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THE NYAMIRA COUNTY COVID-19 AND HIGHLY INFECTIOUS DISEASES RESPONSE BILL, 2020

A Bill for

AN ACT of the County Assembly to provide for the Control and Management of COVID-19 and other highly infectious diseases, to provide for preparedness and response to highly infectious diseases outbreak, to establish a highly infectious diseases Coordination Committee, to provide for recruitment and deployment of temporary extra resources in times of a health crisis, to regulate the administration and functions of the Coordination Committee; and for connected purposes.

ENACTED by the County Assembly of Nyamira as follows—

PART I — PRELIMINARY

Short title

1. This Act may be cited as the Nyamira County COVID-19 and Highly Infectious Diseases Response Act, 2020.

Interpretation.

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

“Committee” means the Emergency Response Committee established under section 5;

“COVID-19” Coronavirus disease identified in 2019;

“County Public Service Board” means the Nyamira County Public Service Board established in accordance to section 57 of the County Governments Act;

“Department” means the County Department of Health;

“Director” means the Director of the Department of Health, or any person acting from time to time in the position of the Director;

“Executive Committee Member” means the County Executive Committee Member responsible for Health;

“Fund” means the COVID-19 Emergency Response Fund established by the Committee;

“Gazette” means the Kenya gazette;

“Healthcare Professionals” means doctors, nurses, pharmacists, technologists, midwives, technicians, clinical officers, mortuary attendants, social workers, psychologists, morticians, cremators, undertakers;
“Medical Waste” means any kind of waste that contains infectious, material including masks, waste generated by healthcare facilities including infectious waste, pathological waste, chemical waste, pharmaceutical waste, and general waste;

“member” means a member of the Emergency Response Committee;

Objects

3. The purpose of this Act is to provide a legislative framework to—
   (a) prevent, control and manage the spread and impact of COVID-19 and other highly infectious diseases;
   (b) establish a infectious diseases coordination committee;
   (c) provide for allocation of resources to meet the demands in times of outbreak of infectious diseases;
   (d) provide for the establishment of public health standards during infectious diseases;
   (e) regulate supplies of commodities during periods of highly infectious disease outbreak;
   (f) provide for recruitment of temporary health and other professionals;
   (g) provide for safeguards in respect to health workers during infectious diseases outbreak;
   (h) provide for socio-economic support for all including water and electricity supply during infectious diseases outbreak; and
   (i) improve quality of service delivery for better control and management of COVID-19 and other highly infectious diseases.

Application of the Act

4. This Act shall apply during outbreak to control and manage COVID-19 and other highly infectious diseases declared by the county or national government.

PART II — CO-ORDINATION AND ENFORCEMENT

Establishment and composition of the Emergency Response Committee

5. (1) There is established the Emergency Response Committee.
   (2) The Committee established under section (1) shall be appointed by the Governor and shall comprise—
      (a) the County Executive Member, who shall be the Chair;
      (b) the Director, who shall be the Secretary;
      (c) six members nominated by representative organisations
specified in sub-section (3) and appointed by the Executive Committee Member; and
(d) the public officers specified in subsection (4).

(3) The members appointed under subsection (2)(c) shall be nominees of the following organisations—
(a) an umbrella body representing professional associations in the county;
(b) an association representing the private sector in the county; (c) a cluster representing the registered associations of the informal sector in the county;
(d) a cluster representing the registered neighbourhood associations in the county;
(e) a cluster representing the civil society and non-governmental organizations; and
(f) an association of urban areas and cities.

(4) The members referred to under subsection (2)(d) shall be—
(a) the accounting officer responsible for finance or officer’s nominee;
(b) accounting officer responsible for health or officer’s nominee; and
(c) the county commissioner or the commissioner’s nominee.

(5) In appointing the members of the Committee under sub-section (2)(c), the Governor shall ensure—
(a) the nomination process is competitive;
(b) the committee reflects the regional and ethnic diversity of the people within the county;
(c) inclusion of marginalized and vulnerable groups; and
(d) the committee members are not more than two-thirds of the same gender.

Tenure of members

6. The members of the Committee shall be appointed for a term of three years (and shall be eligible for re-appointment for one further term of three years).

Vacancy of office

7. (1) The office of the chairperson or a member of the Committee, other than ex officio members, shall become vacant if the holder—
(a) dies;
(b) resigns from office by notice in writing addressed to the Governor;
(c) is convicted of a criminal offence and sentenced to a term of imprisonment;
(d) completes the term of office;
(e) is absent from three consecutive meetings of the Committee without good cause; or
(f) is removed from office on any of the following grounds —
   (i) gross violation of the Constitution or any other written law;
   (ii) gross misconduct or misbehaviour;
   (iii) inability to perform functions of the office arising out of physical or mental infirmity;
   (iv) incompetence or neglect of duty; or
   (v) bankruptcy.

(2) A vacancy under this section shall be reported to the nominating body and shall be filled within three months.

Functions and powers of the Committee

8. (1) The Committee shall have power to do all things necessary or convenient to be done to attain or further the objects of this Act, and any health related law which the Department is responsible for administering, including power to—
   (a) Develop policy and coordinate all matters concerning outbreak of infectious diseases including COVID-19;
   (b) Facilitate development and adoption of measures to contain the spread of coronavirus;
   (c) Promote and coordinate a good working relationship of all stakeholders in curbing the spread of any infectious diseases including COVID-19;
   (d) Mobilize resources to support prevention, spread and management of the infectious diseases including taking an audit of healthcare professionals;
   (e) Coordinate dissemination of regular information to the public on the infectious diseases including prevention and control;
   (f) Coordinate allocation of medical supplies and advise on accreditation of Personal Protective Equipment;
   (g) Identifying isolation facilities as directed by the National government;
(h) Ensure adherence to the directives issued by the National government;

(i) Ensure rapid response on any information on COVID-19 and other infectious diseases;

(j) Facilitate Inter and intra county coordination in containing the spread of COVID-19 and other infectious diseases;

(k) Enable Cooperation and consensus with national government;

(l) Facilitate establishment of an IT platform for data collection and recording for dissemination of information;

(m) Coordinate availability of ambulance services; and

(n) Provide advisory on revision of all rates payable to the county government during an outbreak of a infectious diseases where necessary

(2) The Committee shall have all powers incidental to and necessary for the effective discharge of its functions under this Act and any other written law.

(3) Despite subsection (1), the Committee shall—

  (a) formulate and adopt guidelines for evaluation and accreditation of Personal Protective Equipment;

  (b) partner with private sector to provide subsidised protective material and disinfectants; and

  (c) undertake immediate evaluation of the COVID-19 situation and recommend immediate action to the Governor.

(4) The Committee shall, from time to time, publish and disseminate information that is necessary for the public.

Conduct of business of the Committee

9. (1) The business and affairs of the Committee shall be conducted in accordance with the First Schedule.

(2) Except as provided in the First Schedule, the Committee may regulate its own procedure.

Delegation of powers

10. (1) The Committee may by resolution either generally or in any particular case, delegate to any committee of the Committee or to any member, officer, employee or agent of the County Government, the exercise of any of the powers or the performance of any of the functions or duties of the Committee under this Act.

Sub-committees

11. (1) The Committee may establish such Sub-committees as may be
necessary for the effective discharge of its functions.

(2) The Sub-committee established under subsection (1), may call upon any person whose knowledge and skills are considered necessary for the effective discharge of the role of the Committee.

Emergency recruitment and deployment of temporary healthcare professionals

12. (1) The Executive Committee Member in consultation with the County Public Service Board shall recruit and deploy duly qualified and licensed healthcare professionals on a temporary basis as advised by the Committee.

(2) In deploying healthcare professionals under section (1), the Executive Committee Member shall—

(a) equitably distribute both human and material resources;
(b) provide certified personal protective equipment for all healthcare professionals;
(c) develop guidelines, standards and periodic certification for all healthcare professionals on safety procedures and prevention of hospital-acquired infections based on risk levels;
(d) develop and implement a comprehensive infectious disease exposure control plan to protect health care workers from exposure to infectious diseases and the SARS-CoV-2 virus that causes COVID-19;
(e) provide regular testing of healthcare professionals for possible exposure to coronavirus; and
(f) provide an insurance cover for all healthcare professionals valid for twelve months after the end of the infectious diseases.

Identification of Public health officers

13. Each public health officer shall be furnished with an identification card which shall be produced—

(a) if practicable, on each occasion before the officer proceeds to act pursuant to this Act; and
(b) if demanded by any person who is subjected to any exercise of a power by an environment officer in accordance with this Act.

Powers of a Public health officer

14. (1) A public health officer shall have the power to enter--

(a) a building, dwelling house at a reasonable time; and
(b) a vessel, vehicle or other form of conveyance at any time for the purposes of—
(i) inspecting and monitoring the spread and impact of COVID-19;
(ii) investigating the commission of any offence or the breach of any lawful obligation under this a law or any other law relating to the control of a infectious diseases; or
(iii) enforcing this Act or any other law relating to the control of COVID-19 or any other infectious diseases.

(2) The powers referred to under sub section (1), shall not be exercised unless;
(a) reasonable notice has been issued to the owner or occupier of the building, dwelling house, vessel; or
(b) a search warrant has been obtained from a magistrate.

Precautionary Notice

15. (1) Where a public health officer suspects that an activity or matter may be breaching provisions of this Act or any other related law, the officer shall issue a notice requiring that any person apparently in control of or associated with the activity, do any of the following—
(a) provide information in relation to the activity or matter to satisfy the health officer that the provisions of this Act or any other related law is not being breached;
(b) deploy alternative activities or operating techniques to avoid or decrease the impact and spread of COVID-19 or any other infectious diseases in accordance with the provisions of this Act or any other law;
(c) undertake to stop the activity or matter to the satisfaction of the officer, to avoid or decrease the impact of COVID-19 or any other infectious diseases; and
(d) undertake any other requirement, as determined by the officer, to ensure that the activity or matter does not adversely affect or negatively the impact the public in accordance with this Act or any other relevant law.

(2) A person served with a notice under sub-section (1), shall ensure that the requirements stated in the notice are complied with immediately, and shall satisfy the public health officer, that the activity or matter is not adversely affecting the public.

(3) A person who, having been served with a notice issued under sub section (1)—
(a) fails to comply with a requirement stated in the notice; or
(b) fails to satisfy the public health officer that an activity or matter
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is not or is no longer adversely impacting upon the public within the time stipulated, commits an offence.

**Ceasing of notice**

16. (1) A notice to cease an activity may be issued under this section whether or not a Precautionary Notice has been served under section 15.

(2) Where, upon receiving advice from public health officer, the County Executive Member is of the opinion that there is occurring, or may occur, an act or activity which involves an immediate threat or risk to the public, the County Executive Member may issue a notice under this section.

(3) A notice issued under this section shall—

(a) be directed to any person, organisation or body whom the County Executive Member believes is carrying out the act or activity, or apparently has some control over it;

(b) specify the act or activity and the nature of its effect upon the public; and

(c) require that the act or activity is ceased, or not be done, until the County Executive Member is satisfied that the threat or risk no longer exists.

(4) A notice may be served under this section notwithstanding that any approval, licence or permit has been granted in relation to the activity.

(5) Any person who—

(a) having been served with a notice issued under this section, fails to comply with any of its terms;

(b) having been served with a notice issued under this section, causes or permits any other person to act in breach of its requirements; or

(c) knowingly acts in breach of the requirements of a notice given under this section, whether or not that person has been served with the notice, commits an offence and shall on conviction, be liable a fine not exceeding Shillings 100,000 or to a term of imprisonment not exceeding one year.

**Social and psychosocial support**

17. (1) In deploying healthcare professionals, the County Executive Member shall ensure—

(a) adequate and equitable distribution of counsellors, psychologists and psychiatrists to provide mental heal support to fellow healthcare professionals, workers, individuals and
families throughout the county;

(b) Adequate and equitable number of social workers to provide support to vulnerable persons and children whose support systems have been disrupted.

PART III — CONTROL AND MANAGEMENT OF SPREAD

Spread and disease control

18. (1) The Department shall ensure proper regulation and control in the spread of COVID-19 and any other infectious diseases in the county.

(2) Without prejudice to the generality of sub section (1), the functions of the Department in relation to control and management of spread of disease shall include—

(a) enforcing regulations and guidelines as developed by national government;

(b) monitoring spread of COVID-19 and other infectious diseases and its effect on the public;

(c) regulating infections and controlling movement of infected persons;

(d) implementing systems of control in disease spread, treatment of infected persons and the public, including development of homecare treatment protocols;

(e) the maintenance and sanitizing of public amenities;

(f) regulating hazardous medical wastes, including the disposal, storage and trans-boundary movement of such wastes in accordance with the other relevant legislation;

(g) regulating medical waste collection and disposal systems, including landfills and medical waste storage facilities;

(h) setting operational standards and applying guidelines for Personal Protective Equipment and medical waste management operations within the county; and

(i) providing administrative and technical support to the Committee referred to under section 5 of this Act, in relation to highly infectious disease control and spread.

Medical waste management

19.(1) The Executive Committee Member in consultation with the department responsible for environment and waste management shall, by notice in the Gazette, declare waste derived from designated treatment, quarantine, isolation or handling of people and goods relating to COVID-19 or any other infectious diseases to be medical waste.
(2) The County Executive Committee Member responsible for environment and waste management shall—

(a) undertake a controlled environmental audit of each facility and issue an environmental management plan;

(b) provide technical advice to each facility for sorting of waste and pre-treatment before discharge;

(c) assign inspectors to monitor compliance with the environmental management plan; and

(d) impose specific waste management measures in respect of the waste control and manage spread of COVID-19 and other infectious diseases to protect the public.

(3) A person shall not—

(a) dispose of medical waste, knowingly or negligently cause or permit medical waste to be disposed of, in or on any land, water body or at any facility unless the disposal of that waste is at a designated site; or

(b) dispose of medical waste in a manner that is likely to spread, or cause to spread the COVID-19 or any other infectious diseases and adversely impact the public.

(4) A person who contravenes the provisions of this section commits an offence and shall be liable on conviction, to a fine not exceeding Shillings 100, 000 or imprisonment for a term not exceeding three months or to both.

Disposal of human remains

20. (1) In line with guidelines issued by national government on disposal of persons who die from COVID-19 and other infectious diseases, the CEC shall—

(a) develop standards for safe handling, transportation and interment; and

(a) sensitize the public on guidelines for the conduct of burials and other last rites, which may include reasonable and temporary limitation of customary and religious rites and practices relating to burials and cremation.

PART IV —INFORMATION MANAGEMENT MECHANISM

Establishment of County information management system

21. (1) The Department may in consultation with the Committee, establish a county information management system for the recording, collection, management and analysis of data and information on COVID-19 and any other infectious diseases.
(2) The county waste information management system referred to under sub section (1) may contain—

(a) data on the quantity and type or classification of resources needed and deployed, identified cases of infection, number of cases under treatment, number of persons recovered, numbers of lives lost, number of persons tested; and

(b) a register of;

(i) categories listed under section (2)(a);

(ii) quantity of PPEs and other materials required;

(iii) quantity of PPEs and other material supplied; and

(iv) any other information on compliance with this Act.

Purpose for the County information management system

22. (1) The purpose of the county information management system is to—

(a) store, verify, analyse, evaluate and provide data and information for the protection of the public, control and management of COVID-19 and any other infectious diseases;

(b) provide information for the development and implementation of any integrated infectious diseases management plan required in terms of this Act;

(c) provide information to the county and the public—

(i) to educate, awareness raising, research and development purposes;

(ii) to plan, including the prioritization of regulatory, disease control and other initiatives;

(iii) for obligations to report in terms of any legislation; (iv) for public safety management;

(v) on the status of the generation, collection, reduction, reuse, recycling and recovery, transportation, treatment and disposal of medical waste; and

(vi) on the impact of medical waste on health and the environment.

County communication framework

23.(1) The Director, in consultation with the county department responsible for communication, shall establish mechanisms to facilitate dissemination of information on various public forums in the form of media with the widest public outreach in the county, which may include—

(a) television stations;
(b) information communication technology centres; (c) county websites;
(d) social media platforms; (e) radio stations;
(f) public meetings; and
(g) traditional media.

(2) The department shall encourage and facilitate other means of mass communication including engaging the youth.

PART V — FINANCIAL PROVISIONS

Funds of the Committee

24. (1) The Committee shall be adequately resourced to effectively discharge its functions under this Act.

(2) The funds of the Committee shall consist of—
(a) such monies as maybe appropriated by the county Assembly for the purposes of the Committee;
(b) such monies as may be payable to the Committee pursuant to this Act or any other written law;
(c) grants, gifts, donations or other endowments given to the Committee; and
(d) monies from any other source provided or donated or lent to the Committee.

(2) The County Executive Member may establish a Fund to be known as the COVID-19 (Infectious diseases) Emergency Response Fund for the administrative expenses during outbreak of an infectious diseases and for such other purposes as may be necessary.

Accounts and audit

25. (1) The Department shall, at the end of each financial year, submit an annual report to the County Assembly.

(2) The annual report referred to under subsection (1), shall contain—
(a) a description of the activities of the Committee;
(b) the impact of the exercise of any of its mandate or functions;
(c) any impediments to the achievements of the objects and functions of the Committee; and
(d) any other information relating to its functions that the Committee considers necessary.

(3) The annual report shall be published and publicized in a manner that the county Executive Committee Member may determine.
PART V — GENERAL PROVISIONS

Remuneration of chairperson and members of the committee

26. The chairperson and members of the Committee may be paid allowances as the County Service Board and Executive Committee Member may on the advice of the Salaries and Remuneration Commission, determine.

Conflict of interest

27. (1) The chairperson or a member of the Committee who has a direct or indirect personal interest in a matter being considered or to be considered by the Committee shall as soon as reasonably practicable after the relevant facts concerning the matter have come to their knowledge, disclose the nature of such interest.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting and the chairperson or member, of the Committee shall not take part in the consideration or discussion on or vote during any deliberations on the matter.

(3) A person who fails to make the requisite disclosure under this section commits an offence.

Confidentiality

28. (1) A member or staff of the county public service shall not without the consent in writing given by, or on behalf of, the Committee, publish or disclose to any person otherwise than in the course of the person's duties the contents of any document, communication, or information which relates to, and which has come to the person's knowledge in the course of the person's duties under this Act.

(2) The limitation on disclosure referred to under subsection (1) shall not be construed to prevent the disclosure of criminal activity by a member or staff of the County Public Service

Offences

29. (1) A person who—

(a) obstructs, hinders or threatens a member, an officer, employee or agent of the Committee, Department or relevant county public servant;

(b) submits false or misleading information to the Committee, Department or relevant County Department; or

(c) makes a false representation to, or knowingly misleads a member, or an officer, employee or agent of the Committee, Department or relevant County Department acting under this Act, commits an offence and shall be liable on conviction, to a fine of not exceeding two hundred thousand shillings or to
imprisonment for a term of not less than one year, or to both.

(2) Any person who commits an offence under this Act for which no other penalty is provided, shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or both.

Regulations

30.(1) The Executive Committee Member may in consultation with the Committee make regulations for the better carrying into effect of the provisions of this Act.

(2) Without limiting the generality of subsection (1), the county Executive Committee Member may make Regulations—

(a) prescribing the duties and obligations of owners and occupiers of premises, buildings, lands, works, vessels and vehicles in relation to avoiding or minimising risk of contamination from infectious disease;

(b) providing for identification and allocation of isolation and quarantine facilities;

(c) prescribing powers of public health environment officers in relation to infectious disease control;

(d) prescribing coordination in dissemination of information and conduction citizen awareness to the village level.
FIRST SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE
(s. 9)

Meetings

1. The Committee shall meet as often as may be necessary for the dispatch of its business but there shall be at least four meetings of the Committee in any financial year.

Election of vice-chairperson

2. At the first meeting, the Committee shall elect a vice-chairperson amongst their number who shall be a person of opposite gender.

Time and place of meetings

3. A meeting of the Committee shall be held on such date and at such time and place as the Committee may determine.

Special meetings

4. The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Committee.

Quorum

5. The quorum for the conduct of business at a meeting of the Committee shall be the chairperson and any four members.

Voting

6. The chairperson shall preside at every meeting of the Committee at which the chairperson shall be present and in the absence of the chairperson at a meeting, the vice-chairperson shall preside and in the absence of both the chairperson and the vice-chairperson, the members present shall elect one of their number who has, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

Decisions of the Committee

7. Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by concurrence of a majority of all the members present and voting at the meeting.

Vacancy

8. Subject to paragraph 5, no proceedings of the Committee shall be invalid by reason only of a vacancy in its membership.

Signification of instruments and decisions of the Committee

9. Unless otherwise provided by or under any law, all instruments made by and decisions of the Committee shall be signified under the hand of the chairperson.
MEMORANDUM OF OBJECTS AND REASONS

The principal objective of this Bill is to provide for the Control and Management of COVID-19 and other highly infectious diseases, to provide for preparedness and response to infectious diseases outbreak, to establish a infectious diseases Coordination Committee, to provide for recruitment and deployment of temporary extra resources in times of a health crisis, to regulate the administration and functions of the Coordination Committee.

Part I of the Bill contains the preliminary matters.

Part II of the Bill provides for the establishment and composition of the Emergency Rapid Response Committee which comprises the County Executive Member and the Director, six members nominated by representative non state organisations, and two Chief Officers from the Department of Health and Finance respectively.

This Part also provides for the functions of the Committee which includes coordination of activities during outbreak of infectious diseases, mobilization and allocations of resources and formulation of policies and guidelines to control and manage spread of infectious diseases during outbreak. This part mandates the county to recruit extra healthcare professionals, counsellors, psychologists and social welfare officers to support the public during crisis resulting from infectious disease outbreak.

Part III of the Bill provides for the control and management of the spread of covid-19 and other infectious diseases. It specifically provides for regulation of spread and management of medical waste.

Part IV of the Bill provides for the information management mechanism. Clause 20 provides for the establishment of the Information Management System while clause 22 speaks to the County communication framework.

Part V sets out the financial provisions for the Committee. Clause 23 outlines the monies that shall constitute the funds of the Committee and Clause 24 provides for the accounts and audit of the Committee.

Part VI of the Bill contains the general provisions. Clause 25 provides for allowances for members of the Committee. Clause 26 requires members of the Committee to disclose any conflict of interest with regards to any matter under consideration. Clause 29 empowers the Executive Committee Member to make regulations for better carrying out of the provisions of the Act.

The First Schedule provides for the meetings and procedure of the Committee.

The enactment of this Act will occasion additional expenditure of public funds which shall be provided for in the annual estimates.

Dated the 27th April, 2020.

ENOCK OKERO,
Chairperson, Health Services Committee.