## KENYA GAZETTE SUPPLEMENT

### Migori County Bills, 2019

NAIROBI, 6th June, 2019

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THE MIGORI COUNTY ENVIRONMENTAL HEALTH AND SANITATION BILL, 2019

A Bill for

AN ACT of the Migori County Assembly to give effect to the right of every person to a clean and healthy environment and to reasonable standards of sanitation; to provide for the performance of the powers and functions of the County Government in respect of environmental health and sanitation matters; and to provide for the regulation and management of environmental health and sanitation; and for the connected purposes

ENACTED by the Migori County Assembly, as follows—

PART I—PRELIMINARY PROVISIONS

1. This Act may be cited as the Migori County Environmental Health and Sanitation Act, 2019.

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

"author of a nuisance" means the person by whose act, default or sufferance nuisance is caused, exists or is continued, whether he or she is the owner or occupier or both owner and occupier or any other person;

"authorized officer" means a person duly appointed or designated as such to enforce the provisions of this Act or any other national or county legislation;

"charges" in relation to the use of environmental health and sanitation services, includes fees, levies and premiums of any kind;

"Chief Officer" means the Chief Officer of the County Government responsible for environmental health and sanitation matters;

"cleaning services" services whose main or only component entails the bringing of premises or any public place into, or keeping of premises or any public place in, a clean condition, and includes supervising the carrying out of such work;

"collection" means the gathering of waste, including the preliminary sorting and storage of waste for the
purposes of transport to a waste treatment facility;

"Constitution" means the Constitution of Kenya, 2010;

"county" means the County of Migori unless the context provides otherwise;

"County Executive Committee member" means the County Executive Committee Member for the time being responsible for environmental health and sanitation matters;

"County Government" means County Government of Migori;

"department" means the County Government department for the time being responsible for environmental health and sanitation matters;

"director" means the Director appointed under Section 10 of this Act by the County Public Service Board;

"directorate" means the relevant directorate established by the county department responsible for environmental health and sanitation matters;

"disposal" means removal of waste including its deposits, destruction, discharge whether into water or into the air or into a sewer or drain or otherwise or burial whether underground or otherwise;

"dwelling" means any house, room, shed, hut, cave, tent, vehicle, vessel or boat or any other structure or place whatsoever, any portion whereof is used by any human being for sleeping or in which any human being dwells;

"environmental health" means the practice of preventing human injury and illness and promoting wellbeing by limiting exposure to hazardous physical, chemical and biological agents in air, water, soil, food and other environmental media or settings that may adversely affect human health;

"environmental health hazard" means any threat to public health, and without limitation, includes nuisances, unsanitary conditions, circumstances which make it easier for a communicable disease to spread, circumstances which make food or drink, including water for human
consumption, unhygienic or unsafe to eat or drink, and circumstances which allow pests to infest any place where they may affect public health;

"environmental health impact assessment" means an assessment of health risks and benefits that may result from human interventions or the direct and indirect effects that a proposed policy, programme or development may have or is likely to have on human health;

"environmental health and sanitation services" means include but not limited to the services listed under the Second Schedule of this Act that are required for prevention of diseases or ill health, promotion of human health and safe management and handling of human excreta and waste including the associated containment, emptying, collection, transportation, storage and treatment services but do not include sewerage services as defined under the Water Act, 2016;

"food" means any article used for food or drink other than drugs or water, and any article intended to enter into or be used in the preparation of such food, and flavouring matters and condiments;

"food hygiene" means all the practical measures involved in keeping food safe and wholesome through all the stages of production to point of sale or consumption;

"food safety" means the handling of food in such a way as to prevent adulteration, infection and contamination to ensure that food quality and wholesomeness are maintained as to protect and promote the health of individual consumers;

"hazardous waste" means controlled waste which has the potential, even in low concentrations, to have significant adverse effect on the environment and human health on account of its inherent chemical and physical characteristics, such as toxic, ignitable, corrosive, or other properties;

"Infectious disease" means every disease, which can be communicable directly or indirectly by any person suffering there from to any other person;

"insanitary conditions" means such conditions or circumstances as might contaminate food, with dirt or filth
or might render the same injurious or dangerous to health;

“licence” means a licence in force under this Act or any other applicable law;

“licensee” means a sanitation service provider licensed by an authority under this Act or any other applicable law;

“market” means any place used for the sale of any meat, fish, fruit, vegetable, poultry, egg or other article of food, whether cooked or uncooked, for human consumption, and includes any premises therein used for the sale of goods or in any way used in conjunction or connection therewith or appurtenant thereto;

“nuisance” means any act, omission or thing occasioning or likely to occasion injury, annoyance, offence, harm, danger or damage to the sense of sight, smell or hearing, or which is or is likely to be injurious or dangerous to health or property;

“onsite sanitation” means sanitation services including latrines, septic tanks and conservancies including the associated containment, emptying, collection, transportation, storage and treatment services;

“owner” includes any person, other than the government, receiving the rent or profits of any lands or premises from any tenant or occupier therefore or who would receive such rent or profits if such land or premises were let whether on his own account or as an agent for any person, other than the government, entitled thereto or interested therein; the term includes any lessee or licensee from the government and any superintendent, overseer or manager of such lessee or licensee residing on the holding;

“pollution” means any direct or indirect alteration of the physical, thermal, chemical, biological, or radioactive properties of any part of the environment by discharging, emitting, or depositing wastes so as to effect any beneficial use adversely, to cause a condition which is hazardous or potentially hazardous to environmental 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 license under this Act;
"premises" include structures, buildings, lands, machinery, plant or vehicle used in connection with any trade carried on at any premises;

"private market" means a market other than a public market;

"public authority" means any public body;

"public health" means the health of individuals in the context of the wider society and the act of preventing disease and promoting human health through organized public and private efforts;

"public health event" means an outbreak or rapidly evolving situation or occurrence that may have negative consequences for human health, and includes events that have not yet caused disease or illness but that have the potential to cause disease through exposure to infected or contaminated food, water, animals, manufactured products or environments;

"public health officer" means a public health practitioner as defined in the Public Health Officers (Training, Registration and Licensing) Act, 2013;

"public market" means a market owned, leased or maintained by or on behalf of the county government;

"public place" includes any place whether privately owned or not to which the public has access;

"Public toilet" means any latrine or toilet to which the public are admitted for free or on payment for use;

"recovery" means any operation the principal result of which is waste serving a useful purpose by replacing other materials which would otherwise have been used to fulfil a particular function or waste being prepared to fulfil that function, in the plant or in the wider economy, and waste recovery activity shall be construed accordingly;

"recycling" includes the reclamation of waste, recovery of materials, reprocessing of wastes, resource recovery and re-use of waste;

"refuse" includes garbage, tins bottles, ashes, sweeping from dwellings, refuse from gardens or stables or waste products from any factory or workshop;
“regulations” mean regulations made under this Act;

“re-use” means any operations by which products or components that are not waste are used again for the same purpose for which they were conceived;

“risk” is defined as the probability that a substance or situation will produce harm under specified conditions;

“risk management” is the process of identifying, evaluating, selecting, and implementing actions to reduce risk to human health and to ecosystems;

“rules” includes regulations and by-laws made or deemed to be made under this Act;

“sanitation” means the hygienic and safely managed means of preventing human contact from hazards of human waste including the provision of facilities and services for the safe disposal of human faeces, urine and other waste;

“sanitation authority” means the county government, national government agency, city, municipality or an urban authority concerned with regulation and/or provision of environmental health and sanitation services to the extent that each has jurisdiction;

“sanitary convenience” means closets and urinals;

“sanitation promotion” means activities undertaken to stimulate household demand for, and the supply of, the sanitation hardware necessary to maintain a healthy environment: latrines, toilets, sewer connections, etc;

“sanitation service provider” means an authority, entity or person legally mandated to provide environmental health, sanitation and hygiene services including but limited to the services listed in the Second Schedule;

“sanitation service user” means a person or group of persons using sanitation services from a sanitation service provider;

“sell” includes offer, advertise, keep, expose, transmit, convey, deliver, or prepare for the sale or exchange, dispose of for any consideration whatsoever or transmit, convey or deliver in pursuance of a sale, exchange or disposal as aforesaid;
“sewerage” means a system of sewer pipes, manholes, pumps etc. for the transport of sewage;

“sewerage services” means the development and management of infrastructure for transport, storage and treatment of waste water originating from centralized systems but does not include onsite sanitation facilities as defined under the Water Act, 2016;

“soil” includes earth, sand, rock, shells, minerals, vegetation, and the flora and fauna in the soil and derivatives thereof such as dust;

“trade premises” means any premises (other than a factory) used or intended to be used for carrying on any trade or business;

“treatment” means subjecting waste to any process including resource recovery, re-use, reprocessing, reclaiming or recycling; and the term ‘treat’ shall be construed accordingly;

“urban authority” means a city board, municipality board, town committee or a body established under the Urban Areas and Cities Act to manage an urban area;

“waste” includes—

(a) any substance which constitutes scrap materials or an effluent or other unwanted surplus substance arising from the application of any process, and also includes any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoiled;

(b) 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; or

(c) the following substances and any combination thereof which are discarded by any person or are accumulated or stored by any person for the purpose of recycling—

(i) undesirable or superfluous by-products;

(ii) residue or remainders of any process or
activity;

(iii) any gaseous, liquid or solid matter.

"wastewater" means the spent or used water from homes, communities, farms and businesses that contains enough harmful material to damage the water's quality. Wastewater includes both domestic sewage and industrial waste from manufacturing sources;

"waste generator" means anyone—

(a) whose activities produce waste (in this Act referred to as the 'original waste producer'); or

(b) who carries out pre-processing, mixing or other operations resulting in a change in the nature or composition of such waste;

"waste holder" means the waste producer or the person who is in possession of waste;

"waste management" means the collection, transport, recovery and disposal of waste including—

(a) the supervision of such operations;

(b) the after care of disposal sites; and

(c) actions taken as a dealer or broker.

"waste management facility" means a waste disposal site, licensed under Part 4 of this Act, for the purpose of controlled waste management;

"village" means the decentralized unit of the County Government delimited in accordance with the County Government Act, 2012;

"village health committee" means a village or community health committee established to oversee the functions of the village or community health units in respect of environmental health and sanitation matters under this Act or any other applicable legislation;

"waste service" means service, facility, approval or other thing which a County Government may or is required to render, supply, grant, issue or otherwise provide in the performance of any of its functions under this Act to any person or in respect of any premises.
3. The object of this Act is to —

(a) provide an enabling framework for the performance of the powers and functions of the County Government in respect of environmental health and sanitation matters;

(b) provide an enabling framework for countywide inclusive and integrated management of environmental health and sanitation matters;

(c) provide an enabling institutional framework for the multi-sectoral coordination of environmental health and sanitation matters;

(d) provide for the licensing of environmental health and sanitation service providers and the regulation of environmental health and sanitation services;

(e) provide an enabling framework for the realization of the right to reasonable standards of sanitation and to a clean and healthy environment;

(f) provide for the preparation and adoption of environmental health and sanitation services integrated development and investment plans;

(g) provide a framework for resource mobilization, financing and performance management for environmental health and sanitation;

(h) establish a system for county environmental health and sanitation information management systems;

(i) provide fiscal and other non-financial incentives to promote compliance and reward exemplary services, performance and innovation in environmental health and sanitation promotion;

(j) provide for disincentives or fees to induce proper sanitation management or prevent or abate poor environmental sanitation practices; and

(k) implement national standards and norms in respect of environmental health and sanitation within the county context.
4. This Act shall bind the County Government, its departments, organs and agents.

5. (1) Except as specifically provided by this Act, the provisions of this Act are complementary to, and do not limit, the application of provisions of any other relevant legislation.

(2) Without limiting the generality of subsection (1), this Act shall not be construed as to prevent any person from being prosecuted under any other applicable law for an offence that is also punishable by this Act, or from being liable under any other law to any penalty or punishment that is higher than a penalty or punishment provided by this Act.

(3) Nothing in this Act shall affect or limit a right or remedy that may exist apart from this Act.

PART II—GUIDING PRINCIPLES

6. (1) The interpretation, application and administration of this Act shall be guided by the following principles:

(a) the national values and principles of governance under Article 10 of the Constitution;

(b) creation of an enabling environment and appropriate incentives to ensure equitable, accessible, reliable, sustainable and affordable sanitation services;

(c) delegation of functions in relation to the promotion of environmental health and the provision of sanitation services taking into account the objects of devolved government under Article 174 of the Constitution;

(d) the allocation of financial and administrative resources to match allocated environmental health and sanitation functions;

(e) decision making on environmental health and sanitation interventions shall be based on evidence available in the circumstances that is relevant and reliable;

(a) public participation by users, beneficiaries and
other stakeholders of sanitation services;

(b) promotion of equitable access to sanitation services to vulnerable groups within society, including women, older members of the society, persons with disabilities, children, youth, members of minority or marginalized groups;

(c) prioritization of the collective interests of the general public over the interests of any specific interest group or sector of society;

(d) promotion of fair administrative action and accountability of regulators, sanitation authorities and service providers regard being had to the health of populations the imperative of protecting and improving the health of the community;

(e) promotion of innovation and the use of appropriate technologies;

(f) promotion of collaboration between levels of government, county departments, and industry, business, communities and individuals; and

(g) promotion of public-private partnerships and private sector participation in delivery of sanitation services and ensuring clean and healthy environment.

(2) Every authority or person subject to the provisions of this Act shall observe the following principles:

(a) the obligation to take all reasonable precaution to prevent or minimize any risk of an environmental health hazard from occurring, continuing or recurring as a result of an act or omission whether such has been authored by such person, entity or authority or a third party;

(b) the obligation to bear the costs of measures to eliminate or reduce the occurrence, continuation or recurrence of an environmental health hazard authored by such person, entity or authority and any other reasonable costs incurred in ensuring that the risk is eliminated or managed;
(c) the obligation to adopt a long-term perspective to environmental health and sanitation interventions taking into account the public health interests of present and future generations;

(d) the duty of individuals and communities to take responsibility for their own health and, to that end, to participate in decisions about how to protect and promote their own health and the health of their communities;

(e) decisions and actions should not, as far as is reasonably practicable, unduly or unfairly disadvantage individuals or communities and, as relevant, consideration should be given to health disparities between population groups and to strategies that can minimise or alleviate such disparities; and

(f) the obligation to ensure that the management of environmental health risks is in proportion to the significance of the health risks and consequences.

(3) The County Executive Committee Member may, from time to time, prepare or adopt guidelines that relate to the application of these principles.

(4) A person or body involved in the interpretation, application or administration of this Act must have regard to any relevant guidelines under this section.

7. (1) Every person has a right to—

(a) a clean and healthy environment;

(b) reasonable standards of sanitation;

(c) clean and safe water in adequate quantities; and

(d) food of acceptable quality in terms of Articles 42 and 43 of the Constitution.

(2) The rights enumerated under subsection (1) shall include the right to:

(a) have obligations relating to the environmental health and sanitation fulfilled by every duty bearer; and

(b) seek redress in a court or tribunal of competent
jurisdiction in addition to any other remedies that are available in respect to the same matter.

(3) Every person has a duty to protect the environment which includes the obligation to

(a) prevent, stop or refrain from any act or omission which would introduce environmental health risks to the environment; and

(b) cooperate with state organs and any person or entity in furtherance of environmental governance.

PART III—ADMINISTRATION AND COORDINATION

8. (1) The functions of the County Executive Committee Member in connection with the administration of this Act shall be—

(a) to further the objects of this Act by taking action to preserve, protect or promote environmental health and sanitation within the county;

(b) to promote proper standards of environmental health and sanitation within the county by ensuring that adequate measures are taken to give effect to the provisions of this Act and to ensure compliance with this Act;

(c) to develop policies or codes of practice that are relevant to—

(i) identifying risks to environmental health; or

(ii) setting standards in connection with any activity, material, substance or equipment relevant to environmental health and sanitation; or

(iii) providing for other matters relevant to the operation or administration of this Act, for matters that may be subject to regulations under this Act, or for such other matters as the County Executive Committee member thinks fit;

(d) to the extent that may be necessary, practicable or desirable, to cooperate and coordinate with
national and other governments to promote and strengthen environmental health and sanitation interventions;

(e) to promote the integration of environmental health and sanitation policies with the services and policies of other government departments and agencies which affect public health;

(f) to advise the county government about environmental health protection and promotion; and

(g) any other functions assigned to the County Executive Committee member by this Act, or considered by the County Executive Committee member to be relevant to the operation of this or any other relevant Act.

(2) The County Executive Committee member may develop or adopt procedures for the provision of advice to the Government—

(a) to ensure the promotion or implementation of policies or measures that are designed to enhance the health of individuals and communities; and

(b) to ensure that the County Executive Committee member is consulted or involved in the development of policies or measures that may have a significant impact on environmental health and sanitation.

(3) In addition, the County Executive Committee member has the power to do anything necessary, expedient or incidental to—

(a) performing the functions of the County Executive Committee member under this Act; or

(b) administering this Act; or

(c) furthering the objects of this Act.

(4) Notwithstanding the provisions of this section, any County Executive Committee Member concerned with the administration of any aspect of environmental health and sanitation under this Act or any other applicable law may exercise such powers and functions as
may be assigned by the County Executive Committee for the furtherance of the objects of this Act.

(5) For avoidance of doubt, nothing in this Act shall be construed to preclude any department or agency of the County Government from exercising such powers and functions as may be assigned to it by the County Executive Committee in respect of the administration of any aspect or furtherance of the objects of this Act.

9. (1) The County Executive Committee member may cause to be made such inquiries as he or she may see fit in relation to any matters concerning environmental health and sanitation in any place within the area of jurisdiction of the County Government.

(2) The County Executive Committee member may require a report on any matter relevant to the administration or operation of this Act.

(3) A requirement under subsection (2) may be that a report be provided—

(a) on a periodic basis specified by the County Executive Committee member; or

(b) on or in relation to the occurrence of an act or event specified by the County Executive Committee member.

(4) The report contemplated under this section shall be provided in accordance with the requirements of the County Executive Committee member.

10. (1) The County Executive Committee may, where he or she is of the opinion that it is necessary to do so in order to deal with a serious risk to public health or to deal with the likelihood of material or serious harm arising within the county, make orders necessary to contain such risk to public health, public safety or the environment.

(2) Despite anything in this Act or in any other Act or regulation, if the County Executive Committee member believes it is in the public interest to do so during an emergency, he or she minister may

(a) provide public health services or arrange for them to be provided in any area of the county, even if another authority or other person is required to
provide them; and

(b) do anything else that he or she reasonably considers necessary to promote or ensure the provision of public health services in the county.

(3) Every direction or order under this section shall so far as practicable be preceded by inter-departmental consultations.

11. (1) The functions of the Chief Officer responsible for environmental health and sanitation matters in connection with the administration of this Act shall be—

(a) to oversee development and implementation of strategies and plans for the protection and promotion of environmental health and sanitation throughout the county;

(b) to advise the County Executive Committee member about proposed legislative or administrative changes related to environmental health and sanitation;

(c) to oversee and foster collaboration and coordination to promote environmental health and sanitation regard being had to those who cannot afford such services by reason of vulnerability or marginalization;

(d) develop mechanisms for public participation, public awareness, education and stakeholder engagement in environmental health and sanitation;

(e) promote and co-ordinate human resources development and institutional capacity within the county government to effectively implement environmental health and sanitation programmes;

(f) to mobilize resources towards the implementation and administration of this Act any other functions assigned to the Chief Officer by this Act or any other Act or by the County Executive Committee member.

(2) The Chief Officer may consult with other persons or bodies involved in the administration of this Act.
12. (1) The Chief Officer may delegate a function or power conferred on him or her under this Act or any other Act—

(a) to a specified person or body; or

(b) to a person occupying or acting in a specified office or position.

(2) A delegation—

(a) may be made subject to conditions or limitations specified in the instrument of delegation; and

(b) if the instrument of delegation so provides, may be further delegated by the delegate; and

(c) is revocable at will and does not prevent the delegator from acting personally in a matter.

13. (1) The Chief Officer may, where he or she becomes aware of the existence of, or potential for the occurrence of, a situation putting a section of the community or a group of individuals at an increased risk of avoidable mortality or morbidity, request the participation of any public authority within the county whose intervention is required in reducing or eliminating such public health risks.

(2) A public authority that receives a request under subsection (1) must consider the request and then respond to the Chief Officer within a reasonable time.

(3) A response under subsection (2) shall include details about—

(a) any steps already being taken by the public authority that may be relevant in the circumstances; and

(b) any plans that the public authority may have that may be relevant in the circumstances; and

(c) any steps that the public authority is willing to take in the circumstances; and

(d) any other matter relating to the public authority that appears to be relevant.

(4) The Chief Officer—

(a) shall advise the County Executive Committee
member if or when—

(i) the Chief Officer makes a request of a public authority under subsection (1); or

(ii) a public authority provides a response under subsection (2); and

(b) without limiting paragraph (a), must take reasonable steps to advise the County Executive Committee from time to time on action being taken to address any situation that puts a section of the community or a group of individuals at an increased risk of avoidable mortality or morbidity.

14. (1) The Chief Officer shall be required to prepare a written report annually about—

(a) environmental health and sanitation trends, activities and indicators in the county; and

(b) the implementation of environmental health and sanitation plans and strategies established under Part 9 of this Act; and

(c) the administration of this Act.

(2) The report shall be furnished to the County Executive Committee within 3 months following the end of the financial year.

(3) The County Executive Committee must, within 15 days after receipt of a report under this section, cause a copy thereof to be transmitted to the County Assembly and the Inter-Agency Committee established under section 17 of this Act.

15. (1) Subject to the provisions of the law governing the county public service, there shall be appointed or designated a director in charge of environmental health and sanitation to administer the provisions of this Act and regulations made thereunder.

(2) The Chief Officer shall, by Gazette Notice, designate the officers contemplated under this section, whether by name or by title of office, to be authorised officers for such jurisdiction units as shall be specified in the Gazette Notice appointing them.
(3) The director and officers contemplated under this section shall be fit and proper persons and shall hold such qualifications and such experience in the field of environmental health and sanitation.

(4) Notwithstanding the provisions of subsection (2) and (3), any other Chief Officer may designate officers other than public health officers as authorised officers for purposes of the administration of the relevant provisions of this Act.

16. (1) There shall be established a County Inter-agency Coordination Committee.

(2) The County Executive Committee Member shall by notice in the Gazette, appoint the County Inter-Agency Coordinating Committee in terms of this section.

(3) The Inter-agency Coordinating Committee shall be composed of the members prescribed in the First Schedule.

(4) The mandate of the Committee shall be to ensure a coordinated, efficient, effective and consultative approach to environmental health and sanitation and may for that purpose—

(a) formulate and propose policies to the County Executive Committee;

(b) implement, monitor, evaluate and review strategies; and

(c) mobilize resources for purposes of administration of this Act.

(5) The Committee shall convene at least once every three months.

(6) Subject to this Act, the Committee shall regulate its own procedures.

17. (1) The Inter-Agency Coordinating Committee shall constitute an Inter-Agency Technical Working Committee whose members shall comprise the directors of departments responsible for environmental health and sanitation, water, environment, trade, agriculture and veterinary, public works and roads, public service management, and lands and physical planning matters.

(2) The Technical Working Committee may co-opt technical experts for purposes of fulfilling its mandate.
(3) The functions of the Technical Working Committee shall be to advise the Committee on—
   (a) the formulation of county policies, standards, guidelines and regulations relating to environmental health and sanitation;
   (b) the areas of research and development in respect of environmental health and sanitation; and
   (c) any other matter referred to it by the Committee.

18. (1) The Inter-Agency Coordinating Committee may establish sub-county and ward level environmental health and sanitation committees to coordinate, monitor, evaluate and review environmental health and sanitation activities and interventions in their respective sub counties and wards and to perform such other functions as may be deemed necessary to achieve the objects of this Act.

   (2) The Director shall compile and submit reports of the subcounty and ward level environmental health and sanitation committees to the Chief Officer and the County Interagency Coordination Committee.

   (4) The County Executive Committee Member shall prescribe regulations relating to the membership and procedures of the sub-county and ward environmental health and sanitation committees.

19. (1) There shall be established such number of village or community health units as appropriate and practicable to do so to promote good environmental health, sanitation and hygiene practices at household and community levels.

   (2) The village or community health units shall be governed by village or community health committees which shall:
      (a) provide local leadership, oversight and representation of community interests in the affairs of the village or community health unit;
      (b) mobilize the community and households to participate in local environmental health and sanitation campaigns and events including planning and budgeting activities, public participation forums, community dialogue and
(c) report to the sub county health management teams on all matters affecting public health of the population within their areas.

(3) The functions of village or community health units shall be inclusive and shall not in no manner be construed to limit any other function lawfully vested in it in respect of community health by the county government.

(4) The County Government shall promulgate a legislation, regulations and guidelines in respect of the establishment, duties, functions, and operations of the village or community health units, population and geographical coverage, governance of the units including membership and procedures of the village or community health committees, financing, reporting and the terms of service of community health volunteers.

PART IV—ENVIRONMENTAL HEALTH AND SANITATION SERVICES

20. (1) It shall be the duty of the relevant departments of the County Government to ensure efficient, affordable, economical and sustainable provision of and access to environmental health and sanitation services.

(2) Subject to the provisions of this Act, the County Government may—

(a) establish a company, firm or other body for the delivery of a particular service or carrying on of a particular function; or

(b) contract any person, company, firm or other body for the delivery of a particular service or carrying on a particular function.

(3) The duty to provide environmental health and sanitation services shall be subject to:-

(a) the need for an equitable allocation of resources to all users and potential users within the jurisdiction of the county;

(b) the duty of sanitation services users to comply with reasonable conditions in respect of provision of environmental health and sanitation services including payment reasonable charges for such
services;
(c) the obligation not to discriminate directly or indirectly against any person or group of persons;
(d) the right of the relevant sanitation authority to limit or discontinue the provision of sanitation services if there is a failure to comply with reasonable conditions set for the provision of such services; and
(e) the power to differentiate between categories of users and geographical areas when setting standards, costs and levels of services.

21. (1) The County Government is hereby designated as a sanitation authority.

(2) A Town Committee or Municipal Board established by the County Government in terms of the Urban Areas and Cities Act may be designated as a sanitation authority for purposes of this Act.

(3) The relevant department of the County government may for the purposes of this Act declare the county to be divided into environmental health and sanitation zones.

22. (1) The County Government may perform the function of sanitation service provision through one or several of its departments or it may arrange for the exercise and performance of such functions to be performed by such agents to be known as a sanitation service providers.

(2) A sanitation service provider shall be responsible for—

(a) the provision of environmental health and sanitation services within the area specified in its authorizing legislation, regulations, order or license; and

(b) the development of assets for service provision.

(3) For the purposes of this Act, environmental health and sanitation services for which a sanitation service provider may be authorized are as set out in the Second Schedule.

23. (1) No person shall operate as a sanitation service
provider by way of a business or for payment of service charges without the approval of the relevant departments of the County Government or any other sanitary authority contemplated under this Act.

(2) Any approval in terms of subsection (1) —
   (a) shall be for a prescribed period; and
   (b) may be granted subject to conditions.

(3) Any person who, at the commencement of this Act, was acting as a sanitation services provider without approval from the County Government, may continue to do so until the expiry of reasonable notice, which notice must not be longer than one year, given by the County Government or any other sanitation authority —
   (a) that it requires the provider to enter into a contract; or
   (b) that the continuation will be subject to approval as contemplated in subsection (1).

(4) A service provider shall not operate except in accordance with a sanitary license issued by a competent authority under this Act of any other relevant enabling Act.

(5) Subsection (4) shall not apply to a person who provides sanitation services solely for that person’s or household’s own use.

(6) A person who contravenes the provisions of subsection (1) and (4) shall be guilty of an offense and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not exceeding twelve months.

24. A user of sanitation services has the duty to—
   (a) adhere to the rules of a sanitation service or facility when using the services or using the facility;
   (b) cooperate with the sanitation service provider in the provision of sanitation services;
   (c) treat service providers and workers with dignity and respect;
   (d) ensure the surrounding environment is kept clean...
and healthy;

(e) protect and safeguard the assets of the service provider;

(f) make accessible his or her premises or land for the purposes of the performance of any duty by a service provider or any authorized officer under this Act; and

(g) make payments in respect of charges or fees in respect of the services rendered.

25. (1) Any person may apply to the County Government or other licensing authority for a license to operate as a sanitation service provider as provided for under this legislation and any other written law.

(2) An application under subsection (1) shall —

(a) be lodged together with proof of payment of the prescribed fee;

(b) be accompanied by an environmental health impact assessment issued under regulations made under this Act or any other written law;

(c) be in such forms as may be prescribed by regulations made under this Act or any other written law; and

(d) specify the following—

(ii) the name of the service provider;

(iii) the address and principal place of business of the service provider;

(iv) the shareholders or owners of the entity applying for license as a service provider;

(v) the names and qualifications of the senior staff of the service provider;

(vi) the services to be provided and period of time applied for;

(vii) the type of facilities to be provided and used;

(viii) the short and long term plans of the service provider outlining plans for the provision
of an efficient, affordable and sustainable services, and performance targets; and

(ix) any other details as may be prescribed by law.

(3) An application referred to in subsection (2) shall be submitted in standard forms prescribed under this Act or any other applicable law.

26. (1) The relevant departments of the County Government or the licensing authority as the case may be shall assess the conformity of the application for the issuance of a license with the provisions of this Act and any other written law.

(2) Within 15 days after the submission of an application for the issuance of a license, the County Government or licensing authority shall make public the said application and shall ensure any interested parties access thereto.

(3) The County Government or licensing authority shall, within a reasonable time after receipt of the application, pronounce a decision, to issue or refuse to issue the license to the utility or service provider.

(4) The issuance of a service license may be subject to any conditions set by any other law.

(5) A decision of the County Government or licensing authority rejecting an application shall be accompanied by the reasons for rejection.

27. (1) At all times while a person holds a sanitation service license, the holder of the license shall cause copies of the license to be displayed on the premises or other place in such characters and in such positions as to be conveniently read by persons having duties on those premises which are or may be affected by the matters or conditions set out in the license.

(2) Any person who puts up a false document or without reasonable cause pulls down or defaces any document posted in pursuance of subsection (1) shall be guilty of an offence and liable on conviction to a fine not less than ten thousand shillings or to imprisonment for a term of one month.

28. A sanitation service provider issued with a
license shall—

(a) comply with the provisions of this Act and any other regulatory requirements imposed under law;

(b) enforce regulatory standards, notices, and orders;

(c) keep a record of its services in a form specified by law and submit to the County Government or other licensing authority every year from the commencement of the license;

(d) comply with any other condition which the County Government or licensing authority may consider relevant for the proper operation of the service provider; and

(e) not transfer to a third party, directly or indirectly, without the prior approval of the County Government or licensing authority.

29. The relevant department of the County Government or other licensing authority issuing a license may amend such license on the application of its holder—

(a) where some other person has succeeded to the interest in the business enterprise belonging to the holder of the license, by substituting for the name of the holder the name of the successor;

(b) where the name of the business enterprise is altered, by substituting the name so altered; or

(c) for any other reasons submitted by the applicant of the license which the County Government may consider to be necessary for the improvement of the provision of services.

30. (1) A sanitation service license may on application by the holder of the license, be renewed by the County Government or other issuing sanitation authority.

(2) The holder of a sanitation service license must, before the expiry date of the license and within the period specified in the license, apply for the renewal of the license to the county government or licensing authority of the area in which the activity is carried out by lodging an application in the form required by the licensing authority.

31. (1) The County Government or licensing
authority may suspend or cancel any license if the holder of the license—

(a) obtained the license by fraud or deliberate or negligent submission of false information;

(b) transfers or otherwise assigns a license without prior approval of the issuing authority;

(c) contravenes this Act or any other applicable law or any terms and conditions of the license;

(d) fails, without reasonable cause, to comply with an enforcement notice issued by an authorized officer; or

(e) fails without reasonable cause, to provide the sanitation services within the reasonable time limits.

(2) The County Government or licensing authority shall, before suspending or cancelling a license in accordance with subsection (1), give its written notice to the holder of the license of its intention to suspend or cancel the license and specify the grounds for the suspension or cancellation and require the utility or service provider to show cause, within a period of not more than thirty days, why the license should not be suspended or cancelled.

(3) The licensing authority shall not suspend or cancel a license, under this section, if the holder of the license takes remedial measures, to the satisfaction of the authority, within the period of thirty days referred to in subsection (2).

(4) If the holder of a license, notified under subsection (2), fails to show cause, to the satisfaction of the issuing authority or does not take remedial measures to the satisfaction of the authority, within the time specified in that subsection, it may suspend or cancel the license.

(5) Notwithstanding any other provisions of this Act, where a license has been suspended or cancelled the issuing authority may, in the public interest after giving the proprietor an opportunity of being heard, direct that the utility or service provider be operated under the management and control of a statutory manager.
(6) Subject to any other written law, a statutory manager may be appointed by the competent authority for such period and upon such terms and conditions as the appointing authority thinks fit.

(7) Any expenses connected with the appointment of a statutory manager and the management of a service provider by the statutory manager shall be a charge on the revenues of the utility or service provider to which the statutory manager is appointed.

(8) Any person who is aggrieved by any decision under this section may appeal to a court or tribunal with jurisdiction.

32. (1) Where the holder of a license is unable to commence operations within twelve months from the date of issue of a license, the holder of such license shall, forthwith, notify the licensing authority of such failure giving reasons thereof, and the issuing authority shall, if satisfied with the reasons, specify the period within which such holder shall comply with the terms of the license.

(2) Where the holder of a license is unable to supply sanitation services, in accordance with the license, the holder of the license shall notify the issuing authority, of such fact, in writing, and shall surrender the license thereto.

(3) Where a period of twelve months from the date of issue of a license has expired without the holder of the license supplying sanitation services in accordance with the terms of the license and no notification has been made in accordance with this section, the license shall lapse and shall, subject to this Act or any other applicable law, be cancelled.

(4) The licensing authority shall publish such information to the public.

33. The County Government shall keep a register of all sanitation service providers issued with licenses under this Part and shall, at least once every year, publish a list of all sanitation service providers holding a license under this Act or any other legislation.

PART V—PREVENTION AND CONTROL OF INFECTIOUS DISEASES
34. (1) The following principles apply to the management and control of notifiable infectious diseases—

(a) the spread of a notifiable infectious disease should be prevented or minimized with the minimum restriction on the rights of any person;

(b) a person at risk of contracting a notifiable infectious disease should take all reasonable precautions to avoid contracting the infectious disease;

(c) a person who has, or suspects that they may have, a notifiable infectious disease should—

(i) ascertain whether he or she has a notifiable infectious disease and what precautions he or she should take to prevent any other person from contracting the notifiable infectious disease; and

(ii) take all reasonable steps to eliminate or reduce the risk of any other person contracting the notifiable infectious disease;

(d) a person who is at risk of contracting, has or suspects he or she may have, a notifiable infectious disease is entitled—

(i) to receive information about the notifiable infectious disease and any appropriate available treatment;

(ii) to have access to any appropriate available treatment.

(2) In this Act, a notifiable infectious disease means any of the diseases itemized in schedule 1 of this Act.

(3) Notwithstanding subsection (2), the County Executive Committee member in charge of public health matters may—

(a) declare that any notifiable infectious disease other than those specified under Schedule 1 to this Act shall be notifiable diseases under this Act;

(b) declare that only such provisions of this Act as are stipulated in such notice shall apply to any
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(c) restrict the provisions of this Act, as regards the notification of any disease, to any area defined in such notice.

35. (1) The Director may, from time to time, institute public health surveillance programmes or undertake epidemiological investigations or surveys of people, animals or vectors in order to determine the existence, prevalence or incidence, or to determine the likelihood of a possible outbreak, of —

(a) any infectious disease; or
(b) any other disease which the County Executive Committee member, by notification, declares to be a disease to which this section applies.

(2) For the purpose of any public health surveillance programme, epidemiological investigation or survey under subsection (1), the Director may require any person—

(a) to furnish him or her, within such time as he may specify, with —

(i) such information as he or she may require; and

(ii) any sample of any substance or matter in the possession or control of that person, whether taken pursuant to this Act or otherwise, as he or she may consider necessary or appropriate; and

(b) to submit to such medical examination as he or she thinks fit.

(3) If a person who is required by the Director under subsection (2) to furnish the Director with any information or sample, or to submit to any medical examination, fails, without reasonable excuse, to do so, he or she shall be guilty of an offence and liable to a fine not less than ten thousand shillings or to imprisonment for a term of not exceeding twelve months.

36. (1) Every medical practitioner who has reason to believe or suspect that any person attended or treated by him or her is suffering from a notifiable infectious disease or is a carrier of that disease shall notify the public health
(2) Every person in charge of a laboratory used for the diagnosis of disease who becomes aware of the existence of a notifiable infectious disease in the course of his work shall notify the officer in charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act.

(3) Any person who is aware or who suspects that any other person is suffering or has died from or is a carrier of an infectious disease shall notify the area village administrator, assistant chief, area public health officer, area community health extension worker, officer in charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act.

(4) Any person in charge of any school, educational institution or other boarding facility shall, with the least practicable delay, notify the area village administrator, assistant chief, area public health officer, area community health extension worker, officer in charge of the nearest government health facility or the Director within the prescribed time and in such form as prescribed by regulations made under this Act, if he or she knows or has reason to believe that any person in the school, educational institution or other boarding facility is suffering from or has died of an infectious disease.

(5) Any area village administrator, chief, assistant chief, area public health officer, area community health extension worker, community health volunteers, or officer in charge of the nearest health facility receiving notification under this section shall, with the least practicable delay, notify the Director.

(6) Any person who contravenes this section commits an offence and shall be liable to a fine not less than twenty thousand shillings or to imprisonment for a term of not exceeding twelve months.

37. (1) The Director may require any person who is, or is suspected to be, a case or carrier or contact of an infectious disease to undergo medical examination and treatment.
infectious disease to submit to medical examination or medical treatment within or at such time, and at such place, as the Director may determine.

(2) Where the person who is, or is suspected to be, a case or carrier or contact of an infectious disease is a minor, the Director may require the parent or guardian of the minor to have the minor medically examined or treated at such times and at such hospital or other place as the Director may determine.

(3) Any person who fails, without reasonable excuse, to comply with the requirement of the Director under this section shall be guilty of an offence and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not exceeding twelve months.

38. (1) The County Executive Committee Member may, where he or she is satisfied that there is an outbreak of an infectious disease in any area within the jurisdiction of the county, or that any area is threatened with an epidemic of any infectious disease, by order published in the Gazette, declare such area to be an infected local area.

(2) The County Executive Committee Member may, by regulations made under this Act, prescribe the measures to be taken to control or prevent the spread of any infectious disease within or from an infected local area.

(3) During the continuance in force of an order made under subsection (1), it shall be lawful for any authorized officer to direct any person or class or category of persons living in an infected local area or in any part thereof to subject himself or themselves—

(a) to treatment or immunization;

(b) to isolation, observation or surveillance, the period of which being specified according to circumstances; or

(c) to any other measures as the authorized officer considers necessary to control the disease.

(4) It shall be lawful for an authorized officer to use such proportional force, with or without assistance, as may be necessary and to employ such methods as may be sufficient to ensure compliance with any direction issued
(5) Any person who refuses to comply with any direction issued under subsection (3) commits an offence and shall be liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not exceeding twelve months.

39. (1) No person who knows or has reason to believe that he or she is suffering from an infectious disease shall expose other persons to the risk of infection by his presence or conduct in any public place or any other place used in common by persons other than the members of his own family or household.

(2) No person who knows or has reason to believe that he or she is suffering from any infectious disease specified in Part II of the Second Schedule shall do any act which he knows or has reason to believe is likely to lead to the spread of such infectious disease.

(3) Any person who contravenes this section commits an offence and shall be liable to a fine not less than one hundred thousand shillings or to imprisonment for a term of not less than twelve months.

(4) This section shall not apply to any person whose presence or conduct in such place as mentioned in subsection (1) is necessary for the purpose of obtaining medical treatment.

40. (1) No person who knows or has reason to believe that any article is contaminated or that any animal is infected or contaminated shall give, lend, sell, transmit, use or expose such article or animal without prior disinfection.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable to a fine not less than one hundred thousand shillings or to imprisonment for a term of not less than twelve months.

(3) This section shall not apply to any person who transmits, with proper precautions, any article or animal for the purpose of having it disinfected.

41. (1) Subject to the provisions of this Act or any other written law, an authorized officer may order the destruction of any animal and the disposal of any food or water.
water wherever found if he or she considers such animal, food or water to be a source for the transmission of an infectious disease.

(2) Any person who fails to comply with an order made by an authorized officer under subsection (1) shall be guilty of an offence and shall be liable to a fine not less than one hundred thousand shillings or to imprisonment for a term of not less than twelve months.

(3) Without prejudice to any proceedings under subsection (2), where an order made by an authorized officer under subsection (1) has not been complied with, an authorized officer, health officer or a police officer may—

(a) without warrant and with such force as may be necessary, enter the premises where the animal, food or water (as the case may be) is to be found; and

(b) take or cause to be taken such measures as have been specified in the order for the destruction of the animal or the disposal of the food or water.

(4) The costs and expenses incurred by the authorized officer or health officer under subsection (3) shall be paid by the person in default and may be recovered as a debt due to the Government.

42. (1) The Director or an authorized officer may order any person who is, or is suspected to be, a case or carrier or contact of an infectious disease to be detained and isolated in a hospital or other place for such period of time and subject to such conditions as the Director may determine.

(2) The Director may order any person who is, or is suspected or continues to be suspected to be, a case or carrier or contact of an infectious disease, or who has recently recovered from or been treated for such disease, to remain and to be isolated and if necessary be treated, in his or her own dwelling place—

(a) for such period of time as may be necessary for the protection of the public; and

(b) subject to such conditions as the Director may consider necessary for this purpose.

(3) Where the person who is to be isolated under
subsection (1) or (2) is a minor, the Director may order the parent or guardian of the minor—

(a) to take the minor, within the time specified in the order, to the place in which he or she is to be isolated;

(b) to ensure that the minor remains in isolation in his or her own dwelling place, for such period of time and subject to such conditions as may be specified by the Director.

(4) Any person against whom an order under subsection (1) or (2) is made shall be guilty of an offence if he or she—

(a) fails, without reasonable excuse, to proceed to the place in which he is to be isolated within the time specified in the order; or

(b) without the permission of the Director, leaves or attempts to leave the place in which he or she is being isolated; or fails, without reasonable excuse, to comply with any condition to which he or she is subject and shall be liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not more than twelve months.

(5) Any person, being the parent or guardian of a minor, who fails, without reasonable excuse, to comply with an order of the Director under subsection (3) shall be guilty of an offence and shall be liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not more than twelve months.

43. (1) The County Executive Committee member may, for the purpose of preventing the outbreak or spread of an infectious disease, by notification declare any premises to be an isolation area.

(2) A notification under subsection (1) shall be effective until the expiration of such period as may be specified in the notification or until it is revoked by the County Executive Committee member, whichever occurs first.

(3) The Director may, in relation to an isolation area, by order—
(a) prohibit any person or class of persons from entering or leaving the isolation area without the permission of the Director;

(b) prohibit or restrict the movement within the isolation area of any person or class of persons;

(c) prohibit or restrict the movement of goods;

(d) require any person or class of persons to report at specified times and places and submit to such medical examinations, answer such questions and submit to such medical treatment as the Director thinks fit;

(e) authorize the destruction, disposal or treatment of any goods, structure, water supply, drainage and sewerage system or other matter within the isolation area known or suspected to be a source of infection; and

(f) prohibit, restrict, require or authorize the carrying out of such other act as may be prescribed.

(4) An authorized officer, health officer or a police officer may take any action that is necessary to give effect to an order under subsection (3).

(5) Any person who, without reasonable excuse, contravenes an order under subsection (3) shall be guilty of an offence and shall be liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not more than twelve months.

44. (1) The Director or an authorized officer may order any person who is, or is suspected to be, a case or carrier or contact of an infectious disease to undergo surveillance for such period of time and subject to such conditions as the Director or authorized officer thinks fit.

(2) Where the person who is to undergo observation under subsection (1) is a minor, the Director or other authorized officer may order the parent or guardian of the minor to have the minor undergo surveillance for such period of time and subject to such conditions as the Director or authorized officer thinks fit.

(3) Any person subjected to observation by the Director under subsection (1) who fails, without
reasonable excuse, to comply with any condition relating to his or her observation imposed by the Director shall be guilty of an offence.

(4) Any person, being the parent or guardian of a minor, who fails, without reasonable excuse, to comply with an order of the Director under subsection (2) shall be guilty of an offence and shall be liable to a fine not less than twenty thousand shillings or to imprisonment for a term of not more than twelve months.

45. Where any person has died whilst being, or suspected of being, a case or carrier or contact of an infectious disease, the Director or an authorized officer may order a postmortem examination of the body of that person for the purpose of —

(a) determining the cause or circumstances of the death of that person; or

(b) investigating into any outbreak or suspected outbreak of, or preventing the spread of, that disease.

46. (1) Where —

(a) a person has died or is suspected to have died of an infectious disease; and

(b) an authorized officer has given directions as to the manner in which the corpse of such person is to be buried or cremated,

no person shall bury or cremate such corpse otherwise than in accordance with the directions of the authorized officer.

(2) Any person who contravenes subsection (1) commits an offence and shall be liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not more than twelve months.

47. 1) The Director or an authorized officer may, where he or she has reason to believe that there has been a person with an infectious disease on any premises, or that there exist on any premises conditions likely to lead to the outbreak or spread of any infectious disease, do any or all of the following —
(a) examine or cause to be examined any person found on the premises with a view to ascertaining if the person is suffering or has been suffering from an infectious disease;

(b) examine the premises and any article or animal on the premises with a view to ascertaining if they are contaminated or infected, as the case may be;

(c) prohibit the sale or distribution of food or water in the premises for such period as may be specified in the notice;

(d) order the premises or any part thereof to be disinfected, disinsected and deratted;

(e) order the premises or any part thereof to be closed until the premises have been thoroughly disinfected, disinsected and deratted;

(f) order the disinfection of all contaminated articles and infected or contaminated animals on the premises or, if such article or animal is incapable of being thoroughly disinfected, order its destruction;

(g) do any other act to prevent the outbreak or the spread of any infectious disease.

(2) Any owner or occupier who fails to comply with the requirements of the notice served under subsection (1) shall be guilty of an offence and shall be liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than three months.

(3) Without prejudice to any proceedings under subsection (2), where a notice issued by the Director or an authorized officer under subsection (1) has not been complied with, a person authorized in that behalf by the Director or an authorized officer may, without warrant and with such force as may be necessary, enter the premises or vessel to which the notice relates and take or cause to be taken such measures as have been specified in the notice.

(4) The cost and expenses incurred by the Director under subsection (3) shall be paid by the person in default and may be recovered as a debt due to the Government.
48. (1) Subject to the provisions of this Act and any other written law, the Director may order the destruction of any structure where a case of infectious disease has occurred if the structure is incapable of being thoroughly disinfected.

(2) The Director shall report to the Chief Officer every order made under subsection (1).

49. (1) Where it appears to the Director that the holding of any meeting, gathering or any public entertainment is likely to increase the spread of any infectious disease, he or she may by order prohibit or restrict, subject to such conditions as he may think fit, for a period not exceeding 14 days, the meeting, gathering or public entertainment in any place.

(2) An order under subsection (1) may be renewed by the Director from time to time for such period, not exceeding 14 days, as he or she may, by notice in writing, specify.

(3) Any person who holds, is present at or has taken part in any meeting, gathering or public entertainment in contravention of an order by the Director under subsection (1) shall be guilty of an offence.

(4) An authorized officer, health officer or a police officer may take any action that is necessary to give effect to an order under subsection (1)

(5) Any person who is aggrieved by any order of the Director under subsection (1) may appeal to any court of law or tribunal of competent jurisdiction.

(6) Notwithstanding that any appeal under subsection (4) is pending, an order made by the Director under subsection (1) shall take effect from the date specified by the Director, unless the court of law or tribunal of competent jurisdiction otherwise directs.

PART VI — FOOD SAFETY AND HYGIENE CONTROL

50. (1) The department shall in consultation with other relevant departments develop a county food safety and hygiene plan every five years.

(2) Notwithstanding the generality of subsection (1),
a food safety and hygiene plan shall define—

(a) the scope and items for which monitoring and enforcement shall be implemented intensively;

(b) the infrastructural requirements for food testing and analysis;

(c) financial and human resource requirements;

(d) mechanisms for guidance to promote self-regulation or voluntary food sanitation management;

(e) mechanisms for coordination with other relevant regulatory organs.

(3) The department shall advise the County Government and its organs on the development of the necessary human capital, financial resources, institutional arrangements and enabling infrastructure to implement the plan under subsections (1) and (2).

51. (1) An authorized officer of the department shall for the purposes of this Act have the power:-

(a) at any hour reasonable for proper performance of duties enter any institution or food establishment within the jurisdiction of the county for the purpose of ascertaining compliance with the requirements of this part or orders made under this Act;

(b) at all reasonable hours to enter any other premises, vessel or facility used for the production, preservation, preparation, processing, packaging, storage, sale or distribution of food for the purpose of ascertaining whether there is any evidence of any contravention of the requirements of this part or orders made under this Act;

(c) to inspect and examine, detain, seize or remove for the purpose of examination any article of food in any premise or place where such food is sold, prepared, processed, packaged, stored, or displayed;

(d) where he or she is of the opinion that any food article is unfit for human consumption, to order it
to be treated, disposed of, or destroyed; and

e) open and examine any receptacle or package
which he or she on reasonable ground believes
contains any article to which this act or
regulations made thereunder apply.

(2) An authorized officer acting under this section if
required shall produce his or her authority.

52. (1) No person or entity shall operate a food
establishment for public patronage without securing a
food hygiene license from the department.

(2) No person or entity to whom a license has been
issued under the provisions of this section shall lend, hire,
sell, transfer or otherwise dispose of such license to any
other person or entity except in accordance with
regulations made under this Act.

(3) A license issued under this section shall be valid
for a prescribed period and may be renewed for the same
period where the applicant has complied with license
conditions and the requirements of this Act or other
applicable law.

(4) A license may be suspended or revoked if the
holder of the license—

(a) obtained the license by fraud or deliberate or
negligent submission of false information;

(b) transfers or otherwise assigns a license without
prior approval of the issuing authority;

(c) contravenes this Act or any terms and conditions
of the license;

(d) where the court for whatever reason orders so; or

(e) fails, without reasonable cause, to comply with an
enforcement notice issued under this Act or any
other written law.

(5) For the purposes of this Act, a food establishment
means an operation that stores, prepares, packages, serves,
vends, or otherwise provides or distributes food for human
consumption, whether free of charge or not, such as a
school, college, hospital, nursing home, care center or any
other similar institution.
(6) The County Executive Committee member shall prescribe the procedure and manner of making such an application, the applicable fees and the conditions for the grant or renewal of such permits.

53. (1) No person shall be employed in the preparation of food in a food establishment without a valid certificate of medical examination issued by the department.

(2) A certificate of medical examination shall be issued or reissued as the case may be only after the required physical and medical examinations have been performed and appropriate immunizations, if applicable, administered or maintained at prescribed intervals.

(3) A health certificate issued under subsection (1) may, at any time, be revoked or suspended —

(a) where the holder is known or suspected to suffer from an infectious or communicable disease;

(b) where the holder appears to have an illness, infection or open lesion, sore, infected wound or any other abnormal source of microbial contamination;

(c) where the licensed operator of a food establishment knowingly employs any person who is suffering from or is suspected to be suffering from an infectious disease;

(d) where the licensed operator of a food establishment does not comply with subsection (2);

(e) where the licensed operator of a food establishment refuses to comply with any lawful order or requisition made with any requisition made under subsection (3); and

(f) under any other circumstances prescribed by regulations promulgated under this Act.

(4) The County Executive Committee member shall prescribe the form and manner of application for a health certificate for the purposes of subsection (1).

(5) A person who contravenes the provisions of subsection (1) shall be guilty of an offense and liable to a
fine not less than fifty thousand shillings or to imprisonment for a term of not exceeding twelve months.

54. (1) No person shall sell, collect, prepare, manufacture, keep, transmit, display or otherwise offer for sale any food for human consumption which is—

(a) rotten, stale, unwholesome or unripe foods which are likely to harm the human body;

(b) foods which contain or are likely to contain poisonous or harmful substances;

(c) foods that are or are likely to be contaminated by microbes which may cause disease or harm to the body; or

(d) foods that are likely to harm the human body due to uncleanliness or adulteration.

(2) No person shall sell, collect, manufacture, import, process, use, cook, store, subdivide, transport or offer for sale any milk, meat, bones, organs or blood of animals which have contracted or are likely to contract disease.

(3) An authorized officer may issue a closing order prohibiting the sale, preparation, packaging, display or distribution of food on grounds of public health.

A person who contravenes the provisions of subsection (1) shall be guilty of an offense and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than twelve months.

55. (1) It shall be the duty of every person who sells, prepares, packages, stores, or displays any food for sale or distribution in a fairground, public park, market or similar place or event to ensure that such food—

(a) is adequately protected from flies, dust, vermin, and spoilage; and

(b) is kept in safe and sanitary conditions free of contamination.

(2) The County Executive Committee Member shall prescribe Regulations for the purposes of subsection (1).

(3) A person who contravenes the provisions of subsection (1) or regulations made under subsection (2) shall be guilty of an offense and liable to a fine not less
50. The Migori County Environmental Health and Sanitation Bill, 2019

than fifty thousand shillings or to imprisonment for a term of not less than twelve months.

56. (1) Every person who owns, operates or is in charge of the growing or harvesting of food articles or raw materials to be used in the preparation of food shall ensure that such operations are conducted under clean and sanitary conditions free from any contamination.

(2) Notwithstanding the generality of subsection (1), the harvesting operations for food articles or raw materials shall ensure that—

(a) unfit food articles or raw materials are segregated out during harvesting and disposed of in such place and such manner that they may not contaminate any other food or water supply; and

(b) harvesting devices do not constitute a source of contamination to food articles or raw materials.

(3) A person who contravenes the provisions of subsection (1) and (2) shall be guilty of an offense and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than twelve months.

57. (1) An authorized officer may, at any reasonable time for the proper performance of his or her duty enter any food establishment, facility or premise used for the sale, preparation, packaging, conveyance or storage of food to inspect and examine any food found therein and—

(a) take samples of food from such food establishment, facility or premise;

(b) seize any food or item during the course of such inspection; or

(c) prevent the sale or distribution where it is found, or there is reason to believe, that such food is unfit for human consumption.

(2) An authorized officer shall take the necessary care and issue the necessary orders or guidance to the owner, operator or person in charge of a food establishment, facility or premises with regard to food hygiene and sanitation in order to prevent sanitation hazards or violation of this Act or orders issued under it or
any other written law.

(3) An authorized officer shall carry at all times and, upon demand, present an identity card issued by the County Government.

(4) Any person who obstructs an authorized officer or otherwise interferes with the exercise of any powers conferred by this section shall be guilty of an offence and liable to a fine not less than thirty thousand shillings or an imprisonment for a term not exceeding nine months or both.

58. (1) Any authorised officer may serve an improvement notice or prohibition order on the owner or operator of a food establishment, facility or premise where the authorized officer considers on reasonable grounds that the sale, offer for sale, processing, manufacture, conveyance or storage of food therein does not comply with an enforceable requirement under this Act or regulations made thereunder.

(2) An improvement notice or prohibition order shall take the form of a direction that requires specified enforceable requirement to be complied with within a stipulated period after service of notice on the operator or owner.

(3) Where an improvement notice or prohibition order has not been complied with, an authorized officer may cause to be served on the operator or owner of a food establishment, facility or premise a second notice or order calling on such operator or owner to show cause, at a time and place, why the sanitary permit should not be suspended or revoked.

(4) Any decision taken in terms of this section shall be taken in accordance with the requirements of the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

(5) A person who contravenes the requirements of subsection (2) commits an offence and shall be liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not more than twelve months or both.

59. (1) No person shall use any plant, facility,
premise or place for or in connection with the preparation, processing, manufacture, storage, conveyance, handling of food for sale which—

(a) does not meet the structural requirements relating to the dimensions, design, lighting and ventilation suitable to facilitate maintenance and sanitary operations for food processing purposes as set out under rules made under this Act or any other law;

(b) is used as a living or sleeping quarter or any other purpose which would be likely to contaminate the food or to affect injuriously its wholesomeness, fitness or cleanliness; and

(c) does not provide effective screening or other protection against birds, animals and vermin, including but not limited to insects and rodents.

(2) Where any food plant or establishment by the reason of its construction or disrepair, is in such a condition that any food in the premises may be exposed to contamination or deterioration, an authorized officer may serve a notice in writing on the owner, operator or person in charge of a food plant or establishment—

(a) requiring the cleaning, reconstruction or repair of the facility or premises in the specified manner and period; or

(b) prohibiting the use of the facility or premises until the conditions stated in such notice have been fulfilled.

(3) All plant equipment and utensils shall be—

(a) suitable for their intended use;

(b) so designed and of such material and workmanship as to be adequately cleanable; and

(c) properly maintained.

(4) The County Executive Committee member shall prescribe rules in respect of the construction, equipment, operation and maintenance of food plants.

(5) A person who contravenes the requirements under this section or rules made thereunder shall be guilty of an
offense and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than twelve months.

60. (1) The department shall—

(a) ensure that all slaughterhouses, abattoirs and butcheries maintain their premises in sanitary and hygienic conditions at all times;

(b) issue food hygiene licence and occupational certificates after environmental health inspections or audits;

(c) ensure the siting of such infrastructure is done in a manner to avoid health risks; and

(d) ensure the provisions of this Act and any other applicable legislation is enforced.

(2) The department shall regulate the sanitation and hygiene conditions of all slaughterhouses, abattoirs and butcheries.

(3) The Director shall ensure that every owner, manager or operator of a all slaughterhouse, abattoir or butchery provides—

(a) proper, adequate and hygienic sanitary accommodation for each gender;

(b) adequate supply of clean and safe water for the establishment of facility;

(c) an approved system of waste disposal maintained in a sanitary condition;

(d) facilities and procedures for enforcing hygiene and sanitation standards; and

(e) every practical appliance to keep the premises sanitary at all times.

(4) No person shall slaughter or dress livestock for human consumption in locations other than designated slaughterhouse, abattoir or butchery except:

(a) cases of persons, other than persons carrying on meat retail businesses or other businesses handling meat principally for consumption by said persons and their family members;

(b) cases where livestock have been injured or have
fallen into an incurable state due to unforeseen accidents and have to be immediately slaughtered;

(c) cases where the meat therefrom is not intended for consumption by humans, animals or birds and suitable means are available for the disposal of every part of such animal;

(d) cases where livestock suffer from difficult delivery or other conditions designated by law or order and have to be immediately slaughtered;

(e) cases where it is necessary to destroy any dangerous animal and where it could not safely be taken to any authorized place of slaughter;

(f) cases where the livestock is intended for consumption by such person or the household, exclusively; or

(g) other cases designated by lawful executive order.

(5) The County Executive Committee Member shall, in consultation with the relevant county departments and agencies, prescribe regulations respecting the sanitary establishment, control and operation of slaughterhouses, abattoirs and butcheries.

(6) Any person who fails to comply with the provisions of sub-section (4) or otherwise contravenes the provisions of this section shall be guilty of an offence and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than twelve months.

61. (1) Every person who owns, operates or is in charge of a food plant or establishment shall take all reasonable measures and precaution to ensure that:-

(a) no person suffering from any communicable disease or while a carrier of such disease, or while affected with boils, sores, infected wounds, open lesions or other sources of microbiological contamination, shall work in a food establishment, facility or plant in a capacity in which there is a reasonable possibility of food ingredients becoming contaminated by such person or such
disease being transmitted to the other employees, customers and users;

(b) thorough medical examination is carried out in a public health facility or by a medical officer of health on all employees prior to their employment and at regular intervals of not more than six months, and the health certificates are kept at the food plant or establishment and on demand by the authorized officers should be produced;

(c) all persons while working in direct contact with food, food ingredients or food contact surfaces comply with requirements as to general cleanliness and personal hygiene and dressing; and

(d) proper supervision is provided by competent supervisory personnel to ensure the compliance with the requirements of this Act or any other applicable law.

(2) An owner, operator or person in charge of a food plant or establishment or facility shall provide and maintain:-

(a) clean and sanitary toilet facilities for employees, customers and other users;

(b) hand washing facilities at or near the toilet facilities with an adequate supply of soap contained in suitable dispensers, running water and suitable hand driers;

(c) the supply of running water in all areas where the preparation of food and the cleaning of equipment or utensils is conducted; and

(d) facilities for drainage of effluents or disposal of waste in a manner compatible with the requirements of public health and environmental protection.

(3) A person who contravenes the requirements under this section or rules made thereunder shall be guilty of an offense and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than twelve months.

(4) The County Executive Committee Member shall
prescribe rules for the purposes of subsection (1).

62. (1) The County Government may, for purposes of the regulation, surveillance and control of food safety and hygiene-

(a) establish county reference food testing laboratory which shall be maintained so as to meet the conditions and standards for good food laboratory practice; and

(b) appoint or recognize such persons as it deems fit and having the prescribed qualifications to be county government analyst for the purpose of this Act or any other applicable law.

(2) The County Government may cooperate with the national government or other counties to jointly establish a food testing laboratory and any other infrastructure for the purpose of regulation and control of food safety and hygiene.

(3) The food testing laboratory established under subsection (2) shall obtain accreditation from the relevant national authority.

63. (1) The County Executive Committee Member shall prescribe regulations—

(a) providing for the inspection of food plants, factories, stores, shops and other places where any article of food is manufactured or prepared or kept;

(b) providing for the inspection of slaughterhouses, and the animals therein, and prohibiting, restricting or regulating the slaughtering of animals;

(c) in respect of the taking and examination of samples of articles of food and the removal or detention, pending examination or inquiry of animals or articles which are suspected of being diseased or unsound or unwholesome or unfit for human consumption;

(d) providing for the procedure for the detention, seizure or destruction of any diseased, unsound or
unwholesome article of food, or which has been exposed to any infection or contamination;

(e) in respect of the medical supervision of food handlers, including the provision of requisite hand washing and sanitary facilities of such food handlers;

(f) requiring the medical examination of any person in any premises in which an article of food intended for sale is collected, kept, sold or exposed for sale, or of any person who has been engaged in the collection, preparation, keeping, conveyance, or distribution of any food; and

(g) prescribing the places at which and the conditions under which animals are slaughtered for human consumption.

PART VII — SANITARY CONTROL OF BUILDINGS AND PREMISES

64. (1) The County Government in the interest of public health and for the purposes of ensuring a clean and healthy environment and maintaining sanitation standards shall—

(a) ensure proper and orderly development of its area of jurisdiction;

(b) enact legislation or make regulations with respect to approval of development applications including design, construction, alteration, maintenance of buildings and the provision of sanitary facilities in accordance with public health requirements and sanitation standards.

(2) Regulations under paragraph (1)(b) shall require a building in so far as it is in the circumstances both practicable and reasonable, to make appropriate safety and sanitary provisions including sanitary conveniences.

(3) The department shall not recommend for approval a development application and grant of development permission referred to it if it is satisfied that a plan and specifications accompanying it do not meet the requirements of this Act and any other applicable law.

65. (1) No person shall construct a building or an
extension of a building within the county except in accordance with the environmental health and sanitary requirements as provided for under this Act and any other applicable law.

(2) The department shall consider each application and the plans and specifications in respect to environmental health and sanitation requirements accompanying it and, and may within seven days after service of the application—

(a) where it is satisfied that the plans and specifications meet the requirements of this Act and any other applicable law, recommend it for approval subject to conditions; or

(b) where plans and specifications do not meet the requirements of this Act and any other applicable public health law, recommend non-approval thereof with reasons in writing.

(4) Any person erecting any building or extension of a building in contravention of the requirements of this section shall be guilty of an offence and liable to a fine not less than one hundred thousand shillings or to imprisonment for a term of not less than twelve months.

66. Subject to any other applicable law, the County Executive Committee member may make regulations for all or any of the following matters—

(a) ensuring development plans, specifications and written particulars in respect of an application for approval comply with environmental health and sanitation requirements and standards;

(b) the provision of safety, proper lighting and ventilation, and the prevention of overcrowding;

(c) ensuring buildings and premises remain in clean and sanitary conditions;

(d) ensure drainage systems, streets or premises remain in sanitary and hygienic condition;

(e) standards relating to treatment and discharge of waste water;

(f) the keeping of animals or birds and the construction, cleanliness and drainage of places

Regulations relating to health protection and sanitation in buildings.
where animals or birds are kept;

(g) the sanitary control of markets and market buildings;

(h) the carrying on of offensive trades or factories which are liable to cause offensive smells or effluvia or to discharge liquid or other material liable to cause such smells or effluvia or to pollute watercourses, or are otherwise liable to be a nuisance or injurious or dangerous to health;

(i) the control of houses let in lodgings, the fixing of the maximum number of lodgers, the minimum floor space allotted to each lodger, the adequate ventilation and lighting and periodical cleansing at stated intervals of the premises, the provision of adequate sanitary appliances and other requirements having for their object the protection of the health of the lodgers or surrounding inhabitants; and

(j) the surveillance and inspection of works, buildings, premises, factories and trade premises, water sources and for the testing of drains and sewers, and the taking by an authorized officer of samples for testing and giving of notices and orders by an authorized officer.

67. (1) An owner or occupier of premises or a building shall—

(a) provide and maintain the prescribed or sufficient and satisfactory latrine or toilet facilities;

(b) provide suitable and effective means of drainage and disposal of all waste liquids and storm water;

(c) maintain all buildings, hardened areas and storm water drains and private sewers in good order and condition;

(d) maintain all sanitary fitments, waste pipes, soil pipes, drains, drainage connections and other drainage fittings and accessories in good order and condition;

(e) cause all sewage discharged from any building to be conveyed by a drain to a connecting sewer
or septic tank;

(f) ensure that every room or other structure or accommodation used for human habitation or occupation is adequately lighted and ventilated;

(g) paint, colour-wash, lime-wash or otherwise suitably renovate any exterior part of the premises when so required; and

(h) avoid any insanitary condition thereon or any interference therefrom with the healthiness of the vicinity.

(2) Subject to the provisions of this Act, where it appears to an authorized officer that such premises or building are not maintained in accordance with the requirements of this Act, he or she may by written notice require the owner of such building or premises to take specific action to comply with the requirements of this Act or any other applicable law.

68. (1) An authorised officer shall have the power to enter any building or premises for the purpose of ascertaining compliance with the provisions of this Act, regulations or order made under this Act or any other applicable law.

(2) An authorized officer may serve an improvement notice or order requiring such owner or occupier, within such period specified in the notice as he or she may consider appropriate, to carry out such works so as to bring such building or premises into compliance with this Act and any other applicable law.

(3) Any owner or occupier shall be guilty of an offence if he or she—

(a) intentionally obstructs an authorized officer in the exercise of any powers conferred by this section;

(b) refuses or without reasonable excuse fails to provide facilities or assistance or any information or to permit entry or any inspection reasonably required by an authorized officer; or

(c) fails to comply with an improvement notice or order issued by an authorized officer under
subsection (2)

and liable to a fine not less than one hundred thousand shillings or to imprisonment for a term of not less than twelve months.

69. (1) Where in the opinion of an authorized officer, a building, premise or dwelling or part thereof is deemed insanitary, unsafe or unfit for human occupation or otherwise poses danger to human health as a result of lack of repair, filth, absence of plumbing or any other defect or condition, he or she

(a) may give notice to the owner or occupier of the building, premise or dwelling and placard the building as unsanitary, unsafe and unfit for human occupation;

(b) may order the owner or occupier of the building, premise or dwelling to carry out any repairs specified in the order to make the building or part of the building fit for occupation before occupying or permitting another person to occupy the building or part of the building; and

(c) may apply to any court or tribunal of competent jurisdiction for the issuance of a demolition order requiring the owner or occupier of the premises to commence to demolish them on or before a specified in terms of the provisions of this Act or applicable national law.

(2) Where a building placarded pursuant to subsection (1) is occupied, the local authority may order the occupants to vacate the building or part of the building.

(3) No person shall take down, cover up, mutilate, deface or alter a placard posted pursuant to this section.

70. (1) An authorized officer may order the owner or occupier of a building or land used by the public to prevent public access to the building or land where he or she forms the opinion that—

(a) there is a health hazard in the building or premises; or

(b) the building or land itself constitutes a health hazard.
(2) An order under subsection (1)
   (a) may provide that such direction shall not have effect if the health hazard specified therein is remedied so as to render it fit for use; and
   (b) shall specify the period within which the building or premises must be closed following service of the order.

(3) A person who contravenes the requirements of a order under this section shall be guilty of an offense and liable to a fine not less than one hundred thousand shillings or to imprisonment for a term of not less than twelve months.

71. (1) No person shall create or maintain a nuisance or any other condition liable to be injurious to public health or that might hinder in any manner the prevention or suppression of disease.

(2) For the purposes of this section, the following shall be deemed to constitute a nuisance—
   (a) any property that has been artificially altered from its natural condition so that it supports the development, attraction, or harborage of vectors;
   (b) any activity that supports the development, attraction, or harborage of vectors, or that facilitates the introduction or spread of vectors;
   (c) a place, condition, or building, public or private, that is not maintained in a sanitary condition;
   (d) any fairground, public park, market or similar place in which food is prepared, packed, displayed, sold, or served to the public and that is not maintained in a sanitary condition;
   (e) any vessel, vehicle in which food is prepared, packed, stored, transported, sold, or served to the public and that is not constantly maintained in a sanitary condition;
   (f) sewage, human excreta, wastewater, garbage, or other organic wastes deposited, stored, discharged, or exposed in such a way as to be a potential instrument or medium in disease
transmission to a person or between persons;

(g) a vessel, vehicle or container that is used to transport garbage, human excreta, or other organic material and that is defective and allows leakage or spilling of contents;

(h) conveyance of the carcass of any animal through any public street except under cover and so as not to be exposed to view;

(i) a place or condition harboring rats in a populous area;

(j) conditions conducive for ectoparasites, including bedbugs, lice, and mites, suspected to be disease carriers in a place in which sleeping accommodations are offered to the public; and

(k) the maintenance of an open surface privy or an overflowing septic tank so that the contents may be accessible to flies.

72. (1) A person shall abate any public health nuisance existing in or on a place the person owns, occupies or otherwise controls as soon as the nuisance exists.

(2) An authorized officer may issue a written notice ordering the abatement of the nuisance to any person responsible for the nuisance specifying the nature of the public health nuisance and designating a reasonable time within which the nuisance must be abated.

(3) A person who creates, maintains or fails to abate a public health nuisance within the time specified by the notice shall be guilty of an offense and liable to a fine not less than five thousand shillings or to imprisonment for a term of not less than three months.

PART VIII—SANITATION IN PUBLIC AND INSTITUTIONAL SETTINGS

73. (1) Every county government department in control of or responsible for the maintenance of any premises or place to which the public has access or use of shall provide and maintain sanitary an adequate number of toilet or latrine facilities in such premises or places.

(2) Where the accommodation comprises an outdoor
toilet facility, the owner shall ensure that—

(a) the outdoor toilet facility—

   (i) is located and maintained so that no nuisance is created;

   (ii) is maintained in a clean and sanitary condition and in good working order; and

   (iii) is protected so that vermin do not have access to the contents; and

(b) in the case of an outdoor toilet facility with a pit, the pit contents are appropriately disposed, treated or covered when such outdoor toilet facility is abandoned or removed.

74. (1) Every owner, manager, operator or person in charge of a hotel, motel, resort, court, inn, lodging house or other similar accommodation or boarding facility shall ensure compliance with the provisions of this Act and any other applicable law.

   (2) An owner, manager, operator or person in charge of a hotel, motel, resort, court, inn, lodging house or other similar accommodation or boarding facility shall—

   (a) provide ample supply of clean and safe water for the general conduct of the establishment or facility;

   (b) equip the establishment or facility with an approved system of sewage disposal maintained in a sanitary condition;

   (c) keep the premises sanitary and provide every practical facility or appliance essential for that purpose;

   (d) provide and maintain facilities and procedures for enforcing food hygiene and sanitation standards;

   (e) provide clean and sanitary sheets, towels, napkins, and pillowcases; and

   (f) take vector and vermin control measures.

   (3) A person who contravenes the requirements of this section shall be guilty of an offense and liable to a
75. (1) The department shall—

(a) ensure sanitary and hygienic conditions of public or private markets or place used for purpose of selling publicly, or exposing for sale, any cattle, donkeys, horses, sheep, goats, pigs, poultry or other livestock;

(b) inspect and make recommendations to the responsible county department or authority to provide and maintain adequate number of toilet or latrine, hand washing facilities and supply of clean and safe water.

(2) Every owner, manager or operator of a market shall—

(a) provide ample supply of clean and safe water for the general conduct of the establishment or facility;

(b) equip the establishment or facility with an approved system of waste water treatment and or disposal maintained;

(c) keep the premises sanitary and provide every practical facility or appliance essential for that purpose; and

(d) maintain facilities and procedures for enforcing food hygiene and sanitation standards.

(3) No person shall offer or use any building, place or premise as a private market without a sanitary license issued by the county government or authority.

(4) Any person who fails to comply with the provisions of sub-section (2) or otherwise contravenes the provisions of this section shall be guilty of an offence and shall be liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than three months.

76. (1) No fairground, picnic camp, recreational park, rest area or similarly situated facility shall be open for public patronage without a sanitary license issued by the
(2) A fairground, picnic camp, recreational park, rest area or similarly situated facility or event whether publicly or privately owned shall be maintained at all times free of any public health nuisance and shall provide and maintain—

(a) an adequate supply of clean and safe water for drinking and running water for hand washing;

(b) sanitary toilet and hand washing facilities for its employees and users;

(c) containers or receptacles for the collection of refuse or litter which shall be collected at regular intervals;

(d) adequate number of personnel to ensure efficient operation, hygienic maintenance and elimination of harborages of vermin;

(e) adequate drainage facilities to prevent flooding or any surface runoffs;

(f) connectivity to a centralized or decentralized wastewater management system or infrastructure for the collection, treatment and disposal of wastewater; and

(g) adequate comfort rooms and resting sheds for users.

(3) Any preparation, sale, offer for sale, display, or distribution of food in a fairground, picnic camp, recreational park, rest area or similar facility shall be done in conformity with the provisions of this Act or any other laws concerning food safety and hygiene.

(4) Any person who fails to comply with the provisions of sub-section (2) or otherwise contravenes the provisions of this section shall be guilty of an offence.

77. (1) Every school, educational institution or similar establishment whether private or public shall maintain environmental health and sanitation standards to the highest level attainable to prevent, reduce or eliminate environmental health risks.

(2) It shall be a requirement for every school,
educational institution or similar establishment to obtain a sanitary license issued under this Act.

(3) The department shall not issue a sanitary license to an institution which does not provide and maintain—

(a) an adequate supply of clean and safe water for drinking and running water for hand washing;

(b) sanitary toilet facilities for each gender and for persons with disabilities and children;

(c) containers or receptacles for the collection of refuse or litter including facilities for safe and hygienic disposal of sanitary pads which shall be collected at regular intervals;

(d) adequate drainage facilities to prevent flooding or any surface runoffs; and

(e) connectivity to a centralized or decentralized wastewater management system or infrastructure for the collection, treatment and disposal of waste water.

(4) The County Executive Committee member in consultation with the relevant county departments and authorities may make regulations and orders relating to the promotion of sanitation in early childhood development education centres, schools, tertiary and other educational institutions and other comparable institutional settings.

78. (1) The department shall, in the interests of health and sanitation, take all lawful, necessary and reasonably practicable measures for the regulation of temporary mass gatherings whether public or private.

(2) Every convener, organizer or host of any congregation, gathering or assembly of more than 50 persons in or in any public place or private premises wholly or partly open to the air shall keep clean and free from litter that part of the public place or private premises on which such congregation, assembly, gathering or procession is held.

(3) The County Executive Committee member may promulgate regulations under this section requiring a convener, organizer or host of a congregation, assembly or gathering—
(a) to notify the department of such gathering or event;

(b) to ensure that the grounds are provided with receptacles for litter or refuse collection in a number and of a type so as to adequately meet the needs of such gathering or event;

(c) to arrange for litter or refuse collected at or during the event to be removed from the grounds in a timely manner;

(d) to provide portable toilet facilities for each gender and for persons with disabilities serving the event either on or adjacent to the location where the gathering or event is held; and

(e) to provide hand washing facilities at or near the toilet facilities with an adequate supply of soap, running water and suitable hand driers.

(4) Any preparation, sale, offer for sale, display, or distribution of food at a public assembly, gathering or procession shall be done in conformity with the provisions of this Act or any other laws or regulations concerning food safety and hygiene.

(5) The requirement for notification under this section shall not be construed as imposing a requirement for a sanitary license for the convening or conduct of a public congregation, gathering or assembly where no such requirement is imposed by law.

(6) A person who contravenes the requirements imposed under subsection (2), (3) or (4) shall be guilty of an offense and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than three months.

79. (1) Every business premises including banking halls, industrial establishment, agricultural plantation, mining site or other workplace shall be kept in a clean and sanitary state free from any nuisance or environmental health risk.

(2) No person or entity shall operate any business premises including banking halls, industrial establishment, agricultural plantation, mining site or other workplace...
without first obtaining a sanitary permit issued under this Act.

(3) Every owner, operator or person in charge of any business premises including banking hall, industrial establishment, plantation, mining or other workplace shall—

(a) ensure that the buildings or premises meets the prescribed construction and maintenance standards;

(b) provide and maintain in clean and sanitary conditions toilet or latrine facilities for each gender and for persons with disabilities so far as practically possible and hand washing facilities for all employees, customers and other users;

(c) provide an adequate supply of clean and safe water for drinking and running water for hand washing;

(d) provide containers or receptacles for the collection of refuse or litter which shall be collected at regular intervals;

(e) provide and maintain adequate drainage systems and facilities for the collection, treatment and disposal of effluent and waste water;

(f) ensure that the business premises, industrial plant or workplace shall not be overcrowded as to cause risk of injury to the health of the persons employed therein; and

(g) prevent any public nuisance within any such business premises, industrial establishment, agricultural plantation, mining or any other workplace.

(4) Any person who fails to comply with the provisions of sub-section (3) or otherwise contravenes the provisions of this section shall be guilty of an offence and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than three months.

80. (1) The County Government department responsible for disaster management shall establish a county plan for emergency and disaster management and
make provision for the promotion and protection of environmental health, sanitation and hygiene among persons affected by a disaster or emergency situation.

(2) The County Government may by mutual agreement work with the national government, other counties and non-governmental entities to provide basic shelter, food, health care, water, and sanitation services sanitation services to the affected population, communities, households, families or individuals.

(3) Notwithstanding the duty of the county government under subsection (1), every sanitation service provider shall take reasonable steps to provide basic sanitation services to persons affected by an emergency or disaster situations.

(4) The County Government shall establish a framework for multi-agency coordination in provision of basic shelter, food, health care, water, and environmental health and sanitation services sanitation services during disaster or emergency situations.

(5) The County Executive Committee Member in collaboration with the County Government department responsible for disaster management may make any other policies, regulations or guidelines to protect public health in disaster or emergency situations.

PART IX—CONTROL OF ENVIRONMENTAL HEALTH RISKS RELATING TO WASTE AND POLLUTION

81. (1) The relevant department of the County Government shall develop and implement a county integrated waste management policy, strategy and plan in the interest of protection of public health and environment.

(2) Notwithstanding the generality of subsection (1), the integrated county waste management policy, plan and strategy shall incorporate components of:—

(a) household waste management;
(b) village or community waste management;
(c) market waste management;
(d) industrial waste management
(e) commercial waste management
(f) healthcare waste management;
(g) electronic waste management; and
(h) hazardous waste management.

(3) Every relevant department and agency of the County Government, town committee and municipality board shall participate in the formulation and implementation of the county integrated waste management policy, strategy and plan.

(4) For the avoidance of doubt, the county department responsible for environment shall lead the formulation of the county integrated waste management policy, strategy and plan.

82. (1) The department shall develop a county environmental health risk management plan for the management of environmental risks which affect or are likely to affect human health.

(2) The environmental health risk management plan shall—
   (a) provide an integrated, holistic approach to the prevention, control, abatement, mitigation and monitoring of environmental health problems;
   (b) provide a framework for ensuring that decisions rely on the best scientific evidence and are made in the context of sustainable risk management alternatives; and
   (c) emphasize the importance of collaboration, consultation, cooperation, communication, and negotiation among stakeholders so that public values can influence risk management strategies.

83. (1) No person shall emit, discharge or deposit any effluent or waste into any water source in contravention of the acceptable conditions established under this Act or other legislation.

(2) Every water service provider, supplier or water carrier must take reasonable steps to protect all aspects of water supply from pollution in accordance with drinking
water standards established under national legislation or any other applicable law.

(3) An authorized officer may at any time take a sample or require a water service provider, supplier or water carrier or vendor to submit a sample of water for analysis to determine or to monitor the quality of water.

(4) A person who emits, discharges or deposits any waste, poison, toxic, oil or mixture containing oil or other noxious or obstructing matter or pollutant or permits any person to dump or discharge such matter into any water source in contravention of water pollution control standards shall be guilty of an offence and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than three months.

84. (1) A person shall not throw out, deposit or bury excreta from human bodies whether solid or liquid, or dispose of those substances other than in an approved sewage system or other approved means of disposal.

(2) A building or premises where people work, live or frequent shall have an approved means for the disposal of sewage.

12 months.

(3) No person shall cause or knowingly permit wastewater or sludge to be used on agricultural land unless it is treated and it meets requirements set out under this Act or any other national legislation and no person shall sell or supply sludge for use on agricultural land if he or she knows or has reason to believe that such is untreated or that the requirements above will not be fulfilled when the sludge is so used.

(4) Where the use of treated sludge or wastewater is permissible on agricultural land, it shall be applied in such a way that account is taken of the nutrient needs of the plants and that the quality of the soil and of the surface and ground water is not impaired.

85. (1) No person shall bathe or wash in or within a riparian area of a lake, river, stream, creek, canal, pond, dam, reservoir or any other watercourse.

(2) No person shall soak or wash in any river, canal,
ditch, drain or watercourse any hides, dye cloths or other matter likely to render the water polluted, offensive or noxious.

(3) A person who contravenes the requirements of this section shall be guilty of an offense and liable to a fine not less than five thousand shillings or to community services orders.

86. (1) The Director may where he or she believes that any water supply source, public swimming pool, or public swimming place is a health hazard for the people using or likely to use the water, issue a warning or notice.

(2) A warning or notice may be issued in any manner or form that the Director considers appropriate, and may contain advice on precautions to be taken when using the water.

(3) Where it is reasonable to assume that a warning or notice affects patrons of an accommodation house, the proprietor of the accommodation house must cause the warning or notice to be brought to the attention of those guests as soon as practicable.

87. (1) An authorized officer may, where it appears that any drain, latrine, cesspool or septic tank constructed upon or in connection with any premises is in a bad state of repair, or is inefficient or is a nuisance or injurious or dangerous to health, enter or cause such premises to be entered, the ground to be opened and such drain, latrine, cesspool or septic tank to be examined.

(2) Where a drain, latrine, cesspool or septic tank is found on examination to be in an unsound or insufficient condition, the authorized officer may by written notice require the owner or occupier of such premise, within a reasonable time therein specified, to carry out such works as may be necessary.

(3) A person who fails to comply with the requirements of any notice served under this section within the time specified shall be guilty of an offence and liable to a fine not less than twenty thousand shillings or to imprisonment for a term of not less than three months.

88. (1) No person shall—
(a) urinate or defecate in or upon any land, forest, bush, street, alley, canal, drain, ditch, river, lake, beach or watercourse or in any place to which the public has access to except in a sanitary convenience provided for such purpose; and

(b) cause or permit any urine or faecal matter to flow or drain into any lake, river, canal, ditch, drain, dam or watercourse.

(2) A person who contravenes subsection (2) shall be guilty of a misdemeanor and be liable to a fine not exceeding ten thousand shillings or a community service order or both.

(3) The County Executive Committee member may promulgate regulations or issue orders for elimination of open defecation within the county.

89. (1) A generator or holder of waste shall be required to, within the holder's power, take all reasonable measures—

(a) avoid the generation of waste and where such generation cannot be avoided, to reduce the amounts or toxicity of waste that is generated;

(b) comply with requirements for collection of waste varying by type, origin and properties by placing such waste in receptacles approved, designated or provided by the service providers for that purpose in a manner and location approved or authorized;

(c) take all measures to prevent the mixing of hazardous waste with other waste or of recoverable waste with non-recoverable waste;

(d) ensure that waste is treated, and where not reusable, recyclable or recoverable, disposed of in a manner not deleterious to health or the environment or causative of a public health nuisance;

(e) provide briefing and periodic training to personnel handling hazardous waste and prevent any employee or any person under his or her supervision from contravening this Act;

(f) plan and implement the measures necessary to
avoid the spread of pollution after the closure of the projects and operations, as well as of the waste disposal facility or installation;

(g) prevent waste from being used for an unauthorized purpose; and

(h) draw up a contingency plan for response to accidents as may occur upon carrying out waste-related operations.

(2) The duty of a holder of waste shall not be construed as a limitation on the obligation of the County Government in respect of waste management.

90. (1) The department shall establish healthcare waste management guidelines for health care facilities to—

(a) protect public health and safety;

(b) provide a safer working environment;

(c) minimize waste generation and environmental impacts of medical waste disposal; and

(d) ensure compliance with legislative and regulatory requirements.

(2) Every generator of healthcare waste within the county shall prepare and submit a healthcare waste management plan to the department.

(3) Every generator of healthcare waste shall take all reasonable measures to ensure that healthcare waste generated at its facility is handled, stored, transported, treated and disposed of in strict compliance with this Act and any other written law relating to waste management.

(4) Every generator of healthcare waste shall—

(a) segregate medical from general waste at the point of generation, and take all reasonable measures to maintain such segregation at all times thereafter;

(b) ensure that healthcare waste stored in a generating facility shall be stored in such manner that putrefaction will not occur and infectious agents will not come in contact with the air or
individuals;
(c) ensure that healthcare wastes shall not be stored on the premises of the producing department for more than 30 days;
(d) ensure healthcare waste shall not be stored outdoors or in any unsecured area to prevent access by unauthorized individuals;
(e) collect healthcare waste in containers which comply with the minimum requirements for packaging of medical waste including capped or leak or spill resistant containers;
(f) place as appropriate high risk waste in capped or tightly secured leak resistant and spill resistant containers;
(g) collect healthcare waste in clearly marked or coded containers indicating the contents in accordance with established standards;
(h) ensure containers used to collect, transport, or store healthcare are clearly labeled with a biohazard symbol or with the words healthcare written in clear and legible letters according to set standards;
(i) place sharps waste in a sharps container at the point of generation and keep such waste in a sharps container at all times thereafter;
(j) clearly indicate the name or registration number of that generator on all containers containing its medical waste by using marking or a digital identification;
(k) seal waste containers to prevent leakage or expulsion of contents in leak resistant receptacles;
(l) consign waste only to a transporter or facility that is authorized;
(m) ensure that healthcare wastes is properly treated and safely disposed;
(n) conduct an ongoing training and education programme for employees or agents involved in
managing medical waste; and

(o) ensure adequate budgetary allocations to cover the cost of managing healthcare wastes including operation and maintenance costs.

(5) A person who contravenes the requirements of this section shall be guilty of an offense and liable to a fine not less than two hundred thousand shillings or to imprisonment for a term of not less than twelve months.

(6) The County Executive Committee member shall promulgate regulations and may make any order in respect of the handling, storage, transportation, treatment, recovery and disposal of healthcare waste.

PART X — CEMETRIES, CREMATORIA AND FUNERAL PARLOURS

91. (1) The County Executive Committee Member in consultation with the department responsible for lands and physical planning shall—

(a) appoint and notify the public of sufficient and proper places to be the sites of and to be used as cemeteries and crematoria.

(b) establish, operate and maintain crematoria

(2) No person, group or entity shall establish, maintain or operate a cemetery or crematoria without a license issued under this Act and any other applicable law.

(3) Subject to subsection (4), the burial or disposal of the dead in such cemeteries and crematoria shall be in conformity with rules made under this Act and any applicable law.

(4) Notwithstanding the provisions of sub section (2), a permit shall not be required for the purposes of this Act for family burial sites situated wholly within the boundaries of either individual freehold land or community land.

(5) The County Executive Committee Member shall develop rules in respect of the establishment, operation and control of private cemeteries and burial of remains on private property.

(6) A person who contravenes the provisions of subsection (2) shall be guilty of an offense and liable to a
fine not less than fifty thousand shillings or to imprisonment for a term of not less than three months.

92. (1) It shall be unlawful for any person to bury or dispose of human remains in places or in a manner other than those authorized under this Act.

(2) A burial ground shall be at least 25 meters distant from any dwelling house.

(3) No burial ground shall be located within 50 meters from a source of any water source.

(4) A person who contravenes the requirements of this section shall be guilty of an offense and liable to a fine not less than fifty thousand shillings or to imprisonment for a term of not less than three months.

93. Subject to any other applicable law, it shall be the duty of the department to make arrangements to provide for the burial of any destitute persons or any unclaimed body found within the county through a court order.

94. (1) It shall be unlawful for any person or group to establish, maintain or operate a funeral parlor, morgue, mortuary or any other similar funeral establishment without a sanitary license issued under the provisions of this Act and any other written law.

(2) No person shall be employed as an embalmer or undertaker in a funeral parlor, morgue, mortuary or any other similar funeral establishment without a valid practicing certificate issued by a competent authority recognized by law.

PART XI — PLANNING, PERFORMANCE MANAGEMENT AND FINANCING

95. (1) The Chief Officer shall establish and maintain a county environmental health and sanitation information system.

(2) Subject to any law relating to access to information or requirement for payment of a prescribed fee, a member of the public shall have the right to access to information contained in the national environmental health and sanitation information system or any county environmental health and sanitation information system.

96. (1) The purpose of the county environmental
health and sanitation information systems shall be—

(a) to provide data for the development, implementation and monitoring of policies and strategies for environmental health and sanitation;

(b) to provide a framework that facilitates the exchange of diffuse health information,

(c) to provide information to sanitation service institutions, consumers and the public—
   (i) to enable them to monitor the performance of sanitation service provision;
   (ii) for research purposes; and
   (iii) for any other lawful reason.

(2) Regulations made under this Act shall specify requirements and the nature of information required for the maintenance of the county environmental health and sanitation information systems.

97. (1) The Chief Officer shall establish a county environmental health and sanitation plan and strategy framework.

(2) The county environmental health and sanitation plans and strategy frameworks under subsections (1) and (2) shall incorporate components of —

(a) the types, availability and objectives of sanitation services;

(b) the scope of demand or need for sanitation services;

(c) infrastructure necessary for provision of sanitation services;

(d) estimated capital and operational costs of sanitation services and the financial arrangements for funding those water services, including the tariff structures;

(e) a resource mobilization and financing strategy for the implementation of the plans;

(f) investment programmes, business plans and
98. (1) The department shall establish a performance management and accountability framework for the implementation and monitoring of its environmental health and sanitation development plan.

(2) The integrated performance management and accountability framework shall—

(a) set appropriate key performance indicators as a yardstick for measuring performance, including outcomes and impact with regard to the development priorities and objectives set out in its environmental health and sanitation strategic frameworks;

(b) set measurable performance targets with regard to each of those development priorities and objectives;

(c) with regard to each of those development priorities and objectives and against the key performance indicators and targets set in terms of paragraphs (a) and (b)—
   (i) monitor performance; and
   (ii) measure and review performance at least once per year;

(d) take steps to improve performance with regard to those development priorities and objectives where performance targets are not met; and

(e) establish a process of regular reporting to appropriate governance organs.

(3) The system applied by the department in compliance with subsection (1)(c) shall be devised in such a way that it may serve as an early warning indicator of under-performance.

(4) An integrated performance management and accountability framework shall be published in an appropriate medium during its preparation so as to bring its contents to the attention of the public.

performance management and accountability framework.

(2) Notwithstanding the generality of subsection (1), there shall be developed and implemented a system of peer review of the integrated performance management and accountability framework in accordance with guidelines published under this Act or any other written law.

(3) The County Government shall, so far as practicable, involve local communities in the implementation and review of the integrated performance management and accountability framework and, in particular, allow such local communities to participate in the setting of appropriate key performance indicators and performance targets.

100. (1) There is established a sanitation sector financing mechanism to be known as the County Sanitation Sector Trust Fund which shall be vested in the County Government.

(2) The Fund shall be consist of —

(a) any money appropriated by the County Assembly for the purposes of the Fund;

(b) any money contributed to the Fund by the National Government;

(c) any money received from any other Fund such as the Constituency Development Fund;

(d) any money received by way of grant, gift, endowment or bequest or any other contribution for the purposes of the Fund;

(e) any income from investment of money belonging to the Fund; and

(f) any money paid into the Fund under any other Act.

(3) The Fund shall be administered by a Board of five Trustees appointed by the Governor by a notice in the Gazette.

(4) The County Executive Committee member responsible for finance shall promulgate regulations in respect of the management and administration of the
101. (1) The objects of the Fund are to—

(a) aggregate funds from different sources to ensure sustainable funding for programmes, projects and activities for the protection and promotion of environmental health and sanitation;

(b) ensure equitable financing of environmental health and sanitation by supporting the development and management of sanitation services in marginalized areas or any area which is considered to be underserved including rural areas and poor urban areas;

(c) provide financial support for training and research on environmental health and sanitation;

(d) provide financial resources for capacity building for county governments and community level initiatives; and

(e) provide financial support for community education and awareness programmes related to environmental health and sanitation.

(2) Without limiting the generality of subsection (1), the County Executive Committee member responsible for public finance may by regulations detail more specific objects of the Fund.

(3) The Fund may be used to pay for the operating costs for the administration of the Fund, provided that regulations may set a limit on use for such purposes.

PART XII—ENFORCEMENT POWERS

102. (1) The Director shall have the powers to enforce the provisions of this Act.

(2) The Director may by written notification delegate any power except the power to delegate to any other officer so appointed or designated under this Act.

103. (1) The Director or an authorized officer may obtain, from any person, such information including books, records, returns, reports and any other document, as the Director or such officer deems necessary to enable him or her to carry out his or her functions under this Act.
(2) If so requested by the Director or an authorized officer, a person shall provide such information as required and the Director may make copies of such information or take extracts therefrom.

(3) A person who gives information under this section, shall not give information which is false or misleading.

(4) Any person who contravenes subsection (2) or (3) shall be guilty of an offence and shall be liable to a fine not less than five thousand shillings or to imprisonment for a term not exceeding four months or to both.

104. (1) Subject to subsection (2) an authorized officer may enter any premises for the purpose of conducting a search and may seize any item during the course of an investigation in connection with the enforcement of this Act or any other applicable law.

(2) No authorized officer shall enter, conduct a search or seize any item in terms of subsection (1) unless such officer has obtained:

(a) the consent in writing of the owner, occupant or other person in charge of the premises; or

(b) a search warrant.

(3) An authorized officer shall carry at all times and, upon demand, present an identity card issued by the County Government.

(4) Any person who obstructs or interferes with any person in the performance of his functions under this section shall be guilty of an offence and shall be liable to a fine not less than five thousand shillings or to imprisonment for a term not exceeding four months or to both.

105. Any person who commits an offence under this Act may be arrested by an authorized officer or inspector without warrant and handed over to the nearest police officer.

106. (1) An authorized officer may, at any reasonable hour for the proper performance of the duty, enter any land, building or premises and take with him such assistance and equipment as may be considered necessary
to make any inspection or to perform any other duty which is required or authorized under this Act or any other applicable law.

(2) Any person authorized under subsection (1) shall, on demand by the occupier of the land, produce an identity card issued by the County Government.

107. (1) Any authorized officer may serve an improvement notice or prohibition order on the occupier or owner of land, building, premises or vessel where the authorized officer considers on reasonable grounds—

(a) that the land, building, premises or vessel does not comply with an enforceable requirement under this Act or regulations made thereunder;

(b) that a public facility in the vessel or on the land, building or premises is not being operated in compliance with the requirements of this Act or regulations made thereunder; and

(c) an improvement notice or prohibition order may specify the actions to be taken to comply with a requirement of the Act.

(2) An improvement notice or prohibition order shall take the form of a direction that requires specified enforceable requirement to be complied with within a stipulated period after service of notice on the occupier or owner.

(3) An improvement notice or prohibition order may specify the actions to be taken to comply with a requirement of the Act.

(4) Any decision taken in terms of this section shall be taken in accordance with the requirements of the right to administrative action that is expeditious, efficient, lawful, reasonable and procedurally fair.

(5) A person who contravenes the provisions of this section commits an offence and shall be liable to a fine not less than five thousand shillings.

108. (1) Where a court is satisfied from information placed before it that circumstances relating to a particular matter, which matter is a subject of an investigation under this Act, render that matter urgent in that irreparable
damage would be caused to the environment or animal, plant or human life, if the matter were to be dealt with by the court at the proceedings in due course, the court may issue a provisional order—

(a) prohibiting any person from the deleterious act of commission or omission;

(b) ordering a person to perform a particular act;

(c) preventing any potential environmental hazard or health risk; or

(d) authorizing the department to take any action specified in the order.

(2) A provisional order issued under subsection (1): —

(a) may be amended or withdrawn by the court on application by the director or by a person affected by such order;

(b) shall remain in force for such period or extended period as the court may from time to time determine; or

(c) shall, unless withdrawn or lapsed, remain in force until the proceedings are finalized.

109. (1) If a person is convicted of an offence under this Act, the court may, having regard to the nature of the offence and the circumstances surrounding its commission, in addition to any other punishment that may be imposed under this Act, make an order that has any or all of the following effects—

(a) prohibiting such offender from committing an act or engaging in an activity that may, in the opinion of the court, result in the continuation or repetition of the offence;

(b) directing the offender to take any measures that the court considers appropriate to avoid harm to public health that results from or may result from the act or omission that constituted the offence, or to remedy that harm;

(c) directing the offender to publish, in any manner that the court directs, at the offender’s own expense, the facts relating to the offence and an
apology for any harm caused by the offence;

(d) directing the offender, at the offender’s own expense, to notify any person who is aggrieved or affected by the offender’s conduct of the facts relating to the conviction;

(e) directing the offender to post a bond or pay an amount of money into court that the court considers appropriate to ensure compliance with any condition required under this section;

(f) directing the offender to compensate the county government, town committee, or municipal board in whole or in part, for the cost of any remedial or preventive measure taken by such authority as a result of the act or omission that constituted the offence;

(g) directing the offender to perform community service, subject to any reasonable conditions that may be imposed by the court;

(h) directing the offender to pay an amount that the court considers appropriate for the purpose of conducting research; and

(i) requiring the offender to comply with any other conditions that the court considers appropriate in the circumstances for securing the offender’s good conduct and for preventing the offender from repeating the same offence or committing another offence under this Act.

(2) An order made under subsection (1) comes into force on the day on which the order is made or on any other day that the court determines but may not continue in force for more than three years after that day.

PART XII— MISCELLANEOUS AND GENERAL PROVISIONS

110. (1) The County Government or other authority or person in control of or responsible for the maintenance of an institution, workplace or any premises or place to which the public has access shall in accordance with regulations made under this section—

(a) provide and maintain separate and adequate
sanitary facilities for each gender and for persons with disabilities;

(b) provide facilities for the practice of good menstrual hygiene management;

(c) create public awareness about the essentials of menstrual hygiene management; and

(d) make arrangements for safe and hygienic disposal of sanitary pads and other menstrual waste management materials which shall be collected at regular intervals.

(2) The County Executive Committee member responsible for environmental health and sanitation matters may make regulations relating to menstrual hygiene management.

111. A person who commits an offence under this Act, or under any regulations or rules made under his Act, shall, if no other penalty is prescribed in respect of the offence, be liable to a fine not less than exceeding fifty thousand shillings or to imprisonment for a term of not less than three months.

112. (1) Any notice required to be served in pursuance of this Act shall be served by delivering it personally to the person required to be served, or, if such person is absent or cannot be found:

(a) by leaving it at the person's usual or last known place of abode in Kenya;

(b) by post, addressed to the person's usual or last known address.

(c) in the case of a notice required to be served on a state organ, company or other corporate body, by delivering it to its principal officer or by leaving it at his or her office with a person employed there, or by registered post.

(2) If any landholder is not known and, after diligent inquiry, cannot be found, such notice may be served on him or her by leaving it, addressed to him or her, with an occupier of the land or, if there is no apparent occupier, by causing it to be put in a conspicuous position on the property in Kenya last known to have been occupied by
him or her.

(3) Any notice required to be given to a landholder may be addressed to the owner of land or premises described in the address in respect of which the notice is given.

(4) Any person who without reasonable cause pulls down or defaces any notice posted in pursuance of subsections (1) and (2) shall be guilty of an offence and liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term of not less than three months.

113 (1) The department shall institute initiatives and steps regarding research, education, training, awareness raising and capacity building on environmental health and sanitation in collaboration with relevant county departments and county office responsible for public affairs, information and participation.

(2) Notwithstanding the obligation of the County Government under subsection (1), every person whose activity presents a substantial risk to health or the environment shall provide education about the associated risks and the manner in which such may be mitigated.

114. (1) The County Executive Committee Member may, in consultation with the relevant departments, agencies and stakeholders, make regulations generally for the better carrying into effect the provisions of this Act.

(2) Regulations made under this Act may provide for offenses.

(3) Regulations made under this Act shall not take effect unless and until they have been published in the Gazette.
FIRST SCHEDULE—MEMBERSHIP OF THE COUNTY INTER-
AGENCY COORDINATING COMMITTEE

1. County Executive Committee member responsible for
environmental health and sanitation affairs as chairperson;

2. County Executive Committee member responsible for water
affairs, or his or her representative appointed in writing;

3. County Executive Committee member in responsible for
environment affairs, or his or her representative appointed in
writing;

4. County Executive Committee member responsible for trade affairs;

5. County Executive Committee member responsible for agriculture
and veterinary affairs, or his or her representative appointed in
writing;

6. County Executive Committee member responsible for public
works and roads affairs, or his or her representative appointed in
writing;

7. County Executive Committee member responsible for public
service management, or his or her representative appointed in
writing;

8. County Executive Committee member responsible for lands and
physical planning, or his or her representative appointed in writing;

9. Chairpersons of any Municipality Board or Town Committee
within the county; and

10. Three representatives drawn from civil society and private sector
stakeholders appointed by title and by name for a renewable period
of three years by County Executive Committee Member;

11. The Chief Officer, as the secretary.
SECOND SCHEDULE — ENVIRONMENTAL HEALTH AND SANITATION SERVICES

1. Refuse or garbage removal.
2. Refuse or garbage collection.
3. Refuse storage.
4. Refuse transportation.
5. Refuse or waste recovery or recycling.
6. Refuse or waste disposal.
7. Refuse or waste treatment.
8. Faecal sludge management
9. Manual and mechanical pit emptying
10. Maintenance of sanitary facilities for refuse disposal.
12. Incineration.
13. Establishment or operation of landfills.
14. Household water treatment services.
15. Clean and safe drinking water
16. Hand washing facilities
17. Toilet facilities
18. Hygiene education and awareness
19. Menstrual hygiene management services
20. Medical examination and health certificate
21. Vaccination services
22. Wastewater treatment and disposal.
23. Cleaning services for public places and buildings.
24. Control of pests and vectors and vermin services including fumigation.
25. Cemeteries, crematoria and funeral parlour services.
26. Exhumation services
27. Collection, transportation and disposal of dead animals.
THIRD SCHEDULE — NOTIFIABLE INFECTIOUS DISEASES

PART I — COMMUNICABLE DISEASES IN GENERAL

1. Anthrax
2. Avian Flu
3. Chancroid.
5. Dengue fever and Dengue haemorrhagic fever
6. Diphtheria.
7. Dysenteries (All forms).
9. Food poisoning
10. Human immunodeficiency virus infection (all form)
11. Gonococcal infections (all forms)
12. Leprosy.
13. Malaria.
15. Myocarditis.
16. Plague
17. Poliomyelitis (acute).
18. Rabies.
20. Syphilis (all forms).
21. Tetanus (all forms).
22. Tuberculosis (all forms).
23. Typhoid and paratyphoid fevers
24. Typhus and other rickettsioses.
25. Viral encephalitis.
27. Whooping cough.
28. Yellow fever.
29. Any other life threatening microbial infection.
PART II: INFECTIOUS DISEASES DECLARED TO BE NOTIFIABLE DISEASES

1. Influenza,
2. Relapsing fever,
3. Blackwater fever,
4. Encephalitis lethargica,
5. Yellow fever,
6. Kala-azar,
7. Malaria
8. Bacillary dysentery
9. Amoebic dysentery
10. Severe Acute Respiratory Syndrome (SARS).
MEMORANDUM OF OBJECTS AND REASONS

Context

The Migori County Environmental Health and Sanitation Bill, 2019 aims to promote environmental health and wellbeing of communities and individuals in Migori County. Its main policy objective is to protect and promote environmental health and to tackle the social and economic costs attached to preventable diseases. Its constitutional basis is the right to reasonable standards of sanitation and the right to a clean and healthy environment as provided for under Articles 42 and 43 of the Constitution of Kenya.

The Bill has undergone a transformation following its initial formulation. Its provisions now reflect a consensus among the relevant departments that it is a law designed to be enforced by multiple departments and agencies in the interest of the people of Migori County.

PART I deals with the title and object of the Act. The key objective of the Act is to establish a legal and institutional framework for the promotion of environmental health and provision and regulation of environmental health and sanitation services.

PART II of the Act establishes the general principles underpinning the interpretation, application and enforcement of the Act. These principles are derived from the applicable constitutional provisions, the international human rights framework and other general principles and jurisprudence relating to environmental health and sanitation. They include rights and duties: the right to reasonable standards of sanitation, the right to a clean and healthy environment, the right to clean and safe water and the duty to promote environmental health and provide, maintain and improve sanitation standards and services.

PART III establishes an institutional framework for administration of the Act. It includes the functions of the County Executive Committee Member and the Chief Officer. The Act also establishes a County Inter-agency Committee whose objective is to ensure a coordinated, efficient, effective and consultative approach to formulation of policies, regulation, monitoring and mobilization of resources for environmental health and sanitation activities in the county.

PART IV prescribes requirements in respect of the provision of sanitation services. It specifies the duty of the County Government through the relevant departments and agencies to provide sanitation services, duty of sanitation service users and manner of application for a license to be a sanitation service provider and the conditions for the grant or renewal of a license. This Part contemplates a coordinated multi-agency processing of such licenses.

PART V deals with prevention and control of infectious diseases. This Part specifies precautions to be taken in respect of infectious diseases and
the powers of the County Executive Committee Member, Chief Officer or Director in respect of the prevention and containment of infectious diseases.

PART VI establishes standards for food quality, hygiene and safety. This Part stipulates requirements in respect of food handlers and food establishments generally and the functions of the county government in respect of licensing and control of undertakings that sell food to the public.

PART VII makes provision for sanitary control of the use of land and buildings as well as the prohibition and prevention of public health nuisances. This Part outlines the powers of authorized officers and the County Government generally in respect of control of its area of jurisdiction. In line with the multifaceted nature of the land control, this Part contemplates a coordinated multi-agency engagement.

PART VIII regulates sanitation standards in public and institutional settings. It establishes requirements for sanitation in schools, nursing homes and other institutional settings. In addition, provision is also made for occupational health and sanitation. It also incorporates a provision on environmental health and sanitation protection in emergency or disaster situations.

PART IX provides for the control of environmental health risks relating to pollution and waste management. It prohibits pollution of water courses, pollution of soil, air pollution and noise pollution. It also prohibits open defecation. This Part also establishes the duty of owners or occupiers of premises or land to arrange for removal of litter from such premises or land. This Part contemplates a coordinated multi-agency engagement, led by the environment docket.

PART X deals with the establishment, operation and maintenance of cemeteries, crematoria and funeral parlours. It contemplates multi-agency participation as with other parts of the Bill.

PART XI provides for county information management, performance management and financing for environmental health and sanitation.

PART XII contains provisions on enforcement powers by authorized officers.

PART XIII contains miscellaneous and general provisions.

Statement of Financial Implications

The enactment of the Bill will occasion additional expenditure of public funds which will be provided for through the estimates.

JACKLINE A, ONGORO, Chairperson, Health Committee.