

**THE WEST POKOT POKOT COUNTY CLIMATE CHANGE  
FUND ACT, 2021**

**No. 1 of 2021**

*Date of Assent: 29th April, 2021*

*Date of Commencement: See Section 1*

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**THE WEST POKOT COUNTY CLIMATE CHANGE FUND ACT, 2021**

**AN ACT for West Pokot 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 West Pokot County assembly as follows—

**PART I—PRELIMINARY**

**Short title and commencement**

1. This Act may be cited as the West Pokot County Climate Change Fund 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;

"NEMA" 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;

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“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 West Pokot County;

“county assembly” means the County Assembly of West Pokot County;

“county government” means the County Government of West Pokot;

“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 West Pokot County;

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

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

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

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

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

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

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

"County Climate Change Coordination Committee" means the County Climate Change County Climate Change Coordination Committee established under section 5 of this Act;

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

"ward 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.** The objects of this Act is to—

(1) 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;

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- (f) Facilitate public participation in climate change response through capacity development, awareness creation, consultation, representation and access to information;
- (g) Establish frameworks and mechanisms for mobilization and transparent and accountable management of financial and other resources for climate change response;
- (h) Establish and implement mechanisms to promote and facilitate climate change research and development, innovations, technology development, training and capacity building;
- (i) integrate climate change into the exercise of power and functions of all levels of the, county government, including in decentralized units and enhance cooperative climate change governance between the county, neighbouring counties, Regional Economic Blocs, and the national government
- (j) Contribute to national efforts to address the adverse impacts of climate change.
- (k) Establish the Climate Change Fund in accordance with Section 116 of the Public Finance Management Act.

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

**(A) COUNTY CLIMATE CHANGE COORDINATION COMMITTEE**

**Establishment of Coordination Committee**

4. There is established the County Climate Change coordination Committee, appointed by the Executive Committee Member for the time being in charge of climate change affairs.

**Functions of the Coordination Committee**

5. The functions of the coordination Committee shall be:
- (1) To coordinate planning, and implementation of projects and activities for climate change response in the county—

- (2) Mainstream climate change responses into development planning climate, decision making and implementation;
- (3) Implement coordinated and integrated response to climate change and its impacts by all actors and stakeholders;
- (4) Facilitate effective management of climate change impacts by enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change;
- (5) Promote, support and facilitate community-based and community-initiated adaptation and mitigation activities;
- (6) Enforce duties and provide incentives for the private sector to contribute to achievement of low carbon climate resilient development;
- (7) Facilitate public participation in climate change response through capacity development, awareness creation, consultation, representation and access to information;
- (8) Establish frameworks and mechanisms for mobilization and transparent and accountable management of financial and other resources for climate change response;
- (9) Establish and implement mechanisms to promote and facilitate climate change research and development, innovations, technology development, training and capacity building;
- (10) Integrate climate change into the exercise of power and functions of all levels of the, county government, including in decentralized units and enhance cooperative climate change governance between the county, neighbouring counties, Regional Economic Blocs, and the national government
- (11) Contribute to national efforts to address the adverse impacts of climate change.
- (12) To coordinate implementation of the County Climate Change Action Plan and the County Climate Finance Framework;
- (13) Establish guidelines to be used by Ward Planning Committees in formulating climate response projects for funding by the County Climate Change Fund;
- (14) Support Ward Planning Committees in development and implementation of climate response projects;
- (15) Coordinate development and implementation of the County Climate Change Fund Regulations;



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(16) Advise the County Climate Change Coordination Committee on strategies, priority programmes, projects and activities for climate change response in the county;

(17) Formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the county;

(18) To coordinate research and knowledge management on climate change, its impacts and strategies for responding thereto;

(19) Prepare and disseminate an annual report on climate change response activities in the county;

(20) Formulate and implement a county monitoring, evaluation and reporting framework for climate change response;

(21) Forward to the cabinet for approval, all policy documents for better implementation of this Act; and

(22) Review the county climate fund act from time to time.

**Composition of Co-ordination Committee**

**6.** Members of the Coordination Committee shall be;

(1) County Executive Committee Member for the time being in charge of matters relating to Environment and Natural Resources who shall be the Chairperson.

(2) Chief Officer for the time being in charge of matters relating to Environment who shall be the Fund administrator;

(3) Five Chief Officers appointed by the Chairperson from relevant County Departments;

(4) County Director in charge of climate change matters

(5) One county Director representing Finance and Economic Planning affairs;

(6) One County Director representing Agriculture, Irrigation and Pastoral Economy;

(7) County Director of Meteorology;

(8) One representative of duly registered Public Benefit Organizations (PBO) working in the county nominated by the umbrella organization representing the largest number of public benefit organizations;

(9) One representative of the private sector in the county nominated by the umbrella organization representing the largest number of private sector organizations in the county;

(10) One representative of women in the county nominated by the umbrella organization representing the largest number of women's organizations in the county;

(11) One representative of youth in the county nominated by the umbrella organization representing the largest number of youth organizations in the county; and

(12) One representative of Persons living with disability (PLWD) in the county nominated by the umbrella organization in the county.

(13) Members of the coordination Committee shall at their first meeting elect a vice-chairperson from among the members nominated for appointment under Sub-section 6 (8), (9), (10), (11) and (12).

#### **Appointment and Term of Coordination Committee**

7. Members of the Coordination Committee shall—

(1) Be appointed by the Executive Committee Member, for the time being, in charge of climate change matters;

(2) Members of the Coordination Committee appointed under Sub-section 6 (8), (9), (10), (11) and (12) shall serve for one non-renewable term of five years

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**Resignation of a member of Coordination Committee**

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**8.** A member of the Coordination Committee under Subsection 6 (8), (9), (10), (11) and (12) may at any time resign from the Committee by giving one month's notice to the Executive Member for the time being in charge of the climate change affairs.

**Removal of a member of the Coordination Committee**

**9.** A member of Coordination committee may be removed from the Committee by the Executive Member for the time being in charge of climate change affairs on any one or a combination of the following grounds:

- (1) Failure to attend two consecutive meetings of the coordination Committee without reasonable cause duly communicated to the chairperson of the Committee;
- (2) Serious violation of the Constitution or any other written law
- (3) Gross misconduct
- (4) Physical or mental incapacity
- (5) Bankruptcy

**Ceasing to hold office**

**10.** A person who is a member of the Coordination Committee by virtue of his or her office under Sub-section 6 (1) (2), (3), (4), (5), (6), and (7) shall cease to be a member of the Committee upon being transferred from the county or ceasing to hold that office.

**Recalling of a member of Coordination committee by interest group**

**11.** A person who is a member of the Coordination Committee under Sub-section (8), (9), (10), (11) and (12) shall cease to 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

**Replacement of a member of coordination committee**

12. Whenever a member of the Coordination 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.

**Meetings of the Coordination Committee**

13. The Coordination Committee shall meet at least once every quarter in each financial year.

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

15. The quorum for meetings of the Coordination Committee shall be two thirds of the members.

16. A resolution of the Coordination 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.

17. 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.

18. The Coordination 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 person shall be recorded in the Minutes of the technical Committee.

**Allowances for members of the coordination committee**

19. Allowances for the members of the coordination committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission.

**(B) COUNTY CLIMATE UNIT (CCU)****Establishment of County Climate Change Unit**

20. There shall be established a West Pokot County Climate Change Unit of the County Government of West Pokot.

**Functions of the County Climate Change Unit**

21. The West Pokot CCU shall:

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- (1) Implement the decisions of the County Climate Change Coordination Committee;
- (2) Set county-specific targets for climate change actions
- (3) Mainstream climate change in CIDPs;
- (4) Mainstream Disaster Risk Reduction in development projects and spatial plans;
- (5) Advise departments and the county assembly on legislative and policy measures necessary for climate change response and attaining low carbon development pathway;
- (6) Develop public education and awareness strategy;
- (7) Identify research and training needs and methods to disseminate climate Change information;
- (8) Establish and manage a climate change registry of actions by sectors, Civil Society Organizations and private sector;
- (9) Identify low carbon development strategies and coordinate related measurement, reporting and verification;
- (10) Coordinate with sub county and ward administrators to ensure impact at the grass root level;
- (11) Establish knowledge management centers and on climate change at ward level;
- (12) Build the inter-county platform, for strengthening policy dialogue on shared resources;
- (13) Identify training and awareness needs related to climate change;
- (14) Establish communication and information dissemination channels on climate change;
- (15) Do screening of all projects at Projects identification stage using exclusion checklist to Assess Possible Adverse Environmental and Social Impacts;
- (16) Stakeholder mapping and consultations on social impacts,

mitigation measures and awareness raising by the grievance focal point at investment and county level.

(17) Preparation of the Environmental Social Impact Assessment /Environmental Social Management Plan or Abbreviated Resettlement Action / Resettlement Action Plan as necessary.

(18) Undertake Initial and Annual environmental Audit of all Projects with the assistance of National Environment Management Authority.

(19) Continuous Stakeholder Engagement and logging and Resolution of all Grievances.

(20) Monitor Implementation of Environmental and Social Management Plan /Abbreviated Resettlement Action Plan and other Social issue.

(21) Prepare Environmental and Social Management Plan / Resettlement Action Plan /Grievance redress Completion report.

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

**22.** The County Climate Change Unit shall comprise of:

(1) The Chief Officer in charge of Environment and Natural Resources (Climate Change Affairs) who shall be the chairperson

(2) The Director in charge of Climate change who shall be the fund administrator;

(3) The Director of Environment and Natural Resources in charge of climate change matters.

(4) Planning, Monitoring and Evaluation Officer.

(5) Procurement Officer.

(6) The Accountant.

(7) Redeployed officers to serve in the unit.

#### **Allowances for Officers of climate change unit**

**23.** 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 climate change unit officers**

**24.** The climate change unit officers shall be appointed by County Executive Committee Member for Environment and Natural Resources in charge of climate change matters.

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**(C) WARD CLIMATE CHANGE PLANNING COMMITTEE**

**Establishment of ward climate change planning committee**

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

**Functions of ward climate change planning committee**

**26.** 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) 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) Facilitate public participation in climate change governance, implementation of agreed climate change response activities, and monitoring of those activities;
- (7) 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) Oversee implementation of climate change response projects funded by the County Climate Change Fund and report thereon to the technical Committee perform any other functions that may be assigned to it by the technical Committee

**Composition of Ward Climate Change Planning Committee**

27. A Ward Climate Planning Committee shall—

(1) Be composed of 10 members representing the diverse interests in the community, namely—

- (a) one male elder;
- (b) one female elder;
- (c) one youth;
- (d) one person living with disability;
- (e) one representative from Agriculture, livestock and Public health;
- (f) Sub county Environment and Natural resources officer who shall be secretary;
- (g) Ward Manager;
- (h) one person representing Community-Based Organizations in the Ward and actively engaged in climate change response activities who shall be nominated by an umbrella organization representing the largest number of such organizations in the Ward;
- (i) the Ward Administrator who shall be the chairperson and an ex-officio member with no voting rights; and
- (j) The chief or Assistant Chief shall serve as ex officio members.

(2) Nomination of members falling under subsections 27 (1) (a), (b), (c), and (d) 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 network for that specific purpose, and communicated to the Ward Administrator in writing with a certified copy of the resolution.



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(6) Where there is no officially recognized ward level network of Community-Based Organizations, the Ward Administrator will consult with the chiefs in the ward to agree on the appropriate representative under subsection 35(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.

**Election of the officials of the Ward Climate Change Planning Committee**

**28.** The first activity of the Ward climate change Planning Committee at its first sitting shall;

(1) Be the election a vice-chairperson.

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

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

**29.** A person shall—

(1) Not qualify for appointment to serve on the Ward Planning Committee, unless he or she:

(a) is a resident of the ward;

(b) fulfils the requirements of Chapter Six of the Constitution on leadership and integrity;

(c) demonstrates basic knowledge of climate change and environmental issues and has engaged in activities aimed at addressing the said challenges in the county; and

(d) indicates willingness to serve the community.

(2) Without prejudice to the provisions of subsection 27(1), persons nominated under Sub-section 27 (1)(a), (b), (c) and (d) shall have a minimum of form four level of education, provided that where this requirement may impose inordinate constraints, the ward administrator shall determine the appropriate educational qualification.

**Term of Ward climate change Planning Committees**

**30.** Save for the Ward Administrator and subject to section 27 (1) (a), (b), (c), (d) and (h) hereof, members of the Ward climate change Planning Committee shall serve for term of five years which may be renewed once.

**Removal of Member of Ward Planning Committee**

**31.** A member of the Ward climate change Planning Committee may—

(1) 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) serious violation of the Constitution or any other written law;
- (c) gross misconduct;
- (d) physical or mental incapacity or death;
- (e) bankruptcy.

(3) A person who is a member of the Ward climate change Planning Committee by virtue of his or her office under Sub-section 27 (1) (e), (f), (g), (i) and (j) shall cease to be a member of the Committee upon being transferred from the county or ceasing to hold that office.

(4) A person who is a member of the Ward climate change Planning Committee under Sub-section 27(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 the Sub County Administrator.

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(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**

**32.** The Ward climate change Planning Committee shall;

(1) 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 technical 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.

### **Reimbursement of members of Ward climate change Planning Committees**

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

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

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

34. The Executive Committee Member shall;

(1) In consultation with the County Climate Change Coordination 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 Executive Committee Member shall within one year of the coming into force of this Act coordinate development of an interim County Climate Change Action Plan for the remainder of the period of the current National Climate Change Action Plan.

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

#### **Contents of County Climate Change Action Plan**

35. The County Climate Change Action Plan shall:

(1) be aligned to the current National Climate Change Action Plan (NCCAP) 2018-2022 and respond to the specific needs and circumstances of the county;

(2) contain a climate change needs and response assessment for the county;

(3) articulate a climate change response implementation plan informed by the climate change needs and response assessment, and specifying measures and mechanisms for;

(a) County Climate Change Mitigation Plan guiding the county toward the achievement of low carbon climate resilient development;

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- (b) mainstreaming climate change into county development plans, programmes, strategies and projects;
- (c) County Climate Change adaptation Plan;
- (d) County Climate Change Financing Strategy;
- (e) Environmental and Social Safeguards Mechanisms;
- (f) Policy on vulnerable groups and people with disabilities;
- (g) Reporting on County Specific Determined Contribution;
- (h) Climate Change Actions Resource Mobilization Strategy;
- (i) Incentivizing the private sector to support locally-led climate actions;
- (j) enhancing research, capacity building and knowledge management on climate change and climate change response;
- (k) enhancing public awareness for effective participation in climate change response;
- (l) Monitoring, Reporting and Verification system.

**Approval of County Climate Change Action Plan**

**36.** The County Climate Change Action Plan shall be approved by the County Climate Change Coordination Committee and laid before the County Assembly for adoption.

**Biennial review of County Climate Change Action Plan**

**37.** The technical Committee shall undertake a biennial review of the implementation of the County Climate Change Action Plan and report to the County Climate Change Coordination Committee.

**PART IV—DUTIES RELATING TO CLIMATE CHANGE****Climate change duties of public entities**

**38.** The County Climate Change Coordination Committee may;

(1) On recommendation of the Executive Committee Member for the time being climate change affairs and in consultation with relevant Executive Committee Members, impose duties relating to climate change on any public entity operating within the county.

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

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

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

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

#### **Climate change duties of private entities**

**39.** The County Climate Change Coordination Committee may:

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

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

#### **Monitoring and reporting on compliance**

**40.** The County Director of Environment shall;

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(1) with the assistance of the representative of the National Environment Management Authority and on behalf of the County Climate Change Coordination 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 County Climate Change Coordination Committee on the performance of functions under subsection (1) on annual basis, and such report shall form part of the report by the County Climate Change Coordination Committee to the County Assembly

**County Climate Change Coordination Committee may require private entity to report on performance**

41. Notwithstanding the provisions of section 47, the County Climate Change Coordination Committee may:

- (1) 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
- (2) 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**

42. The County Climate Change Coordination Committee shall:

- (1) Within three months after the end of every financial year, publish publicly and submit a report on implementation of the County

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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 County Climate Change Coordination Committee.

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



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

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

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

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

**44.** Within one year of this Act coming into force:

(1) The Coordination 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 County Climate Change Coordination Committee and its implementation mainstreamed into the County Climate Change Action Plan.

**Public sensitization to precede formulation of climate change response plans**

**45.** Notwithstanding the provisions of section 16 of this Act:

(1) The Coordination 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 Ward climate change Planning Committees shall report to the Coordination 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 Coordination Committee.

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

**46.** The County Climate Change Coordination Committee shall:

(1) Ensure that the Coordination Committee, the climate change unit 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.

(2) The Coordination Committee, the climate change unit and the 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**

**47.** The County Climate Change Coordination Committee, the Coordination Committee, the climate change unit 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**

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

(2) The Fund shall be vested in the County Finance, administered by the County Climate Change Coordination Committee and managed by the Fund Administrator appointed by the Executive Committee Member for the time being in charge of the finance.

### **Sources of the Fund**

**49.** The Sources of the Fund shall—

(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.

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(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.

**Functions of the Fund Administrator**

**50.** The functions of the Fund Administrator shall include to—

(1) The fund administrator is the head of climate change unit;

(2) Keep custody of the accounts of the Fund;

(3) The administrator of a fund shall ensure that the earnings of, or accruals to a county public fund are retained in the fund, unless the County Executive Committee member for finance directs otherwise.

(4) The administrator of the fund shall 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;

(5) On the winding up of a county climate change fund— (a) the administrator of the fund shall pay any amount remaining in the fund into the County Exchequer Account; and

(6) The administrator of the fund shall—

(a) prepare accounts for the fund for each financial year;

(b) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General; and

- (c) present the financial statements to the county assembly.

#### **Removal of the fund administrator**

**51.** The Fund administrator may-

- (1) At any time resign from office by issuing at least one-month notice in writing to the chairperson of the Technical Committee;
- (2) Be removed from office by the Executive Member on recommendation of the Climate change technical Committee on either of the following grounds—
  - (a) serious 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) physical or mental incapacity to perform the functions of office;
  - (d) bankruptcy.

### **PART VII—DISBURSEMENT OF FUNDS**

#### **Allocation of Fund to the Program**

**52.** The Fund Administrator shall;

- (1) Develop, publish and circulate Information on the disbursements of funds available to each program, which shall be approved by the County Climate Change Coordination Committee. Disbursement of funds shall be based on cash flow projections. Submitted by implementing agency of the activities financed by the Fund and approved by the County Climate Change Coordination Committee;
- (2) The Fund Administrator shall be guided by the Climate Fund Sharing Criteria detailed in the schedule to this Act.

#### **Project Eligibility Criteria**

**53.** A project that is eligible for funding under this Act must;

- (1) Be a project that promotes climate resilience in the locality through Climate Mitigation or Adaptation;
- (2) Be a project that supports economic growth through Climate Adaptation;
- (3) Benefit a large number of people including vulnerable groups and have clear considerations for gender representation;
- (4) Contain detailed situation analysis with clear problem statement to facilitate clarity on level and urgency of vulnerability, and risks arising from delayed intervention;

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- (5) Have a properly conducted environmental impact Assessment where necessary;
- (6) Have a clearly defined monitoring and evaluation plan with measurable indicators;
- (7) Have a sustainability plan;
- (8) Provide a platform for stakeholder engagement;
- (9) Enhance use of in-built skills and technology transfer; and
- (10) Any other consideration that may be deemed relevant.

**Community Consultation Fora**

**54.** Each Ward Climate Planning Committee shall;

(1) 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) Identify priority projects from the community members.

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

**Development of Project Proposals**

**55.** The Ward climate change Planning Committee shall;

(1) Develop project proposals from the project priorities identified in section 54 (2) of this Act, 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

(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.

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**56.** The Fund Administrator shall—

(1) Publish a list of approved and ranked climate change projects, including proposed procurement plans for each project. Projects submitted and approved by the technical Committee shall be published.

(2) On approval by the technical Committee, the Fund Administrator shall start the implementation process.

**Procurement**

**57.** Based on the National and County Procurement Regulations, the Fund Administrator shall :

(1) Facilitate the establishment of appropriate procurement processes for each Ward Planning Committee.

(2) Ensure that all Ward climate change Planning Committees adhere to the relevant procurement procedures under the Public Procurement and Asset Disposal Act.

(3) Facilitate development of capacity Building on procurement for the Ward climate change Planning Committee.

**Complaints Resolutions mechanism**

**58.** Community members who are aggrieved by the decisions of the Ward climate change Planning Committee shall—

(1) Submit the complaints to the Fund Administrator.

(2) The Fund Administrator shall forward the complaints to the Climate Change Unit who shall make a final determination within a period of six weeks and submit a report to the County Climate Change Coordination Committee with copy to the Fund Administrator.

**PART VIII—FINANCIAL PROVISIONS****Funding operations of Steering, Coordination, Climate Change unit and Ward Committees**

**59.** Functions of the County Climate Change Coordination Committee, Climate change unit, and Ward Planning Committee:

(1) Shall be financed through Fund

(2) Participation of representatives of State and County Executive Departments in the County Climate Change Coordination 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 County Climate Change Coordination 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 County Climate Change Coordination Committee by April 30.

#### **Financial year**

**61.** The financial year of the Climate fund is 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.** No action taken or thing done by a member, officer or agent of the County Climate Change Coordination Committee, Climate change unit 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;

(1) Render the member, officer or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.



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(2) The provisions of subsection (1) shall not relieve the County Climate Change Coordination Committee, the technical 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—

(1) Without lawful excuse ignores or fails to obey any instructions issued by any member or officer or agent of the County Climate Change Coordination Committee or Ward climate change Planning Committee in exercise of the powers or performance of the functions of the Committees under this Act; or

(2) Willfully obstructs any member or officer or agent of the County Climate Change Coordination Committee, climate change unit or Ward climate change Planning Committee in the discharge of their lawful duties; or

(3) Misrepresents, knowingly submits false or misleading information to any member or officer or agent of the County Climate Change Coordination Committee, climate change unit 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 Executive Committee Member in charge of climate affairs shall make Regulations for the proper administration of this Act including-

(1) Sitting allowances for the County Climate Change Coordination Committee, Coordination committee, climate change unit and the ward planning committee;

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

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**FIRST SCHEDULE – Section 52 (1)**

**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 percent (10%) of the moneys available in the Fund shall be allocated for administrative costs as follows—
    - (i) Fifty percent (50%) of the administrative costs shall be assigned To the climate change unit;
    - (ii) Twenty-five percent (25%) 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 percent (15%) to County Coordination committee;
    - (iv) Ten percent (10% to County Climate Change Coordination Committee
  - (b) twenty percent of the money’s available in the fund shall be Allocated to County wide projects as follows—
    - (i) Ten percent shall be assigned to Climate Change Awareness and information systems Activities;
    - (ii) Twenty percent shall be assigned to County Specific Research and development; and
    - (iii) Seventy percent of the fund shall be assigned to County Wide development projects.
  - (c) seventy percent of the available fund shall be allocated to Projects received by the Ward climate change Planning

Committee and Approved by the technical Planning Committee in section 8 above; 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 –Section 53**

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, 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
  - (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;

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- (ii) Supports livelihoods through income generation, and improved livelihoods.
- (e) **Non duplication of funding:** Avoids duplication, where similar Projects have been undertaken or provide complementarily and value addition to other projects and has linkages with the existing projects with evidence of coordination.
- (f) **Learning and Knowledge Management—**
  - (i) Provide 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—**
  - (a) Programme or project is cost-effective and gives value for Money.
  - (b) **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)
  - (c) **Contingency costs** (estimated administrative costs not to Exceed 5%- 10% of the total project cost) or as may be Provide in Public Finance Management Act Regulations.
  - (d) Have clear accountability and reporting procedures;

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- (e) **Implementation arrangements:** have a clear budgeted Monitoring evaluation, reporting and learning (MERL) plan with indicators and show organizational structure. The fund to finance only Climate change projects and activities that are included in the CIDP;
- (f) 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.

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**FORM A: SUMMARY SHEET FOR PROJECT IMPLEMENTATION (ON-GOING PROJECTS)**

Financial year.....

Ward Name.....

Type of Project	Location	Estimated total Cost	Amount allocated	Expenditure to date	Variance				
					Q1	Q2	Q3	Q4	Total

Reasons for Variances.....

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**FORM B: PROJECT FUND RE-ALLOCATION REPORT**

Ward Name.....Financial Year.....

Project No.	Project Location	Amount Allocated	Amount Disbursed	Balance (Kshs)	Unspent to be Re-Allocated

Reasons for re-allocation.....

Signature.....Date.....

Name.....Position.....



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**FORM C: DETAILS OF PROPOSED PROJECTS**

**SUMMARY OF PROPOSED PROJECT**

No	Project Name	Ward	Ranking	Estimated Costs
Grand total, all Proposals				

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	<b>Project title and location</b>	
1	<b>Project Priority Rank</b>	
2	<b>Short Description and target beneficiaries</b>	
2.1	Justification	
2.2	Description of proposed measures	
3	<b>Project Costs</b>	
3.1	Pre-construction costs	
3.2	Construction Cost	
3.3	Additional Infrastructure	
3.4	Design and supervision	
3.5	Contingencies	
3.6	Total project cost	
3.7	Estimated annual operating costs	
3.8	Annual Maintenance Costs	
	Total Estimated costs (for the year)	
4	<b>Sources of Finance</b>	
5.1	<b>Development Costs</b>	
5.2	<b>Operations and maintenance costs</b>	
6	<b>Staffing and Maintenance Arrangements</b>	
7	<b>Relationship with other Projects</b>	
8	<b>Project timeframe: (period of implementation)</b>	