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**THE KIAMBU COUNTY WATER AND SANITATION SERVICES ACT,
2015**

(No. 2A of 2015)

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**THE KIAMBU COUNTY WATER AND SANITATION
SERVICES ACT, 2015**

AN ACT of County Assembly of Kiambu to provide for development, regulation and management of county public works related to water and sanitation services, storm water management systems and water conservation and for connected purposes.

ENACTED by the County Assembly of Kiambu, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kiambu County Water and Sanitation Services Act, 2015. Short title.

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

“Authorised officer” means an authorised officer appointed under section 51;

“Board” means the Board of Directors established under section 6;

“Chief officer” means the chief responsible for water services ;

“Water Service Provider” means a Water and Sanitation Services Company established under section 4;

“Department” means the Department of water and sanitation services as established by the County Executive Committee;

“Executive Member” means the County Executive Member for the time being responsible for Water Services;

“Water Sector Stakeholders Forum” means the Water Sector Stakeholders Forum established under section 49;

“water service provider” means a water service provider established under section 4;

“Water works” means any construction, excavation, piping, drainage of any land, supply or transportation of water, water abstraction works, management of storm water and floods or storage, impounding of water for supply to the public or for private purposes, drainage of any swamp or other land.

3. The objects of this Act is to provide for a legal framework for implementation of sections 10 (a) and 11 of part 2 of the Fourth Schedule to the Constitution and Article 43 (1) (b) Objects of Act.

and (d) in order to—

- (a) ensure equitable and continuous access to clean water;
- (b) promote water conservation;
- (c) provide for the development, and management of county water services public works;
- (d) provide for regulation of county water and sanitation public works;
- (e) ensure effective and efficient provision of Water and Sanitation Services;
- (f) promote effective and efficient management of storm water in built up areas;
- (g) enhance sustainable management of water resources; and
- (h) promote water and soil conservation.

PART II—ADMINISTRATION

4. (1) There shall be two County Water and Sanitation Service Providers.

Establishment of water service provider.

(2) A water service provider shall be registered as a company limited by share capital and shall be wholly owned by the county government.

(3) The Chief officer responsible for finance and the chief officer responsible for water services shall hold the shares in equal proportion as trustees on behalf of the county government.

(4) The Water Service Providers established under subsection (1) shall be the successors to—

- (a) the Limuru Water Sewerage Company Limited;
- (b) the Githunguri Water and Sanitation Services Company Limited;
- (c) the Kikuyu Water Company limited;
- (d) the Kiambu Water and Sewerage Company Limited;
- (e) the Karuri Water and Sanitation company Limited;
- (f) the Gatundu South Water and Sanitation Company Limited;
- (g) the Karimenu Water and Sanitation Company Limited;
- (h) the Ruiru, Juja Water and Sewerage Company limited; and

(i) the Thika Water and Sewerage Company Limited.

(5) The County Executive Committee shall assign to each Water Service Provider established under subsection (1)—

(a) the respective companies described under subsection (4) that a Water Service Provider shall succeed; and

(b) the sub-counties or area in which a Water Service Provider shall provide water and sanitation.

(6) A Water Service Provider established under subsection (1) shall manage the companies assigned under subsection (5) as regional offices.

5. A Water Service Provider shall be responsible for—

Functions of the
Water Service
Provider.

(a) providing and managing water and sanitation and sewerage services;

(b) operating and maintaining water systems in the assigned area;

(c) carrying out delegated works such as pipe extensions and small water storage works;

(d) providing extensions for sanitation and sewerage services;

(e) maintaining database related to water and sanitation services; and

(f) carrying out any other function as may be assigned by the Executive Member.

6. (1) The management of a water service provider shall vest in the Board of Directors.

Board of a Water
Service Provider.

(2) The Board of the water service provider shall consist of—

(a) A non executive chairperson appointed by the Governor with the approval of the County Assembly;

(b) the Chief Officer responsible for water services ;

(c) the Chief Officer responsible for finance;

(d) two persons nominated by water users associations in the area served by the water service provider in accordance with the prescribed procedure and appointed by the Executive Member with the approval of the County Executive Committee: provided that one person shall be of either gender;

(e) Managing Director who shall be an *ex officio* member and the secretary to the Board;

- (f) three professionals appointed by the Executive Member through a competitive process in accordance with the prescribed procedure and with the approval of the County Executive Committee, one of whom must be of either gender; and
 - (g) one person appointed by the Executive Member in accordance with the prescribed procedure and with the approval of the County Executive Committee to represent persons with disabilities and who shall be a youth.
- (3) A person shall be qualified for appointment as a chairperson if the person—
- (a) holds a degree or its equivalent from a recognized university;
 - (b) has knowledge and experience in management of at least five years;
 - (c) meets the requirements of Chapter six of the Constitution;
 - (d) is a resident in the county.
- (4) The persons to appointed under subsection (2) (f) shall be appointed in accordance with the following criteria—
- (a) one person shall—
 - (i) be a registered engineer;
 - (ii) be a holder of a degree in civil or water engineering or its equivalent from a recognized university;
 - (iii) be in good professional standing;
 - (iv) meet the requirements of chapter six of the Constitution; and
 - (v) be a resident in the county
 - (b) one person shall—
 - (i) be a professional in finance or accounting;
 - (ii) be a holder of a degree or its equivalent from a recognized university;
 - (iii) be a certified public accountant or its equivalent and in good professional standing;
 - (iv) meet the requirements of chapter six of the Constitution; and

- (v) be a resident in the county; and
- (c) one person shall—
 - (i) be a representative of a recognized business association in the county;
 - (ii) be a holder of a degree or its equivalent from a recognized university; and
 - (iii) meet the requirements of chapter six of the Constitution; and
 - (iv) be a resident in the county.

(5) A person shall be qualified for appointment as a member under sub section (2) (d) and (g) if the person—

- (a) holds at least a diploma from a recognized institution of higher learning;
- (b) has knowledge and experience of at least 2 years in matters relating to water resources management, local development, or any other related field;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) is a resident of the County.

(6) Any member of the Board, other than Chief Officers shall hold office for a term of three years, on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for a further and final term of three years.

7. A member of the Board of Directors may—

Removal from office.

- (a) at any time resign from office by issuing notice in writing to the Executive Member;
- (b) be removed from office by the Governor in the case of the chairperson or the Executive Member for other members in consultation with the Board, for—
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;

- (iv) incompetence; or
- (v) bankruptcy.

8. (1) There shall be a Managing Director for each Water Service Provider. Managing
Director.

(2) The Managing Director shall be appointed by the Executive Member in consultation with the Board and recruited through a competitive process.

(3) To qualify for appointment as a Managing Director, a person must—

- (a) possess a degree from a recognized university; and
- (b) have had experience in management for a period of not less than five years.

(4) The Managing Director shall hold office for a period of three years, on such terms and conditions of employment as the Board may determine, and shall be eligible for re-appointment for a further and final term of three years.

(5) The Managing Director shall—

- (a) subject to the direction of the Board, be responsible for day to day management of the affairs of the water service provider;
- (b) in consultation with the Board, be responsible for the direction of the affairs and transactions of the water service provider, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the water service provider; and
- (c) carry out any other function as may from time to time be assigned by the Board.

9. The Managing Director may—

Removal from
office.

- (a) at any time resign from office by issuing notice in writing to the chairperson of the Board;
- (b) be removed from office by the Executive Member in consultation with the Board, for—
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;

- (iii) physical or mental incapacity to perform the functions of office;
- (iv) incompetence; or
- (v) bankruptcy.

10. The Board may appoint such officers and other staff as are necessary for proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

Staff of the water service provider.

11. (1) The common seal of a water service provider shall be kept in the custody of the Managing director or of such other person as the Board may direct, and shall not be used except upon the order of the Board.

The common seal.

(2) The common seal of the water service provider, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

(3) The common seal of a water service provider shall be authenticated by the signature of the Managing Director.

(4) The Board shall, in the absence of the Managing Director, in any particular matter, nominate one member of the Board to authenticate the seal of the Water Service Provider on behalf of the Managing Director.

12. No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Water Service Provider shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Water Service Provider under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection from personal liability.

13. The provisions of section 12 shall not relieve the water service provider of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Liability for damages.

14. (1) A water service provider shall prepare and submit to the Executive Member—

Reporting by a Water Service Provider.

- (a) quarterly reports of its operations; and
- (b) annual status report which shall cover among others—

- (i) the financial statements and status;
- (ii) the number of persons supplied with water connections during the year;
- (iii) challenges faced in carrying out its functions;
- (iv) strategies and measures adopted to facilitate access to water and sanitation services in the area assigned; and
- (v) any other matter as may be required by the Executive member.

(2) The Executive Member shall, within fourteen days upon receipt of a report prepared under sub clause (1), submit the report to the County Executive Committee for consideration and adoption.

(3) The County Executive Committee shall, within twenty one days upon receipt of a report prepared under sub clause (1), consider it and may make any necessary recommendations or take any appropriate measure.

(4) The Executive Member shall, within fourteen days upon the consideration of the report by the County Executive Committee, transmit it to the County Assembly.

Department of Water and Sanitation Services

15. The Department responsible for among others water and sanitation services shall be responsible for—

Functions of the Department.

- (a) in collaboration with other national or county government (s) departments initiating, developing, coordinating and managing policies, strategies and plans for water resources management and sanitation services;
- (b) facilitating public awareness and participation on sustainable water resources, sanitation and storm water management;
- (c) promoting and facilitating adoption and use for water conservation systems and methods, including water harvesting;
- (d) developing and coordinating the implementation of water and sanitation services management information system;
- (e) developing and managing county water and sanitation services infrastructure, including water works, transport of water and water connections;

- (f) developing, in collaboration with the relevant national or county government departments, adequate water supply system for domestic, industrial and agricultural purposes;
- (g) developing and managing works for water conservation;
- (h) promoting or developing and managing water recycling systems;
- (i) promoting water use and management for sustainable development;
- (j) identifying, initiating and promoting water conservation systems, strategies and programs;
- (k) coordinating the development and management of infrastructure for storm water management;
- (l) subject to any other written law regulating water and sanitation services in the county;
- (m) providing oversight over development of infrastructure and systems for water services in the county;
- (n) issuing permits to and regulating to any person intending to carry out any water and sanitation works similar to the public works defined under this Act;
- (o) regulating use or access to land for the purposes of water conservation;
- (p) issuing permits and regulating the provision of sanitation services;
- (q) ensuring compliance with the established standards related to water and sanitation services;
- (r) receiving and addressing complaints from water users and any interested person;
- (s) maintaining data and information related to water and sanitation services;
- (t) facilitating collaboration with other government agencies involved in water and sanitation services management and county governments;
- (u) conducting research and appropriate surveys for water resources management;
- (v) advising the executive member on the necessary policy to be adopted for sustainable water resources management.

16. The County Public Service Board shall in consultation with the Executive Member appoint such number of officers to serve in the Department for effective carrying out of its functions under this Act. Officers.

17. (1) The Department shall, within three months after the end of each financial year prepare and submit to the County Executive Committee, an annual water and sanitation services status report. Reporting by Department.

(2) The report prepared under subsection (1) shall provide for among others—

- (a) the progress made in the implementation of the objectives of this Act;
- (b) matters provided for under section 14 (1) (b);
- (c) the progress made and challenges experienced in the implementation of the functions of the Department as provided under section 15;
- (d) proposed measures for better implementation of this Act; and
- (e) any other matter as may be required by the Executive Member.

(3) The County Executive Committee shall, within twenty one days upon receipt of a report prepared under sub clause (1), consider it and may make any necessary recommendations or take any appropriate measures.

(4) The Executive Member shall, within fourteen days upon the consideration of the report by the County Executive Committee, transmit it to the County Assembly.

(5) The Department shall—

- (a) publish the report prepared under this section; and
- (b) publicize the report to county residents and facilitate collation of public views and feedback on the report for further consideration by the Department

PART III—WATER SERVICES

18. (1) A Water Service Provider and the Department shall progressively ensure that— Supply of water.

- (a) every resident in the county has access to safe and clean water for domestic use within reasonable distance;
- (b) there is accessible water for agricultural and industrial use; and

- (c) there is equitable distribution of water between consumers in urban and rural areas.

(2) No person shall supply or provide water that does not comply with the standards developed under the relevant written laws.

(3) A person who contravenes subsection (2) commits an offence and shall be liable and shall—

- (a) if a corporate body be liable to a fine not exceeding one million shillings; or
- (b) if an individual to a fine not exceeding one hundred thousand shillings.

19. (1) A Water Service Provider may enter into service performance agreements with any entity in carrying out its functions.

Service agreements.

(2) A service performance agreement entered into under this section shall be approved by the County Executive Committee.

20. (1) A Water Service Provider or the Department may for the purposes of carrying out its functions erect or develop water works on a public or private property.

Development of water works.

(2) Notwithstanding provisions of subsection (1), a Water Service Provider or the Department shall seek consent of the owner of private land or the relevant government agency occupying or in whose custody the public land falls where it seeks to erect any water works and shall provide the prescribed compensation.

(3) A Water Service Provider or the Department shall in collaboration with the department of roads identify and establish specific areas on any road where public works under this Act may be carried out.

(4) A Water Service Provider or the Department shall seek easements for construction of works to be undertaken on any parcel of land.

21. (1) A Water Service Provider or the Department may with the approval of the executive member initiate a county scheme to provide services under this Act for public benefit.

County scheme.

(2) Where a Water Service Provider or the Department deems necessary to erect or establish such a scheme or related public works on private property or land, the county government may purchase the property or in accordance with the laws governing compulsory acquisition seek such compulsory acquisition.

(3) A county scheme shall take precedence over any private or community scheme.

22. (1) A community may initiate a project for water services with the approval of the Department. Community projects.

(2) Where a community project is funded through government funds, such project shall be subject to oversight by the Department as may be prescribed.

(3) A community water project described under sub section (2) may levy tariffs for services rendered provided that such tariffs shall be established in consultation with the County Executive Committee and with the approval of the County Assembly.

(4) A community water project may enter into third party service agreement with the respective Water Service Provider as may be approved by the Department.

(5) A community water project that is not sustainable or that ceases to be viable shall be taken over by the respective Water Service Provider on such terms and conditions as the Executive Member may approve.

23. (1) A Water Service Provider may levy tariffs and any appropriate user charges for the purposes of carrying out its functions. Water tariffs.

(2) The tariffs and user charges levied under this Act shall be established in accordance with the principles set out under section 120 of the County Governments Act, 2012 and any other written law and shall be approved by the County Assembly. No. 17 of 2012.

(3) The tariffs and user charges collected under this section shall not form part of the County Revenue Fund and shall be utilized for defraying expenditures related to the functions of the Water Service Provider.

24. (1) A person shall not—

- (a) interfere with any meter or equipment installed by the water service provider;
- (b) install illegal or un authorized water connections; or
- (c) install a pipe or connection which does not comply with the approved standards.

Prohibited activities.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

25. (1) A person intending to carry out or maintain any water works shall apply for a permit to the Department. Permit.

(2) A person who prior to the commencement of this Act was carrying out water works, managing or maintaining any water works shall within sixty days apply for a permit.

(3) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both.

26. (1) An application for a permit under section 25 shall, where applicable be accompanied by an environmental impact assessment report in accordance with the Environmental Management and Coordination Act, 1999 and shall specify among others— Application for permit.
No. 8 of 1999.

- (a) the purpose and nature of the works to be undertaken;
- (b) the nature of works to be carried out; and
- (c) the duration within which the works are expected to be completed.

(2) The Department shall, where the construction of works will be undertaken on public property or where the works will affect a cross section of the residents, issue a public notice within fourteen days after such an application and invite any person to make comments or object to such an application.

(3) A person may lodge an objection to application for a permit.

(4) Every objection to an application shall be made in writing to the Department setting out the grounds for such an objection.

(5) The Department shall, upon receiving an objection under subsection (4) send a notice of the objection to the applicant under this section provided that the Department may not disclose the personal details of the objector where such disclosure may jeopardize the objector.

(6) The Department may, where appropriate conduct public hearings on the objection.

(7) An objector or an applicant for a permit may appear personally or by an advocate at the hearing of an application.

(8) The Department shall consider the application within thirty days of such an application and may where it is satisfied that the applicant has fulfilled all the requirements of this Act or

any other written law grant a permit in the prescribed form subject to any such conditions as may be prescribed and upon the applicant paying the prescribed fees.

(9) Where the Department is not satisfied with the application, it may—

- (a) reject the application giving reasons and notify the applicant accordingly within thirty days of the decision to reject; or
- (b) make comments and recommendations thereon and return it to the applicant within thirty days.

(10) An applicant to whom the application is returned under subsection (9) (b) may re-submit the application within sixty days.

(11) On receipt of any revised application under subsection (10), the Department shall, within thirty days determine the application in accordance with this Act and upon such determination, if satisfied, issue a permit.

27. The Executive Member shall prescribe the appropriate conditions related to equipment and technology, design, construction, operation and maintenance of water works.

Water works conditions.

28. A person who carries out any construction works under this Act on any public property shall ensure that—

Non interference and restoration after construction works.

- (a) there is no interference with the normal usage of any part of property or land;
- (b) necessary measures are taken to prevent members of the public from being exposed to any danger or harm as a result of such works; or
- (c) any parcel of land or property where the works were taking place are restored to its original state.

29. (1) The Department shall maintain a register of permits issued under this Act, which shall include all details related to the permit.

Register of permits.

(2) The register of permits shall be accessible to members of the public upon payment of the prescribed fees.

30. (1) A person or a community water project providing water in the county shall register with the Department in the prescribed form.

Registration and audit of private water service providers and community projects

(2) The Department shall within nine months from the commencement of this Act carry out audit of all private and

community water projects providing water in the county.

- (3) An audit carried out under subsection (2) shall assess—
- (a) the ownership of the project;
 - (b) the source of funding of the project;
 - (c) the duration that the project has been operational;
 - (d) the tariffs charged by the water project where the project provides water to the public;
 - (e) the sources of water provided by the project;
 - (f) the relevant licences held by the water project;
 - (g) the viability of the water project;
 - (h) the compliance of the water project with the established water standards;
 - (i) the physical infrastructure established by the water project;
 - (j) the costs of operating the project for projects described under section 22 (2); and
 - (k) any other matter as may be required by the Executive Member.

PART IV—WATER AND SOIL CONSERVATION

Water conservation

31. (1) The Department shall, in consultation with National Land Commission and County Land Management board, declare an area to be a water conservation area for the purpose of conserving water.

Water conservation areas.

(2) The Department may impose such conditions and requirements regulating or prohibiting certain activities in relation to the water conservation area declared under this section.

32. (1) For the purposes of this section, a water catchment means an area of land that water can drain across, over, or under to a common point on a stream, river, lake or wetland.

Conservation of water catchments.

- (2) The Department shall—
- (a) collaborate with national government or other county governments in conservation and protection of water sources and catchments of strategic importance to the county, which are located outside the county;
 - (b) support financing of water conservation and catchment protection;

- (c) support and enforce reserve flow maintenance;
- (d) in collaboration with other agencies, develop policies and strategies on water storage management at household, farm and industrial levels and ensure their implementation; and
- (e) in collaboration with water resource users associations, participate in development and monitoring of implementation of sub catchment management plans.

33. Subject to any written law, the Executive Member shall, in consultation with the national government prescribe guidelines for water conservation. Conservation guidelines.

Soil conservation

34. The Executive Member shall, in collaboration with other entities, develop and implement policies and strategies for soil conservation and sustainable management of wetlands. Soil conservation.

35. The Executive Member shall— Flood flow management.

- (a) prescribe rules for flood flow management; and
- (b) initiate community programs for managing flood flow.

36. (1) Any riparian land shall be demarcated and protected. Demarcation of riparian land.

(2) The county department responsible for land shall, in consultation with the Department and County Land Management Board ensure that this section is implemented.

37. A person shall not carry any of the following activities on riparian land— Prohibited activities on riparian land.

- (a) tillage or cultivation;
- (b) clearing of indigenous trees or vegetation;
- (c) building of structures;
- (d) disposal of any form of waste within the riparian land;
- (e) excavation of soil or development of quarries;
- (f) planting of exotic species that may have adverse effect to the water resource; or
- (g) any other activity that in the opinion of the Department may degrade the water resource.

PART V—STORM WATER MANAGEMENT

38. The Department shall in collaboration with relevant county or national government departments and local residents promote sound water and land use practices.

Storm water management and land use practices.

39. (1) There shall be for each town or urban area, a watershed storm water management plan in accordance with the prescribed standards.

Storm water management plan.

(2) The storm water management plan shall among others—

- (a) identify, survey and make an inventory of existing conditions that affect storm water runoff; and
- (b) address issues of peak flows, flooding, ground water recharge, stream erosion and water quality.

(3) The town administrator or an officer responsible for managing an urban area shall, ensure that the storm water management plan is developed and implemented through a consultative process.

(4) A person or entity engaged in land development activity, construction of a building or any physical infrastructure that is exposed to water precipitation or an owner of such constructed infrastructure shall develop and implement a storm water management plan on a sub-catchment basis in accordance with the prescribed standards.

(5) A person constructing a road shall ensure that there is a built in storm water management plan and system for that road.

(6) The county department responsible for roads shall ensure that road construction plans include a storm water management plan.

(7) Any construction of a building, physical infrastructure or a road shall not be approved unless the construction has a storm water management plan to be implemented.

(8) A person who constructs a building or physical infrastructure or a road which does not have a storm water management plan and system commits an offence and shall —

- (a) if a corporate body be liable to a fine of five hundred thousand shillings; or
- (b) if an individual to a fine not exceeding one hundred thousand shillings.

40. (1) A proprietor of a building shall—

Reduction of run
off water.

- (a) install rain barrels with sufficient capacity to store water from the building;
- (b) where applicable, not permit storm water to become runoff; and
- (c) reuse or recycle storm water collected for other purposes in the premises.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding twenty thousand shillings.

41. (1) For the purposes of this section, a riparian buffer means an area around or situated next to a water body that acts as a buffer or a cushion to that water body.

Riparian buffers.

(2) The Department shall, in collaboration with other government agencies and local residents, mobilize and facilitate residents to develop, conserve, protect and manage or restore riparian buffers along rivers, waterways or any water body.

(3) A person shall not interfere with a riparian buffer in a way that exposes it to run off water.

(4) A person who contravenes subsection (3) commits an offence and shall—

- (a) if a corporate body be liable to a fine not exceeding five hundred thousand shillings; and
- (b) if an individual be liable to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding two months.

PART VI—SANITATION SERVICES AND POLUTION CONTROL

42. The Department shall, in collaboration with other county and national government departments and local residents, prepare medium and long term sanitation services master plans.

Master plan.

43. A water service provider shall either directly or through public private partnership—

Provision of
sanitation services.

- (a) provide necessary sanitation services in the urban areas;
- (b) construct, operate and maintain extensive system of sewers and treatment facilities to meet applicable discharge requirements.

44. The Department shall—

Waste water
management.

- (a) develop strategies and policies to promote treated waste

water and dried sludge re-use; and

- (b) in cooperation with relevant government agencies will periodically carry out effluent quality analysis to ensure efficacy of the waste water management facilities.

45. (1) A person or entity shall, when disposing final effluent comply with the guidelines prescribed by the relevant government authority.

Compliance with effluent standards.

(2) A person who contravenes subsection (1) commits an offence and shall —

- (a) if a corporate body be liable to a fine not exceeding one million shillings; and
- (b) if an individual be liable to a fine of one hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

46. (1) A person shall not discharge or dispose any contaminated water or effluent unless in accordance with the prescribed guidelines and standards.

Discharge of contaminated water or effluent.

(2) A person who contravenes subsection (2) commits an offence and shall—

- (a) if a corporate body, be liable to a fine not exceeding one million shillings; and
- (b) if an individual, be liable to a fine of five hundred thousand shillings or to imprisonment for a term not exceeding six months or to both.

47. (1) No person shall interfere with any sewerage facility or system unless with a written consent of a water service provider for the purposes of carrying out works within the area of the facility or system.

Interference with sewerage system.

(2) A person who contravenes this section commits an offence and shall be liable to a fine not exceeding shillings five hundred thousand or to imprisonment for a term not exceeding three years or to both.

48. (1) Subject to the County Governments Act, 2012 and any written law, a Water Service Provider or its agent may impose tariffs or levy sewerage services levy on water or sanitation services for the purposes of disposal of water or sewage.

Sewerage tariffs.

No. 17 of 2012.

(2) The tariffs imposed or levied under this section shall be subject to approval by the County Executive Committee and the County Assembly.

49. (1) There shall be the Water Sector Stakeholder Forum which shall be convened by the Department.

Water Sector
Stakeholders
Forum.

(2) The sector wide forum shall consist of all stakeholders in the water and sanitation sector as shall be prescribed.

(3) The Chief officer shall be the chairperson of the Forum and county officer responsible for water and sanitation services shall be the secretary.

(4) The Forum shall be responsible for—

- (a) reviewing and deliberating on water resources management and sanitation services;
- (b) proposing policy or legislative interventions for effective implementation of this Act; and
- (c) participating in development of measures, plans and strategies for implementing this Act;
- (d) advising the Executive Member on the necessary policy measures to be adopted for better implementation of this Act.

(5) The conduct of operations of the Forum shall be as prescribed.

50. The Executive Member shall prescribe Rules for governing water conflict resolution.

Water conflict
resolution

PART VII—ENFORCEMENT

51. (1) The Executive Member may appoint such number of authorized officers for the purposes of enforcing or implementing this Act.

Authorized
officers.

(2) The Executive Member shall issue a certificate of appointment to every officer appointed under this section.

52. For the purposes of ensuring compliance or implementation of the Act, an authorised officer may, at any reasonable time, enter any place in which any function related to this Act is carried out.

Power of entry.

53. (1) An authorized officer may examine or inspect any facility, equipment, information or data related to this Act or gain access to any area for the purposes of implementing this Act.

Power of officers.

(2) Any person who obstructs an authorized officer while enforcing or implementing this Act commits an offence and is liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two months or to both.

PART VIII—FINANCIAL PROVISIONS

54. (1) The funds of a Water Service Provider shall consist of—

Funds of a Water Service Provider.

- (a) such levies and user charges payable to a Water Service Provider under this Act;
- (b) such moneys as may be appropriated by the County Assembly for the purposes of carrying out infrastructure development or purchase of plant and equipment in provision of water and sanitation services by a Water Service Provider
- (c) revenues realized from investments undertaken by a Water Service Provider .
- (d) such gifts, grants or monies received from any lawful source; and
- (e) all monies borrowed or received as loans by a Water Service Provider.

(2) A Water Service Provider shall apply the money provided under this section for the furtherance of its purpose and performance of its functions and as prescribed under this Act:

Provided that a Water Service Provider shall not utilize the money appropriated by the County Assembly to defray any expenditure related to recurrent expenses related to staff salaries or allowances, maintenance or buildings or plant and equipment or Board allowances.

55. (1) At least three months before the commencement of each financial year, the Board of a Water Service Provider shall cause to be prepared annual estimates of the Water Service Provider for that year.

Annual estimates.

(2) The annual budget shall make provision for all estimated expenditure of the Water Service Provider for the financial year and in particular, the estimates shall provide for the—

- (a) allocations for investments in physical infrastructure, plant and equipment related to the provision of water and sanitation services;
- (b) debt repayment schedule where a Water Service Provider has borrowed money;
- (c) payment of the salaries, allowances and other charges in respect of the staff of the Water Service Provider;
- (d) payment of allowances and other charges in respect of members of the Board;

- (e) payment of pensions, gratuities and other charges in respect of members of the Board and staff of the Water Service Provider;
- (f) proper maintenance of the buildings and grounds of the Water Service Provider;
- (g) maintenance, repair and replacement of the equipment and other property of the Water Service Provider; and
- (h) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the County Executive Committee for final approval.

(4) No expenditure shall be incurred for the purposes of the Water Service Provider except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Board given with prior written approval of the Executive Member.

56. The Board shall cause to be kept proper books and records of accounts and assets of the Water Service Provider. Accounts.

57. (1) Within a period of three months after the end of each financial year, the Board shall submit to the Auditor-General, the accounts of the Water Service Provider together with— Financial reports and audit.

- (a) a statement of financial position as at the thirtieth day of June;
- (b) a statement of comprehensive income;
- (c) a statement of cash flow for the year ended;
- (d) a summary of significant accounting policies and other explanatory information; and
- (e) other financial statements applicable to similar institutions.

(2) The accounts of the Water Service Provider shall be audited and reported upon in accordance with the provisions of the Public Audit Act. No. 12 of 2003.

PART IX—GENERAL PROVISIONS

58. (1) The Executive Member may make Regulations generally for the better carrying out of the objectives of this Act. Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations shall—

- (a) prescribe the procedure of nominating or appointing persons described under section 6 (2) (d), (f) and (g) to the Board of a water service provider;
- (b) prescribing the procedures for providing oversight over community water projects funded through government funds;
- (c) prescribe guidelines for developing watershed storm management plans;
- (d) prescribe guidelines for sanitation system and standards;
- (e) prescribe for the areas declared as water protected areas;
- (f) prescribe the rules for conflict resolution as provided under section 50;
- (g) prescribe the fees applicable under this Act;
- (h) prescribe the forms applicable under this Act;
- (i) prescribe the tariffs chargeable by a community water project;
- (j) prescribe the list of water sector stakeholders; or
- (k) prescribe the conduct of operations of the water sector stakeholders forum.

59. (1) In this section—

Transitional and savings.

“appointed day” means the day upon which this Act comes into operation;

“former company” means a company described under section 4.

(2) On the appointed day, all the funds, assets and other property, both movable and immovable, which immediately before such date were vested in a former Company, shall by virtue of this paragraph, vest in the respective assigned Water Service Provider.

(3) Any person who, at the commencement of this Act, is a member of staff of a former Company shall, on the appointed day, become a member of staff of the respective assigned Water Service Provider on the same or improved terms and conditions of service as may be specified by the Executive Member.

(4) On the appointed day, a person who is a member of the Board of a former company shall, on and after such day, cease being a member of the Board of the former company.

(5) Where on the appointed day—

(a) any disciplinary proceedings against any member of staff of a former company are in the course of being heard or instituted, or have been heard or investigated by a former company but no order or decision has been made thereon the respective assigned Water Service Provider shall carry on and complete the hearing or investigation and make an order or render a decision as the case may be;

(b) a member of staff of a former company is interdicted or suspended, the respective assigned Water Service Provider shall deal with such member of staff in such manner as it deems appropriate having regard to the offence committed by him or her, including the completion of disciplinary proceedings that have been commenced against that member of staff.

(6) Where on the appointed day, any penalty, other than dismissal, has been imposed on any member of staff of a former company pursuant to disciplinary proceedings against him or her and the penalty has not been, or remains to be serviced by such member of staff, he or she shall, on his or her transfer to the companies, serve or continue to serve such penalty to its full as if it had been imposed by the respective water service provider.

(7) On the appointed day, all rights, powers and liabilities, whether arising under any written law or otherwise which immediately before such day were vested in, imposed on or enforceable against the former companies shall, by virtue of this paragraph, be deemed to be vested in, imposed on or enforceable against the respective water service provider.

(8) Any reference in any written law or in any document or instrument to the former companies shall on and after the appointed day, be construed to be a reference to the respective water service provider.

(9) The annual estimates of the former companies for the financial year in which the appointed day occurs shall be deemed

to be annual estimates of the respective water service provider for the remainder of that financial year:

Provided that such estimates may be varied by the Board of respective water service provider in such manner as the Executive Member may approve.

(10) The administrative directions made by former companies which are in force immediately before the appointed day shall, on and after such day, have force as if they were directions made by the Board of respective water service provider under this Act.