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THE MERU COUNTY DISASTER MANAGEMENT ACT, 2016

No. 6 of 2017

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THE MERU COUNTY DISASTER MANAGEMENT ACT, 2016

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

ENACTED by the County Assembly of Meru as follows:—

PART 1—PRELIMINARY

Short Title

1. This Act may be called the Meru County Disaster Management Act, 2016 and shall come into force upon publication in the Gazette.

Interpretation

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

“affected area” means an area or part of the county affected by a disaster;

“Committee” means the Disaster Management Committee established under section 4 of this Act;

“Directorate” means the Directorate of Disaster Management established under section 7 of this Act;

“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 coping capacity of the community of the affected area whether natural or manmade;

“disaster management” means a continuous and integrated process of planning, organising, coordinating 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;
- (e) prompt response to any threatening disaster situation or disaster;

(2) The Committee consists of—

- (a) the Governor of the County or a representative appointed in writing by the Governor who shall be the chairperson;
 - (b) the Executive Committee Member responsible for matters relating to disaster management in the County;
 - (c) the County Commissioner or a representative appointed in writing by the County Commissioner
 - (d) two persons working in the area of disaster management appointed by the executive member;
 - (e) the County Liaison Officer of the Kenya Red Cross Society or a person nominated in writing by the Secretary-General of the Kenya Red Cross Society;
 - (f) two representatives from faith based organizations dealing with matters related to disaster management; and
 - (g) the chief executive officer the Fire and Rescue Services Authority in the county or a person nominated in writing by the Chief Executive Officer.
- (3) The appointment of the Committee members listed in subsection (1) (c), (d), (e) and (f) shall be done by the Executive Member.
- (4) The chief executive officer appointed in section 8 shall be the Secretary of the Committee.

The functions of the Committee

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

- (a) advise the County Government on matters 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) advise the County Government regarding all financial matters in relation to disaster management;
- (e) promote an integrated and co-ordinated approach to disaster management in the county, with special emphasis on prevention, mitigation and disaster risk reduction by other role-players involved in disaster management in the county;

- (c) undertake any activity necessary for the fulfilment of any of the functions of the Committee.

Establishment of the Directorate

7. There is established the Disaster Management Directorate in the county.

Staff of the Directorate

8. (1) The Directorate shall be headed by a chief executive officer who is subject to the direction of the Committee and is responsible to it for the—

- (a) implementation of the decisions of the Committee;
 - (b) day to day management of the affairs of the Directorate;
 - (c) organization and management of the employees of the Directorate; and
 - (d) any other function that may be assigned by the Committee.
- (2) The chief executive officer and other staff of the Directorate shall be persons recruited and employed, or deployed by the County Public Service Board in consultation with the County Treasury.

Functions of the Directorate

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

- (a) coordinate and monitor the implementation of the National Policy on Disaster Management and the County Disaster Management Plan;
- (b) examine the vulnerability of different parts of the county to different disasters and specify prevention, reduction or mitigation measures;
- (c) lay down guidelines to be followed for preparation of disaster management plans by the county departments;
- (d) evaluate preparedness at all governmental or non-governmental levels in the County to respond to disaster and to enhance preparedness;
- (e) co-ordinate response in the event of disaster;
- (f) give directions to any county department or authority regarding actions to be taken in response to disaster;

Implementation of Plan

11. When an emergency exists or is imminent or a disaster has occurred or is imminent, the Directorate or other persons designated in the Plan may cause the Plan to be implemented.

PART III—MEASURES BY THE COUNTY GOVERNMENT FOR DISASTER MANAGEMENT

Measures to be taken by the County Government

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.

- (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) co-ordination of actions of the departments and divisions of the County Government, county governmental and non-governmental organizations in relation to disaster management;
 - (b) co-operation 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 programmes 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.

Period of Disaster

13. (1) For the purposes of this Act—

- (a) a disaster exists when the Governor declares by notice that a disaster exists after receiving advice from the Committee that a disaster has occurred;
- (b) a threatened disaster exists when—

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- (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 the removal of livestock and personal property and make arrangements 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 crops in order to prevent, 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 co-ordination of emergency medical, social and other essential services; and
- (l) expend such sums as are necessary to pay expenses caused by the disaster.

Termination of a Period

16. (1) The Governor may terminate a period of disaster declared under section of disaster 13 of this Act, when in the opinion of the Governor, or on advice from the Committee that the disaster no longer exists.

(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.

Steps to Abate Danger

17. (1) Where the Directorate identifies an area as likely to pose a danger in the event of a disaster, it shall—

- (a) certify that, in writing, to the owner or occupant of the property; and

- (d) all monies from any other source provided or donated or lent to the Directorate.
- (3) The County Disaster 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 Chief Executive Officer shall administer the County Disaster Management Fund subject to the provisions of all laws and regulations relating to public financial management.

Allocation of Funds for Disaster Management

19. The County Government shall, in their annual budgets, make provisions for funds for the purposes of carrying out the activities and programmes set out in its Plan.

Emergency Procurement

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

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

Annual Estimates

21. (1) Before the commencement of each financial year, the Committee shall cause to be prepared estimates of the revenue and expenditure of the Directorate 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 Committee before the commencement of the financial year to which they relate and shall be submitted to the Executive Committee Member for transmission to and tabling in the County Assembly.

- (b) in the case of an entity, to a fine not exceeding five million shillings.

False Claim

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 to both.

Misappropriation of Money or Materials

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, misappropriates or disposes of such money or materials or any part or wilfully compels any other person to do so, is liable on conviction, to a fine not exceeding one million shillings or imprisonment of not more than three years, or to both.

False Alarm

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

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

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

General Penalty

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 to both.

PART VI—MISCELLANEOUS PROVISIONS

Power to Requisition resources for rescue operations.

29. (1) Where it appears to the Directorate that—

- (a) any resources with the County Government or any authority or person, are needed for the purpose of a prompt response;

Entry upon Property

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

Direction for Communication of Warnings

32. The Directorate, with authorization from the 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.

Regulations

33. The Executive Committee Member may make regulations on—

- (a) emergency planning for the continuity of 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 nongovernmental 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 Executive Committee Member considers necessary for the administration of this Act.