SPECIAL ISSUE

Kenya Gazette Supplement No. 104 (National Assembly Bills No. 28)

REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2021

NAIROBI, 18th May, 2021

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The National Disaster Risk Management Bill, 2021 793

NATIONAL ASSEMBLY
DIRECTORATE OF LEGAL SERVICES
RECEIVED
24 JUN 2021
P. O. Box 41842 - 00100,
NAIROBI

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

THE NATIONAL DISASTER RISK MANAGEMENT BILL, 2021

ARRANGEMENT OF CLAUSES

Clause

PART I— PRELIMINARY

1—Short title.

2— Interpretation.

3—Objects of the Act.

4—Guiding principles.

PART II — ESTABLISHMENT OF THE INSTITUTITONAL FRAMEWORK ON DISASTER RISK MANAGEMENT

5—Establishment of Intergovernmental Council on Disaster Risk Management.

6— Functions of the Intergovernmental Council.

7— Meetings of the Intergovernmental Council.

8— Reports by the Intergovernmental Council.

9— National Disaster Risk Management Authority.

10—Headquarters.

11— Functions of the Authority.

12— Powers of the Authority.

13— Composition of the Board.

14— Qualification of the chairperson of the Board.

15—Vacation of office.

16—Removal from office.

17—Functions of the Board.

18—Powers of the Board.

19—Committees of the Board.

20—Delegation by the Board.

21— Conduct of business and affairs of the Board.

22— Remuneration of the Board and staff of the Authority.

23—Appointment of Secretary.

24—Director-General.

25—Qualification of Director-General.

26—Removal of Director-General.

27— Vacation of office of the Director General.

28— Staff of the Authority.

29— Common Seal of the Authority.

30— Protection from personal liability.

PART III—CLASSIFICATION OF DISASTER, PLANS AND ELECTRONIC INFORMATION SYSTEMS

31—Electronic information system

32—Disaster risk management plans.

33—Classification of disasters.

34— Declaration of National State of disaster.

PART IV—COUNTY DISASTER RISK MANAGEMENT COMMITTEES

35— Establishment of County Disaster Risk Management Committee.

36— Functions of a County Committee.

37— Establishment of County Disaster Risk Management Centre.

38— Procedure during disaster events.

39— Annual report to county assembly.

40— Guidelines by County Committee.

41— Disaster Risk Management Volunteers.

PART V—FINANCIAL PROVISIONS

42—Funds of the Authority.

43—Financial year.

44—Annual estimates.

45—Accounts and audit.

PART VI—MISCELLANEOUS PROVISIONS

46—Duty to protect information held by the Authority County Committee or Centres.

47—Limitation of the right to access information.

48—Obstruction.

49—False claim.

50—False alarm.

51— Misappropriation of relief money or material.

52— Offences by companies.

PART VII—PROVISIONS ON DELEGATED POWERS

53—Regulations.

PART VIII—SAVING AND TRANSITIONAL PROVISIONS

54—Transfer of Staff.

55— Transfer of assets and liabilities.

SCHEDULE—PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

THE NATIONAL DISASTER RISK MANAGEMENT BILL, 2021

A Bill for

AN ACT of Parliament to establish the National Disaster Risk Management Authority and County Disaster Risk Management Committees; to provide a legal framework for the co-ordination of disaster risk management activities and for connected purposes

ENACTED by the Parliament of Kenya as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the National Disaster Risk Management Act, 2021.

Interpretation.

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

"Authority" means the National Disaster Risk Management Authority established under section 9;

"Board" means the Board of the National Disaster Risk Management Authority constituted under section 13;

"Cabinet Secretary" means the Cabinet Secretary responsible for matters relating to disaster risk management;

"Centre" means a County Disaster Risk Management Centre established under section 37;

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

"County Executive Committee Member" means the county executive committee member responsible for matter relating to disaster risk management;

"County Committee" means the County Disaster Risk Management Committee established under section 35;

"disaster" means a progressive or sudden, widespread, localized, natural or human-caused occurrence which—

(a) causes or threatens to cause—

(i) death, injury or disease;

(ii) damage to property, infrastructure or the environment; or

(iii) significant disruption of the life of a community; and

(b) is of a magnitude that exceeds the ability of those affected by the disaster to cope with its effects using only their own resources;

"disaster risk" means the potential loss of life, injury, or destroyed or damaged assets which could occur to a system, society or a community in a specific period of time, determined probabilistically as a function of hazard, exposure, vulnerability and capacity;

"disaster risk management" means a continuous and integrated multi-sectoral, multi-disciplinary process of planning and implementation of policies, strategies and measures aimed at—

(a) preventing or reducing the risk of disasters;

(b) mitigating the severity or consequences of disasters;

(c) emergency preparedness;

(d) a rapid and effective response to disasters; and

(e) post-disaster recovery and rehabilitation.

"disaster risk reduction" means either a policy goal or objective, and the strategic and instrumental measures employed for—

(a) anticipating future disaster risk; and

(b) reducing existing exposure, hazard or vulnerability;

"early warning system" means an integrated system of hazard monitoring, forecasting and prediction, disaster risk assessment, communication and preparedness activities systems and processes that enables individuals, communities, governments, businesses and others to take timely action to reduce disaster risks in advance of hazardous events;

"emergency preparedness" means—

(a) a state of readiness which enables organs of the National and county governments and other institutions involved in disaster risk management, the private sector, communities and individuals to mobilize, organize and provide relief measures to deal with an impending or current disaster or the effects of a disaster; and

(b) 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 condition improving resilience;

"financial year" means the period of twelve months ending on the thirtieth day of June in each year;

"hazard" means a process, phenomenon or human activity that may cause loss of life, injury or other health impacts, property damage, social and economic disruption or environmental degradation;

"Intergovernmental Council" means the Intergovernmental Council on Disaster Risk Management established under section 5;

"mitigation" means the lessening or minimizing of the adverse impacts of a hazardous event;

"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 Activities and measures to avoid existing and new disaster risks;

"reconstruction" means the medium and long-term rebuilding and sustainable restoration of resilient critical infrastructures, services, housing, facilities and livelihoods required for the full functioning of a community or a society affected by a disaster, aligning with the principles of sustainable development and "build back better", to avoid or reduce future disaster risk;

"recovery" means the restoring or improving of livelihoods and health, as well as economic, physical, social, cultural and environmental assets, systems and activities, of a disaster-affected community or society, aligning with the principles of sustainable development and "build back better", to avoid or reduce future disaster risk;

"response" means actions taken directly before, 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;

"risk" means the combination of the probability of an event and its negative consequences;

"risk assessment" means the methodology used to determine the nature and extent of risk by analysing potential hazards and evaluating existing conditions of vulnerability which may potentially harm exposed people, property, services, livelihoods and the environment

"Summit" has the meaning assigned under section 2 of the Intergovernmental Relations Act, 2012; No. 2 of 2012.

"the two levels of government" means all relevant departments and agencies of the national and county governments;

"vulnerability" means the conditions determined by physical, social, economic and environmental factors or processes which increase the susceptibility of an individual, a community, assets or systems to the impacts of hazards.

Objects of the Act.

3. The object of this Act is to—

(a) provide for a legislative framework for disaster risk management;

(b) enhance effective and co-ordinated disaster preparedness, prevention, response, mitigation and recovery;

(c) reduce disaster risks and vulnerabilities at the national and county levels of government; and

(d) enhance resilience to the impacts of disaster risks and climate change at both the national and county levels.

Guiding principles.

4. The guiding principles to disaster risk management

shall be —

(a) a comprehensive approach to Disaster Risk Management for balancing between the reduction of risk and the enhancement of community resilience, while ensuring effective response and recovery capabilities;

(b) all hazards approach in managing disaster;

(c) enhancing local disaster risk management capability as the frontline to disaster risk management;

(d) respect, ethics and professional standards;

(e) transparency and accountability;

(f) commitment in service to the people; and

(g) supporting the national government and the county government including the local communities, in disaster risk management.

PART II — ESTABLISHMENT OF THE INSTITUTIONAL FRAMEWORK ON DISASTER RISK MANAGEMENT

Establishment of Intergovernmental Council on Disaster Risk Management.

5. There is established an Intergovernmental Council on Disaster Risk Management consisting of—

(a) the Cabinet Secretary in the Ministry for the time being responsible for Disaster Risk Management, who shall be the chairperson;

(b) the Chairperson of the Council of Governors who shall be the Co- Chairperson;

(c) the Cabinet Secretary in the Ministry for the time being responsible for Intergovernmental relations;

(d) the Cabinet Secretary in the Ministry for the time being responsible for the National Treasury;

(e) the Cabinet Secretary in the Ministry for the time being responsible for Health;

(f) the Cabinet Secretary in the Ministry for the time being responsible for Defence;

(g) the Cabinet Secretary in the Ministry for the time being responsible for Public Service;

(h) the Cabinet Secretary in the Ministry for the time being responsible for Drought Risk Management; and

(i) the Cabinet Secretary in the Ministry for the time being responsible for Agriculture.

Functions of the Intergovernmental Council.

6. The functions of the Intergovernmental Council shall be to—

(a) advice and make recommendations to the Cabinet and the Summit—

(i) on matters relating to disaster risk management; and

(ii) on the establishment of a national framework for disaster risk management aimed at ensuring an integrated and uniform approach to disaster risk management in the Republic by all national, county, entities involved in disaster risk management, non-governmental institutions, the private sector, communities and individuals.

(b) provide policy direction and approve plans on all activities related to disaster risk management;

(c) receive, consider and make decisions based on the reports and recommendations of the Authority;

(d) co-ordinate and monitor intergovernmental multi-sectoral entities responsible for disaster risk management; and

(e) report to the Cabinet and the Summit on the co-ordination of disaster risk management among the spheres of Government.

Meetings of the Intergovernmental Council.

7. (1) The Intergovernmental Council shall—

(a) meet at least four times in a year; and

(b) conduct its meetings in the manner provided under the Schedule to this Act.

(2) The Authority shall provide the secretariat to the Intergovernmental Council.

Reports by the Intergovernmental Council.

8. (1) The Intergovernmental Council shall submit an annual report to the Cabinet, National Assembly, the Senate and the county assemblies, within three months after the end of every financial year.

(2) The annual report referred to under subsection (1), shall contain compiled reports from the Authority, the County Committee and the Centre.

(3) The report under subsection (2) shall contain—

(a) the activities undertaken by the entities during the year;

(b) results of the initiatives undertaken by the entities for purposes of disaster prevention and mitigation;

(c) information on the disasters that occurred during the year in the country together with information on—

(i) their classification, magnitude and severity;

(ii) the impact of the disasters; and

(iii) problems experienced in dealing with the disasters;

(d) the utilization of any funds allocated for disaster management

(e) the status of the preparation and any updates to the existing disaster risk management plans and strategies in the country; and

(f) an evaluation of the implementation of disaster risk management plans and strategies in the country.

(4) The National Assembly, the Senate and the county assemblies may, upon receiving the annual report under subsection (1), make such recommendations to the Intergovernmental Council as they may consider necessary.

(5) Despite subsection (1), the Cabinet, the National Assembly, the Senate or the county assemblies may, at any time, request information from the Intergovernmental Council on any matter.

National Disaster Risk Management

9. (1) There is established the National Disaster Risk

Management Authority. Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) borrowing and lending money; and

(d) doing or performing all other things or acts which may be lawfully done or performed by a body corporate for the furtherance of the provisions of this Act.

10. (1) The Headquarters of the Authority shall be in Nairobi. Headquarters.

(2) The Authority may establish other offices as it considers necessary for the discharge of its functions.

11. The functions of the Authority shall be to— Functions of the Authority.

(a) co-ordinate and implement disaster risk management;

(b) co-ordinate and collaborate with relevant regional and international agencies and institutions in disaster risk management;

(c) advise the national and county governments on disaster risk management measures;

(d) develop and co-ordinate implementation of national and county disaster risk management policies, strategies, plans, projects, programs and budgets;

(e) promote and co-ordinate research in disaster risk management;

(f) facilitate capacity building for disaster risk management at both the national and county levels of Government;

(g) co-ordinate the provision of psycho-social support to persons affected by a disaster or involved in

disaster risk management;

(h) co-ordinate and support public awareness campaigns and civic education programmes on disaster risk management;

(i) monitor and evaluate disaster risk management programmes and project;

(j) promote linkages with key ministries, community service organizations, international organizations, county, sub-county and community-based disaster risk management entities;

(k) co-ordinate the preparation and maintenance of national, county and sub-county disaster risk atlases including data banks and information on potential hazards and vulnerabilities;

(l) undertake and co-ordinate routine hazard identification and vulnerability and risk assessments in all sectors;

(m) co-ordinate resource mobilization strategies;

(n) submit periodic reports to the Intergovernmental Council;

(o) ensure the implementation of international obligations related to disaster risk management;

(p) accredit international volunteers involved in disaster risk management; and

(q) perform any other functions as may be prescribed by this Act or any other written law relevant to the discharge of the functions of the Authority.

Powers of the Authority.

12. (1) The Authority shall have all the powers necessary for the proper performance of its functions under this Act, and, in particular, but without prejudice to the generality of the foregoing, the Authority shall have power to—

(a) receive grants, gifts, donations or endowments and make legitimate disbursements therefrom;

(b) enter into association with other bodies or organizations within or outside Kenya as the Authority may consider desirable or appropriate

and in furtherance of the purpose for which the Authority is established;

(c) open a bank account or bank accounts for the funds of the Authority;

(d) invest funds of the Authority not immediately required for its purposes; and

(e) undertake any activity as may be necessary for the better carrying out of the functions of the Authority.

(2) The Authority shall exercise powers required to ensure compliance with any directive issued under its authority and take or cause to be taken such measures including bring actions in a court of law or tribunal.

(3) The Authority may on giving reasonable notice of its intention to take such measures, direct an organization, department, authority, person or body of persons to perform, within such times and in such manner as it shall specify, any other duty imposed by or under this Act or any other written law in relation to enforcement and compliance.

(4) Where there is failure to comply with the direction, the Authority may perform or cause to be performed the duties in question and the expense incurred shall be recoverable by the Authority from the organization, department, authority, person or body of persons referred to under subsection (3), by way of a civil debt.

Composition of the Board.

13. (1) The management of the Authority shall be vested on a Board which shall comprise of—

(a) a chairperson, who shall be appointed by the President;

(b) the Principal Secretary in the Ministry for the time being responsible for matters relating to disaster risk management;

(c) the Principal Secretary in the Ministry for the time being responsible for matters relating to drought risk management;

(d) the Principal Secretary in the Ministry for the time being responsible for intergovernmental relations;

(e) the Principal Secretary in the Ministry for the time being responsible for Finance;

(f) the Principal Secretary in the Ministry for the time being responsible for Health;

(g) the Principal Secretary in the Ministry for the time being responsible for Agriculture;

(h) the Principal Secretary in the Ministry for the time being responsible for Environment;

(i) the Solicitor General;

(j) a representative of the Kenya Red Cross Society;

(k) a representative of the Kenya Private Sector Association;

(l) the Chief Executive Officer of the Council of Governors; and

(m) the Director-General of the Authority, who shall be an *ex officio* member of the Board.

(2) The members of the Board specified under subsections (1) (i), (j) and (k) may designate, in writing, a person to attend and participate in any meeting of the Board on their behalf.

(3) The chairperson and members of the Board, other than the *ex-officio* member, shall hold office for a period of three years, but shall be eligible for re-appointment for one further term.

Qualification of the chairperson of the Board.

14. (1) A person shall be qualified for appointment as a chairperson under section 13 (1)(a), if that person—

(a) holds at least a degree from a university recognized in Kenya;

(b) has a distinguished career in a senior management position in either the private or public sector;

(c) holds at least ten years' post-qualification professional experience; and

(d) satisfies the requirements of Chapter Six of the Constitution.

(2) A person is not qualified for appointment as a

chairperson or member of the Board, if that person—

(a) is a member of Parliament or County Assembly;

(b) is a member of a governing body of a political party;

(c) is a member of a Commission established under the Constitution;

(d) is an undischarged bankrupt;

(e) has been removed from office for contravening the Constitution or any other law; or

(f) has, in the conduct of his affairs, not met any statutory obligations.

Vacation of office.

15. The office of a member of the Board, other than an *ex-officio* member, shall become vacant if the member—

(a) is unable to perform the functions of his office by reason of mental or physical infirmity;

(b) is adjudged bankrupt;

(c) is convicted of a criminal offence for a term of imprisonment for a period exceeding six months;

(d) is absent from three consecutive meetings of the Board without the permission of the Board;

(e) resigns, in writing, addressed, in the case of the chairperson to the President, and in the case of any other member, to the Cabinet Secretary;

(f) fails to declare his interest in any matter being considered by the Board;

(g) violates Chapter Six of the Constitution; or

(h) dies.

Removal from Office.

16. The chairperson or member of the Board may be removed from Office for—

(a) inability to perform the functions of the office arising out of physical or mental incapacity;

(b) gross misconduct or misbehavior;

(c) is absent from three consecutive meetings without

the permission of the Board;

(d) incompetence or neglect of duty;

(e) failure to declare his interest in any matter being considered by the Board;

(f) non-compliance with the requirements of Chapter Six of the Constitution; or

(g) any other ground that would lawfully justify removal from office under the terms and conditions of service.

Functions of the Board.

17. (1) The Board shall be responsible for the general control of the performance and management of the undertakings and affairs of the Authority, and shall include a general duty to ensure that the functions of the Authority are carried out in an efficient, transparent and ethical manner and that no particular person or body is given undue preference or subjected to any undue disadvantage.

(2) The Board shall consider and advise the Cabinet Secretary on the development and maintenance of disaster risk management policy framework and the objectives of the Authority.

(3) Without prejudice to the generality of subsections (1) and (2), the Board shall consider and advise the Cabinet Secretary—

(i) on legislative proposals relating to disaster risk management;

(ii) on measures for the promotion or support of any county government on disaster risk management;

(iii) determine and set priorities for the general performance targets by the Authority;

(iv) consider and determine the strategic plan and budget of the Authority;

(v) ensure that measures for the disaster risk management are initiated and implemented; and

(vi) on such other matters relating to disaster risk management in Kenya.

Powers of the Board.

18. (1) The Board shall have all the powers necessary for the proper performance of the functions of the Authority

in accordance with the provisions of this Act and in particular, but without prejudice to the generality of the foregoing, the Board shall have power to—

(a) control and oversee the administration of the assets of the Authority in such manner and for such purposes as best promote the purposes for which the Authority is established;

(b) determine the provisions to be made for capital and recurrent expenditure and for reserves of the Authority;

(c) in collaboration with the relevant bodies, suspend or limit sale, dispensing, or transportation of firearms explosives or such other products which its deems inappropriate in disaster areas;

(d) request any information or documents relating to its mandate from any organization, state department or agency;

(e) establish operational or administrative units for the effective coordination of disaster risk management;

(f) co-ordinate the evacuation of people in disaster prone areas;

(g) access and utilize available resources of government including warehouses, equipment and such other facilities as may be reasonably necessary for disaster emergency operations; and

(h) summon any person whom they may consider necessary in the implementation of their mandate.

Committees of the Board.

19. (1) The Board may, from time to time, establish such committees as it considers necessary for the effective carrying out of its functions under this Act.

(2) The Board may by resolution, co-opt such experts for a specified period as may be necessary to assist in the proper discharge of its functions.

Delegation by the Board.

20. The Board may, by resolution either generally or in any particular case, delegate to any of its committees or

to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

Conduct of business and affairs of the Board.

21. The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule, but subject thereto the Board may regulate its own procedure.

Remuneration of the Board and staff of the Authority.

22. (1) The chairperson and members of the Board shall be paid such remuneration or allowances as the Board in consultation with the Salaries and Remuneration Commission may determine.

(2) The officers, agents and staff of the Authority shall be paid such remuneration and allowances as the Board in consultation with the Salaries and Remuneration Commission may determine.

Appointment of Corporation Secretary.

23. (1) There shall be a Corporation Secretary who shall be appointed by the Board on such terms and conditions as the Board may determine and who shall perform such duties as the Board may, from time to time, assign.

(2) In the performance of his duties under this Act, the Corporation Secretary shall be responsible to the Director-General.

Director-General.

24. (1) There shall be a Director-General of the Authority who shall be competitively recruited and appointed by the Board, and whose terms and conditions of service shall be specified in the instrument of appointment or otherwise in writing from time to time.

(2) Without prejudice to the generality of the provisions of subsection (1), the Director-General shall be appointed for a period of three years' renewable once.

(3) The Director-General of the Authority shall be the Chief Executive Officer of the Authority and shall be subject to the direction of the Board and shall be responsible to it for the —

(a) implementation of the decisions of the Board;

(b) day to day administration and management of the

affairs of the Board;

(c) organization and management of the employees; and

(d) any other function that may be assigned by the Board.

Qualification of the Director-General

25. (1) A person shall be qualified for appointment as a Director-General, if such person—

(a) is a Kenyan Citizen;

(b) holds at least a degree or its equivalent in the relevant field from a University recognized in Kenya;

(c) has a distinguished career in a senior management position in either the private or public sector;

(d) holds at least ten years' post-qualification professional experience; and

(e) satisfies the requirements of Chapter Six of the Constitution.

(2) A person is not qualified for appointment as a Director-General, if that person—

(a) is a member of Parliament or County Assembly;

(b) is a member of a governing body of a political party;

(c) is a member of a Commission established under the Constitution;

(d) is an undischarged bankrupt;

(e) has been removed from office for contravening the Constitution or any other law; or

(f) has, in the conduct of his affairs, not met any statutory obligations.

Removal of Director –General.

26. The Board may remove the Director-General from office in accordance with the terms and conditions of service for—

(a) inability to perform the functions of the office arising out of physical or mental incapacity;

(b) gross misconduct or misbehavior;

(c) incompetence or neglect of duty;

(d) non-compliance with the requirements of Chapter Six of the Constitution; or

(e) any other ground that would lawfully justify removal from office under the terms and conditions of service.

Vacation of office of the Director General.

27. The office of the Director-General shall become vacant if he—

(a) is unable to perform the functions of his office by reason of mental or physical infirmity;

(b) is adjudged bankrupt;

(c) is removed from office on any of the grounds provided under section 26;

(d) resigns, in writing, addressed to the Board;

(e) fails to declare his interest in any matter being considered by the Board;

(f) violates any of the provisions of Chapter Six of the Constitution; or

(g) dies.

Staff of the Authority.

28. (1) The Board may appoint such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Authority and upon such terms and conditions of service as the Board may determine.

(2) The Board may, on the advice of the Director General, engage on behalf of the Authority, the service of such experts in respect of any of the functions of the Authority in connection with which they are considered to have special competence.

Common Seal of the Authority.

29. (1) The common seal of the Authority shall be kept in the custody of the Corporation Secretary, the Director-General or such other person as the Board may direct, and shall not be used except on the order of the Board.

(2) The common seal of the Authority shall, when affixed to a document and authenticated be judicially and officially noticed and unless the contrary is proved, any order or authorization by the Authority under this section shall be presumed to have been duly given.

Protection from personal liability.

30. (1) No matter or thing done by a member of the Board or any officer, employee, or agent of the Authority shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Authority render the member, officer, employee or agent personally liable to any action, claim or demand whatsoever.

(2) Any expenses incurred by any person in any suit or prosecution brought against him in any court, in respect of any act which is done or purported to be done by him under the direction of the Authority, shall, if the court holds that such act was done in bona fide, be paid out of the general funds of the Authority, unless such expenses are recovered by him in such suit or prosecution.

(3) The provision of this section shall not relieve the Authority of the liability to compensate or pay damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially of any works.

PART III—CLASSIFICATION OF DISASTER, PLANS AND ELECTRONIC INFORMATION SYSTEMS

Electronic information system.

31. (1) The Authority shall develop and maintain an electronic database containing—

(a) particulars of—

(i) national and county organs involved in disaster risk management;

(ii) non-governmental organisations involved in disaster risk management;

(iii) disaster risk management experts;

(iv) private sector organisations with specialized equipment, skills or knowledge relevant to disaster risk management;

(v) private sector voluntary agencies involved in disaster risk management; and

(vi) foreign non-governmental organisations and international organisations involved in disaster risk management;

(b) information concerning disasters including information on—

(i) phenomena, occurrences, activities and circumstances that cause or aggravate disasters;

(ii) risk factors underlying disasters and means to reduce such risks;

(iii) disaggregated data on disaster loss and damage showing the, type of disaster, type of impact and its gender, age geographical disaggregation dimensions;

(iv) recurring occurrences that result in loss, but which are not classified as disasters under this Act;

(v) prevention and mitigation of disaster;

(vi) early warning systems;

(vii) areas and communities that are vulnerable to disasters; and

(viii) indigenous knowledge relating to disaster risk management;

(c) the directory of role-players and the names and particulars of their respective contact persons;

(d) emergency response resources and capacity in the national and county governments and in the non-government sectors, including the location and size of, and other relevant information relating to—

(i) police stations;

(ii) hospitals, clinics and other health facilities;

(iii) emergency medical services;

(iv) public buildings and other facilities that may

be used as emergency shelters or hospitals in the event of a disaster;

(v) fire-fighting services; and

(vi) airports, airstrips, harbours, and railway stations;

(e) emergency response resources and capacity in neighbouring states and relevant international relief agencies;

No. 31 of 2016.
No. 24 of 2019.

(f) emergency preparedness in the different spheres of government;

(g) each disaster classified by the Authority under section 31; and

(h) disaster risk management research and training facilities.

(2) The Authority shall ensure that the database is accessible to the public in accordance with the Access to Information Act, 2016, the Data Protection Act, 2019 and any other relevant law.

(3) Despite subsection (2), the Authority—

(a) shall—

(i) establish security safeguards to ensure that access to the information on the database does not violate the right to privacy;

(ii) subject to the information on the database, restrict access to the information; and

(b) may classify parts of the database as restricted areas and limit access to those parts to authorized persons.

Disaster risk management plans.

32. (1) The Authority shall—

(a) develop and regularly review the national disaster risk management plan and strategy for organs of State and other institutional role-players involved in disaster risk management;

(b) collaborate with the counties in co-ordinating the implementation of the policies, plans and strategies;

(c) develop guidelines for the integration of the concept and principles of disaster risk management in national and county integrated development plans, protocols, programmes and initiatives; and

(d) mainstream gender issues in the plans and strategies.

(2) In developing and reviewing the disaster risk management plan under subsection (1), the Authority shall collaborate with departments, agencies and institutions involved in the implementation of the development plans and the persons involved in the oversight of the implementation of the development plans.

Classification of disasters.

33. (1) When a disaster occurs or threatens to occur, the Authority shall determine whether the event is a disaster under this Act, and if so, immediately—

(a) assess the magnitude and severity or potential magnitude and severity of the disaster;

(b) classify the disaster as a county disaster or national disaster in accordance with subsections (4), (5) and (6); and

(c) record the prescribed particulars concerning the disaster in the prescribed register.

(2) In assessing the magnitude and severity or potential magnitude and severity of a disaster, the Authority—

(a) shall consider the information and recommendations concerning the disaster received from a County Committee; and

(b) may enlist the assistance of an independent assessor to evaluate the disaster on site.

(3) The Authority may reclassify a disaster classified under subsection (l) (b) at any time after consultation with the relevant County Committee, if the magnitude and severity or potential magnitude and severity of the disaster differs from the initial assessment.

(4) A disaster is a county disaster, if—

(a) it affects a single county; and

(b) the county concerned is able to effectively manage it.

(5) A disaster is a national disaster if it affects—

(a) more than one county; or

(b) a single county which is unable to effectively manage it.

(6) Until a disaster is classified by the Authority, it shall be deemed a county disaster.

(7) Despite the classification of a disaster under this section, in designating primary responsibility for managing a disaster to a particular level of government, the national and county level of government may assist each other in managing a disaster.

(8) The details of classification of a disaster under this section shall be prescribed by the Cabinet Secretary in Regulations.

Declaration of National State of Disaster.

34. (1) In the event of a national disaster, the President may declare a National State of Disaster by notice in the *Gazette*.

(2) The declaration of a National State of Disaster shall contain—

(a) a concise statement of the reasons for the declaration; and

(b) the duration of the declaration.

(3) A National State of Disaster declared under subsection (1)—

(a) shall lapse on the date specified in the notice declaring the national state of disaster;

(b) may be terminated by the President at any time before the lapse of the period specified in paragraph (a); or

(c) may by notice in the Kenya *Gazette* be extended by the President, any time before the period specified under paragraph (a) lapses.

(4) During the subsistence of a declaration of a National State of Disaster, the President may make orders,

or the issue directives, concerning—

(a) the release of any available resources of the national government including stores, equipment, vehicles and facilities;

(b) the release of personnel of a national state organ for rendering of emergency services;

(c) the implementation of all or any of the provisions of a national disaster management plan that are applicable in the circumstances;

(d) the evacuation to temporary shelters of all or part of the population from the disaster-stricken or threatened area if such action is necessary for the preservation of life;

(e) the regulation of traffic to, from or within the disaster-stricken or threatened area;

(f) the regulation of the movement of persons and goods to, from or within the disaster-stricken or threatened area;

(g) the authorization of or direction to any person, or any class of persons, to render essential services of a type that that person, or a person of that class, is competent to provide and the provision of reasonable compensation in respect of services so rendered;

(h) the regulation of the distribution, sale and availability of essential goods, services and resources;

(i) emergency procurement procedures;

(j) the imposition of such penalties as may be specified for any contravention of or failure to comply with the provisions of the orders or any directions issued or conditions prescribed by or under the orders or regulations, which may include the confiscation of goods, property or instruments by means of which or in connection with which the offence has been committed:

Provided that no order or regulation shall make

provision for the imposition of imprisonment for a period of exceeding six months or of a fine exceeding twenty thousand shillings; or

(k) other steps that may be necessary to prevent an escalation of the disaster, or to alleviate, contain and minimise the effects of the disaster.

(5) When a State of National Disaster lapses or is terminated as provided for in this section, any regulation, order or directive made or issued in consequence thereof shall thereby cease to be in force.

Provided that nothing in this section shall affect the validity of anything done pursuant to a declaration of a national state disaster or any regulation, order or directive made in consequence thereof, prior to the cessation of the declaration of the state of national disaster, the regulation, order or directive as the case may be; or from any right, privilege, obligation or liability acquired, accrued or incurred thereunder.

PART IV—COUNTY DISASTER RISK MANAGEMENT COMMITTEES

Establishment of County Disaster Risk Management Committees.

35. (1) There is established, in each county, a County Disaster Risk Management Committee comprising—

(a) the Governor of the county, or a representative appointed in writing by the Governor who shall be the Chairperson;

(b) the County Commissioner, who shall be the co-chairperson;

(c) the County Executive Member responsible for matters relating to disaster risk management, who shall be the secretary;

(d) the County Police Commander;

(e) a representative of the Kenya Red Cross Society;

(f) a representative of the St. John Ambulance;

(g) two persons, one woman and one man with proven experience in disaster risk management, appointed by the Governor;

(h) one person, appointed in writing by the

chairperson of the most representative private sector association in the county; and

(i) one person nominated by a civil society organization with expertise in disaster risk management in the county.

(2) In appointing the members of the County Committee under subsection (1) (e) , (f), (g) and (h) , the Governor shall observe the principle of gender equity and the representation of marginalized communities, the youth and persons with disability.

(3) The members of a County Committee shall elect one of the members appointed under subsection (1) (e), (f), (g) and (h), to be the vice-chairperson of the County Committee.

(4) A member of a County Committee appointed under subsection (1) (e), (f), (g) and (h) shall serve for a term of three years, renewable once.

(5) The members of a County Committee shall serve on a part-time basis and shall be paid such allowances as may be determined by the county government, in consultation with the Salaries and Remuneration Commission.

(6) The County Committee may co-opt into its membership any person who may provide expert advice for the effective discharge of the functions of the County Committee.

(7) The County Committee shall regulate its own procedure in the conduct of its business and affairs.

Functions of a County Committee.

36. A County Committee shall—

(a) advise the county government on matters relating to disaster risk management;

(b) formulate the county disaster risk management plans and policy in line with the national disaster risk management plan and policy;

(c) promote civic education and public awareness, training and capacity building on disaster risk management in the county including in schools;

(d) make recommendations to the county government

regarding financial matters in relation to disaster risk management;

(e) promote an integrated and coordinated approach to disaster risk management in the county, with special emphasis on prevention, mitigation preparedness, response and recovery by other role-players involved in disaster risk management in the county;

(f) collaborate with the Authority, on matters relating to disaster risk management;

(g) oversee the distribution of relief and emergency supplies;

(h) submit periodic reports to the Authority; and

(i) carry out any other function as may be expedient to the better carrying out of the functions of the County Committee.

Establishment of County Disaster Risk Management Centre.

37. (1) Each county shall establish a County Disaster Risk Management Centre which shall be headed by an expert in disaster risk management.

(2) The Head of the County Disaster Risk Management Centre shall be competitively recruited by the County Public Service Board.

(3) A person shall be qualified for appointment as the Head of a Centre, if that person—

(a) holds at least a degree from a university recognized in Kenya;

(b) has a distinguished career in a management position in either the private or public sector;

(c) holds at least five years' post-qualification professional experience; and

(d) satisfies the requirements of Chapter Six of the Constitution.

(3) The functions of the County Disaster Risk Management Centre shall be to—

(a) implement the decisions of the County Committee;

(b) specialize in matters concerning disaster risk management in the county;

(c) promote an integrated and coordinated approach to disaster risk management in the county with special emphasis on prevention and mitigation, by—

(i) county organs; and

(ii) other stakeholders involved in disaster risk management in the County;

(d) act as a repository of, and conduit for, information concerning disasters, impending disasters and disaster risk management in the county;

(e) give advice and guidance by disseminating information regarding disaster risk management; and

(f) act as an advisory and consultative body on matters concerning disaster risk management in the County to—

(i) county department and agencies;

(ii) the private sector and non-governmental organizations; and

(iii) communities and individuals;

(g) make recommendations to the County Committee and the County Government regarding the funding of Disaster Risk Management in the County;

(h) make recommendations to any relevant organ of national or county government —

(i) legislative or policy issues on Disaster Risk Management;

(ii) on the alignment of County legislation with this Act and the national Disaster Risk Management policy; or

(iii) in the event of a County disaster, on whether a County state of disaster should be declared in accordance with this Act;

(i) recommend to the County Public Service Board the recruitment of volunteers;

(j) recommend to the County Public Service Board, the recruitment of staff specialised in disaster risk management;

(k) promote disaster risk management capacity building, training and education, including in schools and in the county;

(l) promote research into all aspects of disaster management in the county;

(m) carry out drills and exercises on disaster risk management;

(n) undertake resource mobilization;

(o) provide advice and guidance by disseminating information regarding disaster risk management in the County and the communities that are vulnerable to disasters;

(p) submit periodic reports to the County Committee; and

(q) exercise any powers and perform any duties delegated and assigned under this Act.

(4) A Centre may engage in any lawful activity in the County, whether alone or together with any other organization, aimed at promoting the proper exercise of its powers or performance of its duties.

Procedure during disaster events.

38. (1) When a disaster occurs or is forecasted to occur in a county, a County Committee shall determine whether the event is a disaster under this Act, and, if so, immediately—

(a) assess the magnitude and severity or potential magnitude and severity of the disaster;

(b) implement applicable contingency plan and emergency procedures;

(c) inform the Authority of the—

(i) disaster and its initial assessment of the magnitude and severity or potential magnitude and severity of the disaster; and

(ii) initial implementation of applicable contingency plan and emergency procedures.

(2) In informing the Authority in terms of subsection (l) (c), the County Committee may recommend the appropriate classification of the disaster.

Annual report to county assembly.

39. (1) A County Committee shall prepare and submit its annual report to the county assembly on—

(a) its activities during the financial year;

(b) results of its monitoring and evaluation of prevention and mitigation initiatives;

(c) disasters that occurred during the financial year in the county together with information on—

(i) their classification, magnitude, severity and impacts; and

(ii) challenges experienced in dealing with the disasters; and

(d) progress on the preparation and regular updating of disaster risk management plans and strategies in the county.

(2) A County Committee shall prepare and submit its annual report to the county assembly through the County Executive Committee responsible for disaster risk management within one month after the end of every financial year.

(3) The County Executive Committee member responsible for disaster risk management shall within one month after the end of every financial year submit the report to the County Assembly.

(4) Upon receipt of the report, the County Assembly shall, within one month, consider the report and may approve it with or without amendments.

Guidelines by County Committee.

40. A county executive committee member responsible for disaster risk management may, for the purposes of managing a disaster, make Guidelines to provide for—

(a) measures for disaster prevention, mitigation, preparedness, response and recovery;

(b) collection and publication of data relating to disaster risk management;

(c) use of listed premises as shelters to manage a disaster;

(d) activation of a disaster response plan;

(e) monitoring and evaluation on matters relating to disaster risk management;

(f) conduct of public awareness and civic education on disaster risk management; and

(g) establishment of a unit and command structures of volunteers;

(h) the minimum rquirements for qualification as a volunteer;

(i) the manner in which any member of a Unit of Volunteers may be deployed;

(j) the training of volunteers;

(k) the use of equipment by volunteers;

(l) the defraying of expenses incurred by volunteers;

(m) uniforms of volunteers;

(n) insignia to be worn by—

(i) different units of volunteers;

(ii) different components within a unit of volunteers;

(iii) different positions of command within a unit of volunteers;

(o) the transfer of a volunteer from one unit of volunteers to another unit of volunteers;

(p) code of conduct of volunteers; and

(q) any other matter that may be necessary in dealing with disaster risk management.

Disaster Risk Management Volunteers.

41. (1) A Centre may establish a unit of volunteers to participate in Disaster Risk Management in a County.

(2) Any person that meets the prescribed minimum requirements may apply to enrol as a volunteer in the unit of volunteers of a relevant County.

(3) The Centre shall maintain a register of all volunteers enrolled in a unit of volunteers.

(4) A Centre that has established a unit of volunteers shall submit the prescribed particulars of any person that has enrolled in terms of subsection (2) to the County Committee within twenty-one days of such enrolment.

(5) Upon receipt of an up-to-date register of volunteers from the Centre, the County Committee shall, within twenty-one days, submit the register to the Authority.

(6) A unit of volunteers may participate in exercises related to disaster risk management organised by one or more County Disaster Risk Management Centres, or the Authority.

(7) This section does not preclude—

(a) a County Disaster Centre from calling on persons who are not members of a unit of volunteers to assist the County in dealing with a disaster; or

(b) any number of persons from taking reasonable steps to deal with a disaster in an appropriate manner until a County takes responsibility for that disaster, and, where appropriate, to continue dealing with the disaster under the control of the County.

PART V—FINANCIAL PROVISIONS

Funds of the Authority.

42. The funds of the Authority shall consist of—

(a) such monies as may be appropriated by the National Assembly for the purposes of the Authority;

(b) such monies as may accrue to the Authority in the performance of its functions under this Act; and

(c) all monies from any other source provided for or donated or lent to the Authority.

Financial year.

43. The financial year of the Authority shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates.

44. (1) At least three months before the commencement of a financial year, the Board shall cause to

be prepared the estimates of revenue and expenditure of the Authority for that year.

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

(a) the payment of salaries, allowances, pension gratuities, and other changes in respect of the staff of the Authority;

(b) proper maintenance of the buildings and grounds of the Authority; and

(c) the maintenance, repair and replacement of the utilities, equipment and other property of the Authority.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for approval.

Accounts and audit.

45. (1) The Board shall cause to be kept proper books and records of account of the income, expenditure and assets of the Authority.

(2) Within a period of three months from the end of each financial year, the Authority shall submit to the Auditor General the accounts of the Authority together with—

(a) a statement of the income and expenditure of the Authority during that year; and

(b) a statement of the assets and liabilities of the Authority on the last day of that year.

(3) The accounts of the Authority shall be audited and reported upon in accordance with the Public Audit Act, 2015. No. 34 of 2015.

PART VI—MISCELLANEOUS PROVISIONS

Duty to protect information held by the Authority, County Committee or Centres.

46. (1) The members of the Board, staff or agents of the Authority shall have a duty to safeguard the information held by the Authority in accordance with the provisions of Article 31 of the Constitution and any other relevant law.

(2) The provisions of subsection (1) shall with the

necessary modifications apply to the County Committee and the Centres.

Limitation of the right to access information.

47. (1) The Authority, County Committee or Centre shall ensure that the right of access to information guaranteed under Article 35 of the Constitution is subject to the limitations provided under Article 24 of the Constitution and to the nature and extent specified under subsections (2) and (3).

(2) An officer, member of staff, or agent of the Authority, County Committee or Centre shall not disclose information acquired in the course of his duties under the Act except, with the written consent of the Board of the Authority, County Committee or Centre, as the case may be.

(3) The Authority, County Committee or Centre shall not disclose any information that would in the opinion of the Authority, County Committee or Centre, as the case may be, compromise the integrity of any operations during disaster risk management.

Obstruction.

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

(a) obstructs an officer or employee of the Authority, a County Committee, County Disaster Risk Management Centre 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 Authority or a County Committee under this Act,

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

(2) In addition to 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.

False claim.

49. 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 benefit from the 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 to both.

False alarm.

50. A person who makes or circulates a false alarm knowingly 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 to both.

Misappropriation of relief money or material.

51. A person who, being entrusted with any money or materials, or otherwise being in custody of money or goods meant for providing relief during a disaster—

(a) misappropriates the money or goods;

(b) appropriates the money or goods for the person's own use; or

(c) compels another person to misappropriate the money or goods,

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 to both.

Offences by companies.

52. (1) Where an offence under this Act is 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.

(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—

"company" means a body corporate and includes a firm or other association of individuals; and

"director", in relation to a firm, means a partner in the firm.

PART VII—PROVISIONS ON DELEGATED POWERS

Regulations.

53. (1) The Cabinet Secretary, in consultation with the Council of Governors, may make Regulations generally for the better carrying into effect of any provisions under this Act.

(2) Without prejudice to the foregoing, Regulations made under this section may provide for—

(a) measures for disaster prevention, mitigation, preparedness, response and recovery;

(b) collection and publication of data relating to disaster risk management

(c) use of listed premises as shelters to manage a disaster;

(d) activation of a disaster response plan;

(e) conduct of public awareness and civic education on disaster risk management;

(f) the forms of authorization issued under this Act;

(g) the criteria for classification of a disaster as a national or county disaster;

(h) the form and particulars of the register of disasters; or

(i) any relevant rules, or standards required to be prescribed.

(2) For the purposes of Article 94 (6) of the Constitution—

(a) the purpose and objective of delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect of the provisions of this Act and to enable

the Authority to discharge its functions more effectively;

(b) the authority of the Cabinet Secretary to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and to fulfil the objectives specified under this section;

(c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act.

PART VIII—SAVING AND TRANSITIONAL PROVISIONS

Transfer of Staff.

54. (1) A public officer currently serving in National Disaster Operations County Disaster Risk Management Centre and the National Disaster Risk Management Unit shall be deemed to be seconded to the Authority for a period of not more than one year.

(2) A public officer in sub section (1) shall either—

(a) opt to return to the parent institution; or

(b) apply to be considered for employment by the Authority

Transfer of assets and liabilities.

55. (1) All property, except such property as the Cabinet Secretary may specify in writing, which, immediately before the commencement of this Act, was vested in the Government for the use of the National Disaster Operations Centre and the National Disaster Risk Management Unit, for the purpose of disaster risk management, shall, on the date of commencement of this Act, vest in the Authority subject to all interests, liabilities, charges, obligations and trusts affecting that property.

(2) All legal proceedings and claims pending in respect of actions and activities to which this Act apply shall be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced by or against the Government had this Act not been enacted.

SCHEDULE (s. 21)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Convening of meetings.

1. (1) The Board shall meet not less than four times 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.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be one half of all the members.

(5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

Disclosure of interest by Board Members.

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration

or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

Execution of instruments.

3. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Minutes.

4. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

MEMORANDUM OF OBJECTS AND REASONS

This Bill seeks to establish the Intergovernmental Council on Disaster Risk Management and the National Disaster Risk Management Authority to ensure that there is co-ordination of disaster risk management issues at the national and county level. The Bill further seeks to establish County Disaster Risk Management Committees in each of the counties as the role of disaster risk management is a shared function between the national and county governments under the Fourth Schedule to the Constitution. To this end the Bill proposes to bring together the staff of the National Disaster Operations Centre, the National Disaster Risk Management Unit to undertake National Disaster Risk Management.

The main premise of the Bill is to approach disaster risk management in a manner that seeks first to respond effectively and in a timely manner to any disaster or risk of disaster, and to prevent the adverse effects of a disaster, recover, as far as may be possible, the livelihood of communities affected by a disaster.

The enactment of the Bill will assist in the efficient and effective management of disasters across the country.

PART I—contains preliminary provisions.

PART II—establishes the Institutional Framework on Disaster Risk Management which include the Intergovernmental Council on Disaster Risk Management as the apex body and the National Disaster Risk Management Authority which is to act as the national coordination body on matters of disaster risk management.

PART III—contains provisions dealing with the manner in which disasters may be classified and the establishment of the Disaster Electronic Information System.

PART IV—contains provisions on the institutional framework at the county level. Clause 35 establishes Disaster Risk Management Committees in each county to act as the focal point for the coordination of disaster risk management activities at the county level and to liaise with the Authority. Clause 37 establishes the County Disaster Risk Management Centre.

PART V—contains financial provisions.

PART VI—contains miscellaneous provisions on protection of information held by the Authority and the County Committees. The part also creates offences and prescribes penalties thereto.

PART VII— contains provisions on legislative powers delegated to the Cabinet Secretary responsible for matters relating to disaster risk management.

PART VIII—contains saving and transitional provisions.

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

This Bill delegates legislative powers to the Cabinet Secretary responsible for matters relating to disaster risk reduction. It contains a provision on limitation of the right to access information.

Statement that the Bill concerns county governments

The Bill is a Bill concerning County governments. It contains provisions affecting the functions, powers and finances of county governments.

The Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill will occasion additional expenditure of public funds.

Dated the 29th April, 2021.

AMOS KIMUNYA,
Leader of the Majority Party.