

The Disaster Risk Management Bill, 2021



REPUBLIC OF KENYA

PARLIAMENT

SENATE BILLS

(Bill No. 14 of 2021)

THE DISASTER RISK MANAGEMENT BILL, 2021

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THE DISASTER RISK MANAGEMENT BILL, 2021

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

1—Short title.

2—Interpretation.

**PART II—NATIONAL DISASTER RISK MANAGEMENT
AUTHORITY**

3—Establishment of the National Disaster Risk Management Authority.

4—Headquarters.

5—Functions of the Authority.

6—Powers of the Authority.

7—Board of the Authority.

8—Vacation of office.

9—Conduct of business and affairs of the Board.

10—Remuneration of Board Members.

11—Delegation by the Authority.

12—Director-General.

13—Board may co-opt experts.

14—Electronic information system.

15—Disaster risk management plans.

16—Classification of disasters.

17—Declaration of a state of emergency due to disaster.

PART III—COUNTY DISASTER RISK MANAGEMENT

18—Establishment of County Disaster Risk Management Committees.

19—Functions of a County Committee.

The Disaster Risk Management Bill, 2021

- 20—Powers of a County Committee.
- 21—Vacation of office.
- 22—Conduct of business and affairs of a County Committee.
- 23—Procedure during disaster events.
- 24—Annual report to county assembly.
- 25—County Committee may make regulations.
- 26—Fire disaster management system.

PART IV—FINANCIAL PROVISIONS

- 27—Funds of the Authority.
- 28—Financial year.
- 29—Annual estimates.
- 30—Accounts and audit.
- 31—Annual report by the Authority.

PART V—DISASTER RISK MANAGEMENT FUND

- 32—Establishment of the Fund.

PART VI—OFFENCES AND PENALTIES

- 33—Penalty for obstruction, etc.
- 34—Penalty for false claim.
- 35—Penalty for false alarm.
- 36—Penalty for misappropriation of relief money or material.
- 37—Offences by companies.

PART VII—PROVISIONS ON DELEGATED POWERS

- 38—Regulations.

PART VIII—SAVING AND TRANSITIONAL PROVISIONS

- 39—Transfer of Staff.
- 40—Transfer of assets and liabilities.
- 41—Pending proceedings and claims.

PART IX—MISCELLANEOUS

The Disaster Risk Management Bill, 2021

42—Protection from liability.

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

**SECOND SCHEDULE— PROVISIONS AS TO THE CONDUCT
OF BUSINESS AND AFFAIRS OF A COUNTY COMMITTEE**

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 coordination 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 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 3;

No. 4 of 2006.

“Bureau of Statistics” means the Kenya National Bureau of Statistics established under section 3 of the Statistics Act;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to disaster riskmanagement;

“County Committee” means a County Disaster Risk Management Committee established under section 18;

“county executive committee member” means the county executive committee member responsible for matters relating to disaster risk management;

“disaster” means a serious disruption of the functioning of a community or society causing widespread human, material, economic or environmental losses and impacts which exceed the ability of the affected community or society to cope using its own resources;

“disaster risk” means the potential disaster losses, in lives, health status, livelihoods, assets, and services, that may occur to a community or society over a specified future time period;

“disaster risk management” means the systematic process of using administrative directives, organizations, and operationalskills and capacities toimplement multi-sectoral strategies, policies and improved coping capacities to lessen the adverse impacts of hazards and the possibility of disaster;

The Disaster Risk Management Bill, 2021

“disaster risk reduction” means the concept and practice of reducing disaster risks through systematic efforts to analyze and manage the causal factors of disasters, including through reduced exposure to hazards, lessened vulnerability of people and property, wise management of land and environment, and improved preparedness for adverse events;

“Fund” means the Disaster Risk Management Fund established under section 32;

“hazard” means a process, phenomenon or human activity likely to cause the loss of life or injury, or other health impact, property damage, loss of livelihoods and services, social and economic disruption, or environmental damage;

“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 hazards events or conditions;

“prevention” means the activities and measures taken to avoid existing and new disasters;

“recovery” means the restoration, and improvement where appropriate, of facilities, livelihoods and living conditions of disaster-affected communities, including efforts to prevent or reduce disaster risk factors;

“response” means actions taken before, during or immediately after a disaster to save lives, reduce health impacts, ensure public safety and meet the basic subsistence needs of the affected persons;

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

“risk assessment” means a 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; and

“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 a hazard.

**PART II—NATIONAL DISASTER RISK
MANAGEMENT AUTHORITY**

National
Disaster Risk
Management
Authority.

3. (1) There is established the National Disaster Risk Management 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; and
- (c) 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.

Headquarters.

4. The Headquarters of the Authority shall be in Nairobi.

Functions of
the
Authority.

5. The Authority shall—

- (a) adopt a coordinated inter-agency and inter-ministerial approach in disaster prevention, preparedness, mitigation, response and recovery activities;
- (b) serve as the central national agency in the implementation of disaster risk management activities;
- (c) prepare and coordinate disaster risk management measures in the country;
- (d) advise the national and county governments on disaster risk management measures;
- (e) develop, update and coordinate

implementation of a national —

- (i) disaster risk management strategy;
- (ii) disaster management plan; and
- (iii) disaster preparedness, response, and recovery plan.
- (f) in coordination with the Bureau of Statistics, coordinate, collate, review and analyse disaggregated information relevant to disaster risk management;
- (g) formulate, establish and implement a national early warning and emergency communication strategy;
- (h) coordinate and support public awareness campaigns and civic education programmes on disaster risk management at the national level;
- (i) monitor, evaluate and document lessons learnt from the handling of disasters and their application towards improving disaster risk management measures;
- (j) promote linkages with key ministries, community service organisations, international organizations, county, sub-county and community-based disaster risk management entities;
- (k) coordinate the preparation and maintenance of national, county and sub-county disaster risk atlases including data banks and information on potential hazards and vulnerabilities;
- (l) lead and coordinate routine hazard identification and vulnerability and risk assessments in all sectors;
- (m) establish effective people-centred early warning systems at national and in collaboration with the relevant county committees, at county levels and disseminate risk and early warning information in a timely manner;

- (n) develop and guide the implementation of structural and non-structural mitigation measures in all sectors;
- (o) lead and coordinate mainstreaming of disaster risk management in national government strategies, policies and plans;
- (p) strengthen disaster risk management institutional capacity for national and county governments;
- (q) prepare guidelines for participation in county, national, regional and international disaster management activities;
- (r) coordinate resource mobilization strategies;
- (s) coordinate training and research and development in firefighting, search and rescue and ambulance services;
- (t) coordinate and collaborate with relevant agencies and institutions to facilitate capacity enhancement and research in disaster related issues;
- (u) implement international obligations related to disaster risk management arising out of international instruments that the country is a part to; and
- (v) mobilize public-private partnerships in disaster risk management.

Powers
of the
Authority.

6. (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) administer the assets of the Authority in such manner and for such purpose as best promotes the purpose for which the Authority is established;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Authority;

The Disaster Risk Management Bill, 2021

- (c) receive grants, gifts, donations or endowments and make legitimate disbursements therefrom;
- (d) 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;
- (e) open a bank account or bank accounts for the funds of the Authority;
- (f) invest funds of the Authority not immediately required for its purposes; and
- (g) enter premises to secure the supply of water, access a disaster area or for any other purpose related to disaster prevention or response.

Board of the
Authority.

7. (1) There shall be a Board of the Authority which shall comprise—

- (a) a chairperson, who shall be appointed by the Cabinet Secretary;
- (b) the Principal Secretary in the Ministry responsible for matters relating to disaster risk management;
- (c) the Principal Secretary in the Ministry responsible for finance;
- (d) the Principal Secretary in the Ministry responsible for environment;
- (e) the Principal Secretary in the Ministry responsible for internal security;
- (f) a representative of the Kenya Red Cross Society;
- (g) one person nominated by the Council of County Governors;
- (h) one person appointed by the Cabinet Secretary from amongst three persons nominated by the Kenya Private Sector Alliance;
- (i) one person appointed by the Cabinet Secretary from amongst three persons nominated by the Kenya Medical Association; and
- ~~(j) the Director-General of the Authority~~

who shall be an *ex-officio* member and who shall have no vote.

(2) In appointing members, the Cabinet Secretary shall observe the principle of gender equity and regional balance.

(3) A person shall qualify for appointment as the chairperson of the Board if that person —

- (a) holds a degree from a university recognised in Kenya;
- (b) has knowledge and experience in matters related to disaster management; and
- (c) meets the requirements of Chapter Six of the Constitution.

(4) A person shall qualify for nomination under paragraph (1) (h) and (i) if that person —

- (a) holds a degree in a relevant field from a university recognised in Kenya; and
- (b) meets the requirements of Chapter Six of the Constitution.

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

Vacation of office.

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

- (a) resigns by issuing notice in writing addressed to the Cabinet Secretary;
- (b) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (d) is convicted of an offence that constitutes a serious violation of Chapter Six of the Constitution;

The Disaster Risk Management Bill, 2021

(e) is unable, by reason of mental or physical infirmity, to discharge his or her functions; or

(f) dies.

Conduct of
business and
affairs of the
Board.

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

Remuneration of
Board Members.

10. The members of the Board shall serve on a part time basis and shall be paid such remuneration, fees or allowances as the Cabinet Secretary, in consultation with the Salaries and Remuneration Commission, may determine.

Delegation
by the
Authority.

11. 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.

Director-General.

12. (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) A person shall qualify for appointment under this section if the person —

- (a) holds a relevant degree from a university recognised in Kenya;
- (b) has at least five years' managerial experience; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Director-General shall hold office for a term of five years which may be renewed once.

(4) The Director-General of the Authority shall be—

- (a) responsible to the Board for the day-to-day management of the affairs of the Authority; and

~~(b) the Secretary to the Board.~~

Board may
co-opt
experts.

13. The Board may engage such experts as may be necessary to assist in the discharge of its functions.

Electronic
information
system.

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

(a) particulars of—

- (i) national, 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 specialised 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) in coordination with the Bureau of Statistics, information concerning disasters including information on—

- (i) phenomena, occurrences, activities and circumstances that cause or aggravated disasters;
- (ii) risk factors underlying disasters and ways 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;
- (vi) early warning systems;
- (vii) areas and communities that are particularly vulnerable to disasters; and
- (viii) traditional knowledge relating to disaster management;
- (c) the directory of role-players referred to in subsection (1)(a) and the names and particulars of their respective contact persons;
- (d) emergency preparedness, response and recovery 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;
 - (vi) airports, airstrips, harbours, and railway stations; and
 - (vii) any other critical infrastructure including power stations, power distribution networks and water reservoirs.
- (e) emergency response resources and capacity in neighbouring states and relevant international relief agencies;
- (f) emergency preparedness in the different spheres of government;
- (g) each disaster classified by the Authority under section 16; and
- (h) disaster risk management research and training facilities.

(3) The Authority shall ensure that the database is accessible.

(4) Despite subsection (3) the Authority—

(a) shall—

- (i) establish security safeguards to ensure that access to the information on the database does not violate the right of the subject of information to privacy;
- (ii) on request by the subject of information on the database, immediately redact or restrict access to the information; and

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

Disaster risk
management plans.

15. (1) The Authority shall—

- (a) develop and regularly review a 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 coordinating the implementation of the policies, plans and strategies; and
- (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) The national disaster risk management plan and strategy shall include information on —

- (a) measures to be taken for the prevention and response to

disasters and the mitigation of their effects;

(b) measures to be taken for preparedness and capacity building to effectively respond to any impending disaster;

(c) minimum requirements for the provision of shelter, food, drinking water, medical services and sanitation in relief camps;

(d) roles and responsibilities of different Ministries, county governments, and relief agencies in respect of measures specified in paragraph (a), (b), and (c); and

(e) any other matter relevant to disaster risk management.

(3) In developing and reviewing a 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 leaders involved in the oversight of the implementation of the development plans.

Classificati
on of
disasters.

16. (1) When a disastrous event 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 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) When assessing the magnitude and severity or potential magnitude and severity of a disaster, the Authority—

- (a) shall consider information and recommendations concerning the disaster received from a County Committee in terms of section 23; 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 (1) (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 designating primary responsibility for managing a disaster to a particular level of government, the two levels of government may assist each other in managing the disaster.

Declaration of a
state of
emergency due
to disaster.

17. In the event of a national disaster, the President may, pursuant to Article 58 of the Constitution, by notice in the *Gazette*, declare a state of emergency.

PART III—COUNTY DISASTER RISK MANAGEMENT

The Disaster Risk Management Bill, 2021

Establishment of
County Disaster
Risk
Management
Committees.

18. (1) There is established, for 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 its Chairperson;
- (b) the county executive member responsible for matters relating to disaster risk management, who shall be its secretary;
- (c) the County Commissioner;
- (d) the County Police Commander;
- (e) a representative of the Kenya Red Cross Society;
- (f) two persons; one woman and one man working in the area of disaster risk management appointed by the governor and approved by the County Assembly.
- (g) one person, with experience in disaster management, who is a resident of the county, appointed in writing by the chairperson of the most representative private sector association in the county;
- (h) one person nominated by the Non-Governmental Organisations Council from a civil society organisation with expertise in disaster risk management in the county; and
- (i) one person, with experience in disaster management, nominated appointed by the governor from the faith-based organisations in the county.

(2) In appointing the members of the County Committee under paragraphs (e) to (i) of subsection (1), 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 paragraphs (e) to (i) of sub- section (1) to be the vice-chairperson of the County Committee.

(4) A member of a County Committee appointed under paragraphs (e) to (i) of subsection (1) shall serve for a term of three years, renewable for one further term.

(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.

Functions of a
County
Committee.

19. (1) A County Committee shall—

- (a) advise the county government on matters relating to disaster risk management;
- (b) serve as the central agency in the implementation of disaster risk management activities in the respective county;
- (c) establish and implement a county early warning and emergency communication strategy that is in line with the national early warning and emergency communication strategy;
- (d) formulate the county disaster risk management plans and policy in line with the national plan and policy;
- (e) promote civic education and public awareness, training and capacity building on disaster risk management in the county including in schools;
- (f) make recommendations to the county government regarding all financial matters in relation to disaster risk management;
- (g) 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;
- (h) collaborate with the national government, relevant agencies and leaders involved in overseeing disaster risk management in the county, on matters relating to disaster risk management;
- (i) act as a repository of, and conduit for, information concerning—

The Disaster Risk Management Bill, 2021

- (i) damage and loss arising from disasters;
 - (ii) impending disasters; and
 - (iii) disaster risk management in the county;
- (j) act as an advisory and consultative body on issues concerning disasters and disaster risk management in the county to—
- (i) state organs;
 - (ii) the private sector and non-governmental organisations; and
 - (iii) community based organisations, indigenous groups, communities and individuals;
- (k) initiate and facilitate efforts to make funding of disaster risk management in the county available;
- (l) promote research into the aspects of disaster risk management at the county; and
- (m) devolve disaster risk management measures and structures to sub-county and village level.

(2) The county executive committee member responsible for disaster risk management within the county shall, within fourteen days of the preparation of a county disaster risk management plan, submit to the clerk of the county assembly, a copy of the disaster risk management plan for tabling before, and approval by the county assembly.

(3) The county executive committee member shall, once the county disaster risk management plan is approved, circulate, publish and publicise the plan, to the residents of the county, through such means as the county executive committee member may consider necessary.

The Disaster Risk Management Bill, 2021

Powers of County
Committee.

20. (1) A County Committee 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 Committee shall have power—

- (a) receive any grants, gifts, donations or endowments and to make legitimate disbursements there from;
- (b) delegate some of its powers to a public officer;
- (c) undertake any activity necessary for the execution of any of its functions; and
- (d) to enter premises to secure the supply of water, access a disaster area or for any other purpose related to disaster prevention or response.

Vacation of office.

21. The office of a member of a County Committee shall become vacant if the member—

- (a) resigns by issuing notice in writing addressed to the County Executive;
- (b) is absent from three consecutive meetings of the County Committee without the permission of the chairperson;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (d) is convicted of an offence that constitutes a serious violation of Chapter Six of the Constitution;
- (e) is unable, by reason of mental or physical infirmity, to discharge his or her functions; or
- (f) dies.

Conduct of
business and
affairs of a
County
Committee.

22. The conduct of the business and affairs of a County Committee shall be as provided in the Second Schedule, but subject thereto the Committee may regulate its own procedure.

Procedure
during
disaster
events.

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

The Disaster Risk Management Bill, 2021

- (a) initiate the implementation of the county disaster risk management plan and emergency procedure;
- (b) initiate efforts to assess the magnitude and severity or potential magnitude and severity of the disaster; and
- (c) inform the Authority of the disaster and its initial assessment of the magnitude and severity or potential magnitude and severity of the disaster.

(2) When informing the Authority in terms of subsection (1) (c), the County Committee may recommend the appropriate classification of the disaster.

Annual report to
county assembly.

24. A County Committee shall prepare and submit its annual report to the county assembly on—

- (a) its activities during the year;
- (b) results of its monitoring of prevention and mitigation initiatives;
- (c) disasters that occurred during the year in the county together with information on—
 - (i) their classification, magnitude and severity;
 - (ii) the effects they had;
 - (iii) problems experienced in dealing with the disasters;
- (d) progress on the preparation and regular updating of disaster risk management plans and strategies in the county; and
- (e) an evaluation of the implementation of disaster risk management plans and strategies in the county.

County
Committee may
make regulations.

25. A county executive committee member may, for the purposes of managing a disaster, and with the approval of the county assembly, make regulations 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; or
- (e) conduct of public awareness and civic education on disaster risk management.

Fire disaster
management system.

26. (1) Each county executive committee member shall be responsible for the development and implementation of a fire disaster management system and shall for this purpose –

- (a) establish an effective fire management system for the prevention and management of fire disasters in the respective county;
- (b) ensure the provision of adequate personnel and equipment for the prevention and management of fire disasters in the county;
- (c) provide adequate information and carry out sensitization programmes on the prevention and management of fire disasters;
- (d) put in place an effective mechanism for fire rescue services; and
- (e) do such other thing necessary for the effective implementation of a fire disaster management system.

(2) The county executive committee member shall, in the performance of the functions under subsection (1) –

- (a) adopt a multi-disciplinary and multi-sectoral approach in firefighting;
- (b) factor in climate variations into firefighting;
- (c) disseminate information on firefighting;
- (d) establish and encourage volunteer community firefighting initiatives; and

The Disaster Risk Management Bill, 2021

- (e) be guided by the national values and principles of governance as set out under Article 10 of the Constitution.

(3) Each county government shall enact legislation for the implementation of fire disaster management system in the respective county.

PART IV—FINANCIAL PROVISIONS

Funds of the
Authority.

27. 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.

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

Annual estimates.

29. (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.

30. (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.

No. 34 of 2015.

Annual reports.

31. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Cabinet Secretary a report of the operations of the Authority for the immediate preceding year.

(2) The Cabinet Secretary shall cause the annual report to be laid before Parliament within three months of the day Parliament next sits after the report is presented.

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

- (a) the activities undertaken by the Board during the year;
- (b) results of the initiatives undertaken by the Board 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 utilisation of the Disaster Risk Management Fund;
- (e) the status of the preparation and any updates to the existing disaster risk management plans and strategies in

the country; and

- (e) an evaluation of the implementation of disaster risk management plans and strategies in the county.

(4) Parliament shall, upon receipt of the report from the Cabinet Secretary, consider the report and make such recommendations on such action to be taken by the Authority and the relevant organs of the National Government, as it may consider necessary.

(5) The Authority shall include in its report to be submitted to Parliament in the following year, the status of implementations and the results of implementation of the recommendations under subsection (2).

PART V—DISASTER RISK MANAGEMENT FUND

Establishment
of the Fund.

32. (1) There is established a Disaster Risk Management Fund which shall be administered by the Board.

(2) There shall be paid into the Fund—

- (a) money received by way of or otherwise in connection with aid or assistance received to manage disasters as and when they occur; and
- (b) monies accruing to or received by the Fund from any other source.

(3) There shall be paid out of the Fund payments in respect of any expenses incurred in pursuance of the provisions of this Act.

(4) The object of the Fund shall be to provide funds to be used for disaster prevention, preparedness, mitigation, response and recovery measures.

PART VI—OFFENCES AND PENALTIES

Penalty for
obstruction, etc.

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

- (a) obstructs an officer or employee of the Authority or a County Committee 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 one million shillings or to imprisonment for a term not exceeding one year, or both.

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

Penalty for false claim.

34. 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.

Penalty for false alarm.

35. 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.

Penalty for misappropriation of relief money or material.

36. 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;

(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.

37. (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—

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

PART VII — PROVISIONS ON DELEGATED POWERS

Regulations.

38. (1) The Cabinet Secretary 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 authorisation issued under this Act;
- (g) the form and particulars of the register of disasters;

~~(ga) the administration and management of the Fund; or~~

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

(3) 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 will 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.

Cap 2,
No. 23 of 2013

PART VIII — SAVING AND TRANSITIONAL PROVISIONS

Transfer of Staff.

39. (1) A Person who, immediately before the commencement of this Act, was an employee of the National Disaster Operations Centre or the National Disaster Management Unit shall on the commencement of this Act be deemed to be seconded to the Authority to serve for a period of not more than one year.

(2) Despite subsection (1), a person who was an employee of the National Disaster Operations Centre or the National Disaster Management Unit immediately before the commencement of this Act shall be given an option to either

- (a) return to the institution that seconded that person to the National Disaster Operations Centre or the National Disaster Management Unit; or
- (b) apply to the Authority for employment.

The Disaster Risk Management Bill, 2021

Transfer of
assets and
liabilities.

40. 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 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.

Pending
proceedings and
claims.

41. 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.

PART IX — MISCELLANEOUS

Protection
from
liability.

42. (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 or a County Committee under this Act, render the officer, employee or agent or any person acting under their direction liable to any action, claim or demand whatsoever.

(2) The provisions of subsection (1) shall not relieve the Authority or a County Committee of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Authority by this Act or by any written law or by the failure, whether wholly or partially, of any works.

FIRST SCHEDULE (s. 9)

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

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

The Disaster Risk Management Bill, 2021

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.

Executi
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ents.

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.

SECOND SCHEDULE

(s.22)

**PROVISIONS AS TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF A COUNTY
COMMITTEE**

Meetings.

1. (1) The County Committee 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 three 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 County Committee shall be given to every member of the County Committee.

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

(5) The chairperson shall preside at every meeting of the County Committee 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 County Committee 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 County Committee shall be invalid by reason only of a vacancy among the members thereof.

Disclosure of
interest by
members

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the County Committee and is present at a meeting of the County Committee 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 County Committee 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.

The Disaster Risk Management Bill, 2021

(3) A member of the County Committee 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.

Executi
on of
instrum
ents.

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 County Committee by any person generally or specially authorized by the County Committee for that purpose.

Minutes.


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

The Disaster Risk Management Bill, 2021

I certify that this printed impression is a true copy of the Bill as passed by the Senate on 21st October, 2021.


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

PRINTED BY THE CLERK OF THE SENATE

