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***KENYA GAZETTE SUPPLEMENT***

**KAKAMEGA COUNTY ACTS, 2022**

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MANAGEMENT ACT, 2022**

**No. 5 of 2022**

*Date of Assent: 29th March, 2022*

*Date of Commencement: See Section 1*

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**THE KAKAMEGA COUNTY NATURAL RESOURCES  
MANAGEMENT ACT, 2022**

**AN ACT of the County Assembly of Kakamega County to give effect to the provisions of Article 69 of the Constitution in respect of sustainable use and conservation of natural resources within the county for socio-economic development and for connected purposes**

**ENACTED** by the County Assembly of Kakamega, as follows—

**PART I—PRELIMINARY**

**Short title and commencement**

1. This Act may be cited as the Kakamega County Natural Resources Management Act, 2022 and shall come into operation upon publication.

**Interpretation**

2. In this Act, unless the contrary intention appears —

“abandoned land” means a degraded environment where the perpetrator is not identifiable;

“activity” includes any operations, development, works or conduct;

“affected media” means land, water, air or any other natural resource that has been polluted, contaminated or degraded;

“afforestation” means the establishment of a tree crop on an area where such trees are absent;

“allelopathy” means adverse influence or interference of one plant or micro-organism on another;

“arboretum” means a botanical garden of trees;

“association” means a community forest association registered under the societies act;

“authorized officer” means an officer appointed under section 6 of this act.

“biodiversity” means the variability among living organisms from all sources, including the ecological complexes of which they are part and the diversity within and among species, and ecosystems;

“burdened land” means any land upon which an environmental easement has been imposed;

“catchment area” means any land drained by a river, stream, or fixed body of water and its tributaries having a common source of surface runoff;

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“competent expert(s)” means a multi-skilled team(s) of environmental impact assessment and/or environmental audit experts licensed by the authority with a specialty in environmental financial assurance including environmental deposit bonds;

“concession” means the right of use granted to an individual or organization in respect of a specified forest area;

“consumptive use” in relation to a forest, means the removal of a forest produce whereas “non-consumptive use” shall be construed accordingly;

“county executive committee member” means the county executive committee member for the time being responsible for natural resources management;

“county environment and natural resources bond discharge certificate” means an authorization issued by the county certifying that the remediation works have met all completion criteria, specifications and standards for the refund of a deposit bond;

“county forest” includes farm forestry extension services, forests and game reserves formerly managed by local authorities, excluding forests managed by Kenya Forest Service, National Water Towers Agency, Kenya Wildlife Service and private forests;

“county mineral extractives committee” means a committee composed of persons drawn from the county environment committee and co-opted members from the local community to oversee low-value minerals harvesting activities in the district;

“county pound yard” means a gazetted yard used to temporarily store impounded goods, property, items or animals of a person who has failed to comply with the provisions of a county law;

“county revenue fund” means a revenue fund created for each county by the constitution of Kenya under article 207;

“county” means the county government of Kakamega;

“deforestation” means the negative reduction of forest cover from the original status;

“department” means department responsible for water, environment, natural resources and climate change;

“deposit bonds” means a financial instrument issued by a financial institution in favour of the county government as an assurance of compliance with the terms and conditions of the license before a

potentially environmentally damaging activity is undertaken which constitutes appropriate security for good environmental practice;

“deposit bond assessment report” means a written site specific, remediation and post-remediation care and maintenance cost estimates;

“designated site” means any area demarcated and endorsed by the county government for the removal, extraction or scooping of low-value minerals;

“directorate” means the directorate responsible for natural resources;

“economic instrument” means government tax and other fiscal incentives, disincentives or fees to induce or promote management of the environment and natural resources or the prevention or abatement of environmental degradation;

“environmental easement” means permission granted for purposes of remediation works and conservation in respect to the use of burdened land;

“environmental impact assessment” shall be the meaning assigned to it under the Environmental Management and Coordination Act, Act No. 8 of 1999;

“farm forestry” means the practice of managing trees on farms whether singly, in rows, lines, boundaries, or in woodlots or private forests;

“forest area” means any land declared to be a forest land under this act;

“forest community” means a group of persons who—(a) have a traditional association with a forest for purposes of livelihood, culture or religion; or (b) are registered as an association or other organization engaged in forest conservation;

“forest officer” includes the forester, a disciplined officer of the service, or an honorary forester;

“forest owner” means—

- (a) in the case of local authority forests, a local authority;
- (b) in case of private forests, an individual, association, institution or body corporate;

“forest produce” includes bark, animal droppings, beeswax, canes, charcoal, creepers, earth, fibre, wood, frankincense, fruit, galls, grass, gum, honey, leaves, flowers, limestone, moss, murram, myrrh, peat, plants, reeds, resins, rushes, rubber, sap, seeds, spices, stones, timber,



trees, water, wax, withies, and such other things as may be declared by the county executive to be forest produce for the purpose of this act;

“forest” means a land area of more than 0.5 hectares, with a tree canopy cover of more than 10%, which is not primarily under agricultural or other specific non-forest land use, and includes any state forest;

“forestry” refers to the science of establishing, tending, utilizing and

“good environmental practices” means practice that is in accordance with the provisions of the Environmental Management and Coordination Act of 1999 or any other relevant law;

“good forestry practices” means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape;

“indigenous forest” means a forest which has come about by natural regeneration of trees primarily native to Kakamega County, and includes bamboo forests;

“Industrial Plants” means undertaking manufacturing, engineering and trade activities as listed in the Eight Schedule of this Act;

“license” means a permit or other written authorization issued under any of the provisions of this Act;

“livestock” means domesticated animals such as cattle, goats, sheep, assess, horses, camels and pigs and includes the young thereof; “low value minerals” means soils, sands, clay, murrum and stones;

“low-value minerals dealer” means any person(s) approved to harvest, remove, extract, scoop, transport or sell low-value minerals;

“low-value minerals harvesting”, means the removal, extraction, harvesting or scooping of low-value minerals from designated sites.

“management agreement” means an agreement between a local authority and any person or organization for the purpose of managing a local authority forest;

“management plan” refers to a systematic programme showing all activities to be undertaken in a forest or part thereof during a period of at least five years, and includes conservation, utilization, silvicultural operations and infrastructural development;

“mini-forest” refers to a group of trees occupying less than ten hectares of land;

“notice of confiscation” means a notice issued by the county for the purposes of confiscation of a deposit bond;

“officer” means an individual appointed by county for the administration and enforcement of this act who shall be the forestry technician/inspector or such other person or persons so appointed;

“operator” means a registered proprietor of the activities listed in the Eight Schedule of this Act;

“owner” means a person having any right, title, interest or equity in land affected by this Act;

“permit” means a consent issued pursuant to the provisions of this Act;

“person” means natural person or corporate person;

“plantation forest” means a forest that has been established through afforestation or reforestation for commercial purposes;

“private forest” refers to forests on registered land held by any person under any freehold tenure; forests on land held by any person under leasehold tenure; any forest owned privately by an individual, institution or body corporate for commercial or non-commercial purposes; and forests on any other land declared private land under an Act of Parliament

“property mark” means a mark placed on a log, timber or other forest produce with a prescribed instrument to denote ownership by the county or any other owner;

“proponent” means a person proposing or executing a project, programme or undertaking as listed in the Eight Schedule of this Act;

“protected area” means a clearly defined geographical space recognized, dedicated and managed through legal or other effective means to achieve long-term conservation of nature with associated ecosystem services and cultural values;

“protected forest” means a forest which has got any tree or tree species which has been declared under this act or any national law to be protected;

“protecting forest and tree resources”, and includes the processing and use of forest and tree products;

“receiver of revenue” is a person or persons appointed, in writing, by the County Executive Committee member for finance to be responsible for collecting, receiving and accounting for such county government revenue

as the County Executive Committee member for finance may specify in their letters of designation;

“register” means a register established under this Act that includes activities, industrial plants and undertakings as set out in the Eight Schedule of these regulations which are or most likely to have adverse effects on the environment when operated in a manner that is not in conformity with good environmental practices;

“remediation” means rehabilitation, clean-up, restoration, post-care, maintenance and compatible after-use activities;

“responsible authority” in relation to a count forest area means the county government of Kakamega and in case of private forests means the private land owner;

“restoration fund” means national environment restoration fund vested in the county government of Kakamega and that is a supplementary insurance for the mitigation of environmental degradation where the perpetrator is not identified or where the exceptional circumstances requires the County Government to intervene towards the control or mitigation of environmental degradation;

“sacred grove” means a grove with religious or cultural significance to a forest community;

“sawmill” means a set of machinery used to process and convert wood into saw timber;

“silviculture” means the theory and practice of controlling forest establishment, composition, growth and quality of forests to achieve the objectives of management;

“sustainable management” in relation to a forest, means management of the forest so as to permit any such use of it as constitutes sustainable use;

“sustainable use” in relation to a forest, means the use of a forest and any of its natural resources in a manner and to an extent which does not compromise the capacity of the forest and its use by future generations, and does not degrade the carrying capacity of supporting ecosystems;

“timber” means—

- (a) any tree which has been felled or which has fallen; or
- (b) any part of any tree which has been cut off or fallen, and all wood whether sawn, split, hewn or otherwise fashioned;

“tree” means any timber producing plant, or shrubs, bush of any kind, and includes a sawn, sapling or reshoot of any age, or any part thereof;

“wetland” Areas of marsh fen peatland or water, whether natural or artificial, permanently or temporary, with water that is static or flowing, fresh, brackish or salt including areas of marine water the depth of which at low tide does not exceed 6 meters. “wildlife” means all forms of fauna and flora other than domesticated plants and animals; and

“woodland” means an open stand of trees less than ten meters tall which has come about by natural means.

### **Object of the Act**

3. The object of this Act is to —

- (a) promote sustainable utilization and exploitation of county natural resources in a manner that recognizes and protects the value of natural resources;
- (b) enhance the capacity of local communities in the use and conservation of natural resources; and
- (c) safeguard life-supporting capacities of natural resources.

## **PART II — MANAGEMENT OF COUNTY NATURAL RESOURCES**

### **County natural resources management committee**

4. (1) There is established the County Natural Resources Management Committee to oversee management of natural resources within the county.

(2) The committee shall comprise of—

- (a) the chief officer responsible for natural resources who shall be the chairperson;
- (b) the county director responsible for natural resources who shall be the Secretary;
- (c) the County Attorney;
- (d) one representative from a registered low-value mineral dealers;
- (e) one representative of a registered conservation groups; and
- (f) two representatives of registered resource harvesting associations.

(3) Appointments under sub section (2) shall be made by the County Executive Committee Member.

(4) The members appointed under sub section (2) (d), (e) and (f) shall hold office for a period of three years and shall be eligible for re-appointment for one further term upon satisfactory performance.

(5) The County Executive Committee Member shall ensure gender, special interest groups and regional balance in appointments under subsections 2 (d), (e) and (f).

### **Functions of county natural resources management committee**

5. The functions of the Committee shall be to—

- (a) ensure proper management of county natural resources in liaison with other relevant agencies;
- (b) implement national and county policies on management of natural resources;
- (c) recommend to the county executive committee member areas to be designated as low value mineral harvesting sites;
- (d) manage the conditions of the deposit bond;
- (e) recommend to the county executive committee member the allocation of low value mineral zones of operation to associations;
- (f) maintain a database of low value mineral resource dealers;
- (g) ensure designated low value mineral harvesting sites are properly managed and rehabilitated by the associations and approved dealers;
- (h) prepare and submit an annual status report of its activities to the County Executive Committee Member; and
- (i) perform any other functions as may be appropriate for the discharge of their mandate.

### **Appointment of authorized officers**

6. (1) The county executive committee member may, from time to time appoint any person to be authorized officers for the purpose of administration of this Act.

(2) The executive committee member shall issue a certificate of appointment to every person appointed as an authorized officer under subsection (1).

(3) In addition to authorized officers appointed under this section, the chief officer responsible for natural resources, environmental or natural resources officer appointed by the County Public Service Board, county

enforcement officer, a member of the National Police Service shall be deemed to be authorized officers for the purpose of this Act.

**Powers of an authorized officer**

7. (1) An authorized officer may, for the purpose of enforcement of this Act, at any reasonable time—

- (a) inspect any place, including the stratum lying below the surface of any land and water on or under any land and inspect any works, plant or equipment thereon;
  - (b) require a vessel to stop or to be presented for inspection at any place and time specified by the authorized officer or board any vessel or aircraft for inspection;
  - (c) search any vessel and seize and detain any forest produce or low value minerals in respect of which there is reason to believe that an offence has been committed together with any tools, equipment, vessels or livestock used in the commission of the offence;
  - (d) use reasonable force to break into or open any part of or anything in or on any place or vessel but only if the authorized officer is acting—
    - (i) under the authority of a warrant issued by a court of competent jurisdiction; or
    - (ii) with the permission of the owner of the relevant land or the person apparently in charge of the vessel as the case may require;
  - (e) demand from any person the production of any authority or license for any act done by that person in a county forest or in relation to any forest produce, low value mineral or natural resource for which a license is required under this Act.
- (2) The authorized officer may—
- (a) take measurements including measurements of the flow of any water on or under any land or relating to any change in any aspect of a natural resource;
  - (b) place any markers, pegs or other items or equipment in order to assist in testing or monitoring;
  - (c) take samples of any substance or thing from any place including under any land or vessel;
  - (d) with the authority of a warrant issued by a court of competent

jurisdiction, require any person to produce specified documents including a written record that reproduces in an understandable form information stored by computer, microfilm or other process;

- (e) in line with section 106B of the Evidence Act Cap. 80 of the Laws of Kenya, examine, copy or take extracts from a document or information so produced or require a person to provide a copy of any such document or information;
- (f) take photographs, films, audio, video or other recordings;
- (g) seize and retain anything that the authorized officer reasonably suspects has been used in or may constitute evidence of a contravention of this Act or require a person to surrender, either immediately or within a specified period and at a specified place, anything held or maintained in contravention of this Act;
- (h) without limiting the operation of paragraph (g), if the authorised officer finds any animals or plants that are being held or maintained contrary to any requirement or provision of this Act, that are liable to be destroyed or controlled under this Act, or that are prohibited from being in the county under any other Act or law, seize and remove the animals or plants or take measures for their destruction or control;
- (i) require any person found within the county forest or a low value mineral harvesting site who has in his or her possession any forest produce or low value minerals suspected to have been taken from such forest or low value mineral harvesting site, to give an account of the manner in which he or she became possessed thereof, and where the account given is not satisfactory thereof arrest and take such person before court;
- (j) search any person suspected of having committed an offence under this Act or being in possession of any forest produce or low value mineral in respect of which an offence has been committed and arrest the person, seize and detain any baggage, package, parcel, conveyance, tent, hut or building under the control of that person or agent or servant;
- (k) seize and detain any livestock found in a county forest without valid authorisation from the department;
- (l) confiscate any equipment or receptacle placed without authority in a county forest or a low value mineral harvesting site, provided that the authorized officer seizing such property shall

forthwith deposit such property to the nearest county pound yard;

- (m) enter any county forest or low value mineral harvesting site in order to assess the condition thereof or to perform any such other act which the authorized officer considers necessary in the circumstance for the preservation or conservation of the forest or harvesting site; and
- (n) within reasonable hours enter the premises of any natural resource processing plant to inspect any produce placed or found within the premises to satisfy himself or herself that the processing plant or dealer is acting in accordance with the provisions of a license under this Act.

(3) An authorized officer who trades in forest products or low value minerals or has an interest in any lease of a forest or low value minerals harvesting site or any contract for working in any forest or low value mineral harvesting site shall declare such trade or interest.

(4) An authorized officer who contravenes subsection (3) commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding six months.

#### **Obstruction of an authorized officer**

8. A person who obstructs an authorized officer undersection 7 from undertaking his or her functions commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to a term of imprisonment term not exceeding six months.

#### **The Directorate of Natural Resources**

9. (1) The Directorate of Natural Resources is hereby established and shall be headed by the Director of Natural Resources.

(2) The county executive committee member shall, in consultation with the County Public Service Board, determine the staff establishment required by the Directorate to effectively perform its functions under the Act.

#### **Functions of the Natural Resource Directorate**

10. (1) The functions of the directorate shall be to —

- (a) promote the attainment of at least ten percent tree cover on private, community and county land;
- (b) ensure the implementation of national and county policies and strategies applicable to natural resource management;



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- (c) promote the development of nature based enterprises within the county;
- (d) promote partnership in natural resource management;
- (e) maintain county natural resources database and information;
- (f) promote awareness on natural resource management within the county;
- (g) develop and maintain natural resource infrastructure;
- (h) develop and implement urban forestry programs;
- (i) formulate guidelines regarding the management, conservation and utilization of natural resources;
- (j) collaborate with research institutions, individuals and private entities in identifying research needs, sharing and applying research findings on natural resources management;
- (k) develop measures and incentives to promote natural resources value chain; and
- (l) enforce natural resources legislation within the county.

**PART III —MANAGEMENT OF FORESTS**

**Management of private forests**

**11.** The county government may enter into joint management agreements with communities or individuals who own private forests.

**Donation and bequests of land**

**12.** (1) Any person who is registered as a proprietor of land in accordance with the provisions of any written law may donate or bequeath all or part of that land to the county government for the development of forestry and conservation of biodiversity.

(2) The forest established on the land so donated or bequeathed under subsection (1) shall be gazetted by the County Executive Committee Member.

(3) The land so donated or bequeathed shall not be used for any purpose other than establishment of a forest and conservation of biodiversity as originally desired by the previous owner.

**County arboreta**

**13.** The county government shall—

- (a) establish and maintain arboreta in strategic places for use by the public;

- (b) promote development of urban forests in major urban areas of the county;
- (c) prescribe appropriate species of tree to be planted in arboreta.

#### **Nature reserves, botanical gardens and sanctuaries**

**14.** (1) The county executive committee member may upon consultation with relevant stakeholders and having undertaken public participation declare a county forest a county nature reserve, botanical garden, or sanctuary by notice in the *Kenya Gazette*.

(2) The county executive committee member may upon request by a person who owns a private forest declare a private forest a county nature reserve, botanical garden, or sanctuary by notice in the *Kenya Gazette*.

(3) The county nature reserves, botanical gardens or conservancies established in subsection (1) shall be used for the following purposes —

- (a) conservation of county forestland of particular environmental, cultural, medicinal, educational or other special significance; or
- (b) the preservation of biological diversity and endangered species.

#### **Private utilization of county nature reserves, botanical gardens and sanctuaries**

**15.** (1) A person or an entity may upon application in the prescribed manner and approval granted utilize any grove or forest which is part of a nature reserve for cultural, religious, educational and scientific reasons.

(2) Upon receipt of the application, the county executive committee member may within fourteen days —

- (a) grant the application on specified terms and conditions; or
- (b) refuse to grant the application, giving reasons for such refusal.

#### **Collaboration, partnerships and management agreements**

**16.** (1) Upon application in the prescribed manner and approval granted by the county executive committee member, a person or an entity may collaborate, partner or enter into an appropriate management agreement with the county government for the management or conservation of county natural resources.

(2) The collaboration, partnership or management agreement entered into under subsection (1) shall specify the—

- (a) period for which the agreement shall be in force;
- (b) terms and conditions of the agreement;

- (c) royalties and charges, if any ;
- (d) mechanisms for settlement of disputes arising in respect of the agreement;
- (e) sharing of any accruing benefits; and
- (f) circumstances under which the agreement may be terminated.

**Community forest management association**

**17.** (1) A member of the community within a radius of five kilometres to a county forest may together with other members or persons residing in the same area register a Community Forest Management Association in accordance with any written law

(2) A Community Forest Management Association in subsection (1) shall be registered upon conducting a public participation exercise.

(3) A Community Forest Management Association referred to in subsection (1) may apply to the county government in a prescribed form set out in First Schedule for permission to participate in the conservation and management of a county forest provided no such application shall be made where there is an existing prior agreement or licence in relation to that forest.

(3) Where the county government grants permission in accordance with this section, it may impose such conditions as it may deem necessary to implement the county forest management plan.

**Functions of community forest management association**

**18.** A Community Forest Management Association shall—

- (a) protect, conserve and manage county forests or part thereof pursuant to an approved management plan for the forest;
- (b) formulate and implement forest programmes consistent with sustainable use criteria;
- (c) protect sacred groves and protected trees;
- (d) assist the county in enforcing the provisions of this Act and any rules and regulations made pursuant thereto, in particular in relation to illegal harvesting of forest produce;
- (e) with the approval of the county government, enter into partnerships with other entities for the purposes of ensuring efficient and sustainable conservation and management of forests;
- (f) keep the county informed of any developments, changes and occurrences within the forest which are critical for the conservation;

- (g) undertake continuous surveillance of the forest to support in protecting the forest against fire and illegal activities; and
- (h) perform any other function necessary for efficient conservation and management of the forests.

### **Community forest management association user rights**

**19.** The management plan between the county government and the association established under section 17 may confer on the association all or any of the following forest user rights—

- (a) collection of medicinal herbs;
- (b) harvesting of honey;
- (c) harvesting of timber or fuel wood;
- (d) grass harvesting and grazing;
- (e) collection of forest produces for community-based industries;
- (f) ecotourism and recreational activities;
- (g) scientific and educational activities;
- (h) tree nursery establishment;
- (i) development of community forest-based industries;
- (j) other benefits which may from time to time be agreed upon between the association and the county government.

Provided that:

- (i) none of the activities specified in this section shall be carried out so as to conflict with the conservation of biodiversity; and
- (ii) the county government may, in consultation with the association, make rules regulating their performance thereof.

### **Offences and penalties**

**20.** (1) No person shall without a valid permit—

- (a) fell, cut, take, extract, burn, injure or remove any forest produce from a county forest;
- (b) be or remain in a county forest between the hours of 6.00 p.m. and 6.00 a.m. unless using a recognised road or footpath within a county forest;
- (c) erect any structure or livestock enclosure in a county forest;

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- (d) de-pasture or allow any livestock to be in a county forest;
- (e) clear, cultivate or break up land for cultivation or for any other purpose in a county forest;
- (f) enter any part of a county forest which may be closed to any person;
- (g) collect from a county forest any honey or beeswax, or hang on any tree or elsewhere any honey barrel or other receptacle for the purpose of collecting any honey or beeswax, or enter therein for the purpose of collecting honey and beeswax, or be therein with any equipment designed for the purpose of collecting honey or beeswax;
- (h) construct any road or path in a county forest;
- (i) possess, bring or introduce into a county forest any chain saw or logging tools or equipment; and
- (j) damage, alter, shift, remove or interfere in any way whatsoever with any beacon, boundary mark, fence notice or notice board of a county forest.

(2) Any person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months.

(3) Any person who, in any county forest area—

- (a) introduces any exotic genetic material or invasive plants without authority from the county government;
- (b) dumps any solid, liquid, toxic or other waste;
- (c) grows any plant from which narcotic drugs can be extracted,

commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding one year.

**Prohibited activities**

**21.** (1) The following are prohibited activities in county forests —

- (a) smoking;
- (b) charcoal burning;
- (c) kindle, carry or throw down any fire, match or other lighted material; and

- (d) set fire to, or assist any person to set fire to, any grass or undergrowth or any forest produce.

(2) A person who commits any of the prohibited acts under subsection (1) commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

### **General Offences**

**22.** (1) Any person who—

- (a) commits a breach of, or fails to comply with the provisions of this Act;
- (b) commits a breach of, or fails to comply with any of the terms and conditions of a license issued under this Act;
- (c) fails to comply with a lawful requirement or demand made or given by an authorized officer;
- (d) obstructs a person in execution of his or her powers or duties under this Act; and
- (e) makes or is found in possession of timber or charcoal in a county forest or private forest or a farmland without a license or permit of the owner as the case may be,

commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

(2) A person who wilfully or maliciously sets fire to any private, or county forest commits an offence and is liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year.

(3) Any person who operates a sawmill in a manner contrary to that prescribed in the rules made under this Act commits an offence and is liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding one year.

(4) Save under a license or permit or a management agreement issued or entered into under this Act, no person shall, in a county forest capture or kill any animal, set or be in possession of any trap, snare, gin or net, or dig any pit, for the purpose of catching any animal, or use or be in possession of any poison or poisoned weapon:

Provided that nothing in this sub-section shall be deemed to prohibit the capturing or killing of an animal in accordance with the conditions of a

valid license or permit issued under the Wildlife Conservation and Management Act, 2013.

(5) Any person or firm operating quarries or conducting low mineral harvesting activities in the forest must obtain a license with conditions from the county government, failure to which he or she commits an offence.

(6) An authorized officer shall apply to a court of competent jurisdiction for an order to remove or cause to be removed and destroyed any structure or crop illegally erected or planted respectively in a county forest.

(7) A person who —

- (a) destroys, injures or defaces a guide post, sign, fence, enclosure or structure within a county forest;
- (b) destroys, injures or removes a tree, shrub or plant or flower within a county forest;
- (c) violates any reasonable regulation adopted by the county government and published by posting in conspicuous places;
- (d) uses or resells planting stock produced in county forest nurseries in violation of such conditions of sale or for planting,

commits an offence and is liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three months.

### **Timber on transit**

**23.** (1) No person shall move timber within the county without a valid movement permit from the point of origin.

(2) A person who moves timber originating from the county shall first apply and obtain a permit prescribed in the Second Schedule from the county government.

(3) For purposes of this Act, timber originating from the county includes timber from county forests, private forests and farm forests.

(4) A person who contravenes the provisions of this section commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand shillings or to a term of imprisonment not exceeding one year.

**Fees for permits and licenses**

24. Where conditions for issuance of permits or licenses under this Act are met, the county government shall issue such permits or licenses upon payment of the prescribed fees.

**Valuation of trees**

25. A person seeking to have his or her trees falling within the jurisdiction of the county government valued, shall apply to the department responsible for natural resources in the form prescribed in the Third Schedule upon payment of requisite fees.

**Permit for felling trees**

26. (1) A person shall not fell a tree from private land or public land falling within the jurisdiction of the county government without first applying and obtaining a permit from the county department responsible for natural resources in the form prescribed in the Fourth Schedule.

(2) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding one month.

**Planting of trees along boundary**

27. (1) A person seeking to plant Eucalyptus or other trees with allelopathic effects on a farm shall ensure that the trees are planted at least six (6) meters from the boundary.

(2) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding six months.

**PART IV —LOW VALUE MINERALS HARVESTING***Part A –Administration and Implementation***Low value minerals harvesting**

28. (1) The county executive committee member shall enact regulations on low value minerals harvesting in the county.

(2) The regulations referred to in subsection (1) shall include the following provisions —

- (a) procedure for designating low value minerals harvesting sites;
- (b) requirement and conditions for rehabilitation and restoration of low value minerals harvesting sites;
- (c) quality and grading of low value minerals at harvesting sites;



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- (d) procedure for decommissioning low value minerals harvesting sites;
- (e) safety procedures for harvesting low value minerals including environmental and social safeguards; and
- (f) the procedure for registering a Community Low Value Mineral Harvesting Management Association.

**Principles guiding low value minerals harvesting**

**29.** (1) Low value minerals harvesting shall be guided by environmental and social considerations which shall include—

- (a) site conformity to national standards and specifications;
- (b) transportation of low value minerals through designated routes;
- (c) continuous rehabilitation of harvesting sites;
- (d) low value minerals harvesting not to interfere with riverbanks, roads and other public utilities.
- (e) extraction to be done in conformity to existing labour laws;
- (f) low value minerals dealers to support rehabilitation of extraction sites;
- (g) low value minerals harvesting to be done in designated sites;
- (h) where the site is on private land, the owner shall have a license from the county government; and
- (i) loading of low value minerals to be done in designated harvesting sites through controlled access points.

**On-farm low value minerals harvesting**

**30.** (1) On-farm low value minerals harvesting shall be carried out subject to the following conditions—

- (a) harvesting of low value minerals shall not exceed six feet in depth;
- (b) designated low value minerals collection sites shall be at least fifty metres from riverbanks or fragile ecosystems;
- (c) extraction of low value minerals shall be done concurrently with restoration of areas previously harvested;
- (d) the extraction and quarrying of low value minerals shall be open-cast; and

- (e) low value minerals harvesting shall not take place within fifty metres of either side of any physical infrastructure including bridges, roads, water lines, and dykes.

(2) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding six months.

#### **Hours of harvesting low value minerals**

**31.** (1) A person shall harvest, extract, scoop or transport low value minerals between the hours of 6.00 a.m. and 6.00 p.m.

- (2) A person who contravenes this section commits an offence.

#### **Community low value minerals harvesting management association**

**32.** (1) A member of the community within a radius of five kilometres to a low value minerals harvesting site may together with other members or persons residing in the same area register a Community Low Value Minerals Harvesting Management Association in accordance with any written law.

(2) A Community Low Value Minerals Harvesting Management Association in subsection (1) shall be registered upon conducting a public participation exercise.

(3) A Community Low Value Minerals Harvesting Management Association referred to in subsection (1) may apply to the county government in a prescribed form set out in the Fifth Schedule for permission to participate in the conservation and management of low value minerals harvesting site and the adjacent environment.

(4) Where the county government grants permission in accordance with this section, it may impose such conditions as it may deem necessary to implement the county low value minerals harvesting management plan.

#### **Functions of low value minerals harvesting management association**

**33.** A Community Low Value Minerals Harvesting Management Association shall —

- (a) ensure low value minerals harvesting activities only take place in designated sites and in a sustainable manner;
- (b) ensure rehabilitation of decommissioned sites and derelict land is appropriately done;
- (c) ensure safety within the working area;
- (d) protect, conserve and manage low value minerals harvesting sites pursuant to an approved management plan for the site;

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- (e) formulate and implement low value minerals conservation programmes consistent with sustainable use criteria;
- (f) assist the county government in enforcing the provisions of this Act and any rules and regulations made pursuant thereto, in particular in relation to illegal harvesting of low value minerals;
- (g) with the approval of the county government, enter into partnerships with other entities for the purpose of ensuring efficient and sustainable conservation and management of low value mineral resources;
- (h) keep the county informed of any developments, changes and occurrences within the harvesting sites which are critical for the conservation; and
- (i) perform any other function as may be delegated by the executive committee member.

**Low value minerals harvesting management association user rights**

**34.** The management plan between the county government and the association established under section 32 may confer on the association all or any of the following user rights —

- (a) collection of low value minerals produces for cottage and community based industries;
- (b) scientific and educational activities; and
- (c) other benefits which may from time to time be agreed upon between the association and the county government.

Provided that:

- (i) none of the activities specified in this section shall be carried out so as to conflict with the conservation of biodiversity; and
- (ii) the county government may, in consultation with the association, make rules regulating their performance thereof.

**Sale of low value minerals**

**35.** Any person who buys low value minerals shall be issued with a receipt by the seller which shall be kept for periodic inspection by authorized officers.

**General penalty**

**36.** A person who is convicted under section 35 is liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months.

*Part B — Licensing Provisions***Licensing Provisions**

**37.** (1) No person shall extract, cause extraction or store low value minerals for the purpose of sale or re-sale unless such a person applies for and is issued with a valid license under this Act.

(2) No person shall transport low value minerals without payment of the prescribed fee as authorized by county government.

(3) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to a term of imprisonment term not exceeding six months.

**Application for license, notification & license fee****Cap. 387**

**38.** (1) An application for a license under this section shall be made to the department in the form prescribed in the Sixth Schedule.

(2) The department shall consider the application made under this section within thirty days and determine whether or not to issue a license.

(3) Where the licensing officer refuses to issue a license, a notification of the refusal shall be made to the applicant in writing with reasons for the refusal within seven days.

(4) A person who feels aggrieved by the decision of the licensing officer may appeal to the National Environmental Tribunal established under section 125 of the Environmental Management and Coordination Act within fourteen days from the date of notification of the refusal.

**License cancellation**

**39.** (1) The licensing officer may cancel a license in a form prescribed in the Seventh Schedule where —

- (a) any information given in the application was materially incorrect;
- (b) the licensee carries on a prohibited activity;
- (c) a condition imposed is breached; or
- (d) the licensee is convicted of an offence under this part.

(2) Any person aggrieved by the decision of the licensing officer may appeal to the National Environmental Tribunal within fourteen days of notification of the decision.

*Part C—Enforcement*

**Inspection**

**40.** (1) An authorised officer may stop a vessel on access roads leading to low value mineral harvesting and quarrying sites to enforce compliance with the provisions of this Act.

(2) A person transporting low value minerals shall stop at such barrier and produce a transport license on demand by an authorised officer.

(3) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months.

(4) An authorised officer shall impound the vehicle used to commit the offence.

**Power to issue stop orders to low value mineral harvesting areas and quarrying sites**

**41.** (1) An authorized officer may issue with reasons a stop order, improvement or restoration notice if the extraction activities are causing or likely to pose danger to public health, safety, human life or environmental degradation.

(2) A notice issued under subsection (1) shall remain in force until the authorized officer is satisfied that the conditions have been satisfactorily addressed.

(3) The department may revoke a license for non-compliance with the notice issued under subsection (1).

**Offences relating to low value minerals**

**42.** A person who—

- (a) carries out low value minerals harvesting and quarrying or otherwise deals with low value minerals without a valid license;
- (b) carries out low value minerals harvesting and quarrying outside designated sites;
- (c) overloads low value minerals to a vehicle for transportation contrary to prescribed requirements;

- (d) collects fees or charges and is not authorized to do so under any law;
- (e) transports low value minerals outside the designated roads for such transportation;
- (f) does not stop on a barrier erected by the county government, authorized officer, enforcement officer or police officer; or
- (g) establishes a separate entity in a designated site without lawful authority under this Act, commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months.

## **PART V — CONSERVATION OF WETLANDS AND RIPARIAN AREAS**

### **Inventory of wetlands**

**43.** (1) The department shall prepare and maintain an inventory of wetlands in the county.

- (2) The inventory referred to in subsection (1) shall contain the—
  - (a) size;
  - (b) location;
  - (c) type;
  - (d) nominal value;
  - (e) biological diversity;
  - (f) ecological or hydrological importance;
  - (g) natural and socio-cultural heritage; and
  - (h) use.

### **Integrated wetland management plan**

**44.** The department shall prepare a community based wetland conservation management plan after every five years.

### **Protection of riparian reserves**

**45.** (1) The Executive Committee Member in consultation with Water Resource Authority shall specify the rivers traversing the County that should have a protection zone of thirty metres measured from the highest water mark of the river.

- (2) Rivers and streams not specified in the sub section (1) shall have a

protected zone of at least six metres width measured from the highest water mark of the river.

**Pollution**

**46.** (1) No person shall engage in any act which directly or indirectly causes, or may cause immediate or subsequent water pollution.

(2) Where there arises a grave and imminent threat or danger of damage of discharge, release or escape of polluting or hazardous substances into the wetland or riparian area any person responsible for management of the polluting or hazardous substances shall be liable for —

- (a) the cost of any measures reasonably taken for the purpose of preventing, minimizing or controlling any such damage; and
- (b) any damage caused by any measures so taken.

**Permitted use of wetlands**

**47.** The following activities that do not change the character of the wetland may be permitted in a wetland or water catchment —

- (a) sustainable subsistence harvesting of papyrus, medicinal plants and reeds;
- (b) fishing and small-scale fish farming, subject to the provisions of the Fisheries Management and Development Act No. 35 of 2016;
- (c) collection of water for domestic use;
- (d) educational research; and
- (e) hunting, subject to the provisions of the Wildlife Conservation and Management Act No. 27 of 2016.

**Prohibited activities on wetlands and water catchment areas**

**48.** (1) No person shall carry out any of the activities listed hereunder—

- (a) erect, reconstruct, place, alter, extend, remove or demolish any structure or part of any structure in, or under the river, wetland or water catchment area;
- (b) excavate, drill, tunnel or disturb the river, wetland or water catchment area;
- (c) introduce any animal whether alien or indigenous in a river, wetland or water catchment area;
- (d) introduce or plant any part of a plant specimen, whether alien or indigenous, dead or alive, in any river, wetland or water

catchment area likely to have adverse environmental effects on the river, wetland or water catchment area;

- (e) deposit any substance in, river, water catchment area or wetland or in, on, or under its bed, if that substance would or is likely to have adverse environmental effects on the river, wetland or water catchment area;
- (f) direct or block any river or wetland from its natural and normal course; or
- (g) drain any river or wetland.

(2) A person who contravenes this section commits an offence.

#### **Duty of land owners, users, occupiers**

**49.** (1) Every owner, occupier or user of land which is adjacent to a wetland is obligated to avoid activities on his or her land that cause degradation or destruction of the wetland.

(2) A person who contravenes this section commits an offence.

#### **Restoration orders**

**50.** The County Executive Committee Member may issue wetland restoration orders to allow a wetland area or riparian land which has been degraded to regenerate and the offender bears the burden of regeneration.

### **PART VI—ENVIRONMENT AND NATURAL RESOURCE MANAGEMENT DEPOSIT BONDS**

#### **Establishment of the deposit bond management unit**

**51.** (1) There is established County Deposit Bond Management Committee consisting of—

- (a) Chief Officer responsible for Environmental and natural Resource Management as Chairperson
- (b) Director responsible for Environment as Secretary
- (c) Chief Officer responsible for Roads development
- (d) Chief Officer responsible for industrialization
- (e) Chief Officer responsible for Finance
- (f) Chief Officer responsible for Public Service
- (g) Head of procurement and supply chain
- (h) Representative of County Environment Committee



**Functions of the committee**

**52.** The functions of the committee shall be to—

- (a) ensure provision of environmental remediation funds before undertaking projects which have or are likely to have adverse effects on the environment;
- (b) maintain a register of projects that attract deposit bonds;
- (c) review the environmental management deposit bond assessment report to determine the adequacy and reliability of deposit bonds payable to the Restoration Fund
- (d) invoke appropriate enforcement actions in case of non-payment of the environmental management deposit bond
- (e) undertake inspection and monitoring to determine compliance to good environmental practices in line with the conditions for approval;
- (f) advise the County Executive Committee Member on refund or confiscation of the deposit bond
- (g) receive the status reports of any ongoing remediation works annually from the operators or as may be prescribed by the County Executive Committee Member
- (h) perform any functions as may be prescribed by the County Environment Committee

**Establishment of bond register**

**53.** The department in charge of environment and natural resources shall establish an environmental management deposit bond Register which shall include the activities set out in the Eighth Schedule.

**Management of county environmental and natural resource management deposit bonds**

**54.** (1) Any person operating an industrial plant and undertaking an activity as stipulated in the Eighth Schedule shall be required to prepare a Deposit Bond Assessment Report.

(2) Any person proposing to operate an industrial plant and undertaking an activity as stipulated in the Deposit Bonds Register shall submit a Deposit Bond Assessment Report as an integral part of the permitting facility operations.

(3) If established that any proponent, operator and/or competent expert has provided information or data that is false, incorrect or intended

to mislead he or she shall be guilty of an offence in accordance with the provisions of this Act.

**Review by the county environment and natural resource management deposit bonds committee and issuance of a notice of the deposit bond payable**

**55.** (1) The Committee shall review the Deposit Bond Assessment Report based on set criteria and issue a decision on the same.

(2) Where the Committee is satisfied with the adequacy and the reliability of the information provided, the Committee shall issue—

- (a) approval on terms and conditions, as may be appropriate, of the County environment and natural resources Deposit Bond Assessment Report; and
- (b) notice of the deposit bond payable by the proponent and/or operator.

(3) If the Committee is not satisfied with the adequacy or reliability of information available to make a decision, the committee shall reject the report citing reasons.

**Regulation of a deposit bond**

**56.** (1) A deposit bond shall —

- (a) specify the purpose as “environmental restoration”;
- (b) be discharged on presentation of a discharge certificate from the county government;
- (c) not be an exemption for non-compliance to applicable provisions of this Act, regulations, standards and any other relevant written laws; and
- (d) afford no defence to any civil action or to prosecution that may be brought or preferred against a proponent or operator in respect to the manner in which the project is executed, managed or operated.

**Reassessment of county environment and natural resource management deposit bond**

**57.** (1) The Executive Committee Member may request the Committee at any time to reassess the deposit bond amount if—

- (a) there has been an error in the assessment of the deposit bond amount (based on the original assessment);

- (b) there is substantial change or modification in the project or in the manner in which the project is being operated;
- (c) the project poses environmental threats requiring greater remediation interventions which could not be reasonably foreseen at the time of the original assessment and the review; or
- (d) it is established that the information and/or data given by the proponent or operator was false, inaccurate or intended to mislead.

**Release of a deposit bond**

**58.** (1) The operator shall apply to the Deposit Bond Committee at the end of remediation works by submitting a remediation report demonstrating the completion of the remediation works in accordance with approved standards.

(2) The Deposit Bond Committee shall inspect the site, within thirty days from the date of submission of the remediation report, to confirm compliance with the conditions, specifications and standards set out in the approval document, remediation, post care and maintenance plans and issue a compliance certificate as set out in the Ninth Schedule.

(3) The deposit bond determined in accordance with subsection (2) shall be released to the operator of the activity, industrial plant or any other undertaking upon the expiry of six months after issuance of the compliance certificate.

(4) The Committee shall after establishing that the operator has complied with the bond requirements issue a deposit bond discharge certificate and release the deposit bond as set out in the Tenth Schedule.

**Confiscation of a deposit bond**

**59.** (1) The Committee may, after giving the operator an opportunity to be heard, confiscate a deposit bond where the operator is responsible for environmental practice that is in breach of the provisions of the Act.

(2) Where such confiscation as referred to in subsection (1) is intended, the Committee shall issue a written notice of confiscation to the operator.

(3) The operator shall be required to respond to the notice referred to in subsection (2) within a period of fourteen days.

(4) If the operator fails to respond to the Notice referred to in subsection (3) within the stipulated time, the Committee shall confiscate the deposit bond without any further reference to the operator.

(5) Upon response to the Notice referred to in subsection (3), the Committee shall grant the operator an opportunity to be heard.

(6) The decision arrived at in the hearing shall be communicated to the operator within a period of fourteen days and —

- (a) the decision of the Committee may be to issue an improvement notice to the operator to restore the affected area within reasonable time in accordance with approved standards;
- (b) if the operator fails to remediate the area to the satisfaction of the Committee, the deposit bond shall be confiscated and used to restore the affected area on which the liability was charged; and
- (c) the Committee may in addition cancel any licence issued to the operator under the Act on the advice of the executive committee member, where the operator has become a habitual offender.

(7) Where the Committee confiscates a deposit bond and the operator is dissatisfied with the confiscation of his or her bond, he or she may appeal to the National Environment Tribunal as per the provisions of this Act

### **Offences and penalties**

**60.** Any person found guilty of any offence under the act whose penalty is not otherwise stipulated shall be liable to a fine not exceeding three hundred and fifty thousand shillings, or to imprisonment for a period not exceeding eighteen months or to both such fine and imprisonment.

### **Liability on transfer**

**61.** The transferee as well as the transferor of a facility listed in the Eighth Schedule under this act shall be liable for all liabilities, and the observance of all obligations imposed by the transfer in respect of the facility transferred, but the transferor shall not be responsible for any future liabilities or any obligations so imposed with regard to the facility from the date of the transfer.

## **PART VII — CONSERVATION OF BIOLOGICAL DIVERSITY & GENETIC RESOURCES**

### **County Technical Committee on Access to Benefit Sharing**

**62.** (1) There is established a Conservation of Biological Diversity and Genetic Resources committee to be known as the County Technical Committee on Access to and Benefit Sharing.

- (2) The Committee shall comprise of —
  - (a) the Chief Officer responsible for matters relating to natural resources who shall be the chairperson;

- (b) the Chief Officer responsible for finance;
  - (c) the County Attorney;
  - (d) Director responsible for natural resources;
  - (e) Director responsible for agriculture;
  - (f) Director responsible for industrialization;
  - (g) Director responsible for culture;
  - (h) Director health services;
  - (i) a representative of the National Environment Management Authority within the County;
  - (j) a representative of the Kenya Wildlife Service within the County;
  - (k) three persons nominated by registered groups participating in nature based initiatives;
  - (l) a representative of higher learning institution dealing with indigenous knowledge, intellectual property rights, biological and genetic resources appointed by Executive Committee member in consultation with the institutions;
  - (m) a representative of community members with exceptional indigenous knowledge appointed by the Executive Committee member; and
  - (n) the committee may co-opt state officers or professionals as may be necessary for the proper discharge of its function under this Act.
- (3) The executive committee member, in making the appointments under paragraphs (i) and (m) of subsection (3), shall ensure —
- (a) regional balance and equal opportunities for persons with disabilities and other marginalized groups; and
  - (b) that not more than two-thirds of the members are of the same gender.
- (4) The members of the County Technical Committee on Access to Benefit Sharing appointed under subsection (1) (i), (j), (k), (l), and (m) shall hold office for a period of three years and shall be eligible for re-appointment for one further term.
- (5) The County Technical Committee on Access to Benefit Sharing shall be under the supervision and direction of the Executive Committee Member responsible for matters relating to natural resources.

(6) The quorum of the County Technical Committee on Access to Benefit Sharing for purposes of the meeting shall be nine members.

(7) The co-opted members under subsection (1) (n) shall have no voting rights.

### **Functions of County Technical Committee on Access to Benefit Sharing**

**63.** The Committee shall—

- (a) negotiate the terms of a benefit sharing agreement for biological and genetic resources with an affected entity on behalf of the county government;
- (b) monitor the implementation of projects required to be undertaken in the county pursuant to a benefit sharing agreement for biological and genetic resources;
- (c) determine the amount of money to be allocated to each local community from monies that accrue under a benefit sharing for biological and genetic resources;
- (d) convene public forums to facilitate public participation with regard to proposed benefit sharing agreements during negotiations prior to execution by the county government for biological and genetic resources;
- (e) convene public forums for the purpose of facilitating public participation with regard to community projects proposed to be undertaken using monies that accrue to a county government pursuant to this Act;
- (f) make recommendations to the county government on projects to be funded using monies which accrue to the county government pursuant to this Act.
- (g) initiate and advise relevant county departments on Access to Benefit Sharing regulations, policies, guidelines specifically on genetic resources, Traditional Knowledge, research permitting, licensing and trade;
- (h) undertake valorisation of the County genetic resources and traditional knowledge;
- (i) review negotiate through consultations prior informed consent and material agreement transfer on access and utilization of the county genetic resources and traditional knowledge on equitable share of benefits and advise for approval or rejection;

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- (j) act as check point for compliance, enforcement and monitoring for utilization of the biological resource within the county data base of all approvals in the county/impacts;
- (k) showcase the counties traditional knowledge and biological wealth in major conferences, and trade fairs;
- (l) undertake resource mobilization, capacity building and develop model Access to Benefit Sharing projects and programs;
- (m) provide quarterly report to the County Assembly on Access to Benefit Sharing; and
- (n) share experiences and lessons learned to inform national process on equitable share of benefits arising from genetic resources and traditional knowledge.

**Monitoring status**

**64.** (1) Any person who intends to access genetic resources and associated traditional knowledge in County shall be—.

- (a) required to acquire approvals permits and licenses on access and utilization of County genetic resources and associated traditional knowledge granted by relevant national government institutions in other relevant written laws;
- (b) cleared by Resource Provider who shall be the County Government and approved legal community including registered community bio-cultural groups, associations, Community Forest Associations, wildlife conservation associations and as per legal mandate;
- (c) have entered a Prior Informed Consent with the county government and the local community after paying fees and related charges;
- (d) entered into mutually agreed Terms with the county government and the respective National government in charge of the subject genetic resources and Traditional knowledge associated with genetic resources obtain clearance from Government agencies as stipulated in other written laws.

**Material Transfer Agreement**

**65.** (1) Notwithstanding any provisions contained in this Act, no person shall transfer any genetic resources and biological resources outside the County unless such person has executed a Material Transfer Agreement with the relevant lead agency.

(2) In addition no person shall transfer any genetic resources, biological resources and associated traditional knowledge outside the county without signing the Prior Informed Consent and Mutually Agreed Terms.

(3) No person shall establish ex-situ facilities and botanical garden for the purposes of generating genetic and biological resources without acquiring relevant permits.

#### **Access permit to genetic resources**

**66.** (1) Access to the County's Genetic Resources and Traditional Knowledge associated with genetic resources shall be subject to benefit sharing in applicable laws.

(2) Without prejudice to the generality of the foregoing, the holder of an access permit shall facilitate an active involvement of the County residents and institutions in the execution of the activities under the permit.

(3) The facilitation by the holder of an access permit shall include enjoyment of both monetary and non-monetary benefits arising from the right of access granted and the use of genetic resources.

(4) Monetary benefits are as stipulated in Environmental Management and Co-ordination (Conservation of Biological Diversity and Resources, Access to Genetic Resources and Benefit Sharing) Regulations, 2006.

(5) Non-monetary benefits include—

- (a) sharing of research and development results;
- (b) collaboration, co-operation and contribution in scientific research and development programmes, particularly biotechnological research activities;
- (c) participation in product development;
- (d) admittance to ex situ facilities of genetic resources and to databases by participating institutions;
- (e) transfer to the County of genetic resources of knowledge and technology under fair and most favourable terms, including concessional and preferential terms where agreed, in particular, knowledge and technology that make use of genetic resources, including biotechnology, or that are relevant to the conservation and sustainable utilization of biological diversity;
- (f) strengthening capacities for technology transfer to the County;



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- (g) institutional capacity building;
- (h) human and material resources to strengthen the capacities for the administration and enforcement of access regulations;
- (i) training related to genetic resources with the full participation of the County;
- (j) access to scientific information relevant to conservation and sustainable use of biological diversity, including biological inventories and taxonomic studies;
- (k) institutional and professional relationships that can arise from access and benefit sharing agreements and subsequent collaborative activities;
- (l) joint ownership of relevant intellectual property rights.

**SCHEDULES**

**FIRST SCHEDULE**

**(s. 17(3))**

**APPLICATION FOR A PERMIT TO PARTICIPATE IN THE  
CONSERVATION AND MANAGEMENT OF A COUNTY FOREST**

**A. DETAILS OF THE APPLICANT**

- (a) Name of Association .....
- (b) Address of Association .....
- (c) Tel.....
- (d) Email.....
- (e) Location of the Association (community Area) .....
- (f) Contact Person .....
- (g) Capacity of contact person in the association .....
- (i) Address of Contact Person .....
- (ii) Tel.....
- (iii) e-mail.....
- (h) Date of Incorporation of the Association.....
- (i) Names of members and their contact details and area of residence (If the members are more than the space provided, please attach a further list to this application form).

.....  
.....

Details of the association

.....  
.....

Proposed County forest:

.....  
.....

**B. ASSOCIATIONS PROPOSAL**

- 1. Costs involved in use of forest reserves:

.....  
.....

Proposed methods of conservation of biodiversity:

.....  
.....

Methods and means of monitoring and protecting wildlife and plant population:

.....  
.....

Other relevant information

.....  
.....

**C. DECLARATION**

I,..... [Name of applicant]  
of.....(Name of Association/group),  
do hereby certify that the above stated information is true and accurate to  
the best of my knowledge, information and belief.

*Signature:* .....

*Date:* .....

Certified by (Ward Administrator within whole area of jurisdictions falls  
the county forest)

*Signature:*.....

*Date:*.....

*Name:*.....

*Ward:* .....

NOTE: Please attach copies of the following documents to the application:

- (a) Certificate of registration of the Association
- (b) Constitution of the Association
- (c) Financial statements
- (d) Any other information that may be requested by evaluation team

**SECOND SCHEDULE**

**(s. 23(2))**

**APPLICATION TO TRANSPORT FOREST PRODUCTS FROM  
ON-FARM, URBAN & COUNTY FORESTS**

(TO BE FILLED BY INDIVIDUAL, REGISTERED GROUP,  
COMPANY)

APPLICATION NO. ....

PART 1

PERSONAL DETAILS

Name.....

PIN.....

GROUP/COMPANY REGISTRATION NO.....

Address .....

Tel. ....

Physical address .....

PART 2: DETAILS ON TRANSPORTATION OF FOREST PRODUCTS

Destination (Place where forest products is being taken)  
.....

Detail of the vehicle:

(i) Registration No.....

(ii) Make and model.....

(iii) Tonnage.....

SIGNED.....

COUNTY AUTHORIZED OFFICER

NAME.....

DATE.....

Attachments:

(i) Copy of valid logbook

(ii) Copy of company/group registration certificate

(iii) Copy of ID

**APPROVAL TO TRANSPORT FOREST PRODUCTS FROM ON-FARM, URBAN & COUNTY FORESTS**

**(TO BE ISSUED TO TRANSPORTERS OF FOREST PRODUCTS)**

APPROVAL NO. ....

THIS IS TO CERTIFY THAT

M/S.....

ID/PIN/REG.NO.....of P. O. Box .....

Tel.....

Has this .....day of ...(MONTH).....20.....(YEAR) been granted this permit to transport forest products from on farm, urban & county forests in the area as described below:

From: .....

To: .....

As further set out in Application No. DWENR/ .....

And whose area of jurisdiction falls under ..... (Name of Ward) within 24 hours

Date of transportation.....

Time of transportation.....

Subject to the following conditions

(1) .....

(2) .....

NAME OF AUTHORIZED OFFICER: .....

SIGNATURE & STAMP .....

**THIRD SCHEDULE****(s.25)****TREE VALUATION FORM**

Name of the Applicant .....

No. of trees to be valued .....

Location of the trees (indicate the Ward and Community Area):

.....  
.....

S/No	Species	Diameter at breast Height(DbH) (M)	Height (M)	Volume	Forest Service General Order (FSGO) rates	Value (Kshs)
Total						

Name of the Authorized Officer: .....

Date of valuation: .....Signature: .....

**FOURTH SCHEDULE**

**(s.26 (1))**

**PERMIT FOR FELLING TREES**

Permit No.:

Name of the Applicant: .....

Location of the trees (indicate the Ward and Community Area):

.....  
.....

This is to certify that permission has been granted to fell, cut or harvest ..... number of trees of species ..... at the specified location subject to the following conditions:

1. That the applicant will only harvest the specified number of trees in this permit.
2. That the applicant will take necessary steps and precautions to ensure that no damage to the surrounding environment occurs as a result of the direct or indirect activities associated with the harvest process.
3. That the felling and cutting processes shall not cause public nuisance.
4. That the applicant shall ensure the safety of workers and of other people within the working area as required by the Occupational Safety and Health (OSHA) Act, 2007.
5. That the applicant shall put in place solid waste management plans for the effective collection of solid waste generated during and after tree harvesting.

Declaration of the Applicant

I ..... will endeavour to adhere to the above conditions to ensure the activity I am going to undertake complies with the provisions of this permit and any other written law applicable to this activity.

Signature:..... Date: .....

Name of the authorizing Officer: .....

Designation:

.....  
.....

Signature: ..... Date: .....

**FIFTH SCHEDULE**

**(32 (3))**

**APPLICATION FOR A PERMIT TO PARTICIPATE IN THE  
COMMUNITY LOW VALUE MINERAL HARVESTING  
MANAGEMENT ASSOCIATION**

**DETAILS OF THE APPLICANT**

Name of Association .....

Address of Association .....

Tel.....

Email.....

Location of the Association (community Area) .....

Contact Person .....

Capacity of contact person in the association .....

Address of Contact Person .....

Tel.....

E-mail.....

Date of Incorporation of the Association.....

Names of members and their contact details and area of residence (If the members are more than the space provided, please attach a further list to this application form).

.....

.....

Details of the association

.....

.....

Proposed low value mineral site to manage:

.....

**ASSOCIATIONS PROPOSAL**

Costs involved in use of low value mineral:

.....

.....

Proposed methods of site rehabilitation/ restoration/ conservation:

.....

.....

...

Methods and means of monitoring low value mineral extraction:

.....

.....



Other relevant information

.....

DECLARATION

I,..... [Name of applicant] of..... (Name of Association/group), do hereby certify that the above stated information is true and accurate to the best of my knowledge, information and belief.

Signature: .....

Date: .....

Certified by (Ward Administrator within whole area of jurisdictions falls within the low value mineral harvesting site)

Signature:.....

Date:.....

Name:.....

Ward: .....

NOTE: Please attach copies of the following documents to the application:

Certificate of registration of the Association

Constitution of the Association

Financial statements

Any other information that may be requested by evaluation team

**SIXTH SCHEDULE**

**38(1)**

**LICENSE FOR LOW VALUE MINERAL HARVESTING AND STORAGE**

**(TO BE ISSUED TO INDIVIDUAL(S), REGISTERED COMPANY (IES), GOVERNMENT AGENCIES, ETC)**

Approval No. ....  
This is to certify that..... of P. O. Box .....  
Tel. No. .... ID/ REG No. ....has  
on this ..... day of .....  
(Month), 20 ..... (Year) been granted an approval to harvest  
Extractives in the area as described below;

.....  
.....  
.....  
.....

as further set out in Application No. MWENR/ ..... and  
whose area of jurisdiction falls under ..... (Ward)  
For a period of.....(Not exceeding  
one (1) year).

Subject to the following conditions:-

- 1.....
- 2.....
- 3.....

**SIGNED AND STAMPED**

.....  
NAME OF AUTHORIZED OFFICER.....

SIGNATURE.....

DATE.....

**SEVENTH SCHEDULE**

**39 (1)**

**SUSPENSION/CANCELLATION OF APPROVAL TO HARVEST  
EXTRACTIVES**

Notice is hereby given To M/S...ID/REG.NO.....  
of P. O. Box ..... Tel .....  
whose Permit No MWENR/..... issued on .....  
(Day)..... (Month) ..... (Year) to harvest extractives  
from ..... (Designated site) in  
..... (Ward and sub  
county) is hereby suspended for.....Months or cancelled with  
immediate effect for the following reasons:

- 1.....  
.....
- 2.....  
.....
- 3.....  
.....

SIGNED & STAMPED

NAME OF AUTHORIZED OFFICER .....

SIGNATURE .....DATE.....

**EIGHTH SCHEDULE s. 53, 54 (1), 61****LIST OF ACTIVITIES, INDUSTRIAL PLANTS AND UNDERTAKINGS THAT WILL ATTRACT DEPOSIT BONDS**

Projects that have or are most likely to have significant adverse effects on the environment when operated in a manner not in conformity with good environmentally practices would attract deposit bonds. This includes the following:-

1. Large scale quarrying of stone and murram
2. Underground and open cast mining operations for small and large scale artisanal mining excluded.
3. Massive harvesting of sand, gravel and clay.
4. Clearance of County forest
5. Conversion of forest, wetland and catchment areas for other purposes
6. Aerial spraying
7. Introduction of alien species.
8. Sewerage works and waste water treatments.
9. Installation for disposal of industrial wastes
10. Establishment of commercial asbestos disposal site
11. Commercial exploitation of natural fauna and flora.
12. Establishment and operation of solid waste treatment and disposal facilities.
13. Establishment and operation of special waste recycling facilities.
14. Major infrastructural development anticipated to have massive clearance and extraction of low value mineral.
15. Establishment and operation of industrial plant
16. Dam development.
17. Establishment of large scale irrigation scheme.
18. Any other activity that shall be categorized as high risk project during the environmental impact assessment stage.

**NINTH SCHEDULE**

**58 (2)**

**COUNTY REMEDIATION COMPLIANCE CERTIFICATE**

Deposit Bond Assessment Report/Approval No.....

Issued to (Name of proponent and/or operator).....

Address.....

Nature of the project/facility.....

This is to certify that the County Environment and Natural Resource Deposit Bonds Committee has inspected the site and hereby confirm that the remediation works have been carried out in compliance with the conditions, specifications and standards as set out in the approved Deposit Bond Assessment Report.

*Note: This Compliance Certificate is not an exemption of the proponent and/or operator undertaking further remediation measures as a result of changes that may occur on the site within a period of 180 days from the date of issue of this certificate.*

Date issued: .....

Signature .....

Committee Chairperson

(Seal)

**TENTH SCHEDULE**

**58(4)**

**COUNTY ENVIRONMENT AND NATURAL RESOURCE  
MANAGEMENT DEPOSIT BOND DISCHARGE CERTIFICATE**

Deposit Bond Discharge Certificate No.....

Deposit Bond Assessment Report/Approval No.....

Issued to (Name of proponent and/or operator).....

Address.....

Nature of the project/facility.....

The County Environment and Natural Resource Deposit Bonds Committee is satisfied that the remediation works undertaken by the proponent and/operator is compliant with the conditions, specifications and standards as set out in the remediation, post care and maintenance plan.

The Committee hereby releases the deposit bond amounting Kshs.....

Date issued: .....

Signature.....

Committee Chairperson

(Seal)