



REPUBLIC OF KENYA



A vibrant Agency for Responsive Law Reform

County Model Laws

Popular Version





A vibrant Agency for Responsive Law Reform

A SUMMARY OF THE COUNTY MODEL LAWS

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FOREWORD BY THE ATTORNEY GENERAL

On 27th August 2010, the new Constitution of Kenya was promulgated and this established a two-tier system of Government: National and County governments. The system of devolved Government is now firmly and fully entrenched in Kenya, following the 2013 General elections which heralded the County Governments. The legislative authority of counties is vested in County Assemblies under Article 185 of the Constitution, and County Assemblies are responsible for making county legislation that are necessary for the discharge of the functions of County Governments. The responsibility on the County Governments for making laws that facilitate effective delivery of services at the level of the counties by the new County Governments is what has engendered the idea of developing County Model Legislation.

The County Model Laws initiative by the Kenya Law Reform Commission, which was first rolled out in 2014 in furtherance of its role to assist County Governments in the development of their legislation, is very laudable. Indeed the transitional period to a system of devolved government has seen many County Governments benefit from this initiative. Through this initiative, the whole spectrum of functions of County Governments as set out in the Fourth Schedule of the Constitution has been systematically documented and County Governments will be able to model their county legislation on the County Model Laws. The model laws address concerns about the constitutionality, technical soundness and key procedural aspects of the process of law making in Kenya. The County Model Laws are therefore important reference guides that are readily available for adaption and customization to suit the specific realities and unique needs of each County in the exercise of its legislative powers.

The gains and milestones achieved in the implementation of devolved governments during the transitional period should be safeguarded. Both National and County governments have the responsibility of enhancing public participation, protecting the democratic space and accelerating social and economic development reforms for Kenyans to realize the fruits of devolution. The realization of the objects of devolution is heavily premised on the development and adoption of appropriate and responsive policy, legislative, institutional and administrative frameworks by the County Governments. The launch of the County Model Laws with the full support of the county Governments is a fundamental and timely initiative to support this. I therefore invite Government Ministries, Departments and Agencies at both the national and county levels of government to familiarize themselves with the Model Laws.

I congratulate the Kenya Law Reform Commission, the Ministry of Devolution and other partners for taking the lead to make this initiative a success. I appreciate the important role that the Kenya Law Reform Commission plays in providing advice, technical assistance and information to the national and county governments with regard to law reform in Kenya. Finally, I sincerely thank all the institutions and individuals for their valuable contributions and feedback which enriched the development and revision of the County Model Laws.



Githu Muigai, EGH, SC
Attorney-General

STATEMENT BY THE CABINET SECRETARY

In 2010, Kenya ushered in a new Constitution that envisaged far-reaching reforms with a view to achieving more accountable, effective and inclusive governance. Key to these reforms is devolution, which creates County Governments with both an Executive and Legislative arm. The Executive authority of the county is vested in the Governor and members of the County Executive Committee while the County Assembly's core mandate includes, *inter alia*, oversight and legislation.

County legislation is essential in order to enable the full implementation of devolved functions. However, being entirely new entities, the effective exercise of this legislative function by County Assemblies has to a large extent been hindered by, among others, a lack of sufficient technical legislative capacity, the absence of proper systems and structures at County level and the lack of clear guidelines on the process of formulating legislation.

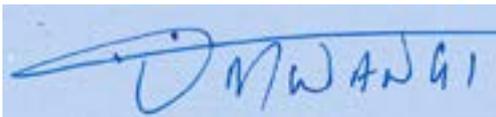
The production of these County model laws which my Ministry has been happy to be associated with is therefore timely. The model laws establish a useful framework that can guide County Governments in the process of developing legislation. The model laws take on a generic form that allows County Governments to adapt them to their unique legislative proposals and circumstances. Their generic form further allows County Governments to achieve a desirable degree of harmonization, modernization and standardization in their laws. These laws mirror the County Government functions as spelt out in the Fourth Schedule of the Constitution. The use of these model laws will enable County Governments to circumvent their legislative development challenges.

Drafting legislation is a core competence of any public sector legal office. Therefore with the advent of Devolved Government, County Governments have been equipped with their own semi-autonomous Assemblies and an Executive, which have been empowered to make their own legislation according to the County Government Act, 2012.

It is worth noting that the County Governments have demonstrated the need for additional capacity in law making. Therefore, the purpose of the model laws is to build the capacity and aid county legal officers as they embark on drafting county legislation.

The Ministry of Devolution and Planning is mandated by law to provide support to County Governments to enable them perform their functions. Indeed, the Ministry has continued to do this through the coordination of capacity building activities to County Governments guided by the National Capacity Building Framework. The Ministry remains committed to rendering the requisite support to ensure devolution is fully realized. I believe that these model laws will go a long way in obviating the challenge of inadequate legislative capacity at the county level.

I would like to congratulate the Kenya Law Reform Commission, and all agencies and individuals who were part of the team that cooperated and facilitated the formulation of these landmark model laws. It is my sincere hope that what is contained herein will inspire, inform and most importantly empower our policy makers and legislators.

A blue rectangular stamp containing a handwritten signature in blue ink. The signature appears to be 'Mwangi Kiunjuri'.

HON. MWANGI KIUNJURI, MGH
CABINET SECRETARY
MINISTRY OF DEVOLUTION AND PLANNING

PREFACE BY THE CHAIRPERSON, KLRC

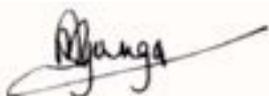
The Kenya Law Reform Commission (KLRC) envisions itself as a vibrant agency for responsive law reform. As a statutory body, we draw our mandate and functions from the Constitution of Kenya, 2010 and Section 6 of the KLRC Act of 2013. In our 2013-2017 Strategic Plan, we have purposed in our mission to facilitate law reform conducive to social, economic and political development. We collaborate and work with both State and non-State actors in keeping all the laws of Kenya (County and National) under review, ensuring their systematic development and reform in conformity with the Constitution of Kenya, 2010.

In line with this mandate and mode of operation, KLRC has proactively engaged in supporting effective implementation of devolution by supporting development of County legislation as envisaged in the CoK, 2010 and the County Governments Act, 2012. This has been achieved by providing technical assistance to County Governments in the development and reform of their laws and policy frameworks. The development and publication of County Model laws in collaboration with the Ministry of Devolution, County Governments and other stakeholders is one of the many initiatives the Commission has adopted to enhance the effectiveness of the county legislative process.

The County Model Laws are drawn from the 4th Schedule of the CoK 2010 specifically giving effect to operationalization of County functions. The initiative was rolled out in the year 2014, after just a year of the installation of County Governments. They are generically but professionally designed as a measure to guarantee that all County legislation is: development-conscious, realigned towards best standards and are in conformity with CoK, 2010. With many success stories already pouring in from the Counties, the purpose of the formal launch of the County Model Laws after the end of the constitutional transition period is to promote uptake and application in the attainment of minimum thresholds and standards in effective legislation.

In conclusion, we express our gratitude for the support from the Office of the Attorney General (OAG) and Department of Justice, the Ministry of Devolution and Planning (MoDP), The County Assemblies Forum (CAF), The County Attorneys' Forum (CAF), and The Council of Governors (CoG) among other key stakeholders and Development Partners. We are confident that the Commission, its partners and the people of Kenya will continue working closely in all areas in strengthening issue-based, citizen-centred, accountable and result-oriented law reform towards realizing the constitutional aspirations and Kenya Vision 2030's Social, Economic and Political development goals.

The Kenya Law Reform Commission (KLRC) is pleased to partner in the formal launch of the County Model Laws.



Mr. Mbage Ng'ang'a

Chairman, Kenya Law Reform Commission

ACKNOWLEDGEMENTS

The production of this report has been made possible through collaboration with diverse partners. Specifically, we express our gratitude for the support from the Office of the Attorney General (OAG) and Department of Justice, the Ministry of Devolution and Planning (MoDP), The County Assemblies Forum (CAF), The County Attorneys' Forum (CAF), and The Council of Governors (CoG). In addition, we gratefully acknowledge the contribution of our Development Partners and other key stakeholders.

The publication of these Model Laws has been made possible by the generous financial contribution of USAID, alongside UKAID specifically through its program, the Agile and Harmonized Assistance for Devolved Institutions (AHADI). We are confident that the Commission, its partners and the people of Kenya will continue working closely in all areas in strengthening issue-based, citizen-centred, accountable and result-oriented law reform towards realizing the constitutional aspirations of the people of Kenya.

Joash Dache, MBS,
CEO, Kenya Law Reform Commission

LIST OF ACRONYMS

CAF	County Assemblies Forum
CAF	County Attorneys' Forum
CEO	Chief Executive Officer
CoG	Council of Governors
CoK, 2010	Constitution of Kenya, 2010
KLRC	Kenya Law Reform Commission
OAG	Office of the Attorney General
MoDP	Ministry of Devolution and Planning
AHADI	The Agile and Harmonized Assistance for Devolved Institutions
USAID	United States Agency for International Development

EXECUTIVE SUMMARY

Kenyans adopted the Constitution of Kenya, 2010, which established a two-tier system of devolved government comprising National and County governments. As governments with legislative authority under Article 185 of the Constitution, the County functions under the 4th Schedule to the Constitution needed a legislative framework to enable effective service delivery by the sub-national units. The County Model Legislation is meant to guide the 47 County Governments in the development of effective legislation that is aligned to the Constitution of Kenya, 2010.

The County Model Legislation takes into account the changed realities of the new constitutional dispensation, including greater need for meaningful public participation, expanded democratic space and accelerated reforms across all sectors, the realization of which is heavily premised on policy, legislative, institutional and administrative reforms. The Model Laws feature succinct summaries of all the key areas of county legislative and policy, including: County Rating Transition; Early Childhood Education; Economic Development Corporation; Investment and Social Development; Fire and Rescue Services; Livestock Sales Yard; Maternal Health Rights; County Public Service and County Public Service Board; Reproductive Health Rights; Trade and Markets; Trade Licensing; Access to Information; Agriculture Development; Maternal Health Rights Bill; County Agricultural Machinery Services Model Law; Promotion of Primary Health Care; County Planning; County Funds; Affirmative Action; Anti-Pornography; Bursaries Fund; Citizen Participation; Finance; County Health Services; County Planning; Storm Water Management and Water Services; County Transport; Disaster Management, and; Social Protection.

In the Kenyan context, the idea of developing model laws for Counties was intended to provide an acceptable tool to achieve some degree of unification of the County Government legal and institutional frameworks. The model laws offer an appropriate vehicle for County Governments to enable them harmonize, modernize and standardize their legislation.

The County Model Laws have been developed by the Kenya Law Reform Commission and the Ministry of Devolution together with other partners. These Model Laws, which are the culmination of a long process that started out in 2014 just after the installation of County Governments, mark another chapter in KLRC's proactive engagement in supporting effective implementation of devolution by supporting development of County legislation as envisaged in the CoK, 2010 and the County Governments Act, 2012. Specifically, County Model Laws are drawn from the 4th Schedule of the CoK 2010, directly giving effect to operationalization of County functions. It is hoped that both levels of Government (Ministries, Counties, Departments and Agencies) will constructively engage and interact with the Model Laws, adapting them to their needs as conditions may dictate. We look forward to enhanced uptake and application in the attainment of minimum thresholds and standards in effective legislation.

1.0 INTRODUCTION

Model legislation refers to uniform legislation proposed for adoption by a legislative body. The purpose of a model law is to establish a useful framework which enables legislative bodies to have some uniformity in their governance, organization, and management. It helps institutions to conduct their functions smoothly and discharge their responsibilities in an effective manner. In adopting a model law, a legislative organ is entitled to make modifications to the extent necessary to meet its needs. Use of model laws constitutes an appropriate vehicle for County Governments to enable them harmonize, modernize and standardize their legislation. It is expected that County Governments will make adjustments to the model law in order to accommodate local requirements that vary from county to county and where strict uniformity is not required.

1.1 Significance of Model Laws

- (i) It is one of the recognized methods used in harmonization of laws not only within different legislative bodies in a country but also among States regionally and internationally.
- (ii) It provides governments with an effective way of harmonizing their respective laws based on the principles contained in the model legislation.
- (iii) Use of model laws adds value in identifying principles and making recommendations in line with cross-cutting national policies.
- (iv) Development of model laws benefits from contribution from many Counties thus enhancing ownership of the end product.
- (v) County legislation based on model laws will have a national character given the application of the agreed principles.
- (vi) Model laws are flexible and afford every County Government the scope to adapt it to its unique characteristics.

1.2 Development of County Model Laws

In view of the significance of model laws, the Kenya Law Reform Commission and the Ministry of Devolution and Planning conceived of the idea of model laws for Counties as a useful guide that is especially relevant at the dawn of a new constitutional dispensation such as devolution in Kenya.

1.2.1 Participating institutions

The following institutions/agencies and persons participated actively in the development of the county model laws:

- a) Kenya Law Reform Commission (KLRC)
- b) Ministry of Devolution and Planning (MoDP)
- c) The Senate
- d) The National Assembly

- e) Council of Governors (CoG)
- f) State Law Office
- g) Commission on Revenue Allocation (CRA)
- h) Salaries and Remunerations Commission (SRC)
- i) Public Service Commission (PSC)
- j) Controller of Budget (CoB)
- k) Auditor General
- l) National Government Cabinet
- m) Members of County Assembly (MCAs)
- n) County Commissioners
- o) Development Partners

1.3 Brief on the Mandate of KLRC

1.3.1 Vision, Mission & Core Values

a) Vision

To be: *A vibrant agency for responsive law reform*

b) Mission

“To facilitate law reform conducive to social, economic and political development.”

c) Core Values

The Core Values that guide the work of KLRC include —

- Professionalism
- Integrity
- Innovation
- Networking
- Accountability
- Results-Oriented

1.3.2 Mandate and Functions of KLRC

a) Traditional mandate

The Commission’s traditional mandate involves keeping under review all the law and ensuring its systematic development and reform including, in particular, the integration, unification and codification of the law, the elimination of anomalies, the repeal of obsolete and unnecessary enactments and generally its simplification and modernization.

b) Statutory mandate

Section 6 of the Kenya Law Reform Commission Act (2013) provides that the Commission shall—

- (a) keep under review all the law and recommend its reform to ensure—
 - (i) that the law conforms to the letter and spirit of the Constitution;

- (ii) that the law systematically develops in compliance with the values and principles enshrined in the Constitution;
- (iii) that the law is, among others, consistent, harmonized, just, simple, accessible, modern and cost-effective in application;
- (iv) the respect for and observance of treaty obligations in relation to international instruments that constitute part of the law of Kenya by virtue of Article 2(5) and (6) of the Constitution;
- (v) keep the public informed of review or proposed reviews of any laws; and
- (vi) keep an updated database of all laws passed and reviewed by Parliament;
- (b) work with the Attorney-General and the Commission for the Implementation of the Constitution in preparing for tabling, in Parliament, the legislation and administrative procedures required to implement the Constitution;
- (c) provide advice and technical assistance and information to the national and county governments with regard to the reform or amendment of a branch of the law;
- (d) upon request or on its own motion, undertake research and comparative studies relating to law reform;
- (e) formulate and implement programmes, plans and actions for the effective reform of laws and administrative procedures at national and county government levels;
- (f) consult and collaborate with State and with State and non-State organs, departments or agencies in the formulation of legislation to give effect to the social, economic and political policies for the time being in force;
- (g) formulate, by means of draft Bills or otherwise, any proposals for reform of national or county government legislation;
- (h) upon request or on its own motion, advise the national or county governments on the review and reform of their legislation;
- (i) undertake public education on matters relating to law reform; and
- (j) perform such other functions as may be prescribed by the Constitution, this Act or any other written law.

c) Constitutional mandate

Section 5 of the 6th Schedule of the Constitution of Kenya 2010 requires KLRC to Coordinate with Office of the Attorney General and the former Commission for the Implementation for the Constitution in the preparation of Bills for tabling in parliament for the implementation of the Constitution of Kenya 2010.

2.0 SUMMARIES OF THE MODEL LAWS

This section captures the aims, and objectives of the County Model Laws. It also highlights key provisions as contained in the laws. The summaries have been categorized in accordance with the functions of County Governments as provided for in Part II of the 4th Schedule of the Constitution of Kenya.

2.1 Models Laws on Agriculture

The functions and powers of the county on Agriculture as per the Constitution include: crop and animal husbandry; livestock sale yards; county abattoirs; plant and animal disease control and fisheries.

2.1.1 County model law on livestock sales yard

The objective of this Model Law is to provide a legal framework for the establishment and control of livestock sales yards and related purposes. This is derived from section 1(b) of Part 2 to the Fourth Schedule of the Constitution, which devolves agriculture, including livestock sale yards.

The law entails the following major parts-

Part I contains the preliminaries which include: a short title; interpretation of the words used in the context of the model law; powers of the County Service Board, which include designating any qualified person to be an animal inspector for the purposes of the Act and provides an optional clause for the establishment of an institutional framework for the management of livestock sale yards.

Part II sets out provisions relating to licensing of livestock, livestock sales yards and particulars of the license; grounds for refusal to issue a license and for license suspension and revocation of licenses; records and documents that each operator of a livestock sales yard shall keep of each lot of livestock consigned to or sold through the livestock sales yard which include the name and address of the consigner, a description of the livestock, the method by which the livestock was delivered to the livestock sales yard, name and address of purchasers of such livestock among others; duration of validity and renewal of licenses; provision for a license fee; appeals from the decisions of the inspector under the Act and the requirement that the county provides livestock sales yard days.

Part III contains provisions outlining the powers and duties of inspectors, the responsibility of the County Government to construct stalls in the livestock sales yards, allocation by the inspector of stalls to regular traders and casual traders at a fee and the onus of owners to maintain the stalls.

Part IV contains provisions for the transportation of livestock to the livestock sales yard namely; factors to consider when transporting livestock which include fitness for travel, ensuring vehicle loading and unloading facilities are constructed to avoid injury, sufficiency of floor space and height allowance and provision of water feed and rest as needed and offences and penalty for any person who transports livestock contrary to the Act.

Part V contains provisions for the welfare of livestock in the livestock sales yard including the prohibition from keeping an unfit animal to be exposed for sale at the yard, protection of livestock in the sales yard from injury or unnecessary suffering, prohibition of any handling acts of the livestock in the sales yard that involve lifting it off the ground, dragging it along the ground and suspending it off the ground by the head neck ears, horns legs, feet, tail, fleece or wings, use of excessive force to control the livestock involving the use of electric shocks, hitting calves or prods among others, the responsibility of livestock yards sales operators to pen and cage the relevant livestock without overcrowding, feeding and watering of livestock, provision of lighting and bedding, restrictions on sale of calves, and types of sales which include auctions or normal market sales.

Part VI contains general provisions which include the power to make regulations by the relevant county executive member and the general penalty for contravention of the law for which no penalty is provided.

2.1.2 County model law on agriculture development

This is a model law to establish the County Agriculture Development Authority, to provide for a framework to facilitate growth and development of agriculture and all related purposes. It is premised on section 1, part 2 of the Fourth Schedule to the Constitution which vests the agricultural mandate on Counties. It contains the following major parts-

Part I has the short title, the interpretation section and the objects of the Act.

Part II allows for the establishment of the Authority, its powers and functions, membership and qualification and disqualification of membership to the Board, term of office, remuneration and the ability to have committees. The Part also contains provisions for the Director of the Authority, circumstances where he or she may be removed from office and how the vacancy may be filled.

Part III provides for the Agriculture Development Fund, its establishment, overriding objectives and guiding principles as well as the establishment of a Board of Trustees for the fund for accountability purposes. The Part further lays out the composition of the Board of Trustees, its terms and conditions of service, vacation of office of any member, the powers and functions and the obligations of the Director of the Authority.

Part IV is on funding and disbursement of funds where the composition of the fund is outlined and the procedure of disbursement of funds is also elaborated on. All receipts, savings and accruals of the fund and the balance of the fund at the end of the financial year shall be retained for the purposes for which the fund is established.

Part V is on the projects which are to be funded, which must be community-based. All project proposals shall be submitted to the director in the prescribed form. Agricultural officers shall ensure

the implementation of all projects. All the payments for projects to be funded under the Act shall be made, processed and effected in accordance with the National Government regulations. There shall be annual reports presented to the County Executive Member who will then table it before the Assembly. Funds shall be audited in accordance with the Public Audit Act.

Part VI has miscellaneous provisions on the general penalty for offence, rules and regulations.

First Schedule: this makes provision on the conduct of business and affairs of the Board including meetings, quorum, conflict of interest, voting and rules of procedure and minutes.

2.1.3 Model law on agricultural machinery services

The principal objective of this model law is to establish the Agricultural Machinery Service and provide for the development and regulation of agricultural machinery and for connected purposes. This model law was developed pursuant to section 1 Part 2 of the Fourth Schedule to the Constitution which vests agriculture as a function of the County Government.

Part I contains the preliminary provisions. These include the short title, interpretation of words used in the Bill and the objectives and purposes of the Bill. The objectives among other things ensure equitable and continuous access, effective and efficient provision of agricultural machinery. This part also provides the scope of the Act.

Part II contains provisions on the establishment of a County Agricultural Machinery Service which shall be managed by a Board. It also provides for the composition, functions and powers of the Board; the procedures for the conduct of business of the Board; the appointment and removal from office of the chief executive officer of the Service; the staff of the Service and protection from personal liability of the members of the Board and staff.

Part III provides for the establishment of farmers' associations and their functions. The associations are empowered to establish committees whose functions are also provided. The Part further provides the grounds of withdrawal of agricultural machinery as well as for disposal of such machinery. Finally, this part also gives the relevant executive committee member the power to make regulations to give effect to the Act.

2.1.4 County Model Law on Plant Health

The model law is comprised of the following parts:

Part I of this model law is the preliminary where it defines Plant Health and other terms surrounding plant health, it also gives an interpretation of the model law.

Part II is the administration part of this model law where it lists the powers of the plant health inspector who is appointed by the County Service Board and when it is necessary for him/ her to exercise powers to order compensation. This model law also touches on obstruction of a plant health inspector, and removal of quarantine and transport restrictions.

The model law also outlines the responsibilities of a grower for plant seed, rules for prevention or spread of pests, penalty and offences and regulations of this model law and the protection from personal liability.

2.1.5 County Model Law on Abattoirs

The model law comprises of the following parts:

Part I of this model law, which is the preliminary, defines abattoirs and other terms surrounding abattoirs, while also giving an interpretation of the model law.

Part II is the administration part of this model law, where it talks about appointment of meat inspectors, requirements for registration of abattoirs and how abattoirs are to be approved. In this Part, there are also exemptions to approval of an abattoir, obstruction of an officer, and how to apply for a certificate of approval (a certificate for approval should relate to a single abattoir). The county model law also outlines the duties of a meat inspector and responsibilities of a director.

Part III is about registrations and licensing of meat export processing establishments. This part states the registrations and licensing of meat export processing establishments and how to apply for a license. This Part also enlists the illegal manufacture and processing, the matter of issuing of a license, application for renewal of a license and conditions of a license. In this part of the county model law there is also the revocation, alteration or suspension of a license, surrender of a license and appeals.

Part IV is on requirements of abattoirs which include lighting, water supply, layout, equipment, provision of animal closures, transport, register of animals, and animal inspection. In this Part, the model law lists the notice to remedy defaults and human diseases.

Part V consists of general provisions like protection from personal liabilities, general penalties and offences and regulations.

2.1.6 County Model Law on Animal Disease Control

The model law comprises of the following parts:

Part I is the preliminary where definitions of terms surrounding Animal Disease Control are discussed. It also gives an interpretation and the objects of the model law.

Part II presents the administration section of this model law where it mentions the County Veterinarian amongst other officers and their responsibility for the implementation of this model law. It outlines how animal disease inspectors should be appointed and their functions and powers. It also states the notice and precautions for a suspected diseased animal, quarantine of animals, and when to disinfect premises. Animal owners also have the duty to ask for permission to move animals exposed to disease and to report all cases of infectious diseases such as tuberculosis and brucellosis.

Part III is on the general provisions that include a list of the persons required to have a license, offences and penalties and suspension, and cancelation or refusal to renew licenses. It also calls out the injection of tuberculin to an animal in order to prevent reaction as an offence. This Part also outlines the role of the county executive member during an alleged outbreak and the powers of the county executive member to make regulations in case of a disease.

2.2 Model laws on county health services

The functions and powers of the county health services as per Part II of the 4th Schedule of the Constitution include: county health facilities and pharmacies; ambulance services; promotion of primary health care; licensing and control of undertakings that sell food to the public; veterinary services; cemeteries, funeral parlours and crematoria and refuse removal, refuse dumps and solid waste disposal.

2.2.1 Model law on maternal health rights

This model law provides for maternal health care and for connected purposes. This is derived from section 2 of Part 2 to the Fourth Schedule of the Constitution, which vests to counties the function of county health services. The law entails the following major parts-

Part I provides for the short title, interpretation, objects of the Act, the guiding principles and its scope.

Part II deals with the establishment and administrative framework which includes the development of maternal health plans, establishment, functions and reports of maternal health care committees, duties of the department, staff qualification and disqualification, term of office and allowances as well as the procedure of conduct of office business.

Part III looks into education, training and public awareness programmes to ensure the realization of the objectives of the Act. It also enumerates services offered by a midwife, the issuance of birth notification and reporting, responsibilities of medical practitioners, obligations of County Governments and awards for remarkable achievements.

Part IV ensures that every expectant woman receives mandatory prenatal and antenatal care, which is obligatory for all medical health facilities whether private or public. Medical and health institutions are also mandated to advise pregnant women who suffer from any serious illness or are exposed to teratogenic substances. This part also gives guidance on when a gestation can be terminated.

Part V has provisions on proper health care such as observance of procedures and due diligence, access to family planning supplies, essential medicines, procurement and distribution of family planning supplies. Every pregnant woman shall be entitled to maternal services offered by a skilled and qualified birth attendant.

Part VI deals with administrative management such as rules and regulations for internal regulation of medical and health facilities, monitoring, examination, professional ethics and technical standards requirements.

Part VII is on miscellaneous provisions and sets out offences including the offences of knowingly withholding information and refusing to perform legal and medically safe maternal health procedures. It also makes provisions on financial support from the county governments.

2.2.2 County model law on social protection

The objective of this “model law” is to bring vulnerable members of the society in the county under the Social Protection of the National Health Insurance Fund (NHIF) and other related purposes. This model law was developed pursuant to Article 43 of the Constitution.

Part I contains preliminary provisions which are the short title and interpretation provision on commonly used words and phrases in the context of the Act.

Part II contains provisions for the granting of subsidies by the county government to support the economically vulnerable residents of a county. The county is obligated to subscribe to a medical insurance policy under the NHIF or other health insurance policy in Kenya, child insurance cover under the policy taken out by the child’s parent or guardian and to make provisions for group subscriptions.

Part III contains provisions for establishment of the Social Protection Sub-County Committee, its composition and functions.

Part IV contains miscellaneous provisions including the requirement that the Act conform to the NHIF Act, 1999, liability for the offence of giving false information in order to receive a benefit under NHIF, budgetary allocation for subsidies and empowers the Executive Committee Member to make regulations for the better carrying out of the provisions of the Act.

2.2.3 Model law on promotion of primary health care

The principal object of this model law is to among other things provide for the promotion of primary health care services as a basic right and in particular, the promotion of primary health care within the counties. This model law was developed pursuant to section 2 Part 2 of the Fourth Schedule of the Constitution, which recognizes the provision of health care services as a devolved function.

Part I contains the preliminary provisions. It provides for the short title and commencement, interpretation and objects of the Act.

Part II provides for the establishment of a County Health Department and Health Board and their respective functions. The Department is to be responsible the delivery of county level health services, promotion of health services including prevention and treatment and preparation of statistical reports amongst other functions. The Board on the other hand is mandated to coordinate and supervise county level health services, including the licensing and registration of the health institutions.

Part III focuses on public health facilities and services. It makes provision for the following: Public health facilities, public-private partnership health facilities, private health facilities, and health service in case of epidemic or other emergencies, including isolation of persons exposed to infection.

Part IV contains provisions on the promotion and advancement of public health which includes promotion of primary health care, reproductive health, emergency treatment, health information and patient's informed consent. The Board is responsible for dissemination of information on health functions and maintenance of confidentiality of information concerning a user.

Part V contains miscellaneous provisions which include duties of users, rights and duties of health care workers, complaints against a health facility, recovery of facility costs, transitional provisions and the power of the executive committee member to make regulations.

2.2.4 Model law on reproductive health rights

This "model law" provides for reproductive health and all matters relating to the same. This is flows from section 2 of Part 2 to the Fourth Schedule of the Constitution, which vests to counties the function of county health services. The law contains the following major parts-

Part I contains the preliminary provisions such as the short title and the interpretation section. It also has the guiding principles in the process of implementation of this Act.

Part II looks at what reproductive care services will focus on such as maternal mortality and the measures taken to prevent the testing and dumping of harmful contraceptives and pharmaceuticals.

It also looks at the duties and responsibilities of the county's department of health. Counties are also mandated to promote and protect reproductive health care rights, the right to equality and gender-neutral information.

Part III has provisions on promotion, facilitation and implementation of reproductive healthcare services, including the hiring of skilled health professionals. It also outlines the elements of reproductive health to include family planning information and services, adolescent and youth reproductive health guidance and counseling, elimination of violence against women, education and counseling on sexuality and reproductive health, among others.

Part IV provides for development of appropriate reproductive health care education and public awareness to include development of school curriculums and the contents of reproductive education. It also gives provision for public awareness and consultation with stakeholders.

Part V provides for sexual and reproductive health programs for persons with disabilities. It ensures that there is no discrimination when offering services or assistance. It also abolishes any barriers to reproductive health for persons with disabilities.

Part VI has miscellaneous provisions such as financial support, the opportunity to enter into agreements with Development Partners and reporting requirements. It also provides for prohibited acts such as withholding information knowingly or intentionally providing incorrect information. It also imposes legal liability under certain circumstances and ensures that consent is received before taking any action.

2.2.5 Model law on maternal health rights

This is a model law that provides for maternal health care and for connected purposes as premised by section 2 of Part 2 to the Fourth Schedule of the Constitution, which vests to counties the function of county health services.

The model law is outlined as follows-

Part I looks at the short title, interpretation, objects of the Act, the guiding principles and the scope of the Act.

Part II deals with the establishment and administrative framework which includes the development of maternal health plans, establishment, functions and reports of maternal health care committees, duties of the department, staff qualification and disqualification, tenure of office and allowances as well as the procedure of conduct of office business.

Part III looks into education, training and public awareness programmes to ensure the realization of the objects of the Act. It also makes provision on services offered by a midwife, the issue of birth notification and reporting, responsibilities of medical practitioners, obligations of the County Government and awards for remarkable achievements.

Part IV ensures that every expectant woman receives mandatory prenatal and antenatal care and this is obligatory for all medical health facilities whether private or public. Medical and health institutions are also mandated to advise pregnant women who suffer from any serious illness or are exposed to teratogenic substances. This part also gives guidance on when a gestation can be terminated and its cost.

Part V has provisions on proper health care such as observance of procedure and due diligence, access to family planning supplies such as essential medicines, and procurement and distribution of family planning supplies. Every pregnant woman shall be entitled to maternal services offered by a skilled and qualified birth attendant.

Part VI deals with administrative management such as rules and regulations for internal regulation of medical and health facilities, monitoring, examination, professional ethics and technical standards requirement.

Part VII is on miscellaneous provisions such as offences of knowingly withholding information and refusing to perform legal and medically safe maternal health procedures. It also has provisions on financial support from the county governments.

2.2.6 Model law on county health services

The principal object of this “model law” is to provide for the provision of health care services in the county; the realization of basic rights to health and for other connected and incidental matters. This model law was developed pursuant to section 2 Part 2 of the Fourth Schedule to the Constitution.

Part I contains preliminary provisions such as the short title, commencement and the interpretation of the words commonly used and the objects of the model law.

Part II contains provisions on the establishment of a County Medical department and Health Board and its functions. It also provides for the establishment of a county medical department, functions of the department.

Part III makes provisions on public health facilities, institutions and services. It contains provisions on the public health services. It further proposes to establish an inspectorate unit in the department of health services and its functions.

Part IV deals with the promotion and advancement of public health. It contains provisions on the role of the Department to devise and implement measures touching on various issues aimed at promoting public health. It also has provisions on reproductive health, emergency treatment, health information, patient's informed consent, the role of the Board to disseminate information on health functions and the confidentiality of information concerning a user.

Part V contains the miscellaneous provisions and the outlines duties of users, rights and duties of a health care worker, complaints against a health facility and recovery of facility costs. This part also contains transitional provisions.

2.3 Air pollution, Noise Pollution, Other Public Nuisances and Outdoor Advertising

2.3.1 Model Law on Control of Air Pollution, Noise Pollution, Public Nuisance and Outdoor Advertising

This is a County Model Law on Control of Air Pollution, Noise Pollution, Public Nuisance and Outdoor Advertising, 2013. It is comprised of the following parts:

Part I of this model law is the preliminary where it defines pollution and other terms surrounding pollution, it also outlines the objective of this act as to provide the control of: air pollution, noise pollution, public nuisances, including waste and disease causing pests and unregulated outdoor advertising.

Part II of this Act provides the provisions relating to administration and implementation. In this section there is also an outline of how the county executive committee shall implement the objectives of Act.

Part III is about the provisions relating to air pollution. In this part it forbids anyone from causing air pollution, and issues responsibilities over control of air pollution to: The department, Owner/ operator of controlled facility and Occupier/ operator of premises. It also gives objections to granting or renewal of licenses and also allows for the department to liaise with other departments and agencies to control air pollution.

Part IV is about the provisions relating to noise pollution and forbids anyone from causing noise pollution and outlines responsibilities of the department to noise pollution.

Part V outlines provisions relating to public nuisances. It begins by outlining the responsibilities of the department to control public nuisances, gives an objection against impounding of certain animals and concludes by listing a number of street offences.

Part VI contains provisions relating to outdoor advertising and miscellaneous items. It begins by forbidding anyone from mounting outdoor advertising without a permit, provides for application of an outdoor advertising permit and ends with a list of regulations of outdoor advertising.

2.4 Culture and Entertainment

The functions and powers of the county on culture and entertainment as per part II of the 4th Schedule of the Constitution include: cultural activities & public entertainment and public amenities: betting, casinos and other forms of gambling; racing, and liquor licensing; cinemas; video shows and hiring; libraries; museums; sports and cultural activities and facilities; county parks; beaches and recreation facilities.

2.4.1 Model law on culture

The model law provide for cultural activities and for connected purposes.

2.4.2 Model law on public entertainment

The model law provides for public entertainment in the county and for connected purposes.

2.5 County Transport

The functions and powers of the counties on transport as per part II of the 4th Schedule of the Constitution include: Roads; street lighting; traffic and parking; public road transport; and ferries and harbours.

2.5.1 Model law on county transport

This model law provides for all matters relating to traffic, parking, county roads, street lighting, public road transport, ferries and harbours. It is also to establish the county department of transport and for connected purposes. This model law was developed pursuant to section 5 Part 2 of the Fourth Schedule to the Constitution.

Part I is the preliminary and contains the short title, interpretation, objects and purpose and the application of the model law.

Part II establishes the Department of Transport, its functions, powers and duties as well as the organization of the Department officers and employees.

Part III provides for transportation of hazardous materials, operating licenses, the right of entry of vehicles, boarding and disembarking of public transport vehicles, conveying dangerous and offensive articles in public transport vehicles, queuing at public transport facilities, payment of fares, the rights and duties of passengers when a public transport vehicle becomes defective, the actions prohibited on a public transport vehicle, and what to do with property left in public transport vehicles. Obstruction

and disruption of transport is also dealt with as are the duties of pedestrians and hooting. Use of communication devices while driving is prohibited. This part also obligates the county to install and maintain street lighting.

Part IV deals with all matters to do with parking such as parking on public roads, private property, taxi zones and alleys, areas where parking is prohibited and towing of vehicles. It also looks into parallel parking and angle parking where there are no visible parking guidelines.

Part V focuses on ferries and harbours, including vessel permits and their revocation, control of the harbour master, report of the vessel upon arrival, movement of the vessel within the harbour and from one berth to another as well as neglect of the vessel. The harbour master may direct the owner of a vessel to moor, unmoor or move the vessel, failure of which shall be a contravention of the Act. Accidents involving any vessel should be reported. Outlined are also certain prohibited acts.

Part VI ensures that transport services are safe and adequate and that the charges are just and reasonable. It also provides for publication of tariff schedules. Notice is required if there are any changes in fares.

Part VII allows the Transport Department to develop light railway works and to maintain, improve or repair it. The Department may also make regulations to give effect to light railways. Trespassing on the railway as well as the use of a vehicle on a light railway is an offence.

Part VIII gives the harbour master, in consultation with the Department room to make further regulations for the effective administration of the model law.

2.6 Animal Control and Welfare

The functions and powers of the county on animal control and welfare as per part II of the 4th Schedule of the Constitution include: licensing of dogs; facilities for the accommodation, care and burial of animals

2.7 Trade Development and Regulation

The functions and powers of the county on trade development and regulation as per part II of the 4th schedule of the Constitution include: Markets; trade licenses; fair trading practices; local tourism and cooperative societies.

2.7.1 Model law on an economic development corporation

This is a model law for the establishment, management and administration of a corporation to be known as the Economic Development Corporation and for all matters connected thereto. Formulation

of this model law was informed by Part 2 of the Fourth Schedule to the Constitution which provides for development as a county function under section 8.

The model law contains the following parts-

Part I is the preliminary and contains the short title and the interpretation sections.

Part II makes provision for the establishment of the Corporation, its objects, powers and functions as well as the seal. It also provides for the board of directors, the chief executive officer and proceedings of the board of directors. All minutes of the meetings held shall be recorded in a minute book which shall be in the custody of the Chief Executive Officer. Under this part, the Corporation may from time to time appoint such officers and employees as may be necessary.

Part III provides for the financial management of the Corporation. It specifies sources of funds of the Corporation such as the exchequer among many others; the obligation to open a bank account and preparations of estimates of income and expenditure. This part also includes provisions on the annual report and publication of the operations of the Corporation during that year as well as accounts and audits.

Part IV has miscellaneous provisions on winding up, personal liability and provision for regulations necessary or desirable for the proper conduct of the business of the corporation.

2.7.2 Model law on investment and social development

This model law provides for the establishment of a legal and institutional framework for promotion, coordination of investment and social development and for connected purposes. The law is generally informed by section 7 of Part 2 of the Fourth Schedule to the Constitution, which lists trade development and regulation as a county function.

The model law is divided into the following major parts-

Part I has the short title, interpretation section, objects and performance-guiding principles of the law.

Part II provides for the establishment, composition, term of office, removal and vacancy of office, and functions and powers of the Investment and Social Development Council. It also looks into the conduct of business of the Council, establishment of committees and an investment unit. The roles of the head of investment and other officers and staff are also outlined here.

Part III has financial provisions including the sources of funds of the Council, estimates of the expenditure of the Council, the financial year, annual estimates and accounts

Part IV provides for investment management such as investment powers, the investment strategy and plan, appraisal and financial analysis, sustainability, profitability and competitiveness, the ability to enter into partnerships with other organizations, investment certificate, incentives and licenses relating to an investment certificates.

Part V contains general provisions and provides for the power to make regulations for the better carrying into effect the provisions of the Act.

2.7.3 Model law on trade license

The objective of this model law is to provide for the grant of trade licenses and for connected purposes. This law is pegged on section 7 of Part 2 to the Fourth Schedule of the Constitution, which vests to counties the function of trade development and regulation. It contains the following key sections-

Section 1 contains the short title and commencement.

Section 2 contains provisions on the interpretation of the words that are commonly used.

Section 3 contains the provision on the requirement for a trade licence for any person conducting business within the county.

Section 4 authorizes the County Assembly to determine licence fees.

Section 5 has provisions on the process of applying for a trade licence.

Section 6 contains provisions on the grant of a license including the process of granting a license and the period of granting of a licence.

Section 7 contains the renewal of licensing provisions in which it gives the conditions upon which a license can be deemed renewed.

Section 8 has the provisions on the cancellation or suspension of licenses including the circumstances upon which the licensing authority may cancel or suspend a licence.

Section 9 has the provision on the surrendering of a licence by the holder of a licence.

Section 10 has the provision on transfer of licenses in which the holder of a licence must give the licensing authority a written notice on any transfer or assignment of the licence.

Section 11 has provisions concerning appeals against the decision of the licensing authority.

Section 12 contains provisions on licensing officers. It deals with their appointment and powers which are set out under Schedule 2 of the Act.

Section 13 has the provisions on the register in which the licensing authority must establish and maintain a register of trade licenses, which is supposed to be available for public inspection by the public during government office hours.

Section 14 has provisions concerning the offence of making false and misleading statements. It gives a penalty of a fine not exceeding 50,000 Kenya shillings.

Section 15 deals with the general penalty. The general penalty for contravening any provision of the Act is a fine not exceeding 10,000 Kenya shillings.

Section 16 has provisions on the power to make rules in which the county executive member responsible

for trade may make rules generally for the better carrying out of the provisions and purposes of the Act.

Section 17 contains provisions on savings.

Schedules:

Schedule 1 has provisions on the conditions of a trade licence.

Schedule 2 contains provisions on the powers of licensing officers.

2.7.4 County model law on trade and markets

This model law provides for the regulation of trade and business activities, the establishment of the Directorate of Trade, the establishment and management of markets and all other matters incidental thereto. This law is premised on section 7 of Part 2 to the Fourth Schedule of the Constitution, which vests to counties the function of trade development and regulation.

It contains the following major parts-

Part I has the short title and the interpretation provisions.

Part II has provisions on the Directorate of trade and markets such as the establishment of the Directorate, appointment of the Director and Deputy Director of trade, the functions and powers of the Directorate, powers of inspection by any officer under the Act, and information that is considered confidential and report writing and submission.

Part III deals with public markets and provides for the establishment of division of powers of the Directorate, establishment and control of markets, and public and private markets that shall be held only in selected places. In addition, the power to charge for use of stalls is given to the Directorate. A regular trader who wants to carry out any commercial activity from an open air market must obtain a license or pay the prescribed fee if they are a casual trader. The Act goes further to define who a street hawker is and states that any car boot sale must be licensed. Selling by busking is also permitted subject to certain conditions.

There are also some offences outlined in this part such as assaulting or obstructing the officer collecting dues, disorderly behavior in a public market, the sale of prohibited goods and the duty to maintain and provide information.

2.7.5 County model law on finance

The principal objective of this model law is to provide for the imposition and variation of certain fees, charges, licenses, rents or rates for services, and for related purposes. This model law was developed pursuant to Chapter 12 of the Constitution.

Part I contains the preliminary provisions which include the short title and commencement of the Bill and the interpretation section.

Part II provides for the charges, Rent, Trade License and Instructive Maintenance fees. It provides the steps to be taken by a person who wishes to carry out activities listed in the First Schedule or any activity chargeable under the Act.

Part III provides for payments; it contains provisions for payments to the government which shall be through an authorized channel and the definition, appointment and duties of an agent.

Part IV contains the list of offences by government employees and penalties for each offence including the general penalty for any person who contravenes the provisions of the model law.

Part V contains Miscellaneous Provisions which include transitional and savings provisions. It further provides for the power of the relevant Executive Committee Member to make regulations for the better carrying out of the provisions of the model law.

2.7.6 Model Law on Tourism

It is comprised of the following parts and sections:

Part I of this model law which is the preliminary where Tourism and other terms have been defined. It also gives an interpretation and the objects of the model law.

Part II: Contains the following sections:

Section A is about establishment of the tourism division and it also enlists the functions of the tourism division.

Section B touches on tourism areas where it outlines the restrictions and prohibition of activities and consideration of views presented in consultation.

Section C is on regulations.

Section D outlines transitional matters.

2.7.7 Model Law on County Revenue Administration

The model law comprises of the following parts:

Part I is the preliminary where County Revenue Administration and other terms surrounding have been defined. The part also gives an interpretation and the objects of the model law.

Part II contains administration of revenue including: county revenue collection, functions and powers of a county revenue collector, agreement in relation to revenue collection and annual report.

Part III contains inclusive of records and information of revenue payers, books accounts and records to be kept, provision of information and evidence and access inspection and other charges.

Part IV provides for miscellaneous includes identification, revenue register, approval forms, general penalty for offence, publication and service of documents and rules/guidelines.

2.8 County Planning and Development

The functions and powers of the county on planning and development as per Part II of the 4th Schedule of the Constitution include: Statistics; land survey and mapping; boundaries and fencing; housing; electricity and gas reticulation and energy regulation.

2.8.1 Model law on county rating transition

The objective of this model law is to provide for the imposition of rates on land and buildings in a county and for connected purposes. The model law stems from Article 209 (3) (a) of the Constitution.

Sections 1, 2 and 3 provide for preliminary matters. They contain a short title and commencement of the Act, the application of the Act which is to all land in the county as well as interpretation of commonly used words and phrases in the context of the model law, respectively.

Sections 4, 5, and 6 contain provisions for the forms of rating including area rate, agricultural rental value rate, and site value rate. The manner in which rates are imposed is also provided for, which includes providing for Annual County Finances and imposition of rates on all ratable property in the County for any calendar or financial year, respectively.

Sections 7, 8 and 9 contain provisions on imposition of rates providing for instances where there is a change from calendar year to financial year, whereby a County Assembly may impose rates on all ratable property in the county for a period starting on January 1 in a year end ending 30th June of the same year when rates become payable and liability for payment of rates both jointly and severally in instances of joint land registration.

Sections 10, 11 and 12 contain provisions on collection of rates which must be paid to the revenue collector or any authorized person; the manner in which the rates are collected and the place of collection, discounts for early payment of rates and penalty payable for late rates' payment, which the county will determine.

Sections 13, 14 and 15 contain provisions on recovery of rates unpaid after the date of payment and subsequent imposition of the penalty in section 12, written notice for recovery of rates payable if the same remains payable after the date of payment elapses and the contents of the written notice and rates chargeable on property, respectively.

Sections 16, 17 and 18 contain provisions on issuance of statement of payment of rates upon payment of the said rates and other charges, the publication and service of documents in accordance with section 16 of the County Revenue Administration Act, 2013 and appointment of a valuer within the meaning of County Governments Act, 2012 by the County Executive Member responsible respectively.

Sections 19 and 20 contain provisions on the power of the county executive member responsible for finance to make rules generally for the better carrying out of the provisions of this Act including payment of taxes, prescribing cases in which rates may be reduced or remitted among others and adoption of methods, upon necessary adjustment of any form of rating in respect of any area of the county which the County Assembly is empowered to adopt, respectively.

First Schedule contains provisions for area rates imposed on any area of land.

Second Schedule contains definitions for agricultural rental value rate, which is a rate imposed on the annual value of agricultural land and definitions for terms used in Schedule 2.

Third Schedule contains definitions for site value rate, improvement rate and interpretation of terms used in the schedule.

Fourth Schedule provides for the wording and format when imposing a rate.

2.8.2 Model law on county planning

The principal objective of this model law is to provide for planning, including the principles of county planning and management; establishment and functions of the County Planning Unit; approval of county plans; and to provide for requirements for County plans and other related provisions. This model law was developed pursuant to Part IX of the County Governments Act, which provides for the broad principles to guide planning at the county level and section 8 Part 2 of the Fourth Schedule to the Constitution.

Part I contains the preliminary provisions. These include a short title, interpretation of phrases and words commonly used in the Bill, the object and purpose of the model law, and principles of county planning and development which include: integration of national values in processes and concepts; protection of the right to self-fulfillment of the communities within the county, and; bearing responsibility to future generations, among others.

Part II contains provisions for the County Planning Unit namely: Its establishment and functions; requirement for approval of County Plans; integrating national and county planning; the establishment guidelines for a 5-year County Integrated Development Plan, a 10-year County Sectoral Plan, 10-year County Spatial Plans and City or Municipal plans.

Part III contains provisions for County plans namely: an obligation that the county be responsible for County planning; amending County Integrated Development Plans introduced by a county executive; giving effect to the County Integrated Development Plan; planning for nationally significant projects in a county and public participation in county planning. It also contains Objectives of Integrated Urban Areas and City Development Planning; a requirement that city plans align to the county government plan; the preparation of integrated city or urban development plans; the contents of an integrated city and Urban area development plan and its eventual submission to the county executive committee; requirement for an annual review of an integrated development plan and regulations for carrying into effect the purposes of the model law.

2.9 County Education

The functions and powers of the county education as per Part II of the 4th Schedule of the Constitution include: pre-primary education; village polytechnics, home-craft centres and childcare facilities.

2.9.1 Model law on early childhood education

This is a county model law to provide for Early Childhood Education and for all other matters connected to the same. The model law essentially seeks to give effect to section 9, Part 2 of the Fourth Schedule to the Constitution, which section vests pre-primary education as a county function.

The model law contains the following parts-

Part 1 provides the preliminaries to the including the short title and interpretation sections. The interpretation section includes among others, the definitions of “early childhood education” and “care center”.

Part II deals with funding of certain early childhood services and certificated playgroups as well as loans to licensed early childhood service providers.

Part III provides for administration requirements and the framework of the curriculum. It also gives the qualifications of the early childhood and care centre instructor who will be able to manage and provide instructions in accordance with the prescribed curriculum.

Part IV provides for service providers operating early childhood education and care centres to be licensed. This includes home-based education and hospital- based education and care services. The section also contains provisions relating to licensing. Under this part, playgroups may be certificated and detailed regulations on such certification of playgroups are encompassed.

Part V has provisions for powers of entry and inspection with or without warrant for both parents and any other person authorized under the law.

Part VI contains miscellaneous provisions such as the offence of insulting, abusing or intimidating staff and the power of entry.

2.9.2 Model Law on Pre-Primary and Early Childhood Education

The model law comprises of the following parts:

Part I is the preliminary where Pre-Primary and Early Childhood Education and other terms have been defined. It also gives an interpretation and the objects of the model law.

Part II Provides for the responsibilities relating to pre-primary and early childhood education, where it outlines the responsibilities of the governor, the executive committee to issue guidelines on minimum standards, department of pre-primary and early childhood education and annual/ other reports.

Part III Provides for the registration of schools and education centers. It states that schools/center/ institution should be registered, shows how to apply for registration up to when a registration certificate has been obtained.

Part IV is on miscellaneous provisions like the administrative and technical costs, how the public may complain and regulations.

2.9.3 Model law on childcare facilities

The principal objective of this model law is to give effect to section 9 of Part 2 of the Fourth Schedule of the Constitution, to establish Childcare Facilities Board, to control and regulate Childcare Facilities and childcare within the county, and for connected purposes.

Part I contains preliminary provisions consisting of the short title and commencement of the model law, interpretation section, scope of the model law, administration and implementation of the model law.

Part II contains provisions on the Childcare Facilities Board. It deals with all the matters concerning the Board including its establishment and functions of Childcare Facilities Board, appointment of the Director of the Board, qualification and disqualifications for appointment as Director of the Board and vacancy of the office of the Director. It provides for the Secretary of the Board, officers and other staff of the Board. This part further deals with the issues of remuneration of the Director, Secretary, officers and the staff of the Board, delegation of powers and functions and the requirement of the Director to report to the County Executive Committee.

Part III contains provisions on the registration and inspection of childcare facilities. It addresses the registration of childcare facilities, the procedure for applying for registration, terms and conditions

for registration and certificate of registration. This part also has provisions on the keeping of a register of Childcare Facilities by the Director of the Board, cancellation of registration and appointment of Inspectors.

Part IV contains the miscellaneous provisions. It has provisions on the kind of directions that the Director may give to ensure that certain matters are well addressed. It also has provisions on the cessation and suspension of certificates, presumption of a person's participation in childcare management and the power of the Executive Committee Member to make regulations.

2.10 Natural Resources and Environmental Conservation

The functions and powers of the county on natural resource and environmental conservation as per Part II of the 4th Schedule of the Constitution include: implementation of specific National Government policies on natural resources and environmental conservation, including soil and water conservation and forestry.

2.11 County Public Works and Services

The functions and powers of the county on public works and services as per Part II of the 4th Schedule of the Constitution include: storm water management systems in built up areas; water and sanitation services.

2.11.1 Model law on county storm water management and water services

The principal object of this model law is to provide a county legal framework for storm water management and county water services among other related matters. This model law was developed pursuant to section 5 Part 2 of the Fourth Schedule to the Constitution.

Part I is the Preliminary which contains a short title of the model law, and interpretation of phrases and words used in the context of the model law.

Part II contains provisions for County Storm Water Management which include provision of infrastructure including drainage pipes, drains, protection of storm water systems by prohibiting damaging or releasing anything other than storm water or erecting anything that interferes or pollutes the drainage pipes, prohibition of any undertakings that may increase flood levels or create a potential flood risk, contents of studies and assessments by the county, liability of any person causing water pollution incidences, prohibition of any property owner on which private storm water systems are located from carrying out any activity which will impair the effective functioning of the storm water system and regulations by the County Executive Member.

Part III makes provision for water and sanitation services. These include provision of water and sanitation services in the county on basis of an agreement with water service providers appointed by the county, setting up and authorizing the use of water supply systems upon agreed terms and conditions, granting water service provider licenses, prohibition of disposal of industrial effluents in any manner not approved by the county, taking of water samples for analysis, requirements that any person owning a water tank on vehicles to ensure it is maintained in clean and sanitary condition, conditions on location and maintenance of wells, sewerage standards with regards to its installation and operation, prohibition of discharge of manure and other discharge on land situated less than 75 meters from a water source, requirement that water provided for human consumption must be pure and maintenance of equipment used for transmission, treatment and storage of water.

2.11.2 Model Law on County Public Works

It comprises of the following parts:

Part I is the preliminary where it County Public Works and other terms have been defined. It also gives an interpretation and the objects of the model law.

Part II Provides for storm water management where it outlines the provision of infrastructure, talks on protection of storm water system, prevention of flood risks, studies and assessments, water pollution incidents and storm water systems on private land regulations.

Part III discusses water and sanitation services like county water services, water supply systems, water service providers and disposal of effluent. This part also discusses taking of water samples, water tanks, wells, sewerage standards, and maintenance of equipment.

2.12 Fire Fighting Services and Disaster Management

2.12.1 Model law on Fire and Rescue Services

The objective of this model law is to provide for fire and rescue services, to establish a Fire and Rescue Services Authority and its functions and powers; to make provision about employment by the Authority; to make provision for education and training and pension schemes; to make provision on the supply of water for firefighting; and for all matters relating to fire and rescue services. The law is informed by section 12 of Part 2 to the Fourth Schedule of the Constitution, which provides that firefighting services and disaster management fall within the mandate of county governments.

The model law is divided into the following major parts-

Part I contains preliminary provisions such as the short title and interpretation of the words used. It also specifies the objects and purposes of the model law and the guiding principles of the Authority.

Part II establishes the Authority which is managed by a Board of directors. It provides for all matters relating to the Board including composition of its membership, the functions and powers of the Board, the qualifications and procedure for appointment of the members, their tenure and remuneration and removal from office. The Part further makes provision on conduct of meetings of the Board and the appointment and removal of the Chief Executive Officer.

Part III provides for the functions and powers of the Authority including the power to respond to other eventualities, the powers of a fire-fighter in an emergency and the general power to deal with other forms of emergencies.

Part IV allows the Authority to collaborate with other agencies, to any extent necessary by the Fire and Rescue Service or other person deemed necessary for the discharge of the function conferred on it. The Executive Committee Member may, through Regulations allow for charging of fees for the services rendered by the Service.

Part V outlines fire safety and prevention measures to be taken by both the service and the public such as maintenance of equipment and facilities, the directions that may be given by the Executive Committee Member for public safety purposes, establishment of training institutions and centres as well as a scheme for awarding decorations or medals for exemplary service rendered in relation to fire and rescue services.

Part VI ensures that all reasonable measures for securing an adequate supply of water for the Authority's use in the event of a fire are taken, including supply of water by persons who are not part of the Authority. It further provides that any fire hydrant provided by the Authority shall be clearly indicated by a notice or a distinguishing mark which should be on a wall or a fence adjoining a highway or public place.

Part VI contains the financial provisions including what consists of the funds of the Authority, financial year, annual estimates, accounts and audit and provisions on the Authority's bank accounts.

Part VII contains miscellaneous provisions. It gives the Board powers to make regulations generally for the better carrying out of the provisions of this "model law". It also protects members of the Board from personal liability if they acted in good faith. This part also provides for the offences of raising a false alarm and for knowingly failing to respond to a fire drill. The general penalty upon conviction is a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year, or to both.

The First Schedule sets out regulations for the conduct of the business and affairs of the Board, such as the number of meetings in a year, what constitutes a quorum, voting and taking and maintenance of minutes.

2.12.2 Model Law on Disaster Management

The objective of this model law is to provide for a more efficient organization of disaster risk reduction and mitigation of, preparedness for, response to and recovery from emergencies and disasters; and for all matters related to disaster management. This model law was developed pursuant to section 12 Part 2 of the Fourth Schedule to the Constitution.

Part I contains the preliminary provisions including the short title, interpretation section, the objectives of the Bill which include establishment and enhancement of the structure and capacity of the county government to effectively manage the impacts of disasters and emergencies.

Part II contains provisions on the establishment and administration of the Directorate of Disaster Management. It outlines the functions and powers of the committee as well as the functions of the Directorate. This part also contains the County Disaster Management Plan and the strategy used to implement the plan.

Part III has the measures to be taken by the county government when dealing with disaster management. This part also provides for the period of disaster and when a declaration and termination of a period of disaster is made by the Governor. In addition, this Part specifies steps that should be taken to abate danger.

Part IV contains the financial provisions including the establishment of the County Disaster Management Fund, how funds for disaster management should be allocated and the process of procurement during emergencies. This part also outlines when to prepare annual estimates and states these estimates should provide for the funding of training, research and development of activities of the Directorate as well as funding of education, training and capacity building on disaster management.

Part V contains offences and penalties. Some of the offences found under this Bill include obstruction, false claims, false alarms and misappropriation of money or materials. The penalties range from 1 year imprisonment or a fine not exceeding one hundred thousand shillings, to 3 years imprisonment or a fine not exceeding one million shillings, depending on the nature of the offence.

Part VI contains miscellaneous provisions which include the power to requisition resources for rescue operations, protection from personal liability if the deed was done in good faith for the purpose of carrying out any of the provisions in the Bill, direction for communication of warnings as well as a list of matters that the Executive Committee Member may make regulations on.

2.13 Control of Drugs and Pornography

2.13.1 Model law on Control of drugs

Part I sets out the preliminary provisions. These provisions include the short title and the interpretation section. Among the words defined include analyst, drug-related paraphernalia and psychotropic substance. The Part also provides for the objects of the model law and its application.

Part II is on prohibition and control of drugs and controlled substances. It begins with identifying the persons exempted from the model law's provisions. These include a practitioner lawfully administering, dispensing, or prescribing a controlled substance in the course of their professional practice to an ultimate user for a recognized medical purpose and a licensed manufacturer engaged in research upon non-human subjects or chemical analysis conducted on the premises specified in the manufacturer's license. Other issues provided for include offences and penalties and powers of the court under the model law. The Part also provides that narcotic drugs and psychotropic substances are not liable to distress or attachment.

Part III contains the licensing provisions. Grant and renewal of licences, cancellation or modification of licence and duration of a licence issued under the model law are some of the issues provided for in this Part. Others are conditions of a licence, amendments, revocations and suspension of a licence. The Part also provides for dispensing and administering by institutional dispensers and the requirement of maintenance of reports and records, confidentiality of certain documents.

Part IV deals with the disclosure of certain records, reports and information to another county. It begins with a requirement that records, reports and information are to be in accordance with Regulations made by the Executive Committee Member responsible for implementation of the model law. Another requirement is on practitioner patient reporting and that of confidential communications whereby the Bill provides an exception to the rule on confidentiality. The Part concludes with identifying two instances when a licensee is required to notify the Executive Committee Member immediately they occur. These are theft and non-compliance of the law.

Part V sets out provisions on inhalation of certain toxic vapours or fumes, certain hazardous inhalants and the sale of glue and hazardous inhalants in certain cases. It begins by defining the phrase "glue containing a solvent having the property of releasing toxic vapours or fumes" and "hazardous inhalants" as used in the Part. It thereafter identifies certain offences including some relating to hazardous fumes and the use of nitrous oxide for purposes of causing intoxication, inebriation and excitement.

Part VI is on the sale and possession of hypodermic syringes and hypodermic needles. It begins by providing offences and penalties relating to the sale and possession of hypodermic syringes and

hypodermic needles. It thereafter gives the Executive Committee Member the power to designate persons who may obtain hypodermic syringes and hypodermic needles. This is followed by providing for instances when the provisions on the sale of hypodermic syringes do not apply to a farmer engaged in livestock production or to a person supplying a farmer engaged in livestock production. The Part ends with a provision on how hypodermic syringes and needles should be destroyed.

Part VII is on enforcement. It gives power to a Resident Magistrate to issue a warrant to arrest a person when the Resident Magistrate has reason to believe that the person has committed an offence punishable under this model law. The Resident Magistrate may also issue an order for a search to be conducted. Other powers are also set out in this Part including the power to enter, search, seize and arrest without a warrant. The conditions under which search of persons are to be conducted are also set out. The Part also has provisions on management of properties seized or forfeited under this model law, a requirement of notice of forfeiture of property and forfeiture of property in certain cases. There is also a provision that a fine may be paid in lieu of forfeiture.

Part VIII deals with the disposal of controlled substances. The Part begins by providing the procedure for an application for return of substance seized by a police officer. It also provides for the mode of application for return of substance and the disposal by the Executive Committee Member where no application is made. There is also a provision on security, health or safety hazard. The Part ends with provisions on disposal.

Part IX sets out provisions on administration and compliance. The Part begins by giving the Executive Committee Member the power to designate inspectors. It also sets out the powers of inspectors, assistance to inspectors and return by inspector. There is also a requirement to obtain a warrant to enter a dwelling-place for reasons set out. There are provisions on the use of force, obstructing an inspector, false statement and interference.

Part X is on the miscellaneous provisions. The miscellaneous provisions include designation of an analyst and submission of samples. Penalties have also been set out for financing illicit traffic and harbouring offenders and attempts to commit offences among others. A general penalty is also provided. There is also a provision on protection from personal liability as well as the power to make regulations.

2.13.2 Model law on anti-pornography

The principal objective of this model law is to prohibit and penalize the production, printing, publication, importation, sale, distribution and exhibition of obscene and pornographic materials and for connected purposes. This model law was developed pursuant to section 13 Part 2 of the Fourth Schedule to the Constitution.

Clause 1 contains the short title and commencement.

Clause 2 has the interpretation of words used across the “model law”.

Clause 3 provides the guiding principles of the model law and mandates the executive committee member to act in accordance to the national values and principles under the constitution and other written laws.

Clause 4 contains provisions on the prohibition of pornography and further provides that a person who is involved in activities of circulation, imports, exports, stages or participates in public performance or acts that are obscene, takes part or receives profits from any business of the obscene objects, commits an offence.

Clause 5 mandates the police to arrest without warrant any person who contravenes the provisions of the model law.

Clause 6 provides for the protection of a police officer who faces difficulties in an attempt to give effect to the model law.

Clause 7 provides for the general penalty against a person(s) who contravenes the provisions of the model law.

Clause 8 provides for the power of the executive committee member to make regulations for the proper administration of this model law.

2.14 Public Participation and Access to Information

The functions and powers of the county on public participation as per Part II of the 4th Schedule of the Constitution include: ensuring and coordination of participation of activities of communities and locations in governance at the local level and assisting communities and locations develop the administrative capacity for the effective exercise of the functions and powers and participation in governance at the local level.

2.14.1 County model law on access to information

This is model law give effect to Article 35 of the Constitution, to confer on the Commission on Administrative Justice the oversight and enforcement functions and powers and anything else connected to access to information. It contains the following major parts-

Part I has the short title, the interpretation section as well as the objectives which include the requirement that public entities and private bodies should proactively disclose information that they hold and to provide information upon request among others and to provide for the protection of persons who release information of public interest in good faith.

Part II elaborates on the right to information, proactive disclosure and what is considered as exempt information.

Part III looks at access to information, the languages in which access to information application shall be made, the procedure of processing an application, the ability to transfer an application, providing access to information, correction of any information given as well as the fees payable.

Part IV deals with the review of decisions by the County Executive Member, Notices to interested persons, and elaborates on protection of persons making any disclosure. It also looks at how records shall be stored and managed. Additionally, it provides for the offence, alteration, defacement, blocking and erasure of the information given. It also provides for cases where the matter is defamatory in the information released.

Part V deals with the oversight and enforcement of the Act which includes the role, functions and powers of the Commission on Administrative Justice.

Part VI has the miscellaneous provisions such as reports and regulations.

2.14.2 County model law on citizen participation

The principal objective of this model law is to establish modalities and platforms for citizen participation in the governance of the country and for connected purposes. This model law was developed pursuant to Article 119 of the Constitution.

Part I contains the preliminary provisions such as the short title, interpretation of words used across the model law and the objectives and guiding principles.

Part II contains provisions on the establishment, composition and functions of the Directorate of Citizen Participation which includes establishment of the Directorate, committees of the Directorate, appointment and qualifications of members, and functions and powers of the Directorate. It also provides for tenure of committee members, remuneration, and removal from the Directorate, vacation of office, filing of vacancy, secretary, meetings, employees of the Directorate and protection from personal liability.

Part III contains provisions on citizen participation forums which include general citizen participation forums, county budget and economic forums, other consultative forums, sub-county, city and urban area citizen participation forums, ward or village citizen participation forums, affirmative action programmes, county communication framework, and notifications of citizen participation forums. The Part specifies assembly meetings shall be open to the public.

Part IV contains provisions on petitions which include: form of petitions, procedure for presenting a petition, consideration of petition, procedure in the investigation, publication of decision on petition, register of petitions, appeal against decision on a petition and petitions to assembly.

Part V contains financial provisions which include funds of the Directorate, financial year, annual estimates, accounts and audit and banks accounts.

Part VI contains miscellaneous provisions which include the performance management plan, executive committees' power of direction, annual report, management of information, publication of county government contacts, offences and penalty, and review and regulations.

2.14.3 Model law on affirmative action

The principal (main) objective of this model law is to provide for affirmative actions, to establish an implementation mechanism of affirmative action and all other matters related to affirmative action. This model law was developed pursuant to Article 27 of the Constitution.

Part I provides for the preliminary provisions such as the short title, interpretation of words and the purpose of the model law which includes provision of a framework for implementation of relevant Articles of the Constitution and prohibits discrimination under Article 27 (4) of the Constitution. This section also has a provision on the scope of application of the model law as well as the constitutional premise and prohibition.

Part II deals with the establishment of administrative framework and functions which include the obligation of a county government to develop affirmative action programs and the content of this program. This Part also has provisions on the recruitment, appointment, qualifications, tenure, remuneration, functions, powers and termination of a Director's term. Under this Part, the Director is obligated to submit a report on his/her operations every financial year.

Part III provides for administration which includes members of staff and the criteria to be followed in the process of recruiting and appointing them. It also has provisions on secondment of staff and disciplinary control.

Part IV contains miscellaneous provisions such as the establishment of *ad hoc* advisory committees, non-disclosure of confidential information, development of a code of conduct, a general penalty and the power to make regulations to enable effective implementation of the Act.

3.0 OPERATIONAL MODEL LAWS

3.1 Public Service

3.1.1 Model law on the County Assembly Public Service Board

This model law aims at providing for the establishment of a Public Service Board pursuant to Article 235 of the Constitution, to provide for the membership, powers and functions of the Board and all incidental matters. It contains the following key parts-

Part I contains the short title and the interpretation provisions.

Part II provides for the establishment of the Board and specifies the number and composition of members in the Board. It also makes provision on the qualifications for appointment as a member or a chairperson and the procedure for appointment. The guiding principles, general powers and functions of the board are also stated. All members of the board are required to take an oath before a magistrate or a commissioner of oaths on acceptance of their appointment. The powers of the chairperson are outlined and it gives room for the vice chair to act in the chairperson's absence. The tenure of office is one term of six years non-renewable. The model law outlines the circumstances in which any member may be removed from office and how such a vacancy may be filled.

Part III makes provision for investigations and inquiries by the Board including the powers the board has relating to investigations, the jurisdiction in which the investigations may be carried out and areas where the board is not allowed to investigate or inquire into. A person aggrieved by any matter relating to the county public service may complain to the Board in person or by proxy, orally or in writing to the secretary or any person authorized by the Board. The Board has the discretion not to investigate under certain circumstances outlined in the model law. This Part also provides for actions which may be taken on conclusion of investigations or inquiries such as prosecution in a case where a crime is discovered to have been committed.

Part IV provides for reporting, making of recommendations and the form in which they should be outlined and given to the Board. Where recommendations are not implemented within the specified time, the Board may submit the report to the County Assembly.

Part V is on the financial provisions including sources of funds of the Board, the financial year, the annual estimates, accounts and audit and that it is mandatory to open and maintain a bank account.

Part VI contains miscellaneous provisions including management of information, offences and penalties and power to make regulations under the model law.

Part VII provides for savings and transitional provisions.

First, Second and Third Schedules: These set out the procedure for appointment of members of the Board, the oath/affirmation for the office of the chairperson/member/secretary and the meetings and procedures of the Board, respectively.

3.1.2 Model law on county public service board

The objective of this model law is to provide for the membership, powers and functions of the various county public service boards. It contains the following major parts-

Part I- contains the preliminary provision of the bill which has the short title and the various interpretations of terminologies used in the model law.

Part II- contains the provisions for the establishment and status of the board, in this it provides for the various members of the board, gives the qualifications for the chairperson and a member of the board, procedure for appointment of members of the board, designation as secretary, the headquarters of the board, guiding principles of the board, the various functions of the board, oath of office for the chairperson, members and the secretary of the board, powers of the chairperson of the board, duty of the vice-chairperson in the absence of the chairperson, tenure of office of the chairperson and the members of the board, terms and conditions of service of the board and also provides for the duties and liabilities of the board and the appointment of staff to the board.

Part III- contains the mode and procedure to be followed by the board in carrying out its investigations and inquiries. It outlines the investigative powers, jurisdiction, and procedure for launching a complaint with the board.

Part IV- deals with reports and recommendations made by the board and reports made from the investigative arm of the board.

Part V- contains the financial provisions of the board which contains the funds of the board, the financial year of the board, annual estimates, accounts and audit and bank accounts of the board.

Part VI- contains the management of information of the board, offences under the board, report of the board to Governor, County Assembly and Senate and regulations made by the board.

SCHEDULES:

First Schedule- contains the procedure for appointment of members of the board.

Second Schedule - contains the oath or affirmation of the office of chairperson or a member or secretary.

Third Schedule - deals with the meetings and procedures of the board.

3.2 Model Laws on County Funds

3.2.1 Model law on county funds

The principal objective of this model law is to provide for the establishment, administration and use of the County Fund and for connected purposes. This model law was developed pursuant to Section 116 of the Public Finance Management Act.

Part I contains preliminary provisions such as the short title and interpretation of the words commonly used in the model law.

Part II contains provisions on the establishment of a County Fund to be managed by a Board. It also contains provisions on the object and purpose of the Fund. Further, the Bill contains provisions on the establishment of the Board, its composition and functions.

Part III contains provisions on the establishment of the Sub-County Fund Committees, their functions and the meetings of the committees.

Part IV contains provisions on application for a loan from the Fund by a person wishing to receive a loan from the Fund. It provides the eligibility criteria for a loan and for appeals to the Board.

Part V contains the financial provisions including capitalization of the Fund, Fund expenditure, a bank account, financial year, estimates of income and expenditure and accounts and audit.

Part VI contains the miscellaneous provisions. It empowers Committees, on the recommendation of the Board, to appoint officers and staff for the proper functioning of the Committees. It also contains provisions on the remuneration of members, the annual report and publication, offences and punishment, institution of criminal proceedings, offences by body of persons and civil proceedings. It protects the members from personal responsibility for things done in good faith and provides that the Executive Committee Member may, after consultation with the Board, make regulations for the proper functioning of the Board and smooth running of the Fund.

3.2.2 Model law on bursaries fund

The principal objective of this model law is to provide for the establishment, management and administration of the County Fund on Bursaries and connected purposes. This model law is developed pursuant to Section 116 of the Public Finance Management Act.

Part I contains the preliminary provisions such as the short title, interpretation of words used across the model law as well as its objectives, which include the establishment of a fund for bursaries to financially disadvantaged or needy students in the county.

Part II contains provisions on the establishment and administration of the County Bursaries Fund. It also establishes a committee to administer the county bursary, its composition and functions. It also provides for the removal from and vacancy of office members of the committee.

Part III establishes the ward bursary committees, and provides for their composition and functions.

Part IV of the model law contains provisions on the application for bursaries which includes the requirements of an applicant making application i.e. the minimum eligibility criteria, double funding, grant of a bursary, bursary disbursement and appeals on the bursaries.

Part V of the model law contains the financial provisions which include capitalization of the fund, bank accounts, estimates of income and expenditure. It also provides for the annual report and publication as well as the accounts and audit and the financial year.

Part VI of the model law contains miscellaneous provisions which include protection from personal liability, dispute resolution and the power of the executive committee member to make regulations.

4.0 CONCLUSION

The County Model Laws are designed as a measure to guarantee that county legislations are: development conscious, realigned towards best standards and are in conformity with the Constitution of Kenya 2010. The County Model Laws preparation, review and adaptation is therefore a continuous a pro-active process aimed at facilitating effective and harmonized legislation in the Kenyan counties. This summarized edition of the county Model Laws will thus provide readily available reference material for county legislation.





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