

**THE KISUMU COUNTY DISASTER AND EMERGENCY
MANAGEMENT ACT, 2015**

No. 10 of 2015

Date of Assent: 29th June, 2015

Date of Commencement: 11th December, 2015

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Clause

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**THE KISUMU COUNTY DISASTER AND
EMERGENCY MANAGEMENT ACT, 2015**

**AN ACT of the County Assembly of Kisumu to provide
for a more effective organization of disaster risk
reduction and mitigation of, preparedness for,
response to and recovery from emergencies and
disaster; and for connected purposes**

ENACTED by the County Assembly of Kisumu as
follows—

PART I—PRELIMINARY

1. This Act may be called the Kisumu Short title
County Disaster and Emergency Management Act, 2015.

2. In this Act, unless the context otherwise Interpretation
requires—

“affected area” means an area or part of the County
affected By a disaster;

“Executive Committee” means the County
Disaster and Emergency Executive Committee
established in section 4;

“Coordinating Committee” means the County
Disaster and Emergency Coordinating Committee
established in section 7;

“emergency” means an unforeseen combination of
circumstances or the resulting state that calls for
immediate action;

“disaster” means a catastrophe, mishap, calamity
or grave occurrence in any area, arising from natural or
manmade causes, or

by accident or negligence which results in substantial loss
of life or human suffering or damage to, and destruction
of property or damage to, or degradation of, environment,
and is of such a nature or magnitude as to be beyond the
copying capacity of the community of the affected area
whether natural or manmade;

“disaster management” means a continuous and
integrated process of planning, organizing, coordinating

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and implementing measures which are necessary or expedient for —

- (a) prevention of danger or threat of any disaster;
- (b) mitigation or reduction of risk of any disaster or its severity or consequences;
- (c) capacity- building;
- (d) preparedness to deal with any disaster and emergency situation;
- (e) prompt response to any threatening disaster situation or disaster;
- (f) assessing the severity or magnitude of effects of any disaster;
- (g) evacuation, rescue and relief;
- (h) rehabilitation and reconstruction;

“mitigation” means measures aimed at reducing the risk, impact or effects of a disaster or threatening disaster situation;

“Plan” means the County Disaster Management Plan prepared under section 10;

“preparedness” means the state of readiness to deal with a threatening disaster situation or disaster and the effects thereof.

3. The objects of this Act are to—

Objects of the Act

- (a) establish an efficient structure for the management of disasters and emergencies;
- (b) enhance the capacity of the county government to effectively manage the impacts of disasters and emergencies and to take all necessary action to prevent or minimize threats to life, health and the environment from natural disasters and other emergencies;
- (c) ensure that the county government effectively co-ordinates with other relevant agencies to mitigate the impacts of disasters;

- (d) vest authority in person to act during times of disaster in accordance with this Act, and to require the observance and implementation of directives given and initiatives taken by persons authorized under this Act; and
- (e) implement mechanisms to reduce risks and hazards that may cause, contribute to, or exacerbate disaster situations in the county.

PART II—ESTABLISHMENT AND ADMINISTRATION OF THE COUNTY DISASTER AND EMERGENCY EXECUTIVE COMMITTEE AND THE COUNTY DISASTER AND EMERGENCY COORDINATING COMMITTEE

4. (1) There is established the County Disaster and Emergency Executive Committee.

Establishment and composition of the Disaster Executive Committee

(2) The Executive Committee shall comprise of—

- (a) The Governor of the county who shall be the chairperson ;
- (b) all the executive committee members;
- (c) county commissioner as *ex-officio* member.

5. (1) The functions of the Executive Committee are to—

Functions of the Executive Committee

- (a) advice the county government on matter relating to disaster management;
- (b) formulate the county disaster management policy;
- (c) promote education, training and capacity building on disaster management in the county including in schools;
- (d) advice the county government regarding all financial matters in relation to disaster management;

- (e) promote an integrated and coordinated approach to disaster management in the county, with special emphasis on prevention, mitigation and disaster risk reduction in collaboration with other role-players involved in disaster management in the county;
- (f) collaborate with the national government and relevant agencies on matters relating to disaster management
- (g) act as a repository of, and conduit for, information concerning –
 - (i) disaster ;
 - (ii) impending disasters; and
 - (iii) disaster management in the county
- (h) act as an advisory and consultative body on issues concerning disasters and disaster management in the county to—
 - (i) state organs;
 - (ii) the private sector and non-governmental organizations; and
 - (iii) communities and individuals;
- (i) initiate and facilitate efforts to make funding of disaster management in the county available;
- (j) may make recommendations to any relevant State organ on—
 - (i) draft legislation affecting this Act, or any other disaster management issue; and
 - (ii) the national disaster management framework;
- (k) promote research into the aspect of disaster management in the county
- (l) give advice and guidance by disseminating information regarding disaster management

in the county, especially to communities in the county that is vulnerable to disaster; and

(2) The Committee may enter into a partnership with any other Agency aimed at promoting the proper exercise of its powers or Performance of its duties.

6. (1) The Executive Committee has all powers necessary for the proper performance of its functions under this Act.

Powers of the Executive Committee

(2) Despite subsection (1), the Executive Committee has the powers to—

- (a) receive any grant, gifts, donations of endowments and make legitimate disbursements the from;
- (b) delegate any of its powers;
- (c) undertake any activity necessary for the fulfillment of any of the functions of the Committee.

7. There is established the County Disaster and Emergency Coordinating Committee in the county

Establishment of the Coordinating Committee

8. (1) The County Disaster and Emergency Coordinating Committee should include representation from the Village, ward, sub-county up to the apex body. i.e. the County Disaster and Emergency Executive Committee. The Coordinating Committee shall be chaired by the County Secretary who is subject to the direction of the Executive Committee and is responsible to it for the—

Members of the co-coordinating committee

- (a) implementation of the decisions of the Executive Committee;
- (b) day to day management of the affairs of Coordinating Committee;
- (c) organization and management of the

secretariat of the Coordinating Committee;
and

- (d) any other function that may be assigned by the Executive Committee —
- (i) chaired by the County Secretary or a representative in writing;
 - (ii) all chief officers;
 - (iii) director of special programs as secretary;
 - (iv) a representative of Red Cross;
 - (v) a representative of United Nations agencies;
 - (vi) a representative of Community Based Organization;
 - (vii) two persons within the disaster and emergency management directorate.

9. (1) The functions of the Coordinating Committee are to—

Functions of the
Coordinating Committee

- (a) co-ordinate and monitor the implementation of the National Policy on Disaster and Emergency Management and the County Disaster and Emergency Management Plan;
- (b) examine the vulnerability of different parts of the county to different disaster and specify prevention, reduction or mitigation measure;
- (c) lay down guidelines to be followed for preparation of disaster management plan by the county departments;
- (d) evaluate preparedness at all governmental or non- governmental levels in the county to respond to disaster and enhance

- (e) coordinate response in the event of disaster;
- (f) give directions to any county department or authority regarding actions to be taken in response to disaster;
- (g) promote general education, awareness and community training in this regard; in partnership with other stakeholders i.e. the Civil Society Organization (CSOs);
- (h) promote the recruitment, training and participation of volunteers in disaster management in the county;
- (i) provide necessary technical assistance or give advice to local officers for carrying out their functions effectively;
- (j) ensure that communication systems are in order and disaster management drills are being carried out regularly; and
- (k) perform such other functions as may be assigned to it by the Executive Committee or any other written law.

10. (1) The Coordinating Committee shall prepare the Disaster Management Plan.

County Disaster
Management Plan

- (2) The Plan includes information on—
 - (a) the vulnerability of different parts of the county to different forms of disasters;
 - (b) the measures to be adopted for prevention and mitigation of disasters;
 - (c) the manner in which the mitigation measures shall be integrated with the development plans and projects;
 - (d) capacity building and preparedness measures to be taken;
 - (e) the roles and responsibilities of each

department of the county government in relation to the measures specified in section (b), (c) and (d); and

(f) the roles and responsibilities of different departments of the county government in responding to any threatening disaster situation or disaster.

(3) The Plan shall be reviewed and updated annually.

11. The Coordinating Committee or other persons designated in the Plan may cause it to be implemented when a disaster has Occurred or is imminent. Implementation Plan

PART III—MEASURES BY THE COUNTY GOVERNMENT FOR DISASTER MANAGEMENT

12. (1) Subject to the provisions of this Act, the county government may take all such measures as it considers necessary or expedient for the purpose of disaster management. Measures to be taken by the county government

(2) Without prejudice to the generality of subsection (1), the measures which the county government may take includes measures with respect to all or any of the following , matters, namely—

- (a) coordination of actions of the departments and divisions of the county government, county governmental and non- governmental organizations in relation to disaster management;
- (b) cooperation and assistance to any other person, as requested by them or otherwise considered appropriate by it;
- (c) establishment of institutions for research, training and developmental programs in the field of disaster management; and
- (d) such other matters as it considers

necessary or expedient for the purpose of securing effective implementation of the provisions of this Act.

(3) The county government may extend such support to other counties affected by a major disaster as it may consider appropriate.

13. (1) For the purpose of this Act –

Period of disaster

(a) a disaster exists when the Governor declares, by notice in the County Gazette, that disaster exists after receiving advice from the Committee that a disaster has occurred ;

(b) a threat of disaster exists when –

(i) the Governor declares by notice in the County Gazette, after receiving advice from the Executive Committee under subsection (2) that there is a substantial prospect that a disaster shall occur; or

(ii) an agency, whether within the county or otherwise, certified by the Coordinating Committee as an Accredited Disaster Notification Service under subsection (3), broadcasts or otherwise publishes a formal announcement warning persons of the threat of the striking of a disaster.

(2) The Coordinating Committee shall advise the Executive Committee on request, and at anytime the Coordinating Committee considers appropriate, of the occurrence of, or of the likely occurrence of, a disaster.

(3) The Coordinating Committee may certify an agency, within the county, which they consider to have a high level of technical expertise prediction or assessment of risk of any kind of disaster, as an Accredited Disaster Notification Service for the purposes of this Act.

(4) A certification under subsection (3) may

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 be general or limited to specified kinds of disaster.

14. (1) Subject to section 12, the Governor may issue a declaration of period of disaster which would activate, with immediate effect, the disaster response provisions of the Plan in the event of disaster.

(2) Immediately after the declaration of a period of disaster, the Governor shall cause the details of the declaration to be communicated by the most appropriate means to the residents of the affected area.

15. Upon the declaration of a period of disaster, the Governor may, in respect of the county, issue an order to a person to do everything necessary to prevent or limit loss of life and damage to property or the environment, including any one or more of the following

- (a) cause emergency plans to be implemented;
- (b) utilize any property considered necessary to prevent, combat or alleviate the effect of any disaster;
- (c) authorize or require any qualified person to render aid of such type as that person may be qualified to provide;
- (d) control, permit or prohibit travel to or from any area or on any road, street or highway;
- (e) cause the evacuation of persons and removal of livestock and personal property and make arrangement for their adequate care and protection;
- (f) control or prevent the movement of people and the removal of livestock from any designated area that may have a contaminating disease;
- (g) authorize the entry into any building, or upon any land;
- (h) cause the demolition or removal of any trees, structure or crop in order to prevent,

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- combat or alleviate the effects of a disaster;
- (i) authorize the procurement and distribution of essential resources and the provision of essential services;
 - (j) regulate the distribution and availability of essential goods, services and resources;
 - (k) provide for the restoration of essential facilities, the distribution of essential supplies and the maintenance and coordination of emergency medical, social and other essential services; and
 - (l) expend such sums as are necessary to pay expenses cause by the disaster.

16. (1) The Governor may terminate a period of disaster with respect to the county identified in the declaration of a disaster when, the advice of the Executive Committee, the disaster no longer exists. Termination of a period of disaster

(2) Upon termination of a period of disaster referred to in subsection (1) the Governor shall cause the details of the termination to be communicated, by the most appropriate means, to the residents of the affected areas in the county.

17. (1) Where the Coordinating Committee identifies an area as likely to pose a danger un the event of a disaster, it shall — Steps to abate danger

- (a) certify that, in writing, to the owner or occupant of the property; and
- (b) give the owner specific instructions as to the steps to take to abate or remove the danger upon receipt of the notice.

(2) Upon failure to comply with the requirements after notice, the Coordinating Committee shall take the steps necessary to give effect to the notice including entry by its employees or agents upon the premises after due notice to the owner or occupant of the premises.

(3) Any step which the Coordinating Committee

takes under subsection (2) must be reasonable in the circumstances with every care taken to ensure minimal damage to the area.

(4) A person who is served with a notice under subsection (1) and who does not take all the steps as directed by the Coordinating Committee in the notice to abate or remove the potential danger within four weeks from the date of receipt of the notice, commits an offence and in addition to any penalty imposed under this Act shall be made to pay reasonable expenses which the Coordinating Committee incurs to abate or remove the danger.

(5) An employee or an agent of the Directorate exercising a function under this section must properly identify themselves to the occupant or owner of the property on which the danger was identified, by the production of their badge, tag or other identification device provided by the Directorate.

PART IV—FINANCIAL PROVISIONS

18. (1) The county government shall establish an account known as the County Disaster Management and Emergency Fund which shall be administered, on behalf of the Coordinating Committee, by the Director of programs as the accounting officer.

Establishment of the
County Disaster and
Emergency
Management
Fund

(2) The County Disaster and Emergency Management Fund shall be financed from the following sources, namely –

- (a) such monies or assets as may accrue to the Directorate in the course of the exercise of its powers or the performance of its functions under this Act;
- (b) grants made by the national government or other county government;
- (c) loans, aid or donations from national or international agencies; and
- (d) all monies from any other source provided or donated or lent to the Directorate.

(3) The County Disaster and Emergency Management Fund shall be used towards meeting the following expenses for emergency preparedness, response, mitigation, relief and reconstruction in the county after a disaster.

(4) The Director of special programs shall administer the County Disaster and Emergency Management Fund subject to the provisions of all laws and regulations relating to public financial management.

19. The county government shall, in their annual budget, make provisions for funds for the purpose of carrying out the activities and programs set out in its Plan.

Allocation of funds for disaster management

20. (1) Where, by reason of any impending disaster or emergency, the Coordinating Committee is satisfied that immediate procurement of provisions or materials or the immediate application of resources are necessary for rescue or relief, the directorate of special programs may procure the provisions or materials directly.

(2) The procurement referred to in subsection (1) shall comply with the laws relating to public procurement.

21. (1) Before the commencement of each financial year, the Executive Committee shall cause to be prepared estimates of the revenue and expenditure of the Coordinating Committee for that.

Annual Estimates

(2) The annual estimates shall make provision for all the estimated expenditure of the Coordinating Committee for the financial year concerned and, in particular, shall provide for the —

- (a) funding of training, research and development of activities of the Directorate;
- (b) funding of education, training and capacity building on disaster management in the county; and

(c) such other matter as the Directorate may consider fit.

(3) The annual estimates shall be approved by the Executive Committee before the commencement of the financial year to which they relate and shall be submitted to the County Secretary for transmission to and tabling in the County Assembly.

(4) Expenditure of the Directorate shall not be incurred except in accordance with the annual estimates approved under subsection (3).

22. (1) The Executive Committee shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities. Accounts and audit

(2) Within a period of three months after the end of each financial year, the Executive Committee must submit to the Auditor- General the accounts of the Coordinating Committee in respect of that year together with—

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

(3) The annual accounts of the Coordinating Committee must be prepared, audited and reported upon in accordance with the provisions of Article 226 and 229 of the Constitution and law relating to public audit.

23. The financial year of the Coordinating Committee shall be the period of twelve months ending on the thirtieth June in each year. Financial year

PART V—OFFENCES AND PENALTIES

24. A person who obstructs the Coordinating Committee or any person the performance of an action authorized by this Act or who contravenes or Obstruction

- (a) a provision of this Act or any regulation; or
- (b) a direction, order or requirement made pursuant to this Act or the regulation, commits an offence and is liable on conviction to—
 - (i) in the case of an individual, to a fine not exceeding five hundred thousand shillings or to imprisonment of not more than six months or both; or
 - (ii) in the case of an entity, to a fine not exceeding five million shillings.

25. A person who knowingly makes a claim which they know or has reason to believe to be false for obtaining any relief, assistance, repair, reconstruction or other benefits consequent to disaster from any officer of the county government is liable, on conviction, to a fine not exceeding one hundred thousand shillings or imprisonment of not more than one year or both.

False claim

26. A person being entrusted with any money or materials, or otherwise being in custody of money or goods meant for providing relief in a threatening disaster or disaster, misappropriation or disposes of such money or materials or any part or willfully compels any other person to do so is liable on conviction, to a fine not exceeding one million shillings or of not more than three years or both.

Misappropriation of money or materials

27. (1) A person who makes or circulates a false alarm or warning as to disaster or its severity or magnitude, leading to panic, commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or imprisonment of not more than one

False alarm

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year or both.

(2) Despite subsection (1), no offence is committed where a disaster drill is being carried out.

(3) For the purpose of this section, a disaster drill is a practice of the emergency procedures to be used in case of a disaster

28. A person who commits an offence under this Act for which no penalty is prescribed is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year, or both. General penalty

PART VI—MISCELLANEOUS PROVISIONS

29. (1) Where it appears to the Coordinating Committee that— Power to requisition resources for rescue operations

- (a) any resources with the county government or any authority or person, are needed for the purpose of a prompt response;
- (b) any building or building materials or land or premises to demolish any building or other structure, as the case may be, is needed or likely to be needed for the purpose of rescue operations;
- (c) any vehicle including bulldozers, tractors, motor vehicles, carts, carriages, boats and other means of transport by air, land or water is needed or is likely to be needed for the purposes of transport of resources from disaster affected areas or transport of resources to the affected area or transport in connection with rescue, rehabilitation or reconstruction; or
- (d) directions are required to be issued to any person to abstain from a certain act or to take certain order with regard to certain property in their possession or under their management; and
- (e) the Coordinating Committee may, by

order in writing, requisition such resources or premises or vehicle, as the case may be, and may make such further order as may appear to it to be necessary or expedient in this connection.

(2) The owners of premises, resources or vehicles affected by orders issued under paragraphs (b), (c), and (d) in subsection (1), shall be entitled to claim reasonable compensation as admissible under any law for the time being in force.

(3) The compensation referred to in subsection (2) must be full and paid within ninety days from the initial date of reporting.

(4) Where a person is aggrieved by the amount of compensation awarded under subsection (2), the person may within thirty days appeal to Court.

30. No action or proceeding may be brought against any person acting under the authority of this Act, including an agent, for anything done, or not done—

Protection from personal liability

(a) in the performance or intended performance of a duty under this Act; or unless the person was acting in bad faith;

(b) in the exercise or intended exercise of power under this Act.

31. A person, in the course of implementing an disaster management plan pursuant to this Act or the regulations may, at any time, enter any property.

Entry upon property

32. The Coordinating Committee, with authorization from the Executive Committee, may give direction to any authority or person in control of any audio or audiovisual media or such other means of communication as may be available to carry any warning or advisories regarding any threatening disaster situation or disaster, and the said media or means of communication must comply with such direction.

Direction of communication for warnings

33. The Governor may make regulations on—

Regulations

(a) emergency planning for the continuity of

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functions of departments, boards, corporations and other agencies of the county;

(b) the vesting of special powers and duties in various departments and agencies of the county for the purposes of emergency planning and the implementation of disaster management plans;

(c) the recognition of the professional, trade or other qualifications of persons sent to the county by another jurisdiction under an agreement entered into during a state of emergency or a period of disaster;

(d) the emergency planning, evaluation, and level of preparedness required of counties;

(e) emergency planning, evaluation and reporting for non- governmental entities;

(f) prescribing the forms to be used for a declaration of a period of disaster and renewals and termination of the same;

(g) the establishment, operation, liability and responsibilities of ground search and rescue organizations; and

(h) any matter that the Governor considers necessary for the administration of this Act.