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THE NYERI COUNTY CLIMATE CHANGE ACT, 2021
No. 4 of 2021

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THE NYERI COUNTY CLIMATE CHANGE ACT, 2021

AN ACT of the County Assembly of Nyeri 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 County Assembly of Nyeri, as follows—

PART I—PRELIMINARY**Short title**

1. This Act may be cited as the Nyeri County Climate Change Act, 2021 and shall come in to effect upon publication.

Interpretation

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

“adaptation” means adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects in order to moderate harm or exploit beneficial opportunities;

“adaptive capacity” means the ability of a system to adapt to the impacts, cope with the consequences, minimize potential damages, or take advantage of opportunities offered by climate change or climate variability;

“Authority” means the National Environment Management Authority established by the Environmental Management and Coordination Act, 1999 as amended by the Environmental Management and Coordination (Amendment) Act, 2015;

“climate change” means a change in the climate system which is caused by significant changes in the concentration of greenhouse gases as a consequence of human activities and which is in addition to natural climate change that has been observed during a considerable period of time;

“climate change unit” means the County Climate Change Unit established to support coordination of climate change matters in the County as envisaged by section 19(3) of the Climate Change Act, 2016;

“climate change duties” means the statutory obligations conferred on public and private entities to implement climate change actions consistent with the national goal of low carbon climate resilient development;

“climate change resilience” means the capability to maintain competent function and return to some normal range of function even when faced with adverse impact of climate change;

“climate finance” means financing channeled by local and international entities, the National Government, County Government to facilitate climate change adaptation and mitigation;

“constitution” means the Constitution of Kenya, 2010;

“county” means Nyeri County;

“county assembly” means the County Assembly of Nyeri County;

“county government” means the County Government of Nyeri;

“environment” has the meaning assigned to it in section 2 of the Environmental Management and Coordination Act;

“emissions”, in relation to a greenhouse gas, means emissions of that gas into the atmosphere where the emissions are attributable to human activity;

“executive committee member” means the County Executive Committee Member for the time being in charge of environmental matters in Nyeri County;

“fund” means the Nyeri County Climate Change Fund;

“fund administrator” means the Administrator of the County Climate Change Fund.

Object and Purpose

3. The object of this Act is to create a fund in the County for the purpose of facilitating Climate Finance in the County through—

- (a) initiating and coordinating finance for Climate Change Adaptation and Mitigation activities in the County;
- (b) facilitating incorporation of Climate Change finance in the County Planning and Budgetary framework;
- (c) facilitating community initiated Climate Change Adaptation and Mitigation activities in the County;
- (d) seeking and receiving grants from international sources the National Government, the County Government and other organizations; and
- (e) co-ordinating support from National Government Climate Change policy and legislative framework.

(f) dissemination of Climate Change information to the public to create awareness and preparedness.

Guiding values and principles

4. The application and interpretation of this Act and the making or implementation by the county government of any policy on climate change shall be guided by the following values and principles—

- (a) community driven and bottom-up planning of response to climate change;
- (b) commitment to informed participation of communities in planning and implementation of climate change response interventions;
- (c) recognition, respect and integration of knowledge, perspectives and experiences of communities in climate change response;
- (d) planning and implementation of climate change response to be anchored in and supportive of devolution;
- (e) flexible learning approach to addressing challenges of climate change;
- (f) investments focused on achieving equitable benefits;
- (g) inclusion of all major actors in planning and implementation of climate change response;
- (h) protection of the climate system for the benefit of present and future generations;
- (i) ensuring a just transition for all to Sub-counties an environmentally sustainable economy and society in the light of county circumstances and developmental goals;
- (j) national values and principles of governance spelt out in Article 10 of the Constitution;
- (k) values and principles of public service spelt out in Article 232 of the Constitution;
- (l) promotion and protection of the right to a clean and healthy environment in accordance with Article 42 of the Constitution; and
- (m) commitment to fulfillment of the state obligations in respect of the environment as stipulated under Article 69 of the Constitution.

PART II—ADMINISTRATION**Establishment of the Climate Change Steering Committee**

5. (1) There is established, the County Climate Change Steering Committee and which shall comprise of the following persons—

- (a) Executive Committee Member for the time being in charge of Climate Change who shall be the chairperson;
- (b) the Chief Officer responsible for the time being in-charge of Climate Change who shall be a member;
- (c) the Director for the time being in charge of Climate Change affairs as the Secretary;
- (d) Executive Committee Member in charge of the County Treasury;
- (e) Executive Committee Member in charge of Agriculture, Livestock and Fisheries;
- (f) Executive Committee Member in charge of Health;
- (g) Executive Committee Member in charge of Water and Irrigation;
- (h) Executive Member in-charge of Environment, Natural Resources & Sanitation;
- (i) county representative of the National Environment Management Authority;
- (j) one representative of a duly registered public benefit organizations working in the county nominated by the umbrella organization representing the largest number of public benefit organizations in the county;
- (k) one representative of the private sector in the county nominated by the umbrella organization representing the private sector in the county;
- (l) one representative of women in the county nominated by the umbrella organization representing the largest number of women's organizations in the county;
- (m) one representative of youth in the county nominated by the umbrella organization representing the largest number of youth organizations in the county; and

(n) Fund Administrator designated by the Executive Committee Member in charge of the County Treasury, as an *ex-officio* member with no voting rights.

(2) A person who is a member of the Committee by virtue of his or her office under section 5 (1) (a), (b), (c), (d), (e), (f), (g) or (h) shall cease to be a member of the Committee upon being transferred from the county or ceasing to hold that office

(3) A person who is a member of the Committee under section 5(1) (i), (j), (k) or (l) shall cease to be a member of the Committee upon ceasing to be a member of the interest group or upon being recalled by the interest group for good cause and through a written communication from an authorized official of the interest group to the chairperson of the Committee

(4) Whenever a member of the 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 Treasury shall advise propose a replacement to the Governor within 30 days of the vacancy.

Functions of the Steering Committee

6. The functions of the County Climate Change Steering Committee shall be to—

- (a) coordinate and oversee climate change response in the county
- (b) ensure mainstreaming of climate change into county planning and development processes;
- (c) coordinate formulation and monitor implementation of the County Climate Change Action Plan, County Climate Finance Framework and any other county climate change policies, plans and strategies;
- (d) mobilize funds into and administer the County Climate Change Fund established under this Act;
- (e) review, approve and monitor implementation of Regulations for administration and management of the fund
- (f) advise the county government on legislative, policy and other measures necessary for climate change response and attainment of low carbon climate resilient development;
- (g) approve and oversee the implementation in the county a comprehensive programme of climate change education, awareness creation and capacity building.

- (h) provide policy direction on research, training and dissemination of information relating to climate change to the public and among the different stakeholders in the county;
- (i) ensure positive linkages, interactions and synergy between the county, neighbouring counties and national government in climate change response programming and action;
- (j) ensure a coordinated approach to climate change response programmes and action within the county government;
- (k) coordinate the formulation of a climate change reporting framework, preparation and dissemination of an annual report on climate change response activities in the county; and
- (l) perform any other functions that may be assigned by the Governor.

Meetings of the Steering Committee

7. (1) The members of the Steering Committee shall at their first meeting elect one person, not being a public officer, to be the deputy chairperson.

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

(3) The quorum for meetings of the meeting shall be two third of the membership.

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

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

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

Establishment of the Climate Change Unit

8. (1) There is established, within the county, Directorate for matters relating to climate change, a unit to be known as the County Climate Change Unit.

(2) The Unit shall consist of Climate Change Officers with expertise in fund administration, monitoring and evaluation and communication.

(3) The unit shall be seconded by technical staffs from other supporting departments and agencies related to climate change.

Director of the Unit

9. (1) The unit shall be headed by a Director who shall be recruited competitively and appointed by the County Public Service Board.

(2) A person shall be eligible for appointment of the office of the director if the person—

- (a) is a citizen of Kenya;
- (b) has a postgraduate degree in the relevant field;
- (c) has at least seven years professional experience in the relevant field;
- (d) meets the requirements under Chapter Six of the Constitution.

(3) The Director appointed under subsection (2) shall be responsible for the performance of specific duties and functions of the Unit as set out in this Act.

(4) The unit shall on behalf of the Committee perform functions as may be specifically set out in this Act and in the regulations.

(5) The unit shall serve as the Secretariat of the Committee.

Functions of the Climate Change Unit

10. Without prejudice to the generality of the foregoing subsection, the unit shall perform the following duties and functions—

- (a) provide analytical support on climate change to the various agencies and county government;
- (b) establish and manage a county registry for appropriate mitigation actions by the public and private sectors;
- (c) serve as the county knowledge and information management centre for collating, verifying, refining and disseminating knowledge;
- (d) assist the committee in formulating guidelines and standard documentation for the purposes of Implementation of this Act;
- (e) optimize the county's opportunities to mobilize climate finance;
- (f) conduct civic education to promote the awareness and understanding of climate change activities amongst stakeholders;
- (g) conduct research and gap analysis to ensure continuous performance and improvement of the Unit; and

- (h) maintain record of all Unit documentations;
- (i) carry out such other function as shall be conferred by the Committee.

Vacation of the office of the Director

11. The office of the Director shall be vacant if the member—

- (a) is adjudged bankrupt;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months
- (c) resigns in writing ;
- (d) dies
- (e) is removed from the office for—
 - (i) being unable to perform the functions of his office by reason of mental or physical incapacity;
 - (ii) failing to declare his interest in any matter being considered or to be considered by the Unit or the Committee;
 - (iii) fails to perform his or her duties in accordance with the terms and conditions of appointment.

PART III—INSTITUTIONAL FRAMEWORK FOR PLANNING AND IMPLEMENTATION

Establishment of the County Planning Committee

12. There is established a Nyeri County Climate Change Planning Committee, which shall include directors of the following relevant departments nominated by the Executive Member in-charge of Climate change matters—

- (a) Chief Officer in charge of Climate Change who is the Chairperson;
- (b) Director of Climate Change who is the Secretary;
- (c) County Director in-charge of Environment, Natural Resources and Sanitation;
- (d) County Director in charge of Finance and Economic Planning;
- (e) County Director in charge of Agriculture;
- (f) County Director in charge of Health;
- (g) County Director in charge of water and irrigation;

- (h) County representative, National Environment Management Authority;
- (i) County drought coordinator;
- (j) Administrator of the Fund, who shall be an *ex-official* member;
- (k) County Director of Meteorology;
- (l) one representative from duly registered public benefiting body;
- (m) one representative from the private sector;
- (n) one women representative;
- (o) one youth representative.

Function of the Planning Committee

13. The County Planning Committee shall be the technical committee whose function shall be to—

- (a) to coordinate planning and implementation of projects and activities for climate change response in the county;
- (b) to coordinate implementation of the County Climate Change Action Plan and the County Climate Finance Framework;
- (c) establish guidelines to be used by Ward Planning Committee in formulating climate response activities for funding by the County Climate Change Fund;
- (d) support Ward Planning Committee in development and implementation of climate change response activities;
- (e) provide oversight to project evaluation process by the Ward Planning Committee and prepare appropriate reports to the Climate Change Unit;
- (f) formulate and implement a county monitoring, evaluation and reporting framework for climate change response;
- (g) perform any other functions assigned to it by the unit and the Committee.

Meetings of the Planning Committee

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

(2) The Planning Committee may choose to rotate the location of its regular meetings to different Wards in the county for purposes of engaging directly with communities and familiarizing itself with their climate change related challenges.

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

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

(5) In the absence of the chairperson, the vice chairperson shall preside over a meeting, and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting; provided that no two consecutive meetings shall be held without either the chairperson or the vice-chairperson being present.

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

Allowances for members of Planning Committee

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

Establishment of Ward Planning Committee

16. There is established a Ward Climate Change Planning Committee in each Ward in Nyeri County.

Composition of the Ward Planning Committee

17. (1) The Ward Climate Change Planning Committee shall consist of—

- (a) the Ward Administrator who shall be the Chairperson;
- (b) one elder;
- (c) three persons, representing interest groups in the ward (one woman, youth and persons with disability);
- (d) one person representing Community-Based Organizations in the Sub-county 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 Sub-county;
- (e) a representative of relevant sectors appointed by the Executive Committee Member;

- (f) nominations of members falling under subsection (1) shall be conducted by representatives of the respective groups at a meeting convened by the Sub- County Administrator at the Sub-county headquarters for that purpose and presided over by a member or representative thereof of the climate change unit;
- (g) 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 Sub-County Administrator in writing with a certified copy of the resolution.

(2) Within 30 days of the conclusion of the nominations, the Ward Administrator shall present the list of nominee to the Director of the Climate Change Unit to share it with the County Planning Committee for formal appointment.

Functions of the Ward Planning Committee

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

- (a) co-ordinate and mobilize communities and other stakeholders in the ward to design and implement climate change response activities;
- (b) facilitate research and knowledge management at the ward level on climate change, its impacts and strategies for responding thereto;
- (c) facilitate public education, awareness creation, and capacity building at the Ward level on climate change, its impacts and strategies for responding thereto;
- (d) coordinate, facilitate and manage community consultations on priority climate change response activities;
- (e) participate in county planning and budgeting processes with a view to ensuring the mainstreaming of climate change and prioritization of climate change response in county development plans;
- (f) facilitate public participation in climate change governance, implementation of agreed climate change response activities, and monitoring of those activities;
- (g) 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;

- (h) oversee implementation of climate change response projects funded by the County Climate Change Fund and report thereon to the Planning Committee;
- (i) perform any other functions that may be assigned to it by the Planning Committee.

Officers of the Ward Planning Committee

19. (1) The first activity of the Ward Planning Committee at its first sitting shall be the election of a vice-chairperson from among the members.

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

Qualifications for appointment to Ward Planning Committee

20. (1) A person shall not qualify for appointment to serve on the Ward Planning Committee unless—

- (a) is a resident of the Ward;
- (b) fulfills 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;
- (d) indicates willingness to serve the community.

(2) Without prejudice to the provisions of subsection (1), persons nominated under section 22 (1)(iii), (iv), and (vii) shall have a minimum of form four level of education, provided that where this requirement may impose inordinate constraints, the Executive Committee Member shall determine the appropriate educational qualification.

Terms of service

21. Save for the Ward Administrator, and subject to subsection (2) hereof, members of the Ward Planning Committee shall serve for a term of three (3) years renewable once.

Removal of a Ward Planning Committee Member

22. (1) A Ward Committee Member may be removed from office on any or a combination of the following—

- (a) if at any time resign from the committee by giving one month's notice to the Sub-county Administrator;
- (b) fails to attend two consecutive meetings without reasonable cause duly communicated to the chairperson of the committee;
- (c) gross misconduct;
- (d) violates the constitution or any other written law;
- (e) physical or mental incapacity;
- (f) bankruptcy.

(2) Whenever a member of the Ward Planning Committee is removed or otherwise ceases to be a member of the Committee, the Ward Administrator shall ensure that a replacement is appointed within 30 days of the vacancy.

Meetings of the Ward Climate Change Planning Committee

23. (1) The Ward Planning Committee shall meet at least once in every quarter.

(2) Save for the inaugural and emergency meetings, which shall be held at the Sub-county headquarters, regular meetings of the Ward Planning Committee shall be convened and held in the different locations of the Wards on a rotational basis.

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

(4) A resolution of the Ward 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 Planning Committee shall be scheduled in such a manner as to ensure that resolutions thereof are available in time for the next regular meeting of the Planning Committee.

(7) A Ward 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 Sub-county Administrator shall ensure that technical staff in the Sub-county are available to advise the Committee as and when necessary.

Reimbursement of members of the Ward Planning Committees

24. Members of the Ward Planning Committee shall serve on a voluntary basis, but may be reimbursed reasonable transport costs at a rate to be determined by the County Treasury and the Fund Administrator.

PART IV—MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE

County Climate Change Action Plan

25. (1) The Director of climate change shall in consultation with the Committee and relevant sectors 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 Director 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

26. The County Climate Change Action Plan shall—

(a) be aligned to the current National Climate Change Action Plan and respond to the specific needs and circumstances of the county;

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

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

(i) guiding the county to Sub-county the achievement of low carbon climate resilient sustainable development;

(ii) mainstreaming climate change into county development plans, programmes, strategies and projects;

(iii) adaptation to and mitigation of climate change;

- (iv) enhancing research, capacity building and knowledge management on climate change and climate change response;
- (v) enhancing public awareness for effective participation in climate change response;
- (vi) monitoring, evaluation and periodic review to integrate learning and best practice in the implementation of the County Climate Change Action Plan.

Approval of County Climate Change Action Plan

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

Biennial review of Climate Change Action Plan

28. The Planning Committee shall undertake a biennial review of the implementation of the County Climate Change Action Plan and report to the Committee.

PART V—DUTIES RELATING TO CLIMATE CHANGE

Climate Change Duties for Public Entities

29. (1) The Steering Committee may, on recommendation of the County Executive Committee 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. 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.

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

- (a) mainstream climate change into sectoral strategies, plans and other frameworks for implementing its statutory functions;
- (b) perform its statutory functions in a manner that contributes to the implementation of the County Climate Change Action Plan;
- (c) support the Steering Committee and the County Government in its planning, programming, implementation and monitoring of climate change response in the county; and

(d) report annually to the Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.

Climate Change Duties for Private Entities

30. (1) The Steering Committee may, on recommendation of the Executive Committee Member for the time being in charge of climate change matters, and with approval of the County Executive Committee, impose duties relating to climate change on any private entity operating within the county.

(2) The Executive Committee Member 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

31. (1) The County Director of Climate Change shall with the assistance of the representative of the National Environment Management Authority and on behalf of the Steering Committee, monitor, investigate and report on whether public and private entities are in compliance with the assigned climate change duties, and in performance of this function she or he shall—

- (a) have all powers necessary for purposes of monitoring and investigation including the power to enter premises of any private entity and make an enquiry; and
- (b) at a reasonable hour, for the purposes of monitoring and investigation, enter any private land or premises to make an inspection or other task related to this function.

(2) The County Director of Environment shall report to the Steering Committee on the performance of functions under subsection (1) on annual basis, and such report shall form part of the report by the Committee to the County Assembly.

Report on Performance

32. Notwithstanding the provisions of section 30, the Committee may—

- (a) by notice in the *Gazette*, require a private entity that is subject to climate change obligations to prepare reports on the status of its performance thereof and prescribe the period for reporting; and

(b) require any private entity that fails to perform its climate change duties to prepare a report within a specified time, on the actions it has taken, is taking or intends to take to ensure future performance of those duties.

Annual County Climate Change Response Report

33. (1) The Steering Committee shall, within three months after the end of every financial year, publish publicly and submit a report on implementation of the County Climate Change Action Plan and other climate change response actions and impacts to the County Assembly for review, discussion and debate.

(2) The County Assembly shall, within three months of receiving the report, provide recommendations and proposed actions to the Steering Committee.

(3) A copy of the report issued under subsection (1) shall be submitted to the Directorate for information purposes.

PART VI—PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

Values and Principles

34. The planning and implementation of climate response in the county shall be informed by the values and principles specified in section 4 of this Act.

Publication of Notice

35. Where this Act imposes a requirement for public consultation in matters relating to climate change policy, strategy, programme, plan or action, the Steering Committee or respective public or private entity shall publish a notice—

- (a) in the *Gazette*;
- (b) in at least two papers with circulation in the locality to which county circulation;
- (c) in at least one radio station broadcasting in the locality with preference to a radio station giving content in native language common to Nyeri County.

(2) The notice shall in each case—

- (a) set out a summary of the policy, strategy, programme, plan or activity;
- (b) state the premises at which the details of the policy, strategy programme, plan or action may be inspected;

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- (c) invite written comments on or objections to the policy, strategy, programme, plan or action;
- (d) specify a date by which the comments or objections are required to be received, not being a date earlier than sixty days after publication of notice Publication of Notice.

County strategy for climate change education and awareness

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

(2) The strategy shall be developed through a participatory process involving all stakeholders in the county, and validated at public meetings organized by the Ward Planning Committees in every Ward.

(3) The strategy shall be approved by the Steering Committee and its implementation mainstreamed into the County Climate Change Action Plan.

Public sensitization to precede formulation of climate change response plans

37. (1) The Planning Committee and Ward Planning Committees shall ensure that the development of any climate change response programme, plan, project or activity in the county is preceded by comprehensive campaign of public sensitization and awareness creation to facilitate informed public participation.

(2) The Planning Committee shall report to the Steering Committee on public sensitization campaigns undertaken with reference to every climate change response programme, plan, project or activity in the county and demonstrate how the sensitization has made impact on the threshold of decision making.

(3) The report on public sensitization and awareness creation on climate change programmes, plans, projects and activities shall be included in the reports of the Steering Committee under sections 31 and 36 of this Act.

Capacity building

38. (1) The Steering Committee shall ensure that the Planning Committee and Ward 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 Planning Committee and Ward 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.

PART VII—FINANCIAL PROVISIONS

Establishment of the Fund

39. (1) There shall be established a Fund to be known as the Nyeri Climate Change Fund which shall be used to fund Climate Change projects, programs and activities provided for in the Climate Finance Framework established under this Act.

(2) The Fund Administrator shall be appointed by the Executive Committee Member for the time being in charge of the Finance.

Sources of the Fund

40. The fund shall be financed through—

- (a) Money appropriated by the County Assembly at least one percent of the County audited revenue account in a financial year;
- (b) Grants and loans from the National Climate Fund;
- (c) Climate finance from National and International entities;
- (d) Moneys received from Public Benefit Organizations;
- (e) Fees and charges from climate change finance activities; and
- (f) Grants and donations.

County Climate Change Fund Regulations

41. (1) The Executive Committee Member in-charge of Finance shall, in consultation with the Executive Committee Member, develop Regulations for administration and management of the Fund.

(2) The Regulations made under subsection (1) shall provide for the following, among other matters—

- (a) formulation of the County Climate Finance Framework;
- (b) appointment and removal of the Fund Administrator;
- (c) operation of the Fund;
- (d) eligibility criteria for accessing money from the Fund;
- (e) development of project proposals, application for and disbursement of money from the Fund;

- (f) procurement of services and goods;
- (g) complaints mechanism;
- (h) monitoring, evaluation, reporting and learning.

PART VIII—MISCELLANEOUS PROVISIONS

Protection from personal liability

42. (1) No action taken or thing done by a member, officer or agent of the Committee, the Planning Committee or the Sub-County Planning Committee in good faith and in performance of functions or execution of powers vested in the said committees by this Act, shall render the member, officer or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Committee, the Planning Committee or Sub-county 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.

- (3) Any person who—

- (a) without lawful excuse ignores or fails to obey any instructions issued by any member or officer or agent of the Committee, the Planning Committee or Sub-County Planning Committee in exercise of the powers or performance of the functions of the Committees under this Act; or
- (b) wilfully obstructs any member or officer or agent of the Committee, the Planning Committee or Sub-County Planning Committee in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to any member or officer or agent of the Committee, the Planning Committee or Sub-County Planning Committee in exercise of powers or the performance of the functions of the said Committees under this Act
- (d) commits an offence and shall be liable upon conviction to the punishment provided for under section 45 of the Nyeri County Climate Change Act, 2020

Offences and Penalties

- 43.** (1) Any person who—

(a) Commits an offence under section 40 of this Act is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a period not exceeding 1 year, or to both.

(2) Where an offence under subsection 1(a) is committed by a body corporate, every director or officer of the body corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence under subsection 1(a).

(3) Where an offence under subsection (a) is committed by a partnership, every partner or officer of the partnership who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence under subsection 1(a).

Regulations

44. The Executive Committee Member may make regulations for the better carrying out of the provisions of this Act.

SCHEDULE**PROVISIONS ON PUBLIC CONSULTATION**

1. (1) Where this Act imposes a requirement for public consultation in matters relating to climate change policy, strategy, programme, plan or action, the County government of Nyeri shall publish a notice—

- (a) in the *Gazette*;
- (b) in at least two newspapers with national circulation;
- (c) in at least one newspaper circulating in the locality to which the climate change policy, strategy, programme, plan or action relates; and
- (d) in at least one Kenyan radio station broadcasting in that locality.

(2) The notice shall in each case—

- (a) set out a summary of the policy, strategy, programme, plan or activity;
- (b) state the premises at which the details of the policy, strategy, programme, plan or action may be inspected;
- (c) invite written comments on or objections to the policy, strategy, programme, plan or action;
- (d) specify the person or body to which the comments are to be submitted; and
- (e) specify a date by which the comments or objections are required to be received, not being a date earlier than sixty days after publication of the notice.

2. The County government shall make arrangements for the public to obtain copies, at a reasonable cost, of documents relating to the policy, strategy, programme, plan or action.

3. The County Government shall consider the—

- (a) written comments or objections received on or before the date specified under paragraph 1(2)(e); and
- (b) comments, whether in writing or not, received at a public meeting held in relation to the policy, strategy, programme, plan or action at which the County government was represented, or by any other invitation, to comment.

4. The County government shall publish, in accordance with paragraph 1 of this Schedule, notice of the fact that a copy of the written

decision of the County government relating to the policy, strategy, programme, plan or action, and the reasons thereof, is available for public inspection at the same premises as were notified under paragraph 1(2)(b).

5. Where regulations made under this Act so require, the County government shall cause a public meeting relating to a policy, strategy, programme, plan or action to be held before the County government makes its decision on the policy, strategy, programme, plan or action.

