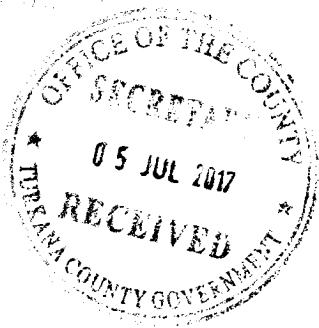


SPECIAL ISSUE

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

Turkana County Gazette Supplement No. 3 (Acts No. 1)



REPUBLIC OF KENYA

**TURKANA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

NAIROBI, 17th April, 2015

CONTENT

Act—	PAGE
The Turkana County Public Participation Act, 2015	1

THE TURKANA COUNTY PUBLIC PARTICIPATION ACT, 2015

No. 1 of 2015

Date of Assent: 13th April, 2015

Date of Commencement: 17th July, 2015

ARRANGEMENT OF SECTIONS

Section

PART I – PRELIMINARY

- 1—Short Title and Commencement.
- 2—Interpretation.
- 3—Objectives and purpose of the Act.
- 4—Principles of public participation.

PART II—COUNTY GOVERNMENT OFFICERS

- 5—Governor.
- 6—County assembly speaker.
- 7—County executive committees.
- 8—Sub- county administrator.
- 9—Ward administrator.
- 10—Village administrator.
- 11—County budget and economic forum.
- 12—Urban areas and cities.

PART III—PUBLIC PARTICIPATION MANAGEMENT

- 13—Public Participation Plans.
- 14—Budgets.
- 15—Public Participation Units.
- 16—County Resource Centres and access to Information.
- 17—Citizen Forums.
- 18—County Leaders Forum.

PART IV—PUBLIC PETITION TO COUNTY EXECUTIVE

- 19—Form of Petition.
- 20—Procedure for presenting the Petition.

No. 1

Turkana County Public Participation

- 21—Consideration of Petition.
- 22—Procedure of investigating or assessing the Petition.
- 23—Publication of Decision on Petition.
- 24—Register of Petitions.

PART V—GENERAL PROVISIONS

- 25—Marginalised Groups.
- 26—Alternative Public Participation Methods.
- 27—Independent Citizen Forums.
- 28—Regulations.

THE TURKANA PUBLIC PARTICIPATION ACT, 2015

AN ACT of the County Assembly of Turkana to provide for public engagement on matters of public interest in relation to policy formulation processes, legislative processes in the Turkana County and to provide for mechanisms by which the public may participate in the affairs of the County to ensure openness, transparency, and accountability on the part of the County, its County Assembly, County Executive and County Public Service by providing avenues for Citizens to exercise their Constitutional and Legislative right to Public Participation and for connected purposes

ENACTED by the County Assembly of Turkana as follows—

PART I—PRELIMINARY

Short Title and Commencement

1. This ACT may be cited as the Turkana County Public Participation Act, 2015 and shall come into operation upon expiry of ninety days from the date of publication.

Interpretation

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

“Constitution” means the Constitution of Kenya, 2010;

“council” means the Legislative Executive Council established under Section 18 of the County Public Participation Act, 2014;

“county assembly” means the County Assembly of Turkana established under Article 176 of the Constitution;

“county budget and economic forum” means the body established under section 137 of the Public Finance Management Act, Chapter 412C, Laws of Kenya in the County of Turkana;

“County executive committee” means a county executive committee of the County of Turkana established in accordance with Article 176 of the Constitution;

“County Government” means the County Government of Turkana in the context of Article 176 of the Constitution;

“County Leaders Forum” means the Forum contemplated under section 91(f) of the County Governments Act, 2012 and established under section 18 of this Act;

“deputy governor” means the person nominated by the Governor and appointed in accordance with Article 180 of the Constitution;

“director of public participation” means the person appointed under section 15

“governor” means the County Governor of the County of Turkana elected in accordance with Article 180 of the Constitution;

“marginalised group” has the meaning assigned to it by Article 260 of the Constitution;

“the public”, when used in relation to public participation in this Act, means—

- (a) the residents of the County of Turkana;
- (b) the rate payers of a particular city or municipality;
- (c) any resident civic organisation with an interest in the governance of the County of Turkana, a city or a municipality in the County of Turkana;
- (d) non-resident persons who because of their temporary presence in the County of Turkana, in a city or a municipality in the County of Turkana make use of services or facilities provided by the County, City or Municipality;

“participation” means the involvement of individuals and groups that are positively or negatively affected by, or that are interested in, a proposed project, program, plan’ legislation or policy that is subject to a decision-making process in the County of Turkana;

“sub-county administrator” means the persons appointed under section 50 of the County Governments Act, 2012 in the County of Turkana.

“village administrator” means the persons appointed under section 52 of the County Governments Act, 2012 in the County of Turkana;

“ward administrator” means the persons appointed under section 51 of the County Governments Act, 2012 in the County of Turkana.

Objects and Purpose of the Act

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

- (a) provide for matters necessary or convenient to give effect to Chapter Eleven of the Constitution;
- (b) provide a framework for the direct exercise of sovereignty by the people through actively informing the form and content of legislation, policy and development plans;

- (c) provide for a framework for informed, effective, efficient and sustainable engagement of persons in policy, legislation and development plans and programmes;
- (d) provide for a framework for public participation in service delivery by the County Government of Turkana;
- (e) give effect to the principles of public participation as set out in Articles 1(2), 10, Chapter 4, Article 35, 61, 69, 118, 119, 196, 174, 184, 201, 232, Fourth Schedule of the Constitution; and
- (f) provide for written and oral submissions on draft county policies, legislation and development plans.

Principles of Public Participation

4. The principles of public participation at the County level shall be—

- (a) timely access to information, data, documents, and other information relevant or related to policy formulation and implementation;
- (b) reasonable access to the process of formulating and implementing policies, laws, and regulations, including the approval of development proposals, projects and budgets, the granting of permits and the establishment of specific performance standards;
- (c) protection and promotion of the interest and rights of minorities, marginalised groups and communities and their access to relevant information;
- (d) legal standing to interested or affected persons, organizations, and where pertinent, communities, to appeal from or, review decisions, or redress grievances, with particular emphasis on persons and traditionally marginalized communities, including women, the youth, and disadvantaged communities;
- (e) reasonable balance in the roles and obligations of County Governments and non-state actors in decision-making processes to promote shared responsibility and partnership, and to provide complementary authority and oversight;
- (f) promotion of public-private partnerships, such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted action on sustainable development;

- (g) recognition and promotion of the reciprocal roles of non-state actors' participation and governmental facilitation and oversight;
- (h) timely access of information, data documents and information in formats suitable for persons living with disabilities; and
- (i) fostering transparency, accountability and equity in public participation processes.

PART II — COUNTY GOVERNMENT OFFICERS

Governor

5. (1) The Governor shall promote, coordinate and facilitate citizen participation in the development of policies and plans, citizen participation in the evaluation of the performance of county government and delivery of services in the county.

(2) The Governor shall be accountable to the county for all public participation processes.

County Assembly Speaker

6. The County Assembly Speaker shall promote, coordinate and facilitate public participation in all County Assembly proceedings.

County Executive Committee

7. (1) The County Executive Committee shall promote, co-ordinate and facilitate citizen participation in the development of policies and plans, citizen participation in the evaluation of the performance of county government and delivery of services in the county in relation to respective powers and functions.

(2) The County Executive Committee shall report to the Governor and the county Assembly on all matters relating to public participation in the county.

(3) The Governor shall appoint County Executive Committee Public Services, Decentralized Administration and Disaster Management to be in charge of devolution in the County.

Sub – County Administrator

8. (1) The Sub-County Administrator shall promote, co-ordinate and facilitate citizen participation in the development of policies and plans in the respective Sub-County.

(2) The Sub-County Administrator shall—

- (a) prepare annual public participation plans, civic education plans and budgetary estimates for the Sub-County.

- (b) receive complaints and feedback from citizens at sub county level.
- (c) supervise and prepare periodic reports on public participation and civic education at the Sub-County as may be required.

(3) The Sub-County Administrator shall report to the Director of Public Participation on all matters relating to public participation and civic education in the Sub-County.

Ward Administrator

9. (1) The Ward Administrator shall promote, co-ordinate and facilitate citizen participation in the development of policies and plans in the respective Ward

(2) The Ward Administrator shall—

- (a) prepare and submit annual public participation plans, civic education plans and budgetary estimates for the Ward.
- (b) receive complaints and feedback from citizens at Ward level.
- (c) prepare periodic reports on public participation and civic education at the Ward as may be required.

(3) The Ward Administrator shall report to the Sub-County Administrator on all matters relating to public participation and civic education in the Ward.

Village Administrator

10. (1) The Village Administrator shall promote, co-ordinate and facilitate citizen participation in the development of policies and plans in the respective Village.

(2) The Village Administrator shall—

- (a) prepare and submit annual public participation plans, civic education plans and budgetary estimates for the Village.
- (b) receive complaints and feedback from citizens at Village level.
- (c) prepare periodic reports on public participation and civic education at the Village as may be required.

(3) The Village Administrator shall report to the Ward Administrator on all matters relating to public participation and civic education in the Village.

County Budget and Economic Forum

11. This Act shall govern public participation processes undertaken by the County Budget and Economic Forum.

Urban Areas and Cities

12. All public participation processes under the Urban Areas and Cities Act shall be guided by this Act

PART III—PUBLIC PARTICIPATION MANAGEMENT

Public Participation Plans

13. (1) For every proposed policy, legislation and development plan, the County Government shall publish a public participation plan and timetable.

(2) Public participation plans shall—

- (a) indicate the specific policy, legislation or development plan that shall be submitted for public participation;
- (b) indicate the County Officer in charge of the respective public participation process;
- (c) provide a detailed timetable and venues for public participation;
- (d) indicate any other issue that may be up for public discussion; and
- (e) be published in at least Swahili and English or any other language understood by the residents of the county.

(3) Before implementing public participation plans, county officers shall—

- (a) define the County's approach to the relevant public participation process;
- (b) clarify the problem or opportunity to be addressed and the decision to be made;
- (c) identify stakeholders;
- (d) identify information gaps or misunderstandings to be addressed;
- (e) identify potential constraints on the public participation process; and
- (f) clearly identify and state issues that will need to be considered in the decision process.

(4) Public participation plans under the Public Finance Management Act, 2012 shall be in accordance with the statutory calendar set under the Act.

(5) Public participation for purposes of public finance management shall—

- (a) occur at all stages in including formulation, enactment, implementation, oversight and evaluation;
- (b) shall be done at least every quarter, for any ongoing financial management processes; and
- (c) shall contain an executive summary and a narrative explanation of tables and figures, all written in a simple, easily comprehensible and readily accessible format.

Budgets

14. (1) Every financial year, at least 1 percent of the total county budget shall be allocated to public participation in the county and shall be equitably distributed in all the villages, wards and sub-counties for purposes of administration of public participation.

(2) The Sub-County Administrator, Ward Administrator and Village Administrator shall every financial year submit financial proposals for public participation in their respective jurisdictions.

(3) The Director of Public Participation shall prepare budget estimates for public participation by August every fiscal year.

Directorate of Public Participation

15. (1) The County Executive in consultation with the County Assembly shall establish a Directorate of Public Participation that shall be in charge of executing administrative functions for the implementation of this Act.

(2) The Directorate of Public Participation shall administratively co-ordinate public participation processes for the County Executive Committee and the County Assembly.

(3) The Directorate of Public Participation shall compose of—

- (a) Director of Public Participation;
 - (b) Sub-County Administrators;
 - (c) Ward Administrators;
 - (d) Village Administrators; and
 - (e) Staff seconded from the County Assembly.
- (4) The functions of the Director of Public Participation shall be—
- (a) co-ordinate public participation by all County Departments or Agencies;
 - (b) prepare annual budget and resource estimates to support public participation activities in the County;

- (c) ensure coordination, co-operation and consultation between the County Executive and County Assembly for purposes of public participation;
- (d) facilitate capacity building and provide support to other County Government departments on public participation processes;
- (e) mobilize and organize the public, stakeholders and local communities to participate in county governance and decision making processes in consultation with Sub-County Administrators, Ward Administrators and Village Administrators;
- (f) facilitate the realization of the purpose of this Act as well as integration of the principles stipulated under section 4 in public participation processes;
- (g) monitor and evaluate public participation processes undertaken by each department or agency;
- (h) develop and execute an appropriate civic education program;
- (i) ensure coordination with Non State Actors in public participation processes and civic education;
- (j) prepare regular and annual report on public participation in accordance with the County Governments Act;
- (k) advise the County Government on the appropriate policies, plans and strategies for enhancing public participation in the county; and
- (l) carry out any other function in furtherance to the objects and purpose of this Act.

County Resource Centres and Access to Information

16. (1) There shall be established county resource centres at the offices of Sub-County, ward and village administrators that shall at all times make available to County residents all County documents, records and reports.

(2) Access to County Executive and County Assembly information, documents and records shall be made to County residents at no cost.

(3) The County Government shall maintain an online portal with all county documents and records.

Citizen Forums

17. (1) Public participation meetings shall be known as citizen forums.

(2) Citizen forums shall be held at the following levels —

- (a) County;
- (b) Sub-County;
- (c) Ward; and
- (d) Village.

(3) Citizen forums shall be engaged with discussing, contributing to and auditing:

- (a) County Development Plans;
- (b) County Budgets;
- (c) County Legislation; and
- (d) County Reports.

(4) No person shall face any sanctions or legal proceedings for the mere reason of attending or participating in citizen forums

County Leaders Forum

Section 91(f) of County Governments Act, 2012

18. (1) There is established a County Leaders Forum which shall be a consultative forum that will advise the County Government on development and economic issues of the County.

(2) The County Leaders Forum shall be composed of—

- (a) the Governor who is the chair of the Council;
- (b) the Deputy Governor;
- (c) the County Secretary;
- (d) the Senator (or Senators where applicable);
- (e) the Members of Parliament from the County;
- (f) ten CEC Members;
- (g) the Speaker of the County Assembly.(Deputy Speaker can appear as an Alternate Member);
- (h) the County Commissioner; and
- (i) at least Four and a maximum 10 Members of the County Assembly nominated by Parties in Assembly in accordance with the parties' representation.
- (j) seven County elders who understand development issues in the Sub-County

- (k) three religious leaders, Chair of Maendeleo ya Wanawake, Chair for persons with disabilities, Chair Youth and Chair for Turkana Professionals.
- (3) The County Leaders Forum shall—
 - (a) ensure the integration of National and Constituency Development plans in the County Development Plan and assess effectiveness of the implementation of the County Development Plan;
 - (b) integrate the National legislative agenda with the County development plan and propose a common legislative agenda;
 - (c) determine issues and strategies for engagement with the national government, independent commissions and offices, on matters that affect the County Development;
 - (d) recommend socioeconomic development goals and provide policy advice to the County Government;
 - (e) study measures to improve the implementation of official development assistance to the County;
 - (f) assess effectiveness of the implementation of the National Development Plan in the County; and
 - (g) integrate environmental principles and practices into the County Development Plan;
 - (h) recommend to the Governor and Senate sources of revenue and measures to reduce unnecessary expenditures in County Government;
- (4) Conduct of meetings of the County Leaders Forum shall be set out through regulations under this Act.

PART IV—PUBLIC PETITION TO COUNTY EXECUTIVE

Form of Petition

19. A petition to County Executive shall be in the form set out in the Schedule and shall—

- (a) be handwritten, printed, typed or presented orally to a designated County Officer;
- (b) be in English or Kiswahili and be written in respectful, decorous and temperate language;
- (c) be free of alterations and interlineations in its text;
- (d) be addressed to the County Executive Committee;

- (e) have its subject-matter indicated on every sheet if it consists of more than one sheet;
- (f) confirm that efforts have been made to have the matter addressed by the relevant body and that there has been no response on the matter from the relevant body or that the response has not been satisfactory;
- (g) confirm that the issues in respect of which the petition is made are not pending before any court or other constitutional or legal body;
- (h) conclude with a clear, proper and respectful request, reciting the definite object of the petitioner or petitioners in regard to the matter to which it relates;
- (i) subject to paragraph (l), contain the names, addresses, identification numbers, signature or a thumb impression of the petitioner or of every petitioner, where there is more than one petitioner;
- (j) contain only signatures or thumb impressions, as the case may be, and addresses and identification numbers written directly onto the petition and not pasted thereon or otherwise transferred to it;
- (k) not have any letters, affidavits or other documents annexed to it;
- (l) in the case of a petition presented by a Member of County Assembly on behalf of a petitioner, be countersigned by the Member presenting it; and
- (m) if the petitioner is unable to sign, be signed by a witness in whose presence the petitioner shall make his or her mark or thumb impression on the petition.

Procedure for presenting the petition

20. (1) A petition to the County Executive Committee shall be submitted to the County Secretary by the petitioner.

(2) The County Secretary shall, within seven days of the date of receipt of the petition, review the petition to ascertain whether the petition meets the requirements of this Act.

(3) Where the County Secretary considers that a petition does not comply with section 19, the County Secretary may give such directions as are necessary to ensure that the petition is amended to comply with that section.

Consideration of Petition

21. (1) The County Secretary shall, if satisfied that the petition meets the requirements of this Act, forward the petition to the County Executive Committee or the relevant department or body for consideration.

(2) The County Executive Committee or the relevant department or body may appoint a committee to investigate or assess the subject matter of the petition.

Procedure of Investigating or Assessing the Petition

22. (1) The county executive committee, the relevant body or a committee appointed by the County Executive Committee or the relevant body in relation to a petition may hold public hearing and may—

- (a) Invite individuals to submit memoranda or appear before the committee to give evidence on a petition;
- (b) Invite any person responsible for any matter related to the petition to appear before them to give evidence relating a petition;
- (c) employ qualified persons to assist it in the discharge of their functions; and
- (d) Where appropriate hold public hearing in relation to the petition.

(2) The evidence given by a person invited under sub section (1) shall be taken down in writing and a copy of it sent to the person who gave the evidence.

(3) The presentations and comments given during a public hearing shall be recorded and a copy of it shall be publicized by posting the copy in a conspicuous place at the offices of the county government and on the website as the case may be:

Provided that where any information is in the opinion of the investigating committee may be deemed to be sensitive and any public disclosure may pose a threat to the person giving the evidence, the investigating committee may exclude such information from public disclosure.

(4) A person giving evidence may, within seven days from the date of receipt of the copy under sub section (2), suggest corrections to his or her evidence due to inaccurate reporting and the evidence shall be printed with such corrections as may be appropriate.

(5) The County Executive Committee, the relevant body or the committee may at its discretion refuse to hear any irrelevant evidence or to listen to any unruly or unmanageable person giving evidence.

(6) Any document received at the investigation of a petition shall not be withdrawn or altered without the knowledge and approval of the executive committee.

(7) A document submitted to the investigation of a petition may be released to the person who submitted it at the conclusion of the deliberations.

(8) The committee appointed under section 22 shall, as soon as practicable after the conclusion of the investigation, submit its findings and recommendation or recommendations to the County Executive Committee or the relevant body for a final decision to be made on the petition.

(9) The County Secretary shall, within fifteen days of the decision of the County Executive or the relevant body, in writing, notify the petitioner of the decision

Publication of decision on Petition

23. The County Secretary shall, within fourteen days after the decision is communicated to the petitioner or petitioners—

- (a) give notice of the decision to the public by posting a copy government notice boards and other relevant public places;
- (b) inform the public that a copy or extract of the decision is available on its website;
- (c) publish the decision in the *County Gazette*, print or electronic media; or
- (d) Publish the decision in such other manner as may be appropriate for the dissemination of information.

Register of Petitions

24. (1) The County Secretary shall keep and maintain a register in which shall be recorded all petitions and supporting documents, and the decisions of the County Executive Committee or the relevant body.

(2) The register of petitions under subsection (1) shall be accessible to the public during working hours.

PART V—GENERAL PROVISIONS

Marginalised Groups

25. At all times, the County Government shall ensure that persons with disabilities, women, youth, older members of society and

traditionally marginalised groups are included in public participation and civic education processes.

Alternative public participation methods

26. Where appropriate, the county government may adopt the following alternative public participation methods—

- (a) surveys;
- (b) interviews;
- (c) focus groups; and
- (d) workshops.
- (e) public meetings

Independent Citizen Forums

27. (1) No provision in the Act precludes the private mobilisation for citizens for purposes of public participation.

(2) County Government shall work in cooperation with independent citizen forums.

Regulations

28. (1) The CEC Public Service, Decentralised Administration and Disaster Management shall make regulations for the better carrying out of the purposes and provisions of this Act;

(2) Regulations made under this section shall be tabled before the County Assembly for approval.

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