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REPUBLIC OF KENYA

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**MACHAKOS COUNTY GAZETTE  
SUPPLEMENT**

**ACTS, 2015**

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CONTENT

Act—	PAGE
The Machakos County HIV and AIDS Management Act, 2015 .....	1

**THE MACHAKOS COUNTY HIV AND AIDS MANAGEMENT  
ACT, 2015**

**ARRANGEMENT OF SECTIONS**

**PART I—PRELIMINARY**

*Section*

- 1—Short title.
- 2—Interpretation.
- 3—Object and Purpose of the Act.

**PART II—RIGHTS AND REPONSBILITIES ON HIV AND AIDS**

- 4— Rights on HIV.
- 5— Rights of persons living with HIV and AIDS.
- 6—Government responsibilities on HIV and AIDS.
- 7—Responsibilities of Agencies.
- 8—Co-operation.
- 9—Collaboration.

**PART III—HIV AND AIDS MANAGEMENT INSTITUTIONAL  
FRAMEWORK**

- 10—Establishment of Committee.
- 11—Functions and Powers of the Committee.
- 12—Establishment of sub-county HIV and AIDS Committee.
- 13—Functions and Powers of sub-county committee.
- 14—Departmental work place.
- 15—Allowances.
- 16—Term.
- 17—Vacancy and Removal of a member.
- 18—Quorum.

**PART IV—GENERAL PROVISIONS**

- 19—HIV and AIDs management approaches.
- 20—Involvement of the community in HIV and AIDS management.
- 21—Application of National law and Policies.

**PART V—FINANCIAL PROVISIONS**

22—Establishment of the Fund.

23—Books of Accounts.

24—Statement of Accounts.

25—Bank Accounts.

**PART VI—MISCELLANEOUS PROVISIONS**

26—Savings.

27—Regulations.

**THE MACHAKOS COUNTY HIV AND AIDS MANAGEMENT  
ACT, 2015**

**No. 5 of 2015**

*Date of Assent: 3rd December, 2015*

*Date of Commencement: 26th February, 2016*

**AN ACT of the County Assembly of Machakos to provide for the rights and responsibilities on HIV and AIDS; provide measures for prevention, control and management of HIV and AIDS; to provide an institutional framework for the management of HIV and AIDS; and for connected purposes**

**ENACTED** by the County Assembly of Machakos County as follows—

**PART I—PRELIMINARY**

**Short title**

1. This Act may be cited as the Machakos County HIV and AIDS Management Act, 2015.

**Interpretation**

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

“acquired immune deficiency syndrome (AIDS)” means a condition characterized by a combination of signs and symptoms, resulting from depletion of the immune system caused by infection with the Human Immunodeficiency Virus (HIV);

“county committee” means the County HIV and AIDS Management Committee established under Section 10;

“county” means the County Government of Machakos;

“civil society organization” means non-governmental organization including public benefits organization, faith based organization and community based organization;

“executive committee member” means the Executive Committee Member responsible for matter relating to health;

“government” means the County Government of Machakos;

“sub-county HIV and AIDs committee” means the committee set up under Section 12;

“management” in relation to HIV and AIDS means all activities undertaken in accordance with this Act in HIV and AIDs prevention, control, and support of affected and infected persons;

“human immunodeficiency virus (HIV)” means the virus which causes AIDs; and

“opportunistic diseases” mean an infection that occur as a result of the weakened immune system of a person because of HIV infection.

### **Object and Purpose**

3. (1) The object and purpose of this Act is to—
  - (a) promote the realization of rights and fundamental freedoms of persons living with HIV and AIDS;
  - (b) provide for the responsibilities for different organs on matter relating to HIV and Aids;
  - (c) provide for co-operation among agencies and inclusion of the community in HIV and AIDs management;
  - (d) establish an efficient institutional framework for the management of HIV and AIDS;
  - (e) promote public awareness about the transmission, management and control of HIV and AIDS;
  - (f) provide for a framework for co-operation between the national government and the county government on matters relating to HIV and AIDS; and
  - (g) provide for mobilization of resources for prevention, management and control of HIV.

## **PART II—RIGHTS AND RESPONSIBILITIES ON HIV AND AIDS**

### **Right on HIV**

4. Every person has a right to the highest sustainable standard of health including protection from HIV infections.

### **Rights of persons living with HIV and AIDS**

5. Every person living with HIV has the right to—
  - (a) protection from compulsory HIV testing;
  - (b) privacy of the individual;
  - (c) protection from all forms of discrimination;
  - (d) provision of basic healthcare and social services;
  - (e) protection from re-infection and opportunistic diseases;
  - (f) access to universal safety precautions, practices and procedures that carry the risk of HIV transmission; and

- (g) protection against stigmatization.

### **Government responsibilities on HIV and AIDS**

6. (1) The government shall put in place measures to ensure the observance, respect protection, promotion and fulfillment of the rights relating to HIV and AIDS.

(2) The government shall—

- (a) develop policies, laws, programmes, and other measures relating to HIV and AIDS services; and
- (b) implement specific programs targeting vulnerable groups including women, persons with disabilities, children, youth older persons and other marginalized groups.

### **Responsibilities of Agencies**

7. (1) Non-governmental organizations including private agencies and community groups shall take measures for the prevention, management and control of HIV.

(2) Each government institution shall be responsible for the implementation of this Act.

(3) Government institution and non-governmental organization shall ensure safe working environment including measures to reduce risk of possible infection.

### **Co-operation**

8. Civil society organization and private sector organization shall co-operate with the government in providing access to information relating to HIV.

### **Collaboration**

9. The government shall collaborate with the national government institution including National AIDS and Control Council and National AIDS and STD Programmes in implementing programmes relating to HIV and AIDS.

## **PART III—HIV AND AIDS MANAGEMENT INSTITUTIONAL FRAMEWORK**

### **Establishment of the Committee**

10. (1) There is established a committee to be known as the County HIV and AIDS Management Committee.

(2) The Committee consists of—

- (a) the County Executive Member responsible for matters relating to health who shall be the chairperson;
- (b) the chief officer responsible for matters relating to health;
- (c) three representatives of community groups of persons living with HIV and AIDS in the county;
- (d) four persons who ordinary resides in the county and who represents organization involved in matters relating to HIV and AIDS in the county representing—
  - (i) the youth;
  - (ii) persons with disabilities;
  - (iii) faith based organization; and
  - (iv) private sector;
- (e) one person with experience on matter relating to HIV and AIDS, health, gender and social development or medicine;
- (f) the County Director responsible for matters relating to Health who shall be the secretary;

(3) In the absence of the Chairperson or in the event of a vacancy in the office, the vice chairperson, or a member elected by the Committee shall act as the chairperson.

(4) In appointing the person referred to in paragraph (c), (d) and (e) the county executive committee member shall take in consideration gender and regional balance.

(5) The persons referred to in paragraph (c), (d) and (e) shall serve for a single term of three years and shall be eligible for re-appointment for one further term.

### **Functions and Powers of the Committee**

- 11.** (1) The functions of the Committee are—
- (a) co-ordinate HIV and AIDs management initiatives among the various county government departments;
  - (b) establish and maintain linkages with the national government and other agencies on HIV and AIDs management and prevention policies;
  - (c) advise the government on matters relating to HIV and AIDS;
  - (d) develop and oversee the implementation of HIV and AIDs policies;

- (e) mobilize resources for HIV and AIDS control and prevention;
- (f) organize public consultative forums and facilitate public education and capacity development on HIV and AIDS;
- (g) oversee the implementation of this Act; and
- (h) perform any other function in the attainment of the objectives of the Act.

(5) The secretary of the Committee shall, within a period of three months after the end of every financial year prepare and submit to the County Assembly a report of its operations.

#### **Establishment of sub-county HIV and AIDS committee**

**12.** (1) There is established, in respect of every sub-county, an HIV and AIDS Committee.

- (2) The committee consists of—
  - (a) the sub-county administrator who shall be the chairperson;
  - (b) the person in charge of matter relating to health in the sub-county who shall be the secretary;
  - (c) five persons who ordinary resides in the sub-county and who represents organization involved in matters relating to HIV and AIDS representing the—
    - (i) youth;
    - (ii) persons with disabilities;
    - (iii) faith based organization;
    - (iv) community based organization; and
    - (v) private sector;
  - (d) three persons representing groups of persons living with HIV and AIDS in the county;
  - (e) one person with experience on matter relating to HIV and AIDS, health, gender and social development or medicine.

(3) The persons referred to in paragraph (c), (d) and (e) shall be appointed by the Executive Committee member.

(4) In the absence of the Chairperson or in the event of a vacancy in the office, the vice chairperson, or a member appointed by the Unit shall act as the chairperson.

(5) The County Executive Member may co-opt into membership of

the sub-county committee one person whose knowledge and expertise may be necessary for such period as it may determine.

(6) The County Executive member may establish such number of sub units in every sub-county as may be necessary.

### **Functions and Powers of the sub-county committee**

- 13.** (1) The sub-county committee shall—
- (a) implement the decisions of the Committee and HIV and AIDs policies in public and private sector including work places within the sub county;
  - (b) co-ordinate HIV and AIDs management initiatives the sub-county;
  - (c) develop action plans for HIV and AIDs management and prepare data base on HIV and AIDs;
  - (d) co-ordinate inter-agency HIV and AIDs management initiatives and advise the departmental workplace units;
  - (e) organize public consultative forums and facilitate public education and capacity development on HIV and AIDs; and
  - (f) perform any other function as may deem fit in the implementation of the Act.
- (2) The sub-county committee shall, every six months prepare and submit to the county Committee a report of its operations.

### **Departmental workplace**

- 14.** (1) Each county chief executive officer shall designate person as a focal point on matters relating to HIV and AIDS.
- (2) The functions of the focal person shall be—
- (a) liaise with the government agencies on matters relating to HIV and Aids;
  - (b) implement the decisions of the committee with the Department; and
  - (c) to create awareness on officers within the department on matters relating to HIV and AIDS.

### **Allowances**

**15.** A member of the Committee shall be paid such allowances as may be determined by the county public service Board.

**Term**

**16.** (1) The persons referred to in paragraphs (c), (d) and (e) of sub-section (1) of section 10 and paragraphs (c), (d) and (e) of sub section (1) of section 12 shall serve for a single term of three years and shall be eligible for re-appointment for one further term.

**Vacancy and Removal of a member**

**17.** (1) A member of a Committee appointed under paragraphs (c), (d) and (e) of sub-section (1) of section 10 and paragraph (c), (d) and (e) of sub-section (1) of section 12 may resign from the Committee by giving a notice in writing addressed to the County Executive Committee member responsible for matters relating to health.

(2) A member of the Committee appointed under paragraphs (c), (d) and (e) of sub-section (1) of section 10 and paragraph (c), (d) and (e) of sub-section (1) of section 12 may be removed therefrom if the member—

- (a) is absent from three consecutive meetings of the Committee without prior notice to the Chairperson and without good cause;
- (b) ceases to be a member of the organization he or she represents;
- (c) ceases to be resident in the respective county;
- (d) is in serious violation of this Act;
- (e) is convicted of a criminal offence;
- (f) commits acts of gross misconduct;
- (g) suffers physical or mental incapacity to perform the functions of the Committee;
- (h) is declared bankrupt; or
- (i) dies.

**Quorums**

**18.** The quorum for the conduct of the business of the Committees shall be at least seven of its members.

**PART IV—GENERAL PROVISIONS****HIV and AIDs management approaches**

**19.** (1) In implementing HIV and AIDS programs, government and non-governmental agencies shall adopt the following approaches—

- (a) identification of high risk behaviours, lifestyles and activities and develop targeted efficient and cost effective response measures;

- (b) development of a prioritized and sustainable response arrangement;
  - (c) identification of strategic partners including technical experts and development partners for inclusion in the HIV and AIDs management programmes;
  - (d) capacity building and awareness creation within the county;
  - (e) inter agency co-operation and community involvement; and
  - (f) continuous HIV and AIDs incidence monitoring.
- (2) In addition to the approaches set out under sub-section (1), the County Committee shall put in place measures for—
- (a) reduction of new infections;
  - (b) mitigation of adverse effects of HIV and AIDs;
  - (c) treatment of tuberculosis and other opportunistic diseases;
  - (d) prevention of mother-to-child transmissions;
  - (e) promotion of voluntary counselling and testing;
  - (f) targeting populations with higher risk of infection;
  - (g) initiating special youth targeted programmes;
  - (h) initiating special gender targeted programmes;
  - (i) partnering with the responsible agencies in implementation of HIV and AIDs programmes; and
  - (j) provision of HIV and AIDs management services including—
    - (i) provision of drugs;
    - (ii) provision of condoms;
    - (iii) inculcation of virtues and values; or
    - (iv) other essential services.

### **Involvement of the community in HIV and AIDs management**

**20.** (1) The county Committee shall put in place measures to ensure meaningful participation of the community in the HIV and AIDs management programmes.

(2) The measures referred to under sub-section (1) shall target all sectors of the society including the following—

- (a) public and private schools and learning institutions;

- (b) clinics and health facilities;
- (c) private sector employers;
- (d) faith based organizations;
- (e) public benefit organizations;
- (f) community based organizations; and
- (g) members of the public.

### **Application of National law and Policies**

**21.** The county committee in consultation with national government agencies shall—

- (a) ensure co-ordination of HIV and AIDs management and prevention programmes between the county and the national government;
- (b) ensure the implementation of national government laws and policies relating to HIV and AIDs within the county;
- (c) facilitate the implementation of additional measures to manage HIV and AIDs in the county; and
- (d) ensure full implementation of the provisions of this Act.

## **PART V—FINANCIAL PROVISIONS**

### **Establishment of the fund**

**22.** (1) There is established the Machakos County HIV and AIDs Management Fund.

- (2) The sources of the Fund shall be—
  - (a) such monies as may be appropriated by the County assembly;
  - (b) grants or donations from other agencies; and
  - (c) all monies lawfully accruing to the Fund.
- (3) The person administering the fund shall be the secretary to the county committee.
- (4) In administering the Fund, secretary—
  - (a) shall be responsible for the day to day activities of the Fund;
  - (b) shall supervise the administration of the Fund;
  - (c) may recommend to the county committee the imposition of necessary conditions on the administration of the Fund.

(5) The County Committee shall, subject to the relevant laws relating to the management of public finances, put in place measures for resource mobilization.

### **Books of Accounts**

23. The secretary shall cause to be kept books of accounts and other books and records in relation to the Fund.

### **Statement of Accounts**

24. (1) The secretary shall within three months after the end of a financial year, prepare a statement of accounts for the Fund for that financial year and submit it to the County Assembly.

(2) Every statement of account prepared under this Act shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned.

### **Banks Accounts**

25. (1) The officer administering the fund shall cause to be opened a bank account for the fund.

(2) The secretary of the county committee shall be a mandatory signatory for the bank accounts of the fund.

(3) As soon as is practicable, the secretary of the fund shall cause to be banked in the Fund revenue account, all monies received as user fees.

(4) Every withdrawal from the bank account of the fund shall be from a specific vote duly budgeted for and specifically authorized.

## **PART VI—MISCELLENEOUS PROVSIONS**

### **Savings**

26. The provisions of the HIV and AIDS control Act apply to the extent of the functions of the national government.

### **Regulations**

27. The Executive Committee Member may make regulations for the better carrying out into effect the provisions of this Act.