

SPECIAL ISSUE

Kenya Gazette Supplement No 7 (Vihiga County Acts No 4)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

VIHIGA COUNTY ACTS, 2021

NAIROBI, 2nd July, 2021

CONTENT

Act—

PAGE

The Vihiga County Climate Change Fund (Amendment) Act, 2021

1

**THE VIHIGA COUNTY CLIMATE CHANGE FUND
(AMENDMENT) ACT, 2021**

No 4 of 2021

Date of Assent 30th June, 2021

Date of commencement 2nd July, 2021

AN ACT of the County Assembly of Vihiga to amend the Vihiga County Climate Change Fund Act, 2019 and for connected purposes

ENACTED by the County Assembly of Vihiga, as follows—

PART I—PRELIMINARY

Short title

1 This Act may be cited as the Vihiga County Climate Change Fund (Amendment) Act, 2021

Amendment of Section 3 of No 7 of 2019

2 The Vihiga County Climate Change Fund Act, 2019 hereinafter referred to as the “principal Act”, is amended in Section 3—

(a) in paragraph (c) by inserting the words—

“promoting, supporting and,” immediately before the word “facilitating”,

(b) in paragraph (e) by inserting the word—

“individuals” immediately after the word “organizations”,

(c) by inserting new paragraphs immediately after paragraph (f) as follows—

(g) mainstreaming climate change responses into development planning, decision making and implementation,

(h) facilitating effective management of climate change impacts by enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change,

(i) promoting, supporting and facilitating community-based and community initiated adaptation and mitigation activities, and

(j) facilitating public participation in climate change response through capacity development, awareness creation, consultation, representation and access to information

Insertion of a new section after Section 3 of the principal Act

3 The principal Act is amended by inserting the following new section immediately after Section 3—

Guiding values and principles

3A The application, interpretation or implementation of this Act by the County Government 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 towards an environmentally sustainable economy and society in the light of county circumstances and developmental goals, and
- (j) promotion and protection of the right to a clean and healthy environment in accordance with Article 42 of the Constitution

Amendment to Section 4 of No 7 of 2019

4 The principal Act is amended in Section 4 (2) (a) by—

deleting the word “less” appearing immediately after the word “not” and substituting therefor with the word “more” so as to read “Not more than

Amendment to Section 5 of No 7 of 2019

5 The Principal Act is amended in Section 5—

- (a) by deleting the word (1) appearing before the word “the”,
- (b) in paragraph (a), by inserting the words “the County Budget” immediately after the word “of”
- (c) in paragraph (b), by inserting the words “for climate change issues” immediately after the word “Government”,
- (d) in paragraph (c) by inserting the word “change” immediately after the word “climate”,
- (e) in paragraph (e) by inserting the words “as shall be determined by the Vihiga County Finance Act” immediately after the word “activities”

Amendment to Section 6 of No 7 of 2019

6 The principal Act is amended in Section 6 (1) by inserting the words “responsible for climate change” immediately after the word “Member”

Amendment to Section 7 of No 7 of 2019

7 The principal Act is amended in Section 7—

in subsection (1) by—

- (a) deleting the words “Environment, Energy and Natural Resources” appearing immediately after the words “in-charge of” and substituting therefor with the word “Climate Change” in Paragraph (c)
- (b) deleting paragraph (f) and substituting therefor with the following new paragraph (f)—
 - (f) the Chief Officer in-charge of Water,
- (c) inserting new paragraphs (i) immediately after paragraph (i)—
 - (j) the Chief Officer in-charge of Lands,
 - (k) the Director in-charge of Climate Change who shall be the Secretary, and
 - (l) the Fund Administrator appointed under Section 10
- (d) inserting the following new sub-section immediately after subsection (1) —

Functions of the Chief Officer in-charge of Climate Change

7(1)(A) The Chief Officer in-charge of Climate Change matters may in consultation with the Chairperson—

- (a) convene the meetings of the County Planning Committee,
- (b) oversee, support and facilitate the operations of the Secretariat, or
- (c) such other functions as may be delegated by the Chairperson
- (e) inserting new subsections (5) and (6) immediately after subsection (4) as follows—

(5) The County Planning Committee may co-opt any other member as it deems fit

(6) The County Planning Committee may designate a sub-committee to address climate change issues that may affect urban areas within the County and/or transcend beyond one Ward

- (e) in subsection (2) (c) by—

inserting the words “at least five years” immediately after the word “has”

Amendment to Section 8 of No 7 of 2019

8 The Principal Act is amended in Section 8 by—

- (a) deleting paragraph (j) and substituting therefor with the following new paragraph—
 - (j) award and approve project proposals,
- (b) deleting the word ‘assist the “appearing in paragraph (l) and substituting therefor with the word “prepare”,
- (c) deleting the word “design” appearing in paragraph (m) and substituting therefor with the word “prepare”,
- (d) inserting new paragraph (o) immediately after paragraph (n) —
 - (o) approve fund disbursement by the Fund Administrator

Amendment to Section 9 of No 7 of 2019

9 The Principal Act is amended by inserting the following new section immediately after Section 9—

Insertion of a new Section after Section 9 of the Principal Act

9A (1) A member of the County Planning Committee appointed under Section 7 (1) (a) and (i) may at any time resign from the Committee by giving one month's notice to the County Executive Committee Member in charge of Climate Change

(2) A member of the County Planning Committee may be removed from the Committee by the Executive Member in charge of Climate Change on any one or a combination of the following grounds—

- (a) failure to attend two consecutive meetings of the Planning Committee without reasonable cause duly communicated to the Chairperson of the Committee,
- (b) serious violation of the Constitution or any other written law,
- (c) gross misconduct,
- (d) physical or mental incapacity, or
- (e) bankruptcy

(3) Provided that if a member who fails to attend meetings of the County Planning Committee as provided in subsection (a) is an officer in Public Service, such an officer shall not cease to be a member but shall be reported by the County Planning Committee to the appointing authority for the appropriate disciplinary action

(4) A person who is a member of the County Planning Committee by virtue of his or her office shall cease to be a member of the Committee upon being transferred from the County or ceasing to hold that office

(5) A person who is a member of the County Planning Committee under section 7 (1) (g), (h) or (i) shall cease to be a member of the Committee upon ceasing to be a member of the interest group or upon being recalled by the interest group for good cause and through a written communication from an authorized official of the interest group to the Executive Member in charge of Climate Change

(6) Whenever a member of the County Planning Committee is removed or otherwise ceases to be a member of the Committee, the Executive Member in charge of Climate Change shall ensure that a replacement is appointed within 30 days of the vacancy

Amendment to Section 10 of No 7 of 2019

10 The principal Act is amended in Section 10—

- (a) in subsection (1) by inserting the word “co- “immediately before the “Secretary”,
- (b) in subsection (4) by deleting the word “contract” appearing after the word “performance based” and deleting the words “County Planning Committee” and substituting therefor with the word “Executive Member”

Amendment to Section 11 of No 7 of 2019

11 The principal Act is amended in Section 11 by deleting paragraphs 11 (a) (b) (c) (d) (e) (g) (i) and (j) and substituting therefor with the paragraphs below—

- (a) be in charge of administration of the Fund
- (b) without prejudice to paragraph (a) the Administrator shall in administration of the Fund perform all responsibilities for a fund administrator provided under Section 116 and 168 of the Public Finance Management Act and applicable regulations

Amendment to Section 12 of No 7 of 2019

12 The principal Act is amended in Section 12(a) by —

deleting the word “Chairperson of the County Planning Committee” appearing before the word “to the” and substituting thereof with the words “Executive Member”

Amendment to Section 13 of No 7 of 2019

13 The Principal Act is amended by deleting Section 13 and substituting therefor the following new section 13—

Insertion of a new section 13 of No 7 of 2019

13 (1) “There is hereby established the Secretariat of the County Climate Planning Committee which should comprise of the Director, Fund Administrator and Climate Change Officers

(2) The Director Climate Change shall be the head of the Secretariat

(3) The Fund Administrator and Climate Change Officers shall be members of the Secretariat

(4) Functions of the Secretariat shall be—

- (a) implement decisions of the County Planning Committee,
- (b) prepare a framework for receiving and evaluating project proposals,

- (c) prepare and publish periodic projects and program implementation schedules,
- (d) organize access to the services of the County Planning Committee at the ward level,
- (e) publish the eligibility criteria for projects under this Act,
- (f) co-ordinate capacity building for the Ward Planning Committees,
- (g) establish, coordinate and implement a monitoring and evaluation framework for projects under this Act,
- (h) develop a complaints mechanism,
- (i) co-ordinate the functions of the institutions created under this Act where appropriate,
- (j) prepare a budget proposal for the administrative costs per quarter for each institution under this Act,
- (k) reporting to the Planning Committee, and
- (l) perform any other duty assigned by the County Planning Committee

Amendment to Section 14 of No 7 of 2019

14 The Principal Act is amended in Section 14 (1) —

- (a) in Paragraph(b) by deleting the words “as the secretary” appearing after the word finance,
- (b) in paragraph (c) by deleting the word “environmental” appearing before the word “matters” and substituting thereof by the word “climate change matters who shall be the secretary”,
- (c) inserting a new paragraph (k) immediately after paragraph (j) as follows—

(k) the Chief officer in-charge of climate change matters,

- (d) inserting a new subsection (3) immediately after subsection 2—

(3) The Steering Committee shall appoint one member to represent the Committee in the Disaster Management Committee established under Section 5 of the Vihiga County Disaster Management Act

Amendment to Section 15 of No 7 of 2019

15 The Principal Act is amended in Section 15 by deleting paragraph (h) and (i)

Amendment to Section 16 of No 7 of 2019

16 The Principal Act is amended in Section 16 —

(a) in subsection (1) by deleting the words ‘once every quarter’ appearing immediately after the words “in every” and substituting therefor with the words “bi-annually”,

(b) by inserting a new subsection (6) immediately after subsection (5) as follows—

(6) The removal of members of the Steering Committee shall be as provided in Section 9A where applicable

Amendment to Section 17 of No 7 of 2019

17 The Principal Act is amended in Section 17 by—

(a) renumbering section 17 as 17(1), and

(b) inserting a new subsection immediately after subsection (1) as follows—

(2) The Secretariat established under Section 13 shall in liaison with the County Chief Officer in charge of Climate Change manage the affairs of the Steering Committee

Amendment to Section 18 of No 7 of 2019

18 The principal Act is amended in Section 18—

(a) by deleting the words “County Planning Committee” appearing in subsection 2 (1) (a) and substituting therefor with the words “Executive Committee Member in Charge of Climate Change”

(b) in paragraph (d) (i) by inserting the words “or any other environment officer as may be designated by the Chief Officer-in charge of Climate Change in consultation with the Director Climate Change” immediately after the word “Sub-County,”

(c) by introducing a new subsection 4 immediately after subsection 3—

(4) Members nominated under paragraph (b) and (c) shall be appointed by the Executive Member in Charge of Climate Change

Amendment to Section 19 of No 7 of 2019

19 The Principal Act is amended in Section 19 (1)—

a) in paragraph (e) by inserting the words “Participate in” before the word procuring,

b) by introducing a new paragraph (j) as follows—

- (j) facilitate public education, awareness creation, and capacity building at the ward level on climate change, its impacts and strategies for responding thereto

Amendment to Section 20 of No 7 of 2019

20 The Principal Act is amended in Section 20—

- (a) by deleting the word “an” in subsection 1 and substituting with the word “project”,
- (b) by inserting a new subsection (4) immediately after subsection (3)—
 - (4) The removal of members of the Ward Planning Committee shall be as provided under Section 9A where applicable

Amendment to Section 23 of No 7 of 2019

21 The principal Act is amended in Section 23 (2) by—

- (a) deleting the word “and” appearing in paragraph (b),
- (b) inserting the word “and” immediately after the word “members” in paragraph (c),
- (c) inserting a new paragraph (d) as follows—
 - (d) any other agenda the Ward Planning Committee may determine within the provisions of the Law

Amendment to Section 24 of No 7 of 2019

22 The principal Act is amended in Section 24 by deleting subsection (3)

Amendment to Section 29 of No 7 of 2019

23 The principal Act is amended in Section 29 by—

- (a) inserting a new subsection (1A) immediately after subsection (1),
 - (1A) The Executive Committee Member in-charge of Finance shall cause a climate change special purpose account for the Fund to be opened in accordance with the provisions of the Public Finance Management Act,
- (b) in section 29(2) by replacing the words ‘steering committee’ with planning committee immediately after the phrase “in consultation with”

Amendment to Section 31 of No 7 of 2019

24 The principal Act is amended in Section 31 (3) by inserting the word “County Planning Committee and the steering committee” appearing in subsection (3) and substituting thereof with the words “Fund Administrator”

Amendment to Section 32 of No 7 of 2019

25 The Principal Act is amended in Section 32 by—

- (a) deleting the word “and” appearing in paragraph (b) immediately after the word “Fund”
- (b) inserting a new paragraph (d) and (e) immediately after paragraph (c) as follows—
 - (d) reporting and project evaluation for the Committees established under this Act, and
 - (e) any other matter the Executive Member in Charge of Climate Change Matters deems fit for implementation of this Act

Repealing of Section 34 of No 7 of 2019

26 Section 34 of the principal Act is repealed