

ELGEYO MARAKWET COUNTY CLIMATE CHANGE BILL

ARRANGEMENT OF SECTIONS

PART I - PRELIMINARY

Section

1. Short title
2. Interpretation
3. Objects and purpose
4. Guiding values and principles

PART II – COORDINATION AND OVERSIGHT

5. County Climate Change Unit
6. Functions of the Unit
7. County Climate Change Steering Committee
8. Functions of Steering Committee
9. Composition of Steering Committee
10. Term of the Steering Committee
11. Meetings of the Steering Committee
12. Allowances for members of the Steering Committee
13. Delegation of powers by the Steering Committee
14. Powers and duties of the Executive Committee Member

PART III – INSTITUTIONAL FRAMEWORK FOR PLANNING AND IMPLEMENTATION

A. ELGEYO MARAKWET COUNTY CLIMATE CHANGE PLANNING COMMITTEE

15. Establishment of Planning Committee
16. Composition of Planning Committee
17. Appointment and term of Planning Committee
18. Functions of Planning Committee
19. Meetings of Planning Committee
20. Allowances for members of Planning Committee

B. ELGEYO MARAKWET COUNTY WARD CLIMATE CHANGE PLANNING COMMITTEE

21. Establishment and Composition of Ward Planning Committees
22. Qualifications for appointment to Ward Planning Committees
23. Functions of Ward Planning Committees
24. Terms of Ward Planning Committees
25. Meetings of Ward Planning Committees
26. Allowances for members of Ward Planning Committees

PART IV – MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE

- 27.County Climate Change Action Plan
- 28.Contents of County Climate Change Action Plan
- 29.Approval of County Climate Change Action Plan
- 30.Biennial review of County Climate Change Action Plan

PART V – DUTIES RELATING TO CLIMATE CHANGE

- 31.Climate change duties of public entities
- 32.Climate change duties of private entities
- 33.Monitoring and reporting on compliance
- 34.Steering Committee may require private entity to report on performance
- 35.Annual County Climate Change Response Report

PART VI – PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

- 36.Values and principles to apply to planning and implementation
- 37.County strategy for climate change education and public awareness
- 38.Public sensitization to precede formulation of climate change response plans
- 39.Capacity building for effective public participation
- 40.Access to information

PART VII – COUNTY CLIMATE CHANGE FUND

- 41. Establishment of Elgeyo Marakwet County Climate Change Fund
- 42. Sources of the Fund
- 43.County Climate Change Fund Regulations

PART VIII – FINANCIAL PROVISIONS

- 44. Funding operations of Steering and Planning Committees
- 45.Annual estimates for Steering and Planning Committees
- 46.Financial year of Steering and Planning Committees
- 47.Accounts and audit of Steering and Planning Committees

PART IX – MISCELLANEOUS PROVISIONS

- 48.Protection from personal liability
- 49.Offences and penalties
- 50.Regulations
- 51.Repeal

A Bill for

An Act of the Elgeyo Marakwet County Assembly to provide for the establishment of an appropriate legal and institutional framework for integrating and mainstreaming climate change responses, measures and actions into county development planning and decision-making processes, climate change finance mechanisms and for connected purposes.

ENACTED by the Elgeyo Marakwet County assembly as follows:

PART I – PRELIMINARY

Short title and commencement	1. This Act may be cited as the Elgeyo Marakwet County Climate Change Act, 2023.
Interpretation	2. In this Act unless the context otherwise requires: "adaptation" means adjustment in natural or human systems in response to actual or expected climatic stimuli or their effects in order to moderate harm or exploit beneficial opportunities "adaptive capacity" means the ability of a system to adapt to the impacts, cope with the consequences, minimize potential damages, or take advantage of opportunities offered by climate change or climate variability "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 of time "constitution" means the Constitution of Kenya, 2010 "county" means County Government of Elgeyo Marakwet "county assembly" means the County Assembly of Elgeyo Marakwet "Unit" means the Climate Change Unit established under section 5(1) of this Act "environment" has the meaning assigned to it in section 2 of the Environmental Management and Coordination Act "executive committee member" means the County Executive Committee Member for the time being in charge of climate change matters in the County Government of Elgeyo Marakwet. "fund" means the County Climate Change Fund established under section 41 of this Act "greenhouse gas" includes but is not limited to— (a) carbon dioxide; (b) methane;

	<p>(c) nitrous oxide;</p> <p>(d) hydrofluorocarbons;</p> <p>(e) perfluorocarbons;</p> <p>(f) sulphur hexafluoride; and</p> <p>(g) indirect greenhouse gases;</p> <p>“mainstreaming” means the integration of climate change actions into decision making and implementation of functions by the sector ministries, state corporations and county governments.</p> <p>"mitigation" means preventing, reducing or slowing down the increase of atmospheric greenhouse gas concentrations by limiting current or future emissions and enhancing potential sinks for greenhouse gases</p> <p>‘planning committee’ means the County Climate Change Planning Committee established under section 15 of this Act</p> <p>"private entity" means a body or person with functions of a private nature, and includes bodies registered under the Public Benefits Organizations Act, 2013</p> <p>"public entity" means a body or person with functions of a public nature;</p> <p>"resilience" means the ability of a social, economic or ecological system to absorb disturbances while retaining the same basic structure and ways of functioning, the capacity for self-organization and the capacity to adapt to stress and change</p> <p>“steering committee” means the County Climate Change Steering Committee established under section 7 of this Act</p> <p>"vulnerability" means the conditions determined by physical, social, economic and environmental factors or processes, which increase the susceptibility of a system to the impact of hazards</p> <p>“ward planning committee” means the Ward Climate Change Planning Committee established under section 21 of this Act</p>
Objects and purposes	<p>3. (1) This Act shall be applied for the development, management, implementation, regulation and monitoring of adaptation and mitigation measures and actions to enhance climate change resilience and low carbon development in Elgeyo Marakwet County.</p> <p>(2) Without prejudice to subsection (1), this Act shall be applied by the county government in all sectors of the economy to:</p> <p>(a) mainstream climate change responses into development planning, decision making and implementation;</p> <p>(b) implement coordinated and integrated response to climate change and its impacts by all actors and stakeholders;</p>

	<p>(c) facilitate effective management of climate change impacts by enhancing adaptive capacity, strengthening resilience and reducing vulnerability to climate change;</p> <p>(d) promote, support and facilitate community-based and community initiated adaptation and mitigation activities</p> <p>(e) enforce duties and provide incentives for the private sector to contribute to achievement of low carbon climate resilient development;</p> <p>(f) facilitate public participation in climate change response through capacity development, awareness creation, consultation, representation and access to information;</p> <p>(g) establish frameworks and mechanisms for mobilization, transparent and accountable management of financial and other resources for climate change response;</p> <p>(h) establish and implement mechanisms to promote and facilitate climate change research and development, training and capacity building;</p> <p>(i) integrate climate change into the exercise of power and functions of all levels of the county government, including in decentralized units and enhance cooperative climate change governance between the county, neighboring counties and the national government</p> <p>(j) contribute to national efforts to address the adverse impacts of climate change</p> <p>(k) mainstream the principle of sustainable development into the planning for and decision making on climate change response; and</p> <p>(l) integrate climate change into the exercise of power and functions of all levels of governance, and to enhance cooperative climate change governance between the national government and county government of Elgeyo Marakwet.</p>
Guiding values and principles	<p>4. The application and interpretation of this Act and the making or implementation by the county government of any policy on climate change shall be guided by the following values and principles:</p> <p>(a) Community driven and bottom-up planning of response to climate change;</p> <p>(b) Commitment to informed participation of communities in planning and implementation of climate change response interventions</p> <p>(c) Recognition, respect and integration of indigenous knowledge of communities in climate change response</p>

	<ul style="list-style-type: none"> (d) Planning and implementation of climate change response to be anchored in and supportive of devolution (e) Flexible learning approach to addressing challenges of climate change (f) Investment in public goods to foster adaptation to climate change (g) Inclusion of all major actors in planning and implementation of climate change response (h) Protection of the climate system for the benefit of present and future generations (i) Ensuring a just transition for all towards an environmentally sustainable economy and society in the light of county circumstances and developmental goals (j) National values and principles of governance spelt out in Article 10 of the Constitution (k) Values and principles of public service spelt out in Article 232 of the Constitution (l) Promotion and protection of the right to a clean and healthy environment in accordance with Article 42 of the Constitution; (m) Commitment to fulfillment of the state obligations in respect of the environment as stipulated under Article 69 of the Constitution; (n) Ecosystem-based approach; (o) Cost-effectiveness
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PART II – COORDINATION AND OVERSIGHT

County Climate Change Unit	<p>5. (1) There is established the County Climate Change Unit, as a Unit within the county department responsible for climate change affairs.</p> <p>(2) The Unit shall be headed by the County Director of Climate Change who shall be recruited competitively by the County Public Service Board.</p> <p>(3) The Director appointed under subsection (2) shall be responsible for the performance of specific duties and functions of the Unit as set out in this Act.</p> <p>(4) A person shall be qualified for appointment as a Director of Climate Change if the person—</p> <ul style="list-style-type: none"> (a) is a citizen of Kenya; (b) has a degree, knowledge and at least 5 years’ experience in any of the following fields— <ul style="list-style-type: none"> (i) environmental studies; (ii) engineering; (iii) meteorology; (iv) climatology; (v) law; and (vi) economics. (c) meets the requirements of Chapter Six of the Constitution. <p>(5) The County Director of Climate Change shall report to the County Chief Officer responsible for climate change affairs.</p> <p>(4) The Unit shall have such other staff as may be appointed by the County Public Service Board for the efficient execution of the Unit’s functions.</p>
Functions of the Unit	<p>6. (1) The Unit shall be responsible for operational coordination and implementation of all climate change response measures and actions in the County.</p> <p>(2) Without prejudice to the generality of the foregoing subsection, the Unit shall—</p> <ul style="list-style-type: none"> (a) coordinate the implementation of the County Climate Change Action Plan, County Climate Change Finance Framework and

	<p>other climate change related policies, plans, programmes and projects;</p> <p>(b) coordinate and provide technical support to relevant County Government departments to integrate and mainstream climate change response measures and actions into all County Government development policies, plans, programmes and projects;</p> <p>(c) provide capacity building and technical support to communities and other stakeholders in the county to formulate and implement low carbon development strategies and actions to build resilience and enhance adaptive capacity to climate change;</p> <p>(d) coordinate climate change related research activities, knowledge dissemination and public awareness in the County;</p> <p>(e) coordinate public participation and facilitate access to information pertaining to climate change with regard to all development plans, programmes and projects in the County;</p> <p>(f) coordinate measurement, reporting and verification of all climate change policies, plans, programmes and projects in the County;</p> <p>(g) mobilize resources for the County Climate Change Fund established by this Act; and,</p> <p>(h) perform any other climate change related function as may be assigned by the County Climate Change Steering Committee established under this Act.</p>
County Climate Change Steering Committee	<p>7. There is established the Elgeyo Marakwet County Climate Change Steering Committee</p>
Functions of Steering Committee	<p>8. The Steering Committee shall oversee climate change response in the county and, in this connection, shall:</p> <p>(a) ensure mainstreaming of climate change into county planning and development processes;</p>

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	<ul style="list-style-type: none"> (b) oversee formulation and monitor implementation of the County Climate Change Action Plan, County Climate Finance Framework and any other county climate change policies, plans and strategies (c) mobilize funds into and oversee the administration of the County Climate Change Fund established under this Act; (d) review, approve and monitor implementation of Regulations for administration and management of the Fund (e) review and make recommendations on the biennial report on implementation of the County Climate Change Action Plan and any other reports on climate change response interventions in the county (f) advise the county government on legislative, policy and other measures necessary for climate change response and attainment of low carbon climate resilient development; (g) approve and oversee the implementation in the county of a comprehensive programme of climate change education, awareness creation and capacity building; (h) provide policy direction on research, training and dissemination of information relating to climate change to the public and other stakeholders the county; (i) ensure positive linkages, interactions and synergy between the county, neighboring counties and the national government in climate change response programming and action; (j) ensure a coordinated approach to climate change response programming and action within the county government, between the county government and national government, and among the different stakeholders in the county; and (k) guide the formulation of a climate change reporting framework, and the preparation and dissemination of an annual report on climate change response activities in the county (l) perform any other functions that may further the foregoing objectives and/or may be assigned by the Governor
<p>Composition of Steering Committee</p>	<p>9. (1) The Steering Committee shall comprise 9 members who shall be appointed by the Governor.</p> <p>(2) The members of the Steering Committee shall be:</p> <ul style="list-style-type: none"> (a) <u>The county secretary</u>Deputy Governor who shall be the chairperson (b) <u>County Executive Committee Member in charge of climate change</u> who shall be the Secretary

	<ul style="list-style-type: none"> (c) County Executive Committee Member in charge of the County Treasury (d) County Executive Committee Member in charge of agriculture (e) representative of the private sector nominated by the body representing the largest number of institutions in the private sector operating in the County (f) a representative of the Civil Society nominated by the most representative registered association of civil societies working on climate change in the County; (g) a representative of the youth nominated by the most representative registered association of youths in the County; (h) a representative of women nominated by the most representative registered association of women in the County; (i) a representative of persons living with disability nominated by the umbrella body representing persons living with disability in the County. (j) Fund Administrator, who shall be as an <i>ex-officio</i> member with no voting rights (k) (a) To include a representative from the minority/marginalized group (l) (a) A representative member from a faith based organization nominated organization nominated by the umbrella of denominations within the county <p>(3) The Steering Committee may from time to time co-opt experts in different fields, whenever necessary, to advise on specific issues.</p>
Term of the Steering Committee	<p>10. Members of the Steering Committee appointed under section 9(2)(e) to (i) shall serve in the Steering Committee for a fixed term of three years and shall be eligible for reappointment once completing the for term for another final term.</p>
Meetings of the Steering Committee	<p>11. (1) Members of the Steering Committee shall at their first meeting elect a vice-chairperson from amongst the members appointed under section 9(2)(g) and (h)</p> <p>(2) The Steering Committee shall meet at least once every quarter in every financial year.</p>

	<p>(3) The quorum for meetings of the Steering Committee shall be two thirds of the membership</p> <p>(4) A resolution of the Steering Committee shall require an affirmative vote of at least one half of the members present at a meeting, excluding the chairperson’s vote which shall be a casting vote</p> <p>(5) In the absence of the chairperson, the vice-chairperson shall chair meetings of the Steering Committee, and in the absence of both the chairperson and the vice-chairperson members in attendance shall elect one of them to chair the meeting.</p>
Allowances for members of the Steering Committee	12. Members of the Steering Committee shall be paid such allowances as the Salaries and Remuneration Commission may determine
Delegation of powers by the Steering Committee	13. Subject to the provisions of this Act, the Steering Committee may, either generally or in a particular case, delegate the exercise of any of its functions under this Act to any Subcommittee or to any member of the Steering Committee or officer or agent thereof
Powers and duties of the Executive Committee Member	<p>14. (1) Subject to the provisions of this Act, the Executive Committee Member shall provide guidance over climate change governance and implementation of this Act.</p> <p>(2) The Executive Committee Member shall—</p> <p>(a) guide the formulation and periodical review of the climate change policies, strategies and action plans.</p> <p>(b) report biannually to the County Assembly on the status of implementation of the county climate change action plan.</p> <p>(c) formulate regulations for the effective implementation of this Act.</p> <p>(3) The Executive Committee Member in discharge of the duties and functions under this Act shall be assisted by the Unit established under this Act.</p>

**PART III – INSTITUTIONAL FRAMEWORK FOR PLANNING AND
IMPLEMENTATION**

A. ELGEYO MARAKWET COUNTY CLIMATE CHANGE PLANNING COMMITTEE

Establishment of Planning Committee	15. There is established the County Climate Change Planning Committee, which shall comprise 12 members appointed by the Executive Committee Member for the time being responsible for climate change matters.
Composition of Planning Committee	<p>16. (1) Members of the Planning Committee shall be:</p> <ul style="list-style-type: none"> (a) Chief Officer in charge of climate change matters who shall be the chairperson. (b) Director in charge of the climate change, who shall be the Secretary. (c) County Director in charge of finance. (d) County Director in charge of agriculture. (e) County Director in charge of health. (f) County Director in charge of water. (g) One representative of persons living with disabilities in the County nominated by the umbrella body representing persons living with disabilities in the County (h) Two representatives of civil society nominated by the umbrella body of public benefit organizations working on climate change in the County. (i) One representative of the private sector nominated by the umbrella body of private sector organizations in the county (j) One representative of women nominated by the umbrella body of women working on climate change in the county (k) One representative of youth nominated by the umbrella body of youth working on climate change in the county (l) The Fund Administrator who shall be an <i>ex-officio</i> member with no voting rights (m) One <u>To include a representative from the minority/marginalized group</u> (n) One member <u>A member from a faith-based organization</u>

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	<p>(2) Members of the Planning Committee shall at their first meeting elect a vice-chairperson from among the members appointed<u>appointment</u> under subsection (1)(g) to (k).</p>
Appointment and Term of Planning Committee	<p>17. (1) Members of the Planning Committee shall be appointed by the Executive Committee Member.</p> <p>(2) Members of the Planning Committee appointed under section 16(1)(g) to (k) shall serve for one non-renewable term of five years</p>
Functions of Planning Committee	<p>18. The functions of the Planning Committee shall be to:</p> <ul style="list-style-type: none"> (a) coordinate planning, and implementation of projects and activities for climate change response in the county; (b) coordinate implementation of the County Climate Change Action Plan and the County Climate Finance Framework (c) establish guidelines to be used by Ward Planning Committees in formulating climate response projects for funding by the County Climate Change Fund (d) support Ward Planning Committees in development and implementation of climate response projects (e) coordinate development and implementation of the County Climate Change Fund Regulations (f) advise the Steering Committee on strategies, priority programmes, projects and activities for climate change response in the county (g) formulate and implement strategic actions to foster climate change education, awareness creation and capacity development in the county (h) coordinate research and knowledge management on climate change, its impacts and strategies for responding thereto (i) prepare and disseminate an annual report on climate change response activities in the county (j) formulate and implement a county monitoring, evaluation and reporting framework for climate change response (k) perform any other functions assigned to it by the Steering Committee
Meetings of Planning Committee	<p>19. (1) The Planning Committee shall meet at least once every quarter in each financial year</p> <p>(2) The Planning Committee may choose to rotate the location of its regular meetings to different wards in the county for purposes of engaging directly with communities and familiarizing itself with their climate change related challenges</p>

	<p>(3) The quorum for meetings of the Planning Committee shall be two thirds of the members</p> <p>(4) A resolution of the Planning Committee shall require an affirmative vote of more than one half of the membership present at a meeting, excluding the chairperson’s vote which shall be a casting vote.</p> <p>(5) In the absence of the chairperson, the vice chairperson shall preside over a meeting, and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting; provided that no two consecutive meetings shall be held without either the chairperson or the vice-chairperson being present</p> <p>(6) The Planning Committee may from time to time co-opt such experts in different fields, whenever necessary, to advise on specific issues.</p>
<p>Allowances for members of Planning Committee</p>	<p>20. Members of the Planning Committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission</p>
<p>B. WARD CLIMATE CHANGE PLANNING COMMITTEE</p>	
<p>Establishment and Composition of Ward Planning Committee</p>	<p>21. (1) There shall be established a Ward Climate Change Planning Committee in each ward within Elgeyo Marakwet County.</p> <p>(2) The Ward Climate Change Planning Committee shall be composed of elvene (11)⁹ members appointed by the Executive Committee Member to represent diverse interests in the community, namely:</p> <ul style="list-style-type: none"> (a) a person ordinarily resident in the Ward and holder of a Diploma qualification in a field relevant to environmental management who shall be the Chairperson. (b) an officer of the Climate Change Unit nominated by the Executive Committee Member who shall be the Secretary. (c) Two^a representatives of the youth who ordinarily resides in the Ward nominated by registered community-based organizations of youth working on environment and development in the Ward. (d) a representative of the women who ordinarily resides in the Ward nominated by registered community-based organizations of women working on environment and development in the Ward. (e) a representative of persons living disability who ordinarily resides in the Ward nominated by the umbrella body of persons living with disability in the County. (f) a representative of the business community who ordinarily resides in the Ward nominated by the umbrella body representing the sector in the County. (g) a representatives of community-based organizations nominated by such organizations working on climate change in the County

	<p>(h) two representatives of faith-based organizations being persons who ordinarily reside in the Ward nominated by registered faith-based organizations operating in the Ward.</p> <p><u>(i) a representative of the marginalized/minority group</u></p> <p>(j) the Ward Administrator as an <i>ex officio</i>.</p> <p>(j)<u>(k)</u> a representative of the MCA as an <i>ex officio</i>.</p> <p>(a)</p> <p>(3) Members of the Ward Climate Change Planning Committee shall at their first meeting elect a vice-chairperson from among the members appointment under subsection 1(c) to (k)</p>
<p>Qualifications for appointment to Ward Planning Committees</p>	<p>22. (1) A person shall not qualify for appointment to serve on the Ward Planning Committee, unless he or she:</p> <p>(a) is a resident of the ward</p> <p>(b) fulfills<u>fulfills</u> the requirements of Chapter Six of the Constitution on leadership and integrity</p> <p>(c) demonstrates basic knowledge of climate change and environmental issues and has engaged in activities aimed at addressing their challenges in the County</p> <p>(d) indicates willingness to serve the community</p> <p>(2) Without prejudice to the provisions of subsection (1), persons nominated under section 21(1)(c) to (h) shall have a minimum of O- Level education certificate.</p>
<p>Functions of Ward Planning Committees</p>	<p>23. The functions of the Ward Planning Committee shall be:</p> <p>(a) to coordinate and mobilize communities and other stakeholders in the ward to design and implement climate change response activities</p> <p>(b) to facilitate research and knowledge management at the ward level on climate change, its impacts and strategies for responding thereto</p> <p>(c) facilitate public education, awareness creation, and capacity building at the ward level on climate change, its impacts and strategies for responding thereto</p> <p>(d) to coordinate, facilitate and manage community consultations on priority climate change response activities</p> <p>(e) participate in county planning and budgeting processes with a view to ensuring the mainstreaming of climate change and prioritization of climate change response in county development plans</p> <p>(f) facilitate public participation in climate change governance, implementation of agreed climate change response activities, and monitoring of those activities</p>

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	<p>(g) coordinate and facilitate provision of technical support to communities in the ward in developing proposals on climate change response projects for funding by the County Climate Change Fund</p> <p>(h) oversee implementation of climate change response projects funded by the County Climate Change Fund and report thereon to the Planning Committee</p> <p>(i) perform any other functions that may be assigned to it by the Planning Committee</p>
<p>Term of Ward Planning Committees</p>	<p>24 (1) Members of the Ward Planning Committee shall serve for one non-renewable term of five years</p> <p>(2) Without prejudice to the provisions of subsection (1), and in order to ensure continuity, the members of the Ward Planning Committee shall at their first meeting decide by lot which five of them will retire at the end of three years.</p>
<p>Meetings of Ward Planning Committee</p>	<p>25 (1) The Ward Climate Change Planning Committee shall meet at least once in every quarter.</p> <p>(2) Save for the inaugural and emergency meetings, which shall be held at the ward headquarters, regular meetings of the Ward Planning Committee shall be convened and held in different locations of the ward on a rotational basis</p> <p>(3) The quorum for meetings of the Ward Climate Change Planning Committee shall be two thirds of the members</p> <p>(4) A resolution of the Ward Planning Committee shall require an affirmative vote of more than one half of the membership present at a meeting, excluding the chairperson’s vote which shall be a casting vote.</p> <p>(5) In the absence of the chairperson, the vice chairperson shall preside over a meeting, and in the absence of both the chairperson and the vice-chairperson, the members in attendance shall elect one of them to chair the meeting</p> <p>(6) Regular meetings of the Ward Climate change Planning Committee shall be scheduled in such a manner as to ensure that resolutions thereof are available in time for the next regular meeting of the Planning Committee</p> <p>(7) A Ward Climate Change Planning Committee may invite to its meetings any technical staff whose expertise and skills may be needed for purposes of a matter before the Committee, and the Ward Administrator shall ensure that technical staff in the ward are available to advise the Committee as and when necessary</p>

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Allowances for members of
Ward Planning Committees

26. Members of the Ward Climate Change Planning Committee shall be paid such allowances as are stipulated by Guidelines from the Salaries and Remuneration Commission

PART IV – MEASURES AND ACTIONS FOR RESPONDING TO CLIMATE CHANGE

<p>County Climate Change Action Plan</p>	<p>27. (1) The Executive Committee Member shall in consultation with the Steering Committee and relevant sectors and through a participatory process involving relevant stakeholders, formulate a Elgeyo Marakwet County Climate Change Action Plan.</p> <p>(2) The Elgeyo Marakwet County Climate Change Action Plan shall be for a period of five years and shall run concurrently with the current National Climate Change Action Plan</p> <p>(3) Without prejudice to the provisions of subsection (1), the Executive Committee Member shall within one year of the coming into force of this Act coordinate the development of an interim Elgeyo Marakwet County Climate Change Action Plan for the remainder of the period of the current National Climate Change Action Plan</p> <p>(4) The Elgeyo Marakwet County Climate Change Action Plan shall be reviewed and updated every five years through the same participatory process as the one followed in its formulation.</p>
<p>Contents of Elgeyo Marakwet County Climate Change Action Plan</p>	<p>28. The Elgeyo Marakwet County Climate Change Action Plan shall:</p> <p>(a) be aligned to the current National Climate Change Action Plan and respond to the specific needs and circumstances of the county;</p> <p>(b) contain a climate change needs and response assessment for the county;</p> <p>(c) articulate a climate change response implementation plan informed by the climate change needs and response assessment, and specifying measures and mechanisms for:</p> <ul style="list-style-type: none"> (i) guiding the county toward the achievement of low carbon climate resilient sustainable development; (ii) mainstreaming climate change into county development plans, programmes, strategies and projects; (iii) adaptation to and mitigation against climate change; (iv) enhancing research, capacity building and knowledge management on climate change and climate change response (v) enhancing public awareness for effective participation in climate change response; (vi) monitoring, evaluation and periodic review to integrate learning and best practice in the implementation of the Elgeyo Marakwet County Climate Change Action Plan

Approval of the Elgeyo Marakwet County Climate Change Action Plan	29. The Elgeyo Marakwet County Climate Change Action Plan shall be approved by the Steering Committee and laid before the County Assembly for adoption
Biennial review of the Elgeyo Marakwet County Climate Change Action Plan	30. The Planning Committee shall undertake a biennial review of the implementation of the Elgeyo Marakwet County Climate Change Action Plan and report to the Steering Committee

PART V – DUTIES RELATING TO CLIMATE CHANGE

<p>Climate change duties of public entities</p>	<p>(1) The Steering Committee may, on recommendation of the Executive Committee Member and in consultation with relevant Executive Committee Members, impose duties relating to climate change on any public entity operating within the county.</p> <p>(2) The imposition of climate change duties under subsection (1) shall be effected through regulations and preceded by public sensitization and consultations.</p> <p>(3) Any public entity on which a climate change duty has been imposed shall in performing the said duty act in a manner best suited to the successful implementation of this Act and the County Climate Change Action Plan.</p> <p>(4) Without prejudice to the provisions of subsection (1), every public entity operating in the county shall have the duty to:</p> <ul style="list-style-type: none"> (a) mainstream climate change into sectoral strategies, plans and other frameworks for implementing its statutory functions; (b) perform its statutory functions in a manner that contributes to the implementation of the County Climate Change Action Plan; (c) support the Steering Committee and the County Government in its planning, programming, implementation and monitoring of climate change response in the county; and (d) report annually to the Steering Committee on the status and progress of performance and implementation of all assigned climate change duties and functions.
<p>Climate change duties of private entities</p>	<p>—(1) The Steering Committee may, on recommendation of the Executive Committee Member and in consultation with relevant Executive Committee Members, impose duties relating to climate change on any private entity operating within the county.</p> <p>(2) The Steering Committee shall make regulations governing the nature and procedure for reporting on performance of climate change duties by private entities, including monitoring and evaluation of compliance.</p>
<p>Monitoring and reporting on compliance</p>	<p>31. (1) The County Director of Climate Change shall on behalf of the Steering Committee, monitor, investigate and report on whether public and private entities are in compliance with the assigned climate change duties, and in performance of this function she or he shall:</p> <ul style="list-style-type: none"> (a) have all powers necessary for purposes of monitoring and investigation including the power to enter premises of any private entity and make an enquiry; and

	<p>(b) at a reasonable hour, for the purposes of monitoring and investigation, enter any private land or premises to make an inspection or other task related to this function.</p> <p>(2) The County Director of Climate Change shall report to the Steering Committee on the performance of functions under subsection (1) on annual basis, and such report shall form part of the report by the Steering Committee to the County Assembly</p>
Steering Committee may require private entity to report on performance	<p>31. Notwithstanding the provisions of section 35, the Steering Committee may:</p> <ul style="list-style-type: none"> (-) by notice in the Gazette, require a private entity that is subject to climate change obligations to prepare reports on the status of its performance thereof and prescribe the period for reporting; and (-) require any private entity that fails to perform its climate change duties to prepare a report within a specified time, on the actions it has taken, is taking or intends to take to ensure future performance of those duties.
Annual County Climate Change Response Report	<p>35(1) The Steering Committee shall, within three months after the end of every financial year, publish publicly and submit a report on implementation of the Elgeyo Marakwet County Climate Change Action Plan and other climate change response actions and impacts to the County Assembly for review, discussion and debate.</p> <p>(2) The County Assembly shall, within three months of receiving the report, provide recommendations and proposed actions to the Steering Committee.</p> <p>(3) A copy of the report issued under subsection (1) shall be forwarded to the Unit for information purposes</p>

PART VI – PUBLIC PARTICIPATION AND ACCESS TO INFORMATION

Values and principles to apply to planning and implementation	36. The planning and implementation of climate response in the county shall be informed by the values and principles specified in section 4 of this Act
County strategy for climate change education and public awareness	<p>37. (1) Within one year of this Act coming into force, the Planning Committee shall develop a comprehensive county strategy for public education and awareness creation on climate change</p> <p>(2) The strategy shall be developed through a participatory process involving all stakeholders in the county, and validated at public meetings organized by Ward Planning Committees in every ward</p> <p>(3) The strategy shall be approved by the Steering Committee and its implementation mainstreamed into the County Climate Change Action Plan</p>
Public sensitization to precede formulation of climate change response plans	<p>38. (1) The Planning Committee and Ward Planning Committees shall ensure that the development of any climate change response programme, plan, project or activity in the county is preceded by comprehensive campaign of public sensitization and awareness creation to facilitate informed public participation.</p> <p>(2) The Planning Committee and the Ward Planning Committees shall report to the Steering Committee on public sensitization campaigns undertaken with reference to every climate change response programme, plan, project or activity in the county and demonstrate how the sensitization has made impact on the threshold of decision making.</p> <p>(3) The report on public sensitization and awareness creation on climate change programmes, plans, projects and activities shall be included in the reports of the Steering Committee.</p>
Capacity building for effective public participation	<p>39. (1) The Steering Committee shall ensure that the County Climate Change Planning Committee and Ward Climate Change Planning Committees implement comprehensive programmes of capacity building to equip individual citizens and communities in the county for effective participation in climate change governance and response.</p> <p>(2) The County Climate change Planning Committee and Ward Climate Change Planning Committees shall support and facilitate communities to establish Community-Based Organizations and other frameworks for mobilization and engagement with climate governance and response issues in the county</p>
Access to information	40. The Steering Committee, the Planning Committee, the Ward Planning Committee shall publish, publicize and ensure access to all important climate change information in their possession

PART VII – COUNTY CLIMATE CHANGE FUND

<p>Establishment of County Climate Change Fund</p>	<p>41. (1) There is hereby established the County Climate Change Fund to provide funding for priority climate change actions and interventions identified by communities and other stakeholders and approved by the Steering Committee</p> <p>(2) The Fund shall be vested in the County Treasury.</p> <p>(3) The Fund shall be administered by a Fund Administrator competitively recruited by the County Public Service Board and designated as such by the Executive Committee Member for Finance in accordance with section 116 (2) of the Public Finance Management Act, 2012..</p> <p>(4) The Fund Administrator, in managing the Fund, shall—</p> <ul style="list-style-type: none"> (a) prepare accounts for the fund for each financial year; (b) not later than three months after the end of each financial year, submit financial statements relating to those accounts to the Auditor-General and the County Assembly (d) ensure that the accounts for the fund and the annual financial statements relating to those accounts comply with the accounting standards prescribed and published by the Accounting Standards Board from time to time. (e) provide mechanisms for daily operations of the Fund; (f) process financing applications from eligible applicants for approval by the Steering Committee (g) ensure quality assurance in execution of the mandate of the Fund; (h) undertake resource mobilization for various sources; (i) provide technical assistance to the private sector, civil society and public entities. <p>(5) The Fund Administrator shall have the following qualifications –</p> <ul style="list-style-type: none"> (a) a degree in Finance, Economics or Business Administration (b) a minimum of 5 years’ experience in managing finance. (c) membership of a recognized professional body concerned with finance
<p>Sources of the Fund</p>	<p>42. The Fund shall be financed through:</p> <ul style="list-style-type: none"> (a) Initial capital appropriated by the County Assembly, being not less than two percent of the county development budget (b) Money appropriate annually by the County Assembly, which shall be not less than two percent of the annual development budget of the county (c) Money received from the Climate Change Fund of the national government

	<ul style="list-style-type: none"> (d) International Climate Finance received by the county directly or through the National Designated Authority, National Implementing Entity or other agency (e) Donations, endowments, bequests, grants and gifts from individuals, public and private entities local or foreign (f) Charges, fees, levies or fines received by the county government in connection with activities that adversely impact on climate in the county (g) Interest and any other money that may lawfully accrue to the Fund in any form
County Climate Change Fund Regulations	<p>43. (1) The Executive Committee Member shall, in consultation with the Executive Committee Member in charge of Finance and the Steering Committee, develop Regulations for administration and management of the Fund</p> <p>(2) The Regulations made under subsection (1) shall provide for the following, among other matters:</p> <ul style="list-style-type: none"> (a) formulation of the County Climate Finance Framework (b) appointment and removal of the Fund Administrator (c) operation of the Fund (d) eligibility criteria for accessing money from the Fund (e) development of project proposals, application for and disbursement of money from the Fund (f) procurement of services and goods (g) complaints mechanism (h) monitoring, evaluation, reporting and learning

PART VIII – FINANCIAL PROVISIONS

Funding operations of Steering and Planning Committees	<p>44. (1) Functions of the Steering Committee, the Planning Committee and Ward Planning Committees and the secretariats thereof shall be financed through a vote in the estimates of revenue and expenditure of the relevant Department of the Executive Committee</p> <p>(2) Participation of representatives of State and County Executive Departments in the Steering Committee, the Planning Committee and Ward Planning Committees shall be financed through votes in the estimates of revenue and expenditure of the respective State and Executive Committee Departments</p> <p>(3) Finances and accounts of the Steering Committee, the Planning Committee and Ward Planning Committees shall be administered and managed in accordance with the provisions of the Public Finance</p>
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	Management Act and the Public Finance Management (County Governments) Regulations
Annual estimates for Steering and Planning Committees	45. At least three months prior to the commencement of each financial year, the Executive Member shall cause to be prepared the estimates of revenue and expenditure of the Steering Committee, the Planning Committee and the Ward Planning Committees for the year.
Financial year of Steering and Planning Committees	46. The financial year of the Steering Committee, the Planning Committee and the Ward Planning Committees shall be the period of twelve months ending the thirtieth June in each year.
Accounts and audit of Steering and Planning Committees	47. The Steering Committee, the Planning Committee and Ward Planning Committees shall cause to be kept all proper books and records of account and income, expenditure and assets, and shall cause the accounts to be audited by the within a period of three months after the end of each financial year.

Commented [3]: Add government auditor

PART IX – MISCELLANEOUS PROVISIONS

Protection from personal liability	<p>48. (1) No action taken or thing done by a member, officer or agent of the Steering Committee, the Planning Committee or the Ward Planning Committee in good faith and in performance of functions or execution of powers vested in the said committees by this Act, shall render the member, officer or agent or any person acting on their directions personally liable for any action, claim or demand whatsoever.</p> <p>(2) The provisions of subsection (1) shall not relieve the Steering Committee, the Planning Committee or Ward Planning Committees of liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by negligence in the exercise of any power conferred by this Act or any other written law or by failure wholly or partially of any works.</p>
Offences and penalties	<p>49. Any person who:</p> <p>(a) without lawful excuse ignores or fails to obey any instructions issued by any member or officer or agent of the Steering Committee, the Planning Committee or Ward Planning Committee in exercise of the powers or performance of the functions of the Committees under this Act; or</p> <p>(b) willfully obstructs any member or officer or agent of the Steering Committee, the Planning Committee or Ward Planning Committee in the discharge of their lawful duties; or</p> <p>(c) misrepresents, knowingly submits false or misleading information to any member or officer or agent of the Steering Committee, the</p>

	<p>Planning Committee or Ward Planning Committee in exercise of powers or the performance of the functions of the said Committees under this Act</p> <p>commits an offence and shall be liable upon conviction to the punishment provided for under section 33(1) of the Climate Change Act, 2016</p>
Regulations	<p>50. (1) The County Executive Committee Member may, on recommendation of the Steering Committee, make regulations for or with respect to any matter which is necessary or expedient to be prescribed for carrying out or giving effect to this Act.</p> <p>(2) Without prejudice to the generality of the foregoing, regulations may be made under this section for-</p> <ul style="list-style-type: none"> (a) regulating carbon markets; (b) securing the rights of local communities; and (c) prescribing measures and mechanisms for protecting and managing fragile habitats, ecosystems and landscapes.
Repeal	<p>(2) The Elgeyo Marakwet Climate Change Fund Act, 2022 is repealed.</p>