

THE TURKANA COUNTY MONITORING AND EVALUATION BILL, 2019
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THE TURKANA COUNTY MONITORING AND EVALUATION BILL, 2019

A Bill for

AN ACT of Turkana County Assembly to provide a framework for coordination, collaboration and alignment of monitoring and evaluation in the implementation of Turkana county policies, programmes and projects; to establish an institutional and funding framework for monitoring and evaluation; and for connected purposes.

ENACTED by the Turkana County Assembly as follows—

PART I—PRELIMINARY

Short title 1. This Act may be cited as the Turkana County Monitoring and Evaluation Act, 2019.

Interpretation 2. In this Act—

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for finance and economic planning;

“Directorate” means the Turkana County Monitoring and Evaluation Directorate established under section 5;

“evaluation” means a systematic and objective assessment of an on-going or completed project, program or policy, in its design, implementation and results to determine the relevance and fulfilment of objectives, efficiency, effectiveness, impact and sustainability;

“impact” means the ultimate long term changes as a result of the implementation of a programme or project and includes the difference, positive or negative, occasioned by the implementation;

“indicators” means specific quantified measurements related to the extent a project or programme or organization is reaching objectives or targets;

“input” means the resources that contribute to the production of service delivery outputs and includes finances, personnel, equipment and information resources;

“outcome” means immediate effects of the programme or project;

“output” means direct products or services stemming from the activities of an organization, policy, program, or initiative delivered to users outside the organization;

“monitoring” means the continuous process of systematic collection of data on specified indicators to provide management and the main establishment of an on-going intervention with indications of the extent of progress and achievement of objectives and progress in the use of allocated funds

“programme” means series of interrelated projects with a common overall objective;

“project” means a planned undertaking of related activities aimed at a specific objective that has a beginning and an end;

Object and
purpose of the Act

3. (1) The object and purpose of this Act is to—

(a) establish Turkana county integrated monitoring and evaluation system to monitor and evaluate the implementation of county policies, programmes and projects in line with the principles of —

(i) transparency, accountability, good governance and sustainable development as set out under Article 10 of the Constitution; and

(ii) efficient, effective and economic use of resources of resources;

(b) promote a culture of monitoring and evaluation at all levels of government and non-state actors;

(c) promote timely and accurate reporting, sharing and use of monitoring and evaluation findings to inform decision-making and resource allocation;

(d) provide for monitoring and evaluation standards, capacity building and resource mobilization;

(e) strengthen and streamline monitoring and evaluation institutional framework, enhance managerial and technical capacity through—

(i) establishment of the Turkana County Monitoring and Evaluation Directorate;

(ii) establishment of the Turkana County Monitoring and Evaluation Advisory Committee;

(iii) establishment of departmental monitoring and evaluation units;

(iv) automation and harmonization of monitoring and evaluation systems; and

(v) establishment of a funding framework to facilitate

monitoring and evaluation.

- Application of the Act
4. This Act applies to public entities at the county government level and such other partners as the County Executive Committee member may determine.

PART II—THE TURKANA COUNTY MONITORING AND EVALUATION INSTITUTIONAL FRAMEWORK

- Role of the County Executive Committee member
5. The County Executive Committee member shall be responsible for—
- (a) formulation of the county monitoring and evaluation policy;
 - (b) approval of county monitoring and evaluation strategies, standards and guidelines issued by the Directorate;
 - (c) giving policy directions to the Directorate in the performance of its functions under this Act;
 - (d) coordinating the departments responsible for planning, budgeting, statistics and the Directorate to implement the county monitoring and evaluation policy; and
 - (e) facilitating the allocation of resources for monitoring and evaluation.
- County Monitoring and Evaluation Advisory Committee
6. (1) There is established the Turkana County Monitoring and Evaluation Advisory Committee which shall be headed by a chairperson appointed by Governor.
- (2) The Advisory Committee shall comprise of—
- (a) all heads of county government departments;
 - (b) heads of national government departments in the county;
 - (c) representatives of development partners appointed by the County Executive Committee member on ad hoc basis; and
 - (d) the Director of the Directorate, who shall be the Secretary.
- (2) The Advisory Committee shall be responsible for—
- (a) promoting consultations and cooperation between national and county monitoring and evaluation agencies;
 - (b) advising county government departments on the implementation of monitoring and evaluation initiatives;
 - (c) overseeing monitoring and evaluation at the county level; and
 - (d) development of indicators and reviewing of monitoring and evaluation reports.

County
Monitoring and
Evaluation
Committee

7. (1) There is established the Turkana County Monitoring and Evaluation Committee which shall be chaired by the County Executive Committee Member.

(2) The Committee shall comprise of—

- (a) Chief Officers;
- (b) heads of national government departments in the county;
- (c) representatives of development partners appointed by the County Executive Committee member on an ad hoc basis; and
- (d) the Director of the Directorate, who shall be the Secretary.

(2) The Advisory Committee shall be responsible for—

- (a) compiling consolidated county monitoring and evaluation reports;
- (b) overseeing county monitoring and evaluation agencies;
- (c) overseeing monitoring and evaluation at the county level; and
- (d) publishing and disseminating county monitoring and evaluation reports.

County
Monitoring and
Evaluation
Directorate

8. (1) There is established the Turkana County Monitoring and Evaluation Directorate which shall be headed by a Director.

(2) The Director shall be appointed by the County Public Service Board.

(3) A person is qualified to be appointed as the Director if that person—

- (a) holds a degree from a university recognised in Kenya;
- (b) has at least ten years relevant professional experience;
- (c) has demonstrable competence in administration of not less than five years; and
- (d) satisfies the requirements of leadership and integrity provided under Chapter Six of the Constitution.

(4) The Director shall—

- (a) be an officer of the county government;
- (b) be responsible to the Chief Officer for—
 - (i) the implementation of this Act;
 - (ii) day-to-day administration of the affairs of the Directorate;

- (iii) supervision of the staff of the Directorate; and
- (iv) performing any other duties as may be assigned by the Chief Officer.

(5) The Director shall serve on such terms and conditions as the County Service Public Board may determine.

Staff of the Directorate

9. The Directorate shall have such staff as are necessary for the proper discharge of its functions under this Act.

Functions of the Directorate

10. The Directorate shall—

- (a) coordinate the implementation of the county integrated monitoring and evaluation system in county public offices and among partner non-state actors;
- (b) provide technical support all county organs responsible for monitoring and evaluation;
- (c) track the progress of implementation of county government policies and plans;
- (d) provide the county government with feedback for efficient resource allocation;
- (e) promote the culture and practice of monitoring and evaluation at all levels of the county government;
- (f) collaborate with county departments, other county government structures and partner non-state actors to design formats for data collection, analysis and reporting;
- (g) harmonize monitoring and evaluation tools and processes at the county level;
- (h) build capacity and mobilise resources for county public institutions for monitoring and evaluation;
- (i) collaborate with the Information and Communication Technology Authority to provide monitoring and evaluation software and communication system in all county institutions;
- (j) coordinate monitoring and evaluation initiatives with the national government;
- (k) maintain a database of monitoring and evaluation findings; and
- (l) prepare, publish and disseminate county monitoring and evaluation reports.

Committees of the Directorate

11. The Directorate may establish other Committees and assign them such functions as it may determine.

Departmental monitoring and

12. (1) There shall be a monitoring and evaluation unit in respect of every

evaluation units

department which shall comprise of—

- (a) the head of department who shall be the chairperson;
- (b) the heads of all technical sections; and
- (c) the departmental monitoring and evaluation officers.

(2) The committees shall be responsible for—

- (a) implementation of the County Integrated Monitoring and Evaluation System;
- (b) implementation of the County Integrated Development Plan;
- (c) collaboration with the directorate in developing departmental monitoring and evaluation systems;
- (d) implementation of the of monitoring and evaluation initiatives at departmental level; and
- (e) preparation and submission of quarterly and annual monitoring and evaluation reports for the respective departments.

(3) It shall be the responsibility of the chairperson to ensure that the committees in their respective implementing agencies are functional.

Sub-county
monitoring and
evaluation
committees

13. (1) There shall be a sub-county monitoring and evaluation committee in respect of every sub-county which shall comprise of—

- (a) the sub-county administrator who shall be the chairperson;
- (b) deputy county commissioner;
- (c) the heads of all county departments;
- (d) development partner representatives appointed by the county executive committee member on ad hoc basis; and
- (e) two other persons representing the youth, women, or persons with disabilities.

(2) The committees shall be responsible for—

- (a) collaboration with the directorate in developing sub-county monitoring and evaluation systems;
- (b) implementation of the of monitoring and evaluation initiatives at the sub-county level; and
- (c) preparation and submission of quarterly and annual monitoring and evaluation reports for the respective departments.

Ward monitoring
and evaluation
committees

14. (1) There shall be a ward monitoring and evaluation committee in respect of every ward which shall comprise of—

- (a) the ward administrator who shall be the chairperson;
- (b) assistant county commissioner;
- (c) the heads of all county departments;
- (d) development partner representatives appointed by the county executive committee member on ad hoc basis; and
- (e) two other persons representing the youth, women, or persons with disabilities.

(2) The committees shall be responsible for—

- (a) collaboration with the sub-county monitoring and evaluation committee in developing ward monitoring and evaluation systems;
- (b) implementation of the of monitoring and evaluation initiatives at the ward level; and
- (c) preparation and submission of quarterly and annual monitoring and evaluation reports for the respective departments.

Village level
monitoring and
evaluation
committees

15. The County Executive Committee member may establish village monitoring and evaluation committees and assign them such functions as he may deem necessary for purposes of ensuring full implementation of this Act.

PART III—MONITORING AND EVALUATION FRAMEWORK

County monitoring
and evaluation
policy

16. (1) The County Executive Committee Member shall, on the recommendation of the Directorate formulate and regularly review the County Monitoring and Evaluation Policy.

(2) The policy shall take into account national norms, guidelines and monitoring and evaluation standards and shall prescribe—

- (a) county monitoring and evaluation structures and partnerships;
- (b) mechanisms for building capacity on monitoring and evaluation;
- (c) measures for strengthening the county integrated monitoring and evaluation system;
- (d) county integrated monitoring and evaluation system guidelines;
- (e) monitoring and evaluation capacity development strategy and
- (f) county monitoring and evaluation reporting mechanism for all county agencies.

Performance
measurement and
management

17. (1) Every county department or agency shall prepare an annual performance management plan based on the County Integrated Development Plan as it relates to its mandate.

(2) The performance management plan shall provide for, among things—

- (a) objective, measurable and time bound performance indicators;
- (b) linkage to mandates;
- (c) citizen participation in the evaluation of the performance of county government;
- (d) public sharing of performance progress status; and
- (e) annual performance reports.

(3) The County Executive Committee Member may, in consultation with the relevant county agencies, prescribe regulations to link county monitoring and evaluation initiatives to institutional, sectoral, and individual performance including the use of —

No,17 of 2012,

- (a) performance contracting; and
- (b) performance appraisal system.

Monitoring

18. (1) Every county department shall continuously and systematically collect and analyse data on the implementation progress of its activities against set targets based on specified indicators.

(2) The monitoring framework contemplated under subsection (1) shall—

- (a) be prepared by every agency in relation to its functions and mandate;
- (b) cover each and every programme or project being undertaken by the agency; and
- (c) focus on outputs and outcomes of every programme at institutional level.

(3) Regulations issued by the County Executive Committee Member shall prescribe the manner in which a partnering non-state actor shall establish structures for the purpose of undertaking monitoring and evaluation in relation to its activities.

Evaluation

19. (1) Every department shall systematically and objectively assess the design, implementation and results every on-going or completed policies, project or programme.

(2) An evaluation under subsection (1) shall—

- (a) seek to determine the —

- (i) relevance of the programme or project;
 - (ii) level of fulfillment of objectives; and
 - (iii) efficiency, effectiveness, impact and sustainability.
- (b) be a management tool to provide information to facilitate decision-making;
- (c) may take the form of one or a combination of the following forms—
- (i) *ex-ante* evaluation;
 - (ii) *ex-post* evaluation;
 - (iii) impact evaluation;
 - (iv) meta-evaluation;
 - (v) process evaluations;
 - (vi) mid-term evaluation;
 - (vii) end-term evaluation;
 - (viii) review;
 - (ix) self-evaluation; or
 - (x) risk evaluation.

(3) Every evaluation shall conform to the prescribed standards and shall, where possible, be undertaken by external evaluators to ensure objectivity and credibility.

Monitoring and
evaluation reports

20. (1) Every department shall prepare and submit to the Directorate and the relevant County Executive Committee member, accurate quarterly and annual monitoring and evaluation reports in accordance with the prescribed reporting guidelines.

(2) Each report shall set forth the performance indicators established in the work plan along with the actual programme performance achieved compared with the performance goals expressed in the plan for that financial year.

(3) Each report shall—

- (a) review the success of achieving the performance goals of the financial year;
- (b) evaluate the performance plan for the current financial year relative to the performance achieved toward the performance goals in the financial year covered by the report;
- (c) explain and describe, where a performance goal has not been met; and
- (d) explain why the goal was not met.

Mainstreaming
cross-cutting
issues in
monitoring and
evaluation

21. (1) In the designing county monitoring and evaluation norms, standards and guidelines, the Directorate shall mainstream gender, climate change and human rights principles and ensure that monitoring and evaluation promote—

- (a) accountability to gender equality;
- (b) human rights; and
- (c) impacts of climate variability and change.

(2) Monitoring and evaluation initiatives shall adopt an inclusive approach that values the diversity among all persons including—

- (a) women;
- (b) persons with disabilities;
- (c) youth;
- (d) ethnic and other minorities; and
- (e) marginalised communities.

Establishment of
county information
repository

22. (1) There is established the county information repository which shall be maintained by the Directorate.

(2) The repository shall include an automated database into which shall be stored information in a manner to be prescribed by the Directorate.

(3) The repository shall—

- (a) contain monitoring and evaluation reports on policies, programmes and projects from all departments;
- (b) be a web-based interactive platform with visual dashboard that allows sharing and dissemination of information among relevant agencies;
- (c) enable uploading of prescribed information from an agency;
- (d) provide linkages, in the prescribed manner, to data points or information centres in other organs of States or research institutions determined by the County Executive Committee member;
- (e) enable implementing agencies to download, in the prescribed manner, information for purposes relating to research, planning, monitoring and evaluation;

(4) The Directorate shall partner with other specialized national institutions including the Kenya National Bureau of Statistics, the Kenya Institute for Public Policy Research and Analysis, academia, professional bodies and Regulatory bodies for purposes of maintaining

an updated database.

(5) The County Executive Committee Member, in consultation with the Directorate, may prescribe further Regulations to give effect to this section.

Baseline information

23. (1) The information contained in the central information repository shall be the basis of baseline information against which progress of monitorable indicators shall be determined.

(2) The information shall be updated regularly in accordance with the regulations prescribed by the County Executive Committee member.

Utilization of monitoring and evaluation results

24. (1) Every county department shall, in the performance of its functions, take into account the monitoring and evaluation reports prepared by the Directorate.

(2) Evaluation results may be used to—

- (a) support strategic and long-term planning and policy formulation;
- (b) formulate and justify budget requests;
- (c) make operational resource allocation decisions;
- (d) review programme implementation for more efficiency; and
- (e) communicate better with the public and build public trust.

Monitoring and evaluation communication strategy

25. The Directorate shall, in a consultative process, develop a communication strategy setting out, among other things, the steps that it intends to take to—

- (a) communicate to all stakeholders about monitoring and evaluation findings contained in its reports; and
- (b) form partnerships with relevant professional bodies, academia, and research institutions to ensure successful implementation of the findings.

Dissemination of monitoring and evaluation findings

26. (1) The Directorate shall publish and publicize monitoring and evaluation findings and may for that purpose hold annual monitoring and evaluation conferences.

(2) Any person may request for information from the Directorate, and such request for information—

- (a) shall be addressed to the Director or such other designated person;
- (b) may be subject to the payment of the prescribed fee in instances where the Directorate incurs an expense in providing information; and

(c) may be subject to confidentiality requirements of the Directorate.

(3) Subject to Article 35 of the Constitution, the Directorate may decline to give information to an applicant where—

- (a) the request is considered unreasonable in the circumstances;
- (b) the information requested is at a deliberative stage within the Directorate;
- (c) the prescribed fee is not paid; or
- (d) the applicant fails to satisfy any confidentiality requirements of the Directorate.

PART IV—GENERAL PROVISIONS

County
report

annual **27.** (1) The Directorate shall, not later than three months after the end of each financial year, submit to the County Executive Committee Member a county annual report covering the activities and the operations of the Directorate under this Act during the immediately preceding year.

(2) The annual report of the Directorate shall contain, in respect of the year to which it relates—

- (a) the financial statements of the Directorate;
- (b) a description of the activities of the Directorate;
- (c) statistical information relating to the functions of the Directorate;
- (d) the impact of the exercise of the mandate or functions of the Directorate;
- (e) the challenges, if any, faced in the implementation of the Act; and
- (f) any other matter relating to the functions of the Directorate that the Board considers necessary.

(3) The Directorate shall publish and publicize the annual report in such manner as the County Executive Committee member may determine.

(4) The County Executive Committee Member shall, within one month after the receipt of the annual report submit the report to the national agency responsible for monitoring and evaluation.

(5) The Directorate shall submit to the County Executive Committee member any other report that the County Executive Committee

member may request.

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|-------------------------|------|--|
| Funding | | 28. Monitoring and evaluation initiatives under this Act shall be funded under a separate vote which shall be allocated an amount not less than one-and-half percent of the total county development budget. |
| Protection
liability | from | 29. No liability shall attach to the Directorate, its members, officers, agents or servants for any loss or damage sustained by any person as a result of any act or omission done or omitted to be done in good faith and without negligence in the performance or exercise of any duty or power imposed or conferred by or under this Act. |
| Offences
penalty | and | <p>30. (1) A person who—</p> <ul style="list-style-type: none"> (a) without lawful excuse ignores or fails to obey any instruction issued by the Directorate or officer or agent of the Directorate in exercise of the powers or the performance of the functions of the Directorate under this Act; or (b) wilfully obstructs any member of the Directorate or officer or agent of the Directorate in the discharge of their lawful duties; or (c) misrepresents, knowingly submits false or misleading information to any member of the Directorate or officer or agent of the Directorate in exercise of the powers or the performance of the functions of the Directorate under this Act, <p>commits an offence and is liable, on conviction, to a fine not exceeding ten million shillings or to imprisonment for a period not exceeding five years, or to both.</p> <p>(2) Where an offence under subsection (1) is committed by a body corporate, every director or officer of the body corporate who had knowledge of the commission of the offence and who did not exercise due diligence, efficiency and economy to ensure compliance with this Act, shall be guilty of an offence under subsection (1).</p> |
| Regulations | | <p>31. (1) The County Executive Committee member may, in consultation with the Directorate make regulations not inconsistent with this Act prescribing—</p> <ul style="list-style-type: none"> (a) the framework for monitoring and evaluation for the county government departments; (b) conduct of socio-economic impact assessment on public programmes; (c) storage, use, sharing and security of information in the county central information repository; (d) linkage of monitoring and evaluation findings to county |

- planning and budgeting process; and
- (e) any matter that may be prescribed in terms of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Turkana County Monitoring and Evaluation Policy provides for the establishment and implementation of the Monitoring and Evaluation (M&E) function in the county public sector. The Policy aims to strengthen the county government's capacity to assess the extent of implementation progress of development initiatives and success in delivering services to the citizens.

Article 10 of the Constitution of Kenya sets out national values and principles of governance among them transparency, accountability, human rights and sustainable development. The Constitution also provides for economic use of resources as well as the right of access to information held by the State.

The principal object of this Bill is to provide a legal framework for the establishment of the Turkana County integrated monitoring and evaluation system and to establish the institutional framework for the Turkana county M & E function.

The structure of the Bill is as follows:

Clauses 1 to 4 provide for preliminary matters including the short title, interpretation objects and application of the Act. Among the objects of the Bill is the establishment of the county integrated monitoring and evaluation system, promotion of a culture of monitoring and evaluation and the promotion of timely and accurate reporting, sharing and use of monitoring and evaluation findings to inform decision-making and resource allocation.

Clauses 5 to 15 provide for the institutional framework for implementing monitoring and evaluation in the Turkana County. The County Executive Committee member shall be responsible for policy formulation and approval of M&E policies, strategies, standards and guidelines. The Advisory Committee shall advise and oversee the M&E strategies while the County Monitoring and Evaluation Committee shall be responsible for implementation of the CIMES in the execution of the CIDP. The Directorate shall be the technical arm responsible for coordination of the M&E policies across county departments, county government structures and other partners. This part also establishes sub-county, ward and village M&E committees.

Clauses 16 to 26 provide for monitoring and evaluation framework. This Part provides for development of the county monitoring and evaluation policy, the conduct of monitoring and evaluation functions within every county public office including incorporation of the performance contracting and appraisal systems. This part also provides for mainstreaming of cross-cutting issues in M&E and proposes the establishment of a central information repository as a database for all M&E findings. It also provides for the dissemination and utilization of the evaluation results.

Clauses 27 to 31 contains general provisions including annual reporting by the Directorate, funding, offences and making of Regulations.

This Bill shall occasion additional expenditure which shall be provided for under the annual estimates.

Dated.....

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*Chairperson of the County Assembly
Committee*