

**SPECIAL ISSUE**

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***KENYA GAZETTE SUPPLEMENT***

**MARSABIT COUNTY BILLS, 2024**

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**NAIROBI, 26th July, 2024**

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CONTENT

Bill for Introduction into the County Assembly of Marsabit—

PAGE

The Marsabit County Civic Education and Public Participation Bill, 2024 ....1

**THE MARSABIT COUNTY CIVIC EDUCATION AND PUBLIC  
PARTICIPATION BILL, 2024**

**ARRANGEMENT OF CLAUSES**

*Clause*

**PART I — PRELIMINARY**

- 1—Short title.
- 2—Interpretation.
- 3—Objects of the Act.
- 4—Guiding principles.
- 5—Application.

**PART II — CO-ORDINATION OF CIVIC EDUCATION AND  
PUBLIC PARTICIPATION IN THE COUNTY GOVERNMENT**

- 6—Responsible authorities.
- 7—Establishment of guidelines.
- 8—Distinction of public participation process for the County Assembly and Executive.
- 9—Civic education and public participation reports.

**PART III — ESTABLISHMENT AND FUNCTIONS OF THE  
OFFICE OF CIVIC EDUCATION AND PUBLIC PARTICIPATION**

- 10—Directorate of Civic Education and Public Participation
- 11—Functions of the Directorate.
- 12—Powers of the Directorate.
- 13—Protection from Liability.

**PART IV — STRUCTURE AND MECHANISMS FOR CIVIC  
EDUCATION AND PUBLIC PARTICIPATION**

- 14—Civic education and public participation forum.
- 15—Mechanisms for conducting civic education and public participation.
- 16—Communication of information on civic education and public participation.
- 17—Rights and duties of citizens in civic education and public participation.
- 18—Affirmative action programmes.

**PART V — PETITIONS**

- 19—Right to petition.
- 20—Form of a petition.
- 21—Procedure for presenting a petition.
- 22—Consideration of a petition.
- 23—Publication of decision on a petition.
- 24—Register of petitions.
- 25—Appeal against decision on a petition.
- 26—Declaration of personal interest.

**PART VI — COMPLAINTS AND REEDRESS MECHANISMS**

- 27—Establishment of office of the convener
- 28—Right to present Complaints
- 29—Investigation of Complaints
- 30—Register of Complaints

**PART VII — FINANCIAL PROVISIONS**

- 31—Annual estimates and budget
- 32—Annual report

**PART VIII — MISCELLANEOUS**

- 33—Management of information
- 34—Publicity
- 35—Offences
- 36—General penalty
- 37—Regulations
- 38—Savings and Transitions

**SCHEDULES**

**FIRST SCHEDULE - GENERAL GUIDELINES ON THE CONDUCT OF CIVIC EDUCATION AND PUBLIC PARTICIPATION.**

**SECOND SCHEDULE - GENERAL FORM OF A PETITION.**

**THE MARSABIT COUNTY CIVIC EDUCATION AND PUBLIC PARTICIPATION BILL, 2024**

**A Bill for**

**AN ACT of the County Assembly of Marsabit to give effect to paragraph 14 of Part 2 of the Fourth Schedule of the Constitution and to provide a framework for public participation and civic education in the governance of the County and for connected purposes.**

**ENACTED** by the County Assembly of Marsabit, as follows —

**PART I — PRELIMINARY**

**Short title**

**1.** This Act may be cited as the Marsabit County Civic Education and Public Participation Act, 2024.

**Interpretation**

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

“civic education” means the continual and systematic provision of information and learning experiences to all citizens to enhance the participation of the people in the exercise of the powers of the county and in influencing decisions affecting them;

"complaints box" means a lockable secure physical or virtual box where complaints are submitted including by electronic means so as to be opened as prescribed in this Act;

"Constitution" means the Constitution of Kenya, 2010;

"County Assembly" means the County Assembly of Marsabit;

"County Chief Officer" means an officer appointed under section 45 of the County Governments Act responsible for matters relating to Civic Education and Public Participation;

“County Executive Committee” means a County Executive Committee established in accordance with Article 176 of the Constitution;

“County Executive Committee member” means an officer appointed under section 35 of the County Governments Act responsible for matters relating Civic Education and Public Participation;

"county *Gazette*" means a *gazette* published by the authority of the County Government or a supplement of such *Gazette*;

"County Government" means the County Government of Marsabit;

"County Government entity" means any department or agency of a County Government and any authority, body or entity declared to be a county government entity under Section 5(1) of the Public Finance Management Act;

"County public officer" means any person appointed by the County Government and holding or acting in any county public office whether paid or unpaid or on contractual or permanent terms but does not include a person engaged on a part time basis in a county public body paid at hourly or daily rate;

"Directorate" means the County Directorate of Civic Education and Public Participation established under Section 6 of this Act;

"government" means County Government of Marsabit;

"non-state actors" means persons or organizations who or whose actions are not attributable to the County or State;

"petition" means any written prayer to the County Assembly, County Executive or any County Government entity on any matter under the responsibility of the County Government as contemplated within the meaning of Article 37 of the Constitution and sections 15 and 88 of the County Governments Act, 2012;

"public participation" includes the process and methods designed to consult, involve and inform the public in order to take into consideration the public input to influence decision making in policy, legislation, service delivery, oversight and development matters within the County;

"Public Private Partnership" has the meaning assigned to under the Public Private Partnerships Act, No. 15 of 2013;

"responsible authority" means an authority determined under section 6 of this Act to be the responsible authority in relation to that public officer;

"Standing Orders" mean the Standing Orders of the County Assembly of Marsabit; and

"the public" means —

- (a) the residents of Marsabit County;
- (b) the rate payers of a particular city or municipality in Marsabit County;
- (c) any resident civic organisations or non-governmental organization, private sector or labour organization with an interest in the governance of Marsabit County; and

- (d) non-resident persons who because of their temporary presence in Marsabit County, city or municipality make use of services or facilities provided by the county, city or municipality.

### **Objects of the Act**

**3.** The objects of this Act are to —

- (a) establish a legislative framework to give effect to Article 1, 10, 174, 201, 232 and Paragraph 14 of Part 2 of the Fourth Schedule of the Constitution, Parts VIII, IX and X of the County Governments Act, and other written laws;
- (b) develop a culture of civic education and public participation in the conduct of the activities of the County Government;
- (c) provide for the establishment of the institutional framework, modalities and platforms of facilitating civic education and public participation in all affairs of the County Government;
- (d) establish guiding principles of civic education and public participation that adhere to the minimum national requirements;
- (e) ensure the County Government plans for and adequately budget for civic education and public participation;
- (f) provide for the procedures of presenting petitions and opportunity to challenge any matter under the responsibility of the County Government;
- (g) provide the public with a channel of feedback and the opportunity to present compliments to and complaints against the County Government; and
- (h) ensure the inclusion and integration of minorities and marginalized groups in the County.

### **Guiding Principles**

**4.** Subject to Part VIII and Part X of the County Governments Act, 2012, civic education and public participation in the activities of the County Government shall be guided by the following principles—

- (a) timely access to information, data, documents and other information relevant or related to policy formulation, implementation and oversight;
- (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, marginalized groups and communities including their access to civic education and public participation forums and relevant information;
- (d) legal standing of interested or affected persons, organizations, and where pertinent, communities to appeal from or, review decision or redress grievances with particular emphasis on persons and traditionally marginalized communities, including women youth, and disadvantaged communities;
- (e) recognition and promotion of the complimentary role of non-state actors in county government decision-making processes;
- (f) Establish a feedback mechanism to the public including opportunities for the public to give their views before a decision is taken;
- (g) promotion of public-private partnerships, such as joint committees, technical teams, and citizen commissions, to encourage direct dialogue and concerted action on sustainable development;
- (h) promotion of empowerment and enlightenment of citizens and government;
- (i) promotion of continual and systematic engagement of citizens and government; and
- (j) promotion of national values and principles of devolution in the Constitution.

### **Application**

**5.** This Act shall apply to all county government entities in —

- (a) the enactment and implementation of county legislation and policy;
- (b) County planning processes subject to Part XI of the County Governments Act;
- (c) County public finance management including the preparation of the fiscal strategy paper, budget estimates and County public expenditure reports.
- (d) evaluation of the performance of the County Government;
- (e) service delivery in the county; and
- (f) any other matter requiring civic education and public participation provided in any other County or National law.

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**PART II—CO-ORDINATION OF CIVIC EDUCATION AND PUBLIC PARTICIPATION IN THE COUNTY GOVERNMENT**

**Responsible Authorities**

6. (1) The responsible authority for purposes of ensuring that this Act has been complied with shall in the case of —

- (a) the County Assembly, be the clerk of the County Assembly;
- (b) the independent offices or boards, authorities or any other county public body, be the respective secretaries or chief executive officers of the county government entity;
- (c) County Executive Committee, be the County Secretary in consultation with the County Executive Committee Member; and
- (d) the county executive departments, be the respective County Executive Committee Member responsible for that Department.

(2) The responsibility authority shall —

- (a) provide reasonable and meaningful opportunities for civic education and public participation;
- (b) carry out and coordinate public participation through the county directorate of civic education and public participation;
- (c) design, develop and implement a public participation plan and civic education curriculum;
- (d) periodically monitor and evaluate the civic education and public participation program and plans;
- (e) prepare annual report as per the requirements of section 92 of the County Governments Act and this Act; and
- (f) submit to the county assembly the annual report by 31st December each year and during the state of the county address.

(3) The responsible authority not specified in this Act, shall be the body prescribed by regulations as the responsible authority may deem appropriate.

**Establishment of guidelines**

7. (1) Each responsible authority shall establish specific guidelines for the conduct of civic education and public participation with respect to entities they are responsible for.

(2) The guidelines developed by a responsible authority under subsection (1) shall include the requirements set out in the general guidelines for public participation in the First Schedule and may include specific



requirements beyond what is required under the general guidelines for public participation under the Schedule and provide for the manner in which any requirements of the specific or general guidelines may be satisfied.

(3) Until a responsible authority has developed specific guidelines relevant to the respective public body under this section, the general guidelines on public participation under this Act shall apply as though they were the specific guidelines developed by the responsible authority.

(4) Each responsible authority shall develop and publish the specific guidelines on public participation under sub-section (1) in the *Gazette* within ninety days after the commencement of this Act.

(5) In relation to a responsible authority that is prescribed by regulation under section 6 (3) to be a responsible authority, sub-section (2) shall apply as though the reference in that subsection to the commencement of this Act were a reference to the commencement of the Regulation.

### **Distinction of civic education and public participation process for the County Assembly and County Executive**

**8.** (1) Each County Government entity shall integrate civic education and public participation in all its activities and design and develop a public participation plan and civic education curriculum.

(2) There shall be distinct public participation process for the two arms of the County Government.

(3) The County Executive shall conduct public participation before implementation of any County projects.

(4) The County Assembly, while respecting the principles of separation of powers, shall in addition to conducting public participation in accordance with Article 196 of the Constitution, undertake public participation, to validate and verify processes undertaken under sub-section (3).

(5) The County Executive shall provide the necessary reports and information to facilitate effective public participation under subsection (4).

(6) In carrying out public participation each entity shall adhere to the following —

- (a) give the public sufficient notice and opportunity to interrogate the policy, legislation or decision on the subject of public participation;
- (b) the notice referred to in paragraph (a) shall be for a period of not less than fourteen days provided that in exceptional circumstances, the notice shall be for a lesser period;

- (c) facilitate the access to information by members of the public that will enable their effective participation at the public participation forum within a reasonable time before the date scheduled for public participation;
- (d) ensure that the information shared with the public is contained in a format that the public can easily understand and comprehend;
- (e) despite paragraph (d) above, each entity shall also avail the true copy of the original documents to the public where the department or organ has simplified the information;
- (f) prepare and document all the views it receives from the public at the public participation forum in the prescribed format; and
- (g) public participation reports to be submitted to the County Assembly on need basis.

### **Civic Education and Public Participation Reports**

**9.** (1) The responsible authority shall prepare a civic education and public participation report at the end of every civic education and public participation event conducted.

(2) Where the responsible authority relates to an institution that is required by any written law, to submit an annual report, the report referred to under sub-section (1) shall form part of its annual report.

(3) The civic education and public participation report prepared under sub-section (1) shall be tabled, in the County Assembly at the end of the year to which the report relates.

- (4) The civic education and public participation report shall contain —
- (a) a description of the activities and outcomes of civic education and public participation;
  - (b) a description of any petitions made against the institution, the action taken, the period within which the petition was addressed and feedback given to the petitioner;
  - (c) a description of any complaints made against the institution in respect of public participation, the action taken and the period within which the complaint was addressed and feedback given to the Complainant; and
  - (d) any other information that the responsible authority may consider relevant or required by any written law.

(5) The responsible authority shall cause the annual report to be published and publicized in manner the responsible authority may determine.

### **PART III — ESTABLISHMENT AND FUNCTIONS OF THE OFFICE OF CIVIC EDUCATION AND PUBLIC PARTICIPATION**

#### **Directorate of Civic Education and Public Participation**

**10.** (1) There is established a Directorate of County Civic Education and Public Participation which shall be an office in the County Public Service.

(2) The Directorate shall be headed by a Director.

(3) The Director and staff of the Directorate shall be recruited through a competitive process by the County Public Service Board.

#### **Functions of the Directorate**

**11.** (1) The Directorate shall facilitate and co-ordinate civic education and public participation in the County in line with Paragraph 14 of part 2 of the Fourth Schedule to the Constitution, 2010 including the participation of communities, organizations and citizens forming the public in the decentralized units within the County.

(2) In the performance of the functions and obligations under subsection (1), the Director shall facilitate and oversee the coordination of the operations of the Directorate and shall —

- (a) coordinate the establishment of structures for civic education and public participation as is required under section 91 and 100 of the County Governments Act;
- (b) advise County departments on the development of appropriate policies, plans and strategies for enhancing civic education and public participation in the County;
- (c) ensure civic education and public participation is continuous and there is systematic engagement between the public and the government;
- (d) provide the public with a clear context for which civic education and public participation is to be undertaken and how decisions will be made;
- (e) ensure co-ordination and create linkages between public officers conducting civic education and public participation and the public;

- (f) ensure that clear and reasonable timelines are established for public input and comment and that these timelines are communicated to the participants;
- (g) ensure that the public participation device used is appropriate to the nature of the policy initiatives, issues involved, the target groups affected and the staff and resources available;
- (h) coordinate the establishment of a feedback process to the public including opportunities for the public to forward additional comments or input during the decision-making process;
- (i) in consultation with the County Executive Committee Member, the Director shall ensure the co-ordination, co-operation and consultation between the County Executive and the County Assembly for purposes of civic education and public participation;
- (j) facilitate capacity building and provide support to other county government departments on civic education and public participation processes;
- (k) mobilize and organize all the stakeholders including the public and non-state actors to participate in county governance and decision-making processes and where necessary liaise with Sub-County Administrators, Ward Administrators and Village Administrators;
- (l) monitor and evaluate public participation and civic education processes undertaken by each department or county entity;
- (m) prepare an annual report on civic education and public participation in accordance with section 92 of the County Governments Act, 2012;
- (n) maintain an up-to-date database or inventory of all its activities and organizations including non-state actors involved in conducting civic education in the County;
- (o) for the purpose of creating the culture of, and respect for the principles of public participation, facilitate public education and training programmes relating to public participation;
- (p) carry on and participate in research on matters relating to civic education and public participation for purposes of planning, learning and adaptation; and
- (q) perform any other function as may be assigned by the County Executive Committee Member or any other law.

- (3) In the performance of the functions under this section, the Director shall be guided by the general or specific guidelines that may be prescribed under this Act.

### **Powers of the Directorate**

**12.** The Directorate shall do or perform all things or acts as may be necessary for the proper discharge of its functions under this Act or as may be lawfully done by a public office.

### **Protection from Personal Liability**

**13.** No action or omission by an officer, employee or agent of the Directorate shall, if the matter or thing is done in good faith while executing the functions, powers or duties of the Directorate under this Act, render the officer, employee or agent personally liable for any action, claim or demand whatsoever.

## **PART IV —STRUCTURE AND MECHANISMS FOR CIVIC EDUCATION AND PUBLIC PARTICIPATION**

### **Civic education and public participation forums**

**14.** (1) There shall be civic education and public participation forums in the —

- (a) County convened by the Director;
- (b) Sub-county convened by the respective sub-county Administrator;
- (c) ward convened by the respective Ward Administrator;
- (d) village unit convened by the respective Village Administrator;
- (e) urban areas and cities within the county convened by the respective municipal manager; and
- (f) such other or further units as the County Government may determine.

(2) The conveners in sub-section (1) above shall convene and co-ordinate civic education and public participation in their respective forums to discuss and give views with respect to the following —

- (a) issues of interests in the county or the decentralized units, as the case may be;
- (b) implementation of county policies and plans likely to affect the County or decentralized unit;
- (c) the administration and functioning of the County or decentralized unit;

- (d) the delivery of services by the county public service in the County or decentralized unit; and
- (e) any other relevant issue of public importance to the County or decentralized unit.

(3) The county departments shall use the relevant structures developed and facilitate the convening of civic education and public participations forums.

(4) The respective conveners shall ensure that the forum is widely publicised so as to reach as wide a population as possible including women, older members of society, persons with disabilities, children, youth, and members of minority or marginalized communities.

(5) The respective conveners shall designate a secretary from among the employees of the County Government for every forum to take the minutes of the proceedings of the forum and shall publicize the minutes throughout the County or the respective decentralized level —

- (a) taking note of the issues arising from the forum for action or response by the relevant organ of the County Government or other entity; and
- (b) giving feedback on the action taken on the issues raised.

(6) The respective conveners shall ensure meaningful participation of the public in the forum by —

- (a) ensuring the meeting is open to all residents of the respective decentralized level who desire to attend;
- (b) ensuring accessibility and safety of the venues of the forums;
- (c) using community participatory approaches or any other such participatory approaches;
- (d) the use of language that is understandable by the public including persons living with disabilities; and
- (e) access to simplified and timely resource materials under discussion;

(7) A meeting shall not be convened for the purpose of promoting, opposing or discussing ethnic interests, clan issues, or the election of any person for any elective position.

(8) A Member of Parliament or County Assembly may participate in any of the citizen forums stipulated under this Act.

(9) Nothing in this section shall be construed as derogating from the provisions of any other written law relating to the holding of public meetings.

**Mechanisms for conducting civic education and public participation**

**15.** (1) The County Government may use the following mechanisms for conducting civic education and public participation —

- (a) information communication technology-based platforms;
- (b) town hall meetings;
- (c) budget preparation and validation fora;
- (d) notice boards where the County shall publish job announcements, appointments, tenders, procurement awards and other important announcements of public interest;
- (e) development project sites;
- (f) public participation fora at the County and established decentralized units in the County;
- (g) local referenda on county laws and petitions or planning and investment decisions affecting the county for which a petition has been raised and duly signed by at least twenty five percent of the registered voters in the county where the referendum is to take place;
- (h) structures for public participation established in terms of the County Government Act, Urban Areas and Cities Act, Public Finance Management Act and other relevant laws; and
- (i) any other appropriate mechanisms, processes and procedures established by the Directorate or County Assembly.

(2) Where appropriate, the County Government may adopt the following alternative methods of civic education and public participation—

- (a) surveys;
- (b) interviews;
- (c) focus groups;
- (d) workshops; and
- (e) any other relevant method the County Government may deem appropriate.

(3) No provision in this Act precludes non-state actors from independently mobilizing citizens for purposes of civic education and public participation.

(4) The County Government shall work in collaboration with independent citizen forums to promote and provide civic education and public participation.

### **Communication of Information on Civic Education and Public Participation**

**16.** (1) The responsible authority shall communicate to the community information concerning—

- (a) the available mechanisms, processes, and procedures to encourage and facilitate civic education and public participation;
- (b) the matters to which civic education and public participation is encouraged;
- (c) the rights and duties of members of the public;
- (d) county governance, and management of development plans, policies and programmes; and
- (e) any other matter relating to civic education and public participation.

(2) When communicating the information mentioned in subsection (1), the responsible authority shall take into account —

- (a) the language preferences and usage in the County; and
- (b) the needs of vulnerable groups within society, including women, older members of society, persons with disabilities, children, youth, and members of minority or marginalized communities.

(3) When communicating information in sub-section (1), the responsible authority may use appropriate media with the widest public outreach in the County including—

- (a) television stations;
- (b) radio stations;
- (c) print media including newspapers, brochures, popular versions and child friendly versions;
- (d) information communication technology including the County website, social media and bulk SMS platforms;
- (e) public meetings; or



- (f) any other appropriate media.

### **Rights and Duties of Citizens in Civic Education and Public Participation**

**17.** (1) Every citizen has the right to participate in the affairs of the County which includes the right to -

- (a) equal participation in decision making process in the County in Accordance with Article 27 of the Constitution of Kenya, 2010;
- (b) access to information required for effective civic education and public participation within the limits of the Access to Information Act, 2016;
- (c) to petition the County Government on any matter under the responsibility of the County Government; and
- (d) to demand that civic education and public participation proceedings be conducted impartially and without prejudice; and untainted by personal self-interest.

(2) Every citizen has the duty and responsibility to —

- (a) participate in the civic education and public participation forums established under this Act or any other written law;
- (b) contribute to the decision-making processes of the County by submitting written memoranda, oral presentations, complaints or compliments to the County Government;
- (c) seek clarification on matters that are not clear;
- (d) provide independent feedback on regularity and quality of public services;
- (e) monitor and evaluate the implementation of policies, legislation, development plans, citizen's participation and the civic education process;
- (f) form citizen monitoring and oversight committees at village, ward, sub-county and county levels to monitor implementation of county plans.

### **Affirmative Action Programmes.**

**18.** The County Government and its entities shall put in place affirmative action programmes to ensure that at all times the minorities, persons with disabilities, women, men, children, youth, older members of society and traditionally marginalized groups are included in and participate in all matters that affect them.

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## **PART V— PETITIONS**

### **Right to Petition**

**19.** (1) Every person has the right to petition the County Government on any matter under its responsibility.

(2) A petition under this Act shall lie to the County Assembly or the County Executive Committee.

(3) The procedure for the exercise of the right to petition the County Assembly under subsection (2) above shall be as set out in the Petition to County Assemblies (Procedure) Act, 2020 and the Standing Orders of the County Assembly.

### **Form of Petition to the County Executive Committee**

**20.** A petition to County Executive Committee shall be in the form set out in the Second Schedule and shall—

- (a) be handwritten, printed or typed;
- (b) be in English or Kiswahili;
- (c) be written in respectful, decorous and temperate language;
- (d) be free of alterations and interlineations in its text;
- (e) be addressed to the County Government;
- (f) have its subject matter indicated on every sheet if it consists of more than one sheet;
- (g) indicate 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;
- (h) indicate that the issues in respect of which the petition is made are not pending before any court or other constitutional or legal body;
- (i) conclude with a clear, proper and respectful prayer, reciting the definite object of the petitioner or petitioners in regard to the matter to which it relates;
- (j) subject to paragraph (n), 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;
- (k) 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;

- (l) not have any letters, affidavits or other documents annexed to it; and
- (m) be signed by the Petitioner, or 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 a petition**

**21.** (1) A petition to the County Government 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 specified under section 20 of this Act.

(3) Where the County Secretary considers that a petition does not comply with section 20, the County Secretary may give such directions as are necessary to ensure that the petition is amended to comply with that section.

(4) Despite sub-section (1) above, a member of the County Executive Committee is not eligible to present a Petition on his or her own behalf.

(5) 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 body for consideration within 21 days.

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

(7) The County Executive Committee or the relevant body relating to the petition shall address the issues raised in the petition without undue regard to procedural technicalities.

### **Consideration of petition**

**22.** (1) The County Executive Committee or a sub-committee appointed in relation to a petition may when considering a petition —

- (a) invite the petitioner to clarify or submit such further information as the Committee may consider necessary;
- (b) invite persons to submit written memoranda or appear before the relevant body to give evidence relating to a petition;
- (c) invite any person holding public office to appear before them to give evidence relating to a petition;
- (d) where necessary a witness may be heard in camera;

- (e) employ qualified persons to assist it in the discharge of their functions; and
- (f) with the support of the Director, hold public hearing in relation to the petition.

(2) The evidence given before the committee shall not be used against the person presenting the evidence and the person shall enjoy the protection offered under the Witness Protection Act, 2006.

(3) The evidence given by a person invited under sub-section (1) shall be taken down in writing verbatim and signed by the person giving evidence as a true presentation of the evidence given.

(4) 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 or any other locally available media.

(5) Any document received at the investigation of a petition shall not be withdrawn or altered without the knowledge and approval of the County Executive Committee.

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

(7) The County Executive Committee or the committee appointed under section 25 (2) above shall within 14 days after the conclusion of the investigation, submit its findings and recommendations to the County Executive Committee for a final decision to be made on the petition.

(8) The County Secretary shall, within 14 days of the decision of the County Executive Committee or the relevant body, notify the petitioner of the decision in writing.

#### **Publication of a decision on a petition**

**23.** The County Secretary shall, within seven days after the decision is communicated to the petitioner or petitioners, with support from the Director—

- (a) give notice of the decision to the public by posting a copy in a conspicuous place at the offices of the County Government;
- (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 sub-section (1) shall be accessible to the public during working hours.

**Appeal against a decision on a petition**

**25.** Nothing in this Part shall limit the rights of any person to —

- (a) present the same petition to the county assembly for consideration provided that no decision or action was taken on the petition;
- (b) challenge any administrative action or decision of the County Government in accordance with the procedure set out under the Commission on Administrative Justice Act, No. 23 of 2011 or any successor to the Commission on Administrative Justice under section 55 of the Commission on Administrative Justice Act;
- (c) apply for review of an administrative action or decision by a court of competent jurisdiction in exercise of his or her right under the Constitution or any written law; or
- (d) institute such legal proceedings for such remedies as may be available under any written law.

**Declaration of personal interest**

**26.** (1) A member of the County Executive Committee or a sub-committee who has an interest in a matter being considered by that Committee shall disclose that interest at the meeting in which that matter is being considered.

(2) A member of the County Executive Committee or a sub-committee who makes a disclosure under sub-section (1) shall not take part in any proceedings related to that matter.

(3) A member of the County Executive Committee or a sub-committee who does not disclose an interest as required under this section commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

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**PART VI — COMPLAINTS AND REEDRESS MECHANISMS**

**Establishment of the Office of the Convener**

**27.** (1) There is established the office of the convener which shall be a unit within the county directorate and an office in the County Public Service.

(2) The functions of the office shall be to —

- (a) receive complaints or compliments from the public orally, in writing or through any form of electronic communication;
- (b) refer complaints or compliments received to designated focal persons of each county entity;
- (c) make follow up with designated focal persons to ensure that all complaints are being addressed within agreed timeframe;
- (d) participate in outreach programs to create awareness to the public on any functions of the County Government, existence and use of complaints/compliments referral systems or any other systems developed by the County Government;
- (e) prepare quarterly and annual reports on complaints or compliments received including a description of any complaints or compliments made against the county government, the action taken, the period within which the complaint was addressed and feedback given to the Complainant;
- (f) monitor the performance of the complaints and redress mechanism and generate reports that includes successes, challenges and recommendations;
- (g) maintain a good working relationship with all public service providers operating within the county and act as a link between service providers within the county and the public;
- (h) perform any other duties as assigned by the supervisor.

(3) The Convener and staff of the Directorate shall be recruited through a competitive process by the County Public Service Board.

**Right to present complaints**

**28.** (1) Every person has a right to present any complaint against the County Government.

(2) A complaint may be made to the convener or with the relevant county public entity orally or in writing setting out the grounds for the complaint, nature of injury or damage suffered and the remedy sought.

(3) Where a complaint is made orally, it shall as soon as practicable, be reduced in writing by the person to whom the complaint is made but not later than six hours from the time of receipt of the complaint.

(4) A complaint presented in writing shall be deposited in the Complaints Box whose key shall remain in the custody of the designated officer.

(5) The Complaint Box shall be opened at the close of every day and the complaints presented therein recorded in the Complaints Register which shall be submitted to the county secretary by four o'clock in the afternoon of Thursday of every week.

(6) Every Accounting Officer shall ensure that there is a complaints box in an open and accessible place, in every county office.

### **Investigation of Complaints**

**29.** (1) Upon receipt of a complaint under sub-section (1), the relevant county public entity may—

- (a) call for information or a report regarding such complaint from any person within such reasonable time; and
- (b) without prejudice to paragraph (a), initiate such inquiry as it considers necessary, having regard to the nature of the complaint.

(2) If the information or report called for under subsection 1(a) is not received within a reasonable time, the relevant county public entity may proceed to inquire into the complaint without such information or report.

(3) If on receipt of the information or report the relevant county public entity is satisfied either that no further action is required or that the required action has been initiated by a State organ or other body responsible for the matters complained of, the Convener shall, in writing, inform the complainant accordingly and take no further action.

(4) A county public officer being investigated under this section shall be informed by the relevant county public entity, of the complaint made against that county public officer and shall be given a reasonable opportunity to make a representation relating to the issue, before the investigation is concluded.

(5) If upon investigation, the relevant county public entity is of the opinion that disciplinary proceedings ought to be preferred against the respective county public officer, the County public entity or an authorized officer may —

- (a) take disciplinary action against the officer serving in the public entity;

- (b) if the relevant county entity does not have the power to take disciplinary action, refer the matter to a body or person who does have that power.

### **Register of Complaints**

**30.** (1) Every County office shall maintain a complaint register in the prescribed form to receive and record every complaint against the County Government in which the convener or a designated officer shall register the particulars of the complaint, the nature and extent of injury or damage and redress sought.

(2) The County Public Service Board shall, employ or deploy an officer to a citizen complaint desk maintained at a conspicuous place of the County headquarters where the register shall be maintained for purposes of receiving and registering complaints shall be open to the public for inspection.

(3) The register shall be open to the public for inspection during working hours.

## **PART VII — FINANCIAL PROVISIONS**

### **Annual Estimates and Budget**

**31.** (1) Before the commencement of each financial year, the County Executive Committee Member shall cause to be prepared estimates of revenue and expenditure of the Directorate for that financial year.

(2) The annual estimates shall make provision for all the estimated expenditure for civic education and public participation in the financial year concerned and, in particular, shall provide for—

- (a) funding of training, research and development activities;
- (b) funding of the schedules and organization of public participation meetings; and
- (c) any other matter considered relevant by the Director in the consideration of the budget and plans of the Directorate.

(3) Officers in-charge of County, sub-county, village and ward civic education and participation forums shall every financial year submit financial proposals for civic education and public participation in their respective levels to the Director.

(4) The Director of Public Participation shall compile and prepare budget estimates for civic education and public participation every fiscal year.



(5) The annual estimates shall be approved by the County Executive Committee before the commencement of the financial year to which they relate and shall be submitted to the Executive Committee Member in-charge of Finance for tabling in the County Assembly.

(6) An expenditure shall not be incurred for the purposes of civic education and public participation except in accordance with the annual estimates approved under sub-section (5).

### **Annual report**

**32** (1) The Director shall, at the end of each financial year cause an annual report for the on public participation in the affairs of the County Government to be prepared.

(2) The Director shall submit the annual report to the County Chief Officer for submission to the County Executive Committee Member not later than two months after the end of the year to which it relates.

(3) The annual report shall contain, in respect of the year to which it relates —

- (a) a description of the activities and outcomes of civic education and public participation; and
- (b) any other information, that the County Chief Officer may consider relevant.

(4) The County Executive Committee Member shall cause the annual report to be published and publicized in the *County Gazette*, county website, county offices at established decentralized levels, and such other manner as the County Executive Committee Member may determine.

(5) The Governor shall submit the Annual report to the County Assembly in line with Section 92(2) of the County Governments Act.

## **PART VIII — MISCELLANEOUS**

### **Management of Information**

**33.** (1) The Director shall publish and publicise all important information pertaining to civic education and public participation in the County.

(2) A person may request for information pertaining to public participation on county affairs through the Directorate

(3) A request for information under sub-section (2) —

- (a) may be addressed to the Director;

- (b) may, where the Director incurs expense in providing the information, be subject to payment of a reasonable fee; and
- (c) may be subject to confidentiality requirements.

(4) All public documents shall be available within County, Sub-county, ward and village administrators' offices for perusal and access by the public at a prescribed fee.

### **Publicity**

**34.** Subject to section 91 of the County Governments Act, the Directorate shall, in such manner it considers appropriate, publish a notice for public information specifying —

- (a) the location of all offices undertaking civic education and public participation; and
- (b) its address or addresses, and other means of communication or contact with the Directorate.

### **Offences**

**35.** A person who —

- (a) without justification or lawful excuse, obstructs, hinders, threatens the Director or an employee of the County Government acting under this Act;
- (b) submits false or misleading information;
- (c) knowingly misrepresents to the Director or an employee of the County Government acting under this Act,

commits an offence.

### **General Penalty**

**36.** A person who commits an offence under this Act for which no penalty is provided for shall be liable, on conviction, to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months.

### **Regulations**

**37.** (1) The County Executive Committee Member may make regulations for the better carrying into effect the provisions of this Act.

(2) Without prejudice to the generality of sub-section (1), regulations made under that subsection may provide for—

- (a) the forms to be used and fees to be charged under this Act;
- (b) the norms, guidelines and standards for conducting civic education and public participation;

- (c) procedures for the conduct of civic education and public participation Forums at the various levels;
  - (d) procedure and process of handling complaints and grievances;
  - (e) guidelines to regulate the activities of non-state actors in civic education and public participation; and
  - (f) any other matter generally required to give effect to the provisions of this Act
- (2) For the purposes of Article 94(6) of the Constitution—
- (a) the purpose and objective of the delegation under this section is to enable the County Executive Committee Member to make regulations for better carrying into effect the provisions of this Act;
  - (b) the authority of the County Executive Committee Member to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.
- (3) The principles and standards applicable to the delegated power referred to under this Act are those found in the Statutory Instruments Act, No. 23 of 2013, the Interpretation and General Provisions Act, Cap. 2 of the laws of Kenya and other relevant laws.

### **Savings and Transitions**

**38.** Upon coming into effect of this Act, members of staff currently employed by the County Executive to perform the functions of the Directorate under this Act shall—

- (a) be deemed to have been appointed under this Act;
- (b) be deemed to be members of staff of the Directorate in their respective capacities;
- (c) retain any rights accrued or accruing to them as such staff or contributors;
- (d) be at liberty to continue to contribute to any superannuation scheme to which they were contributors;
- (e) be entitled to receive any deferred or extended leave as if they have continued to be such staff of the Directorate during their service with the County Executive;
- (f) be entitled to receive any payment, pension or gratuity as if they have continued to be such staff of the Directorate during their service with the County Executive; and

- (g) be deemed to be employees of the Directorate for the purposes of any law under which those rights accrued or were accruing, under which they continue to contribute or by which that entitlement is conferred.

**FIRST SCHEDULE****[Section 7]****GENERAL GUIDELINES ON THE CONDUCT OF CIVIC EDUCATION AND PUBLIC PARTICIPATION**

The following guidelines shall guide the County Government and the responsible authorities when conducting civic education and public participation activities:

- (i) Recognition of communities' values and experiences and shall be based upon acknowledgment that communities have the ability to contribute to governance processes.
- (ii) Build a realistic timeframe for the consultation, allowing reasonable period for each stage of the process by giving sufficient and prior notice of the venue, date and agenda of every citizen civic education or public participation forum at the county, sub county, ward or village level.
- (iii) The forum shall include but not limited to the type of the public, community groups or profession and stakeholders to be consulted, the issues or matter for consultation and for what specific purpose.
- (iv) Ensure that the consultation document is made available to the public at least 7 days prior to the forum. The documents shall be availed in simplified language and format, providing the summary of the issues or matter for consultation and clearly setting out the questions to be addressed.
- (v) Publish and distribute the documents as widely as possible including but not limited to providing hard copies at all sub-county, ward and village administrators offices television advertisements, websites, community radio announcements and traditional media.
- (vi) Ensure that all responses are carefully and open-mindedly analyzed and the results made widely available to the public, including an account of the views expressed and the reasons for the decisions taken.
- (vii) Disclose all information and conduct adequate civic education relevant for the public to understand and evaluate the decision.
- (viii) Ensure that stakeholders have fair and equal access to the civic education and public participation process and their opportunity to influence decisions.

- (ix) Ensure that all commitments made to the public, including those by the decision-maker, are made in good faith.
- (x) Undertake and encourage actions that build trust and credibility for the process among all the participants.
- (xi) Should not engage in conduct involving dishonesty, fraud, deceit, misrepresentation or discrimination.

**SECOND SCHEDULE**

[Section 20]

**GENERAL FORM OF A PETITION**

To the County Government of Marsabit

**WE/I, the undersigned and humble Petitioner (s)** of.....  
*(Here insert the names or description of the petitioner or petitioners and address including their status: residents of a particular area, workers, particular part of the community, minority or marginalized group etc.)*

**DRAW the attention of the County Executive/ Assembly to the following:**

*(Here, briefly state the reasons underlying the petition and request for the intervention of the County Executive/Assembly by outlining the grievances or problems and summarizing the facts which the petitioners wish the County Executive/Assembly to consider)*

**THAT:**

*(Here confirm that efforts have been made to have the matter addressed by the relevant body, and it failed to give satisfactory response.)*

**THAT:**

*(Here confirm that the issues in respect of which the petition is made are not pending before any court of law, or constitutional or legal body.)*

**THEREFORE your humble petitioners PRAY that the County Executive Committee**

*(Here, set out the prayer, by stating in summary what action the Petitioners wish the County Executive/Assembly to take or refrain from)*

and your PETITIONERS will ever Pray.

Name of petitioner.....Full Address.....

National ID/ or Passport.....

Signature/Thumb

Subsequent Pages

*PETITION concerning .....*

*(Here, repeat the summary in first page)*

\*This form may contain such variations as the circumstances of each case may require.

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## **MEMORANDUM OF OBJECTS AND REASONS**

### **Statement of Objects and Reasons for the Bill**

The principal object of this Bill is to among other things, provide for the implementation of paragraph 14 of part 2 of the Fourth Schedule of the Constitution; to establish structures and modalities for public participation in the governance of the county and for connected purposes. The Bill seeks to implement the objects and principles of devolution set out under Article 17 4 (c) and (d) of the Constitution and to provide a framework for the implementation of Part VIII and Part X of the County Governments Act, 2012.

### **Features of the Bill**

The Bill has eight parts. **Part I of the Bill** contains the Preliminary provisions which include the short title, interpretation of terms used in the Bill the objects of the Bill as well as the guiding principles and application. It is proposed that the new law once enacted comes into force fourteen days after publication in the Gazette. The County Executive Committee Member will ensure that all transitional issues are addressed in order to operationalize the new law.

**Part II of the Bill** contains the co-ordination of civic education and public participation in the county government by identifying the responsible authorities in the county government responsible for bringing the provisions of this Act into effect in liaison with the directorate of civic education and public participation established under Part III of the Bill. Additionally, Part II establishes general guidelines that each entity should use and where the guidelines differ, the responsible authorities have been given the authority to come up with additional special guidelines. Further it provides for the distinction of how public participation are conducted by the two arms of County Government and the oversight role of the County Assembly.

**Part III of the Bill** provides for the establishment of the directorate of civic education and public participation, the functions and powers of the directorate and protection from liability for things done in good faith in furtherance of the duties of the director.

**Part IV of the Bill** provides for the provisions the structure and mechanisms of public participation. It established the civic education and public participation forums. This Part also provides for the rights and duties of the public in relation to public participation and affirmative action programmes.

**Part V of the Bill** provides for Petitions. The Bill proposes for the petitions to lie with the County Executive or Assembly. The Bill proposes separate standard format of petition and the procedure for presenting the petitions



and in the investigations in the County Assembly and the County Executive. Additionally, the Bill provides for publication of the decision of the petition and maintenance of the register of the petitions by the Clerk of County Assembly and the County Secretary. The Bill further provides for appeal against decisions on a petition with effect that aggrieved persons can appeal to the Commission on Administrative Justice.

**Part VI of the Bill** contains the complaints and redress mechanism. It establishes the office of the convener, the procedure of investigation of complaints and requirements to register all complaints.

**Part VII of the Bill** creates financial provisions for the conduct of civic education and public participation. The Bill proposes the preparation of annual estimates and budget for civic education and public participation and provisions for audit of accounts and annual reports.

**Part VIII of the Bill** provides miscellaneous matters which include management of information and publicity. The Bill further provides for Offences and Penalties, the power of the County Executive Committee member to make Regulations under the Act and transition when the Act comes into effect.

**Schedules in the Bill** provide for the general guideline for the conduct of civic education and public participation in the county and the general form of a petition.

#### **Provisions of Delegated Powers**

The Bill delegates legislative powers to the County Executive Committee Member to make regulations for better carrying into effect the provisions of this Act.

#### **Statement on limitation of fundamental rights and freedom**

The provisions of this Bill does not limit the fundamental rights and freedoms of any person.

#### **Statement that the Bill is not a money Bill, within the meaning of section 21 (4) of the County Governments Act, 2012**

The enactment of the Bill may occasion additional expenditure of public funds, which shall be provided for in the County annual budget estimates.

Dated the 25th July, 2024.

JOSEPH LERUK,  
*Chairperson, Committee on Administration,  
ICT and County Cohesion.*