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**THE TURKANA COUNTY EMERGENCY AND
DISASTER MANAGEMENT ACT, 2016**

No. 14 of 2016

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**THE TURKANA COUNTY EMERGENCY AND
DISASTER MANAGEMENT ACT, 2016**

**AN ACT of the County Assembly of Turkana to provide
for a more effective organisation of the mitigation
of, preparedness for, response to and recovery
from emergencies and disasters in the County**

ENACTED by the County Assembly of Turkana as
follows—

PART I—PRELIMINARY

1. This Act may be cited as the Turkana County Emergency and Disaster Management Act, 2016. Short title.

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

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

“Committee” means the Disaster Management Committee established in section 3 of this Act;

“Directorate” means the Directorate of Disaster Management established in section 6;

“Director” means the person in charge of the Directorate of Disaster Management established in section 6;

“disaster” means an emergency, catastrophe, mishap, calamity or grave occurrence in an area, arising from natural or manmade; accident or neglect causes thus resulting in substantial loss of life; devastating human suffering; destruction to property and environment; and is of such nature or magnitude as to be beyond the coping capacity of the affected community;

“disaster management” means a continuous and integrated process of planning, organising, coordinating and implementing measures which are necessary or expedient for—

- (a) prevention of danger or threat of any disaster;
- (b) mitigation or reduction of risk of any disaster or its severity or consequences;
- (c) capacity-building of the agents of disaster management;

- (d) preparedness to deal with any disaster;
- (e) prompt response to any threatening disaster situation or disaster;
- (f) assessing the severity or magnitude of disaster;
- (g) evacuation, rescue and relief;
- (h) rehabilitation and reconstruction;

“executive member” means the County Executive Committee member responsible for matters relating to disaster management in the county;

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

“plan” means the County Disaster Management Plan prepared under section 10;

“preparedness” means the state of readiness to deal with a threatening disaster situation or disaster and the effects thereof.

“Funds” means money appropriated for the purpose of mitigation of, preparedness for, response to and recovery from emergencies and disasters in the county

“State of emergency” means a County government declaration suspending a few normal functions of society, alerting citizens/residents to change their normal behaviour or ordering government agencies to implement emergency and disaster preparedness plans

“Compensation” means giving back something to someone as a recompense for loss, injury or suffering, damage by giving the injured party an appropriate benefit for the loss as a result of a disaster.

3. The objects of this Act are to—

Objects of the Act.

- (a) establish an efficient structure for the management of disasters and emergencies;
- (b) enhance the capacity of the county government to effectively manage the impacts of disasters and emergencies and to take all necessary action to prevent or minimise threats to life, health and the environment from natural disasters and other emergencies;

- (c) vest authority in persons to act during times of disaster and emergency in accordance with this Act, and to require the observance and implementation of directives given and initiatives taken by persons authorised under this Act; and
- (d) implement mechanisms to reduce risks and hazards that may cause, contribute to or exacerbate disaster or emergency situations in the county.

**PART II—ESTABLISHMENT AND
ADMINISTRATION OF THE DISASTER
MANAGEMENT COMMITTEE AND THE
DIRECTORATE OF DISASTER
MANAGEMENT**

4. (1) There is established the County Disaster Management Committee. Establishment and composition of the Disaster Management Committee.

(2) The Committee shall consist of—

- (a) the Governor of the county or a representative appointed in writing by the Governor who shall be the chairperson;
- (b) the County Executive Committee member responsible for matters relating to disaster management in the county;
- (c) Three representatives of development partners working in the area of disaster management in the County;
- (d) a person appointed in writing by the Council of the Kenya Red Cross Society;
- (e) a representative of the UN agencies working in the County;
- (f) the County Commissioner; and
- (g) CEC members from Finance and Planning; Pastoral Economy and Fisheries; Education; Health; Water, Irrigation and Agriculture and Roads and Infrastructure.

(2) The appointment of the Committee members listed in subsection (1) (b), (c), (d), (e) and (g) shall be done by the governor with the approval of the County Assembly.

(3) The Director appointed in section 7 shall be the Secretary of the Committee.

(4) (a) There is established the sub county disaster management committee chaired by the sub county administrator.

(b) The committee shall be comprise of—

- (i) Disaster preparedness officer as a secretary;
- (ii) a representative from public benefit organizations;
- (iii) heads of departments working in the sub county;
- (iv) two opinion leaders in the Sub-County, one male and one female; and
- (v) deputy county commissioner as a representative of the National government.

4AA. There is established the Ward Disaster Management Committee chaired by the Ward Administrator

The committee shall comprise of—

- (a) ward Disaster preparedness officer who shall be the secretary;
- (b) a representative from public benefit organizations;
- (c) heads of departments working in the ward;
- (d) all the village Administrators; and
- (e) two Representatives of members of the public, one male and one female.

5. (1) The functions of the County Disaster Management Committee are to—

Functions of the Committee.

- (a) promote integrated and co-ordinated approach to disaster management in the county, with special emphasis on prevention and mitigation by other role-players involved in disaster management in the county;
- (b) act as a repository and conduit for information concerning impending disasters and disaster

management in the county;

- (c) act as an advisory and consultative organ on disaster issues to—
 - (i) state organs;
 - (ii) the private sector, non-governmental organisations and the UN; and
 - (iii) individuals and communities;
- (d) receive any grants, gifts, donations or endowments for purposes of disaster management in the county and make disbursements for this purpose;
- (e) initiate and facilitate efforts to make funding of disaster management in the county available;
- (f) may make recommendations to any relevant state organ on—
 - (i) draft legislation affecting this Act, or any other disaster management issue; and
 - (ii) the national disaster management framework;
- (g) promote research into the aspects of disaster management in the county;
- (h) give advice and guidance by disseminating the right information regarding disaster management in the county, especially to vulnerable communities; and
- (i) exercise any powers and perform any duties delegated and assigned to it under this Act or any other written law.

5AA. (1) The functions of the Sub-County Disaster Management Committee are to—

- (a) promote integrated and co-ordinated approach to disaster management in the Sub-county, with special emphasis on prevention and mitigation by other role-players involved in disaster management in the Sub-county;
- (b) act as a repository and conduit for information concerning impending disasters and disaster management in the Sub-county;

- (c) may make recommendations to County Committee on draft legislation affecting this Act, or any other disaster management issue;
- (d) give advice and guidance by disseminating the right information regarding disaster management in the Sub-county, especially to vulnerable communities; and
- (e) exercise any powers and perform any duties delegated and assigned to it under this Act or any other written law.

5BB. (1) The functions of the Ward Disaster Management Committee are to—

- (a) promote integrated and co-ordinated approach to disaster management in the Ward, with special emphasis on prevention and mitigation by other role-players involved in disaster management in the Ward;
- (b) act as a repository and conduit for information concerning impending disasters and disaster management in the Ward;
- (c) may make recommendations to Sub-County Committee on draft legislation affecting this Act, or any other disaster management issue;
- (d) give advice and guidance by disseminating the right information regarding disaster management in the Ward, especially to vulnerable communities;
- (e) verify and validate information on occurrence and the destruction caused by emergencies or disasters;
- (f) reporting to the Sub-county committee on the prevention and mitigation measures undertaken in the Ward; and
- (g) exercise any powers and perform any duties delegated and assigned to it under this Act or any other written law.

(2) The committee shall meet as and when necessary and at such a time and place as the chairperson may determine.

(3) The members of the committee shall be paid such allowances as may be determined by the County Government with the approval of the County Assembly.

(4) The committee shall lay down detailed minimum standards of relief to persons affected by a disaster in the County

(5) The minimum standards of relief laid down under subsection (3) shall not be substandard to the minimum standards provided for in the guidelines laid down by the National Government in this regard.

(6) The Committee may engage in any lawful activity in the county, whether alone or together with any other organisation aimed at promoting the proper exercise of its powers or performance of its duties.

6. There is established the Directorate of Disaster Management in the Ministry of Public Service, Decentralized Administration and Disaster Management which shall work under the mandate of the Disaster Management Committee.

Establishment of the Directorate.

7. (1) The Directorate shall be headed by a Director who is subject to the direction of the Committee and is responsible for the—

Staff of the Directorate.

- (a) implementation of the decisions of the Committee;
- (b) day to day management of the affairs of the Directorate;
- (c) organization and management of the employees of the Directorate; and
- (d) any other function that may be assigned by the Disaster Management Committee.

(2) The Director and other staff of the Directorate shall be persons recruited, employed and deployed by the Turkana County Public Service Board.

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

Functions of the Directorate.

- (a) formulate the county disaster management policy;
- (b) co-ordinate and monitor the implementation of the County's Disaster Management Policy;

- (c) examine the vulnerability of different parts of the county to different disasters and specify prevention or mitigation measures;
- (d) lay down guidelines to be followed for preparation of disaster management plans by the county departments;
- (e) evaluate preparedness at all governmental or non-governmental levels in the county to respond to disaster and to enhance preparedness;
- (f) co-ordinate response in the event of disaster;
- (g) give directions to any county department or authority regarding actions to be taken in response to disaster;
- (h) promote general education, awareness and community training in this regard;
- (i) promote the recruitment, training and participation of volunteers in disaster management in the county;
- (j) promote disaster management capacity building through training and awareness raising in communities, schools, and other areas in the county;
- (k) provide necessary technical assistance or give advice to local officers for carrying out their functions effectively;
- (l) advise the county government regarding all financial matters in relation to disaster management;
- (m) ensure that communication systems are in order and disaster management drills are being carried out regularly; and
- (n) perform such other functions as may be assigned to it by the Committee or any other written law.
- (o) Develop tools for early warning systems.

9. (1) The Directorate shall prepare the County Disaster Management Plan. County Disaster Management Plan.

(2) The County Disaster Management Plan shall be

prepared by the Directorate having regard to the guidelines laid down by the National Government and after public participation and consultation.

(3) The Plan includes information on—

- (a) 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 section (b),(c) and (d); and
- (f) the roles and responsibilities of different departments of the county government and development partners in responding to any threatening disaster situation or disaster.
- (g) assessment and analysis of early warning systems

(4) The Plan shall be reviewed and updated annually.

(5) The plan shall be approved by the County Assembly

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

10. When an emergency or disaster has occurred or is imminent, the Directorate or other persons designated in the Plan may cause the plan to be implemented.

Implementation of Plan.

PART III—MEASURES BY THE COUNTY GOVERNMENT FOR DISASTER MANAGEMENT

11. (1) Subject to the provisions of this Act, the county government may take all such measures as it considers necessary or expedient for the purpose of disaster

County government to take measures.

management.

(2) Without prejudice to the generality of subsection (1), the measures which the county government may take includes measures with respect to all or any of the following matters, namely—

- (a) co-ordination of actions of the departments and divisions of the County Government and NGOs in relation to disaster management;
- (b) co-operation and assistance to any other person, as requested by them or otherwise considered appropriate by it;
- (c) establishment of institutions for research, training and developmental programmes in the field of disaster management; and
- (d) such other matters as it considers necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The county government may extend such support to other counties affected by a major disaster as it may consider appropriate.

(4) Ensure strategic stock-piling of food and non-food items in key disaster prone areas.

12. (1) For the purposes of this Act—

Period of
emergency.

- (a) a disaster exists when the Governor declares, by Notice, that an emergency exists after receiving advice from the Committee that a disaster has occurred;
- (b) a disaster exists when—
 - (i) the Governor declares by Notice, after receiving advice from the Committee under subsection (2) that there is a substantial prospect that a disaster shall occur; or
 - (ii) an agency, whether within the county or otherwise, certified by the Directorate as an accredited Disaster Notification Service under subsection (3), broadcasts or otherwise publishes a formal announcement warning persons that a disaster will strike.

(2) The Directorate shall advise the Committee on request, and at any time the Directorate considers appropriate, of the occurrence of, or of the likely occurrence of, a disaster.

(3) The Directorate may certify an agency, within the county, which they consider to have a high level of technical expertise in the prediction or assessment of risk of any kind of disaster, as an Accredited Disaster Notification Service for the purposes of this Act.

(4) A certification under subsection (3) may be general or limited to specified kinds of disaster.

13. Subject to section 10, the Governor may issue a declaration of disaster which would activate, with immediate effect, the disaster response provisions of the Plan in the event of a disaster. Declaration of disaster.

14. Immediately after the declaration of a state of emergency, the Governor shall cause the details of the declaration to be communicated by the most appropriate means to the residents of the affected area. Communication of declaration.

15. (1) A declaration under section 12 is valid for a period of 14 days from the date of the declaration. Duration of declaration

(2) Despite subsection (1), the Governor may, if necessary, extend the duration of the declaration for further periods of 14 days each with the approval of the County Assembly.

16. (1) Upon the declaration and during a state of emergency, the Governor may, in respect of the county, issue an order to a person to do everything necessary to prevent or limit loss of life, damage to property or the environment and including any one or all of the following— Emergency powers

- (a) cause emergency plans to be implemented;
- (b) utilize any property considered necessary to prevent, combat or alleviate the effects of any emergency or disaster;
- (c) authorize or require any qualified person or institution to render aid of such type as that person or institution may be qualified to provide;

- (d) control, permit or prohibit travel to or from any area or on any road, street or highway within the affected area(s);
- (e) cause the evacuation of persons and the removal of livestock and personal property and make arrangements for their adequate care and protection;
- (f) control or prevent the movement of people and the removal of livestock from any designated area that may have a contaminating disease;
- (g) authorize the entry into any building, or upon any land without warrant;
- (h) cause the demolition or removal of any trees, structure or crops in order to prevent, combat or alleviate the effects of an emergency or a disaster;
- (i) authorize the procurement and distribution of essential resources and the provision of essential services;
- (j) regulate the distribution and availability of essential goods, services and resources; and
- (k) provide for the restoration of essential facilities, the distribution of essential supplies and the maintenance and co-ordination of emergency medical, social and other essential services.

(2) expend such sums as are necessary to pay expenses caused by the emergency.

17. (1) The Governor may terminate a state of emergency with respect to the affected area identified in the declaration of a state of emergency when advised by disaster management committee that the emergency no longer exists. Termination of a state of emergency.

(2) Upon termination of a state of emergency referred to in subsection (1), the Governor shall cause the details of the termination to be communicated, by the most appropriate means, to the residents of the affected areas.

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

- (a) notify, in writing, to the owner or occupant of the property; and
- (b) 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 (25) 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.

PART IV—FINANCIAL PROVISIONS

19. (1) The funds for emergency and disaster management shall comprise of—

Establishment of the
Emergency and
Disaster
Management Fund.

- (a) Money appropriated by the County Assembly for emergency response through the Turkana County Emergency Fund Act
- (b) Any other monies appropriated by the County Assembly for the purpose of disaster preparedness, response, mitigation, relief and reconstruction in the County
- (c) Any gifts, grants, donations or endowments received for the purpose of disaster management

(2) The funds in 19 (1) (b) and (c) shall be administered on behalf of the Committee by the Director

(3) The Director shall prepare and transmit to the chief officer in respect of each financial year and within 3 months after the end thereof, a statement of accounts relating to the use of the funds in section 19 (1)(b) and (c)

(4) All the expenses incurred by the Directorate shall be approved by the Committee.

20. The county government shall, in their annual budgets, make provisions for funds for the purposes of carrying out the activities and programmes set out in its Plan. Allocation of funds for disaster management.

21. (1) Where, by reason of impending disaster, the Committee is satisfied that immediate procurement of provisions, materials or immediate application of resources are necessary for rescue or relief, the concerned department or authority may use direct procurement. Emergency procurement.

(2) The direct procurement referred to in subsection (1) must comply with the laws relating to public procurement Act.

PART V—OFFENCES AND PENALTIES

22. A person who obstructs the Directorate or any person in the performance of an action authorized by this Act or who contravenes or fails to comply with— Obstruction.

- (a) a provision of this Act or any regulation; or
- (b) a direction, order or requirement made pursuant to this Act or the regulations, commits an offence and is liable on conviction to—
 - (i) in the case of an individual, to a fine not exceeding five hundred thousand shillings or to imprisonment of not more than six months or to both; or
 - (ii) in the case of a corporation, to a fine not exceeding five million shillings.

23. Whoever knowingly makes a claim which they know or has reason to believe to be false for obtaining any relief assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the county government is liable, on conviction, to a fine not exceeding one hundred thousand shillings or imprisonment of not more than one year, or to both. False claim.

24. Whoever, being entrusted with any money or materials, or otherwise being in custody of money or goods meant for providing relief in a threatening disaster or disaster, misappropriates or disposes of such money or materials or any part or wilfully compels any other person to do so, is liable on conviction, to a fine not exceeding five hundred thousand shillings or imprisonment of not more than two years, or to both.

Misappropriation of money or materials.

25. Whoever makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic is liable, upon conviction, to a fine not exceeding one hundred thousand shillings or imprisonment of not more than six months, or to both.

False Alarm.

26. A person who commits an offence under this Act for which no penalty is prescribed is liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year, or to both.

General Penalty.

PART VI—MISCELLANEOUS PROVISIONS

27. (1) The power to requisition resources for rescue operations will apply where it appears to the Directorate that—

Power to Requisition Resources for Rescue Operations.

- (a) any resources with the county government or any authority or person, are needed for the purpose of a prompt response; or
- (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; or
- (c) any vehicle including bulldozers, tractors, motor vehicles, carts, carriages, boats and other means of transport by air, land or water is needed or is likely to be needed for the purposes of transport of resources from disaster affected areas or 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 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 owners of premises, resources or vehicles affected by orders issued under paragraphs (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) Where a person is aggrieved by the amount of compensation awarded under subsection (2), the person may within thirty days appeal to the Resident Magistrates Court.

28. (1) Where by reason of a disaster which results in a substantial loss of life or human suffering or damage to, and destruction of property or a large scale migration of the affected people consequent to the disaster, the affected people shall be compensated for the loss of life or property, through addition to relief, rehabilitation, or settlement activities. Compensation.

(2) The amount of compensation shall be determined by the County Government through the Disaster Management Committee.

29. No action or proceeding may be brought against any person acting under the authority of this Act, including an agent, for anything done, or not done, or for any neglect— Protection From Personal Liability.

(a) in the performance or intended performance of a duty under this Act; or

(b) in the exercise or intended exercise of a power under this Act; unless the person was acting in bad faith.

30. A person, in the course of implementing an emergency management plan pursuant to this Act or the regulations may, at any time, enter any property. Entry upon property.

31. The Directorate, with authorization from the Disaster Management Committee, may give direction to any authority or person in control of any audio or audio- Direction for communication of warnings.

visual media or such other means of communication as may be available to carry any warning or advisories regarding any threatening disaster situation or disaster, and the said media or means of communication must comply with such direction.

32. The Executive Member may make regulations ^{Regulations.}
on—

- (a) emergency planning for the continuity of functions of departments, boards, commissions, corporations and other agencies of the county;
- (b) the vesting of special powers and duties in various departments and agencies of the county for the purposes of emergency planning and the implementation of emergency management plans;
- (c) the recognition of the professional, trade or other qualifications of persons sent to the county by another jurisdiction under an agreement entered into during a state of emergency or state of local emergency;
- (d) the emergency planning, evaluation, and level of preparedness required of counties;
- (e) emergency planning, evaluation and reporting for non-governmental entities;
- (f) prescribing the forms to be used for a declaration of a state of emergency and renewals and termination of the same;
- (g) the establishment, operation, liability and responsibilities of ground search and rescue organizations;
- (h) prescribing renewal periods for states of emergency; and
- (i) any matter that the executive member considers necessary for the administration of this Act.

