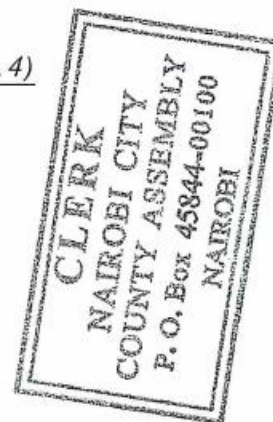


SPECIAL ISSUE

Nairobi City County Gazette Supplement No. 4 (Bills No. 4)



REPUBLIC OF KENYA



**NAIROBI CITY COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 11th May, 2015

CONTENT

Bill for Introduction into the County Assembly of Nairobi City—

PAGE

The Nairobi City County Disaster and Emergency Management Bill, 2015 1

**THE NAIROBI CITY COUNTY DISASTER AND EMERGENCY
MANAGEMENT BILL, 2015**

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Object and purpose of the Act.

PART II—COUNTY DISASTER MANAGEMENT STRUCTURE

- 4—Disaster and Emergency Management Council.
- 5—Establishment of the Directorate.
- 6—Functions of the Directorate.
- 7—Administration of the Directorate.

PART III—COUNTY DISASTER MANAGEMENT PLAN

- 8—The Plan.
- 9—Role of the County Government.

PART IV—FINANCIAL PROVISIONS

- 10—County Disaster Management Fund.
- 11—Estimates.
- 12—Maintaining of books.
- 13—Financial Year.
- 14—Offences.

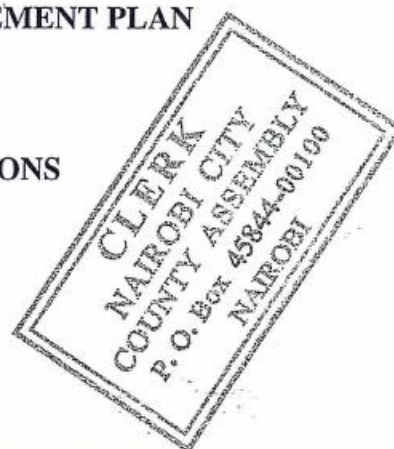
PART V —PROVISIONS ON DELEGATED POWERS

- 15—Emergency declaration.
- 16—Rules.
- 17—Principles and standards of delegated power.

PART VI—FINAL PROVISIONS

- 18—Transitional.

SCHEDULE



**THE NAIROBI CITY COUNTY DISASTER AND EMERGENCY
MANAGEMENT BILL, 2015**

A Bill for

**AN ACT of the Nairobi City County Assembly to provide for the
management of disasters and emergencies in Nairobi County
and for connected purposes**

ENACTED by the County Assembly of Nairobi City, as follows —

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Nairobi City Disaster and Emergency Management Act, 2015.

Interpretation

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

“council” means the Disaster and Emergency Management Council established by section 4;

“disaster” means a situation in any part of the County:

- (a) that arises from any happening, whether natural or otherwise, including—
 - (i) any naturally occurring event affecting the whole or any part of the county; or
 - (ii) any fire caused by any means; or
 - (iii) any aspect of the safety of a ship or aircraft in the County; or
 - (iv) any outbreak or spread of disease affecting humans, plants or animals; or
 - (v) any event, natural or otherwise, which threatens the supply of water or the quality of water resources in the county; or
 - (vi) any other emergency event resulting from systems failure, infrastructure failure or human error; and
- (b) which involves threat or danger to human life or health, or to the environment; and
- (c) which might require response agencies to respond under this Act;

“director” means the Director of the Directorate of Disaster and Emergency Management appointed under section 7;

“directorate” means Directorate of Disaster and Emergency Management established by section 4;

“disaster management” means all activities undertaken in accordance with this Act in disaster preparedness and response, and for recovery from disasters and emergencies;

“disaster risk reduction” means all mitigation activities undertaken in accordance with this Act to reduce the risk of hazards to the community and its property;

“emergency means a situation—

- (a) which is more serious than a disaster;
- (b) which could result or has resulted in causing widespread human, property or environmental losses throughout the County or in any part of the County; and
- (c) which would require a substantial mobilization and utilization of the County’s resources or which would exceed the ability of the County to cope using its own resources;

“fund” means the County Disaster Management Fund established by section 10;

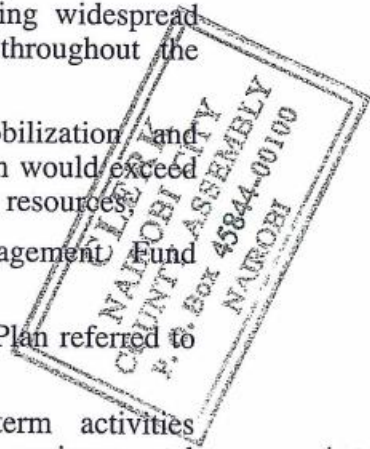
“plan” means the County Disaster Management Plan referred to in section 9;

“recovery” means the medium and long term activities undertaken for physical, social, economic and environmental regeneration after a period of emergency.

Objects and Purpose of the Act

2. The objects and purpose of the Act are to —

- (a) establish an efficient structure for the management of disasters and emergencies by promoting cooperation amongst agencies with a role in disaster management, and enhancing their capacities to maintain the provision of essential services, including psychosocial services, during periods of disaster and emergency;
- (b) require the preparation and implementation of a Plan consisting of the response agency plans prepared by the response agencies and other groups and institutions in accordance with the requirements of this Act;



- (c) vest authority in persons and agencies to act during times of disaster and emergency in accordance with the plans approved under this Act, and to require the observance and implementation of directives given and initiatives taken by persons authorized under this Act;
- (d) otherwise enhance the capacity of the County Government , relevant agencies and the community 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;
- (e) implement mechanisms to reduce risks and hazards that may cause, contribute to or exacerbate disaster or emergency situations in the County; and
- (f) facilitate procedures aimed at implementing recovery activities in the aftermath of disasters and emergencies.

PART II—COUNTY DISASTER MANAGEMENT STRUCTURE

Disaster and Emergency Management Council

3. (1) There is established the Disaster and Emergency Management Council.

(2) The Council shall consist of—

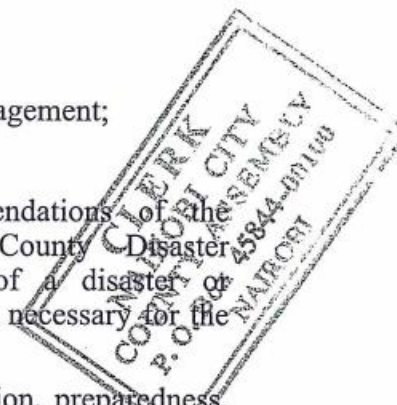
- (a) the Deputy Governor who shall be the Chairperson;
- (b) the County Executive Member responsible for public safety;
- (c) the County Executive Member responsible for treasury;
- (d) the County Executive Member responsible for health;
- (e) the County Executive Member responsible for environment;
- (f) the County Executive Member responsible for public works;
- (g) the County Executive Member responsible for agriculture;
- (h) the County Executive Member responsible for planning;
- (i) the County Commissioner;
- (j) the County Commandant of Police;
- (k) the County Liaison Officer of the Kenya Red Cross Society or representative of any other organization serving as auxiliary to the public authorities in the humanitarian field;

- (l) at least two representatives of the public, representing both genders duly appointed by the Governor with approval from the County Assembly; and
 - (m) the County Director for Disaster preparedness and response who shall be the Secretary.
- (3) The Council shall—
- (a) set policies on disaster and emergency management;
 - (b) approve the Plan;
 - (c) review, approve and endorse recommendations of the Director; oversee the application of the County Disaster Management Plan during any period of a disaster or emergency and give any order or direction necessary for the plan to be implemented;
 - (d) oversee the implementation of risk reduction, preparedness, response and recovery activities by all County Government agencies and other agencies performing roles related to disaster management;
 - (e) implement the National Governments policy on disaster and emergency response; and
 - (f) discharge any other responsibility or exercise any other power as provided by this Act or the County Disaster Management Plan.
- (4) The Council shall report annually to the County Assembly on the status of disaster and emergency response preparedness of the county.
- (5) The conduct and regulation of the business and affairs of the Council shall be as provided in the Schedule.
- (6) Except as provided in the Schedule, the Council may regulate its own procedure.

Functions of the Directorate

4. The Directorate shall—

- (a) assess and review all disasters and emergencies and make appropriate recommendations to the Council;
- (b) prepare and subject to the Council's approval implement the Plan;
- (c) co-ordinate and monitor the implementation of the national and county disaster management policy.



- (d) ensure that areas in the county vulnerable to disasters are identified and measures for the prevention of disasters and the mitigation of its effects are undertaken by the departments of the county;
- (e) undertake any activity relating to raising the capacity within the County to effectively respond to disasters and emergencies;
- (f) ensure that the guidelines for prevention , mitigation, preparedness and response measures laid down are implemented by all county departments;
- (g) ensure that the Plan is publicized and that all sectors of the community are made aware of the possible threats arising from disasters and emergencies, and of the need to be prepared to respond to such threats so as to protect human life and health and the environment;
- (h) ensure that a coordinated inter-agency approach is undertaken in relation to all disaster and emergency planning, risk reduction and preparedness, and response and recovery activities;
- (i) implement the decisions of the Council and give proper effect to the provisions of this Act and the Plan;
- (j) ensure that preparedness activities are undertaken as required, including public awareness raising, training, simulation exercises, planning and the establishment of facilities and communications;
- (k) organize and co-ordinate specialized training programmes for officers of the Directorate and volunteer rescue workers in the county;
- (l) set up, maintain, review and upgrade the mechanisms for early warnings and dissemination of proper information to the public;
- (m) identify buildings and places which could be used as relief centres or camps in case of disasters and make arrangements for water supply and sanitation for such buildings o places;
- (n) put in place collaboration measures with other appropriate persons or national government agencies;
- (o) advice the County Government on all matters relating to disaster and emergency response;

- (p) ensure that such relevant agencies or institutions as may be determined by the Director, prepare their own disaster management plans;
- (q) assist response agencies and the community generally to identify, implement and participate in disaster risk reduction activities and programmes;
- (r) collate the plans prepared under Part 4 and refer them to the Council for approval; and
- (s) undertake such activities as are necessary to prepare for responses to disasters and emergencies.

Administration of the Directorate

5. (1) The office Directorate shall be headed by a Director of Disaster and Emergency Management.

(2) The Director shall be appointed by the County Public Service Board through a competitive and transparent process.

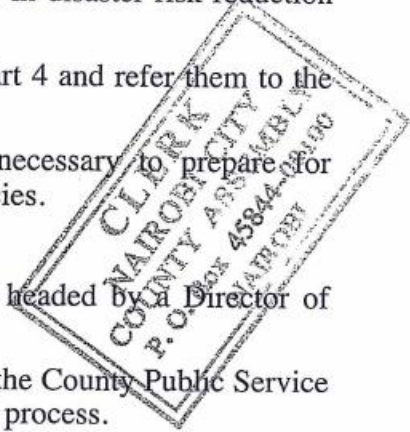
(3) A person shall be appointed as a Director if that person—

- (a) is a Kenyan citizen;
- (b) is a holder of at least a first university degree in a course relevant to matters of disaster and emergency management;
- (c) satisfies the requirement of Chapter Six of the Constitution; and
- (d) has knowledge, experience and a distinguished career of not less than five years in the relevant field.

(4) The Council shall, in consultation with the County Public Service Board determine such number of staff as may be required for the proper execution of the functions of the Directorate.

(5) The Director shall be the overall head of the Directorate and shall be responsible for—

- (a) day to day running and operation of the Directorate;
- (b) administration, organization and control of staff of the Directorate;
- (c) management of funds, property and affairs of the Directorate;
- (d) implementation of policies and programmes of the Directorate and reporting thereon to the Council;
- (e) development of operational plans for achieving the objectives of the Directorate; and



- (f) performance of any other function necessary for the implementation of this Act, as may be determined by the Council.

PART III—COUNTY DISASTER MANAGEMENT PLAN

The Plan

6. (1) There shall be prepared a plan for disaster management for the county to be called the Nairobi County Disaster Management Plan.

(2) The Plan shall be prepared by the Directorate having regard to the National Government Disaster Management Policy and shall be approved by the Council.

(3) The Plan shall include—

- (a) measures to be taken for the prevention of disasters or the mitigation of their effects;
- (b) measures to be taken for the integration of mitigation measures in the development plans;
- (c) the minimum standards of relief to be provided in case of disasters and emergencies;
- (d) measures to be taken for preparedness and capacity building to effectively respond to any threatening disaster or emergency situations; and
- (e) roles and responsibilities of different county government departments and other such agencies not being part of the County Government structure.

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

(5) The County Government shall make appropriate provisions for financing the measures carried out in the Plan.

Role of the County Government

7. The county government shall—

- (a) ensure that officers and employees are trained for disaster management;
- (b) ensure that resources relating to disaster management are so maintained as to be readily available for use in the event of any threatening disaster situation or disaster;
- (c) ensure that all construction projects under it or within its jurisdiction conform to the standards and specifications laid

down for prevention of disasters and mitigation by the Directorate; and

- (d) carry out relief, rehabilitation and reconstruction activities in the affected area in accordance with the Plan.

PART IV—FINANCIAL PROVISIONS

County Disaster Management Fund

8. (1) There is established the County Disaster Management Fund, which shall be administered by the Director.

(2) The Fund shall be financed from—

- (a) such monies appropriated from the County Revenue;
- (b) 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;
- (c) grants made by the National Government or other county governments; and
- (d) loans, aid or donations from national or international agencies; and
- (e) all monies from any other source provided or donated or lent to the Directorate.

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

Estimates

9. (1) Before the commencement of each financial year, the Directorate shall prepare financial estimates for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Directorate 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 matters as the Directorate may consider fit.

(3) The annual estimates shall be approved by the County Assembly.

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

Maintaining of Books

10. (1) The Directorate shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities.

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

- (a) a statement of the income and expenditure of the Directorate during that year;
- (b) a statement of the assets and liabilities of the Directorate on the last day of that financial year; and
- (c) the annual accounts of the Directorate must be prepared, audited and reported upon in accordance with the provisions of Articles 226 and 229 of the Constitution and the law relating to public audit.

Financial Year

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

Offences

12. Any person who—

- (a) obstructs any officer or employee of the County Government or Directorate in the discharge of their functions under this Act;
- (b) refuses to comply with any direction given by or on behalf of the County Government in exercise of the functions under this Act;
- (c) knowingly makes a false claim for obtaining any relief or assistance or any other benefits that may accrue as a result of a disaster;
- (d) knowingly makes or circulates a false alarm or warning as to a disaster or its severity or magnitude leading to panic;
- (e) fails to discharge their duties as accorded by this Act; or
- (f) interferes or destroys any equipment meant to achieve the objectives of this Act commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year, or both.

PART V—PROVISIONS ON DELEGATED POWERS

Emergency Declaration

13. (1) The Council may issue a declaration of disaster which would activate the county disaster response mechanisms.

(2) Nothing in this section affects the power of the Head of State to make proclamations of emergency as per the Constitution of Kenya or other relevant national law in the event of any disaster or emergency.

Rules

14. (1) The County Executive Committee Member responsible for public safety shall, on the recommendation of the Council, make rules generally for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the foregoing, such rules may provide for—

- (a) prescribing anything required to be prescribed under this Act;
- (b) the forms and fees for the purposes of this Act;

Principles and Standards of Delegated Power

15. The principles and standards applicable to the delegated power referred to under section 57 are those found in—

- (a) the Statutory Instruments Act, 2013;
- (b) the Interpretation and General Provisions Act,
- (c) the Constitution and any national law;
- (d) the general rules of international law as specified under Article 2(5) of the Constitution; and
- (e) any treaty and convention ratified by Kenya under Article 2 (6) of the Constitution.

PART VI —FINAL PROVISIONS

Transitional

16. (1) In this section—

“effective date” means the day upon which this Act comes into operation; and

“former Department” means the Department or unit responsible for disaster management within the County Public Service existing immediately before the effective date.

(2) On the effective date, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former Department, shall by virtue of this subsection, vest in the Council.

(3) On the effective date, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the former Department shall, by virtue of this subsection, be deemed to be vested in, imposed on or enforceable against the Council.

(4) On the effective date, any person who, immediately before the commencement of this Act was a member of staff of the former Department shall be deemed to be a member of staff of the Council for the unexpired period of his or her service.

(5) Any reference in any written law or in any document or instrument to the former Department shall on and after the appointed day, be construed to be a reference to the Council.

(6) The annual estimates of the former Department for the financial year in which the effective day occurs shall be deemed to be annual estimates of the Council for the remainder of that financial year but such estimates may be varied by the Council in such manner as the Member of the County Executive may approve.

(7) The administrative directions made by the former Department or by the Member of the County Executive which are in force immediately before the appointed day shall, on and after such day, have force as if they were directions made by the Council or the Member of the County Executive under this Act.

SCHEDULE (S. 4(5))

PROVISIONS ON CONDUCT OF AFFIARS AND BUSINESS OF THE COUNCIL

Tenure of Office

1. The members of the Council other than *ex-officio* members shall, subject to the provisions of this Schedule, hold office for a period of five years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment for one further term.

Vacation of Office

2. (1) A member other than an *ex-officio* member may—

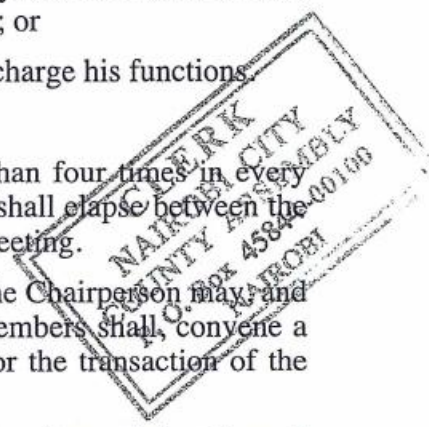
- (a) at any time resign from office by notice in writing to the Governor;
- (b) be removed from office by the Governor on recommendation of the Council if the member—
 - (i) has been absent from three consecutive meetings of the Council without its permission;
 - (ii) is found to have contravened the provisions of Chapter Six or thirteen of the Constitution;
 - (iii) is convicted of a criminal offence that amounts to a felony in Kenya;
 - (iv) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
 - (v) is otherwise unable or unfit to discharge his functions.

Meetings

3. (1) The Council 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 sub-paragraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Council at any time for the transaction of the business of the Council.

(3) Unless three quarters of the total members of the Council otherwise agree, at least fourteen days' written notice of every meeting of the Council shall be given to every member of the Council.



(4) The quorum for the conduct of the business of the Council shall be half of the total members including the Chairperson or the person presiding.

(5) The members of the Council shall, during their first meeting after appointment elect one of their number to be the Vice chairperson who shall preside whenever the Chairperson is absent, with all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the Council shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to sub-paragraph (6), no proceedings of the Council shall be invalid by reason only of a vacancy among the members thereof.

(8) Subject to the provisions of this Schedule, the Council may determine its own procedure and the procedure for any committee of the Council and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

Committees of the Council

4. (1) The Council may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Council shall appoint the chairperson of a committee established under sub-paragraph (1) from amongst its members.

(3) The Council may where it deems appropriate, co-opt any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under sub-paragraph (1) shall be ratified by the Council.

(5) Without prejudice to the generality of sub-paragraph (1), the Council shall ensure the establishment of separate committees responsible for—

- (a) management issues;
- (b) practice issues; and
- (c) training and assessment issues.

Disclosure of Interest

5. (1) A Member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as

reasonably practicable after the commencement, disclose the fact thereof 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.

(2) A disclosure of interest made under sub-paragraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A Member of the Council who contravenes sub-paragraph (1) commits an offence and is liable to a fine not exceeding two hundred thousand shillings.

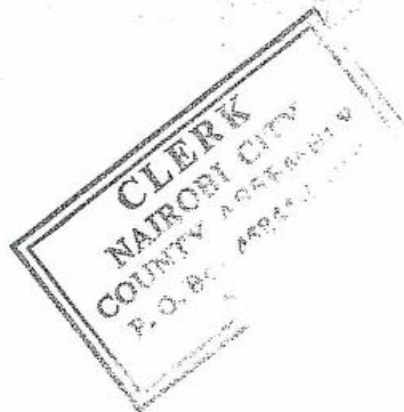
Contracts and Instruments

6. 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 Council by any person generally or specially authorised by the Council for that purpose.

Common Seal

7. (1) The affixing of the common seal of the Council shall be authenticated by the signature of the Chairperson and the Secretary and any document not required by law to be made under seal and all decisions of the Council may be authenticated by the signatures of the Chairperson and the Secretary.

(2) The Council shall, in the absence of either the Chairperson or the Secretary in any particular matter, nominate one Member to authenticate the seal of the Council on behalf of either the Chairperson or the Secretary.



MEMORANDUM OF OBJECTS AND REASONS

The purpose of the Bill is to provide a mechanism for responding and addressing disasters and emergencies in the County. The Bills provides a structured approach towards handling disasters and emergencies in the county.

The Bill establishes offices that have a specific mandate in regards to ensuring that the county is prepared to handle any disaster.

The structure of the Bill is as follows—

Part I (Clause 1—3) of the Bill contains preliminary provisions. Clause 1 states the title of the Bill and clause 2 deals with interpretation of terms as used in the Bill. Clause 3 states the objects of the Bill.

Part II (Clause 4—8) of the Bill deals with the county disaster management structure. Clause 4 establishes the Disaster Management Council by providing for its membership and functions. Clause 5 establishes the Directorate of Disaster and Emergency Management while Clause 6 provides for the functions of the established Directorate. Clause 7 provides for the administration and management of the Directorate.

Part III (Clause 8 and 9) clause 8 deals with the preparation of the County Disaster Management Plan, it provides for how the plan shall be prepared and the contents of the plan. Clause 9 provides for the role of the county government in disaster and emergency management.

Part IV (Clause 10—14) clause 10 establishes the County Disaster Management Fund, it explains the source of this fund and its uses. Clause 11 deals with how the estimates of the Directorate shall be prepared and approved. Clause 12 provides for how the book of accounts of the Directorate shall be maintained and by whom. Clause 13 provides for the financial year of the directorate. Clause 14 deals with the offences that will arise under the Act and the penalty for those offences.

Part V (Clause 15—17) this part deals with provisions on delegated power. Clause 15 provides for emergency declarations by the Council. Clause 16 deals with the power of the County Executive Committee Member to make regulations. Clause 17 outlines the principles and standards of delegated power and the Act.

Part VI (Clause 18) deals with transitional matters such as the effective date.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill does not delegate any legislative powers nor does it limit fundamental rights and freedoms.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

The Bill is not a money Bill for the purposes of Article 114 of the Constitution.

Dated 7th May, 2015.

Member of the County Assembly