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#### **SCHEDULE—PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE COUNTY AUTHORITY**

**THE COUNTY GOVERNMENTS DISASTER  
MANAGEMENT BILL, 2014**

**A Bill for**

**AN ACT of Parliament to provide for the effective  
management of disasters by the county  
governments and for connected purposes**

**ENACTED** by the Parliament of Kenya, as  
follows—

**PART I—PRELIMINARY**

**1.** This Act may be cited as the County Governments  
Disaster Management Act, 2014. Short title.

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

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

“capacity-building” includes—

- (a) the identification of existing resources and  
resources to be acquired or created;
- (b) the acquisition or creation of resources identified  
under paragraph (a);
- (c) the organization and training of personnel and co-  
ordination of such training for effective  
management of disasters;

“County Authority” means a County Disaster  
Management Authority established under section 5;

“disaster” means a catastrophe, mishap, calamity or  
grave occurrence in an affected area, arising from a natural  
or man-made cause and which results in—

- (a) substantial loss of life;
- (b) human suffering;
- (c) damage to or destruction of property; or
- (d) damage to or degradation of the environment, and  
is of such a nature or magnitude as to be beyond  
the coping capacity of the community in the  
affected area;

“disaster management” means a continuous and

integrated process of planning, organizing, co-ordinating and implementing measures that are necessary or expedient for—

- (a) prevention of any disaster;
- (b) mitigation or reduction of the risk of any disaster or its severity or consequences;
- (c) capacity-building;
- (d) preparedness to deal with any disaster;
- (e) prompt response to any disaster;
- (f) assessing the severity or magnitude of the effects of any disaster;
- (g) evacuation, rescue and relief; or
- (h) rehabilitation and reconstruction;

“mitigation” means measures aimed at reducing the risk, impact or effects of a disaster;

“preparedness” means the state of readiness to deal with a disaster and the effects thereof;

“reconstruction” means the construction or restoration of any property after a disaster.

**3.** The objects and purposes of this Act are to—

- (a) provide a uniform legislation for the exercise of the function of disaster management by county governments in terms of paragraph 12 of Part II of the Fourth Schedule to the Constitution;
- (b) provide a collaborative framework among the different players in disaster management in the counties;
- (c) enhance the capacity of county governments to effectively manage the impacts of disasters and emergencies and to take all necessary measures to prevent or minimize threats to life, health and the environment from disasters and other emergencies; and
- (d) vest Authority in persons to act during times of disaster in accordance with this Act and require the observance and compliance with the directives given and initiatives taken by the persons authorized under this Act.

Objects and purposes of the Act.

**4.** In the performance of its functions or in the

Guiding

exercise of its powers conferred under this Act, a County Authority shall— principles.

- (a) adopt an inclusive, multi-disciplinary and multi-sectoral approach in disaster management;
- (b) establish and encourage volunteer service in disaster management; and
- (c) be guided by the—
  - (i) national values and principles of governance set out under Article 10 of the Constitution; and
  - (ii) values and principles of Public Service set out under Article 232 of the Constitution.

## **PART II—ESTABLISHMENT OF THE COUNTY DISASTER MANAGEMENT AUTHORITIES**

**5.** (1) There is established, for each county, a County Disaster Management Authority.

Establishment of County Disaster Management Authorities.

(2) A County Authority established under sub-section (1) shall—

- (a) have perpetual succession;
- (b) in its corporate name, be capable of suing and being sued;
- (c) be capable of holding and alienating movable and immovable property;
- (d) be capable of performing all such other acts as may be necessary in the furtherance of its purpose and functions.

**6.** (1) A County Authority shall consist of—

Composition of County Authority.

- (a) the governor of the county, who shall be Chairperson;
- (b) the County Government Executive Committee Member responsible for matters relating to disaster management in the county;
- (c) three other members appointed by the Governor with the approval of the County Assembly.

(2) In appointing the Members of the County Authority under paragraph (c) of subsection (1), the Governor shall take into account the principle that not more than two-thirds of the Members of elective or appointive

bodies shall be of the same gender and the principle of representation of the marginalized.

(3) The Members of a County Authority shall elect one of the members appointed under paragraph (c) of subsection (1) to be the Vice-Chairperson of the County Authority.

(4) A Member of a County Authority appointed under paragraph (c) of subsection (1) shall serve for a term of four years, renewable for one further term of four years.

(5) The members of a County Authority shall serve on a part-time basis and shall be paid such allowances as may be determined by the County Government with the approval of the Salaries and Remuneration Commission.

7. (1) Subject to this Act, a County Authority shall develop policies and plans for disaster management in the county.

Powers and  
functions of the  
County  
Authority.

(2) Without prejudice to the generality of subsection (1), a County Authority may—

- (a) develop the county disaster management policy;
- (b) approve the County Disaster Management Plan in accordance with the policy laid down by the National Government;
- (c) co-ordinate the implementation of the County Plan;
- (d) make recommendations to the County Government on the provision of funds for mitigation and preparedness measures;
- (e) approve the disaster management plans prepared by the departments of the County Government;
- (f) lay down guidelines to be followed by the departments of the County Government for prevention and mitigation of disasters;
- (g) review the development plans of the departments of the County Government and ensure that prevention and mitigation measures are integrated therein;
- (h) review the measures being taken for mitigation, capacity-building and preparedness by the departments of the County Government and issue

such guidelines as may be necessary; and

- (i) perform any other function as may be necessary or expedient for prevention and mitigation of disasters.

(3) The Chairperson of a County Authority shall, in the case of emergency, have power to exercise all or any of the powers of the County Authority but the exercise of such powers shall be subject to subsequent ratification by the County Authority at the earliest possible opportunity.

(4) The County Authority shall have all the powers necessary for the proper performance of its functions under the Act including the power to—

- (a) receive any grants, gifts, donations or endowments and to make legitimate disbursements there from;
- (b) delegate some of its powers to a public officer;
- (c) undertake any activity necessary for the execution of any of its functions.

**8.** (1) The County Authority shall meet as and when necessary and at such time and place as the Chairperson may determine.

Meetings of the County Authority.

(2) The Chairperson of the County Authority shall preside over the meetings of the County Authority.

(3) If, for any reason, the chairperson of the County Authority is unable to attend the meeting of the County Authority, the Vice-Chairperson of the County Authority shall preside at the meeting.

(4) Subject to this Act, the provisions in the Schedule shall apply to the meetings of the Authority.

**9.** The County Government shall provide the County Authority with such officers, experts or consultants as it considers necessary for the carrying out of the functions of the County Authority.

Appointment of officers and other employees.

**10.** (1) A County Authority may, as and when it considers necessary, constitute an Advisory Committee consisting of experts in the field of disaster management and having practical experience in disaster management to make recommendations on different aspects of disaster management.

Constitution of advisory committee by the County Authority.

(2) The Members of the Advisory Committee shall be



paid such allowances as may be approved by the County Government.

**11.** (1) A County Authority may, as and when it considers it necessary, constitute one or more subcommittees, for the efficient discharge of its functions.

Constitution  
of subcommittees.

(2) Any person co-opted as an expert or consultant in any sub-committee may be paid such allowances as may be approved by the county government.

**12.** (1) A member of a County Authority appointed under section 6 (1) (c) may be removed from office by the governor for—

Removal from  
office.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehavior; or
- (c) absence from three consecutive meetings of the Authority without a reasonable explanation.

(2) Before a member is removed from office under subsection (1), the Member shall be given an opportunity to provide a defence against any allegation.

**13.** A person ceases to be a Member of a County Authority if the person—

Vacation from  
office.

- (a) resigns from office;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of more than six months;
- (c) is declared bankrupt;
- (d) is removed from office under section 12; or
- (e) dies.

**14.** (1) A County Authority shall lay down detailed minimum standards of relief to persons affected by a disaster in the county.

Minimum  
standards of  
relief by County  
Authority.

(2) The minimum standards of relief laid down under subsection (1) shall not be inferior to the minimum standards provided for in the guidelines laid down by the National Government in this regard.

**PART III —MEASURES FOR DISASTER  
MANAGEMENT**

**15.** (1) Every County Government shall prepare a County Disaster Management Plan.

County Disaster  
Management  
Plan.

(2) The County Disaster Management Plan shall be prepared by the County Authority having regard to the guidelines laid down by the National Government and after facilitating public participation and consultation.

(3) Each County Government shall submit the County Plan prepared under sub-section (2) to the relevant County Authority for approval.

(4) Each County Plan shall include—

- (a) a statement on the vulnerability of different parts of the county to different forms of disasters;
- (b) the measures to be adopted for prevention and mitigation of disasters;
- (c) the manner in which the mitigation measures shall be integrated with the development plans and projects;
- (d) the capacity-building and preparedness measures to be taken;
- (e) the roles and responsibilities of each department of the County Government in relation to the measures specified in paragraphs (b), (c) and (d) of this sub-section; and
- (f) the roles and responsibilities of each department of the County Government in responding to a disaster.

(5) Each County Government shall review and update the County Plan once in every two years.

(6) Appropriate provisions shall be made by the County Government for financing the measures to be carried out under the County Plan.

(7) Copies of the County Disaster Management Plan shall be made available to all the departments of the County Government and each department shall prepare a department-specific Disaster Management Plan in accordance with the County Plan.

**16.** For the purposes of assisting and protecting a community affected by a disaster, providing relief to such community, preventing or combating disruption, or dealing with the effects of any disaster, a County Authority may—

Powers and functions of County Authority during disaster situation.

- (a) control and restrict vehicular traffic to, from or within, the vulnerable or affected area;
- (b) control and restrict the entry of any person into, or the movement of any person within or departure from, a vulnerable or affected area;
- (c) remove debris, conduct a search and carry out rescue operations;
- (d) extinguish fires when they arise;
- (e) protect life and property in the event of a fire in the affected area;
- (f) provide shelter, food, drinking water, essential provisions, healthcare and any other services in accordance with the minimum standards laid down by the national government and the county government;
- (g) give direction to the relevant department of the County Government or any other authority, within the local limits of the county to take such measures or steps for rescue, evacuation or providing immediate relief, saving lives or property, as may be necessary;
- (h) require any department of the County Government or any other body or authority or person in charge of any relevant resources to make available the resources for the purposes of emergency response, rescue and relief;
- (i) require experts and consultants in the field of disaster management to provide advice and assistance for rescue and relief;
- (j) procure exclusive or preferential use of amenities from any Authority or person as and when required;
- (k) construct temporary bridges or other necessary structures and demolish unsafe structures which may be hazardous to the public;

- (l) require that non-governmental organizations carry out their activities in an equitable and non-discriminatory manner;
- (m) disseminate information to the public to deal with any disaster; and
- (n) take such steps as the National Government or the County Government may direct in this regard or take such other steps as may be required or warranted by the form of a disaster.

**17.** (1) Subject to this Act, a County Authority shall take all such measures as it considers necessary or expedient for the purpose of disaster management.

County  
Authority  
to take  
measures.

(2) In particular and without prejudice to the generality of subsection (1), the measures which the County Authority may take under subsection (1) include measures with respect to any or all of the following matters—

- (a) co-ordination of the actions of the departments of the county government, the County Authority and governmental and non-governmental organizations in relation to disaster management;
- (b) ensuring the integration of measures for prevention and mitigation of disasters by departments of the County Government into the development plans and projects of the departments of the county;
- (c) ensuring appropriate allocation of funds for prevention and mitigation of disasters, capacity-building and preparedness by the departments of the County Government;
- (d) ensuring that the departments of the County Government take necessary measures for preparedness to promptly and effectively respond to any disaster;
- (e) co-ordination with the United Nations agencies, international organizations and governments of foreign countries for the purposes of this Act;
- (f) establish institutions for research, training and developmental programmes in the field of disaster

management; and

- (g) such other matters as it considers necessary or expedient for the purpose of effective implementation of this Act.

**18.** (1) A County Authority may enter into an arrangement with— Collaboration strategies.

- (a) an entity of the National Government;
- (b) a County Authority in another county; or
- (c) any other person;

for the discharge to any extent by that other Authority or person of a function or power conferred in the County Authority under section 16 or 17.

(2) An arrangement under this section may include provisions as to the terms on which a function or power is to be discharged and such arrangement may include provisions for payment for services rendered.

#### **PART IV—FIRE SAFETY AND PREVENTION**

**19.** A County Authority shall formulate contingent plans and operational procedures for handling fire related emergencies. County Authority to formulate plans for fire related emergencies.

**20.** (1) A County Authority shall take all reasonable measures for ensuring that an adequate supply of water is available for use in the event of a fire. Duty to secure water supply.

(2) A County Authority may use any suitable supply of water for the purposes of extinguishing a fire or protecting life or property in the event of a fire.

(3) Despite subsection (2), a County Authority shall pay reasonable compensation for the water.

**21.** For the purposes of section 20 (1), a County Authority may enter into an agreement with a person to— Supply by other persons.

- (a) secure the supply of water under the control of that person;
- (b) improve access to the water; or
- (c) lay and maintain pipes and carry out such other works in connection with the use of the water.

**22.** (1) For the purposes of this section, a water undertaker means a company appointed under the Water Act, 2002, to provide water to a defined geographical area which includes fire hydrants.

Fire hydrants and offenses in relation thereto No. 8 of 2002.

(2) A water undertaker shall ensure that the location of every fire hydrant provided by it is clearly indicated by a notice or a distinguishing mark.

(3) A water undertaker may place such notice or mark on a wall or a fence adjoining a highway or a public place.

(4) A person commits an offence if that person uses a fire hydrant otherwise than for—

- (a) the purpose of fire fighting;
- (b) a purpose authorized by any person to whom the fire hydrant belongs; or
- (c) a purpose authorized by the County Authority.

(5) A person commits an offence if that person damages or obstructs a fire hydrant otherwise than in consequence of use for a purpose stated in subsection (4).

(6) A person who proposes to carry out works for the purpose of supplying water to any part of an affected area shall give notice of at least six weeks, in writing, to the relevant County Authority.

(7) A person who proposes to carry out works affecting hydrants must give at least seven days notice in writing to the County Authority in whose area the hydrant is situated.

(8) A person commits an offence if without reasonable excuse the person fails to give notice in writing as required under this section.

(9) A person convicted of an offence under subsection (8) is liable to a fine not exceeding fifty thousand shillings.

## **PART V—FINANCIAL PROVISIONS**

**23.** (1) For the avoidance of doubt, nothing in this Act is intended to or may be construed as providing for or dealing with—

Non-money Bill status.

- (a) taxes;
- (b) the imposition of charges on a Public Fund or the variation or repeal of any of those charges;

- (c) the appropriation, receipt, custody, investment or issue of public money;
- (d) the raising or guaranteeing of any loan or its repayment; or
- (e) matters incidental to any of those matters.

(2) There may be established a fund which shall consist of the monies specified under subsection (3).

(3) Any expenses that may be occasioned in the implementation of this Act shall be provided from—

- (a) such gifts, grants or donations as may be given;
- (b) such monies as may, in the future, be provided by the respective County Assembly for defraying the expenses incurred in the implementation of this Act; and
- (c) such other monies that may lawfully accrue in the discharge of the functions under this Act, not being monies accruing pursuant to Article 114 of the Constitution.

**24.** Where by reason of a disaster the National Government or a County Authority is satisfied that there is need for immediate procurement of materials or immediate application of resources for rescue or relief—

Emergency procurement and accounting.

- (a) the National Government or a County Authority may authorize the relevant department or Authority to make emergency procurement and in such case the standard procedure requiring invitation of tenders shall be waived; and
- (b) a certificate about utilization of materials by the controlling officer authorized by the National Government or the County Authority, as the case may be, shall be deemed to be a valid document for the purposes of accounting for the emergency procurement.

## **PART VI—OFFENCES AND PENALTIES**

**25.** (1) A person who, without reasonable cause—

Penalty for obstruction, etc.

- (a) obstructs any officer or employee of the County Government, or a person authorized by the County Government or the County Authority in the

discharge of the person's functions under this Act;  
or

- (b) refuses to comply with any direction given by or on behalf of the County Government or the County Authority under this Act,

commits an offence and is liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or both.

(2) Despite the penalty provided under subsection (1), a person who commits an offence under subsection (1) and the offence results in the loss of life shall on conviction be liable to imprisonment for a term not exceeding five years.

**26.** A person who knowingly makes a claim which the person knows or has reason to believe to be false, for the purpose of obtaining any relief, assistance, repair, reconstruction or other benefits consequent to a disaster from any officer of a county government or a County Authority, commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or both.

Penalty  
for false  
claim.

**27.** A person who, being entrusted with any money or materials, or otherwise being, in custody of, or dominion over any money or goods, meant for providing relief during a disaster, misappropriates or appropriates for the person's own use or disposes of such money or materials or any part thereof or willfully compels any other person so to do, commits an offence and is liable on conviction to a fine not exceeding ten million shillings or to imprisonment for a term not exceeding ten years, or both.

Penalty  
for  
misappropriation.

**28.** A person who makes or circulates a false alarm or warning as to a disaster or its severity or magnitude, leading to panic, commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or both.

Penalty  
for false  
warning.

**29.** (1) Where an offence under this Act has been committed by a department of the National or County Government, the head of the department shall be deemed to have committed the offence and shall, on conviction, be liable to such penalty as prescribed in this Act for the offence unless the head of department proves that the offence was committed without the head of department's

Offences by  
departments  
of the  
Government.



knowledge or that the head of department exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in subsection (1), where an offence under this Act has been committed by a department of the National or the County Government and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any neglect on the part of, any officer, other than the head of the department, such officer shall be deemed to have committed the offence and shall, on conviction, be liable to such penalty as prescribed in this Act for the offence.

**30.** An officer, on whom any duty has been imposed by or under this Act and who fails or refuses to perform or withdraws himself from such official duties, shall, unless the officer has obtained the express written permission of the officer's superior or has other lawful excuse for so doing, commits an offence and is liable, on conviction, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year, or both.

Failure of  
officer on duty.

**31.** A person who does not comply with or contravenes an order or directive made under section 35 commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year.

Penalty for  
contravention of  
section 35.

**32.** (1) Where an offence under this Act has been committed by a company or body corporate, every person who at the time the offence was committed, was in charge of, and was responsible to the company, for the conduct of the business of the company, as well as the company, shall be deemed to have committed the offence and shall, on conviction, be liable to such penalty as prescribed in this Act for the offence.

Offences by  
Companies.

(2) Nothing in subsection (1) shall render any such person liable to any penalty under this Act if that person proves that the offence was committed without the person's knowledge or that the person exercised due diligence to prevent the commission of the offence.

(3) Notwithstanding anything contained in subsection (1), where an offence under this Act has been committed by a company, and it is proved that the offence was committed with the consent or connivance of or is

attributable to any neglect on the part of any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to have committed that offence and shall, on conviction, be liable to such penalty as prescribed in this Act for the offence.

(4) For the purposes of this section—

- (a) “company” means a body corporate and includes a firm or other association of individuals; and
- (b) “director”, in relation to a firm, means a partner in the firm.

**33.** A court shall not take cognizance of an offence under this Act except on a complaint made by—

Cognizance  
of offences.

- (a) the county government, the County Authority or any other Authority or officer authorized in that behalf by that Authority or Government, as the case may be; or
- (b) a person who has given notice of not less than thirty days in the manner prescribed, of the alleged offence and the person’s intention to make a complaint to the County Authority or the County Government or any other authority or officer authorized as aforesaid.

## **PART VII—MISCELLANEOUS PROVISIONS**

**34.** While providing compensation and relief to victims of a disaster, a person shall not discriminate against another person on the ground of sex, ethnicity, community, descent or religion.

Prohibition  
of  
discrimination.

**35.** Notwithstanding anything contained in any other law for the time being in force, it is lawful for the National Government to issue directions in writing to a county department, a County Government, a County Authority, a County Executive Committee, a county statutory body or any of its officers or employees, as the case may be, to facilitate or assist in disaster management and such department or County Government or Authority, Executive Committee, statutory body, officer or employee shall comply with such directions.

Power to  
issue directions  
by National  
Government.

**36.** An officer or Authority of the National Government or a County Government, when requested by a County Executive Committee or any person authorized by

Officers to be  
made  
available.

such committee or Authority, shall make available to that committee or Authority or person, such officers and employees as requested for, to perform any of the functions in connection with the prevention of disaster or mitigation or rescue or relief work.

**37.** Subject to this Act, if it appears to a County Government or a County Authority that provisions of any rule, Regulation, notification, guideline, instruction, order, scheme or byelaws are required to be made or amended for the purposes of prevention of disasters or the mitigation thereof it may require the amendment of such rules, regulation, notification, guidelines, instruction, order, scheme or bye-laws, as the case may be, for that purpose, and the appropriate department or Authority shall take necessary action to comply with the requirements.

Making or  
amending  
regulations, etc.

**38.** (1) If it appears to a County Government or a County Authority or any officer as may be authorized by it in this behalf that—

Power to  
requisition  
resources etc.

- (a) any resources with any Authority or person are needed for the purpose of prompt response;
- (b) any premises are needed or likely to be needed for the purpose of rescue operations; or
- (c) any vehicle is needed or is likely to be needed for the purposes of transport of resources from affected areas or transport of resources to the affected areas or transport in connection with rescue, rehabilitation or reconstruction,

the County Government or the County Authority may, by order in writing, requisition such resources or premises or such vehicle, as the case may be, and may make such further orders as may appear to it to be necessary or expedient in connection with the requisitioning.

(2) Whenever any resource, premises or vehicle is requisitioned under subsection (1), the period of such requisition shall not extend beyond the period for which such resource, premises or vehicle is required for any of the purposes mentioned in that sub-section.

(3) In this section—

- (a) “resources” include persons and material resources;

- (b) “services” includes facilities;
- (c) “premises” means any land, building or part of a building and includes a hut, shed or other structure or any part thereof; and
- (d) “vehicle” means any vehicle used or capable of being used for the purpose of transport, whether propelled by mechanical power or otherwise.

**39.** (1) Whenever a County Government or a County Authority or officer referred to in subsection (1) of section 38, in pursuance of that section requisitions any premises, there shall be paid to the persons concerned compensation the amount of which shall be determined by taking into consideration the following facts—

Payment of  
Compensation.

- (a) the rent payable in respect of the premises, or if no rent is so payable, the rent payable for similar premises in the locality;
- (b) if as consequence of the requisition of the premises the person concerned is compelled to change his or her residence or place of business, the reasonable expenses, if any, incidental to such change.

(2) Despite subsection (1), where the person concerned is aggrieved by the amount of compensation so determined and makes an application within thirty days to the National Government or the County Government for referral of the matter to an arbitrator, the amount of compensation to be paid shall be such amount as the arbitrator appointed in that behalf by the National Government or the County Government may determine.

(3) In this section, the expression “person concerned” means the person who was in actual possession of the premises requisitioned under section 38 immediately before the requisition, or where no person was in such actual possession, the owner of such premises.

**40.** Each County Authority shall, once every year, prepare, in such form and at such time as may be prescribed, an annual report giving a true and full account of its activities during the previous year and copies thereof shall be forwarded to the County Government and the County Government shall cause the same to be laid before the County Assembly within one month of receipt of the

Annual  
report.

report.

**41.** No court, except a superior court of record, shall have jurisdiction to entertain any suit or proceeding in respect of anything done, action taken, orders made, direction, instruction or guidelines issued by a County Government or a County Authority in pursuance of any power conferred by, or in relation to its functions under this Act.

Bar of jurisdiction of court.

**42.** The provisions of this Act, shall have effect, notwithstanding anything inconsistent therewith contained in any other law for the time being in force or in any instrument having effect by virtue of any law other than this Act.

Act to have overriding effect.

**43.** No suit or prosecution or other proceeding shall lie in any court against a County Government or a County Authority or any officer or employee of a County Government or a County Authority or any person working for or on behalf of such Government or authority in respect of any work done or purported to have been done or intended to be done in good faith by such Authority or Government or such officer or employee or such person under the provisions of this Act or the rules or Regulations made thereunder.

Actions taken in good faith.

**44.** All officers and employees of a County Government or a County Authority shall be immune from legal process in regard to any warning in respect of any impending disaster communicated or disseminated by them in their official capacity or any action taken or direction issued by them in pursuance of such communication or dissemination.

Immunity from legal process.

**45. (1)** A County Government may make Regulations for carrying out the purposes of this Act.

Power of County Government to make Regulations.

(2) In particular and without prejudice to the generality of the foregoing power, such regulations may provide for any or all of the following matters—

- (a) the conditions of service of Members of the County Authority;
- (b) the allowances to be paid to Members of the County Authority;
- (c) allowances to be paid to persons co-opted by any subcommittees constituted by the County

- Authority under section 11;
- (d) the form in which and the time within which the annual report is to be prepared under section 40;
- (e) any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made by rules.

## SCHEDULE (Section. 8)

### PROVISIONS RELATING TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE AUTHORITY

**1.** (1) A County Authority shall have at least four meetings in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. Meetings.

(2) Meetings shall be convened by the Chairperson and shall be held at such times and such places as the Chairperson shall determine.

(3) The Chairperson shall preside over all meetings and in the absence of the Chairperson, the meetings shall be presided over by the Vice-Chairperson and in his or her absence, by a person elected by the members of the County Authority present at the meeting for that purpose.

(4) The Chairperson may at any time convene a special meeting of the County Authority, and shall do so within one month of the receipt by the Chairperson of a written request signed by at least two other Members .

(5) Unless three Members otherwise agree, at least seven days' notice of a meeting shall be given to every Member.

**2.** The quorum of a meeting of the County Authority is three Members. Quorum.

**3.** A decision of a County Authority shall be by a majority of the Members present and voting and, in the case of an equality of votes; the person presiding at the meeting shall have a second or casting vote. Decisions.

**4.** Minutes of all meetings shall be kept and entered in records kept for that purpose. Minutes.

**5.** (1) If a person is present at a meeting of a County Authority or any committee at which any matter is the Disclosure of interest.

subject of consideration and in which matter that person directly or indirectly is interested in a private capacity, that person shall as soon as is practicable after the commencement of the meeting, declare such interest.

(2) The person making the disclosure of interest under subparagraph (1) shall not, unless the County Authority or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching on the matter.

(3) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(4) A person who contravenes subparagraph (1) commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment.

(5) A Member or employee of the County Authority shall not transact any business or trade with the County Authority.

## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of the Objects and Reasons for the Bill**

The principal purpose of this Bill is to provide a uniform legislative framework for effective and comprehensive disaster management by the county governments in their respective counties.

**PART I** of the Bill contains preliminary provisions.

**PART II** of the Bill provides for the establishment and functions of a County Disaster Management Authority for every county.

**PART III** of the Bill sets out the measures that the County Authority may take for the purposes of disaster management in the county. These measures include: co-ordination and integration of the actions of ministries and departments of Government in relation to disaster management; ensuring appropriate allocation of funds for prevention and mitigation of disasters and co-operation and assistance with the National Government in disaster management.

**PART IV** of the Bill sets out the provisions relating to fire safety and prevention.

**PART V** of the Bill sets out the financial provisions in relation to the Bill.

**PART VI** of the Bill creates various offences as relates to disaster management and provides for the punishments applicable to those offences.

**PART VII** of the Bill contains miscellaneous provisions.

### **Statement on the Delegation of Legislative Powers and Limitation of Fundamental Rights and Freedoms**

The Bill delegates Regulation making powers to the county governments, for the purposes and objectives set out in the enabling provisions. The Bill does not limit fundamental rights and freedoms.

### **Statement on how the Bill Concerns County Governments**

Under paragraph 12 of Part II of the Fourth Schedule to the Constitution, disaster management within the counties is a function of the county governments. The principal purpose of the Bill is to provide a uniform legislation to regulate the exercise of this function of disaster management by the county governments. In this respect, the Bill establishes a County Disaster Management Authority for each county. The County Authority has power to lay down the county disaster management policy and it also has the Authority to take all measures necessary or expedient for the purpose of disaster management in the county.



The Bill therefore concerns county governments in terms of Article 110 (1) (a) of the Constitution in that it contains provisions affecting the functions and powers of the county governments set out in the Fourth Schedule to the Constitution.

**Statement That the Bill is not a Money Bill, Within the Meaning of Article 114 of the Constitution.**

This Bill is not a money Bill within the meaning of Article 114 of the Constitution. **Clause 23** of the Bill specifically removes the Bill from the ambit of the matters listed under Article 114 of the Constitution. **Clause 23** further provides that any expenses that may be occasioned by the implementation of the Act are to be provided from such gifts, grants or donations as may be given or from such monies as the respective County Assembly may, in the future, provide for the defraying of such expenses.

Further, the Bill provides that a fund may be established for the purposes of the custody of such funds. The Bill does not therefore appropriate funds for the implementation of the Act; any appropriation would be effected through separate legislation which would be introduced and enacted in terms of Article 114 of the Constitution.

Dated the 17th October, 2014.

MOHAMED YUSUF HAJI,  
*Chairperson,*  
*Committee on National Security and Foreign Relations.*