

SPECIAL ISSUE

Kenya Gazette Supplement No. 25 (Meru County Acts No. 10)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

MERU COUNTY ACTS, 2014

NAIROBI, 11th December, 2014

CONTENT

Act—

PAGE

The Meru County Water and Sanitation Services Act, 2014..... 1

2014

Meru County Water and Sanitation Services

No. 10

**THE MERU COUNTY WATER AND SANITATION
SERVICES ACT, 2014**

No. 10 of 2014

Date of Assent: 4th December, 2014

Date of Commencement: 11th December, 2014

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Purpose of the Act.

PART II—ADMINISTRATION

Meru County Water and Sanitation Services Board

- 4—Establishment of the Services Board.
- 5—Composition of the Services Board.
- 6—Functions of the Services board.
- 7—Conduct of Business.
- 8—Powers of the Board.
- 9—Remunerations of the Board.
- 10—Officers of the Services Board.
- 11—Protection from personal liability.

Meru County Urban Water and Sanitation Services Corporation

- 12—Establishment of the Corporation.
- 13—Functions of the Corporation.
- 14—Board of the Corporation.
- 15—Functions of the Board.
- 16—Conduct of Business.
- 17—Remuneration of the Board.
- 18—Chief Executive officer.
- 19—Removal from office.
- 20—Staff of the Corporation
- 21—The Common Seal of the Corporation.
- 22—Protection from personal liability.
- 23—Liability for damages.
- 24—Public awareness.
- 25—Public private partnership.

Sub-county Water and Sanitation Services Co-operative Societies

- 26—Establishment of sub-county water co-operative societies.
- 27—Members of the Co-operative.
- 28—Functions of the Co-operative Society.
- 29—Management Committee.
- 30—Operational guidelines.
- 31—Service Provision Agreements.
- 32—Members' investments.
- 33—Investment by the co-operative society.
- 34—Bonuses.

Directorate of Water and Sanitation Services

- 35—Establishment of the Directorate.
- 36—Functions of the Directorate.
- 37—Director.
- 38—Officers.
- 39—Reporting.

PART III—WATER SERVICES

- 40—Supply of water.
- 41—Service agreements with National Government.
- 42—Development of water works.
- 43—County scheme.
- 44—Community projects.
- 45—Water tariffs.
- 46—Prohibited activities.
- 47—Permit.
- 48—Application for permit.
- 49—Water works conditions.
- 50—Non interference and restoration after construction works.
- 51—Register of permits.
- 52—Water services audit.
- 53—Water services conflict resolution

PART IV— WATER AND SOIL CONSERVATION***Water Conservation***

- 54—Water conservation areas.
- 55—Conservation and water catchments.
- 56—Conservation guidelines.

Soil conservation

- 57—Soil Conservation.
- 58—Flood flow management
- 59—Demarcation of riparian land.
- 60—Prohibited activities on riparian land.

PART V— STORM WATER MANAGEMENT

- 61—Storm water management and land use practices.
- 62—Storm water management plan.
- 63—Reduction of run off water.
- 64—Riparian buffers.

PART VI— SANITATION SERVICES AND POLLUTION CONTROL

- 65—Master plan.
- 66—Provision of sanitation services.
- 67—Waste water management.
- 68—Compliance with effluent standards.
- 69—Discharge of contaminated water and effluent.
- 70—Interference with sewerage system.
- 71—Sewerage tariffs.
- 72—Sector wide forum.

PART VII—FINANCIAL PROVISIONS

- 73—Funds of the Corporation.
- 74—Annual estimates.
- 75—Accounts.
- 76—Financial reports and audit.
- 77—Funds of the Services Board and the Directorate.

PART VIII— ENFORCEMENT

- 78—Authorised officers.
- 79—Power of entry.
- 80—Power of officers.

PART IX— GENERAL PROVISIONS

- 81—Regulations.
- 82—Transitional.

Schedule— Provisions as to the conduct of business and affairs of the board of corporation and services board.

THE MERU COUNTY WATER AND SANITATION SERVICES ACT, 2014

AN ACT of the County Assembly of Meru to provide for development, regulation and management of county public works related to water and sanitation services, storm water management systems and water conservation and for connected purposes

ENACTED by the County Assembly of Meru, as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Meru County Water and Sanitation Services Act, 2014 and shall come into force upon publication in the *Gazette*.

Short title.

2. In this Act, unless the context otherwise requires—
“authorised officer” means an authorised officer appointed under section 78;

Interpretation.

“board of Corporation” means the Board of Water and Sanitation Services Corporation established under section 14;

“chief officer” means the chief officer for the time being responsible for water services;

“corporation” means the Meru County Urban Water and Sanitation Services Corporation established under section 12;

“directorate” means the Directorate of Water and Sanitation Services established under section 35;

“executive member” means the County Executive member for the time being responsible for water services;

“public works” in this context means storage, intakes, transmission, distribution, pipelines, canals, dykes, water treatment works, sewer treatment works, pumping stations and pumps, drilling and distribution lines;

“sector wide forum” means the water and sanitation services sector wide forum established under section 72;

“services board” means the Meru County Water and

2014

Meru County Water and Sanitation Services

No. 10

Sanitation Services Board established under section 4;

“water cooperative society” means the sub-county water cooperative society established under section 26;

“water works” means any construction, excavation, piping, drainage of any land, supply or transportation of water, water abstraction works, management of storm water and floods or storage, impounding of water for supply to the public or for private purposes, drainage of any swamp or other land.

3. The purpose of this Act is to provide for a legal framework for implementation of sections 10 (a) and 11 of part 2 of the Fourth Schedule to the Constitution and Article 43 (1) (b) and (d) in order to—

Purpose of Act.

- (a) ensure equitable and continuous access to clean water;
- (b) promote soil and water conservation;
- (c) promote water catchment conservation and protection;
- (d) provide for the development, and management of county water services public works;
- (e) provide for regulation of county water and sanitation public works;
- (f) ensure effective and efficient provision of water and sanitation services;
- (g) promote effective and efficient management of storm water in built up areas;
- (h) enhance sustainable management of water resources; and
- (i) promote interagency collaboration and public participation in water resource development and management.

PART II –ADMINISTRATION .

Meru County Water and Sanitation Services Board

4. There is established a board to be known as Meru County Water and Sanitation Services Board.

Establishment of Services Board.

5. (1) The Services Board shall consist of—

Composition of the Services Board.

- (a) a Non-Executive Chairperson appointed by the Governor and approved by the County Assembly;
 - (b) the chief officer for the time being responsible for water services who shall be the secretary;
 - (c) the chief officer for the time being responsible for finance;
 - (d) the chief officer for the time being responsible for co-operatives;
 - (e) three Chairpersons of the sub-county co-operatives nominated by the joint forum of the sub-county co-operatives in accordance with the prescribed procedure and appointed by the Executive Member;
 - (f) three officers of the Meru County Sanitation Services Board at the sub-county level appointed by the Executive Member;
 - (g) the Chief Executive Officer of the Meru County Urban Water Services and Sanitation Corporation; and
 - (h) one person appointed by the Executive Member through a competitive process by virtue of the persons' knowledge, expertise and experience in matters related to water and sanitation management and approved by the County Assembly.
- (2) A person shall be qualified for appointment as Chairperson or Member appointed under subsection (1) (g) if the person—
- (a) holds a degree from a recognized university;
 - (b) has knowledge and experience of at least five years in matters relating to water resources management, water and sanitation services management or any other related field;
 - (c) meets the requirements of Chapter Six of the Constitution; and
 - (d) has had a distinguished career in the respective field.

2014

*Meru County Water and Sanitation Services***No. 10**Functions of the
Services Board.**6.** The functions of the Services Board shall be to—

- (a) solving disputes arising from water sector in the county;
- (b) subject to any other written law regulate water and sanitation services in the county;
- (c) reviewing and advising on the appropriate governance and management of the institutions established under this Act;
- (d) in co-operation with other Government agencies regulate development of infrastructure and systems for water and sanitation services in the county;
- (e) issue authorization to any person intending to carry out any water and sanitation works similar to the public works defined under this Act;
- (f) regulate use or access to land for the purposes of water conservation;
- (g) issue permits and regulate the provision of sanitation services;
- (h) ensure compliance with the established standards related to water and sanitation services and works;
- (i) receive and address complaints from water consumers and any person affected by a decision of the corporation or the directorate;
- (j) maintain data and information related to water and sanitation services and disseminate it to the public; and
- (k) maintain collaboration and cooperation with other Government Agencies other county governments in carrying out its functions.

7. (1) The conduct and regulation of the business and affairs of the Services Board shall be as set out in the Schedule.

Conduct of
business.

(2) Except as provided in the Schedule, the Services Board may regulate its own procedure.

8. The board shall have powers necessary for

Powers of the
board.

discharge and performance of its functions under this Act.

9. The remuneration of the Members of the Services Board shall be as determined by the County Treasury.

Remuneration of the Board.

10. The Executive Member may or designate such officers as are necessary for proper discharge of the functions of the Services Board.

Officers of the Services Board.

(1) No matter or thing done by a Member of the Services Board or by any officer, member of staff, or agent of the Services Board shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Services Board under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection from personal liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the board, shall, if the court holds that such act was done bona fide be paid out of the funds of the corporation, unless such expenses are recovered by him or her in such suit or prosecution.

Meru County Urban Water and Sanitation Services Corporation

11. (1) There is established a Corporation to be known as the Meru County Urban Water and Sanitation Services Corporation.

Establishment of the corporation.

(2) The Corporation shall be the successor to the-

- (a) Meru Water and Sanitation Services Company; and
- (b) Imenti and Tharaka Nithi Water and Sanitation Services Company.

(3) The corporation shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (b) borrowing money or making investments;

2014

Meru County Water and Sanitation Services

No. 10

- (c) entering into contracts; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

12. The functions of the corporation shall be to—

Functions of the Corporation.

- (a) provide and manage water and sanitation services in the prescribed urban areas;
- (b) develop adequate water supply system for domestic and industrial, purposes in the urban areas;
- (c) promote or develop and manage water recycling systems in urban areas;
- (d) promote efficient water use and management for sustainable development in the urban areas;
- (e) identify, initiate and promote water conservation systems, strategies and programs in the urban areas;
- (f) maintain database related to water and sanitation services;
- (g) disseminate information related to water and sanitation services; and
- (h) maintain collaboration and co-operation with other Government agencies other county governments in carrying out its functions.

13. (1) The management of the corporation shall vest in the board.

Board of the corporation.

(2) The board of the corporation shall consist of—

- (a) a non Executive Chairperson appointed by the Governor and approved by the County Assembly;
- (b) the chief officer for the time being responsible for water services;
- (c) the chief officer for the time being responsible for finance;
- (d) one person nominated by water users in the urban areas in accordance with the prescribed

No. 10

procedure and appointed by the Executive Member, one of whom must be of the opposite gender;

- (e) Chief Executive Officer who shall be an *ex-officio* member and the secretary of the Board; and
- (f) one person appointed by the Executive Member through a competitive process by virtue of their knowledge, expertise and experience in matters related to water and sanitation management.

(3) A person shall be qualified for appointment as Chairperson or a Member appointed under subsection (2) (f) if the person—

- (a) holds a degree from a recognized university;
- (b) has knowledge and experience of at least five years in matters relating to water resources management, water and sanitation services management or any other related field; and
- (c) meets the requirements of Chapter Six of the Constitution.

(4) A person shall be qualified for appointment as a Member under subsection (2) (d) if the person—

- (a) possesses at least a diploma from a recognized institution;
- (b) has knowledge and experience of at least two years in matters relating to water resources management, local development, or any other related field; and
- (c) meets the requirements of Chapter Six of the Constitution.

14. The functions of the board shall be to—

- (a) ensure proper and efficient exercise of the powers and performance of the functions of the corporation;
- (b) advise the management of the corporation generally on the exercise of the powers and the performance of the functions of the corporation;

Functions of the board.

2014

Meru County Water and Sanitation Services

No. 10

- (c) approve the estimates of the revenue and expenditure of the corporation; and
- (d) perform such other functions as are provided for under this Act or any other written law.

15. (1) The conduct and regulation of the business and affairs of the board of the corporation shall be as set out in the Schedule.

Conduct of
business.

(2) Except as provided in the Schedule, the Board of the corporation may regulate its own procedure.

16. The remuneration of the Members of the board of the corporation shall be as determined by the County Treasury.

Remuneration of
the board.

17. (1) There shall be an Chief Executive Officer of the Corporation.

Chief executive
officer.

(2) The Chief Executive Officer shall be appointed by the executive member in consultation with the Governor, on recommendation of the board of the corporation and recruited through a competitive process.

(3) To be eligible for appointment as a Chief Executive Officer, a person must—

- (a) possess a degree from a recognized university;
- (b) have had experience in management for a period of not less than five years.

(4) The Chief Executive Officer shall hold office for a period of three years, on such terms and conditions of employment as the board of the corporation may determine, and shall be eligible for re-appointment for a further and final term of three years.

(5) The Chief Executive Officer shall be an *ex officio* member of the board of the corporation shall have no right to vote at any meeting of the board.

(6) The Chief Executive Officer shall—

- (a) in consultation with the board of the corporation, be responsible for the day to day management and direction of the affairs and transactions of the corporation, the exercise, discharge and performance of its objectives, functions and

No. 10

duties and the general administration of the corporation.

- (b) carry out any other function as may from time to time be assigned by the board.

18. The Chief Executive Officer may —

Removal from office.

- (a) at any time resign from office by issuing notice in writing to the Chairperson of the board;
- (b) be removed from office by the Executive Member on recommendation of the board, for—
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence; or
 - (v) bankruptcy.
 - (vi) Serious violation of chapter six of the Constitution, 2010

19. The board of the corporation may appoint such officers as are necessary for proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

Officers of the Corporation.

(1) The common seal of the corporation shall be kept in the custody of the Chief Executive Officer or of such other person as the board may direct, and shall not be used except upon the order of the board.

The common seal of the corporation.

(2) The common seal of the corporation, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the board under this section shall be presumed to have been duly given.

(3) The common seal of the corporation shall be authenticated by the signature of the Chief Executive Officer.

(4) The board shall, in the absence of either the

2014

Meru County Water and Sanitation Services

No. 10

Chairperson or the Chief Executive Officer, in any particular matter, nominate one member of the Board to authenticate the seal of the corporation on behalf of the Chief Executive Officer.

(1) No matter or thing done by a Member of the board or by any officer, member of staff, or agent of the corporation shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the corporation under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection from
personal liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any, act which is done or purported to be done by him or her under the direction of the board, shall, if the court holds that such act was done bona fide be paid out of the funds of the corporation, unless such expenses are recovered by him or her in such suit or prosecution.

The provisions of section 22 shall not relieve the corporation of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Liability for
damages.

20. The corporation shall, in carrying out its functions—

Public awareness

- (a) provide public education and awareness on efficient and sustainable water use; and
- (b) invest in water source protection and conservation.

21. The corporation or a water co-operative society may enter into public private partnership in order to effectively carry out its functions.

Public private
partnership.

***Sub-county Water and Sanitation Services
Cooperative Societies***

22. There is established in each sub-county the Water and Sanitation Services Co-operative Society.

Establishment of
sub-county water
co-operative
societies

23. (1) Membership of the Water Co-operative Society shall be open to users and providers of water services who are resident in the sub-county.

Members of the water co-operative.

(2) A person who intends to be a member of the co-operative society shall apply for membership in the prescribed manner.

24. The Water Co-operative Society shall be responsible for provision of water and sanitation services in the rural areas or the prescribed urban areas situated in the sub-county.

Functions of the water co-operative Society.

25. The Water Co-operative Society shall be managed by a Management Committee which shall consist of—

Management Committee.

(a) five persons elected by Members in accordance with the co-operative society's by-laws; and

(b) the Chief Executive Officer who shall be an *ex officio* members and secretary to the committee.

26. In carrying out its functions, the Water Co-operative Society shall comply with the prescribed guidelines.

Operational guidelines.

27. The Water Co-operative Society—

Service Provision Agreements.

(a) shall utilize the infrastructure for water services provision developed by the directorate on such terms and conditions and may be agreed upon;

(b) may enter into partnership with private water service providers operating within its jurisdiction for the purposes of carrying out its functions.

28. Members of the Water Co-operative Society may, invest in shares issued by the co-operative society.

Members' investments.

29. (1) The Water Co-operative Society may, invest in such areas as the Executive Member may permit, for the purposes of developing the Water Co-operative Society for benefits of members.

Investment by the water co-operative society.

(2) For the purposes of this section, an investment related to carrying out of the functions of Water Co-operative Society shall be deemed to be investment for the benefits of the Members.

2014

*Meru County Water and Sanitation Services***No. 10**

30. The Water Co-operative Society may, issue bonuses to members arising from surpluses realized from investments undertaken.

Bonuses.

Directorate of Water and Sanitation Services

31. There is established the Directorate of Water and Sanitation Services which shall be an office in the County Public Service.

Establishment of the Directorate.

32. The directorate shall be responsible for —

Functions of the Directorate.

- (a) developing water and sanitation services infrastructure, including water works and public works that may be used by the corporation and water co-operative society;
- (b) in collaboration with other National or County Government (s) departments, initiating, developing, co-ordinating and managing policies, strategies and plans for water resources management and sanitation services;
- (c) developing and managing works for water conservation
- (d) facilitating public awareness and participation on sustainable water resources, sanitation and storm water management;
- (e) promoting and facilitating adoption and use of water conservation systems and methods, including water harvesting;
- (f) in collaboration with other agencies, develop and manage public infrastructure for storm water management;
- (g) developing and co-ordinating implementation of water and sanitation services management information system;
- (h) developing and promote policies, strategies and mechanisms for climate change mitigation and adaptation in the water sector;
- (i) mobilizing resources for water resources management and development and sanitation services;
- (j) developing performance management system and overseeing its implementation by the agencies established under this Act;

- (k) monitoring and evaluating the implementation of this Act and the water sector;
- (l) conducting and facilitating research and appropriate surveys for water resources management and facilitating dissemination and implementation of research findings;
- (m) acting as the repository of information and data on water sector; and
- (n) advising the Executive Member on the necessary policy to be adopted for sustainable water resources management.

33. (1) The directorate shall be headed by the director who shall be appointed by the County Public Service Board.

Director.

(2) To be eligible for appointment as a director, a person shall—

- (a) possess a degree in water engineering, water resource management, environment management or any related field from a recognized university; and
- (b) have had experience in water resource management for a period of not less than five years.

34. The County Public Service Board shall appoint such number of officers to serve in the directorate for effective carrying out of its functions under this Act.

Officers.

35. (1) The corporation, Services Board and Directorate shall prepare respective annual reports within two months after the end of the financial year in such a form as may be prescribed.

Reporting.

(2) The directorate shall compile the reports into the county water sector report for submission to the executive member for onward transmission to the county executive committee.

(3) The County Executive Committee shall within thirty days after adoption of the report transmit it to the County Assembly for consideration.

(4) The report provided under subsection (2) shall

contain among others—

- (a) performance of each institution and directorate against the established performance targets;
- (b) progress on implementation of specific respective functions assigned under this Act;
- (c) level of public participation and outcome of such participation.

PART III- WATER SERVICES

36. The corporation and directorate shall progressively ensure that —

Supply of water.

- (a) every person has access to safe and clean water for domestic use within reasonable distance;
- (b) where applicable, there is accessible water for agricultural, livestock and industrial use;
- (c) equitable distribution of water between consumers in urban and rural areas.

37. The corporation may enter into service performance agreements with a National Government entity provided that such agreement shall be approved by the County Executive Committee.

Service agreements with national government.

38. (1) The corporation or directorate may, for the purposes of carrying out their functions erect or develop water works and public works on a public or private property.

Development of water works.

(2) Notwithstanding subsection (1), the corporation or directorate shall seek consent of the owner of private land or the relevant Government agency occupying or in whose custody the public land falls where they seek to erect any water works or public works and shall provide the prescribed compensation.

(3) The corporation or directorate shall, in collaboration with the department responsible for roads, identify and establish specific areas on any road where public works under this Act may be carried out.

(4) The corporation or directorate shall seek easements from owner or occupier of any land for construction of water works or public works to be

undertaken on such land.

39. (1) The corporation or directorate may, with the approval of the Executive Member, initiate a County Scheme to provide services under this Act for public benefit.

County scheme.

(2) Where the corporation or directorate deems necessary to erect or establish such a scheme or related public works on private property or land, the County Government may purchase the property or in accordance with the laws governing compulsory acquisition seek such compulsory acquisition.

(3) A County Scheme shall take precedence over any private or Community Scheme.

40. A community may initiate a project for water services with the approval of the Services Board.

Community projects.

41. (1) The corporation, Water Co-operative Society or Directorate may levy tariffs and other user charges for the purposes of carrying out their functions.

Water tariffs.

(2) The tariffs and user charges levied under this section shall be established in accordance with the principles set out under the County Governments Act, 2012 and any other written law and shall be approved by the County Executive Committee.

No. 17 of 2012.

(3) The tariffs and user charges collected under this section shall not form part of the County Revenue Fund but shall be utilized for defraying expenditures of the corporation or the directorate in order to carry out their functions efficiently and effectively.

42. A person shall not—

Prohibited activities.

- (a) interfere with any water meter or equipment installed;
- (b) install illegal or un authorized water connections;
- (c) install a pipe or connection which does not comply with the approved standards; or
- (d) any other prohibited activity as prescribed.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding fifty

2014

Meru County Water and Sanitation Services

No. 10

thousand shillings or to imprisonment for a term not exceeding one year or to both.

43. (1) A person intending to carry out or maintain any water works shall apply for a permit to the Services Board.

Permit.

(2) A person who prior to the commencement of this Act was carrying out water works, managing or maintaining any water works shall within six months apply for a permit.

(3) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding one hundred thousands or to imprisonment for a term not exceeding one year or to both.

44. An application for a permit under section 47 shall, where applicable be accompanied by an environmental impact assessment report in accordance with the Environmental Management and Co-ordination Act, 1999 and shall specify among others —

Application for permit.

No. 8 of 1999.

- (a) the purpose and nature of the works to be undertaken;
- (b) the nature of works to be carried out;
- (c) the duration within which the works are expected to be completed.

(2) The Services Board shall, where the construction of works will be undertaken on public property or where the works will affect a cross section of the residents, issue a public notice within fourteen days after such an application and invite any person to make comments or object to such an application.

(3) A person may lodge an objection to application for a permit.

(4) Every objection to an application shall be made in writing to the secretary of the Services Board setting out the grounds for such an objection.

(5) The Services Board shall, upon receiving the application send a notice the objection received to the applicant for a permit.

(6) The Services Board may, where appropriate

conduct public hearings on the objection.

(7) An objector or an applicant for a permit may appear personally or by an advocate at the hearing of an application.

(8) The Services Board shall consider the application within thirty days of such an application and may where it is satisfied that the applicant has fulfilled all the requirements of this Act or any other written law grant a permit in the prescribed form subject to any such conditions as may be prescribed and upon the applicant paying the prescribed fees.

(9) Where the Services Board is not satisfied with the application, it may—

- (a) reject the application giving reasons and notify the applicant accordingly within thirty days of the decision to reject; or
- (b) make comments and recommendations thereon and return it to the applicant within thirty days.

(10) An applicant to whom the application is returned under subsection (9) (b) may re-submit the application within sixty days.

(11) On receipt of any revised application under subsection (10), the Services Board shall, within thirty days determine the application in accordance with this Act and upon such determination, if satisfied, issue a permit.

45. The Services Board shall prescribe the appropriate conditions related to equipment and technology, design, construction, operation and maintenance or water works.

Water works
conditions.

46. A person who, carries out any construction works on any public property under this Act shall ensure that—

Non interference
and restoration
after construction
works.

- (a) there is no interference with the normal usage of any part of property or land;
- (b) necessary measures are taken to prevent members of the public from being exposed to any danger or harm as a result of such works; and

- (c) any parcel of land or property where the works were taking place are restored to its original state.

47. (1) The Services Board shall maintain a register of permits issued under this Act, which shall include all details related the permit.

Register of permits.

(2) The register of permits shall be accessible to members of the public upon payment of the prescribed fees.

48. (1) The Services Board shall, in collaboration with the directorate, audit the status of provision of water services in the county in order to ascertain the number of private and community water service providers, the challenges faced in accessing water in urban and rural areas and level of community participation in water and sanitation services management among others.

Water services audit.

(2) The Service Board shall submit audit report to the Executive Member for transmission to the County Executive Committee for policy direction on management of all water services in accordance with this Act.

49. (1) A conflict related to use of water or water resource for which this Act applies shall be resolved by the Services Board.

Water services conflict resolution.

(2) The Executive Member shall prescribe the rules for solving conflicts under this Act.

PART IV— WATER AND SOIL CONSERVATION

Water Conservation

50. (1) The Services Board shall, in consultation with National Land Commission and County Land Management Board, declare area to be a water conservation area for the purpose of conserving water.

Water conservation areas.

(2) The Services Board may impose such conditions and requirements regulating or prohibiting certain activities in relation to the water conservation area.

51. The directorate may —

Conservation of water catchments.

- (a) collaborate with National Government or other county governments in conservation and

protection of water sources and catchments of strategic importance to the county, which are located outside the county;

- (b) support financing of water conservation and catchment protection;
- (c) support and enforce reserve flow maintenance;
- (d) in collaboration with other agencies, develop policies and strategies on water storage management at household, farm and industrial levels and ensure their implementation; and
- (e) in collaboration with water resource users associations, participate in development and monitoring of implementation of sub catchment management plans.

52. Subject to any written law, the Executive Member shall, in consultation with National Government prescribe guidelines for water conservation.

Conservation guidelines.

Soil Conservation

53. The Executive Member shall, in collaboration with other entities, develop and implement policies and strategies for soil conservation and sustainable management of wetlands.

Soil conservation.

54. The Executive Member shall—

- (a) prescribe rules for flood flow management; and
- (b) initiate community programs for managing flood flow.

Flood flow management.

55. (1) Any riparian land shall be demarcated and protected.

Demarcation of riparian land.

(2) The county department responsible for land shall, in consultation with the directorate and County Land Management Board ensure that this section is implemented.

56. A person shall not carry any of the following activities on riparian land—

Prohibited activities on riparian land.

- (a) tillage or cultivation;
- (b) clearing of indigenous trees or vegetables;

- (c) building of structures;
- (d) disposal of any form of waste within the riparian land;
- (e) excavation of soil or development of quarries;
- (f) planting of exotic species that may have adverse effect to the water resource; or
- (g) any other activity that in the opinion of the directorate may degrade the water resource.

PART V— STORM WATER MANAGEMENT

57. The Directorate shall in collaboration with relevant county or National Government departments and local residents promote sound water and land use practices.

Storm water
management and
land use practices.

58. (1) For the purposes of this section, a water catchment means an area of land that water can drain across, over, or under to a common point on a stream, river, lake or wetland.

Storm water
management plan.

(2) There shall be for each town or urban area, a watershed Storm Water Management Plan in accordance with the prescribed standards.

(3) The Storm Water Management Plan shall among others—

- (a) identify, survey and inventory existing conditions that affect storm water runoff; and
- (b) address issues of peak flows, flooding, ground water recharge, stream erosion and water quality.

(4) The town administrator or an officer responsible for managing an urban area shall, ensure that the Storm Water Management Plan is developed and implemented through a consultative process.

(5) A person or entity engaged in land development activity, construction of a building or any physical infrastructure that is exposed to water precipitation or an owner of such constructed infrastructure shall develop and implement a Storm Water Management Plan on a sub-catchment basis in accordance

with the prescribed standards.

(6) A person constructing a road shall ensure that there is a built in Storm Water Management Plan and system for that road.

(7) The county department responsible for roads shall ensure that road construction plans include a storm water management plan.

(8) Any construction of a building, physical infrastructure or a road shall not be approved unless the construction has a Storm Water Management Plan to be implemented.

(9) A person who contravenes this subsection (6) and (8) commits an offence and shall —

- (a) if a corporate body be liable to a fine of five hundred thousand shillings; or
- (b) if an individual to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding three months or to both.

59. A proprietor of a building shall —

- (a) install rain barrels with sufficient capacity to store water from the building;
- (b) where applicable, not permit storm water to become runoff; and
- (c) reuse or recycle storm water collected for other purposes in the premises.

Reduction of runoff water.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding one month.

60. (1) For the purposes of this section, a riparian buffer means an area around or situated next to bodies of water that act as buffers or cushions to that water body.

Riparian buffers.

(2) The directorate shall, in collaboration with other government agencies and local residents, mobilize residents to develop or restore riparian buffers along rivers, waterways or any water body.

(3) A person shall not interfere with a restored

riparian buffer in a way that exposes it to run off water.

(4) A person who contravenes subsection (2) commits an offence and shall—

- (a) if a corporate body be liable to a fine not exceeding shillings five hundred thousand shillings; and
- (b) if an individual be liable to a fine of fifty thousand or to imprisonment for a term not exceeding two months.

PART VI — SANITATION SERVICES AND POLUTION CONTROL

61. The directorate shall, in collaboration with other county and National Government departments and local residents, prepare medium and long term sanitation services Master Plan.

Master plan.

62. The corporation shall either directly or through public private partnership—

Provision of
sanitation services.

- (a) provide necessary sanitation services in the urban areas;
- (b) construct, operate and maintain extensive system of sewers and treatment facilities to meet applicable discharge requirements.

63. The directorate shall—

Waste water
management.

- (a) develop strategies and policies to promote treated waste water and dried sludge re-use;
- (b) in co-operation with relevant Government agencies will periodically carry out effluent quality analysis to ensure efficacy of the waste water management facilities.

64. (1) A person or entity shall, when disposing final effluent comply with the guidelines prescribed by the relevant Government Authority.

Compliance with
effluent standards.

(2) A person who contravenes subsection (2) commits an offence and shall—

- (a) if a corporate body be liable to a fine not exceeding five hundred thousand shillings; and
- (b) if an individual be liable to a fine of fifty

thousand shillings or to imprisonment for a term not exceeding two months.

65. (1) A person shall not discharge or dispose any contaminated water or effluent unless in accordance with the prescribed guidelines and standards.

Discharge of
contaminated
water or effluent.

(2) A person who contravenes subsection (2) commits an offence and shall—

(a) if a corporate body be liable to a fine not exceeding shillings five hundred thousand shillings; and

(b) if an individual be liable to a fine of fifty thousand or to imprisonment for a term not exceeding two months.

66. (1) No person shall interfere with any sewerage facility or system unless with a written consent of the corporation for the purposes of carrying out works within the area of the facility or system.

Interference with
sewerage system.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding shillings five hundred thousand or to imprisonment for a term not exceeding three years.

67. (1) Subject to the County Governments Act and any written law, the corporation may impose tariffs or levy sewerage services levy on water or sanitation services for the purposes of disposal of water or sewage.

Sewerage tariffs.
No. 17 of 2012.

(2) The tariffs imposed or levied under this section shall be subject to approval by the County Executive committee.

68. (1) The directorate shall constitute and convene the water and sanitation services sector wide forum.

Sector wide forum.

(2) The sector wide forum shall consist of all stakeholders in the water and sanitation sector as shall be prescribed.

(3) The roles of the sector wide forum shall be—

(a) review and deliberate on water resources management and sanitation services; propose policy or legislative interventions for effective implementation of this Act; and

- (b) participate in development of measures, plans and strategies for implementing this Act.

(4) The sector wide forum shall meet at least once every quarter.

PART VII — FINANCIAL PROVISIONS

The funds and assets of the corporation shall consist of—

Funds of the corporation.

- (a) such moneys as may be appropriated by County Assembly for the purposes of the corporation;
- (b) revenues realized from investments undertaken by the corporation.
- (c) such gifts, grants or monies received from any lawful source; or
- (d) All monies borrowed from securities market or received as loans to the corporation.

(2) The corporation shall apply the money provided under this section for the furtherance of its purpose and performance of the functions of the corporation and as prescribed under this Act.

(1) At least three months before the commencement of each financial year, the corporation shall cause to be prepared annual estimates of the corporation for that year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the corporation for the financial year and in particular, the estimates shall provide for the—

- (a) allocations for investments related to the functions of the corporation;
- (b) recurrent expenditure related to provision of water and sanitation services;
- (c) payment of the salaries, allowances and other charges in respect of the staff of the corporation;
- (d) payment of allowances and other charges in respect of members of the board of the corporation;
- (e) payment of pensions, gratuities and other charges in respect of members of the board of the corporation and staff of the corporation;

- (f) proper maintenance of the buildings and grounds of the corporation;
- (g) maintenance, repair and replacement of the equipment and other property of the corporation; and
- (h) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board of the corporation may deem appropriate.

(3) The annual estimates shall be approved by the board of the corporation before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the County Executive Committee for final approval.

The board of the corporation shall cause to be kept proper books and records of accounts and assets of the corporation.

Accounts.

(1) Within a period of three months after the end of each financial year, the board of the corporation shall submit to the Auditor-General, the accounts of the corporation together with—

Financial reports
and audit

- (a) a statement of financial position as at the thirtieth day of June;
- (b) a statement of comprehensive income;
- (c) a statement of cash flow for the year ended;
- (d) a summary of significant accounting policies and other explanatory information; and
- (e) other financial statements applicable to similar institutions.

(2) The accounts of the corporation shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

No. 12 of 2003.

69. The Funds of the Services Board and the directorate shall be as appropriated by the County Assembly.

Funds of the
Services Board and
the Directorate.

PART VIII— ENFORCEMENT

70. (1) The Executive Member may on recommendation of the Corporation, the Services Board or the directorate appoint such number of authorized officers for the purposes of enforcing or implementing the respective functions of each institution or department.

Authorized officers.

(2) The Executive Member shall issue a certificate of appointment to every officer appointed under this section.

71. For the purposes of ensuring compliance or implementation of the Act, an authorised officer may, at any reasonable time, enter any place in which any function related to this Act is carried out.

Power of entry.

72. (1) An authorized officer may examine or inspect any facility, equipment, information or data related to this Act or gain access to any area for the purposes of implementing this Act.

Power of officers.

(2) Any person who obstructs an authorized officer while enforcing or implementing this Act commits an offence and liable to a fine not exceeding one hundred thousand shillings.

PART IX — GENERAL PROVISIONS

73. (1) The Executive Member may, in consultation with the directorate and the institutions established under this Act, make Regulations generally for the better carrying out of the objects of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations may—

- (a) prescribe guidelines for developing watershed storm management plans ;
- (b) prescribe guidelines for sanitation system and standards;
- (c) prescribe for the areas declared as water protected areas;
- (d) prescribe guidelines for administering the Fund;
- (e) prescribe the procedure of nominating persons representatives of water users to the boards;
- (f) prescribe the rules for conflict resolution; and
- (g) prescribe the list of water sector stakeholders.

74. (1) In this section —

Transitional.

“appointed day” means the day upon which this Act comes into operation;

“former companies” means the Meru Water and Sanitation Services Company and Imenti and Tharaka Nithi Water and Sanitation Services Company.

(2) On the appointed day, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former companies, shall by virtue of this paragraph, vest in the corporation.

(3) Any person who, at the commencement of this Act, is a Member of staff of the former companies shall, on the appointed day, become a Member of staff of the Corporation on the same or improved terms and conditions of service as may be specified by the Executive Member.

(4) On the appointed day, every person who is a Member of the board of any of the former companies shall, on and after such day, cease being a Member of the board of any of the former companies.

(5) Where on the appointed day —

- (a) any disciplinary proceedings against any Member of staff of the former companies are in the course of being heard or instituted, or have been heard or investigated by the former companies but no order or decision has been

made thereon;

- (b) any such member of staff is interdicted or suspended, the former companies shall—
 - (i) in the case of paragraph (a), carry on and complete the hearing or investigation and make an order or render a decision, as the case may be;
 - (ii) in the case of paragraph (b), deal with such member of staff in such manner as it deems appropriate having regard to the offence committed by him or her, including the completion of disciplinary proceedings that have been commenced against that member of staff.

(6) Where on the appointed day, any penalty, other than dismissal, has been imposed on any member of staff of the former companies pursuant to disciplinary proceedings against him or her and the penalty has not been, or remains to be serviced by such member of staff, he or she shall, on his or her transfer to the companies, serve or continue to serve such penalty to its full as if it had been imposed by the corporation.

(7) On the appointed day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the former companies shall, by virtue of this paragraph, be deemed to be vested in, imposed on or enforceable against the corporation.

(8) Any reference in any written law or in any document or instrument to the former companies shall on and after the appointed day, be construed to be a reference to the corporation.

(9) The annual estimates of the former companies for the financial year in which the appointed day occurs shall be deemed to be annual estimates of the corporation for the remainder of that financial year.

Provided that such estimates may be varied by the board of corporation in such manner as the Executive

Member may approve.

(10) The administrative directions made by former companies which are in force immediately before the appointed day shall, on and after such day, have force as if they were directions made by the board of corporation under this Act.

SCHEDULE

(s. 7 and 16)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF CORPORATION AND SERVICES BOARD

1. Any Member of the board, other than Chief Officers shall, subject to the provisions of this Schedule, hold office for a term of three years, on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for a further and final term of three years.

Tenure of office.

2. A Member of the board may —

Vacation of office.

- (a) at any time resign from office by notice in writing to the Executive Member;
- (b) be removed from office by the Executive Member if the Member —
 - (i) has been absent from three consecutive meetings of the board without the permission of the Chairperson;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors;
 - (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a Member of the corporation; or

2014

Meru County Water and Sanitation Services

No. 10

- (vi) fails to comply with the provisions of this Act relating to disclosure;
- (vii) Gross misconduct;
- (viii) Violation of the constitution or any other written law.

3. (1) The board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. Meetings.

(2) Notwithstanding the provisions of subparagraph (1), the Chairperson may, and upon requisition in writing by at least seven members shall, convene a special meeting of the board at any time for the transaction of the business of the board.

(3) Unless three quarters of the total Members of the board otherwise agree, at least fourteen days' Written Notice of every meeting of the board shall be given to every member of the board.

(4) The quorum for the conduct of the business of the board shall be five members including the Chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the board at which he is present but, in his absence, the Members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the board shall be by a majority of votes of the Members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

4. (1) If a Member is directly or indirectly interested in any contract, proposed contract or other matter before the board and is present at a meeting of the Board at which the contract, proposed contract or other matter is Conflict of interest.

the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A Member of the board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the board.

(3) Where the board becomes aware that a member has a conflict of interest in relation to any matter before the board, the board shall direct the Member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the Chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Executive Member in writing.

(5) Upon the board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the board and the Member with the conflict of interest shall not vote on this determination.

(6) Where the board determines that the conflict is likely to interfere significantly with the Member's proper and effective performance as provided for in subparagraph (1), the Member shall resign unless the Member has eliminated the conflict to the satisfaction of the board within thirty days.

(7) The board shall report to the Cabinet Secretary any determination by the board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the board.

(8) The annual report of the board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A Member of the board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

5. (1) Within twelve months of the commencement of this Act, the board shall adopt a code of conduct prescribing standards of behaviour to be observed by the Members and staff of the board in the performance of their duties. Code of conduct.

(2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to an existing code of conduct, the board shall publish the proposed code or amendments in the Gazette and in a newspaper circulating nationally, inviting public comments.

(3) The board shall include in its annual report a report on compliance with the code during the period covered by the annual report.

(4) The code of conduct adopted or prescribed under this paragraph shall be binding on the board and its staff.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the board by any person generally Execution of Interest.

7. The board shall cause minutes of all resolutions and proceedings of meetings of the board to be entered in books kept for that purpose. Minutes.

