act coming into force, the Committee shall develop a comprehensive County Strategy for public participation and awareness creation on local content strategies.

(3) The strategy shall be developed through a participatory process involving all stakeholders in the County and validated at public meetings organized by the Committee.

(4) The Committee shall ensure that the development of any investment projects, plans and programmes in the County are preceded by a comprehensive campaign of public sensitization and awareness to facilitate informed public participation.

(5) The Committee shall partner with investors and relevant stakeholders to package and disseminate information on local content development strategies in the County.

(6) The Committee shall implement comprehensive programmes of capacity building to equip local persons and communities in the County for effective participation in local content development matters.

PART V — FINANCIAL PROVISIONS

Establishment of a Fund for Local Content Development

26. (1) Where applicable and based on the recommendations of the Committee, the County Executive Member may request the County Executive Committee Member at the time being responsible for finance to establish a special purpose fund for Local Content in accordance with the provisions of the Public Finance Management Act, 2012.

(2) The County Government shall provide sufficient funding for the promotion and development of local content within the County; training, research and development and for related purposes.

(3) The funds for local content development may consist of—

- (a) monies appropriated by the County Assembly, which shall be not less than two per cent of the annual development budget of the County;
- (b) such grants or transfers as may be received from the National Government;
- (c) donations, endowments, bequests, grants and gifts from individuals and local or foreign public and private entities;
- (d) money earned or arising from any investment of the monies in any fund set aside for Local Content;
- (e) fines and other related levies charged on Local Content development and related matters; and
- (f) monies from any other lawful sources.

(4) The County Executive Member may, by notice in the *Gazette*, impose such levies for non-compliance with the provisions of this Act as may be appropriate which shall form part of the funds under Sub-section (3).

Financial year

27. The financial year of the Fund shall be the period of twelve months ending on the thirtieth June in every year.

Accounts and audit

28. (1) The Fund Administrator shall cause to be prepared proper books of accounts in relation to the Fund.

(2) The accounts of the Fund for each financial year shall be audited by the County Auditor and, for that purpose, the County Auditor and any officer authorized by the County Auditor shall have access to all books and other records relating to the accounts for the Fund.

(3) The County Auditor shall, not later than nine months after the end of each financial year, submit a report on the accounts of the Fund for that financial year to the County Executive Committee Member who for the time being is responsible for finance matters in the County.

(4) The County Executive Committee Member who for the time being is responsible for finance matters in the County shall, not later than seven days after the receipt of the report, lay it before the County Assembly.

PART VI — MISCELLANEOUS PROVISIONS

Protection from Personal Liability

29. (1) No action taken or thing done by an authorized officer, member, or agent of the County Government or the Committee in performance of functions or execution of powers vested in the said entities by this Act, acting in good faith shall render the authorized officer, member 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 County Government or the Committee of liability to pay compensation or damages to any person for any injury to them, their property or any of their 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

30. A person who —

- (a) contravenes or fails to comply with a provision of this Act, regulations or any order or notice made or issued under this Act; or
- (b) is found guilty of an offence under this Act for which no penalty is expressly provided; or

- (c) willfully obstructs any officer or agent of the County Government or the Committee in the discharge of their lawful duties in this Act; or
- (d) misrepresents, knowingly submits false or misleading information to any officer or agent of the County Government or the Committee in the exercise of powers or the performance of their lawful duties under this Act;
- (e) connives with a local person or enterprise to deceive the County Government or the Committee so as to achieve the local content requirement under this Act,
commits an offence and is liable on conviction, if—
 - (i) a public officer, to a fine not exceeding Kenya Shillings One Million Only or to imprisonment for a period not exceeding twelve months, or to both; or
 - (ii) a person operating within the County, to a fine not exceeding Kenya Shillings Two Million Only or to imprisonment of the person, director, officer or partner of the entity for a period not exceeding twelve months, or to both; or
 - (iii) for any other person, to a fine not exceeding Kenya Shillings Five Hundred Thousand Only or to imprisonment for a period not exceeding six months, or to both.

Regulations

31. (1) The County Executive Member may make regulations generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the foregoing, regulations made under this section may provide for—

- (a) the minimum percentage required for procurement of locally available and produced goods and services;
- (b) the minimum number or percentage of local persons that persons operating within the County must employ in their projects and reservation of certain services as the Committee may deem fit for local persons and enterprises;
- (c) mandatory minimum percentage of ownership and participation;
- (d) the minimum standards, facilities, personnel and technology for training and capacity building;
- (e) requirements for transfer of skills and technology with respect to various operations in the economic activities within the County;

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- (f) the standard provisions to be included in contracts, agreements, concessions and licenses entered into with persons operating within the County;
 - (g) the contents of the local content strategy to be submitted by persons operating within the County;
 - (h) Monitoring of local content compliance by persons operating within the County;
 - (i) prescribed forms applicable under this Act; and
 - (j) anything required by this Act to be prescribed.

MEMORANDUM OF OBJECTS AND REASONS

The main object of this Bill is to provide for the promotion, development and enforcement of local content in all the sectors of the Turkana County County's economy. The Bill spells out the intention of the County Government of Turkana to provide direction and undertaking to create a pathway for the full participation of all Turkana residents and businesses in contributing their readily available goods and services to the investments and humanitarian sector operations taking place in their midst.

This Bill gives effect to Article 66 (2) of the Constitution which provides that "Parliament shall enact legislation ensuring that investments in property benefit local communities and their economies." The Bill ensures maximum benefits to Turkana residents from their resources through the enhancement and development of a law that will target phased participation of Turkana companies, labour, goods and services, along the value chain.

The Bill is divided into **Six Parts**. The parts of the Bill are categorized as follows:

PART I: This Part of the Bill contains the preliminaries including the short title describing the names of the proposed Act; interpretation of words used in the Act; the objects, purpose and the guiding values and principles of the Act.

PART II: This part outlines the Institutional Framework for Local Content Development in the County. The Bill establishes the County Local Content Development Committee which is a body that oversees the implementation of the Act. The Bill bestows the committee with powers and mandates to oversee local content implementation and to advise the County Government on matters local content.

With respect to the Committee, the Bill outlines the appointment and Term of the Committee, vacancy and removal of a member of the Committee, conduct of business and affairs of the Committee, remuneration and allowances of the Committee and establishment of an *ad hoc* Committee on need basis.

PART III: This part provides for areas and aspect of implementation of local content in the County. These includes implementation of Local Content in —

- (a) Exploitation of natural resources within the County to the benefit of local communities;
- (b) Investments and economic activities within the County;
- (c) Employment and training of locals in all sectors of the economy;
- (d) Development of local industries and businesses in the County; and

- (e) Procurement of goods, services, and works by the County Government and its agencies, as well as by persons operating within the County.

The County Government is mandated to develop a Local Content Plan and Strategy to guide in the implementation of the Bill. The Ministry responsible for Local Content Development is also mandated to monitor and evaluate local content implementation and report annually on the status of implementation of the different aspects of local content in the County.

PART IV: This part of the Bill provides for Public Participation and awareness creation of matters local content in the county.

PART V: This part contains the Financial Provisions of the Bill which includes creation of Fund, financial year of the Committee and accounting and audit framework.

PART VI: This part of the Bill provides the Miscellaneous Provisions of the Bill which includes protection from Personal Liability for any person appointed under the Bill and undertaking its duty in good faith. This part also provides for Offences and Penalties for breach of the provisions of the Bill. The Bill delegates powers to the County Executive Committee Member for the time being responsible for matters Local Content to establish regulations to will aid proper implementation of the Bill.

ALPHONSE LOTEDER,
*Chairperson, Sectoral Committee, on Labour,
Gender & Youth Affairs.*