



A successful climate experience: The Kenya Climate Change Act, 2016¹

- Kenya's Climate Change Act (2016) became operational on 27 May 2016, after being signed into law by the President on 6 May 2016.
- **Goal:** The Act is 'to provide for a regulatory framework for enhanced response to climate change; to provide for mechanism and measures to achieve low carbon climate development, and for connected purposes'.
- **Purpose:** The Act shall be applied for the development, management, implementation and regulation of mechanisms to enhance climate change resilience and low carbon development for the sustainable development of Kenya.
- This Act shall be applied in all sectors of the economy by the national and county governments to, among others, mainstream climate change, and promote low carbon technologies; build resilience and enhance adaptive capacity to the impacts of climate change; mainstream and reinforce climate change disaster risk reduction into strategies and actions of public and private entities; mainstream the principle of sustainable development into the planning for and decision making on climate change response; integrate climate change into the exercise of power and functions of all levels of governance; promote low carbon technologies, improve efficiency and reduce greenhouse gas emissions intensity by facilitating approaches and uptake of technologies that support low carbon, and climate resilient development; and mobilize and transparently manage public and other financial resources for climate change response.
- The **guiding values and principles** of low carbon climate resilient and development enshrined in the Act shall bind all level of government and all persons when enacting, applying or interpreting any provisions of this Act.

POLICY, COORDINATION AND OVERSIGHT

- The Act establishes a climate change coordination mechanism including:
 - i) A high-level **National Climate Change Council**, chaired by the President, whose members shall include the cabinet secretaries responsible for climate change affairs (Council secretary), the national treasury, economic planning, and energy; the Chair of the Council of Governors; and a representative each of the private sector, civil society, academia, and marginalised community. The Council shall provide an overarching national climate change coordination mechanism and ensure the mainstreaming of the climate change function by the national and county governments.
 - ii) **Cabinet Secretary** (for climate change affairs), who shall exercise control and provide guidance over climate change governance and implementation, including the formulation of a National Climate Change Action Plan.

¹ The Climate Change Act, 2016, is published by the National Council for Law Reporting with the Authority of the Attorney-General [www.kenyalaw.org]



- iii) The **Climate Change Directorate** as the lead agency of the government on national climate change plans and actions to deliver operational coordination, whose duties shall include advising the Cabinet Secretary on matters relating to legislation, policy, regulation and monitoring of climate change governance; serving as the national knowledge and information management centre for collating, verifying, refining, and disseminating knowledge and information on climate change; providing analytical support on climate change to the various sector ministries, agencies and county governments; and coordinating adherence to the county's international obligations including associated reporting requirements.

CLIMATE CHANGE RESPONSE MEASURES AND ACTIONS

- The Act recognises the **National Climate Change Action Plan (NCCAP)** as the principal legal tool through which Kenya will implement analysis of, and mainstreaming climate change responses across all sectors of the economy; and at both national and county government levels.
- The Cabinet Secretary shall review and update the NCCAP every five years.
- In formulating the **NCCAP**, the Cabinet Secretary shall be informed by scientific knowledge, technology and technological innovations, economic, fiscal, and social circumstances, international law and policy for formulating the National Climate Change Action Plan.

DUTIES RELATING TO CLIMATE CHANGE

- The Act recognises the need to provide legal room for provision of incentives, and imposition of duties in support of the realization of its objectives.
- Duties will be defined for the public sector, and the Act provides an elaborate mechanism to guide the mainstreaming of climate change into sector policies, including monitoring implementation.
- The Council has power to monitor public sector implementation of climate change duties, and report to the National Assembly for oversight.
- Duties for private entities will be defined through regulations to be developed in a consultative manner.
- Enforcement of duties to private entities to be undertaken by the National Environment Management Authority (NEMA).
- To match the duties, incentives will be put in place for any persons that support measures to address climate change, including mitigation, and training programmes for capacity building.
- The Council, on the recommendation of the Cabinet Secretary shall each year identify priority strategies and actions of **disaster risk reduction** and **vulnerability assessment** related to climate change.
- The Act also recognises the need to integrate climate change into **education curricula** at all levels.

PUBLIC PARTICIPATION & FINANCIAL PROVISIONS

- The Act espouses the principle of public participation and access to information enshrined in the Constitution, to ensure that that public contribution makes an impact on the threshold of decision making.

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- A **Climate Change Fund** is established to be a financing mechanism for priority climate change actions and interventions approved by the Council. The fund shall be capitalised from monies appropriated from the Consolidated Fund by an Act of Parliament; monies received by the Fund in the form of donations, endowments, grants and gifts; and monies under an Act payable to the Fund. The fund will also provide a platform for the tracking of climate finance flows into and from within the country..

DELEGATED LEGISLATION

- The Act opens an opportunity for the preparation of **Regulations** for the better carrying into effect of the provisions of this Act.

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