

SPECIAL ISSUE

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NYAMIRA COUNTY BILLS, 2023

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MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to provide for the establishment of nyamira county agricultural sector. There is therefore a genuine need to establish a framework for coordination, consultation and cooperation amongst the various agricultural sector players in the county and to establish mechanisms for the intra-sectorial disputes resolution, and for connected purposes

Part I (clauses 1-5) contains preliminary matters. It contains the short title, interpretation of terms and the object of the Act, Objects of CASSCOM structures and application of the principles and objects of the Act

Part II (clauses 6 -18) provides for the establishment of nyamira county agricultural sector steering committee that sets for the establishment of the Nyamira County Agricultural Sector Steering Committee, Functions of Committee, Meetings of Committee, the Quorum of the committee, the Decision making, the tenure of office, Resignation and removal from office of a committee member, the funds, Reporting, Establishment of the Committee Secretariat, the Functions of the Committee Secretariat, Sectorial working groups or committees and the operations and Remuneration of staff

PART III (clauses 19-25) provides for dispute resolution mechanisms that set application of this part, Measures for dispute resolution, the dispute resolution mechanism, Formal declaration of a dispute, Procedure after formal declaration of a dispute, the Judicial proceedings and Offences

Part IV Sets out the miscellaneous provisions. It sets out areas in which the county can legislate on in regards to services and also delegates powers to the County Executive Committee Member to make regulations.

Dated the 6th June, 2023.

JOSIAH MANG'ERA,
Chairperson, Committee on Agriculture Livestock Fisheries.

THE NYAMIRA COUNTY AGRICULTURAL SECTOR CO-ORDINATION BILL, 2023**ARRANGEMENT OF SECTIONS***Sections***PART I — PRELIMINARY**

- 1 — Short title and commencement
- 2 — Interpretation
- 3 — Objects and purposes of the Act
- 4 — Objects of CASSCOM structures
- 5 — Application of the principles and objects of the Act

PART II — ESTABLISHMENT OF NYAMIRA COUNTY AGRICULTURAL SECTOR STEERING COMMITTEE

- 6 — Establishment of the Nyamira County Agricultural Sector Steering Committee
- 7 — Functions of Committee
- 8 — Meetings of Committee
- 9 — Quorum
- 10 — Decision making
- 11— Tenure of office
- 12 — Resignation and removal from office of a committee member.
- 13 — Funds
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- 15 — Establishment of the Committee Secretariat
- 16 — Functions of the Committee Secretariat
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- 18 — Operations and Remuneration of staff

PART III—DISPUTE RESOLUTION MECHANISMS

- 19 — Application of this part
- 20 — Measures for dispute resolution
- 21 — Dispute resolution mechanism
- 22 — Formal declaration of a dispute

23 — Procedure after formal declaration of a dispute

24 — Judicial proceedings

25 — Offences

PART IV — MISCELLANEOUS PROVISIONS

26 — Regulations

- (a) dispute resolution mechanisms under this Act;
- (b) appointing the members of the Committee and the Secretariat under section 7 and Section 13 respectively;
- (c) constituting sub county forums; and
- (d) procedure for collaboration and engagement with actors in the agricultural sector;

(3) The County Executive Committee Member shall cause a draft of the regulations under subsection (1) to be laid before the County Assembly for approval before publication in the Kenya Gazette.

(i) identify the mechanisms or procedures, other than judicial proceedings, that are available to the parties to assist in settling the dispute, including a mechanism or procedure provided for in this Act, other legislation or in an agreement, if any, between the parties; or

(2) subject to Article 159 (c) of the Constitution, agree on an appropriate mechanism or procedure for resolving the dispute, including mediation or arbitration.

(3) Where a mechanism or procedure is specifically provided for in legislation or in an agreement between the parties, the parties shall make every reasonable effort to resolve the dispute in terms of that mechanism or procedure.

(4) Where a dispute referred to the County Executive Committee Member fails to be resolved in accordance with section 20 (2), the dispute shall be escalated to the cabinet within seven (7) days.

Judicial proceedings

24. Where all efforts of resolving a dispute under this Act fail, a party to the dispute may submit the matter for arbitration or institute judicial proceedings.

Offences

25. (1) A person commits an offence under this Act if, the person—

- (a) Fails to register with the Committee;
- (b) fails, without justifiable cause, to attend a scheduled meeting for which they have been invited;
- (c) refuses to produce any article or document when lawfully required to do so;
- (d) knowingly gives false evidence or information; or

(2) A person who commits an offence under subsection (1) is liable, upon conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment not exceeding six months, or to both.

PART IV—MISCELLANEOUS PROVISIONS

Regulations

26. (1) The County Executive Committee Member may, in consultation with the Committee, make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), the regulations may provide the procedures for—

THE NYAMIRA COUNTY AGRICULTURAL SECTOR CO-ORDINATION BILL, 2023

A Bill for

AN ACT of the County Assembly of Nyamira to establish a framework for coordination, consultation and cooperation amongst the various agricultural sector players in the county and to establish mechanisms for the intra-sectorial disputes resolution, and for connected purposes

ENACTED by the County Assembly of Nyamira as follows—

PART I — PRELIMINARY

Short Title and Commencement

1. This Act may be cited as the Nyamira County Agricultural Sector Coordination Act, 2023 and shall come into operation on the date of publication into the Kenya Gazette.

Interpretation

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

“Actors and Players” means state and non-state actors and players involved in agricultural sector inputs and service delivery to the farmers;

“Agricultural Sector” means all the actors and players in agricultural sector;

“Chairman” means a person appointed for the time being by the Governor to chair the Committee;

“Chief Officer” means the chief officer for the time being responsible for agriculture department;

“County Executive Committee Member” means the County Executive Committee Member for the time being responsible for matters relating to agriculture;

“Committee” means the County Agricultural Sector Steering Committee (CASSCOM) established under Section 7 of this Act;

“Director” means any of the Directors for the time being responsible for agriculture, livestock and fisheries;

“Governor” means the person elected Governor of Nyamira County under Article 180 (1) of the Constitution;

“Member” means members appointed by the Governor to the committee; and

“Secretariat” means the secretariat established under section 13 of this Act.

Objects and purposes of the Act

3. The objects and purposes of this Act are to—

- (a) provide a framework for coordination, consultation and cooperation between players in the agricultural sector;
- (b) establish institutional structures and mechanisms for coordination in the agricultural sector;
- (c) provide a framework for inclusive consideration of any matter that affects coordination, consultation and cooperation in the agricultural sector;
- (d) provide mechanisms for resolution of disputes that may arise in the agricultural sector.

Objects of CASSCOM structure

4. The objects of the structure established under this Act include —

- (a) facilitating coordination, co-operation and consultation amongst various actors and players within Nyamira County;
- (b) providing a forum for sharing and disclosing of necessary data and information; and
- (c) Promoting accountability amongst the various actors and players within Nyamira County.

Application of the objects of the Act

5. The objects provided under Section 4 shall apply to —

- (a) the actors and players in Nyamira County;
- (b) the agricultural sector structures established under this Act or any other written law; and
- (c) The dispute resolution mechanisms provided under this Act.

PART II — ESTABLISHMENT AND ADMINISTRATION OF NYAMIRA COUNTY AGRICULTURAL SECTOR STEERING COMMITTEE

Nyamira County Agricultural Sector Steering Committee

6. (1) There is established a committee to be known as the Nyamira County Agricultural Sector Steering Committee which shall be the apex body for Agricultural sector coordination;

Measures for dispute resolution

20. The Committee shall take all reasonable measures to—

- (a) resolve disputes amicably; and
- (b) apply and exhaust the mechanisms for alternative dispute resolution provided under this Act or any other legislation before resorting to court proceedings as contemplated by Article 189(3) and (4) of the Constitution.

Dispute resolution mechanisms

21. (1) Any agreement between the Committee and the Actors shall—

- (a) include a dispute resolution mechanism that is appropriate to the nature of the agreement; and
- (b) provide for an alternative dispute resolution mechanism with judicial proceedings as the last resort.

(2) Where an agreement does not provide for a dispute resolution mechanism or provides for one that does not accord with subsection (1), any dispute arising shall be dealt with within the framework provided under this Part.

Formal declaration of a dispute

22. (1) Before formally declaring the existence of a dispute, parties to a dispute shall, in good faith, make every reasonable effort and take all necessary steps to amicably resolve the matter by initiating direct negotiations with each other or through an intermediary.

(2) Where the negotiations under subsection (1) fail, a party to the dispute may formally declare a dispute by referring the matter to the County Executive Committee Member.

Procedure after formal declaration of a dispute

23. (1) Within twenty-one days of the formal declaration of a dispute, the County Executive Committee Member shall convene a meeting inviting the parties or their designated representatives—

- (a) to determine the nature of the dispute, including—
 - (i) the precise issues in dispute; and
 - (ii) any material issues which are not in dispute; and
- (b) to—

(3) The secretariat shall comprise—

- (a) four (4) members from the County Agricultural Sector Departments
- (b) three (3) members from non-state actors, who shall be appointed by the chairman in consultation with the County Executive Committee Member.

Functions of the Secretariat

16. (1) The Secretariat shall—

- (a) facilitate the activities of the Committee,
- (b) coordinate and follow up on decisions of the Committee,
- (c) offer technical support to the Committee,
- (d) prepare budget estimates for the operation, maintenance and remuneration of the committee.

(2) The head of the secretariat shall authorize expenditure on behalf of the committee.

Sectorial working groups or committees

17. (1) The Committee may establish sectorial working groups or committees for the better carrying out of its functions.

(2) Nothing in this section may be construed as precluding a County Executive Committee Member from convening consultative fora on sectorial issues of common interest to the county government.

Operations and Remuneration of staff

18. (1) The County Executive Committee Member shall make Budgetary provisions within the Departmental annual budget to support the activities of the Committee.

(2) The County Executive Committee Member responsible for Finance for the time being shall create a vote head for the committee.

PART III—DISPUTE RESOLUTION MECHANISMS

Application of this Part

19. (1) In this Part, unless the context otherwise requires, "dispute" means an intra-sectorial dispute.

(2) This Part shall apply to the resolution of disputes arising—

- (a) between the committee and the actors or
- (b) amongst actors

(2) The Committee shall comprise the following members who will be appointed by the Governor—

- (a) Chairman;
- (b) Chief Officer responsible for Finance;
- (c) Chief Officers in the departments responsible for Agricultural sector and any other relevant county departments;
- (d) State Project Coordinators;
- (e) A representative of the County commissioner;
- (f) A representative of Financial Institutions;
- (g) Representatives of development partners supporting agricultural sector in the county;
- (h) A representative of special interest groups in the county;
- (i) A representative of agricultural research institutions;
- (j) A representative of agricultural based Universities;
- (k) The County Director in charge of Agriculture who shall be the Secretary to the Committee; and

(l) Sub County heads of Agricultural Sector Departments.

(3) The Committee shall co-opt any other member when need arises who shall not take a vote.

(4) The Committee and the Secretariat shall be paid allowances wherever they hold meetings as per the Salaries and remuneration Commission guidelines.

Functions of the Committee

7. The functions of the Committee shall be to—

- (a) strengthen collaborations and linkages with public and private institutions in the management and delivery of agricultural programs and services,
- (b) develop and approve instruments for operation and accountability of agricultural sector programs and projects,
- (c) facilitate development, review, implementation, monitoring of policies, strategies, standards, regulations, plans, legislations of relevance to the sector,
- (d) develop mechanisms for management and dissemination of agricultural information,

- (e) approve the work plans and budget of the committee; and
- (f) Establish, register, maintain and continuously update a database of all agricultural sector actors in Nyamira County.

Meetings of the Committee

8. The Committee shall—

- (a) hold its Ordinary meetings quarterly upon a notice of 7 days issued to members prior to the meeting,
- (b) convene ordinary meetings as per the approved committee meeting schedule adopted for the particular Financial Year,
- (c) hold Special meetings upon sufficient notice issued to members prior to the meeting,
- (d) convene a meeting upon a written request to the Chairman by a new project at expense of the new project; and
- (e) invite all Agricultural Sector Project Coordinators in the County to the meetings.

Quorum

9. Quorum for the conduct of the business of a meeting shall be half of the membership.

Decision Making

10. A decision of a Committee shall be by simple majority.

Tenure of office

11. Members of the committees created under this Act shall hold office for a term of three (3) years renewable once upon satisfactory performance.

Resignation and Removal from the office of a Committee Member

12. (1) A committee member may resign from office by giving a written notice to the Governor.

(2) A Committee member may be removed from office for the following reasons;

- (a) violates the provision of this act,
- (b) is convicted of a criminal offence in a court of law and jailed for more than six (6) months,
- (c) is elected in any political position,

- (d) is absent from three consecutive meetings without justifiable cause or notification to the chairman,
- (e) is declared bankrupt by a court of law,
- (f) Incapacitated,
- (g) Dies.

(3) Where a vacancy arises in the office of the committee as a result of resignation, death or removal from office, the vacancy shall be filled in accordance set under this Act.

Funds

13. The funds of the Committee shall consist of—

- (a) monies appropriated by the County Assembly of Nyamira for purposes of agricultural sector coordination;
- (b) Sums received as contributions, gifts or grants from any other lawful source.

Reporting

14. (1) (a) The Committee shall be accountable to the County Executive Committee Member in discharge of its mandates and shall submit quarterly, situational and annual reports to the County assembly through the County Executive Committee Member.

(b) The format and details of the report under subsection (a), shall be as per the prescribed guidelines provided by County Executive Committee Member.

(2) (a) All players and actors in the agricultural sector shall submit quarterly, situational and annual reports to the Committee.

(b) The Committee shall provide a harmonized reporting format for all the projects and programs being undertaken in the County.

(3) The County Executive Committee Member (CECM) shall submit the quarterly and annual reports on the activities of the Committee to the County Assembly.

Establishment of the Committee Secretariat

15. (1) There is established a Secretariat of the County Agricultural Sector Steering Committee.

(2) The County government shall provide office space for the secretariat within the County Headquarters.