

**THE MANDERA COUNTY DISASTER RISK MANAGEMENT
BILL, 2023**

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**THE MANDERA COUNTY DISASTER RISK MANAGEMENT
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A Bill for

AN ACT of the County Assembly of Mandera to provide for the management of disasters and emergencies in the County by effective planning and risk reduction, response and recovery procedures and the promotion of coordination amongst the response agencies, and for related purposes

ENACTED by the County Assembly of Mandera, as follows—

PART I— PRELIMINARY

Short title and commencement

1. This Act may be cited as the Mandera County Disaster Risk Management Act, 2023.

Interpretation

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

“affected area” means an area or part of the country affected by a disaster;

“Directorate” means the Directorate established under section 7;

“Committee” means the County Disaster Risk Management Committee constituted under section 4;

“County Disaster Risk Management Plan” means the County Disaster Risk Management Plan provided for in section 15;

“County emergency operations centre” means a facility designated under section 13;

“Declaration of disaster” means the activation of the disaster response provisions of the County Disaster Risk Management Plan by the Chairperson of the County Disaster Risk Management Committee in accordance with section 24;

“Disaster” means a serious disruption of the functioning of a community or a society involving widespread human, material, economic or environmental losses and impacts, which exceeds the ability of the affected community or society to cope using its own resources;

“Disaster Risk Reduction” means the systematic process of using administrative directives, organizations, and operational skills and capacities to implement strategies, policies and improved coping capacities in order to lessen the adverse impacts of hazards and the possibility of disaster;

“Disaster Risk Management” means the systematic process of using administrative decisions, organization, operational skills and capacities to

implement policies, strategies and coping capacities of the society and communities to lessen the impacts of natural hazards and related environmental and technological disasters. This comprises all forms of activities, including structural and non-structural measures to avoid (prevention) or to limit (mitigation and preparedness) adverse effects of hazards;

“Early Warning Systems (EWS)” means the set of capacities needed to generate and disseminate timely and meaningful warning information to enable individuals, communities and organizations threatened by a hazard to prepare and to act appropriately and in sufficient time to reduce the possibility of harm or loss;

“Emergency” means a situation:

- (a) which is more serious than a disaster;
- (b) which could result or has resulted in causing widespread human, property or environmental losses throughout The County or in any part of The County; and
- (c) which would require a substantial mobilization and utilization of The County’s resources or which would exceed the ability of The County to cope using its own resources;

“Governor” means the Governor elected under the Constitution or a person acting in that capacity;

“Hazard” means a dangerous phenomenon, substance, human activity or condition that may cause loss of life, injury or other health impacts, property damage, loss of livelihoods and services, social and economic disruption, or environmental damage;

“Mitigation” means the lessening or limitation of the adverse impacts of hazards and related disasters;

“Preparedness” means the knowledge and capacities developed by governments, professional response and recovery organizations, communities and individuals to effectively anticipate, respond to, and recover from, the impacts of likely, imminent or current hazard events or conditions;

“Prevention” means the outright avoidance of adverse impacts of hazards and related disasters;

“Recovery” means the restoration, and improvement where appropriate, of facilities, livelihoods and living conditions of disaster-affected communities, including efforts to reduce disaster risk factors;

“Resilience” means the ability of a system, community or society exposed to hazards to resist, absorb, accommodate to and recover from the effects of a

hazard in a timely and efficient manner, including through the preservation and restoration of its essential basic structures and functions;

“Response” means the provision of emergency services and public assistance during or immediately after a disaster in order to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the people affected;

“Response agencies” mean the agencies referred to in section 11;

“Response agency plans” mean the plans referred to in section 12;

“Risk” means the combination of the probability of an event and its negative consequences;

“Vulnerability” means the characteristics and circumstances of a community, system or asset that make it susceptible to the damaging effects of a hazard.

Objects

3. The objects of this Act are to—
 - (a) establish an institutional framework to enhance effective and efficient co-ordination of disaster risk management within the county from the national to the county level;
 - (b) establish a mechanism to secure resources for and promote investment in disaster risk management in the county;
 - (c) promote a culture of safety and resilience to disasters, through the use of knowledge, innovation and education;
 - (d) provide a framework for nurturing and sustaining partnerships, synergies and networks in disaster risk management among development partners and the private sector within the county;
 - (e) integrate preparedness and mitigation into response and recovery actions towards sustainable development;
 - (f) place communities at the center of disaster risk management and incorporate the use of indigenous knowledge in management of disaster risks.

PART II—INSTITUTIONAL ARRANGEMENTS AND ADMINISTRATION OF DISASTER RISK MANAGEMENT

Establishment of the County Disaster Risk Management Committee

4. (1) There is established the County Disaster Risk Management Committee.

(2) The Committee shall consist of 18 members, increasing depending on the expertise required for the imminent disaster and the sectors prone to the disaster. Members shall include;

- (a) The Governor as the Chairperson of the Committee;
- (b) The County Commissioner Mandera County;
- (c) The County Secretary Mandera County;
- (d) The County Executive Committee Member responsible for matters relating to disaster risk management in the County;
- (e) The County Executive Committee Member responsible for matters relating to the environment in the County;
- (f) The County Executive Committee Member responsible for finance in the County;
- (g) The County Executive Committee Member responsible for matters relating to agriculture in the County;
- (h) The County Executive Committee Member responsible for matters relating to water in the County;
- (i) The County Executive Committee Member responsible for matters relating to health in the County;
- (j) The County Executive Committee Member responsible for matters relating to municipalities in the County;
- (k) A representative of the National Drought Management Authority;
- (l) The County Liaison Officer of the Kenya Red Cross Society or representative of any other organization serving as auxiliary to the public authorities in the humanitarian field;
- (m) Two representatives representing non-state actors nominated by their organizations and duly appointed by the Governor;
- (n) Three representatives representing gender, youth and people living with disabilities.

(3) The County Executive Committee Member responsible for matters of disaster shall be the secretary to the Committee.

(4) The Committee may co-opt into its membership persons whose knowledge and skills are found necessary for the functioning of the Committee.

(5) The Committee shall ensure that in undertaking its functions and in exercising its powers under this Act, it shall observe and the uphold the guiding principles in this Act and national values and principles of governance enshrined in the Constitution.

Functions of the Committee

5. (1) The Committee shall have the following functions and responsibilities—

- (a) review, approve and endorse where appropriate any recommendation or advice given by the Directorate, and to give directions to County Government departments and agencies to ensure that its decisions are immediately carried out;
- (b) ensure that county departments and agencies have adequate human resources, tools, materials and financial resources for the effective implementation of disaster risk management activities at all levels;
- (c) receive and examine disaster risk assessment reports from the Directorate in the county and recommend remedial measures to be taken, if any;
- (d) commission studies and research on disaster risk management;
- (e) where appropriate, advise the Governor to declare a state of disaster within the county;
- (f) oversee the application of the County Disaster Risk Management Plan during any period of a disaster and give any order or direction necessary for the plan to be implemented;
- (g) co-ordinate and oversee the implementation of risk reduction, preparedness, prevention, mitigation, response, recovery and rehabilitation activities by all County Government agencies and other agencies performing roles related to disaster risk management;
- (h) liaise with national government, county governments and any other stakeholders and partners;
- (i) in consultation with the Governor, mobilize resources within the county and outside the county to manage disaster risk;
- (j) discharge any other responsibility or exercise any other power as provided by this Act or the County Disaster Risk Management Plan.

Powers of the Committee

6. (1) The Committee shall have all the powers necessary for the proper performance of its functions under this Act and, in particular, the Committee shall have power to—

- (a) summon any member, officer or employee of the county government or any other person to appear before the Committee concerning matters relevant to its functions;

- (b) summon any member, officer or employee of the county government or any other person to produce any books or documents relating to the functions of the Committee;
- (c) require any department or entity of the County or any other body to provide such information in such manner and within such time as it may determine;
- (d) cause any department or entity of the County to provide their facilities and resources, financial or other, for the protection and preservation of life and property in disaster risk management;
- (e) require the county government to provide additional information or to explain any inconsistency, where the Committee determines, based on information it may have obtained;
- (f) establish technical working groups for the better carrying out of its functions;
- (g) co-opt into the membership of technical working groups established under paragraph (d) other persons whose knowledge and skills are found necessary for the functions of the Directorate;
- (h) in consultation with the Governor, issue orders in writing requiring acts or things to be performed or done, prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled in accordance with this Act;
- (i) issue orders or directions to ensure compliance with this Act;
- (j) receive any gifts, grants, donations or endowments from legitimate sources;
- (k) in consultation with the County Executive member for Finance, invest any moneys or funds received not immediately required for the purposes of this Act; with the approval of the County Assembly
- (l) co-operate with other institutions and organizations undertaking functions similar to its own, whether within Kenya or otherwise including entering into partnerships and agreements pursuant to this Act;
- (m) offer services to any person upon such terms as the Committee may from time to time determine.

Establishment of the Directorate

7. (1) There is established the Directorate which shall have the overall responsibility of performing the functions of disaster risk management in the County.

(2) The Directorate shall be established as an office in the county public service.

(3) The Directorate shall comprise of—

- (a) Director who shall be competitively recruited and assigned by the County Public Service Board;
- (b) Sub-County disaster risk management officers recruited by the County Public Service Board; and
- (c) other Officers recruited by the County Public Service Board.

(4) The Directorate shall serve as the secretariat to the Committee.

(5) The Directorate shall decentralize its services to the lowest possible unit of the county's administration to ensure the provision of disaster risk management services throughout the County.

Functions of the Directorate

8. (1) The functions of the Directorate shall be to—

- (a) act as the central planning, coordinating and monitoring institution for disaster management in the county with special emphasis on prevention and mitigation;
- (b) implement the decisions of the Committee solely or in collaboration with other County departments;
- (c) ensure the implementation of any National Disaster Risk Management Strategy or action plan;
- (d) co-ordinate and monitor all disaster risk management activities in the county;
- (e) co-ordinate and monitor the implementation of the disaster risk management programmes through community participation and public awareness campaigns;
- (f) work in close collaboration with other state and non-state agencies to develop and improve warnings and advisories systems for all-natural hazards affecting the county;
- (g) implement a county multi-hazard emergency alert system to provide accurate and timely advice to the public and key stakeholders;
- (h) undertake hazard specific risk assessments in the county;
- (i) support National Government Ministries, County Government departments, stakeholders and communities in building capacity for disaster risk management;

- (j) facilitate and coordinate the conduct of regular trainings, drills and simulation exercises to test the adequacy of disaster response plans in the county;
- (k) undertake and participate in post-disaster reviews, including lessons drawn from previous disasters in disaster preparedness and response plans in the county;
- (l) assist relevant stakeholders to develop an appropriate risk transfer mechanism for post-disaster recovery and rehabilitation purposes in the county;
- (m) collaborate with all relevant stakeholders to integrate disaster risk management into the County Integrated Development Plans including any county environment- related policies and plans, county land use planning, county natural resources management policies and plans, county education and social development plans, county economic and sectoral policies, county infrastructure plans, county climate change plans, county gender plans and any other county plans;
- (n) foster county cooperation in disaster risk management issues, including best practices and sharing of expertise;
- (o) promote research and development and undertake studies on disaster risk management matters;
- (p) publish and disseminate information concerning disaster risk management;
- (q) develop and maintain a common repository of relevant research and operational projects and results on disaster risk management in the county;
- (r) develop and implement warehouse management procedures in the county;
- (s) as and when the need arises, develop and maintain a database of beneficiaries of disaster risk management interventions in the county;
- (t) submit quarterly reports to the Committee and the County Executive Member on—
 - (i) its activities during the quarter;
 - (ii) the results of its monitoring of disaster prevention and mitigation initiatives.
 - (iii) disasters that occurred during the quarter in each ward and the classification, magnitude and severity of these disasters;

- (iv) the effects they had;
 - (v) particular problems that were experienced in dealing with these disasters and generally in implementing this Act and the County Disaster Risk Management Plan;
 - (vi) the way in which these problems were addressed and any recommendations;
 - (vii) progress with the preparation and regular updating of disaster management plans and strategies by stakeholders involved in disaster management; and
 - (viii) an evaluation of the implementation of such plans and strategies
- (u) develop, coordinate and harmonize integrated social protection programs and activities;
 - (v) promote the recruitment, training and participation of volunteers in disaster management in the County;
 - (w) carry out such other activities as may be necessary or expedient for the administration of this Act.

The role of the Governor

- 9.** The Governor shall in the discharge of his or her functions—
- (a) receive quarterly reports from the Committee on the status of disaster risk management in the County;
 - (b) be the official spokesperson of the county during times of disaster or potential danger through the media;
 - (c) perform any other roles as may be necessary or expedient for the administration of this Act

Powers of the Governor

- 10.** (1) The Governor shall in the discharge of his or her functions exercise the following powers;
- (a) mobilize resources and raise funds to meet disaster risk management needs in the county;
 - (b) on the advice of the Committee declare or terminate a disaster;
 - (c) issue orders in writing requiring acts or things to be performed or done, prohibiting acts or things from being performed or done, and may prescribe periods or dates upon, within or before which such acts or things shall be performed or done or such conditions shall be fulfilled in accordance with this Act.

County stakeholder forums

11. (1) The County Executive Member may convene a consultative stakeholders' forum on disaster risk management issues in the county.

(2) The consultative stakeholder's forum envisaged under subsection (1) may be formally or informally constituted by the County Executive Member in charge of matters relating to disasters.

(3) The County Executive Member may convene an informal county stakeholders' forum by convening meetings, colloquiums, webinars, workshops or other informal consultative platforms.

(4) Despite subsection (3), the County Executive Member may constitute a formal consultative stakeholders' forum—

- (a) through a notice in the Gazette
- (b) whose membership shall be ad hoc and shall draw from the concerned stakeholders
- (c) at a specified period of time; and
- (d) in regular intervals

(5) In regards to the formal or informal consultative stakeholder forums convened under this section—

- (a) the Directorate shall serve as the secretariat
- (b) the Directorate shall collate and transmit any resolution to the Directorate through the County Executive Member; and
- (c) the Directorate shall receive and act on all resolutions received in accordance with their functions and powers under this Act.

Role of the stakeholders

12. The stakeholders based in the county shall support the Committee and Directorate in the administration of this Act and shall—

- (a) engage in the activities of the county stakeholder forums convened under this Act;
- (b) participate in the development and implementation of disaster risk management response plans;
- (c) avail resources, financial and other, towards disaster risk management activities in the county;
- (d) provide and share information with each other and with the Committee and Directorate
- (e) provide technical assistance to the Directorate in the preparation of hazard specific plans;

- (f) perform any other roles as may be necessary or expedient for the administration of this Act.

County Emergency Operation Centre

13. On the advice of the Directorate, the Committee may endorse one or more facilities to be the County Emergency Operation Centre(s).

PART III—COUNTY DISASTER RISK MANAGEMENT PLANNING

Disaster Management Information System

14. (1) The Directorate shall act as a repository of, and conduit for, information concerning disasters and disaster management, and, must for this purpose—

- (a) collect information on all aspects of disasters and disaster management;
- (b) process and analyse such information;
- (c) develop and maintain an electronic database envisaged in subsection (2); and
- (d) take steps to disseminate such information, especially to communities that are vulnerable to disasters.

(2) The electronic database developed by the Directorate must contain extensive information concerning disasters that occur or may occur in the County and disaster management issues, including information on—

- (a) phenomena, occurrences, activities and circumstances that cause or aggravate disasters;
- (b) risk factors underlying disasters and ways and means to reduce such risks;
- (c) recurring occurrences that result in loss, but which are not classified as disasters in terms of this Act;
- (d) formal and informal prevention and mitigation initiatives by the County Government, the private sector, non-governmental organizations and communities, including the integration of these initiatives with development plans;
- (e) early warning systems;
- (f) areas and communities that are particularly vulnerable to disasters;
- (g) indigenous knowledge relating to disaster management;
- (h) a directory of institutional role-players that are or should be involved in disaster management in southern Africa showing;

- (i) their names, mobile numbers and physical, postal and electronic addresses;
 - (ii) particulars of their involvement in disaster management; and
 - (iii) the nature, capacity and location of emergency and relief services under their control; and establish effective communication links with contact persons identified as role-players.
- (i) emergency response resources and capacity in the County including the location and size of, and other relevant information relating to—
- (i) police stations;
 - (ii) hospitals, clinics and other health institutions;
 - (iii) emergency medical services;
 - (iv) schools, religious facilities, public buildings and other facilities that could be used as emergency shelters in the event of a disaster;
 - (v) fire-fighting services; and
 - (vi) airports, airstrips, harbours, seaports and railway stations;
- (j) emergency response resources and capacity in neighbouring counties and relevant response agencies;
- (k) emergency preparedness measures in place in the different units of the County's administration;
- (l) disasters that occurred during the year in each ward and the classification, magnitude and severity of these disasters and an assessment of the effects they had; and
- (m) research and training facilities for disaster management disciplines;
- (3) The Directorate must take reasonable steps to ensure that the database is electronically accessible to any person free of charge.
- (4) Notwithstanding the provisions of subsection (3) the Directorate may—
- (a) establish security safeguards to protect the database from abuse; and
 - (b) classify parts of the database as restricted areas in consultation with the Committee, and limit access to those parts to persons authorised by the Committee.

The County Disaster Risk Management Plan

15. (1) There shall be a County Disaster Risk Management Plan for the County which shall be prepared, approved and applied in accordance with this Part.

(2) The County Executive Member responsible for matters relating to disaster shall, within six months of the commencement of this Act and every 3 years thereafter, following public participation, formulate a county disaster risk management plan.

(3) The Committee shall have the responsibility of approving the County Disaster Risk Management Plan and may delegate to the Directorate the power to approve the Plan and any modification therein necessary from time to time.

(4) The object of the Plan shall be to—

- (a) articulate the county vision for disaster risk management;
- (b) identify the areas and communities at risk in the County;
- (c) guide the development of measures to reduce the vulnerability of disaster-prone areas, communities and households;
- (d) identify and address weaknesses in capacity to deal with possible disasters:
- (e) provide for appropriate prevention and mitigation strategies;
- (f) facilitate maximum emergency preparedness;
- (g) contain contingency plans and emergency procedures in the event of a disaster, providing for—
 - (i) the allocation of responsibilities to the various role-players and co-ordination in the carrying out of those responsibilities and other matters that may be prescribed;
 - (ii) prompt disaster response and relief;
 - (iii) the procurement of essential goods and services;
 - (iv) the establishment of strategic communication links;
 - (v) the dissemination of information; and
 - (vi) other matters that may be prescribed.
- (h) be a guide for the formulation of the County Action Plan;
- (i) ensure that the approach of the County in disaster risk management is aligned with national, regional and international norms;
- (j) provide for the adaptation of best practices to the local context;

- (k) advise on the integration of disaster risk management in the county integrated development plan;
 - (l) pronounce the county investment strategy in the entire disaster risk management cycle;
 - (m) seek to engage every resident of the county in the disaster risk management process; and
 - (n) set out stakeholders' roles and responsibilities in disaster risk management programmes in the county.
- (5) The County Executive Member responsible for matters relating to disaster shall—
- (a) prepare and issue bi-annually and annual reports on the state of disaster risk management in the County to the Governor and the County Assembly; and
 - (b) shall direct any other departments and agencies within the county to prepare and submit to it, a report on the state of disaster risk management under the administration of that department or agency.
- (6) At least once in every five years, the County Executive Member shall cause the county disaster risk management policy and plan to be reviewed in consultation with stakeholders.

Exercising powers under the County Disaster Risk Management Plan

16. (1) Notwithstanding the provisions of any other Act, during any period of emergency the powers conferred on any agency, organization or person under the County Disaster Risk Management Plan shall be exercisable in accordance with this Act and the terms and requirements stated in the County Disaster Risk Management Plan.

(2) The powers conferred on any agency, organization or person under the County Disaster Risk Management Plan shall be exercisable for the period of the emergency unless they are rescinded or altered by any Emergency Order under the Constitution of Kenya.

(3) During any period of a declaration of disaster, the Committee may determine that only some of the powers conferred on any of the agencies, organizations or persons under the County Disaster Risk Management Plan may be exercised, as the situation requires.

PART IV—RESPONSE AGENCY AND COMMUNITY PLANNING

Response Agency Plan

17. (1) Unless exempted under the County Disaster Risk Management Plan or by the Committee, each response agency shall prepare a response

agency plan which shall incorporate the following matters to apply during times of disaster—

- (a) arrangements to secure the health, safety and wellbeing of employees; and
 - (b) arrangements to continue the provision of services as effectively and efficiently as possible; and
 - (c) determination of priorities for the provision of essential services in the event of a lessening of capacity to provide normal service; and
 - (d) identification of other agencies and companies with whom co-operative action is required and the means by which such co-operation can be fully achieved; and
 - (e) identification of external agencies to undertake the provision of certain essential services in the event that capacity within the County is diminished below operational levels; and
 - (f) the need to exercise specific powers to maximize capacity to provide services and to minimize risks to human life and health and to the environment, and the identification of the appropriate person or office-holder to exercise such powers; and
 - (g) any other necessary matter identified by the response agency or the Directorate.
- (2) In addition to the response arrangements specified under subsection (1) the response agency plans prepared by the response agencies shall—
- (a) identify the types of disasters or emergencies likely to require a response by the agency and the nature of the anticipated effects of the disasters on the agency;
 - (b) identify activities and procedures aimed at reducing risks and minimizing the impacts of any disaster or emergency on the operations of the agency;
 - (c) include an implementation plan in relation to the matters identified pursuant to paragraphs (a) and (b); (d) plan for the speediest possible recovery from the impacts of disasters.
- (3) Plans prepared under this section shall be submitted to the Directorate, in accordance with any direction made by the Directorate and communicated to the agency by the Director.
- (4) Plans submitted under subsection (3) shall be reviewed by the Directorate to ensure that they comply with the requirements of subsection (1) and are appropriate to be included in the County Disaster Risk Management Plan.

Plans by educational institutions

18. (1) All schools and tertiary institutions in the county shall prepare response agency plans in accordance with any requirements imposed by the Directorate.

- (2) The Plans prepared under subsection (1) shall aim to—
- (a) protect the welfare of students and staff during times of disaster through, inter alia, the provision of shelter, food, drinking water, clothing and other necessities of life; and
 - (b) arrange for the safe accommodation of students until their tuition resumes or arrangements can be made for their return to their places of residence; and
 - (c) continue or resume teaching as soon as practicable after the disaster or emergency abates; and
 - (d) minimize any interruptions to the education offered to students; and
 - (e) raise awareness amongst students and staff of the procedures to be undertaken and applied during disasters and emergencies.

Other agencies and organizations to develop plans

19. (1) The Directorate may require any agency, institution or organization in the County to develop a disaster risk management plan.

(2) A plan developed under subsection (1) may become a part of the County Disaster Risk Management Plan in accordance with the provisions of this Part.

- (3) Disaster risk management plans may also be required from—
- (a) hospitality industry; and
 - (b) commercial and industrial establishments; and
 - (c) non-governmental organizations with an identified role to play in relation to disaster and emergency management; and
 - (d) villages and other sectors of the community who may liaise with the Directorate in preparing their plans.

Approval of plans

20. (1) Subject to subsection (3), all plans prepared under this Part shall be reviewed and endorsed by the Directorate prior to being submitted for approval by the Committee.

(2) All plans approved by the Committee under subsection (1) shall become part of the County Disaster Risk Management Plan and shall take effect in accordance with the provisions of this Act.

(3) Notwithstanding subsection (1), the County Disaster Risk Management Plan may provide, and the Committee may decide, that any particular plan or classification of plan required to be prepared under this Part may be approved by the Directorate, and upon that approval being given, such a plan shall become part of the County Disaster Risk Management Plan in accordance with the provisions of this Part.

Implementation of plans

21. (1) It is the responsibility of each response agency, educational institution and other agencies or organizations to which section 18 applies to effectively implement their plans.

- (2) The implementation of all plans shall be done in accordance with—
- (a) the provisions of this Act; and
 - (b) the provisions of the County Disaster Risk Management Plan; and
 - (c) any Emergency Order made by the President of the Republic of Kenya under a state of emergency as provided for in the Constitution or other laws.
 - (d) any National legislation relating to disaster risk management.

Review and amendment of plans

22. (1) All plans prepared and approved in accordance with this Part shall be reviewed at periods determined by the Directorate.

(2) The Directorate shall ensure that the County Disaster Risk Management Plan, and each of its component parts, are reviewed—

- (a) whenever a review is considered necessary by the Directorate; or
- (b) not later than 3 years after the adoption of the County Disaster Risk Management Plan in accordance with this Act; or
- (c) after each period of disaster.

(3) All amendments to any plan arising from the reviews undertaken under this section shall be submitted to the Directorate for review and endorsement.

(4) The Directorate shall submit all amended plans to the Committee for approval.

(5) The County Disaster Risk Management Plan shall be amended in accordance with any approved amendment made in accordance with this section.

PART V—STATE OF DISASTER IN THE COUNTY**Proclamations of emergency**

23. (1) Nothing in this law affects the power of the Head of State to make proclamations of emergency as per the Constitution of Kenya or other relevant national law in the event of any disaster or emergency.

(2) The provisions of this Act are to be read subject to the provisions of the Constitution and all functions, responsibilities and powers provided for under this Act are to be discharged and exercised subject to any exercise of the powers under the Constitution in relation to any natural catastrophe or other emergency.

Declaration of a state of disaster

24. (1) Subject to subsection (2), if at any time it appears to the Governor, on the advice of the Committee, that any disaster in any area within the County is of such a nature and extent that exceptional measures are necessary to assist and protect the public of such area or that circumstances are likely to arise making such measures necessary, he or she may declare that with effect from a date specified by him or her in such declaration, a state of disaster exists within the area defined in such declaration and such declaration shall be published in the *Gazette*.

(2) Where a state of disaster is declared under subsection (1), the declaration would activate with immediate effect the applicable disaster response provisions of the County Disaster Risk Management Plan in the event of any disaster.

(3) The Governor may issue directions or authorize the issue of directions concerning—

- (a) the release of any available resources of the department, including food items, non-food items, cash, equipment, vehicles and facilities;
- (b) the release of personnel from any department to provide services;
- (c) the evacuation of any person from the disaster affected area to temporary shelters;
- (d) the regulation of the movement of persons and goods to, from and within the disaster affected areas;
- (e) the regulation of traffic to, from and within the disaster affected area;
- (f) the control and occupancy of premises in the disaster affected area;
- (g) the facilitation of response and post disaster recovery and reconstruction;
- (h) the provision, control or use of temporary emergency accommodation—

- (i) steps to facilitate the delivery of national relief assistance; and
- (j) any other measure that may be necessary to prevent the escalation of the disaster or to alleviate, contain and minimize the impact of the disaster.

(4) The powers referred to in subsection (3) may be exercised only to the extent that is necessary for the purpose of—

- (a) assisting and protecting the public;
- (b) providing relief to the public;
- (c) protecting property; or
- (d) dealing with the destructive and other impacts of the disaster.

(5) A declaration of disaster may apply to the whole or any part of the County.

Period of a state of disaster

25. (1) A state of disaster declared under section 24 is valid for a period of 14 days from the date of the declaration.

(2) Despite subsection (1), the Governor may, with the approval of the County Assembly, extend the duration of the declaration for further periods of 7 days each, where necessary.

Termination of a period of disaster

26. (1) The Governor may terminate the period of disaster with respect to the declaration of a disaster when, in the opinion of the Governor, and upon the recommendation of the County Disaster Risk Management Committee, the disaster no longer exists and the same shall be published in the Gazette.

Co-ordination of recovery activities

27. (1) The Directorate has responsibility for coordinating recovery activities in the aftermath of any disaster.

(2) The Directorate shall undertake its responsibilities under subsection (1)—

- (a) in accordance with any directions given from time to time by the Committee; and
- (b) under the leadership of a lead agency as appointed by the Governor in relevant regulations developed under this Act.

Request for national assistance

28. (1) Where it is beyond the county capabilities to deal with a disaster, the Governor may, on the recommendation of the Directorate, or on his or her own initiative, seek national relief assistance.

(2) Any relief assistance under paragraph (1) shall be coordinated according to national guidelines.

(3) Any national agency or institution offering relief assistance and its personnel shall co-operate and coordinate with the Directorate and any other departments in the County, where necessary, in the relief efforts.

(4) Any national agency or institution offering relief assistance shall ensure that the disaster relief and initial recovery assistance are provided in accordance with this Act and principles of humanity, neutrality and impartiality.

(5) Notwithstanding any other enactment, the County shall ensure that necessary facilities are provided to those who are providing national relief assistance assisting in the aftermath of a disaster under this section.

(6) In the event that international relief assistance is required, the Governor shall engage with the relevant agencies and institutions at National Level.

Steps to abate danger

29. (1) Where the Directorate identifies premises as likely to pose a danger in the event of a disaster, it shall—

- (i) certify that, in writing, to the owner or occupant of the property; and
- (ii) Give the owner specific instructions as to the steps to take to abate or remove the danger within four weeks of the receipt of the notice.

(2) Upon failure to comply with the requirements after notice, the Directorate shall take the necessary steps to give effect to the notice including entry by its employees or agents upon the premises after due notice to the owner or occupant of the premises.

(3) A person who is served with a notice under subsection (1) and who does not take all the steps as directed by the Directorate in the notice to abate or remove the potential danger within four weeks from the date of receipt of the notice, commits an offence and in addition to any penalty imposed under section 35 shall be made to pay any expenses which the Directorate incurs to abate or remove the danger.

(4) An employee or an agent of the Directorate exercising a function under this section must properly identify themselves to the occupant or owner of the property on which the danger was identified, by the production of their badge, tag or other identification device provided by the Directorate.

Disaster management volunteers

30. (1) The Directorate shall establish a unit of volunteers to participate in disaster management in a ward within the County.

(2) Any person that meets the minimum requirements prescribed by the Directorate may apply to enroll as a volunteer in the unit of volunteers of a relevant ward.

(3) The Directorate must maintain a register of all volunteers enrolled in a unit of volunteers.

(4) A unit of volunteers may participate in exercises and activities related to disaster management organized by the Committee or the Directorate.

PART VI—FINANCIAL PROVISIONS

Disaster Risk Management Financing

31. (1) The County Disaster Risk Management shall be financed from the following sources—

- (a) allocations from the County Assembly amounting to a minimum of 2% of the county budget at the beginning of each financial year;
- (b) such monies or assets as may accrue to the Directorate in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) grants made by the national government or other county governments;
- (d) aid or donations from national or international agencies; and
- (e) all monies from any other source provided or donated.

(2) The County Disaster Risk Management finances shall be used towards meeting the expenses for disaster preparedness, prevention, mitigation, response, relief, rehabilitation and reconstruction in the county before and after a disaster.

(3) The Directorate shall receive such monies as may be appropriated by the County Assembly for the purposes of its functions under this Act.

Procurement in times of a disaster

32. (1) Where, by reason of any impending disaster, the Committee is satisfied that immediate procurement of provisions or materials or the immediate application of resources are necessary for rescue or relief, the Directorate may use single source selection procurement method.

(2) In approving procurements under subsection (1), the relevant accounting officer shall be furnished with adequate evidence to verify the emergency.

(3) If there is a conflict between this Act, the regulations or any directions of the Directorate and a condition imposed by the donor of funds, the donor condition shall prevail with respect to a procurement that uses those funds and no others.

Bank Account

33. (1) The Executive Committee Member for Finance shall, facilitate the opening and maintenance of bank accounts by the Directorate for purposes of operationalizing disbursements of conditional grants, donations and any other monies designated for disaster risk management, as may be prescribed in accordance with the provisions of the Public Finance Management Act and any other relevant law.

(2) Funds identified and designated for disaster risk management in subsection (1) shall not be appropriated for any other purpose.

Annual estimates of revenue and expenditure

34. (1) At least three months before the commencement of a financial year, the Directorate shall cause to be prepared the estimates of revenue and expenditure of the Directorate for that year.

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

- (a) the operations and administration expenses of the Committee;
- (b) the operations and administration expenses for the county stakeholder forums;
- (c) operations of the Directorate in the management of disaster risks in their areas;
- (d) funding of training, research and development of activities of the Directorate;
- (e) funding of education, training and capacity building on disaster risk management in the county;
- (f) the provision of essential commodities, social protection services and other relief to victims of any disaster, hazard or emergency;
- (g) the restoration, reconstruction and rehabilitation of areas affected by any disaster, hazard or emergency;
- (h) preparedness, prevention, mitigation of, and recovery from, disasters; and
- (i) any other payments due under this Act.

(3) The annual estimates shall be submitted to the County Executive Member for approval before submission to the County Assembly.

(4) There shall be paid out of the funds of the Directorate, all expenditure incurred by the Committee and the Directorate in the exercise of their powers or the performance of their functions under this Act.

Accounts and audit

35. (1) The accounts of the Directorate shall be audited and reported in accordance with the Constitution, the Public Audit Act and any other relevant legislations.

(2) The Directorate shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities of the directorate.

(3) Within a period of three months after the end of each financial year, the fund administrator must submit to the Auditor-General the accounts of the Directorate in respect of that year together with;

- (a) a statement of the income and expenditure of the Directorate during that year; and
- (b) a statement of the assets and liabilities of the Directorate on the last day of that financial year.

PART VII—MISCELLANEOUS PROVISIONS

Requisition of resources

36. (1) Where it appears to the Directorate that—

- (a) any resources with the county government or any authority or person, are needed for the purpose of a prompt response;
- (b) any building, building materials, land or premises to demolish any building or other structure, as the case may be, is needed or likely to be needed for the purpose of rescue operations;
- (c) any vehicle including bulldozers, tractors, motor vehicles, carts, carriages, boats and other means of transport by air, land or water is needed or likely to be needed for the purposes of transport of resources to the affected area or transport in connection with rescue, rehabilitation or reconstruction; or
- (d) directions are required to be issued to any person to abstain from a certain act or to take a certain order with regard to certain property in their possession or under their management;
- (e) the Directorate may, by order in writing, requisition such resources or premises or vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in this connection.

(2) The persons engaged, owners of premises, resources or vehicles affected by orders issued under paragraphs (a), (b), (c), and (d) in subsection (1), shall be entitled to claim reasonable compensation as admissible under any law for the time being in force.

(3) The compensation referred to in subsection (2) shall be full and paid promptly.

(4) Where human resources are needed in form of volunteers, the Directorate shall compensate them in accordance with recommendations from the Salaries and Remuneration Commission.

Offences

37. (1) Any person who—

- (a) assaults, obstructs, threatens, intimidates, abuses or insults a person in the discharge of his functions; or exercise of his powers under this Act;
- (b) diverts relief goods, equipment or other aid commodities to persons other than the rightful recipient or consignee;
- (c) substitutes or replaces relief goods, equipment or other aid commodities with items of inferior or cheaper quality;
- (d) prevents, obstructs or deliberately hinders relief activities;
- (e) makes false claims of losses due to a disaster;
- (f) publishes or broadcasts false news about disasters through the media;
- (g) causes or provokes a disaster;
- (h) refuses to provide assistance or resources when requested under this Act;
- (i) contravenes any order issued under this Act;
- (j) willfully fails or refuses to comply with any direction in a state of disaster;
- (k) shall commit an offence and shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

Protection from liability

38. A person exercising a function or power under this Act or the County Disaster Risk Management Plan does not incur civil or criminal liability for an act or omission done honestly, in good faith and without negligence for this Act or plan.

Savings and Transitional Provisions

39. (1) In this section—

“effective date” means the day upon which this Act comes into operation;
and

“former Directorate” means the Directorate responsible for disaster risk management within the county public service existing immediately before the effective date.

(2) On the effective date, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former Directorate, shall by virtue of this sub-section, vest in the Directorate.

(3) On the effective date, 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 Directorate shall, by virtue of this sub-section, be deemed to be vested in, imposed on or enforceable against the Directorate.

(4) On the effective date, any person who, immediately before the commencement of this Act was a member of staff of the former Directorate shall be deemed to be a member of staff of the Directorate for the unexpired period of his or her service.

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

(6) The annual estimates of the former Directorate for the financial year in which the effective date occurs shall be deemed to be annual estimates of the Directorate for the remainder of that financial year, but such estimates may be varied by the County Executive Member responsible for matters relating to disasters as he or she may deem necessary.

(7) The administrative directions made by the former Directorate or by the County Executive Member responsible for matters relating to disasters 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 Directorate or the County Executive Member under this Act.

Regulations

40. (1) The County Executive Member responsible for matters relating to disasters shall, on the recommendation of the Committee, and in consultation with the Directorate make rules generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the foregoing, such rules may provide for—

- (a) prescribing anything required to be prescribed under this Act; and
- (b) the forms and fees for purposes of this Act.

FIRST SCHEDULE
RESPONSE AGENCIES

1. County Government Department responsible for Agriculture and Environment.
2. County Government Department responsible for Commerce, Industry and Labour.
3. County Government Department responsible for Communication and Information Technology.
4. County Government Department responsible for Finance.
5. County Government Department responsible for Health.
6. County Government Department responsible for Women, Community and Social Development.
7. County Government Department responsible for Transport and Infrastructure.
8. The Kenya Police Service.
9. Kenya Power and Lighting Company.
10. The Airport Authority.
11. County Government Department responsible for Fire and Emergency Services Authority.
12. The Kenya Red Cross Society.

CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE

1. Meetings

The Committee shall meet as often as may be necessary for the dispatch of its business but there shall be at least four meetings of the Committee in any financial year.

2. Election of Vice-Chairperson

At the first meeting, the Committee shall elect a vice-chairperson amongst their number and regard shall be taken to ensure that the chairperson and vice-chairperson shall be of opposite gender.

3. Time and Place of Meetings

A meeting of the Committee shall be held on such date and at such time and place as the Directorate may determine.

4. Special Meetings

The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Committee.

5. Quorum

The quorum for the conduct of business at a meeting of the Committee shall be any five members.

6. Voting

The Chairperson shall preside at every meeting of the Committee at which he or she is present and in the absence of the chairperson at a meeting, the vice-chairperson, shall preside and in the absence of both the chairperson and the vice-chairperson, the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

7. Decisions of the Committee

Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by concurrence of a majority of all the members present and voting at the meeting.

8. Validity of Proceedings

Subject to paragraph 5, no proceedings of the Committee shall be invalid by reason only of a vacancy among the members thereof.

9. Signification of Instruments and Decisions of the Committee

Unless otherwise provided by or under any law, all instruments made by and decisions of the Committee shall be signified under the hand of the Chairperson.

MEMORANDUM OF OBJECTS AND REASONS

The main object of this Bill is to establish the structures for the management of disasters and emergencies by promoting cooperation amongst agencies with a role in disaster management, and enhancing their capacities to maintain the provision of essential services, including psychological services, during periods of disaster and emergency.

Part I of the Bill sets out the preliminary matters including the definition of various terms used in the Bill, the objects of the Bill and the guiding principles.

Part II of the Bill establishes the Disaster Risk Management structure including the County Disaster Risk Management Committee, the Directorate, the stakeholder forums, and their functions. These institutional structures will be under the direction of the County Disaster Risk Management Committee.

Part III of the Bill establishes the County Disaster Risk Management Plan which shall be approved by the County Disaster Risk Management Committee or may delegate the power for approval to the Directorate for implementation. This Part provides for the powers and roles of the Committee or the Directorate as the case may be and what the Plan consists off.

Part IV of the Bill provides for the response agency and community planning which have been listed in the schedule in the Act. The Part outlines how each response agency shall prepare a response agency plan during times of disaster and emergency. The plan also provides for other institutions to develop a disaster management plan which shall be reviewed and endorsed by the Directorate before being submitted for approval by the County Disaster Risk Management Committee.

Part V of the Bill provides for the declaration of a disaster by the chair of the County Disaster Risk Management Committee which would activate with immediate effect the disaster response provisions of the County Disaster Risk Management Plan in the occurrence of any disaster. The part outlines responsibility for coordinating recovery activities in the aftermath of any disaster or emergency, the period and termination of a disaster.

Part VI of the Bill creates the disaster risk management financing and also outlines sources of the County Disaster Risk Management financing. The part also provides for immediate procurement of provisions or materials or immediate application of resources necessary for rescue relief to be procured by the concerned department upon satisfaction by the County Disaster Risk Management Committee. The part also provides that proper books and records of account of the income, expenditure, assets and liabilities be kept.

Part VII of the Bill provides for miscellaneous clauses which provides for civil and criminal liability for any person exercising a function or power in good faith and without negligence under this Act or the County Disaster Risk

Management Plan. This part also provides for regulations and the savings and transitional measures.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Act delegates legislative powers to the County Executive Committee Member to make regulations, but it does not limit fundamental rights and freedoms.

Statement as to whether the Act is a money Act within the meaning of Article 114 of the Constitution

The enactment of the Bill will occasion additional expenditure of public funds which can be provided for within the budget estimates.

Statement as to whether the Act may restrict or limit any basic rights and fundamental freedoms

The enactment of this Act does not restrict or limit any basic rights and/or fundamental freedoms enshrined in the Constitution of Kenya 2010.

Dated the 6th October, 2023.

SOKOREY MAALIM ISAAKOW,
Chairperson, Social Development Committee.