

**REPUBLIC OF KENYA**



**MINISTRY OF HEALTH**

**REGULATORY IMPACT STATEMENT  
FOR  
THE KENYA CENTRE FOR DISEASE CONTROL AND PREVENTION  
ORDER, 2026**

*September 2026*

*This Regulatory Impact Statement has been prepared by the Ministry of Health, in consultation with the Kenya Centre for Disease Control and Prevention, pursuant to sections 3(1) and 5(1) of the State Corporations Act, Cap. 446, and sections 6 and 7 of the Statutory Instruments Act, Cap. 2A, in respect of the Kenya Centre for Disease Control and Prevention Order, 2026*



## DEFINITIONS

| TERM                             | DEFINITION                                                                                                                                                                                  |
|----------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Act                              | means the State Corporations Act, Cap. 446.                                                                                                                                                 |
| Board                            | means the Board of Directors of the Centre.                                                                                                                                                 |
| Cabinet Secretary                | means the Cabinet Secretary responsible for matters relating to health.                                                                                                                     |
| Director-General                 | means the chief executive officer of the Centre appointed under the Order.                                                                                                                  |
| Health security                  | means the activities required to minimise the danger and impact of acute public health events that endanger the collective health of populations.                                           |
| Centre                           | means the Kenya Centre for Disease Control and Prevention established under the Order.                                                                                                      |
| National Public Health Institute | means a science-based governmental institution mandated to provide technical leadership and coordination for public health surveillance, intelligence, preparedness, response and research. |
| Order                            | means the Kenya Centre for Disease Control and Prevention Order, 2026, the subject of this Statement.                                                                                       |
| Public health                    | means the art and science of preventing disease, prolonging life and promoting health through the organised efforts of society.                                                             |
| Regulatory Impact Statement      | means the statement required under sections 6 and 7 of the Statutory Instruments Act, Cap. 2A.                                                                                              |
| Surveillance                     | means the epidemiological practice by which the spread of disease is monitored to establish patterns of progression.                                                                        |

**ABBREVIATIONS**

| <b>ABBREVIATION</b> | <b>MEANING</b>                                                 |
|---------------------|----------------------------------------------------------------|
| AU                  | African Union                                                  |
| BETA                | Bottom-Up Economic Transformation Agenda                       |
| CECM                | County Executive Committee Member                              |
| CIDP                | County Integrated Development Plan                             |
| CoG                 | Council of Governors                                           |
| EAC                 | East African Community                                         |
| EOC                 | Emergency Operations Centre                                    |
| GHSA                | Global Health Security Agenda                                  |
| IANPHI              | International Association of National Public Health Institutes |
| IDSR                | Integrated Disease Surveillance and Response                   |
| IHR                 | International Health Regulations (2005)                        |
| KEMRI               | Kenya Medical Research Institute                               |
| KCDC                | Kenya Centre for Disease Control and Prevention                |
| MTP                 | Medium Term Plan                                               |
| NAPHS               | National Action Plan for Health Security                       |
| PABS                | Pathogen Access and Benefit-Sharing                            |
| RIS                 | Regulatory Impact Statement                                    |
| SAGA                | Semi-Autonomous Government Agency                              |
| SDG                 | Sustainable Development Goal                                   |
| UHC                 | Universal Health Coverage                                      |
| WHO                 | World Health Organization                                      |

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## CHAPTER 1

### INTRODUCTION AND BACKGROUND

#### 1.1 Introduction

Kenya is exposed to significant and evolving public health risks arising from its geographical position, its status as a regional transport hub, economic activities including livestock trade, its ecological diversity, the presence of refugee camps, the proliferation of urban slums, an imbalance between population growth and infrastructure development, particularly water, sanitation and hygiene, and its proximity to neighbouring countries with fragile health systems and ongoing conflict.

Africa continues to bear a substantial share of global disease outbreaks. Data from the Africa Centres for Disease Control and Prevention shows that reported outbreaks on the continent rose from 152 in 2022 to 213 in 2024, an increase of approximately 41 per cent, placing sustained pressure on already fragile health systems. Kenya itself experiences up to ten disease outbreaks a year, a trend that continues to increase in both frequency and magnitude. Given the foregoing, there is a need to build well-coordinated and adequately resourced capacities for national health security, in recognition of the fact that public health threats do not respect geographic borders and therefore require coordinated national systems and global solidarity.

National health security is the capacity of a country to prevent, detect, prepare for, respond to, control and recover from public health threats and emergencies, using coordinated, multisectoral and sustainable national systems and capacities to protect the health and well-being of its population. Access to quality health care is guaranteed under Article 43(1)(a) of the Constitution, and the delivery of health services is undertaken at two levels of government. The national government is responsible for health policy, legislation, standards, technical advisory and coordination functions, national referral hospitals and capacity building, while county governments are responsible for county health services, including the management of county health facilities, pharmacies and ambulance services, the promotion of primary health care, and the licensing and regulation of health facilities within their respective jurisdictions.

Recent experience with public health emergencies, including Ebola, COVID-19, Marburg and the 2025 Mpox outbreak, has demonstrated the need for a central authority to coordinate prevention, preparedness, response and recovery, while building resilient health systems. It is against this background that countries globally, and increasingly across Africa, have established or strengthened National Public Health Institutes and comparable institutions to provide institutional leadership and coordination for public health intelligence, surveillance, preparedness and emergency response.

## **1.2 History of the Centre**

The Kenya Centre for Disease Control and Prevention (KCDC), previously known as the Kenya National Public Health Institute (KNPHI), was conceptualised in 2011 as a unit within the Department of Preventive and Promotive Health under the then Ministry of Public Health and Sanitation. In 2013, the Centre attained associate membership of the International Association of National Public Health Institutes (IANPHI), marking an important step towards its development as a national public health institution.

In 2019, the Ministry consolidated public health functions under the Directorate of Public Health and Sanitation, with the intention of transitioning the Directorate into a Semi-Autonomous Government Agency (SAGA) once an appropriate legal framework had been established. This process culminated in the gazettment of Legal Notice No. 14 of 21 January 2022 under the State Corporations Act, Cap. 446, which formally established the Kenya Centre for Disease Control and Prevention.

Following its establishment, the Board of Directors was appointed in August 2022, while the Secretariat was deployed in September 2022 to support the operationalisation of the Centre. The operationalisation work plan was subsequently completed in November 2022, providing a framework for establishing the institutional structures, systems, and functions necessary for the Centre to commence its mandate.

During the Financial Year 2023/2024, the Centre received its first budgetary allocation from the National Treasury. In preparation for the transition of functions, a joint work plan was developed with the Directorate of Public Health and Sanitation. By the end of the financial year, the Centre had also secured additional support for its operationalisation from the World Bank. As part of the transition process, 326 officers

were seconded to the Centre from the Ministry of Health for a period of three years to support the functions of its 13 divisions. The Centre has since continued to receive dedicated financing from the National Treasury to support the implementation of its mandate.

### **1.3 Current Regulatory Basis and the Need for Renewal**

The current regulatory basis for the Centre is Legal Notice No. 14 of 2022, made under the State Corporations Act, Cap. 446. The validity of this legal framework has been affected by judicial proceedings brought in Constitutional Petition No. E004 of 2025 (Dr. Magare Gikenyi & Another v. the Honourable Attorney-General, Cabinet Secretary for Health & Five Others), Constitutional Petition No. E147 of 2025 (Association of Public Health Officers of Kenya v. Cabinet Secretary for Health, KCDC & the Attorney-General), and Constitutional Petition No. E099 of 2025 (Kenya National Union of Medical Laboratory Officers v. Cabinet Secretary for Health, KCDC & Others), which were subsequently consolidated on account of raising substantially similar allegations.

The consolidated petitions challenged, among other matters, the adequacy of public participation prior to the establishment of the Centre, the constitutional allocation of health functions between the national and county governments, the legality of the taskforce that preceded the Centre, the lawfulness of the transfer of staff from the Ministry of Health, and the relationship between the Legal Notice and the Public Health Act and the Health Act. In its judgment delivered on 30th June 2026, the High Court found that the Centre had been legally established and did not find that its establishment, in itself, encroached on functions assigned to county governments. The Court found, however, that meaningful public participation and intergovernmental consultation had not been undertaken prior to the Centre's establishment, and suspended the declaration of invalidity of the Legal Notice for a period of six months, ending on or about 30th December 2026, to allow the deficiency to be cured.

The Court left certain matters unresolved, including questions relating to staff transition and public service status, the lawfulness of the taskforce that preceded the Centre, the appropriate statutory framework for the Centre's establishment, and whether any provision of the Legal Notice conflicts with the Public Health Act or the

Health Act. These matters require further legal risk analysis and are addressed, so far as they bear on the drafting of the Order, in Chapters 5 and 9 of this Statement.

The judicial determination affecting the existing regulatory framework accordingly necessitates a review and renewal of the legal instrument establishing the Centre, in order to provide a legally sound and sustainable framework for its continued operation. The proposed Kenya Centre for Disease Control and Prevention Order, 2026 is intended to provide a revised regulatory framework that responds to the deficiencies identified by the Court and provides clarity regarding the mandate, functions, institutional relationships, governance, financing and accountability of the Centre.

### **1.4 Purpose of the Regulatory Impact Statement**

The Regulatory Impact Statement process involves an assessment of regulatory proposals and allows members of the public to comment on a proposed statutory instrument before it is finalised. Public input of this kind provides valuable information and perspectives and improves the overall quality of regulation. Under the Statutory Instruments Act, Cap. 2A, a regulation-making authority must ensure that a statutory instrument is well-targeted, effective and appropriate, and that it imposes the lowest possible burden on Kenyan institutions, businesses and the community.

A Regulatory Impact Statement is prepared before a statutory instrument is made, to provide a detailed and systematic appraisal of its likely effects and to assess whether it is likely to achieve its intended objectives. It promotes evidence-based policymaking, since new statutory instruments typically produce impacts that are not always apparent at the drafting stage.

This Statement confirms whether the proposed Order benefits exceed its costs. In the particular circumstances of this Order, the Statement additionally serves to document how the deficiencies identified by the High Court in its judgment of 30th June 2026 have been addressed.

### **1.5 Regulation-Making Authority and Legal Mandate**

Section 3(1) of the State Corporations Act, Cap. 446 empowers the President, by order, to establish a state corporation for the purpose of the performance of specific

functions relating to the general development of Kenya or of any part thereof, or the general development of Government trading services.

Section 5(1) of the Act confers on a state corporation established under section 3(1) all the powers necessary or expedient for the performance of its functions, including the power to be a body corporate with perpetual succession, to sue and be sued, and to acquire, hold, charge and dispose of property. It is under this mandate that the President makes the Kenya Centre for Disease Control and Prevention Order, 2026, in consultation with the Cabinet Secretary responsible for matters relating to health.

The State Corporations Act provides the legal vehicle for establishing the Centre, while the Centre's substantive public-health mandate is drawn from, and must operate consistently with, the Health Act, the Public Health Act, the Constitution and the other instruments of policy and law discussed in Chapter 5. The Order, being subsidiary legislation, is confined to matters of establishment, governance, functions at a high level of generality, and financial and miscellaneous provisions; it does not purport to create substantive public-health offences or to alter the constitutional allocation of functions between the two levels of government.

## **1.6 Requirements of the Statutory Instruments Act, Cap. 2A**

Under sections 6 and 7 of the Statutory Instruments Act, Cap. 2A, where a proposed statutory instrument is likely to impose a significant cost on the community or a part of it, the regulation-making authority must, before making the statutory instrument, prepare a Regulatory Impact Statement. Under the Act, a Regulatory Impact Statement must contain:

- a) a statement of the objectives of the proposed statutory instrument and the reasons for them;
- b) a statement explaining the effect of the proposed statutory instrument, including its effect on the operation of the instrument it replaces;
- c) a statement of other practicable means of achieving those objectives, including regulatory and non-regulatory options;
- d) an assessment of the costs and benefits of the proposed statutory instrument and of any other practicable means of achieving the same objectives;

- e) the reasons why the other means are not appropriate;
- f) any other matters specified by the applicable guidelines; and
- g) a draft copy of the proposed statutory instrument.

Section 5 of the Statutory Instruments Act, Cap. 2A further requires a regulation-making authority to conduct public consultations that draw on the knowledge of persons with relevant expertise, and that give persons likely to be affected by the proposed statutory instrument an adequate opportunity to comment on its content. In the case of this Order, that requirement is reinforced by the High Court's finding that meaningful public participation and intergovernmental consultations should be conducted.

## CHAPTER 2

### VISION, MISSION, MANDATE AND OBJECTIVES OF THE ORDER

#### 2.1 Vision and Mission

**Vision:** A healthier and safer nation with resilient public health systems to prevent, prepare for, respond to and recover from public health emergencies.

**Mission:** To enhance and safeguard lives by protecting against existing and emerging public health threats, through enhanced vigilance, evidence-based scientific interventions and innovations, and proficient, adaptable public health systems.

#### 2.2 Mandate of the Centre

The mandate of the Centre is to strengthen and promote public health functions by providing a centralised platform for the management and coordination of key activities in the prevention, early detection and management of public health emergencies and events of concern.

#### 2.3 General Objective

The general objective of the Order is to provide a legally sound, constitutionally compliant and durable framework for the establishment, governance, financing and accountability of the Kenya Centre for Disease Control and Prevention, so as to

consolidate and coordinate public health intelligence, surveillance, preparedness and emergency response functions that are otherwise distributed across multiple statutes, levels of government and sector-specific institutions.

## **2.4 Specific Objectives**

The specific objectives of the Order are to provide for:

- (a) establish and maintain a national mechanism for surveillance, detection, reporting, control and response to public health events and emergencies;
- (b) establish and maintain a national Public Health Emergency Operations Centre for the management of public health emergencies;
- (c) establish and maintain a national reference laboratory to safeguard, detect and confirm conditions of concern;
- (d) establish and maintain infrastructure and systems for the management of public health concerns including management of priority conditions, pathogens, biological materials and organisms and referral of high-consequence pathogens;
- (e) conduct vulnerability and risk assessments and mitigate health security threats;
- (f) coordinate public health information in response to public health events of concern;
- (g) implement, monitor and report on compliance with obligations under international and regional treaties and conventions relating to public health events of international concern;
- (h) build capacity for the management of health security and public health concerns including the training of public healthcare professionals on public health security;
- (i) provide technical and advisory support on matters of health security and management of public health events and emergencies;
- (j) conduct operational research on matters of public health;
- (k) undertake scientific and technological innovation on matters of public health;

- (l) undertake resource mobilization for the management of public health events and health security;
- (m) provide policy advice and make recommendations on matters of public health and health security including priorities for research; and
- (n) perform such other functions as may be prescribed in any other written law or as necessary for the performance of the functions of the Centre.

## 2.5 Functions of the Centre and Allocation Between National and County Government

The functions of the Centre have been reviewed to distinguish direct national functions from coordination, support and co-shared functions, and each function has been given a function-specific justification. Table 1 sets out this allocation.

| Function area                                                                                                                               | Allocation               | Justification                                                                                                                                                                                         |
|---------------------------------------------------------------------------------------------------------------------------------------------|--------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Coordination as the National IHR Authority and One Health Secretariat                                                                       | National                 | The International Health Regulations (2005) require a single national focal point and National IHR Authority; the One Health Joint Plan of Action likewise requires a national coordinating platform. |
| Collaborative surveillance, including disease surveillance, laboratory systems, points of entry, food safety, and biosafety and biosecurity | Coordination and support | The Centre develops national standards and coordinates national data systems; county governments continue to undertake surveillance activities within their jurisdictions.                            |
| Standardised outbreak detection, reporting and response mechanism                                                                           | Co-shared                | The Centre hosts national surveillance systems, including the Integrated Disease Surveillance and Response module, in collaboration with county governments.                                          |

| Function area                                                                                     | Allocation                                           | Justification                                                                                                                                                                                       |
|---------------------------------------------------------------------------------------------------|------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Capacity building to control outbreaks and emergencies                                            | National, implemented in collaboration with counties | Building capacity is a national government function under the Fourth Schedule; implementation requires collaboration with county governments.                                                       |
| National Emergency Operations Centre                                                              | National, with support to county-level EOCs          | County governments are expected to establish and maintain county-level Emergency Operations Centres; the Centre establishes and maintains the national Centre and supports counties to do the same. |
| Safe and scalable care, including specialist infectious disease units and specialist ambulances   | Coordination and support                             | The national government sets standards and trains paramedics; counties manage routine day-to-day ambulance operations.                                                                              |
| Workforce development                                                                             | Coordination and support                             | The national government trains and builds capacity; county governments implement and apply the relevant competencies within their jurisdictions.                                                    |
| Community protection, including risk communication and community engagement, and health promotion | County function, nationally supported                | This is a county function; the national government develops policy, standards and provides technical and capacity-building support.                                                                 |

| Function area                                                                         | Allocation                       | Justification                                                                                                                                                                      |
|---------------------------------------------------------------------------------------|----------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Countermeasures, including emergency supply chain coordination                        | Coordination and support         | The national government supports the development and coordination of standards; counties undertake storage, distribution and dispensing of commodities within their jurisdictions. |
| Collaboration, partnerships and resource mobilisation                                 | Co-shared                        | Both levels of government are jointly responsible.                                                                                                                                 |
| Operational research                                                                  | National                         | This is a coordinative, partnership-based national activity.                                                                                                                       |
| Biosafety and biosecurity, including management of pathogens and biological materials | National                         | Consistency of biosafety and biosecurity standards requires a single national system, including consideration of a national biorepository for priority pathogens.                  |
| Reference laboratories and quality assurance                                          | National, accessible to counties | The Centre establishes and maintains national reference laboratories and provides quality assurance and standards implementation support.                                          |
| Emergency referral system and facilities for high-consequence pathogens               | National, with county linkage    | A single national pathway is required for the safe detection, isolation, referral and management of high-consequence infectious disease patients.                                  |

| Function area                          | Allocation | Justification                                                                                                                                                                                        |
|----------------------------------------|------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Mandatory public health data mechanism | National   | A single mechanism for the collection, collation, analysis, reporting, storage, use, sharing, retrieval and archival of public health data is required for national intelligence and IHR compliance. |

## CHAPTER 3

### BACKGROUND AND CONTEXT

#### 3.1 International Context

The establishment of a strong national public health Institute is consistent with, and gives effect to, a range of international and continental instruments and frameworks.

a) ***Sustainable Development Goals 3, 6, 13, 15 and 17***

The Sustainable Development Goals provide a global framework for improving health, preventing disease, addressing climate and environmental risks, and strengthening partnerships. Achieving these commitments requires strong national capacity for health surveillance, evidence generation, prevention and coordinated response to emerging public health threats. The Centre provides the institutional platform to integrate these functions and translate Kenya's Sustainable Development Goal commitments into coordinated public health action.

b) ***International Health Regulations (2005), as amended in 2024***

The International Health Regulations require Kenya to maintain national capacities for surveillance, risk assessment, laboratory systems, notification, preparedness and response to public health emergencies, supported by an IHR National Focal Point, a National IHR Authority and the required core capacities. The 2024 amendments, adopted by the Seventy-Seventh World Health Assembly, strengthened provisions on

equitable access to health products during emergencies, introduced the intermediate category of a pandemic emergency, and reinforced the obligation on States Parties to designate and adequately resource a National IHR Authority. The existing capacity and coordination gaps in Kenya demonstrate the need for a dedicated institution to integrate and strengthen these functions, support IHR compliance and provide clear national leadership for health security. The Centre is designated to fulfil this institutional role as Kenya's National IHR Authority.

c) ***Quadripartite One Health Framework and One Health Joint Plan of Action***

The Quadripartite One Health approach recognises that human, animal and environmental health are interconnected and require coordinated multisectoral action. The Centre provides a national coordinating platform for integrating surveillance, risk assessment, information sharing and response across these sectors, strengthening Kenya's capacity to prevent and manage zoonotic and emerging health threats.

d) ***WHO Pandemic Agreement***

The WHO Pandemic Agreement was adopted by consensus at the Seventy-Eighth World Health Assembly on 20th May 2025, following more than three years of negotiation prompted by the COVID-19 pandemic, and it now requires sixty ratifications to enter into force. Work continues on the annex establishing the Pathogen Access and Benefit-Sharing mechanism, targeted for completion at the World Health Assembly in 2026. The Agreement strengthens international cooperation on pandemic prevention, preparedness and response and calls for stronger national systems capable of managing future pandemics. The Centre would strengthen Kenya's institutional capacity for pandemic intelligence, surveillance, preparedness, prevention and response, positioning the country to implement its emerging international commitments effectively as the Agreement is finalised and brought into force.

e) ***Africa CDC Framework for National Public Health Centre Development***

The Africa CDC Framework promotes strong, legally established national public health Institutes as central institutions for surveillance, public health intelligence, emergency preparedness and response, research and workforce development. Africa CDC data

shows that reported disease outbreaks on the continent rose by approximately 41 per cent between 2022 and 2024, and that cholera, mpox and viral haemorrhagic fevers, including a sixteenth Ebola outbreak in the Democratic Republic of the Congo declared over in December 2025, continued to test national and continental health-security systems through 2025. Establishing the Centre on a firm legal footing aligns Kenya with the continental model and provides the institutional architecture needed to strengthen national health security.

f) ***African Union Agenda 2063 and East African Community Vision 2050***

Agenda 2063 promotes a prosperous and healthy Africa, with Goal 3 focused specifically on healthy and well-nourished citizens, while the East African Community Vision 2050 seeks improved access to quality health services and progress towards universal health coverage across the region. The Centre contributes to these aspirations by strengthening Kenya's capacity to prevent disease, generate public health intelligence, detect threats early and protect populations from health emergencies, while enhancing Kenya's contribution to regional disease surveillance and emergency-response systems.

### **3.2 Domestic Context**

The delivery of health services in Kenya is devolved between the national and county governments under the Fourth Schedule to the Constitution. Kenya Vision 2030 identifies health as a key sector under its Social Pillar, pursued through devolved delivery and increased investment in preventive rather than purely curative care, and is implemented through successive five-year Medium-Term Plans at national level and County Integrated Development Plans at county level.

Kenya's recent experience with public health emergencies illustrates the scale of the challenge. The COVID-19 pandemic disrupted economic activity and public finances nationally. The 2025 Mpox outbreak reached 431 confirmed cases and seven deaths across 27 counties by August 2025. Kenya also continues to carry a substantial endemic disease burden, with approximately 4.2 million malaria cases and 11,000 malaria deaths annually, and 57.3 million people at risk. This burden, together with periodic outbreaks of viral haemorrhagic fevers and other high-consequence

pathogens in the wider East African region, underscores the continuing need for a well-resourced national institution dedicated to public health intelligence, surveillance and emergency response.

### **3.3 Universal Health Coverage and Health Security**

The Bottom-Up Economic Transformation Agenda prioritises Universal Health Coverage and the protection of Kenyans from health emergencies as part of strengthening human capital and economic resilience. Health security and universal health coverage are mutually reinforcing: a population cannot enjoy the benefits of expanded access to care, including under the Social Health Insurance Act, No. 16 of 2023, if outbreaks and public health emergencies are allowed to disrupt service delivery and erode the financing base on which Universal Health Coverage depends. The Centre supports these priorities by strengthening national capacity for disease prevention, surveillance, preparedness and emergency response, reducing the health and economic impact of public health threats on the wider Universal Health Coverage agenda.

## **CHAPTER 4**

### **EVALUATION OF THE PROBLEM**

#### **4.1 Identified Challenges**

- a) Institutional fragmentation. Kenya's existing legal and policy framework contains substantial provisions for disease prevention, surveillance, health information, laboratory services, research, emergency management and health security, but these functions remain distributed across multiple statutes, levels of government and sector-specific institutions. The principal gap is therefore one of institutional integration, coordination and legal clarity, rather than a complete absence of public health regulation.
- b) Legal uncertainty arising from the consolidated petitions and the judgment of 30th June 2026, which has suspended the declaration of invalidity of Legal Notice No.

14 of 2022 for six months and requires the deficiency in public participation to be cured before that period lapses.

- c) Ambiguity in the allocation of functions between the national and county governments, which formed a central part of the petitioners' claims and which the team developing the draft Order sought to resolve through a function-by-function review.
- d) A Global Health Security Agenda accountability gap. Although Kenya participates in the Global Health Security Agenda, implementation has been fragmented and progress has not been consistently reported, because no single entity has owned cross-sectoral Global Health Security Agenda metrics.
- e) A funding gap between the Centre's mandate and its resourcing. The Centre's recurrent allocation was KSh17.7 million in 2025 and KSh36.6 million in 2026, while the draft Health Sector Report identified a recurrent shortfall of KSh500 million for meaningful operationalisation, and Parliament's 2026 budget recommendations proposed an additional KSh769.1 million recurrent allocation together with KSh185.9 million in Appropriation-in-Aid.
- f) Unresolved legal questions flagged by the Court but not conclusively determined, including the public service status of transitioned staff, the lawfulness of the taskforce that preceded the Centre, and the relationship between the Legal Notice and the Public Health Act and the Health Act.

## **4.2 Opportunities for Kenya**

- a) Positioning Kenya as a reliable partner in regional and continental health security, including as a contributor to Africa CDC-led initiatives and East African Community health security cooperation.
- b) Strengthening investor, trader and traveller confidence in Kenya's capacity to detect and manage health threats without prolonged disruption to economic activity.
- c) Building durable domestic laboratory and technical capacity, reducing reliance on external technical and laboratory support during emergencies.

- d) Providing a structured platform for private sector, academic and development partner participation in national health security, building on the experience of the COVID-19 response.
- e) Curing the specific procedural deficiencies identified by the Court within the six-month window, thereby avoiding the operational disruption that would follow a lapse of the suspension without a compliant framework in place.

### **4.3 Challenges Affecting Public Health Security in Kenya**

Kenya's public health security challenges are therefore best understood as challenges of integration, coordination, legal clarity and sustainable financing, rather than as an absence of underlying public health law. The establishment and strengthening of the Centre on a legally sound footing addresses this gap by providing a dedicated national institution for public health intelligence, surveillance, laboratory coordination, risk assessment, preparedness, emergency response, research and evidence-to-policy translation, while a comprehensive legal framework clarifies its mandate, institutional relationships, coordination mechanisms, financing and accountability.

### **4.4 Conclusion**

The evaluation in this Chapter demonstrates that the problems facing Kenya's public health security architecture are structural and legal and that they cannot be resolved by administrative measures alone. A renewed, constitutionally compliant Order is required to cure the specific deficiencies identified by the Court and to provide the durable institutional foundation that Kenya's public health security requires.

## **CHAPTER 5**

### **POLICY AND LEGAL FRAMEWORK**

#### **5.1 Introduction**

This Chapter sets out the international, policy, constitutional and statutory framework within which the Kenya Centre for Disease Control and Prevention Order, 2026 is made,

and identifies the specific gaps in that framework that the Centre is intended to address.

## 5.2 International Protocols, Conventions and Agreements

The relevant international and continental instruments, namely the Sustainable Development Goals, the International Health Regulations (2005) as amended in 2024, the Quadripartite One Health Framework, the WHO Pandemic Agreement, the Africa CDC Framework for National Public Health Centre Development, the African Union Agenda 2063 and the East African Community Vision 2050, are discussed in detail at section 3.1 above and are incorporated by reference in this section.

## 5.3 Policy Framework

### a) ***Kenya Vision 2030***

The Vision's Social Pillar commits the Government to investing in the people of Kenya to improve quality of life, with health designated a key sector and an efficient, high-quality health care system identified as a national objective, pursued through devolved delivery and increased investment in preventive care. The Vision does not itself create an institutional mechanism for national health intelligence or surveillance; the Centre provides the institutional platform translating this long-term development blueprint's health ambitions into sustained public health capacity.

### b) ***Sessional Paper No. 2 of 2017 on the Kenya Health Policy 2014-2030***

The Policy sets six objectives and eight action areas guiding sector investment, including Health Information and Research and Development, and calls for a multisectoral governance structure to be elaborated through subsequent five-year strategic plans. These action areas are not assigned to a dedicated institutional home within the Policy itself; the Centre operationalises them, providing the specialised institutional platform for integrating health intelligence, surveillance and research delivery that the Policy's own framework anticipates but does not create.

### c) ***Bottom-Up Economic Transformation Agenda and the National Action Plan for Health Security***

The Bottom-Up Economic Transformation Agenda prioritises Universal Health Coverage and protection from health emergencies as part of strengthening human capital and economic resilience. Kenya's second-generation National Action Plan for Health Security (2026-2030), validated in early 2026, sets out the country's five-year strategic programme for health security, of which the Centre is the principal institutional vehicle.

## 5.4 Constitutional Mandate

Article 43(1)(a) of the Constitution guarantees every person the right to the highest attainable standard of health, including the right to health care services. Protecting this constitutional right requires not only the provision of health care but also effective prevention, surveillance and management of threats to population health. The Fourth Schedule to the Constitution allocates health policy, national referral health facilities and the capacity building and technical assistance to counties to the national government, while county health services, including county health facilities and pharmacies, ambulance services, promotion of primary health care, and licensing and regulation of food handling establishments in the interest of public health, are allocated to county governments. The functions of the Centre, as set out in Table 1 at section 2.5, have been reviewed against this constitutional allocation to ensure that the Order does not purport to confer on the Centre functions constitutionally reserved to county governments.

## 5.5 Legal Framework Governing Public Health in Kenya

### a) ***The State Corporations Act, Cap. 446***

Sections 3(1) and 5(1) of the State Corporations Act provide the legal framework for establishing a state corporation and conferring upon it the powers necessary to perform its specified functions. The Act does not itself provide a substantive public health mandate or create an institution dedicated to national public health security; it provides the legal vehicle for establishing the Centre, while the Centre's specialised public health mandate addresses functions that require dedicated institutional coordination.

### b) ***The Health Act, Cap. 241***

Section 24 of the Health Act, 2017 assigns the national government responsibility for national health functions, including national laboratories and the control of highly infectious and communicable diseases. It does not, however, establish a dedicated institution to integrate these functions through coordinated public health intelligence, surveillance, preparedness and response. This institutional gap supports the establishment of the Centre as a specialised national body to coordinate and strengthen these functions.

c) ***The Public Health Act, Cap. 242***

Section 10 of the Public Health Act assigns responsibility for preventing and controlling infectious diseases, conducting public health research and investigations, and collecting and disseminating public health information. These functions are not, however, consolidated within a modern, dedicated national public health intelligence and health security institution; the Centre addresses this gap by providing a specialised institutional platform for integrating surveillance, intelligence, preparedness, research and response to public health threats.

d) ***The Primary Health Care Act, No. 13 of 2023***

Section 3 commits the Act to the progressive realisation of the right to health care and the systemic delivery of primary health care toward universal health coverage, while sections 5, 17 and 19 establish community health care services, primary health care networks and community health units respectively. These provisions create the front-line service and reporting architecture but do not establish a national body to aggregate, analyse and act on the intelligence this architecture generates; the Centre supplies that aggregation and intelligence function, linking primary-care-level detection to national-level public health response.

e) ***The Digital Health Act, No. 15 of 2023***

Sections 3 and 4 establish a framework for digital health services and a comprehensive integrated health information system, sections 5 and 6 establish the Digital Health Agency, section 15 establishes the comprehensive integrated health information system itself, section 17 sets its objectives, and section 61 ties the Agency's data handling to compliance with the Data Protection Act. The Act builds the data

infrastructure and governance backbone for the health sector but does not itself constitute a national public health Institute mandated to convert that infrastructure into surveillance intelligence and emergency response; the Centre is a principal institutional consumer of, and contributor to, this system.

f) ***The Social Health Insurance Act, No. 16 of 2023***

Section 3 sets out the objects of the Act, section 5 the functions of the Social Health Authority, and section 20 establishes the Primary Healthcare Fund, directed at procuring primary health care services. The Fund's purchasing and resource-allocation decisions depend on reliable morbidity, outbreak and health-utilisation data that the Act does not itself generate; the Centre strengthens the evidence base underpinning the sustainability of this financing reform.

g) ***The Data Protection Act, No. 24 of 2019 (Cap. 411C)***

The Act gives effect to Article 31(c) and (d) of the Constitution and, under section 2, defines sensitive personal data to include data revealing a person's health status, placing all disease-surveillance and public health data under its governance regime. The Act establishes the Office of the Data Protection Commissioner and the obligations of data controllers and processors, but does not itself designate a national institution responsible for collecting and analysing this category of data at population scale; the Centre operates within this data-protection framework as the national institution generating and processing health-surveillance data at the scale the Act's sensitive-personal-data provisions anticipate.

## **5.6 The Court Judgment and Legal Risk Considerations**

The judgment of 30th June 2026 in the Consolidated Constitutional Petitions No. E004, E147 and E099 of 2025 is the immediate legal driver of this Statement and of the Order that it supports. The primary process for the development of draft Order identified three broad legal options for responding to the judgment: an appeal against the judgment; republication of the Legal Notice after curing the identified procedural deficiencies, recommended as the immediate or stop-gap measure; and anchoring the Centre through primary legislation, identified as the preferred long-term option. These options, and the reasons for the preferred course of action, are analysed in Chapter 9. The process also confirmed that no appeal had been lodged at the time of its

deliberations, and that the Legal Notice, as subsidiary legislation made under the State Corporations Act, should not contain excessive operational detail but should remain focused on definitions, functions, governance arrangements and other matters necessary for the Centre's legal establishment.

## **5.7 Institutional Framework**

The Order will operate within an institutional framework comprising the Ministry of Health, which exercises national health policy and oversight functions; the Board of Directors of the Centre and Staff of the Centre, which are responsible for its day-to-day governance and operations; county governments, acting individually and through the Council of Governors, which deliver county health services and participate in the intergovernmental consultation process; the Kenya Medical Research Institute, with which the Centre's research and reference laboratory functions must be coordinated to avoid duplication; and the Ministry responsible for environmental matters, whose representation on the Board has been proposed to strengthen the One Health dimension of the Centre's mandate.

## **5.8 Conclusion**

The policy and legal framework reviewed in this Chapter confirms that, while Kenya's public health legislation is extensive, no single existing instrument establishes a dedicated national institution with the specific mandate, legal personality and financing arrangements required for effective national public health security coordination. The Kenya Centre for Disease Control and Prevention Order, 2026 closes this gap, while remaining subject to, and consistent with, the Constitution and the other statutes discussed above.

# **CHAPTER 6**

## **AN OVERVIEW OF THE ORDER**

The Kenya Centre for Disease Control and Prevention Legal Order is made under Section 3(1) of the State Corporations Act (Cap. 446). The President William Samoei Ruto issues it to re-establish the Kenya Centre for Disease Control and Prevention, formerly the National Public Health Institute (NPHI), and revoke the 2022 Order that created the current version.

The Centre's purpose is to protect public health and safety by coordinating prevention, detection, and response to public health events and emergencies. Its functions include:

- a) Running a national surveillance and emergency response system;
- b) Operating a public health emergency operations centre;
- c) Running a national Public Health reference laboratory;
- d) Managing high-consequence pathogens and priority conditions;
- e) Meeting Kenya's obligations under international health treaties;
- f) Building public health workforce capacity;
- g) Conducting research and innovation on public health;
- h) Advising government on health security policy.

## **6.1 Governance of The Centre**

The Board has 8 members: a non-executive Chairperson (Presidential appointee), the Principal Secretary for Health (or representative), the Principal Secretary for National Treasury (or representative), the Director-General of Health, the Attorney-General (or representative), two Council of Governors nominees, two non-public-officer appointees, and the Director-General as ex officio member.

Key qualification and term rules:

- Chairperson and appointed members: bachelor's degree, 7+ years relevant experience, 5+ years senior management, Chapter Six (integrity) compliance. Term: 3 years, renewable once.
- Director-General: Master's degree in public health or related science, 10+ years senior management (5+ in public health). Term: 3 years, renewable once. Serves as accounting officer.
- Corporation Secretary: law degree, Advocate of the High Court, Certified Public Secretary status, 5+ years governance experience.

The Board meets at least 4 times a year, with a quorum of 5 members.

## **6.2 Financial provisions**

Standard state corporation financial architecture: funds from parliamentary appropriation, Centre earnings, and grants; financial year ending June 30; annual estimates prepared within 3 months of year-end; accounts audited under the Public Finance Management Act and Public Audit Act; surplus funds invested with National Treasury approval.

### **6.3 Transitional provisions**

This is the operative mechanism for continuity from the outgoing 2022 Centre:

- All contracts, agreements, and legal proceedings involving the "former Institute" transfer automatically to the new Centre
- All assets and liabilities vest in the new Centre without further legal action
- Staff of the former Centre retain their positions under the new Centre, unless under notice of dismissal or resignation
- The Division of Monitoring and Evaluation, Division of Health Informatics, and Division of Research and Innovation, previously under the former Institute, revert to being Divisions within the Ministry of Health. Staff who don't elect to join the new Centre become Ministry of Health staff.
- The 2022 Order (L.N. 14 of 2022) is revoked

## **CHAPTER 7**

### **THE COST-BENEFIT ANALYSIS FOR THE ORDER**

#### **7.1 Introduction**

The establishment and full operationalisation of the Centre is a strategic investment in Kenya's national health security. The relevant question for Government is not whether preparedness has a cost, but whether it is more prudent to make a predictable investment in preparedness than to continue bearing the much larger and unpredictable costs of delayed detection, uncontrolled outbreaks and emergency response.

#### **7.2 Analysis of Costs**

The principal costs will arise from establishing and sustaining the national systems required to detect, investigate and respond to public health threats. The Centre's Strategic Plan estimates a five-year requirement of KSh43.076 billion for its planned activities, summarised in Table 2. This figure represents the broader costed strategic programme for national public health security and should not be presented as the incremental administrative cost of establishing the Centre alone.

| <b>Strategic area</b>                                  | <b>Five-year requirement</b> | <b>Share of total</b> | <b>What the investment provides</b>                                                                 |
|--------------------------------------------------------|------------------------------|-----------------------|-----------------------------------------------------------------------------------------------------|
| Surveillance and laboratory support                    | KSh 12.436 billion           | 28.9%                 | Disease surveillance, laboratory systems, diagnostics, data analysis and public health intelligence |
| Neglected tropical, vector-borne and zoonotic diseases | KSh 4.677 billion            | 10.9%                 | Prevention, surveillance, control and elimination of priority diseases and One Health threats       |
| Public health emergency response                       | KSh 2.673 billion            | 6.2%                  | Emergency response teams, Emergency Operations Centres, field response, logistics                   |
| Public health preparedness                             | KSh 578.7 million            | 1.3%                  | Preparedness planning, exercises, capacity building, risk assessment and readiness                  |

| Strategic area            | Five-year requirement | Share of total | What the investment provides                                                                                   |
|---------------------------|-----------------------|----------------|----------------------------------------------------------------------------------------------------------------|
| Other strategic functions | KSh 22.712 billion    | 52.7%          | Institutional capacity, research, workforce, health information, infrastructure and other strategic activities |
| TOTAL                     | KSh 43.076 billion    | 100%           | Five-year national public health security strategic programme                                                  |

There is a significant difference between the current nominal institutional allocation and the resources required for meaningful operationalisation. The Centre's recurrent allocation was KSh17.7 million in 2025 and KSh36.6 million in 2026, while the draft Health Sector Report identified a recurrent shortfall of KSh500 million for operationalisation, and Parliament's 2026 budget recommendations proposed an additional KSh769.1 million recurrent allocation together with KSh185.9 million in Appropriation-in-Aid. There will additionally be one-off transition and integration costs associated with transferring functions, integrating systems, rationalising overlapping activities, managing assets and establishing clear institutional relationships; these can be contained through phased implementation and by consolidating capabilities that Government and partners already finance.

### 7.3 Analysis of Benefits

The economic value of the Centre arises principally from its ability to convert fragmented public health capabilities into a permanent national system that detects threats earlier and enables Government to act before their consequences become substantially more expensive.

- a) Earlier action at lower cost: Kenya's national performance framework targets 90 per cent of outbreaks detected within seven days, 90 per cent notified

within one day and 90 per cent controlled within seven days. Achieving these targets reduces the scale of response required.

- b) Better return on existing public investment: the Centre brings together surveillance, laboratory, epidemiology, emergency preparedness and public health information capabilities that are currently spread across different structures, so that Government obtains greater value from capabilities it is already financing.
- c) Protection of the economy and public finances: Kenya's real GDP contracted by 0.3 per cent in 2020 as a result of the COVID-19 pandemic, while public expenditure and external financing requirements increased substantially. Preparedness protects the health budget, economic activity, Government revenue and fiscal space.
- d) International evidence of return on preparedness: the World Health Organization estimates that every US\$1 invested in the health emergency cycle can generate more than US\$8 in returns, including economic gains and lives saved; a separate 2026 World Health Organization investment case found that strengthening foodborne disease surveillance could generate an average of US\$46.60 in benefits for every US\$1 invested over ten years across seventeen countries. These are international estimates and should be treated as evidence of the value of preparedness and surveillance, not as a Kenya-specific return-on-investment calculation.
- e) Protection against Kenya's continuing disease burden: the investment is justified not only by future pandemics but by Kenya's approximately 4.2 million malaria cases and 11,000 malaria deaths annually, with 57.3 million people at risk, and by episodic outbreaks such as the 2025 Mpox outbreak, which reached 431 confirmed cases and seven deaths across 27 counties by August 2025.

## **7.4 Cost of Inaction**

The cost of inaction is the continued exposure of the country to the consequences of fragmented preparedness and delayed response. Kenya's real GDP contracted by 0.3 per cent in 2020 after COVID-19 disrupted economic activity, while Government

mobilised substantial emergency financing, including KSh6.8 billion through the World Bank's Contingency Emergency Response component, KSh78.3 billion from the International Monetary Fund, and KSh108 billion from the World Bank in broader pandemic-related support.

- a) Larger outbreaks and higher response costs: when threats are detected late, transmission has already expanded and Government must deploy more personnel, laboratory services, medicines, vaccines, logistics and emergency financing.
- b) Repetition of the COVID-19 experience: the 0.3 per cent GDP contraction in 2020 is a direct reminder that the consequences of inadequate preparedness extend far beyond the health sector.
- c) Continued fragmentation and duplication: without a single national institutional backbone, surveillance, laboratory, emergency response and public health intelligence functions risk remaining dispersed, resulting in duplication, unclear accountability and resources spent on parallel systems.
- d) Loss of technical capacity between emergencies: if preparedness depends heavily on temporary projects and emergency mobilisation, specialised expertise and systems may weaken when external funding or emergency attention declines, requiring Government to rebuild capacity when the next threat emerges.
- e) Greater fiscal exposure: a country that invests less in prevention is more likely to face sudden and unplanned expenditure when emergencies occur, requiring reallocation of resources from development and essential services precisely when public finances are under greatest pressure.

The Centre should be treated as national health-security infrastructure, in the same way that Government invests in other systems whose value lies in preventing much larger losses.

## **CHAPTER 8**

### **IMPACT ANALYSIS**

## 8.1 Introduction

This chapter illustrates the anticipated impact of establishing the Kenya Centre for Disease Control and Prevention (KCDC) in Kenya. The KCDC is expected to strengthen national health security by improving disease surveillance, public health intelligence, laboratory capacity, preparedness, coordination and rapid response to emerging and existing health threats.

The KCDC will also support County Governments by providing specialised technical expertise, reliable public health information, laboratory services, emergency support and opportunities for resource mobilisation, while respecting the constitutional principles of devolution. At the governance level, it will promote clearer accountability, stronger intergovernmental coordination and greater legal and institutional certainty.

Beyond the health sector, the KCDC will contribute to protecting livelihoods, businesses, education, government revenue and economic stability by enabling earlier detection and containment of public health emergencies. It will strengthen environmental and climate-related health preparedness, promote gender and equity considerations, and ensure greater protection of vulnerable and marginalised populations.

## 8.2 KCDC Impact on National Government

- a) **Strengthening national health security and preparedness:** The KCDC will strengthen the Government's capacity to anticipate, prevent, detect and respond to public health threats, protecting the lives, livelihoods and economic wellbeing of Kenyans.
- b) **Strengthening public health intelligence and evidence-based decision-making:** The KCDC will provide the Government with timely and reliable public health intelligence to support informed policy decisions, effective resource allocation and rapid action when health threats emerge.
- c) **Strengthening coordination and efficiency across the health system:** The KCDC will provide unified platforms at national and sub-national levels for coordinating surveillance, laboratory, epidemiological and emergency response

functions, reducing fragmentation and ensuring that public resources deliver greater value to citizens.

d) **Building a self-reliant national public health and laboratory capacity:**

The KCDC will strengthen Kenya's national technical and laboratory capabilities, enabling the country to detect, confirm and respond to health threats more quickly while reducing over-reliance on external technical and laboratory support.

e) **Strengthening Kenya's resilience and global health-security position:**

The KCDC will enhance Kenya's capacity to meet its national and international health-security obligations, strengthen collaboration with counties and global health institutions, and position Kenya as a resilient and reliable regional leader in health security.

### 8.3 KCDC Impact on County Governments

a) **One reliable technical partner for every county:** The KCDC will ensure that every county, including those that are remote and underserved, can access quality laboratory confirmation, outbreak investigation, specialised expertise and training. No county should be left behind when it comes to protecting the health of its people.

b) **County data that works for counties and their people:** The KCDC will provide a national platform through which counties can access, analyse and use their own public health data alongside national intelligence. The data generated in our counties must not only be reported upwards; it must be analyzed by the KCDC and come back as useful information that enables counties to plan better, allocate resources wisely and respond to the needs of their people.

c) **Faster national support when counties face emergencies:** The KCDC will provide a clear channel through which counties can access national laboratory capacity, technical expertise and emergency support when a threat is beyond the capacity of an individual county. When a county faces a health emergency, the national system must be ready to stand with that county.

- d) **Better mobilisation of resources for counties:** The KCDC will help the National and County Governments identify priorities, coordinate partners and mobilise technical and financial resources for public health. This will ensure that available resources are better aligned to the actual health needs of communities and deliver greater value to the Kenyan people.
- e) **NPHI will create a partnership that respects devolution and delivers results:** County Governments will continue to deliver county health services and lead public health action within their jurisdictions, while the KCDC provides the national technical backbone, standards, specialised capacity and coordination required for threats that demand a national response. This is not about taking functions away from counties; it is about giving counties the technical support they need to deliver better health outcomes for their people.

#### 8.4 . Governance and Legal Impact

- a) **Clearer national accountability for public health security:** The KCDC will provide a clear national focal point for disease surveillance, outbreak preparedness and response, laboratory coordination and public health intelligence.
- b) **Stronger implementation of the National Government's constitutional mandate:** The KCDC will strengthen the National Government's capacity to undertake health policy, disaster management, capacity building and technical support without taking over functions assigned to County Governments.
- c) **Stronger intergovernmental coordination and respect for devolution:** The KCDC will operate within the constitutional framework and delineation of functions between the two levels of government. It will provide a reliable platform for cooperation in tackling public health threats that cross county boundaries while ensuring that each level of government effectively performs its assigned functions.
- d) **Stronger legal certainty and institutional accountability:** Anchoring the KCDC in law will clearly define its functions, governance and relationship with the Ministry of Health, County Governments, KEMRI and other institutions. This will reduce duplication and strengthen accountability.

#### 8.5 Public Sector Impact

- a) **A stronger public health workforce:** The KCDC will strengthen specialised training and continuous professional development for public health personnel, ensuring that the Government has the skills needed to detect and manage emerging threats.
- b) **Better continuity of public health operations:** The KCDC will maintain national systems, expertise and preparedness during periods when there is no active outbreak. This will ensure that Kenya remains ready to act when a new threat emerges, rather than rebuilding capacity each time a crisis occurs.
- c) **Greater readiness across Government for emerging threats:** The KCDC will strengthen preparedness for threats arising from infectious diseases, antimicrobial resistance, climate-related events, zoonoses and other public health risks. This will help the Government anticipate risks and protect essential public services before they are disrupted.
- d) **A more resilient and self-reliant public health system:** The KCDC will strengthen Kenya's domestic technical and scientific capacity to manage public health threats and reduce reliance on external expertise during emergencies. This will build a public service that is better prepared to protect Kenyans under its own national leadership.

## 8.6 . Private Sector Impact

- a) **Greater protection of businesses and economic activity:** The KCDC will strengthen early detection and management of public health threats, helping to minimise disruptions to businesses, trade, travel and investment. A healthier and more prepared country is a safer environment for economic activity.
- b) **Greater confidence in Kenya's health security:** A strong national public health system will strengthen confidence among investors, employers, travellers and business partners that Kenya can manage health threats without prolonged disruption to economic activity.
- c) **Clearer opportunities for private sector participation:** The KCDC will provide a structured platform for the private sector to contribute expertise, technology, laboratory capacity, innovation and other resources to national health

security as demonstrated during the covid19 response in Kenya. This will turn private sector capacity into a stronger national asset.

- d) **A stronger environment for health innovation and investment:** The KCDC will create opportunities for Kenyan companies, laboratories, technology firms and research institutions to develop and apply new solutions in surveillance, diagnostics, data systems and emergency preparedness. This will support innovation while strengthening Kenya's ability to protect its people and economy.

## 8.7 . Socio-Economic Impact

- a) **Protection of household incomes and livelihoods:** The KCDC will strengthen early action against public health threats that can prevent people from working, trading or earning a living. Protecting health therefore also protects the livelihoods of Kenyan families.
- b) **Protection of education and human capital:** By helping to prevent and contain outbreaks, the KCDC will reduce disruption to schools, training institutions and other services that build Kenya's human capital. A healthier population is better able to learn, work and contribute to the country's development.
- c) **Reduced economic losses from public health emergencies:** Early detection and timely response will help reduce the wider costs of outbreaks and other emergencies on households, businesses, agriculture, trade and public services. This will help protect development gains and reduce the economic burden of avoidable crises.
- d) **Greater protection of vulnerable communities:** The KCDC will strengthen the country's ability to identify and respond to threats before they disproportionately affect communities that have fewer resources to cope with emergencies. This will promote greater equity in the protection of lives and livelihoods.

## 8.8 . Impact on Tax Revenue and Fiscal Policy

- a) **Protection of the tax base:** The KCDC will help reduce the economic disruption caused by public health emergencies, enabling businesses and workers to remain productive and continue contributing to Government revenue. A protected economy provides a stronger and more stable tax base.
- b) **Reduced pressure on the Exchequer during health emergencies:** Earlier detection and faster containment of public health threats can reduce the scale and duration of emergency response and recovery costs. This will help the Government avoid sudden and unplanned demands on the Exchequer.
- c) **Better value from public health expenditure:** The KCDC will strengthen prevention, preparedness and early action, helping the Government spend more on preventing costly emergencies rather than responding to crises after they have escalated. This will improve the return on public investment in health security.
- d) **Stronger evidence for fiscal decisions affecting health:** The KCDC will provide evidence on the health and economic consequences of issues such as poor vector control, poor sanitation, unhealthy foods and other factors that drive outbreaks, epidemics and pandemics. This will help the Government to design fiscal measures that can support behaviour change and interventions leading to reduced emergency preparedness and response costs.
- e) **Greater fiscal resilience and national preparedness:** A strong KCDC will help the Government anticipate health-related fiscal risks and incorporate preparedness into medium- and long-term planning. This will strengthen Kenya's ability to protect revenue, manage expenditure and sustain essential services when crises occur.

## 8.9 . Environmental Impact

- a) **Earlier detection of environmental health threats:** The KCDC will strengthen surveillance and laboratory systems to detect health threats arising from unsafe water, poor sanitation, pollution, vectors and other environmental hazards before they become wider public health emergencies.

- b) **Stronger preparedness for climate-related health threats:** The KCDC will use public health intelligence and early-warning systems to anticipate and respond to health threats arising from floods, droughts, extreme temperatures and other climate-related events.
- c) **Stronger One Health approach to environmental and disease risks:** The KCDC will link human, animal and environmental health information to strengthen the prevention and early detection of zoonotic diseases, antimicrobial resistance and other emerging threats. This is consistent with the Centre’s mandate to work with environmental and animal-health institutions.
- d) **Better evidence for environmental health action:** The KCDC will provide evidence on how environmental conditions affect disease and public health, enabling Government and counties to target interventions such as safe water, sanitation, vector control and environmental health measures where they are most needed.
- e) **Reduced health risks from environmental emergencies:** The KCDC will strengthen preparedness for floods, contamination events, chemical incidents and other environmental emergencies by linking risk information, disease surveillance, laboratory confirmation and rapid response.

#### **8.10 Impact on Gender, Equity and Vulnerable Populations**

- a) **More responsive public health planning:** The KCDC will strengthen the generation and analysis of health information by sex, age, disability and other relevant characteristics. This will enable the Government to formulate public health measures that respond to the circumstances of different population groups.
- b) **Gender-responsive health security:** The KCDC will incorporate gender considerations into disease surveillance, preparedness and emergency response. This will enable the Government to recognise and address differences in exposure, vulnerability and health consequences between women and men.
- c) **Protection of persons requiring additional safeguards:** The KCDC will strengthen attention to the health risks affecting children, older persons, persons

with disabilities and other vulnerable groups. This will support measures that uphold their constitutional and statutory rights during public health emergencies.

- d) **Greater visibility of marginalised communities:** The KCDC will strengthen the identification of public health risks affecting minority and marginalised communities, including populations in hard-to-reach and underserved areas. Their circumstances will be appropriately reflected in national health security planning and decision-making.
- e) **Equity in the use of public resources:** The evidence generated by the KCDC will enable the Government to assess differences in public health risks and outcomes across population groups and geographical areas. This will support fair and evidence-based prioritisation of public resources in accordance with the Government's constitutional obligation to promote equity.

### 8.11 Regional and International Impact

- a) **Stronger protection against cross-border health threats:** The KCDC will strengthen Kenya's capacity to detect and manage public health threats that move across borders through travel, trade, migration and population movement. This will also strengthen Kenya's contribution to regional disease prevention and containment.
- b) **Stronger fulfilment of international health obligations:** The KCDC will provide the institutional capacity required to support Kenya's obligations under the International Health Regulations (2005), including surveillance, assessment, notification and response to events of international public health concern.
- c) **A stronger role for Kenya in African health security:** A fully operational KCDC will position Kenya to contribute technical expertise, scientific evidence and practical experience to regional initiatives led by Africa CDC, the East African Community and other continental institutions. This will strengthen Kenya's leadership in building Africa's capacity to manage public health emergencies.
- d) **Faster exchange of information and expertise across borders:** The KCDC will strengthen arrangements for sharing disease alerts, laboratory findings, epidemiological information and technical expertise with regional and international

partners. This will support timely joint action when health threats have implications beyond Kenya's borders.

- e) **Greater international confidence in Kenya's health security systems:** A strong and legally anchored KCDC will demonstrate Kenya's commitment to maintaining the capacities required under international health standards. This will strengthen the country's credibility as a reliable partner in global health security and international outbreak response.

## CHAPTER 9

### PUBLIC PARTICIPATION AND STAKEHOLDER ENGAGEMENT

#### 9.1 Legal Requirements Relating to Public Participation and Consultation

Article 10 of the Constitution establishes public participation as a national value and principle of governance binding all State organs, while Article 232 requires public participation in the process of policy-making within the public service. Section 5 of the Statutory Instruments Act, Cap. 2A requires a regulation-making authority to conduct public consultations that draw on the knowledge of persons with relevant expertise and that give persons likely to be affected by a proposed statutory instrument an adequate opportunity to comment on its content. The Intergovernmental Relations Act further requires consultation with county governments on matters affecting their functions. These requirements are of particular significance in this instance, since the High Court's judgment of 30th June 2026 found specifically that meaningful public participation and intergovernmental consultation had not been undertaken prior to the Centre's establishment under Legal Notice No. 14 of 2022.

#### 9.2 Stakeholders Consulted

The following categories of stakeholders have been identified for consultation on the Order, drawing on the stakeholder mapping exercise conducted by the team tasked with the development of the Order:

- i. the Ministry of Health, including the Directorate of Public Health and Sanitation;

- ii. the Council of Governors and the forty-seven county governments, including their respective County Executive Committee Members responsible for health;
- iii. the Kenya Law Reform Commission;
- iv. the Board and Secretariat of the Kenya Centre for Disease Control and Prevention;
- v. the Kenya Medical Research Institute;
- vi. the Ministry responsible for environmental matters, in light of the Centre's One Health mandate;
- vii. professional associations, including the Association of Public Health Officers of Kenya and the Kenya National Union of Medical Laboratory Officers, both of which were parties to the consolidated petitions;
- viii. staff seconded to the Centre from the Ministry of Health and their representative bodies;
- ix. development and technical partners, including the World Health Organization, Africa Centres for Disease Control and Prevention, and the World Bank; and
- x. the private sector, academic and research institutions, and civil society organisations working in public health.

### **9.3 Public Consultation Approach and Methodology**

The Ministry of Health will coordinate stakeholder consultations prior to the finalisation and publication of the renewed Legal Notice. The consultation process will involve stakeholder meetings, written submissions, and targeted engagements through existing health sector mechanisms.

Feedback obtained during the consultation process will be reviewed and, where appropriate, incorporated into the final regulatory instrument. A consultation report summarising submissions received and the Ministry's responses will be prepared and made available upon request.

### **9.4 Report on the Stakeholder Consultative Process**

A full account of the consultative process, including the record of the Workshop and the subsequent public participation exercise, will be annexed.

## CHAPTER 10

### CONSIDERATION OF ALTERNATIVES TO THE ORDER

#### 10.1 Introduction

Section 6(2)(c) of the Statutory Instruments Act, Cap. 2A requires this Statement to consider other practicable means of achieving the objectives of the Order, including regulatory and non-regulatory options, and to explain why those other means are not appropriate. This Chapter considers the three options identified by the team tasked with coordinating the development of the draft Order.

#### 10.2 The Alternatives

##### ***10.2.1 Option One: Appeal Against the Judgment***

This option would involve lodging an appeal against the High Court's judgment of 30th June 2026, in the hope of overturning or narrowing the findings on public participation and intergovernmental consultation. This option was not considered further because Government has elected to work towards compliance with the judgment's recommendations rather than to contest them, and because an appeal would not, within the six-month compliance window, provide the legal certainty that the Centre requires to continue operating.

##### ***10.2.2 Option Two: Renewal of the Legal Notice (Preferred Immediate Option)***

This option involves republishing the Legal Notice as the Kenya Centre for Disease Control and Prevention Order, 2026, after curing the procedural deficiencies identified by the Court, in particular by undertaking meaningful public participation and intergovernmental consultation as described in Chapter 6, and by refining the functions of the Centre as described in Chapter 7. This is the primary intervention adopted in this Statement, with a target of compliance by 31st December 2026, ahead of the lapse of the Court's six-month suspension.

### 10.2.3 Option Three: Full Legislative Reform

This option involves anchoring the Centre through primary legislation enacted by Parliament, providing the most durable and constitutionally unambiguous legal foundation for its mandate, functions, governance and financing. This option was identified by the team as the preferred long-term route and is adopted in this Statement as the secondary, long-term intervention, to be pursued in parallel with, and following, the immediate renewal of the Legal Notice.

### 10.3 Conclusion: The Preferred Option

Based on the analysis in Table 3 below, Option Two, renewal of the Legal Notice, is the preferred immediate option, because it is capable of curing the specific deficiencies identified by the Court within the compliance window, while Option Three, full legislative reform, is adopted as the preferred long-term option to provide an unambiguous and durable statutory foundation. Option One would neither cure the deficiencies identified by the Court nor provide timely legal certainty, and is not adopted.

### 10.4 Impact Analysis of the Options

| Impact sectors on       | Option One: Appeal                                                                                                                                    | Option Two: Renewal of Legal Notice                                                                                                                                                | Option Three: Full Legislative Reform                                                                                                             |
|-------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------------------------------------------------------------------------------|
| Impact on public sector | Prolongs legal uncertainty for the Centre and its staff pending determination of the appeal; risks lapse of the Court's suspension before resolution. | Provides prompt legal certainty for the Centre's continued operation, provided public participation and intergovernmental consultation are completed within the compliance window. | Provides the most durable legal certainty but requires a parliamentary process that will not be completed within the six-month compliance window. |

| Impact sectors                                  | Option One: Appeal                                                                                                                 | Option Two: Renewal of Legal Notice                                                                                                        | Option Three: Full Legislative Reform                                                                                                                |
|-------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------|
| Impact on private sector and county governments | Continued uncertainty may deter private sector and county government engagement with the Centre pending the outcome of the appeal. | Clarifies the Centre's functions and its relationship with county governments, providing a basis for private sector and county engagement. | Provides the clearest and most stable long-term basis for private sector and county government engagement once enacted.                              |
| Economic impact                                 | Continued disruption risk to health-security functions if the suspension lapses before the appeal is determined.                   | Protects continuity of health-security functions and the associated economic benefits described in Chapter 8.                              | Supports long-term investment planning once primary legislation is in force, but offers no near-term protection against the lapse of the suspension. |
| Social impact                                   | Continued public concern regarding the legitimacy of the Centre's operations pending appeal.                                       | Builds public confidence through demonstrated compliance with the Court's findings and completion of genuine public participation.         | Builds the strongest long-term public confidence, anchored in an Act of Parliament.                                                                  |

| Impact sectors                      | Option One: Appeal                                                                        | Option Two: Renewal of Legal Notice                                                                                                                            | Option Three: Full Legislative Reform                                                                                            |
|-------------------------------------|-------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------------------------------------------------|
| Human rights impact                 | Does not address the participatory deficiencies identified by the Court.                  | Directly cures the participatory deficiencies identified by the Court, supporting the rights under Article 43(1)(a) and Article 10 of the Constitution.        | Provides the most robust long-term vindication of participatory and health rights.                                               |
| Impact on existing legal frameworks | Leaves the Legal Notice's validity unresolved and dependent on the outcome of litigation. | Fulfils the requirement to cure the deficiencies identified by the Court and provides harmony with the Health Act, the Public Health Act and the Constitution. | Provides the most complete harmonisation with existing legal frameworks, subject to the time required for legislative enactment. |

Table 3: Impact Analysis of the Three Options

## CHAPTER 11

### IMPLEMENTATION OF THE ORDER

#### 11.1 Compliance and Implementation

It is the duty of the regulation-making authority to assess the adequacy of the institutional and legal framework, and other incentives, through which the Order will

take effect, and to design responsive implementation strategies that make the best use of them. The implementation of the Order will be undertaken by the Ministry of Health, in consultation with the Board and Secretariat of the Centre, at the national level, and, at the county level, by county governments through their respective County Executive Committee Members responsible for health, coordinated through the Council of Governors. This dual-level implementation structure reflects the Centre's national coordination and standard-setting mandate and the counties' constitutional role in the delivery of county health services. Implementation is time-bound: public participation, intergovernmental consultation and finalisation of the Order must be completed ahead of the lapse of the High Court's six-month suspension on or about 30th December 2026, with an internal target of compliance by 31st December 2026.

### **11.2 Conclusion**

Based on the analysis in this Statement, the Kenya Centre for Disease Control and Prevention Order, 2026 is necessary and timely. The Order cures the procedural deficiencies identified by the High Court, clarifies the allocation of functions between the national and county governments, and offers socio-economic, institutional and legal benefits that outweigh its costs, while primary legislation is pursued in parallel as the long-term legal foundation for the Centre.

### **11.3 Recommendation**

It is recommended that the Kenya Centre for Disease Control and Prevention Order, 2026 be adopted, following completion of meaningful public participation and intergovernmental consultation as described in Chapter 6, as the immediate measure required to cure the procedural deficiencies identified by the High Court in its judgment of 30th June 2026, and that the Ministry of Health proceed in parallel with the development of primary legislation as the preferred long-term legal framework for the Centre.

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## **ANNEXURES**