



REPUBLIC OF KENYA
PARLIAMENT

SENATE BILLS
(*Bill No. 6 of 2020*)

THE PANDEMIC RESPONSE AND
MANAGEMENT BILL, 2020



(A Bill published in the Kenya *Gazette* Supplement No. 44 of 17th April, 2020 and passed by the Senate, with amendments, on 30th June, 2020)

THE PANDEMIC RESPONSE AND MANAGEMENT BILL, 2020

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**THE PANDEMIC RESPONSE AND MANAGEMENT
ACT, 2020**

A Bill for

AN ACT of Parliament to provide: a legal framework for a coordinated response and management of activities during a pandemic; temporary measures and relief during a pandemic; and for connected purposes

ENACTED by the Parliament of Kenya, as follows

PART 1 – PRELIMINARY

Short title.	1. This Act may be cited as the Pandemic Response and Management Act, 2020.
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Interpretation.	2. In this Act—
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“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to health;

“County Committee” means a county pandemic response committee established under section 14;

“county executive committee member” means the county executive committee member responsible for matters relating to health;

“lending financial institution” includes a bank, mortgage company, cooperative society, investment company or any other entity which is registered and duly licensed to make loans to persons;

“National Committee” means the National Pandemic Response Committee established under section 8; and

“pandemic” means an infectious disease occurring

across international boundaries.

Objects.

3. The objects of the Act are to provide —

- (a) a framework for the coordinated approach in the response and management of activities during a pandemic;
- (b) temporary relief from the inability to perform contractual obligations where the inability is caused by a pandemic; and
- (c) temporary measures to address various matters during a pandemic.

Conflict of laws.

4. Where the provisions of this Act conflict with the provisions of another Act, the provisions of this Act shall prevail.

PART II – DECLARATION OF A PANDEMIC

Notification of pandemic.

5. Where the Cabinet Secretary determines that it is necessary to take measures to prevent or control the spread of a pandemic, the Cabinet Secretary shall make a recommendation to the President for the declaration of a pandemic.

Declaration of a pandemic.

6. The President may upon receipt of a recommendation from the Cabinet Secretary under section 5 and in consultation with the National Security Council, issue a notice in the Gazette declaring a pandemic.

Declaration of the end of a pandemic.

7. The President shall, on the recommendation of the National Committee and by notice in the *Gazette*, declare that a pandemic is no longer a threat to the social, economic or political stability of the country.

PART III – ESTABLISHMENT OF THE NATIONAL PANDEMIC RESPONSE COMMITTEE

Establishment of National

8. The President shall establish a National Pandemic Response Committee upon declaration of a

Committee. pandemic.

Functions of the
National
Committee.

9. The National Committee shall –

- (a) co-ordinate the country's response and management to the threat caused by the pandemic;
- (b) co-ordinate capacity building of the relevant personnel for quick and effective response to the pandemic;
- (c) conduct economic impact assessments on the effects of the pandemic and develop mitigation strategies;
- (d) advise the national and county governments on management of the pandemic;
- (e) co-ordinate, collate, review and analyse disaggregated information relevant to the management of the pandemic;
- (f) coordinate and support public awareness campaigns and civic education programmes on the pandemic at the national level;
- (g) promote linkages with relevant ministries, international organizations, county, sub-county and community-based entities;
- (h) mobilize public-private partnerships in managing the pandemic;
- (i) monitor and evaluate interventions made for mitigation of the pandemic;
- (j) liaise with the county governments on implementation of mitigation measures;
- (k) assess the country's capacity to deal with the pandemic;

(l) develop and publicize an appropriate national plan to manage the pandemic;

(m) develop an appropriate post pandemic recovery framework for all sectors affected by the pandemic;

(n) develop a community engagement strategy to manage the pandemic; and

(o) provide up-to-date information to the public on the pandemic and the steps the Committee has taken to manage the pandemic and mitigate against its impact.

Composition of the
National
Committee.

10. (1) The National Committee shall consist of –

(a) the Cabinet Secretary, who shall be the chairperson;

(b) the Principal Secretary in the Ministry responsible for finance;

(c) such other Cabinet and Principal Secretaries as the President shall consider necessary;

(d) the chairperson to the Council of County Governors or such other Governor as the chairperson shall designate in writing; and

(e) such other public officers, not exceeding three as the President shall consider necessary.

(2) The President shall notify the establishment of the National Response Committee by notice in the Gazette.

(3) The Committee shall be an ad-hoc committee whose tenure shall lapse two months after the President

declares the end of a pandemic.

Secretariat.

11. The Cabinet Secretary shall designate officers within the Ministry to serve as the secretariat to the National Response Committee.

Committees of the
National
Committee.

12. (1) The National Committee may establish such sub-committees as it may consider necessary for the effective performance of its functions under this Act.

(2) The National Committee may—

(a) co-opt into the membership of a committee established under subsection (1), such other persons whose knowledge and skills are found necessary for the effective performance of the Committee; and

(b) by resolution either generally or in any particular case, ~~delegate to another government~~ entity, the exercise of any of the powers or the performance of any of the functions of the committee under this Act.

Report to
Parliament.

13. (1) The National Committee shall —

(a) during the period of the pandemic, prepare and submit to Parliament once in every two weeks a status report providing information on -

(i) the rate of infection of the disease within the country;

(ii) measures taken to mitigate the pandemic;

(iii) challenges faced in mitigating the pandemic; and

(iv) resource mobilization and expenditure on the pandemic; and

(b) within one month after the declaration of the

end of a pandemic, prepare and submit to Parliament its final report on its activities.

(2) Parliament shall, upon receipt and consideration of the reports under subsection (1), make such recommendations as it may consider necessary for mitigation of the impact of current and future pandemics.

PART IV— ESTABLISHMENT OF COUNTY PANDEMIC RESPONSE COMMITTEES

Establishment of
County
Committees.

14. Upon the declaration of a pandemic by the President under section 8, each County Governor shall establish a county pandemic response committee in their respective county.

Functions of
County
Committees.

15. The County Committee shall –

- (a) implement the strategies and measures as directed by the National Committee;
- (b) co-ordinate the county's response and management to the threats caused by the pandemic;
- (c) establish a communication strategy that is in line with the national communication strategy;
- (d) promote civic education and public awareness on the pandemic;
- (e) collaborate with the national government and relevant agencies in overseeing management of the pandemic in the county; and
- (f) initiate and facilitate efforts to make funding of the management of the pandemic in the county available.

Membership of
County
Committee.

16. (1) The County Pandemic Response Committee shall consist of —

- (a) the county executive committee member;
- (b) the county executive committee member responsible for matters relating to finance;
- (c) the chief secretary in the department responsible for health;
- (d) the county commissioner; and
- (e) such county public officers, not exceeding three, that the county governor shall consider necessary.

(2) The county governor shall notify the public of the establishment of the county response committee by notice in the *Gazette*.

(3) The Committee shall be an ad-hoc committee whose tenure shall lapse two months after the President declares the end of a pandemic.

Committees of the
County
Committee.

17. (1) The County Committee may establish such subcommittees as it may consider necessary for the effective performance of its functions under this Act.

(2) The County Committee may –

- (c) co-opt into the membership of a committee established under subsection (1), other persons whose knowledge and skills are found necessary for the functions of the Committee; and
- (d) by resolution either generally or in any particular case, delegate to another county government entity, the exercise of any of the powers or the performance of any of the functions of the committee under this Act.

Report to the
county assembly.

18. (1) The county committee shall, during the period of the pandemic, —

- (a) prepare and submit to the respective county

assembly bi-weekly status reports
providing-

- (i) the rate of infection of the disease within the county;
 - (ii) measures taken to mitigate the pandemic within the county; and
 - (iii) challenges faced in mitigating the pandemic within the county; and
- (b) within one month after the declaration of the end of a pandemic, prepare and submit to the relevant county assembly its final report on its activities.

(2) The county assembly shall, upon receipt of the reports under subsection (1) make recommendations it may consider necessary for mitigation of the impact of current and future pandemics.

PART V- SOCIO-ECONOMIC PROTECTIVE MEASURES

Tax incentives.

19. (1) Where a pandemic is such that it affects the economic or purchase power of the public, the Cabinet Secretary responsible for matters relating to finance shall, with the approval of Parliament, introduce tax measures to cushion the affected persons for the duration of the pandemic.

(2) The Cabinet Secretary for matters relating to finance may, for purposes of subsection (1) prescribe measures restricting the Kenya Revenue Authority from the enforcement of tax obligations during a pandemic.

Loans and
mortgages.

20. (1) Where a pandemic has a negative impact on the capacity of a borrower to meet his or her contractual obligations entered into prior to the declaration of a pandemic, the following measures shall apply during the pandemic up to two months after the end of the pandemic —

- (a) the borrower may give notice of default in writing to the respective lending financial institution specifying the reason for default to be as a result of the pandemic;
- (b) the borrower and the lending financial institution may enter into an agreement for the extension of the timelines for repayment;
- (c) where the borrower and the lending financial institution fail to agree on the timeline for extension of the repayment, the lending financial institution shall determine a reasonable timeline for repayment;
- (d) the borrower shall not be listed by a credit reference bureau on account of a default; and
- (e) the statutory notice of realization of a security given shall not be issued.

(2) The Cabinet Secretary responsible for matters relating to finance shall—

- (a) in consultation with financial institutions, develop a criteria for debt review; and
- (b) with the approval of Parliament, implement measures to cushion lenders and borrowers.

Moratorium on penalties.

21. (1) A lending financial institution shall not charge fees, interest or any other penalty during a pandemic period, for non-payment or late payment of obligations entered into prior to the declaration of a pandemic.

(2) The Cabinet Secretary responsible for matters relating to finance shall—

- (a) in consultation with the association representing the largest number of lending institutions, prescribe an eligibility criterion for a moratorium under subsection (1); and
- (b) prescribe the criteria to be applied by a lending financial institution in determining the period for which the moratorium will apply with respect to its borrowers.
- (3) A statutory agency shall not charge fees, interest or penalties for late payment or failure by a person to meet their obligations under a contract during the pandemic period.
- Contractual obligations.
22. Where a contract was entered into before the declaration of a pandemic and the pandemic affects the performance of a contractual obligation—
- (a) the defaulting party may give notice of default in writing to the other party citing the reason for the default to be as a result of the pandemic; and
- (b) the parties to a contract may enter into an arrangement to review the terms of the contract and to extend the timelines for the defaulting party to meet the contractual obligations.
- Labour relations.
23. (1) The Cabinet Secretary responsible for matters relating to labour shall, with the approval of Parliament, develop measures to cushion employers and employees during the pandemic.
- (2) The measures taken by an employer who is adversely affected by a pandemic, with respect to an employee, shall not contravene the existing employment and labour relations laws.
- Designation of
24. (1) The Cabinet Secretary may, in consultation

vulnerable
persons.

with the National Committee, the Council of County Governors and the Cabinet Secretary responsible for matters relating to social assistance, by notice in the *Gazette*, designate categories of vulnerable persons affected by a pandemic.

(2) Despite subsection (1), vulnerable persons shall include—

- (a) orphans and at risk children;
- (b) persons with disabilities;
- (c) poor elderly persons;
- (d) persons who have lost their source of income owing to the pandemic;
- (e) poor widows and widowers;
- ~~(f) persons disabled by acute chronic illnesses and who cannot meet their basic needs; and~~
- (g) micro, small and medium enterprises affected by a pandemic.

(3) In this Part.—

“at risk child” means a child who—

- (a) is under the care of a person who suffers a disability or serious long-term ailment which renders the person unable to care for the child;
- (b) has been abandoned by a parent or parents and is not under the care of a guardian who provides the basic needs of the child; or
- (c) is under the care of parents or guardians who are unable to provide for the child’s basic needs;

“medium enterprise” means a firm, trade, service, industry or a business activity—

(a) whose annual turnover is at least five million shillings and does not exceed eight hundred million shillings; and

(b) which employs between fifty and ninety-nine people.

No. 55 of 2012.

“micro enterprise” has the meaning assigned to it under section 2 of the Micro and Small Enterprises Act;

“orphan” means a child with no parents, either biological or adoptive, and who is not under the care of a guardian who provides the basic needs of the child;

“person with a disability” means a person who—

(a) suffers from severe mental or physical disability;

(b) the disability renders the person incapable of catering for their basic needs; and

(c) there is no known source of income or support for the person;

“poor elderly person” means a person who has attained the age of sixty-five years and cannot meet their basic needs;

“poor widow or widower” means a widow or widower who cannot meet her or his basic needs; and

“small enterprise” has the meaning assigned to it under section 2 of the Micro and Small Enterprises Act.

Social safety net
and economic
safeguards.

25. (1) National and county governments shall put in place social safety schemes designed to support vulnerable persons, vulnerable households and informal

sector workers whose incomes have been disrupted by the pandemic.

(2) The schemes under subsection (1) may include unconditional cash transfers to support the identified groups to meet their daily basic necessities.

Utilities.

26. The relevant national and county government agencies shall, during a pandemic, —

- (a) waive water and electricity charges for identified vulnerable persons and households; and
- (b) in consultation with water and electricity service providers —
 - (i) adjust tariff rates in order to reduce utility charges to individuals and businesses; and
 - (ii) withhold disconnections for non-payment of utility bills.

Information technology.

27. (1) Despite any other law, where during a pandemic the government issues directives that may adversely affect the conduct of on-site meetings or business —

- (a) the meetings or such business may subject to subsection (2) be held remotely via appropriate electronic means and the resolutions made during such meetings shall be valid;
- (b) the Speakers of Parliament shall, with the approval of the respective House, make guidelines on the conduct of plenary and committee sittings remotely;
- (c) the Speaker of each county assembly shall, with the approval of the respective county assembly, make guidelines on the conduct of plenary and committee sittings remotely;

(d) court proceedings may be held remotely and the Chief Justice may make Rules for the conduct of such proceedings; and

(e) respective heads of institutions may make guidelines on how business shall be transacted remotely.

(2) The holding of a meeting under subsection (1)(a) shall be subject to the existing laws on the conduct of meetings and the validity of resolutions.

(3) The Cabinet Secretary for matters relating to information, communications and technology shall make regulations for the protection of data and information transmitted during meetings held remotely.

Rates and licences. 28. County governments may suspend fees payable on renewal of trade licenses and payment of property rates during the pandemic.

PART VI- MISCELLANEOUS PROVISIONS

Penalty for
obstruction, etc.

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

(a) obstructs a public officer in the discharge of the officer's functions under this Act; or

(b) refuses to comply with any direction given by a competent authority in the furtherance of provisions under this Act,

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

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

Penalty for false claim.

30. A person who knowingly-

- (a) 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 under this Act; or
- (b) makes or circulates a false alarm knowingly or warning as to a pandemic 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.

Penalty for misappropriation of relief money or materials.

31. (1) 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 pandemic-

- (a) misappropriates the money or goods;
- (b) appropriates the money or goods for the person's own use;
- (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.

(2) Despite any penalty that may be imposed under subsection (1), a person who is found guilty of an offence under subsection (1) is liable to pay three times the value of the misappropriated money or goods.

General penalty.

32. (1) A person who commits an offence under this Act for which no penalty is provided is liable, on conviction, to a fine of not less than one hundred thousand shillings or a fine not exceeding twice the value of the goods or products or, to imprisonment for a term not exceeding six months, or to both.

(2) Where an offence under this Act is committed by a partnership, company, association or co-operative society, every person who at the time when the offence was committed –

- (a) was director, partner or officer;
- (b) had knowledge or should have had knowledge of the commission of the offence; and
- (c) did not exercise due diligence to ensure compliance with this Act,

commits an offence and is liable for the offence as if he had himself committed the offence, unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance and that he exercised diligence to prevent the commission of the offence as he ought to have exercised having regard to the nature of his functions as director, partner or officer concerned.

Establishment of a fund.

No. 18 of 2012.

Regulations.

33. The Cabinet Secretary responsible for matters relating to finance may, where he considers it necessary, establish a fund pursuant to section 24(4) of the Public Finance Management Act for the effective mitigation and management of the adverse effects of the pandemic.

34. (1) The Cabinet Secretary may, in consultation with the National Committee and the Council of County Governors, make regulations—

- (a) prescribing anything that is required to be prescribed under this Act; and
- (b) generally, for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the Cabinet Secretary may, in consultation with the National Committee and the Council of County

Governors, make regulations —

- (a) to provide for measures for prevention, mitigation, preparedness, response and recovery from the pandemic;
- (b) to provide for emergency registration of the relevant professionals;
- (c) in consultation with—

- (i) the Cabinet Secretary responsible for matters relating to information and communication technology, make regulations to provide for collection and publication of data relating to the pandemic;

- (ii) the Cabinet Secretary responsible for the coordination of National Government functions, make regulations to provide for use of listed premises as shelters to manage a pandemic;

- (iii) the Cabinet Secretary responsible for matters relating to labour, make regulations to provide for additional services to be categorized under essential services despite the provisions of the Labour Relations Act;

Act No. 14 of
2007.

- (iv) the Cabinet Secretary responsible for matters relating to trade and industry, make regulations to provide for consumer protection measures despite the provisions of the Consumer Protection Act;

Act No. 46 of
2012.

- (v) the Cabinet Secretary responsible for matters relating to social assistance, make regulations to provide for care and protection of vulnerable persons;

- (vi) the Cabinet Secretary responsible for

matters relating to information and communication technology, make regulations to provide for conduct of public awareness and civic education on management of the pandemic; or

- (d) make regulations to provide for any relevant rules or standards required for the effective implementation of this Act.

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

- (a) the power of the Cabinet Secretary to make regulations shall be limited to bringing into effect the provisions of this Act and the fulfilment of the objectives specified under subsection (1); and

- (b) the principles and standards set out under the Interpretation and General Provisions Act and the Statutory Instruments Act, in relation to subsidiary legislation shall apply to regulations made under this Act

Cap. 2.
No. 23 of 2013

(4) The Cabinet Secretary shall, within three days after the publication of a regulation under this Act, ensure that a copy of the regulation is transmitted to the Clerk of the National Assembly and the Senate for tabling before each House of Parliament.

(5) Each House of Parliament shall consider and either approve or annul regulations made under this Act within seven days after the tabling of the regulations in the respective House.

The Pandemic Response and Management Bill, 2020

I certify that this printed impression is a true copy of the Bill as passed by the Senate on Tuesday, 30th June, 2020.


Clerk of the Senate

Endorsed for presentation to the National Assembly in accordance with the provisions of standing order 156 of the Senate Standing Orders.


Speaker of the Senate

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