COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

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THE TANA RIVER COUNTY WATER AND SANITATION SERVICES ACT, 2017

No. 6 of 2017

Date of Assent: 3rd July, 2017

Date of Commencement: See Section 1

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THE TANA RIVER COUNTY WATER AND SANITATION SERVICES ACT, 2017

AN ACT of the County Assembly of Tana River to provide for development, regulation and management of county public works related to water and sanitation services, storm water management system and conservation and for connected purposes

ENACTED by the County Assembly of Tana River, as follows—

PART I — PRELIMINARY

Short title and Commencement.

1. This Act may be cited as the Tana River County Water and Sanitation Services Act, 2017 and shall come into operation upon publication in the *Gazette*.

Interpretation.

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

"authorised officer" means an authorised officer appointed under section 58;

"Board of Corporation" means the Board of Water and Sanitation Services Corporation established under section 14;

"Chief Officer" means the chief officer for the time being responsible for water services;

"Corporation" means the Tana River Water and Sanitation Services Corporation established under section 12;

"Directorate" means the Directorate of Water and Sanitation Services established under section 26;

"County Executive Committee member" means the County Executive Committee member for the time being responsible for water services;

"public works" in this context means storage, intake, transmission, distribution, pipeline, canals, dykes, water treatment works, pumping stations and pumps, drilling and distribution lines;

"Sector wide forum" means the water and sanitation services sector wide forum established under section 72;

"Services Board" means the Tana River County Water and Sanitation Services Board established under section 4;

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"water works" means any construction excavation, piping, drainage of any land, supply or transportation of water or water abstraction works, management of storm water and floods or storage, impounding of water for supply to the public or for private purposes, drainage of any swamp or other land.

Purposes of the Act.

3. The purpose of this Act is to provide for a legal framework for implementation of sections 10(a) and 11 of part 2 of the Fourth Schedule to the Constitution and Article 43(1) (b) and (c) in order to—

(1) ensure equitable and continuous access to clean water;

(2) provide for the development, and management of county water services public works;

(3) provide for regulation of county water and sanitation public works;

(4) ensure effective and efficient provision of water and sanitation services;

(5) enhance sustainable management of water resources; and

(6) promote interagency collaboration and public participation in water resource development and management.

PART II—ADMINISTRATION

Tana River County Water and Sanitation Services Board

Establishment of the Board.

4. (1) There is established a Board to be known as Tana River County Water and Sanitation Services Board.

(2) The Board shall be the successor to the water and sanitation companies and other institutions established under the Water Act, 2002 operating within the county immediately before the commencement of this Act.

Composition of the Board.

5. (1) The Services Board shall consist of—

(a) a non-executive chairperson appointed by the Governor and approved by the County Assembly;

(b) the chief officer for the time being responsible for water services who shall be the secretary;

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(c) the chief officer for the time being responsible for finance;

(d) the chief executive office of the Tana River Water Services and Sanitation Corporation; and

(e) one representative of water service providers.

(2) A person, other than an ex officio member, shall qualify for appointment as chairperson or a member appointed, if the person—

(a) is a citizen of Kenya;

(b) holds a degree from a recognised university;

(c) has knowledge and experience of at least five years in matters relating to water resources management, water and sanitation services management or any other related field; and

(d) meets the requirements of Chapter Six of the Constitution.

Functions of the Board.

6. The functions of the Services Board shall be to—

(a) development and management of public infrastructure for storm water control;

(b) solving disputes arising from water sector in the county;

(c) subject to any other written law, regulate water and sanitation service in the county;

(d) reviewing and advising on the appropriate governance and management of the institutions established under this Act;

(e) in co-operation with other government agencies, regulate development of infrastructure and systems for water and sanitation services in the county;

(f) issue authorization to any person intending to carry out water and sanitation works similar to the public works defined under this Act;

(g) regulate use or access to land for the purposes of water conservation;

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(h) issue permits and regulate the provision of sanitation services;

(i) ensure compliance with the established standards related to water and sanitation services and works;

(j) receive and address complaints from water consumers and any person affected by a decision of the Corporation or the Directorate;

(k) maintain data and information related to water and sanitation services and disseminate it to the public; and

(l) maintain collaboration and cooperation with other government agencies and other county governments in carrying out its functions.

Conduct of Business.

7. (1) The conduct and regulation of the business and affairs of the Services Board shall be as set out in the Schedule.

(2) Except as provided in the Schedule, the Services Board may regulate its own procedure.

Powers of the Board.

8. The Board shall have powers necessary for discharge and performance of its functions under this Act.

Remuneration of Board

9. The remuneration of the members of the Services Board shall be as determined by the county Public Service Board on the advice of the Salaries and Remuneration Commission.

Officers of the Services Board

10. The County Executive Committee member may designate such officers as are necessary for proper discharge of the functions of the Services Board.

Protection from Personal Liability.

11. (1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Board shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Services Board under this Act, render the member, officer, staff or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by

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him or her under the direction of the Board, shall, if the court holds that such act was done bona fide be paid out of the funds of the Corporation.

Tana River County Water and Sanitation Services Corporation

Establishment of the Corporation.

12. (1) There is established a Corporation to be known as the Tana River Water and Sanitation Services Corporation.

(2) The Corporation shall be the successor to the Tana River Water and Sanitation Services Company.

(3) The Corporation shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

(a) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(b) borrowing money or making investments;

(c) entering into contracts; and

(d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

Functions of the Corporation.

13. The functions of the Corporation shall be to—

(a) provide and manage water and sanitation services;

(b) ensure adequate water supply system for domestic, industrial, livestock, wildlife and agricultural purposes;

(c) promote or develop and manage water harvesting and recycling systems;

(d) promote efficient water use and management for sustainable development;

(e) identify, initiate and promote water conservation systems, strategies and programs;

(f) maintain data base related to water and sanitation services;

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(g) disseminate information related to water and sanitation services; and

(h) maintain collaboration and co-operation with other government agencies and other county governments in carrying out its functions.

Board of Corporation.

14. (1) The management of the Corporation shall vest in the Board of Corporation.

(2) The Board of the Corporation shall consist of—

(a) a non-executive chairperson appointed by the Governor and approved by the County Assembly;

(b) the chief officer for the time being responsible for water services;

(c) the chief officer for the time being responsible for finance;

(d) one person nominated by water users in accordance with the prescribed procedure and appointed by the County Executive Committee member;

(e) chief executive officer who shall be an *ex-officio* member and the secretary of the Board; and

(f) one person appointed by the County Executive Committee member through a competitive process by virtue of their knowledge, expertise and experience in matters related to water and sanitation management.

(3) A person shall be qualified for appointment as chairperson or a member appointed under subsection (2) (f) if the person—

(a) is a citizen of Kenya;

(b) holds a degree from a recognised university;

(c) has knowledge and experience of at least five years in matters relating to water resources management, water and sanitation services management or any other related field; and

(d) meets the requirements of Chapter Six of the Constitution.

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(4) A person shall be qualified for appointment as a member under sub section 2(d)if the person—

(a) is a citizen of Kenya;

(b) possesses at least a diploma from a recognised institution;

(c) has knowledge and experience of at least 2 years in matters relating to water resources management, local development, or any other related field; and

(d) meets the requirements of Chapter Six of the Constitution.

Functions of the Board.

15. The functions of the Board shall be to—

(a) ensure proper and efficient exercise of the powers and performance of the functions of the Corporation;

(b) advise the management of the Corporation generally on the exercise of the powers and the performance of the functions of the Corporation;

(c) approve the estimates of the revenue and expenditure of the Corporation; and

(d) perform such other functions as are provided for under this Act or any other written law.

Conduct of Business.

16. (1) The conduct and regulation of the business and affairs of the Board of the Corporation shall be as set out in the Schedule.

(2) Except as provided in the Schedule, the Board of the Corporation may regulate its own procedure.

Remuneration of the Board.

17. The remuneration of the members of the Board of the Corporation shall be as determined by the County Public Service Board upon the advise of the Salaries and Remuneration Commission.

Chief Executive Officer.

18. (1) There shall be a chief executive officer of the Corporation.

(2) The chief executive officer shall be appointed by the County Executive Committee member, on recommendation of the Board of the Corporation and recruited through a competitive process.

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(3) To be eligible for appointment as a chief executive officer, a person must—

(a) be a citizen of Kenya;

(b) possess a degree from a recognized university;

(c) have had experience in management for a period of not less than five years; and

(d) meet the requirements of Chapter Six of the Constitution.

(4) The chief executive officer shall hold office for a period of three years, on such terms and conditions of employment as the Board of the Corporation may determine, and shall be eligible for re-appointment for a further and final term of three years.

(5) The chief executive officer shall be an *ex-officio* member of the Board of the Corporation shall have no right to vote at any meeting of the Board.

(6) The chief executive officer shall—

(a) in consultation with the Board of the Corporation, be responsible for the day to day management and direction of the affairs and transactions of the Corporation, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the Corporation.

(b) carry out any other functions as may from time to time be assigned by the Board.

Removal from Office.

19. (1) The chief executive officer may—

(a) at any time resign from office by issuing notice in writing to the chairperson of the Board;

(b) be removed from office by the County Executive Committee member on recommendation of the Board, for—

(i) serious violation of the Constitution or any other written law;

(ii) gross misconduct, whether in the performance of the functions of the office or otherwise;

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(iii) physical or mental incapacity to perform the functions of office;

(iv) incompetence; or

(v) bankruptcy.

Officers of the Corporation.

20. The Board of the Corporation may appoint such officers as are necessary for proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

Common seal of the Corporation.

21. (1) The common seal of the Corporation, shall be kept in the custody of the chief executive officer or of such other person as the Board may direct, and shall not be used except upon the order of the Board.

(2) The common seal of the Corporation, when affixed to document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Corporation shall be authenticated by the signature of the chief executive officer.

(4) The Board shall, in the absence of either the chairperson or the chief officer, in any particular matter, nominate one member of the Board to authenticate the seal of the Corporation on behalf of the chief executive officer.

Protection from personal liability.

22. (1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Corporation shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Corporation under this Act, render the member, officer, staff or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her before any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done bona fide be paid out of the funds of the Corporation.

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Liability for Damages

23. The provisions of section 22 shall not relieve the Corporation of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Public Awareness.

24. The Corporation shall, in carrying out its functions—

(a) provide public education and awareness on efficient and sustainable water use; and

(b) invest in water source protection and conservation.

Public Private Partnership.

25. The Corporation may enter into public private partnership in order to effectively carry out its functions.

Directorate of Water and Sanitation Services

Establishment of the Directorate.

26. There is established the Directorate of Water and Sanitation Service which shall be an office in the county public service.

Functions of the Directorate.

27. The Directorate shall be responsible for—

(a) developing water and sanitation services infrastructure, including water works and public works that may be used by the Corporation;

(b) in collaboration with other national or county government(s) departments, initiating, developing, coordinating and managing policies, strategies and plans for water resources management and sanitation services;

(c) developing and managing works for water conservation;

(d) facilitating public awareness and participation on sustainable water resources, sanitation and storm water management;

(e) promoting and facilitating adoption and use of water conservation systems and methods, including water harvesting;

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(f) in collaboration with other agencies, develop and manage public infrastructure for storm water management;

(g) develop and co-ordinate implementation of water and sanitation services management information system;

(h) mobilising resources from water resources management and development and sanitation services;

(i) developing performance management system and overseeing its implementation by the agencies established under this Act;

(j) monitoring and evaluating the implementation of this Act and the water sector;

(k) conducting and facilitating research and appropriate surveys for water resources management and facilitating dissemination and implementation of research findings;

(l) acting as the repository of information and data on water sector; and

(m) advising the County Executive Committee member on the necessary policy to be adopted for sustainable water resources management.

Director.

28. (1) The directorate shall be headed by a Director who shall be appointed by the County Public Service Board.

(2) To be eligible for appointment as a Director, a person shall—

(a) be a citizen of Kenya;

(b) possess a degree in water engineering, water resource management, environment or any other related field from a recognised university;

(c) have had experience in water resource management for a period of not less than five years; and

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(d) and meets the requirements of Chapter Six of the Constitution.

Officers of the Directorate.

29. The County Public Service Board shall appoint such number of officers to serve in the Directorate for effective carrying out its functions under this Act.

Reporting.

30. (1) The Corporation, Services Board and Directorate shall prepare respective annual reports within two months after the end of the financial year in such a form as may be prescribed.

(2) The Directorate shall compile the reports into the county water sector report for submission to the County Executive Committee member for onward transmission to the County Executive Committee.

(3) The County Executive Committee shall within thirty days after adoption of the report transmit it to the County Assembly for consideration.

(4) The report provided under subsection (2) shall contain among others—

(a) performance of each institution and Directorate against the established performance targets;

(b) progress on implementation of specific respective functions assigned under this Act;

(c) level of public participation and outcome of such participation.

PART III—WATER SERVICES

Supply of Water.

31. The Corporation and Directorate shall progressively ensure that—

(a) every person has access to safe and clean water for domestic use within reasonable distance;

(b) where applicable, there is accessible water for agricultural, livestock and industrial use;

(c) there is equitable distribution of water between consumers.

Service Agreements with National Government.

32. The Corporation may enter into service performance agreements with a National government entity provided that such agreement shall be approved by the County Executive Committee.

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Development of Water Works.

33. (1) The Corporation or Directorate may, for the purposes of carrying out their functions, erect or develop water and public works on a public or private property.

(2) Notwithstanding subsection (1), the Corporation or Directorate shall seek consent of the owner of private land or the relevant government agency occupying or in whose custody the public or private land falls where they seek to erect any water works or public works and shall provide the prescribed compensation.

(3) The Corporation or Directorate shall, in collaboration with the department responsible for roads, identify and establish specific areas on any road where public works under this Act may be carried out.

(4) The Corporation or Directorate shall seek easements from owner or occupier of any land for construction of water works or public works to be undertaken on such land.

County Scheme.

34. (1) The Corporation or Directorate may, with the approval of the County Executive Committee member, initiate a County scheme to provide services under this Act for public benefit.

(2) Where the Corporation or Directorate deems necessary to erect or establish such a scheme or related public works on private property or land, the county government may purchase the property or in accordance with the laws governing compulsory acquisition seek such compulsory acquisition.

(3) A county scheme shall take precedence over any private or community scheme.

Community Projects.

35. A community may initiate a project for water services with the approval of the Services Board.

Water Tariff.

36. (1) The Corporation or Directorate may levy tariffs and other user charges for the purposes of carrying out their functions.

(2) The tariffs and user charges levied under this section shall be established in accordance with the principles set out under the County Governments Act, 2012 and any other written law and shall be approved by the County Executive Committee.

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(3) The tariffs and user charges collected under this section shall not form part of the County Revenue Fund but shall be utilised for defraying expenditures of the Corporation or the Directorate in order to carry out their functions effectively and efficiently.

Prohibited Activities.

37. (1) A person shall not—

(a) interfere with any meter or equipment installed;

(b) install illegal or un authorised water connections;

(c) install a pipe or connection which does not comply with the approved standards; or

(d) any other prohibited activity as prescribed.

(2) A person who contravenes this section commits an offence and, upon conviction, shall be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding one year or to both.

Permit.

38. (1) A person intending to carry out or maintain any water works shall apply for a permit to the Service Board.

(2) A person who prior to the commencement of this Act was carrying out water kiosks, managing or maintaining any water works shall within sixty days apply for a permit.

(3) A person who contravenes this section commits an offence and, on conviction, shall be liable to a fine not exceeding one hundred thousand or to imprisonment for a term not exceeding one year or to both.

Application for Permit.

39. (1) An application for a permit under section 38 shall, where applicable be accompanied by an environmental impact assessment report in accordance with the Environmental Management and Co-ordination Act, 1999 and shall specify among others—

(a) the purpose and nature of the works to be undertaken;

(b) the nature of works to be carried out; and

(c) the duration within which the works are expected to be completed.

(2) The Service Board shall, where the construction of works will be undertaken on public property or where

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the works will affect a cross section of the residence, issue a public notice within fourteen days after such an application and invite any person to make comments or object to such an application.

(3) A person may lodge an objection to application for a permit.

(4) Every objection to an application shall be made in writing to the secretary of the Service Board setting out the grounds for such an objection.

(5) The Services Board shall, upon receiving the application send a notice of the objection received to the applicant for a permit.

(6) The Services Board may, where appropriate conduct public hearings on the objection.

(7) An objector or an applicant for a permit may appear in person or by an advocate at the hearing of an application.

(8) The Services Board shall consider the application within thirty days of such an application and may where it is satisfied that the applicant has fulfilled all the requirements of this Act or any other written law grant a permit in the prescribed form subject to any such conditions as may be prescribed and upon the applicant paying the prescribed fees.

(9) Where the Services Board is not satisfied with the application, it may—

(a) reject the application giving reasons and notify the applicant accordingly within thirty days of the decision to reject; or

(b) make comments and recommendations thereon and return it to the applicant within thirty days.

(10) An applicant to whom the application is returned under subsection (9) (b) may re-submit the application within sixty days.

(11) On receipt of any revised application under subsection (11), the Services Board shall, within thirty days determine the application in accordance with this Act and upon such determination, if satisfied, issue a permit.

Water Works Conditions.

40. The Services Board shall prescribe the appropriate conditions related to equipment and technology, design,

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construction, operation and maintenance of water works.

Noninterference and Restoration after Construction.

41. A person who carries out any construction works on any public property under this Act shall ensure that—

(a) there is no interference with the normal usage of any part of property or land;

(b) necessary measures are taken to prevent members of the public from being exposed to any danger or harm as a result of such works; and

(c) any parcel of land or property where the works were taking place are restored to its original state.

Register of Permits.

42. (1) The Services Board shall maintain a register of permits issued under this Act, which shall include all details related to the permit.

(2) The register of permits shall be accessible to members of the public upon payment of the prescribed fees.

Water Services Audit.

43. (1) The Services Board shall, in collaboration with the Directorate, audit the state of provision of water services in the county in order to ascertain the number of private and community water service providers, the challenges faced in accessing water in different areas and level of community participation in water and sanitation services management among others.

(2) The Services Board shall submit audit report to the County Executive Committee member for transmission to the County Executive Committee for policy direction on management of all water services in accordance with this Act.

Water Service Conflict Resolution.

44. A conflict related to use of water or water resource for which this Act applies shall be resolved by the Service Board.

PART IV — SANITATION SERVICES AND POLLUTION CONTROL

Master plan.

45. The Directorate shall, in collaboration with other county and national government departments and local residence, prepare medium and long term sanitation services master plan.

Provision of sanitation services.

46. The Corporation shall either directly or through public private partnership—

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(a) provide necessary sanitation services; or

(b) construct, operate and maintain extensive system of sewers and treatment facilities to meet applicable discharge requirements.

Waste Water Management.

47. The Directorate shall—

(a) develop strategies and policies to promote treated waste water and dried sludge re-use;

(b) in co-operation with relevant government agencies will periodically carry out effluent quality analysis to ensure efficacy of the waste water management facilities.

Compliment with Effluent Standards.

48. (1) A person or entity shall, when disposing final effluent comply with the guidelines prescribed by the relevant government authority.

(2) A person who contravenes subsection (1) commits an offence and, upon conviction, shall—

(a) if a body corporate be liable to a fine not exceeding five hundred thousand shillings; and

(b) if an individual be liable to a fine of fifty thousand shillings or to imprisonment for a term not exceeding two months.

Discharge of Contaminated Water or Effluent.

49. (1) A person shall not discharge or dispose any contaminated water or effluent unless in accordance with the prescribed guidelines and standards.

(2) A person who contravenes subsection (1) commits an offence and, upon conviction, shall—

(a) if a body corporate be liable to a fine not exceeding five hundred thousand shillings; and

(b) if an individual be liable to a fine of fifty thousand or to imprisonment for a term not exceeding two months.

Interference with Sewerage System.

50. (1) No person shall interfere with any sewerage facility or system unless with a written consent of the Corporation for the purposes of carrying out works within the area of the facility or system.

(2) A person who contravenes this section commits an offence and, upon conviction, shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years.

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Sewage Tariff.

51. (1) Subject to the County Governments Act and any other written law, the Corporation may impose tariffs or levy on sewerage services and water or sanitation services for the purposes of disposal of water or sewerage.

(2) The tariffs imposed or levied under this section shall be subject to approval by the County Executive Committee.

Sector Wide Forum.

52. (1) The Directorate shall constitute and convene the water and sanitation services sector wide forum as shall be prescribed

(2) The sector wide forum shall consist of all stakeholders in the water and sanitation sector as shall be prescribed.

(3) The roles of the sector wide forum shall be—

(a) review and deliberate on water resources management and sanitation services;

(b) propose policy or legislative interventions for effective implementation of this Act; and

(c) participate in development of measures, plans and strategies for implementing this Act.

(4) The sector wide forum shall meet at least once every quarter.

PART V — FINANCIAL PROVISIONS

Funds of the Corporation.

53. (1) The funds and assets of the Corporation shall consist of—

(a) such monies as may be appropriated by the County Assembly for the purposes of the Corporation;

(b) revenue realised from investment undertaken by the Corporation;

(c) such gifts, grants or moneys received from a lawful source; or

(d) any monies borrowed from securities markets or received as loans to the Corporation.

(2) The Corporation shall apply the funds provided under this section for the furtherance of its purpose and

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performance of the functions of the Corporation and as prescribed under this Act.

Annual Estimates.

54.(1) At least three months before the commencement of each financial year, the Corporation shall cause to be prepared annual estimates of the Corporation for that year.

(2) The annual estimates shall make provisions for all estimated expenditure of the Corporation for the financial year and in particular, the estimates shall provide for the—

(a) allocations for investments related to the functions of the Corporation;

(b) recurrent expenditure related to provision of water and sanitation services;

(c) payment of the salaries, allowances and other charges in respect of the staff of the Corporation;

(d) payment of allowances and other charges in respect of members of the Board of the Corporation;

(e) payment of pensions gratuities and other charges in respect of members of the Board of the Corporation and staff of the Corporation;

(f) proper maintenance of the buildings and grounds of the Corporation;

(g) maintenance, repair and replacement of the equipment and other property of the Corporation; and

(h) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board of the corporation may deem appropriate.

(3) The annual estimates shall be approved by the Board of the Corporation before the commencement of the financial year to which they relate and, once app roved, the sum provided in the estimates shall be submitted to the County Executive Committee for final approval.

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Accounts.

55. The Board of the Corporation shall cause to be kept proper books and records of accounts and assets of the Corporation.

Financial reports and audits.

56. (1) Within a period of three months after the end of each financial year, the Board of the Corporation shall submit to the Auditor-General, the accounts of the Corporation together with—

(a) a statement of financial position at the thirtieth day of June;

(b) a statement of comprehensive income;

(c) a statement of cash flow for the year ended;

(d) a summary of significant accounting policies and other explanatory information; and

(e) other financial statements applicable to similar institutions.

(2) The accounts of the Corporation shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

Funds of the Services Board and the Directorate.

57. The funds of the Services Board and the Directorate shall be as appropriated by the County Assembly.

PART VI — ENFORCEMENT

Authorised Officers.

58. (1) The County Executive Committee member may on recommendation of the Corporation, the Services Board or the Directorate appoint such number of authorised officers for the purposes of enforcing or implementing the respective functions or implementing the respective functions of each institution or department.

(2) The County Executive Committee member shall issue a certificate of appointment to every officer appointed under this section.

Power of entry.

59. For the purposes of ensuring compliance or implementation of this Act, an authorised officer may, at any reasonable time, enter any place in which any function related to this Act is carried out.

Power of Officers.

60. (1) An authorised officer may examine or inspect any facility, equipment, information or data related to this

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Act or gain access to any area for the purposes of implementing this Act.

(2) Any person who obstructs an authorised officer while enforcing or implementing this Act commits an office and, upon conviction, shall be liable to a fine not exceeding one hundred thousand shillings.

PART VII — GENERAL PROVISIONS

Regulations.

61. (1) The County Executive Committee member may, within ninety days after the commencement of this Act, in consultation with the directorate and the institutions established under this Act, make regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may—

(a) prescribe guidelines for sanitation systems and standards;

(b) prescribe guidelines for administering the Fund;

(c) prescribe the procedure of nominating persons representatives of water users to the boards;

(d) prescribe guidelines for developing watershed storm management plans;

(e) prescribe for the areas declared as water protected areas;

(f) prescribe the rules for conflict resolution; and

(g) prescribe the list of water sector stakeholders.

Transition.

62. (1) In this section—

"appointed day" means the day upon which this Act comes into operation; and

"former company" means the Tana Water and Sanitation Company.

(2) On the appointed day, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in the former company, shall by virtue of this paragraph, vest in the Board.

(3) Any person who, at the commencement of this

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Act, is a member of staff of the former company shall, on the appointed day, become a member of staff of the Corporation on the same or improved terms and conditions of service as may be specified by the County Executive Committee member.

(4) On the appointed day, every person who is a member of the Board of the former company shall, on and after such day, cease being a member of the Board.

(5) The annual estimates of the former company for the financial year in which the appointed day occurs shall be deemed to be annual estimates of the Board for the remainder of that financial year:

Provided that such estimates may be varied by the Board in such manner as the County Executive Committee member may approve.

(6) The administrative directions made by the former Board 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 Board under this Act.

(7) Where on the appointed day any disciplinary proceedings against any member of staff of the former company—

(a) is in the course of being heard or instituted, the Corporation shall carry on and complete the hearing or investigation and make an order or render a decision.

(b) has been heard or investigated by the former company but no order or decision has been made thereon; the Corporation shall proceed to make an order or render a decision.

(8) here on the appointed day, any penalty, other than dismissal, has been imposed on any member of staff of the former company pursuant to disciplinary proceedings against him or her and the penalty has not been, or remains to be serviced by such member of staff, he or she shall, on his or her transfer to the Corporation, serve or continue to serve such penalty to its full as if it had been imposed by the Corporation.

(9) On the appointed day, all rights, powers and liabilities, whether arising under any written law or

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otherwise which immediately before such day were vested in, imposed on or enforceable against the former company shall, by virtue of this paragraph, be deemed to be vested in, imposed on or enforceable against the Corporation.

(10) Any reference in any written law or in any document or instrument to the former company shall on and after the appointed day, be construed to be a reference of the Corporation.

SCHEDULE

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF CORPORATI ON AND SERVICES BOARD

Tenure of Office.

1. Any member of the Board, other than the Chief Officers shall, subject to the provisions of this Schedule, hold office for a term of three years, on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for a further and final term of three years.

Vacation of Office.

2. A member of the Board may—

(a) at any time resign from office by notice in writing to the County Executive Committee member;

(b) be removed from office by the County Executive Committee member if the member—

(i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;

(ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

(iii) is convicted of an offence involving dishonesty or fraud;

(iv) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors;

(v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit

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to discharge his or her duties as a member of the Board; or

(vi) fails to comply with the provisions of this Act relating to disclosure.

Meetings.

3. (1) The Board 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 the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least seven members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.

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

(4) The quorum for the conduct of the business of the Board shall be five members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he or she is present but, in his or her absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

Conflict of Interest.

4. (1) If a member is directly or indirectly interested in a contract, proposal contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that the member shall, at the meeting and as soon as practicable after the commencement thereof,

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disclose the fact 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:

provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such a member shall not have the right to vote on the matter in question.

(2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he or she acquires any pecuniary or other interest that could conflict with the proper performance of his or her duties as a member or employee of the Board.

(3) Where the Board becomes aware that a member has conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the Chairperson has a conflict of interest he or she shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the County Executive Committee member in writing.

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination.

(6) Where the Board determines that the conflict of interest is likely to interfere significantly with the member's proper and effective performance as provided for in subparagraph (1), the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.

(7) The Board shall report to the County Executive Committee member any determination by the Board that a

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conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A member of the Board who contravenes subparagraph (1) commits an offence and, upon conviction, is liable to imprisonment for a term not exceeding six months, or a fine not exceeding one hundred thousand shillings, or both.

Code of Conduct.

5. (1) Within twelve months of the commencement of this Act, the Board shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and staff of the Board in the performance of their duties.

(2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to the existing code of conduct, the Board shall publish the proposed code or amendments in the *Gazette* and in a newspaper circulating within the county, inviting public comments.

(3) The Board shall, in its annual report, includea report on compliance with the code during the period covered by the annual report.

(4) The code of conduct adopted or prescribed under this paragraph shall be binding on the Board and its staff.

Execution of Interest.

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 Board by any person generally.

Minutes.

7. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.