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LEGAL NOTICE NO. 1

THE KISII COUNTY CLIMATE CHANGE ACT, 2021

(No. 4 of 2021)

THE KISII COUNTY CLIMATE CHANGE FUND REGULATIONS,
2021

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THE KISII COUNTY CLIMATE CHANGE ACT, 2021

(No. 4 of 2021)

IN EXERCISE of powers conferred by Section 45(1) of the Kisii County Climate Change Act, 2021 as read with Section 116 of the Public Finance Management Act, the Kisii County Executive Committee Member for the time being in charge of Finance makes the following Regulations:

THE KISII COUNTY CLIMATE CHANGE FUND REGULATIONS,
2021

PART I—PRELIMINARY

1. These regulations may be cited as the Kisii County Climate Change Fund Regulations, 2021 Citation

2. In these Regulations, unless the context otherwise requires: Interpretation

“Act” means the Kisii County Climate Change Act, 2021;

“county treasury” has the meaning assigned to it by section 2 of the Public Finance Management Act, 2012;

“executive committee member” means the County Executive Committee Member for the time being responsible for the Finance;

“fund” means the (name) County Climate Change Fund established under section 43 (1) of the Act;

“fund participating institutions” means national, regional and international institutions that have contributed to the Fund or are implementing climate change related activities in the county;

“planning committee” means the County Climate Change Planning Committee established under section 14 of the Act;

“steering committee” means the County Climate Change Steering Committee established under section 5 of the Act;

“ward planning committee” means the Ward Climate Change Planning Committee established under section 21 of the Act.

3. The object of these Regulations is to define the procedures for management, operations and winding up of the Fund, and for planning of climate change response interventions to be funded by the Fund. Objects

4. (1) The implementation of these Regulations and the management of the Fund shall be guided by the values and principles set out in section 4 of the Act. Principles

(2) Without prejudice to the provisions of subsection (1), the Fund shall be managed and disbursements made with due regard to the following principles—

- (a) giving effect to priorities set by communities following a community-driven participatory planning process;
- (b) strengthening the role of communities, community

- structures and indigenous knowledge systems in the planning of climate change response interventions; and
- (c) investing in public goods and structures to strengthen adaptation to climate change.

PART II – COMPOSITION OF THE FUND

5. The initial capital of the Fund shall be not less than two percent of the annual development budget of the county appropriated by the County Assembly in the financial year commencing immediately after the date of commencement of these Regulations.

Capital of the Fund

6. The Fund shall consist of:

Sources of the Fund

- (a) Monies appropriated by the County Assembly annually, not being less than two percent of the county development budget;
- (b) Climate finance received by the county from the national Climate Change Fund;
- (c) International climate finance received by the county directly from the National Designated Authority, National Implementing Authority or any other agency;
- (d) Donations, endowments, bequests, grants and gifts from local or foreign individuals, public and private entities;
- (e) Charges, fees, levies or fines accruing to the county government in connection with activities that adversely impact on climate change in the county;
- (f) Interest and any other monies that may lawfully accrue to the Fund in any form.

7. (1) The object and purpose of the Fund is to provide funding for climate change activities identified in the County Climate Change Action Plan and County Climate Finance Framework and for connected purposes

Object and purpose of the Fund

(2) Specifically, the fund shall be used to finance—

- (a) climate resilience assessments;
- (b) implementation of climate change response projects proposed by Ward Planning Committees and communities and approved by the Planning Committee;
- (c) priority county level climate change response projects approved by the Planning Committee;
- (d) climate change research and knowledge management in the county;
- (e) public education, sensitization and awareness creation on climate change and its impacts;
- (f) capacity building for stakeholders to effectively respond to climate change;

- (g) monitoring, evaluation, reporting and learning on climate change response in the county;
- (h) any other projects, activities and interventions recommended by the Planning Committee and approved by the Steering Committee.

8. (1) Without prejudice to the provisions of regulation 6, the Steering Committee shall mobilize resources for the Fund from:

Mobilization of
resources for the
Fund

- (a) communities, development partners, and the private sector;
- (b) international climate finance frameworks, including but not limited to the Green Climate Fund, Adaptation Fund and the Global Environment Facility;

(2) The Steering Committee shall coordinate capacity development for key actors in the county in development of bankable proposals on climate change adaptation and mitigation for accessing resources from international climate finance frameworks.

(3) Without prejudice to sub-regulation (2), the Steering Committee shall coordinate the development of financial management systems for the Fund that conform to the standards and requirements of international climate finance frameworks and the Public Finance Management Act.

9. (1) There shall be paid out of the Fund payments in respect of expenses incurred pursuant to the objects and purposes of the Fund.

Expenditure of the
Fund

(2) Expenditure in respect of administrative costs shall not exceed three percent of the total payments out of the Fund in any financial year.

(3) All monies received, savings and accruals to the Fund and any balances not spent at the end of the financial year shall be retained in the Fund to be used in subsequent years for the purposes for which the Fund is established.

10. (1) The Fund Administrator may, in consultation with the Steering Committee, the Planning Committee and the relevant Ward Planning Committee, reallocate funds allocated to a project which for reasons communicated to the Steering Committee cannot be absorbed or utilized and will not subsequently be needed for the particular project.

Reallocation of
funds

(2) Such reallocation of funds shall only be done across projects within the same ward, save in situations where the reallocation is done to address a disaster declared by a resolution of the Steering Committee.

(3) A report of all budget reallocations in a ward shall be filed in Form B giving details of the project, its location, funds reallocated, amount originally allocated, amount unutilized and proposed reallocations, with reasons.

11. (1) The Fund may be wound up at the recommendation of the Executive Committee Member in consultation with the Steering Committee, and subject to the approval of the County Assembly.

Winding up of the
Fund

(2) Winding up of the Fund shall be done in accordance with the provisions of the Public Finance Management Act, 2012.

PART III—MANAGEMENT OF THE FUND

12. The Steering Committee shall provide oversight over the Fund and specifically— Oversight

- (a) Mobilize funds and resources for climate change response projects approved by the Planning Committee;
- (b) approve estimates of revenue and expenditure of the Fund for each financial year;
- (c) approve annual budget, work plan, procurement plans and cash plans for the Fund;
- (d) allocate funding for cross-ward and cross-county climate change response projects
- (e) approve the financial statements of the Fund prepared by the Fund Administrator before they are presented for audit;
- (f) approve the County Climate Finance Framework and the strategic plan of the Fund;
- (g) set out procedures for application, disbursement, recovery and repayments of loans;
- (h) approve disbursement of loans and grants;
- (i) deliberate, approve and provide directions to the secretariat as appropriate on periodic financial and operational reports;
- (j) approve performance reports of the Fund and submit to the Governor with a copy to the Executive Committee Member;
- (k) design procedures and mechanisms for effective and transparent administration of the Fund, including tracking and accounting of climate change finance and monitoring, evaluation, reporting and learning.

13. There shall a Fund Administrator who shall be designated by the Executive Committee Member. Fund Administrator

14. The Fund Administrator shall supervise administration and day-to-day operations of the Fund, and specifically— Functions of the Fund Administrator

- (a) consult with the Steering Committee and the Executive Committee Member on all matters related to the administration of the Fund;
- (b) ensure that disbursement of monies out of the Fund is done in a timely and efficient manner and in accordance with the provisions of the Act, these Regulations and the Public Finance Management Act, 2012;
- (c) cause to be kept proper books of account and records on the operations of the Fund;
- (d) prepare, sign and submit a statement of account in respect of each financial year and within three months after the end thereof to the Steering Committee for consideration and approval;

- (e) prepare periodic reports on the financial and non-financial performance of the Fund and present the same to the Steering Committee for consideration and approval;
- (f) ensure compliance with decisions and recommendations of the Steering Committee and submit periodic reports on such compliance;
- (g) be the custodian of all assets, equipment and properties of the Fund;
- (h) perform such other functions as may be assigned by the Steering Committee from time to time.

15. (1) The Executive Committee Member shall issue guidelines on banking arrangements of the Fund under the provisions of the Public Finance Management Act, 2012.

Bank account of the Fund

(2) The bank account for the Fund shall be—

- (a) managed by the Fund Administrator in consultation with the Executive Member;
- (b) signatories to the account shall be—
 - (i) Chief Officer finance and accounting;
 - (ii) Chief Officer in charge of Environment;
 - (iii) fund Administrator.

(3) The bank account for the Fund shall be subject to auditing under the provisions of the Public Finance Management Act, 2012.

16. The Fund Administrator shall, in consultation with the Executive Committee Member, put in place financial controls to ensure fiduciary standards are maintained in all Fund operations and to achieve the desired transparency and accountability with a view to—

Financial reporting procedures

- (a) promoting regular accurate reporting of all financial transactions on climate change adaptation and mitigation;
- (b) ensuring that funds are disbursed efficiently to facilitate timely and effective implementation of projects funded by the Fund to maximize on outputs and outcomes;
- (c) ensuring that project implementers and oversight providers have the necessary capacity;
- (d) ensuring that procurement in all Fund projects is competitive, transparent and delivers value for money;
- (e) putting in place effective monitoring and evaluation system for both inputs and outputs; and
- (f) ensuring that Fund financial management is subject to timely accounting, reporting and auditing by a qualified and independent auditor.

17. The Steering Committee shall in consultation with the Executive Committee Member fix allowances payable to members of the Steering Committee, the Planning Committee and Ward Planning Committees in line with guidelines issued by the Salaries and Remuneration Commission.

Allowances

PART IV— DISBURSEMENT OF MONIES FROM THE FUND

18. (1) The Fund Administrator shall, prior to the commencement of each financial year—

Planning
budgeting and

- (a) prepare and circulate to the Steering the Committee, the Planning Committee and the Ward Planning Committees a list of funds available for climate adaptation and mitigation in the county to guide planning of projects;
- (b) provide details of conditional funds, if any, to target recipients;
- (c) submit a consolidated list of ongoing climate change response projects in the county to the Steering Committee, the Planning Committee and the Executive Committee Member;

(2) The information provided under sub-regulation (1) shall specify the funds approved by the Steering Committee for each ward.

(3) The Fund Administrator shall ensure the widest possible circulation through the media and public *baraza* of the information under sub-regulation (1).

19. In determining the allocation of funds to wards, the Fund Administrator shall be guided by the following factors—

Allocation of funds
to wards

- (a) Equitable distribution of the Fund across the county having regard to eligibility criteria;
- (b) giving priority to wards that are more prone to climate change related disasters;
- (c) population distribution across the wards.

20. Monies available for disbursement from the Fund in any financial year shall be distributed as follows:

Funds distribution

- (a) three percent for administrative costs, further allocated in the following manner:
 - (i) forty percent for administrative costs for the Steering Committee and County Planning Committee; and
 - (ii) sixty percent for administrative costs of Ward Planning Committees.
- (b) twenty seven percent for county wide projects, further allocated in the following manner:
 - (i) fifteen percent to Climate Change Awareness Creation activities;
 - (ii) fifteen percent to county specific research and development; and
 - (iii) seventy percent to county wide development projects;
- (c) seventy percent for projects proposed by Ward Planning Committees and approved by the Planning Committee.

21. (1) Prior to the commencement of the financial year, the Planning Committee in consultation with Ward Planning Committees shall convene at least one community consultation in each location in

Community
consultations
to
identify priority
projects

every ward for the purposes of:

- (a) creating public awareness about climate change;
- (b) providing information about the nature of project eligible for funding through the Fund; and
- (c) enabling communities to identify priority climate change response projects.

(2) Every Ward Planning Committee shall prepare and submit to the Planning Committee a report on community consultations held under sub-regulation (1).

22. (1) The Ward Planning Committee for each ward shall, on the basis of priorities identified in the communities consultations under regulation 16, develop project proposals with procurement plans for each project.

Development of
project proposals

(2) The Ward Planning Committee shall rank the projects in terms of priority, and present the list and the proposals to the Planning Committee using Form A in the Schedule.

23. (1) In reviewing project proposals for funding, the Planning Committee shall have regard to the following factors, among others—

Criteria for approval
of projects

- (a) proper situation analysis, with clear problem statement and clarity on the level and urgency of vulnerability and risk arising from delayed intervention;
- (b) relevance;
- (c) magnitude and possibility of risk occurrence;
- (d) promotion of gender and community cohesion, with due regard to vulnerable groups;
- (e) support to strengthening of livelihoods, including through income generation;
- (f) promotion of resilience in the locality through adaptation and mitigation;
- (g) evidence of properly conducted environmental impact assessment;
- (h) complementarity, value-addition and synergy with existing projects;
- (i) clearly defined monitoring and evaluation plan;
- (j) sustainability;
- (k) innovativeness;
- (l) clearly defined stakeholder engagement plan;
- (m) efficiency and effectiveness of implementation arrangements;
- (n) cost-effectiveness and value for money.

(2) Provided that it shall be the responsibility of the Planning Committee and the Ward Planning Committees to support communities to be able to comply with the criteria for assessing project proposals.

(3) Provided further that the criteria shall not be used to prejudice or disadvantage any communities in accessing project funding from the Fund.

24. (1) The Planning Committee shall review proposals from Ward Planning Committees, and make a decision thereon within 30 days from the date of receipt.

Decision of
Planning Committee
on proposals

(2) The Planning Committee may constitute a Project Evaluation Team composed of the following persons in every ward for purposes of approving project proposals:

- (a) County technical staff seconded by relevant County Departments;
- (b) consultants and technical staff from fund participating institutions; and
- (c) consultants hired by the Planning Committee.

(3) Upon reviewing the project proposals from the Ward Planning Committee, the Planning Committee may:

- (a) approve the project proposals;
- (b) reject the project proposals, giving reasons in writing;
- (c) instruct the respective Ward Planning Committee to make specified amendments to the project proposals, and in such case approve the amended proposal within three weeks of its submission.

25. (1) Upon the Planning Committee approving projects, the Fund Administrator shall publish a list of approved and ranked projects, together with the procurement plans for each project in accordance with the Public Procurement and Asset Disposal Act 2015.

Disbursement of
funds for approved
projects

(2) The Fund Administrator shall then proceed to release monies to approved projects on quarterly or need basis according to cashflow projections submitted by implementers and approved by the Planning Committee.

26. (1) Each Ward Planning Committee shall open a bank account for operating expenses and project funds.

Bank accounts for
project funds

(2) The Fund Administrator shall only disburse funds to Ward Planning Committees through approved commercial banks.

(3) Disbursed funds shall only be withdrawn by duly authorized signatories for use in meeting expenses of approved projects.

(4) Signatories to the accounts shall be—

- (a) chief officer Finance and Accounting;
- (b) the Fund Administrator;
- (c) an accountant designated by the County Executive Committee Member.

27. (1) Any community member who is aggrieved by the decision of the Ward Planning Committee on projects forwarded to the Planning Committee for funding shall submit the complaint to the Fund Administrator.

(2) The Fund Administrator shall forward the complaint to the Planning Committee for determination.

(3) The Planning Committee shall make a determination on the complaint within a period of six weeks and submit a report to the Steering Committee with a copy to the Fund Administrator, who shall communicate the determination to the complainant in writing.

(4) The determination of the Planning Committee shall be final.

(5) The Planning Committee may develop guidelines for processing of complaints.

28. (1) The Fund Administrator shall, in consultation with the Executive Committee Member, facilitate establishment of appropriate procurement systems for each Ward Planning Committee consistent with the requirements of the Public Procurement and Asset Disposal Act, 2015.

Procurement

(2) The Fund Administrator shall liaise with the County Director of Procurement to facilitate capacity development on procurement procedures and systems for all Ward Planning Committees.

(3) Hiring of professionals and other service providers for approved and funded projects shall be done in accordance with the Public Procurement and Assets Disposal Act, 2015 and the Public Finance Management Act, 2012.

29. (1) Each Ward Planning Committee shall monitor implementation of projects under its supervision and ensure that service providers meet the necessary terms of the contract in accordance with the approved implementation monitoring plan and disbursement program for each project.

Payment of
suppliers and service
providers

(2) Payments to suppliers and service providers shall be supported by approved documentation from each based on contract terms, project progress report, and approval of payment signed by at least two of the approved signatories.

(3) Payment shall be in accordance with the Implementation Monitoring Plan and the Investment Schedule.

(4) The Ward Planning Committee shall submit quarterly reports to the Planning Committee and the Steering Committee reflecting payments made.

30. (1) The Planning Committee and Ward Planning Committees shall submit to the Steering Committee regular reports on projects under their supervision.

Projects
implementation
progress reports

(2) Ward Planning Committees shall prepare and submit to the Fund Administrator monthly financial reports with details of physical progress and financial expenditure on projects under their supervision, providing comparison between the project implementation schedule and the current status.

(3) The reports shall be submitted in Form C.

31. (1) The Planning Committee and Ward Planning Committees shall maintain full and accurate records of expenditures of the Fund, including—

Maintenance of
records

- (a) all receipts in respect of every project and the sum total thereof;
- (b) all approved documents relating to every expenditure; and
- (c) relevant bank statements of project accounts.

(2) The Ward Planning Committees, the Planning Committee and the Steering Committee shall ensure that all Fund documents are secured and preserved for audit and reference purposes.

32. (1) The Fund Administrator shall prepare and submit quarterly reports to the Steering Committee for approval and onward submission to the Executive Committee Member.

Financial reporting

(2) The reports submitted under sub-regulation (1) shall provide details of—

- (a) programmes and projects funded by or in partnership with the Fund;
- (b) disbursements by each of the supporting financing and total amounts received;
- (c) funding status showing monies disbursed for each of the projects by ward and sub-county; and
- (d) a summary of ongoing climate change activities in the county.

(3) At the end of each financial year, the Fund Administrator shall prepare annual performance report, which on approval by the Steering Committee shall be submitted to Executive Committee Member for onward transmission to the County Assembly.

33. (1) Not later than three months after the end of each financial year, the Fund Administrator shall prepare the annual report on the Fund.

Annual report of the Fund

(2) The annual report shall include, *inter alia*:

- (a) the audited financial report of the Fund;
- (b) description of the activities of the Fund;
- (c) such other statistical information as the Fund may consider appropriate relating to the Fund's functions;
- (d) the impact of the exercise of any of its mandate or function;
- (e) any impediments to the achievement of the objects and functions of the Fund;
- (f) such other information as the Executive Committee Member responsible for the Treasury may direct; and
- (g) any other information relating to its functions that the Steering Committee considers necessary.

(3) The annual report shall be approved by the Steering Committee and shall be submitted to the Auditor General and the County Assembly.

(4) The Fund Administrator shall 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.

34. (1) The Fund Administrator shall cause to be kept proper books and records of account of its income, expenditure, assets and liabilities. Audit

(2) Within three months after the end of each financial year, the Fund Administrator shall submit to the Auditor-General the accounts of the Fund in respect of that year together with:

- (a) a statement of the income and expenditure of the Fund during that year; and
- (b) a statement of the assets and liabilities of the Fund on the last day of that financial year.

(3) The annual accounts of the Fund shall be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the Public Finance Management Act, 2012.

PART V—MISCELLANEOUS PROVISIONS

35. The Executive Committee Member shall in consultation with the Executive Committee Member for the time being in charge of climate change and the Steering Committee develop guidelines for the proper implementation of these Regulations, management and winding up of the Fund. Guidelines

36. (1) The Steering Committee may on its own motion or at the instance of any other interested party recommend to the Executive Committee Member any amendments to these regulations for consideration. Amendments

(2) The Executive Committee Member shall subject any recommendation from the Steering Committee for amendments to these Regulations to public participation before giving effect thereto.

SCHEDULE

(County Logo)

Form AR. 15(2)

COMMUNITY PRIORITY PROJECTS NOTIFICATION FORM

Financial Year

Ward Name

	Project title and location	
1	Project priority rank	
1.1	Short description and target beneficiaries	
1.2	Justification	
1.3	Description of proposed measures	
2	Project costs	
2.1	Pre-construction costs	
2.2	Construction costs	
2.3	Additional infrastructure	
2.4	Design and supervision	
2.5	Contingencies	
2.6	Total project cost	
2.7	Estimated annual operating costs	
2.8	Annual maintenance costs	
3	Total estimated costs for the year	
4	Sources of finance	
4.1	Development costs	
4.2	Operations and maintenance costs	
5	Staffing and maintenance arrangements	
6	Relationship with other projects	
7	Project timeframe (period of implementation)	

(County logo)

Form BR. 10(3)

PROJECT FUNDS REALLOCATION FORM

Ward Name.....

Financial Year.....

Project No.	Project Location	Amount Allocated (Kshs.)	Amount Disbursed (Kshs.)	Balance (Kshs.)	Unspent to be Reallocated

Reasons for reallocation

Signature Date

Name Position

(County logo)

FORM CR. 24(3)

PROJECT IMPLEMENTATION STATUS REPORT

*Summary Sheet for COUNTY CLIMATE CHANGE FUND Project Implementation
(Ongoing projects)*

Financial Year.....

Ward Name.....

	Type of Project	Location	Estimated total cost	Amount allocated	Expenditure to-date	Variance				
						Q1	Q2	Q3	Q4	Total
1										
2										
3										

Reasons for variances

DateSignature and designations of signatories.

Made on the 5th August, 2021.

MOSES ONDERI,
County Executive Committee
Member for the County Treasury.