THE NAROK COUNTY ENVIRONMENT MANAGEMENT BILL, 2017

Bill for Introduction into the Narok County Assembly

NAROK COUNTY ENVIRONMENT MANAGEMENT BILL, 2017

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AN ACT of Narok County Assembly to give effect to the Fourth Schedule of the Constitution; to control and regulate air pollution, noise pollution, public nuisances and outdoor advertising; and for connected purposes

ENACTED by Narok County Assembly, as follows—
PART I - PRELIMINARY

Short title. This Act may be cited as The Narok County Environment Management Act, 2016

Interpretation

“air quality” means the concentration prescribed under or pursuant to this Act of a pollutant in the atmosphere at the point of measurement;

“ambient air” means the atmosphere surrounding the earth but does not include the atmosphere within a structure or within any underground space;

“beneficial use” means a use of the environment or any element or segment of the environment that is conducive to public health, welfare or safety and which requires protection from the effects of wastes, discharges, emissions and deposits;

“Council” means the Narok County Environment Management Council established under this Act;

“County Executive Member” means the County Executive Committee Member for the time being responsible for matter relating to environment and natural resources unless otherwise stated;

“conservation” means sustainable use of a resource within the natural ecosystem and habitat of the biological organism;

“County forest” means—

(a) any forest situated on community land which set aside as a forest by a County government pursuant to the provisions of Act;

(b) any arboretum, recreational park or mini-forest created of this Act;

“ecosystem” means a dynamic complex of plant, animal, micro-organism communities and their non-living environment interacting as a functional unit;

“effluent” means gaseous waste, water or liquid or other fluid of domestic, agricultural, trade or industrial origin treated or untreated and discharged directly or indirectly into the environment;

“environment” includes the physical factors of the surroundings of
human beings including land, water, atmosphere, climate, sound, odour, taste, the biological factors of animals and plants and the social factor of aesthetics and includes both the natural and the built environment;

"environmental education" includes the process of recognising values and clarifying concepts in order to develop skills and attitudes necessary to understand and appreciate the inter-relatedness among man, his culture and his biophysical surroundings;

"environmental management" includes the protection, conservation and sustainable use of the various elements or components of the environment;

"environmental organization" means a public benefits organization whose objective is to conserve the environment and natural resources and is duly registered as a community based organization, or a public benefits organization;

"environmental planning" means both long-term and short-term planning that takes into account environmental exigencies;

"environmental resources" includes the resources of the air, land, flora, fauna and water together with their aesthetical qualities;

"financial year" means the period of twelve months ending on the thirtieth June in every year;

"farm forestry" means the practice of managing trees on farms whether singly, in rows, lines, boundaries, or in woodlots or private forests;

"forest area" means any land declared to be a forest land under this Act;

"forest conservancy area" means an area established by the Council;

"forest conservation committee" means a committee established in each forest conservancy area or part thereof to advise the Council on all matters relating to the management and conservation of forests in that area;

"forest officer" includes the Chief Conservator of Forests, a forester, a disciplined officer assigned roles under the Second Schedule of the Forests Act, or an honorary forester;

"forest produce" includes bark, animal droppings, beeswax, canes, charcoal, creepers, earth, fibre, firewood, frankincense, fruit, galls, grass, gum, honey, leaves, flowers, limestone, moss, murrum, myrrh, peat, plants, reeds, resin, rushes, rubber, sap, seeds, spices, stones, timber, trees,
water, wax, withies, and such other things as may be declared by the Minister to be forest produce for the purpose of this Act;

“forestry” refers to the science of establishing, tending, utilising and protecting forest and tree resources, and includes the processing and use of forest and tree products;

“hazardous substance” means any chemical, waste, gas, medicine, drug, plant, animal or micro-organism which is likely to be injurious to human health or the environment;

“hazardous waste” means any waste which has been determined by the Council to be hazardous waste or to belong to any other category of waste provided for in this Act;

“indigenous forest” means a forest which has come about by natural regeneration of trees primarily native to Narok County;

“indigenous knowledge” means any traditional knowledge of sources, components, capabilities, practices and uses of, and processes of preparation, use and storage of plant and animal species and their genetic resources;

“intergenerational equity” means that the present generation should ensure that in exercising its rights to beneficial use of the environment the health, diversity and productivity of the environment is maintained or enhanced for the benefit of future generations;

“intragenerational equity” means that all people within the present generation have the right to benefit equally from the exploitation of the environment, and that they have an equal entitlement to a clean and healthy environment;

“lead agency” means any Government ministry, department, parastatal, state corporation or County government, in which any law vests functions of control or management or any element of the environment or natural resources;

“licence” means a permit or other written authorisation issued under any of the provisions of this Act;

“management plan” refers to a systematic programme showing all activities to be undertaken in a forest or part thereof during a period of at least five years, and includes conservation, utilisation, silvicultural operations and infrastructural developments;
“mini-forest” refers to a group of trees occupying less than ten hectares of land

“Ministry” means the Ministry for the time being responsible for matters relating to the environment;  

“natural resources” has the meaning provided under Article 260 of the Constitution;  

“non-consumptive use” in relation to a forest, means non-extractive use of forest;  

“noise” means any undesirable sound that is intrinsically objectionable or that may cause adverse effects on human health or the environment;  

“occupier” means a person in occupational or control of premises, and in relation to premises different parts of which are occupied by different persons, means the respective persons in occupation or control of each part;  

“ozone layer” means the layer of the atmospheric zone above the planetary boundary layer as defined in the Vienna Convention for the Protection of the Ozone Layer, 1985;  

“person” means a legal person;  

“pollutant” includes any substance whether liquid, solid or gaseous which—

(a) may directly or indirectly alter the quality of any element of the receiving environment;  

(b) is hazardous or potentially hazardous to human health or the environment; and includes objectionable odours, radio-activity, noise, temperature change or physical, chemical or biological change to any segment or element of the environment;  

“private forest” refers to any forest owned privately by an individual, institution or body corporate;  

“provisional forest” means any forest which has been declared a provisional forest by the council under this Act;  

“pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological, or radio-active properties of any part of the environment by discharging, emitting, or depositing wastes so as to affect any beneficial use adversely, to cause a condition which is hazardous or
potentially hazardous to public health, safety or welfare, or to animals, birds, wildlife, fish or aquatic life, or to plants or to cause contravention of any condition, limitation, or restriction which is subject to a licence under this Act;

"premises" include messages, buildings, lands, and hereditaments in every tenure and machinery, plant or vehicle used in connection with any trade carried on at any premises;

"refuse" means domestic or municipal solid waste, including garbage and rubbish, that require collection and transport to a processing or disposal site

"regulations" mean regulations made under this Act;

"soil" includes earth, sand, rock, shales, minerals, vegetation, and the flora and fauna in the soil and derivatives thereof such as dust;

"standard" means the limits of discharge or emissions established under this Act or under regulations made pursuant to this Act or any other written law;

"timber" means—
(a) any tree which has been felled or which has fallen; or
(b) the part of any tree which has been cut off or fallen, and all wood whether sawn, split, hewn, or otherwise fashioned;

"tree" means any timber producing plant, or shrubs, bush of any kind, and includes a seedling, sapling or reshoot of any age, or any part thereof;

"urban centre" means an area characterized by higher population density and vast human features than neighbouring areas, including towns

"trade" means any business or undertaking whether originally carried on at fixed premises or at varying places which may result in the discharge of substances and energy and includes any activity prescribed to be a trade, business or undertaking for the purposes of this Act;

"waste" includes any matter prescribed to be waste and any matter whether liquid, solid, gaseous or radioactive, which is discharged, emitted or deposited in the environment in such volume, composition or manner likely to cause an alteration of the environment;

"water" includes drinking water, river, stream, water-course, reservoir, well, dam, canal, channel, lake swamp, open drain, or underground water;
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“woodland” means an open stand of trees less than ten metres tall which has come about by natural regeneration
3. The purpose of this Act is to give effect to Article 69 of the Constitution to ensure sustainable exploitation, utilization, management and conservation of the environment and specifically to provide for—
   (a) promote and enhance county forest cover
   (b) regulate charcoal production;
   (c) regulate sand harvesting;
   (d) regulate public nuisances, including waste and disease control;
   (e) regulate the mining industry within the county;
   (f) control of air pollution;
   (g) control of noise pollution; and
   (h) regulate outdoor advertising;
   to ensure a clean and healthy environment.

4. The Council shall, in discharging its mandate—
   (a) be guided by the provisions of Article 1 of the Constitution on sovereignty of the people;
   (b) be guided by provisions of Article 10 of the Constitution on national values and principles of governance;
   (c) be guided by the provisions of Article 27 of the Constitution on the equality and freedom from discrimination;
   (d) be guided by the provisions of Articles 35 of the Constitution on access to information;
   (e) be guided by the provisions of Article 42 of the Constitution on environment;
   (f) be guided by the provisions of Article 47 of the Constitution on fair administrative action;
   (g) be guided by provisions of Article 176 of the Constitution on objects of devolution; and
   (h) be guided by the provisions of Article 232 of the Constitution on values and principles of public service;

5. The provisions of this Act shall be in addition to other requirements imposed by or under the Environmental Management and Coordination Act, 1999, or any other written law.
PART II—ESTABLISHMENT, POWERS AND FUNCTIONS OF THE NAROK COUNTY ENVIRONMENT MANAGEMENT COUNCIL

Establishment of the Narok County Environment Management Council

6. (1) There is established an unincorporated body to be known as the Narok County Environment Management Council.

(2) The Council shall be chaired by the County Executive Member of the Ministry for the time being responsible for matters relating to the Environment.

(3) The Director for the time being responsible for environment affairs shall be the secretary to the Council.

(4) The Directorate of Environment shall serve as the Secretariat of the Council.

(5) The headquarters of the Council shall be in Narok, but the Council may establish offices in the sub counties.

Functions of the Council

7. The functions of the Council shall be to-

(a) exercise general supervision and co-ordination over all matters relating to the environment

(b) be the principal instrument of County Government in the implementation of all policies relating to the environment;

(c) take stock of the natural resources in the County and their utilization and conservation;

(d) coordinate audit and determine the net worth or value of the natural resources in the County and their utilization and conservation;

(e) advise the County Government on measures for the management of the environment or the implementation of relevant international conventions, treaties and agreements in the field of environment;

(f) initiate and evolve procedures and safeguards for the prevention of accidents which may cause environmental degradation and evolve remedial measures;

(g) encourage voluntary environmental conservation practices;

(h) enhance environmental education, public awareness and public participation;

(i) coordinate with other lead agencies to issue guidelines and prescribe measures to achieve and maintain a tree cover of at least ten per cent of the land area of the County;

(j) collaborate with such other bodies or organizations within or outside Narok as it may consider desirable or appropriate to aid in furtherance of the purposes for which the Council is established;
8. (1) The Council shall comprise not more than nine members who shall be appointed by the County Executive Member of the Ministry for the time being responsible for matters relating to the Environment.

(2) The Council shall be constituted as follows—

(a) Chairperson shall be the County Executive Member of the Ministry for the time being responsible for matters relating to the Environment.
(b) The Director for the time being responsible for environment affairs shall be the secretary to the Council
(c) a representative of the County Executive Member responsible for the County Treasury;
(d) a representative from Kenya Forest Service;
(e) Representative from office of the president in charge of security at the County level;
(f) representative from the National Environmental Management Authority;
(g) a representative of the private sector nominated by the body representing the largest number of institutions in the private sector in Narok; and
(h) a representative of the Civil Society Organizations nominated by the most representative registered national umbrella association of civil societies working on environment in Narok;

(3) A person appointed under subsection (2) (g), and (h), shall—

(a) have expertise and experience either in matters of climate change, economy, finance, law, environment or public administration;
(b) be qualified for appointment as member of the Council if such person—
    (i) is a citizen of Kenya;
    (ii) fulfills the requirements of Chapter 6 of the Constitution;
    (iii) has at least 5 years' experience in the relevant field.

(4) The names of persons nominated for appointment under subsection (2) (g) and (h) shall be submitted to County Assembly for approval.

(5) County Executive Member of the Ministry for the time being responsible for matters relating to the Environment shall in the appointment of members ensure compliance with the two thirds gender principle.

(6) The Council may co-opt members with relevant expertise when needed to advice on specific matters.

(7) The members of the Council shall be paid such allowances as the
Salaries and Remuneration Commission may determine.

(8) The Council shall meet at least four times in a year.

Committees of the council.

9. (1) The council may from time to time establish ad hoc committees for the better carrying out of its functions and in the exercise of its powers.

(2) The council may co-opt into the membership of the committees established under subsection (1) persons whose knowledge and skills are necessary for the functions of the Council.

(3) A person co-opted under subsection (2) may not vote on any matter before the Committee.

Code of conduct.

10. The council shall, by Regulations, prescribe a Code of Conduct for members of the Council and staff of the Council.
PART III – PROVISIONS IN RELATING TO FORESTS

11. The council shall declare any land under the jurisdiction of the Narok County to be a county forest where—

(a) the land is an important catchment area, a source of water springs, or is a fragile environment;

(b) the land is rich in biodiversity or contains rare, threatened or endangered species;

(c) the forest is of cultural or scientific significance; or

(d) the forest supports an important industry and is a major source of livelihood for the local community.

12. The council shall register a forest under this section where such forest meets the criteria prescribed in regulations made under this Act.

(a) Upon registration under subsection (1), the owner of a private forest which includes arboreta and recreational parks, shall be entitled to receive from the Council—

   i) technical advice regarding appropriate forestry practices and conservation;

   ii) subject to availability of funds, loans from the Fund for the development of the forest, provided that the funds are obtained and utilised in accordance with the procedures set out by the Council.

(b) A person who owns a private forest, including a forest in the course of establishment, on land owned by the person may apply to the Council for registration under this section.

(c) A person who establishes or owns a private forest may apply to the relevant authorities for exemption from payment of all or part of the land rates and such other charges as may be levied in respect of the land on which the forest is established.
13. Upon the recommendation of the council, the County Executive Member may, by order published in the Gazette, declare any private forest, which in the opinion of the Council is mismanaged or neglected, to be a provisional forest.

14. A provisional forest shall revert to the owner where the council is satisfied that it has been adequately rehabilitated and the owner has given an undertaking to efficiently manage it.

15. The council may, upon reversion of a provisional forest, prescribe for observance by the owner such conditions as may be necessary to ensure compliance with the provisions of this Act.

16. In every sub-county, there shall be established and maintained an arboretum, mini-forests or recreational parks for the non-consumptive use of persons residing within its area of jurisdiction.

17. For purposes of this section, the county government may in consultation with the Council prescribe conditions as to the species of trees to be planted in a mini-forest, arboretum or recreational park.

18. All indigenous forests and woodlands shall be managed on a sustainable basis for purposes of—

(a) conservation of water, soil and biodiversity
(b) riverline and shoreline protection;
(c) cultural use and heritage;
(d) recreation and tourism;
(e) sustainable production of wood and non-wood products;
(f) carbon sequestration and other environmental services;
(g) education and research purposes;

19. In pursuance of subsection (18), the Council shall, in consultation with the community forest associations and forest conservation committee for the forest conservancy area where the indigenous forest is situated, prepare forest management plans.
PART IV - PROVISIONS IN RELATING TO CHARCOAL REGULATION AND CONTROL

Charcoal Producers Associations

20. All commercial charcoal producers are required to organize themselves and form Charcoal Producer Associations.

Responsibilities of a Charcoal Producer Association

21. The responsibilities of a Charcoal Producer Association are—

(a) Facilitate sustainable production of charcoal by members;

(b) Ensure that members implement the restoration and conservation plans;

(c) Develop and implement a code of conduct for its members for self regulation; and

(d) Assist the county Government and the Kenya Forest Service in enforcing the provision of this Act relating to sustainable charcoal production, transportation and marketing.

Formation and Licensing

22. The charcoal producer association formation shall include —

(a) List all members and their addresses;

(b) Prepare their constitution and rules;

(c) Register as an association with the registrar of societies and compliance to all statutory requirements;

(d) List operational areas of the group and their scope of work;

(e) List the group’s record of activities relating to charcoal production and transportation;

(f) Give information relating to land ownership;

(g) Give a record of the present activities on the land;

(h) Provide list of intended technology to be used in charcoal production;

(i) Provide information on the quantity of charcoal they produce;

23. A Charcoal Producer Association that meets all the requirements shall
be issued with a license.

Enforcement

24. The Enforcement under this Act shall be carried out by the County enforcement officers under the department, and shall be assisted by other state agencies where necessary

Powers of the Enforcement Team

25. The enforcement officers may—

(a) Demand from any person the production of an authority or license for any act done or committed by that person in a County or provisional forest, or in relation to any forest produce for which a license required under this Act or under any rules made hereunder;

(b) Require any person found within or without a County or provisional forest who has in his possession any forest produce suspected to have been taken from such forest, to give an account of the manner in which he became possessed thereof, and, where the account given is not satisfactory, arrest and take such person before a magistrate.

(c) Search any person suspected of having committed an offence under this Act or of being in possession of any forest produce in respect of which an offence has been committed, and arrest the person, seize conveyance, tent, hut or building under the control of that person or his agent or servant,

Provided that no person shall be arrested under this section unless the enforcement officer has reasonable cause to believe that that person may fail to appear to answer summons, or unless that person refuses to give his name and address or gives a name and address which there is reasonable cause to believe is false;

(d) Search any vehicle or any vessel and seize and detain any forest produce in respect of which there is reason to believe that an offence has been committed, together with any tools, equipment, vessels, vehicles or livestock used in the commission of the offence.

(e) Confiscate any equipment or receptacle placed without authority in a County forest.

Offences and Penalty

26. Any person who, without lawful authority—

(a) Marks any forest produce, or affixes upon any forest produce, a mark ordinarily used by a forest officer to indicate that the forest produce is the property of the County Government, or that it may or has been lawfully cut or removed;

(b) Alters, obliterates, removes or defaces any stamp, mark, sign, license, permit or other document lawfully issued under authority of this Act, or removes or destroys any part or a tree bearing the stamp or other mark used by any forest officer;
(c) Covers any tree stump in any County forest or any County alienated land with brushwood or earth, or by any other means whatsoever conceals, destroys, or removes or attempts to conceal, destroy or remove such tree stump or any part thereof;

(d) Wears any uniform or part of a uniform, or any badge or other mark issued under the regulations of the enforcement officers, or who in any other way holds himself out to an employee of a disciplined force; or

(e) Possesses, counterfeits or issues any license or document purporting it to be a license or document issued under this Act or any rules made hereunder, commits an offence and shall be liable on conviction to a fine of not less than two hundred thousand Kenya shillings, or to imprisonment for a term of not less than three years, or to both such fine and imprisonment.

Other Offences 27. Any person who—
(a) Commits a breach of, or fails to comply with the provisions of this Act;
(b) Commits a breach of, or fails to comply with any of, the terms or conditions of a license issued to him under this Act;
(c) Fails to comply with a lawful requirement or demand made or given by a law enforcement officer;
(d) Obstructs a person in the execution of his powers or duties under this Act;
(e) Makes or is found in possession of charcoal in a county and/or private farmland without a license or permit of the owner as the case may be; Commits an offence and is liable on conviction to a fine of not less than fifty thousand Kenya shillings or to imprisonment for a term of not less than one year, or to both such fine and imprisonment.

28. Any person who, in any forest area—;
(a) Introduces any exotic genetic material or invasive plants without authority from the County Government;
(b) Dumps any solid, liquid, toxic or other wastes;
(c) Grows any plant from which narcotic drugs can be extracted; or
(d) Extracts, removes or causes to be removed, any tree, shrub or part thereof for export,
(e) Destroys or cuts down an endangered species of tree, shrub or other plant thereof; Commits an offence and is liable on conviction to a fine of not less than two hundred thousand shillings, or a jail term
of not less than three years or both.
PART V – PROVISIONS RELATING TO PUBLIC NUISANCES

Responsibilities of the Council

29. The Council in furtherance of its duties and responsibilities under this part shall—

(a) compel occupiers or, in the case of vacant premises, owners, to keep their premises free from offensive or unwholesome matter;

(b) monitor the keeping of animals, birds and bees at their premises by any owner or occupier, so that their keeping or the premises are not constructed, situated, used or kept in such manner as to be a public nuisance, or otherwise offensive, or injurious to public health;

(c) take such steps and measures as may be necessary for securing the prevention and destruction of insects, fungi and any other pests which attack timber in buildings and felled timber, and for preventing and eradicating the infestation of any such timber;

(d) take measures for the destruction and suppression of rats and vermin within the county, and to set traps or take other measures necessary for the purpose on any land whether within or outside its area, with the consent of the county government;

(e) establish and maintain sanitary services for the removal and destruction of, or otherwise dealing with, all kinds of refuse and effluent;

(f) take such measures as may be necessary for preventing or stemming the flow of any noxious matter or waste water flowing or discharged from any premises, into the street, any water course, irrigation canal or other places not approved for the reception of such discharge; and

(g) Take other necessary steps under the Act.

30. The Council shall, if satisfied that a public nuisance exists, serve a notice on the owner, or, if the owner cannot be found, on the occupier of the premises where the nuisance exists, requiring such owner or occupier, as the case may be, to remove the nuisance within the period specified in the notice.

31. The Council may further instruct the owner or occupier under section (30) to take additional measures in order to prevent a recurrence of the
nuisance.

32. A person who fails to comply with a notice issued under section (29) to remove the nuisance within the period specified in the notice commits an offence.

33. Any person who, except with a written permit from the Council, and subject to such conditions as the Council may impose in this regard under this Act, keeps within an urban area of the county a game animal or reptile or any ass, mule, ox, bull, or cow, goat, sheep or pig commits an offence.

34. Upon conviction such person shall be liable to a fine of fifty thousand shillings or imprisonment for a term not exceeding six months or to both.

35. The Council may remove any of the species of animals referred to in section (33) which has been kept or left in a street in contravention of this Act, and impound the same.

36. The keeper of any of the species of animals which has been removed in pursuance of section (34) shall not be entitled to recover the same until he or she pays such fees and expenses as may be prescribe by the Council for the upkeep of the animal.

37. If a keeper fails to pay the fees and expenses under subsection (3), the Council may sell or otherwise dispose of the animal, by auction or any other means, and the proceeds of such disposal shall be set off against the outstanding fees and expenses incurred by the Council in the removal or disposal of the animal.

38. Any person who, on any street—
   (a) ignites any firework;
   (b) without a permit for the purpose of hawking, selling, distributing or otherwise outdoor advertising any article or event, shouts or uses any bell, gong, or other noisy instrument or loudspeaker;
   (c) without a permit, draws, wheels or drives any vehicles or carries any placard used solely or chiefly for the purpose of exhibiting
(d) without a permit for the purpose of outdoor advertising, distributes any hand bill or other paper;
(e) performs any act contrary to public decency;
(f) without statutory authority, defaces the footway or roadway by writing or other marks;
(g) places or deposits and leaves any glass, china, earthenware, tin, carton, paper, sawdust or other rubbish so as to create or tend to create litter;
(h) throws down or leaves any orange peel, banana skin, or other substance likely to cause a person to fall down;
(i) to the inconvenience or danger of any person, carries or conveys any bag of lime, charcoal, or other offensive material, timber or any pointed or edged tools or implements not properly guarded;
(j) plays any game in such a manner as to cause the likelihood of damage to any property, or danger to any person;
(k) while being in charge of any dog, allows such dog to foul any path and fails to remove the stool;
(l) without a permit, lights or maintains, or causes to be lit or maintained, any fire or brazier in the protected area;
(m) rides or drives any animal on a footpath;
(n) defecates or urinates;
(o) touts for passengers; or
(p) fails to observe traffic lights or the zebra crossing or any other public directional signs,

commits an offence and shall be liable, upon conviction, to a fine of fifty thousand shillings or imprisonment for a term not exceeding six months or to both.
PART VI - PROVISIONS IN RELATING TO WASTE MANAGEMENT

Responsibilities of the Council.

39. The Council shall take all such steps as are necessary—

(a) for the effective management of solid waste in order to safeguard public health, ensure that the waste is collected, stored, transported, recycled, reused or disposed of, in an environmentally sound manner and promote safety standards in relation to such waste;

(b) to promote public awareness of the importance of efficient solid waste management and foster understanding of its importance to the conservation, protection and proper use of the environment;

(c) To perform such other functions pertaining to solid waste management as may be assigned to it or under this Act or any other enactment.

40. In performing the functions specified in subsection (39) the Council may—

(a) provide facilities for the collection, treatment and disposal of solid waste;

(b) institute measures to encourage waste reduction and resource recovery;

(c) introduce cost recovery measures for services provided by or on behalf of the Council;

(d) establish procedures and develop, implement and monitor a plan and other plans and programmes relating to solid waste management;

(e) formulate standards, guidelines and codes of practice relating to solid waste management and monitor compliance with such standards, guidelines and codes.
41. The Council shall enforce all Regulations on Waste Management in liaison with the office of the Governor through -

(a) It shall be the responsibility of person who generates waste to control such waste from the time of generation, to store and to take it to constructed or installed bins for the purposes of final disposal by the department.

(b) A person who having generated waste, disposes or dumps waste of any kind on street, highway, a park, outdoor, open field or at any other place to cause public nuisance commits an offence.

(c) It shall remain the responsibility of the person who generates waste to participate in waste management at all levels through groups, committees, associations or any other forum in ensuring a clean and safe environment for all.

42. The Council shall be responsible for-

(a) establishment and implementation of a solid waste management strategy;

(b) enforcement of all regulations aimed at keeping a clean environment;

(c) collection, storage and disposition of waste from public places in an appropriate manner; and

(d) establishment, empowerment and maintenance of towns, estates and market environment committees.

43. This Act shall recognize any efforts made by an individual, organizations, groups, institutions and especially Town, Estates and Market committees in ensuring a clean, safe and healthy environment for all so long as the efforts, regulations or acts are within the law.

44. A person who—

(a) unlawfully, removes any solid waste from a disposal facility or from any place under the control of the council;

(b) interferes or tampers with any disposal facility or any place
where solid waste is stored or kept by the Council;

(c) Disposes off solid waste in any area or in any manner not approved by the Council under this Act or any regulation hereunder commits an offence and shall be liable to imprisonment for a term of 6 months or a fine of one hundred thousand shillings or both.

45. In any proceedings under this section, it shall be a defense to prove that the act that is the subject matter of the proceedings was authorized by law or was done with the consent of the owner or occupier of the public place or building, wall, fence or structure, as the case may be.

46. Any person who throws, drops or otherwise deposits or leaves any litter in any premises owned or occupied by another person without the consent of that other person, the proof where of shall lie on the person charged.
PART VI PROVISIONS RELATING TO AIR POLLUTION

Responsibilities of the Council.

47. The Council in furtherance of its duties and responsibilities under this part shall —

(a) Promote alternative cooking technologies that are non polluting;

(b) Recommend the Grant of licenses to operators of private premises;

(c) recommend for development of well ventilated buildings;

(d) establish smoking zones and regulate smoking in public spaces;

(e) set limits of aerial spraying within farmlands and issue the clearances for such spraying;

(f) Promote tree planting and expansion of forest cover in abatement of air pollution;

(g) Designate and licence controlled facilities for purposes of regulating air emissions deemed harmful to the environment;

(h) Recommend the pollution levels from various sources necessary for protection of the environment;

(i) Perform such other functions that are necessary for the control of air pollution under this Act and any other written Act.

Responsibility of owner or operator of controlled facility

48. Every owner or operator of a controlled facility shall ensure that emissions from the facility do not cause air pollution in any territory outside the facility, in excess of the prescribed relevant ambient air quality levels.

Responsibility of occupier or operator of premises

49. The occupier or operator of premises shall ensure that exposure of indoor air pollutants does not exceed the exposure limits stipulated under the Factories and Other Places of Work (Hazardous Substances) Rules, 2007, and any other written law.

50. The County Department responsible for matter related to environment shall make regular inspection and ensure indoor pollutants do not exceed the recommended levels.
Permitted operations.  

51. Subject to any national legislation, the following operations shall be permissible within the county provided that they are not used for the disposal of refuse—
(a) back-burning to control or suppress wildfires;
(b) firefighting rehearsals or drills conducted by county fire service agencies;
(c) traditional and cultural burning of savanna grasslands;
(d) burning for purposes of public health protection; and
(e) Emissions of air pollutants from all stationary and mobile sources as may be prescribed.

Granting or renewal of licenses  

52. The Council may raise objection in granting or renewing a license relating to—
(a) the use of premises as a theatre, music hall, concert room or other place of amusement, or as a restaurant or eating house; or
(b) the use of premises for the carrying on of any work or trade,

Liaising with other departments and agencies  

53. The Council shall, in collaboration with other county departments and relevant agencies of the National government—
(a) provide methods of abating and regulating air pollution;
(b) determine protected areas and special areas for the purpose of this Act; and

Offence  

54. A person shall not act in a way that directly or indirectly causes, or is likely to cause, air pollution contrary to this Act.

55. Any person found acting in contravention of this part commits an offence and shall upon conviction be liable to a fine of up to a maximum of two million shillings or imprisonment for a term not exceeding six months or to both.
PART VII - PROVISIONS RELATING TO NOISE POLLUTION

Responsibilities of the Council.

56. The Council in furtherance of its duties and responsibilities under this part shall—

(a) control noise in special areas like school, hospital, laws courts, hospital, research institutions, residential areas, and libraries;

(b) regulate high noise levels associated with commercial machinery, public transportation and social activities;

(c) regulate the businesses, factories and workshops which, by reason of noise, or other cause, become a source of danger, discomfort or annoyance to the neighborhood;

(d) monitor the fulfillment of the conditions subject to which such businesses, factories and workshops shall be carried on under this Act; and

(e) Take any other steps for implementing the county policy and strategy on control of noise pollution under this Act.

(f) Offences and fines
PART VIII - OUTDOOR ADVERTISING AND MISCELLANEOUS

Regulations

57. The Council may, with the approval of the county executive committee, make Regulations for the better carrying out of the purposes and provisions of this Act.

58. Without prejudice to the generality of paragraph (57), the regulations made under this Act may prescribe for—

(a) regulating the businesses, factories and workshops within the county which, by reason of smoke, fumes, chemicals, gases, dust, smell, or any other cause, may become a source of danger, discomfort or annoyance to the neighborhood;

(b) controlling emission of fumes from vehicles;

c) prohibiting or controlling the display of advertisements and advertising devices in or in view of any street or other public place or in such places or in such manner or by such means as would, in the opinion of the department, be likely to affect injuriously the amenities of or to disfigure any neighborhood;

(d) regulating the use and passage of advertising vans, lanterns, flags, screens or other moveable advertising devices;

(e) regulating the distribution of handbills in or along any street or other public places;

(f) controlling street decorations, and prohibiting or controlling the erection and removal of temporary platforms, seats and other structures for the use of the public at any meeting or entertainment or for the accommodation of spectators at any procession;

(g) regulating the size of the bill boards and the number that may be erected on a road reserve;

(h) the procedure and manner of issuing a permit for outdoor advertising and application for such a permit under section 48; and

(i) such fees and expenses as may be payable for any permit or other authorization relating to the control of air pollution, noise pollution, any public nuisance or outdoor advertising to be issued under the
Act.

59. Every application for a permit for outdoor advertising under this Act shall be made in writing to the Council.

60. The procedure and manner of application for a permit and issuing a permit under section (59) shall be prescribed by Regulations.

61. Any person who in or in view of any street or public place, erects, fixes, places, maintains, displays or uses, or permits to be erected, fixed, placed, maintained, displayed or used, any advertisements devise without first obtaining a permit, or otherwise than in accordance with the terms and conditions of permit, commits an offence and shall be liable, upon conviction, to a fine of fifty thousand shillings or imprisonment for a term not exceeding six months or to both.

PART IX - REGULATIONS

62. The County Executive Member may, on the recommendation of the Council and upon consultation with the relevant lead agencies, make regulations prescribing for matters that are required or permitted by this Act to be prescribed or are necessary or convenient to be prescribed for giving full effect to the provisions of this Act.

63. Regulations made under section (62) may—
   a) make provisions for the issue, amendment and revocation of any licence;
   b) provide for the charging of fees and levying of charges;
   c) adopt wholly or in part or with modifications any rules, standards, guidelines, regulations, bylaws, codes, instructions, specifications, or administrative procedures prescribed by any lead agency either in force at the time of prescription or publication or as amended from time to time.
64. Where this Act imposes a requirement for public consultation in matters relating to Environment policy, strategy, programme, plan or action, the Council or respective public or private entity shall publish a notice –

(a) in the Gazette;
(b) in at least two newspapers with national circulation;
(c) in at least one newspaper circulating in the locality to which the Environment policy, strategy, programme, plan or action relates; and
(d) in at least one Kenyan radio station broadcasting in that locality.

65. The notice shall in each case –

(a) set out a summary of the policy, strategy, programme, plan or activity;
(b) state the premises at which the details of the policy, strategy, programme, plan or action may be inspected;
(c) invite written comments on or objections to the policy, strategy, programme, plan or action;
(d) specify the person or body to which the comments are to be submitted; and
(e) specify a date by which the comments or objections are required to be received, not being a date earlier than sixty days after publication of the notice;

66. The council or public or private entity shall make arrangements for the public to obtain copies, at a reasonable cost, of documents relating to the policy, strategy, programme, plan or action which are in the possession of the respective entities.

67. The Council or the respective public or private entity shall consider the –

(a) written comments or objections received on or before the date specified under paragraph 65(e); and
(b) comments, whether in writing or not, received at a public meeting held in relation to the policy, strategy, programme, plan or action at which the Council or respective public or private entity was represented, or by any other invitation, to comment.

68. The Council or the respective public or private entity shall publish, in accordance with paragraph 1 of this Schedule, notice of the fact that a copy of the written decision of the Council or the respective public or private entity relating to the policy, strategy, programme, plan or action, and the reasons thereof, is available for public inspection at the same premises as were notified under paragraph 57(b).

69. Where regulations made under this Act so require, the Council or respective public or private entity shall cause a public meeting relating to a policy, strategy, programme, plan or action to be held before the Council or the respective public or private entity makes its decision on the policy, strategy, programme, plan or action.
SECOND SCHEDULE
Provisions as to the conduct of the business and affairs of the Council

70. The Council shall meet as often as may be necessary for the purpose of carrying out its business but it shall meet at least four times in every year.

71. A meeting of the Council shall be held on such date and at such times as the chairperson shall appoint.

72. The chairperson shall, on the written application of at least one-third of the members, convene a special meeting of the Council.

73. Unless the majority of the total membership of the Council otherwise agree, at least fourteen days' written notice of every meeting of the Council shall be given to every member of the Council.

74. The quorum for the conduct of business at a meeting of the Council shall be five members of the Council.

75. The chairperson shall preside at every meeting of the Council and in the absence of the chairperson at a meeting, the members present shall elect one of their members to preside and that member shall, with respect to that meeting and the business transacted at that meeting, have all the powers of the chairperson.

76. Unless a unanimous decision is reached, a decision on any matter before the Council shall be by concurrence of a majority of all the members.

77. Subject to paragraph 74, no proceedings of the Council shall be invalid by reason only of a vacancy among the members thereof.

78. The Chief Executive Officer shall be the secretary at all meetings of the Council.

79. The Council shall cause minutes of all proceedings of meetings of the Council to be entered in books for that purpose.

80. Except as provided by this Schedule, the Council may regulate its own procedure.
The Narok County Bursary Fund Act, 2013

THE NAROK COUNTY BURSARIES ACT, 2013

An Act for

AN ACT of Narok County Assembly to provide for the establishment of a Board for the management of a Fund to be used for granting bursaries to assist students to obtain education at recognized institutions within Kenya and for matters incidental thereto and connected therewith

ENACTED by Narok County Assembly as follows—

PART I-PRELIMINARY

1. This Act may be cited as the Narok Bursaries Act, 2013
2. In this Act, unless the context otherwise requires—

"Board" means the Bursaries Management Board established under section 5 of this Act;

"Committee" means Ward Bursaries Committee established under section 11 of this Act;

"education" means primary, secondary and tertiary education;

"Executive Committee Member" means County Executive Committee Member in charge of finance.

"Fund" means Bursaries Fund established by section 3 of this Act;

"Secretary" means secretary to the Board appointed under section 6 of the Act;

"student" means any student who is domiciled in Narok County and admitted to education institution on full time course basis.

PART II-ESTABLISHMENT AND ADMINISTRATION OF THE FUND

3. (1) There is hereby established a Fund to be known as the Bursaries Fund which shall be managed and administered by the Board.

(2) The object and the purpose of the Fund shall be to provide funds to be used for granting bursaries to assist students to pursue education at such recognized institutions.

4. (1) The sources of funds for the Fund shall consists of—

(a) sums of money which may from time to time be voted by County Assembly for that purpose; and

(b) any gifts, donations, grants and endowments made to the Fund.

(2) There shall be paid out of the Fund any expenditure approved by the Board and
incurred in connection with the administration of the Fund.

PART III-ESTABLISHMENT AND FUNCTIONS OF THE BOARD

5. (1) There is hereby established a Board to be known as the Bursaries Management Board which shall be a body corporate with perpetual succession and a common seal.

(2) The Board shall be capable in its corporate name of-

   (a) suing and being sued;

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

   (c) entering into contract;

   (d) borrowing and lending money; and

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

6. (1) The Board shall consist of the following persons appointed by the Governor—

   (a) Chairman;

   (b) Six members;

   (c) Secretary; and

   (d) such other persons not more than three as the Board may co-opt from time to time.

(2) The members of the Board other than the Secretary and persons appointed under subsection 1(d) members shall hold office for a period of three consecutive years and may be eligible for re-appointment.

(3) The office of a member of the Board, other than the Secretary and persons appointed under subsection 1(d) members shall fall vacant -

   (a) if he submits his resignation in writing under his hand to the Governor through the Secretary;

   (b) if the Board is satisfied that such a member is by reason of his physical or mental infirmity unable to execute the functions of his office;

   (c) if he has been adjudged bankrupt by a competent court of law or has committed a criminal offence which directly or otherwise reflects adversely on his status as a member of the Board;

   (d) if he is found to have been in contravention of Chapter Six of the Constitution of Kenya; or
(c) upon his death.

(5) Where the office of a member becomes vacant under subsection (4), the Secretary shall forthwith notify the vacancy to the appointing authority for appropriate action.

7. (1) The Secretary shall be the Chief Executive of the Board, and shall be responsible for the management of the day-to-day activities of the Board.

(2) The Secretary shall hold office for five years and shall be eligible for re-appointment.

(3) The Secretary shall be the head of the Secretariat and shall be responsible to the Board in ensuring that the Secretariat satisfactorily carries out duties and performs functions assigned to it by the Board.

(4) The Secretary shall be an ex officio member of the Board and shall have no right to vote at the meetings of the Board.

8. The functions of the Board shall be -

(a) to formulate sound policies for regulating the management of the Fund;

(b) to raise and solicit for funds and other assistance to promote the functions of the Board;

(c) to set the criteria and conditions governing the granting of bursaries;

(d) to receive any gifts, donations, grants or endowments made to the Board, and to make legitimate disbursements therefrom;

(e) to establish and maintain links with other persons, bodies or organizations within or outside Kenya, as the Board may consider appropriate for the furtherance of the purposes for which the Board is established;

(f) to grant bursary fund, as the Board may deem fit, to eligible students upon recommendation of the Committee;

(g) to consider and entertain appeals from the Committee; and

(h) to perform and exercise all other functions and powers conferred on the Board by this Act.

9. (1) The Chairman shall preside at all the meetings of the Board unless he is absent from a particular meeting in which case the members present shall elect one of themselves to preside at that particular meeting or part thereof.

(2) The Board shall meet at least once in every two calendar months, but the chairman shall, upon requisition in writing by at least four members, convene a special meeting of the Board at any time.

(3) The quorum necessary for transaction of the business of the Board shall be five members:
Provided that the quorum at any requisitioned meeting shall be any number of the members of the Board entitled to attend such meeting and the meeting shall be free to adopt any procedure therein suitable in the circumstances.

(4) All questions at any meeting of the Board shall be determined by a simple majority of the votes of the members present and voting.

(5) The Chairman shall, in case of equality of votes, have an original and a casting vote.

(6) The Secretary shall cause minutes and proceedings of all the Board's meetings to be entered into the Minute-Book kept for that purpose.

(7) Subject to this Act, the Board shall regulate its own proceedings.

10. The Board may delegate to the Committee, any of its member, officer, employee or agent such of its powers and duties as it may deem necessary.

PART IV- ESTABLISHMENT AND FUNCTIONS OF WARD BURSARIES COMMITTEES

11. There is established Ward Bursaries Committee in each Ward.

12. (1) The Committee shall consist of—

(a) Ward Administrator who shall be the Chairman;

(b) Member of County Assembly Nominee;

(c) A representative of the youth;

(d) A representative of women;

(e) A representative of religious community;

(f) Bursaries Co-ordinator who shall be the Secretary.

(2) The members of the Committee other than the Bursaries Co-ordinator shall hold office for a period of three consecutive years and may be eligible for re-appointment.

(3) The office of a member of the Board, other than the Bursaries Co-ordinator appointed under subsection 1(d) members shall fall vacant -

(a) if he submits his resignation in writing under his hand to the Governor through the Secretary;

(b) if the Board is satisfied that such a member is by reason of his physical or mental infirmity unable to execute the functions of his office;

(c) if he has been adjudged bankrupt by a competent court of law or has committed a criminal offence which directly or otherwise reflects adversely on his status as a member of the Board;

(d) if he is found to have been in contravention of Chapter Six of the Constitution of
The Narak County Bursary Fund Act, 2013

Kenya; or

(e) upon his death.

(5) Where the office of a member becomes vacant under subsection (4), the Bursaries Co-ordinator shall forthwith notify the vacancy to the appointing authority for appropriate action.

13. (1) The Bursaries Co-ordinator shall be the Administrator of the Committee, and shall be responsible for the management of the day-to-day activities of the Committee.

(2) The Bursaries Co-ordinator shall hold office for five years and shall be eligible for re-appointment.

(4) The Bursaries Co-ordinator shall be an ex officio member of the Committee and shall have no right to vote at the meetings of the Committee.

14. The functions of the Committee shall be -

(a) to receive and consider bursary applications;

(b) to recommend to the board the grant and award of bursaries to eligible students;

(c) to conduct research and maintain data on the eligibility of students for bursaries;

(d) to monitor the academic performance of bursaries recipients; and

(e) to perform and exercise all other functions and powers conferred on the Committee by this Act.

15. (1) The Chairman shall preside at all the meetings of the Committee unless he is absent from a particular meeting in which case the members present shall elect one of themselves to preside at that particular meeting or part thereof.

(2) The Committee shall meet at least once in a calendar month, but the chairman shall, upon requisition in writing by at least four members, convene a special meeting of the Committee at any time.

(3) The quorum necessary for transaction of the business of the Committee shall be three members:

Provided that the quorum at any requisitioned meeting shall be any number of the members of the Board entitled to attend such meeting and the meeting shall be free to adopt any procedure thereat suitable in the circumstances.

(4) All questions at any meeting of the Committee shall be determined by a simple majority of the votes of the members present and voting.

(5) The Chairman shall, in case of equality of votes, have an original and a casting vote.

(6) The Bursary Co-ordinator shall cause minutes and proceedings of all the Committee’s meetings to be entered into the Minute-Book kept for that purpose.
(7) Subject to this Act, the Committee shall regulate its own proceedings.

PART V-APPLICATION FOR BURSARIES

16. (1) Every student wishing to be considered for the grant of bursary shall make an application to the Committee in a prescribed form.

(2) the Committee may accept or reject any application for a bursary.

(3) if the Committee accept the application, it shall recommend to the Board to grant bursary to the eligible student.

(4) if the Committee rejects the application, it shall notify the applicant such rejection in writing and the reasons thereof.

17. Any applicant aggrieved by the decision of the Committee may appeal to the Board within thirty days of the Committee’s decision.

PART VI-ADMINISTRATION AND FINANCE

18. (1) The Board shall appoint such officers and other staff as are necessary for the proper management of the Fund and discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

(2) The principal management structure of the Board shall be established or varied by the Board with the approval of the Governor.

19. (1) A bank account of the Fund shall be opened and maintained at the commercial bank approved by the Executive Committee Member.

(2) The signatories to the account of the Fund maintained in accordance with subsection (1), shall be the Secretary and three other persons appointed by the Board from amongst its members.

(3) The signing instructions shall be such that the signature of the Secretary shall be mandatory on all payment cheques and / or instruments intended for actual release of money from the fund, plus any two of the other three signatories.

20. (1) The Board shall submit to the Executive Committee Member an estimate of its income and expenditure during the succeeding financial year three months before the commencement of the financial year for approval.

(2) The annual estimates shall make provisions for all the estimates of expenditure of the Board for the financial year and shall provide for -

(a) the grant of bursaries to eligible students;

(b) the cost of administration of the Board including payment of salaries, allowances, pensions, gratuities and other charges whatsoever payable to the staff and members of the Board; and

(c) the payment or reimbursement to the members of the Board of monies in respect of
expenses incurred during the attendance of the meetings of the Board.

(3) Except with the approval of the Executive Committee Member, no expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (2).

21. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure, assets audits and liabilities of the Fund and other statements of accounts as may be necessary to fully disclose the undertaking, assets, liabilities and discharge of the functions of the Board.

(2) The accounts of the Board shall be audited by the County Auditor.

(3) Within a period of three months after the end of each financial year, the auditor shall report on the examination and audit of the accounts of the Board to the Executive Committee Member.

(4) The Executive Committee Member shall lay the auditor's report submitted to him under subsection (3) before the County Assembly as soon as practicable.

PART VII-MISCELLANEOUS

22. The Board may make regulations for the smooth running of the Fund and such regulations shall be approved by the County Assembly before implementation.
MEMORANDUM OF OBJECTS AND REASONS

The principal purpose of this Act is provide for legislative framework for the management of Narok County Bursaries Fund to assist needy students from the County.

Part I of the Act provides for preliminary matters including citation and definitions of the words used in the Act.

Part II of the Act provides for the Establishment of the Bursaries Fund.

Part III provides for the Establishment and Functions of the Bursaries Management Board.

Part IV of the Act provides for the Establishment and Functions of the Ward Bursary Committees.

Part V makes provisions for application for the bursaries.

Part VI sets out the administrative and finance aspect of the Fund.

Part VII is miscellaneous.

The enactment of this Act shall occasion additional expenditures of public funds which shall be provided for through the estimates.

Dated 30th September 2013

D. MASIKONDE

CHAIRMAN, BUDGET & FINANCE COMMITTEE