

THE SIAYA COUNTY WIDOWS PROTECTION BILL, 2023

A Bill for

AN ACT of the County Assembly of Siaya to provide for the Protection and maintenance of neglected, and abandoned and destitute widows by establishing a Welfare Committee for such widows in Siaya County and for connected purposes

ENACTED by the County Assembly of Siaya as follows—

	PART I— PRELIMINARY
Short title.	1. This Act may be cited as the Siaya County Widows Protection Act, 2023.
Interpretation	2. In this Act, unless the context otherwise requires—
	(a) “abandoned widow” means a widow who has been deserted or thrown out of the household by relatives to fend for herself and who has no means to support her and her dependant children;
	(b) “committee” means the Siaya County Widows Welfare Committee established under section 4;
	(c) “destitute widow” means a widow stricken with infirmity due to old age, physical disability, chronic ailment, mental imbalance or who has no source of income to support herself and her dependant children;
	(d) “director” means the director of the Directorate of Widowed Person appointed under section 7;
	(e) “directorate” means the Directorate of Widowed Persons;

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	(f) “fund” means the Siaya County Widows’ Welfare Fund established under section 10;
	(g) “nhif” means the National Health Insurance Fund;
	(h) “scarification” means scratching, etching, burning, branding or cutting designs, pictures, or words into the skin as a permanent body modification or body art;
	(i) “widow” means a legally married woman whose husband has died.
Objects and purpose of the Bill	3. The objects and purpose of the Act are to—
	(a) ensure a widow shall enjoy substantive equality irrespective of age or marital status
	(b) ensure that a widow within the county have access to health and social justice;
	(c) elimination of any unlawful restrictions concerning domicile, diet, clothing lifestyle imposed on a widow;
	(d) ensure that a widow is protected from participating in any harmful cultural practice in the context of funeral and burial rites through—
	(i) ritual cleansing through sex (planting (golo kodhi), harvesting (duoko cham), and social ceremonies);
	(ii) scarification;
	(iii) drinking concoctions;
	(iv) inhuman treatment or punishment to neutralize the assumed cultural impurity;
	(v) humiliating customary practices to avoid taboo violation;

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	(vi) assuming the state of contamination or "uncleanness";
	(vii) using derogatory and or demeaning names;
	(viii) forced wailing and crying loudly;
	(ix) accusation of killing husband;
	(x) taboo Practices such as not to shake hands with any person;
	(xi) restricting development and advancement of widows;
	(xii) forced wife inheritance;
	(xiii) forced sharing;
	(xiv) forced remarriage;
	(xv) forced sex;
	(xvi) isolation; and
	(xvii) restrictions on diet and dress endangering mental and physical health;
	(e) ensure that a widow is not discriminated against;
	(f) ensure the county government takes measures to protect, promote and uphold the welfare of widows by employing paralegal officers and psychosocial support staff to work in the Ward Widow Welfare Committees;
	(g) ensure that a widow receives fifty percent of the NHIF contribution from the county government as may be appropriate and needy.
	PART II— COUNTY WIDOWS' WELFARE MANAGEMENT STRUCTURE

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Establishment of the County Widows' Welfare Committee	<p>4. (1) There is established the County Widows' Welfare Committee.</p>
	(2) The Committee shall consist of –
	(a) county executive committee member responsible for gender affairs, who shall be the chairperson of the Committee;
	(b) chief officer responsible for gender affairs;
	(c) county director responsible for gender affairs;
	(d) a widow appointed by the Governor who shall be the secretary to the Committee with the approval of the county assembly;
	(e) two widows nominated by the widows and appointed by the Governor to represent youth and elderly with the approval of the county assembly; and
	(f) a fund administrator appointed by the county executive member for finance in consultation with the county executive member for gender affairs with the approval of the county assembly.
Functions of the Committee	<p>5. (1) The Committee shall take measures to ensure the protection, maintenance and welfare of neglected, abandoned and destitute widows and the widows' dependant children.</p>
	(2) Despite the provisions of sub-section (1), the Committee shall—
	(a) maintain a county widows register with particulars in the prescribed manner;

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	(b) collect and get verified by the local chief the antecedents of every widow covered under this Act to access the need for assistance in the prescribed manner;
	(c) raise funds through lawful means;
	(d) receive any gifts, grants, donations and endowments made for the purpose of raising revenue to sustain the welfare of widows;
	(e) perform any other functions as may be assigned from time to time.
	PART III— THE COUNTY DIRECTORATE OF WIDOWED PERSONS
Establishment of the Directorate	6. (1) There is established, the Directorate of Widowed Persons which shall be a department in the county public service.
	(2) The Directorate shall—
	(a) be the secretariate of the Committee; and
	(b) be under the direct management and supervision of the Committee.
	(3) The Directorate shall—
	(a) assess and review all county policies and the welfare of the widows in the county and make appropriate recommendations to the committee;
	(b) prepare and subject to the committee’s approval the widows’ welfare plan;
	(c) in collaboration with other government agencies and development partners coordinate

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	and monitor the implementation of the county widows' policy;
	(d) implement the decisions of the committee; and
	(e) advice the county government on all matters relating to the welfare of the widows.
	(4) The committee shall, in consultation with the county public service board determine the number of staff as may be required for the proper execution of the functions of the directorate.
Director of Directorate of Widowed Persons	7. (1) The Directorate of Widowed Persons shall be headed by a director.
	(2) The director shall be appointed by the county public service board through a competitive and transparent process.
	(3) A person shall be appointed as a director if that person—
	(a) is a Kenyan citizen;
	(b) is a holder of a least a first university degree in a course relevant to management of widows' welfare;
	(c) satisfies the requirement of Chapter Six of the Constitution; and
	(d) has knowledge, experience and a distinguished career of not less than five years in the relevant field.
	(4) The Director shall be the overall head of the directorate and shall be responsible for—

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	(a) day to day running and operations of the directorate;
	(b) administration, organization and control of staff of the directorate;
	(c) management of funds, property and affairs of the directorate;
	(d) implementation of policies and programs of the Directorate and reporting thereon to the committee;
	(e) development of Operational Plans for achieving the objectives of the directorate; and
	(f) performance of any other function necessary for the implementation of this Act, as may be determined by the committee.
Ward Widows' Welfare Committees	PART IV- WARD WIDOWS' WELFARE COMMITTEES
	8. (1) There is established a committee to be known as the Ward Widows' Welfare Committee in each Ward within Siaya County
Composition of the Ward Widows' Committee	9. (1) The Ward Widows' Welfare Committee shall be composed on seven members as follows—
	(a) One widow leaders' representative who shall be the chairperson;
	(b) the Area Chief who shall be the secretary;
	(c) one representative of the Village Administrators;
	(d) one representative of the Youth;
	(e) one representative of the PWDs; and

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	(f) one representative of civil society organizations duly nominated (g) by the umbrella CSO body in the ward.
Conduct of Meetings	10. The conduct and regulations of the business and affairs of the Committee shall be as provided in the schedule and shall apply with necessary modifications.
	PART V— COUNTY WIDOWED PERSONS’ WELFARE PLAN
The Widows Welfare Plan	11. (1) There shall be prepared a Widows Welfare Plan for the county to be called the Siaya County Widowed Persons’ Welfare Plan.
	(2) The widows’ welfare plan shall be prepared by the directorate having regard to the national government policy and shall be approved by the county assembly.
	(3) The plan shall include—
	(a) measures to be taken for the organization, coordination and promoting of widows’ welfare activities in the county;
	(b) measures to be taken for the management, protection and preservation of the rights of widows under this Act;
	(c) measures to be taken for the integration of widows in the development of widows’ development plans; and
	(d) measures to be taken to ensure collaborative efforts between the county government and the national government on one hand and other development partners on the other hand to promote the welfare of widows.

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	(4) The plan shall be reviewed and updated annually.
	(5) The county government shall make appropriate provisions for financing the measures to be accrued out in the plan.
Role of the county government	12. (1) The county government shall—
	(a) ensure the officers and employees are trained on widow welfare matters; and
	(b) ensure that resources are readily available.
	PART VI— ESTBLISHMENT AND ADMINISTRATION OF SIAYA COUNTY WIDOWS’ FUND
Siaya County Widows’ Welfare Fund	13. (1) There is established a fund to be known us Siaya County Widows’ Fund.
	(2) The fund shall be financed from—
	(a) such monies appropriated from the county allocation;
	(b) such monies or assets as may accrue to the Committee in the course of the exercise of its powers or the performance of its functions under this Act;
	(c) grants; and
	(d) loans, aid or donation from the national or international agencies.
	(3) The Fund shall be used for the better implementation of this Act.
Administrator of the Fund	14. The administrator shall be responsible for the running of the day-to-day activities of the Fund.

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Functions of the Administrator	15. The administrator shall—
	(a) prepare accounts for the Fund for each financial year;
	(b) submit financial statements relating to the accounts to the Internal County Auditor not later than three months which shall include—
	(i) the date and amount of each payment from the Fund;
	(ii) the person to whom payment was made;
	(iii) the purpose to which the payment was made; and
	(iv) whether the person to whom the payment was made has spent the money for that purpose and the statement made to that effect.
	(c) prepare the financial statements to the county assembly;
	(d) manage, control and administer the assets to the Fund in such manner and for the purposes as to promote the purpose for which the Fund is established;
	(e) maintain proper records of the Committee’s affairs and books of accounts; and
	(f) enter into contracts on behalf of the Fund.
	PART VII— FINANCIAL PROVISIONS
Estimates	16. (1) Before the commencement of each financial year, the Committee shall prepare financial estimates for that year.

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	(2) The annual estimates shall make provisions for all the estimated expenditure of the Committee for the financial year concerned and, in particular shall provide for the—
	(a) funding of training, creating awareness and/or civic education, research and development of activities of the Committee;
	(b) funding of education, training and capacity building on widows' affairs; and
	(c) such other matters as the Committee may consider fit.
	(3) The annual estimates shall be approved by the county assembly.
	(4) Expenditure of the Committee shall not be incurred except in accordance with the annual estimates approved under sub-section (3).
Maintenance of Books	17. (1) The Director shall cause to be kept proper books and records of account of the income, expenditure, assets and liabilities.
	(2) Within a period of three months after the end of each financial year, the committee must submit to the Internal County auditor the accounts of the Committee in respect of that year together with—
	(a) a statement of the income and expenditure of the Committee during that year;
	(b) a statement of the assets and liabilities of the Committee on the last day of that financial year; and
	(c) the annual accounts of the Committee must be prepared, audited and reported upon in accordance with the provisions of

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	Article 226 and 229 of the Constitution and the law relating to public audit.
Financial Year	18. The financial year of the Committee shall be the period of the twelve months ending on the thirtieth June in each year.
Offences	19. A person who—
	(a) obstructs any officer or employee of the county government in the discharge of their functions under this Act;
	(b) refuses to comply with any direction given by or on behalf of the county government in exercise of the functions under this Act;
	(c) knowingly makes a false claim for obtaining any assistance or any other benefits under this Act;
	(d) fails to discharge the duties as accorded by this Act; or
	(e) interferes or destroys any equipment meant to achieve the objectives of this Act commits an offence and is liable upon conviction to a fine not exceeding five hundred thousand shillings or to a term of imprisonment not exceeding one year, or both.
Miscellaneous provisions	20. Despite the provisions of this Act or any other written law or custom, a widow—
	(i) shall not be evicted or thrown out of the house of the in-laws or parents, as the case may be, where such widows was residing at the time of death or her husband;

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	(ii) shall be entitled to inherit the property or the share of her late husband in the case of joint ownership of the property from her in-laws; and
	(iii) shall be entitled for maintenance from the heir or in-laws who abandon a widow for substance.
Rules	PART VIII— PROVISIONS ON DELEGATED POWERS
	21. (1) The county executive committee member responsible for gender affairs shall, on recommendation of the Committee, make rules generally for the better carrying out of the provisions of this Act.
	(2) Despite the foregoing, the rules shall provide for—
	(a) prescribing anything required to be prescribed under this Act; and
	(b) the forms and the application for facilities under this Act.
	SCHEDULE
	PROVISIONS ON CONDUCT OF AFFAIRS AND BUSINESS OF THE COMMITTEE
Tenure of office	1. The member of the Committee shall, subject to the provisions of this Schedule, hold office for a period of five years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for reappointment for one further term.

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Vacation of office	2. A member other than ex-officio member may—
	(a) at any time resign from the office by a notice to the Governor;
	(b) be removed from office by the Governor if the member—
	(i) has been absent for three consecutive meeting of the committee without its permission;
	(ii) if found to have contravened the provisions of Chapter Six of the Constitution;
	(iii) is convicted of a criminal offence that amounts to a felony in Kenya;
	(iv) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
	(v) is otherwise unable or unfit to discharge the functions of the office.
Meetings	3. (1) The Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.
	(2) Despite the provisions of sub-paragraph (1), the Chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the committee at any time for the transaction of the business of the Committee.
	(3) Unless three quarters of the total members of the Committee otherwise

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	agree, at least fourteen days' written notice of every meeting of the Committee shall be given to every member of the Committee.
	(4) The quorum of the conduct of the business of the Committee shall be half of the total members including the Chairperson or the person presiding.
	(5) The members of the Committee shall, during their first meeting after appointment elect one of their numbers to be the Vice chairperson who shall preside whenever the Chairperson is absent, with all the powers of the Chairperson with respect to the meeting and the business transacted threat.
	(6) Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.
	(7) Subject to sub-paragraph (6), no proceedings of the Committee shall be invalid by reason only of a vacancy of any member.
	(8) Subject to the provisions of this Schedule, the Committee may determine its own procedure and the procedure for any committee of the Committee and from the attendance of other persons at its meeting and may make standing orders in respect thereof.
Disclosure of interest	4. (1) A member who has any interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the

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	<p>commencement, disclose the face thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matters, or be counted in the quorum of the meeting during consideration of the matter.</p>
	<p>(2) A disclosure of interest made under sub-paragraph (1) shall be recorded in the minutes of the meetings at which it is made.</p>
	<p>(3) A member of the Committee who contravenes sub paragraph (1) commits an offence and is liable upon conviction to a fine not exceeding two hundred thousand shillings.</p>
Contracts and instruments	<p>5. (1) The affixing of the common seal of the Committee shall be authenticated by the signature of the Chairperson and the Secretary and any document not required by law to be made under seal and all decisions of the Committee may be authenticated by the signatures of the Chairperson and the Secretary.</p>
	<p>(2) The Committee shall, in the absence of either the Chairperson or the Secretary in any particular matter, nominate one member to authenticate the seal of the Committee on behalf of either the Chairperson or the Secretary.</p>