

THE COMMUNITY LAND BILL, 2020

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FIRST SCHEDULE

**— CONDUCT AND BUSINESS AFFAIRS OF THE
COMMITTEE**

COMMUNITY LAND BILL, 2020

A Bill for

AN ACT of the County Assembly to provide for mechanisms to undertake an inventory of Community Land; to provide for regulation and management of community land; and for connected purposes.

ENACTED by the County Assembly of Kajiado as follows—

PART I — PRELIMINARY

- Short title. **1.** This Act may be cited as the Kajiado County Community Land Act, 2020.
- Interpretation. **2.** In this Act, unless the context otherwise requires—
“Committee”;
- Objects **3.** The purpose of this Act is to provide a legislative framework to—
(a) Guide the process for reasonable standard to undertake inventory of community land;
(b) enhance mechanisms for transition to community land;
(c) streamline civic education and public awareness programmes on community land;
(d) facilitate training programmes for members of community land management committees;
(e) establish mechanisms for conflict resolution;
(f) promote role of physical planning and land use planning;
(g) provide for safeguards in land conservation and environment protection;
(h) regulate natural resources; and
(i) provide mechanisms for socio-economic support through urbanisation.
- Application of the Act. **4.** This Act shall apply to all land under the Community Land Act, 2016.

PART II —COORDINATION AND ADMINISTRATION

Establishment and composition of the community land transition and management committee.

5. (1) There is established the community land transition and management Committee.

(2) The Committee established under section (1) shall be appointed by the County Executive Member and shall comprise —

- (a) the Chief Officer for lands, who shall be the Chair;
- (b) the County Planner, who shall be the Secretary;
- (c) the County Surveyor;
- (d) four members nominated by representative organisations specified in sub-section (3) and appointed by the Executive Committee Member; and

(3) The members appointed under subsection (2)(d) shall be nominees of the following organisations—

- (a) an association representing the private sector in the county;
- (b) a cluster representing the registered associations of the informal sector in the county;
- (c) a cluster representing the registered neighbourhood associations in the county;
- (d) a cluster representing the non-governmental organizations; and

(5) In appointing the members of the committee, the County Executive Member shall ensure—

- (a) the nomination process is competitive;
- (b) the committee reflects the regional and ethnic diversity of the people within the county;
- (c) inclusion of marginalized and vulnerable groups; and
- (d) the committee members are not more than two-thirds of the same gender.

Tenure of members. **6.** The members of the Committee shall be appointed for a term of three years and shall be eligible for re-appointment for one further term of three years.

Vacancy of office. **7.** (1) The office of a member of the Committee, other than an ex officio members, shall become vacant if the holder—

- (a) dies;
- (b) resigns from office by notice in writing addressed to the County Executive Committee Member;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment;
- (d) completes the term of office;
- (e) is absent from three consecutive meetings of the Committee without good cause; or
- (f) is removed from office on any of the following grounds —
 - (i) gross violation of the Constitution or any other written law;
 - (ii) gross misconduct or misbehaviour;
 - (iii) inability to perform functions of the office arising out of physical or mental infirmity;
 - (iv) incompetence or neglect of duty; or

(v) bankruptcy.

(2) A vacancy under this section shall be reported to the nominating body and shall be filled within three months.

Functions and powers of the Committee.

8. (1) The function of the committee shall be to—

- (a) develop policy and coordinate all matters concerning community land;
- (b) facilitate development and adoption of mechanisms for transition to community land;
- (c) facilitate training programmes for members of the community land management committee;
- (d) facilitate and develop guidelines on civic education, public awareness and participation programs;
- (e) facilitate the development of an inventory of all unregistered community land in the county;
- (f) prepare and submit reports to the county executive member on the status of the implementation of its functions and obligations under this Act or any other law;
- (g) coordinate dissemination of regular information to the public ;
- (h) facilitate Inter and intra county coordination ;
- (i) enable cooperation and consensus with national government; and
- (j) perform such other function as may be assigned by the county executive member.

(4) In making decisions, the committee shall, from time to time, consult the community land management community committees.

9. In conducting an inventory of community land, the department, in consultation with the committee, shall take into consideration—

Preparation of inventory

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- (a) Location and accessibility;
- (b) topography and soil survey data;
- (c) water and other natural resource data;
- (d) present land use, vegetation and wildlife;
- (e) environment health; and

social and economic data.

Conduct of business
of the Committee.

10. (1) The business and affairs of the Committee shall be conducted in accordance with the First Schedule.

(2) Except as provided in the First Schedule, the Committee may regulate its own procedure.

Delegation
of powers.

11. (1) The Committee may by resolution either generally or in any particular case, delegate to any committee of the Committee or to any member, officer, employee or agent of the County Government, the exercise of any of the powers or the performance of any of the functions or duties of the Committee under this Act.

Sub-committees.

12. (1) The Committee may establish such Sub-committees as may be necessary for the effective discharge of its functions.

(2) The Sub-committee established under subsection (1), may call upon any person whose knowledge and skills are considered necessary for the effective discharge of the role of the Committee.

Role of the
Department of Lands

13. (1) The department responsible for lands shall be responsible for ensuring compliance with this Act.

(2) The Chief officer shall facilitate and coordinate implementation of decisions of the committee.

(3) In the performance of its functions and obligations under subsection (1), the department shall facilitate and oversee the effective coordination of its operations and shall—

- (f) establish structures for proper coordination of its functions to the lowest devolved unit;
- (g) maintain an up to date database or inventory of all its activities including an inventory all community land;
- (h) for the purpose of creating the culture of, and respect for the principles of civic education and public participation, facilitate public education and training programmes;
- (i) ensure meaningful citizen engagement in planning processes
- (j) coordinate integrated development planning, including urbanisation that incorporates community land;
- (k) Coordinate with responsible institutions on land use management;
- (l) ensure linkages between community land, county and national planning process; and
- (m) prepare and submit reports to the County Assembly through the Executive Committee on the status of the implementation of its functions and obligations under this Act.

PART III — CONSERVATION, USE AND MANAGEMENT OF COMMUNITY LAND

Conservation and land
use

14. (1) The Department shall ensure conservation and proper community land use in the county including protection of fragile ecosystems in accordance with relevant law.

(2) Without prejudice to the generality of sub section (1), the functions of the Department in conservation, use and management and conservation of community land shall include—

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- (a) enforcing regulation and guidelines on land use and environment conservation as prescribed by this Act and any other law;
- (b) undertaking periodic survey, mapping and zoning of community land as prescribed;
- (c) identifying and establishment of county reserve rangelands in accordance with the relevant law on community land; and
- (d) securing and developing designated holding grounds and other livestock facilities.

Pollution and waste management.

15. (1) The department in collaboration with relevant departments shall ensure proper regulation and control of pollution, littering, wastes, including hazardous wastes, and shall take appropriate measures to minimise the impacts of pollution, litter and wastes on the environment.

Zoning

16. (1) The Department in consultation with other departments and relevant stakeholders, shall undertake periodic survey and mapping in order to create zones.

(2) The zones within the rangelands shall be categorized as—

- (a) settlement areas;
- (b) open green spaces and public utility zones;
- (c) agricultural zones;
- (d) industrial zones;
- (e) cultural and religious sites;
- (f) dry season grazing zones; and
- (g) county reserve rangelands; or
- (h) cross county reserve zones where it extends to the next county.

(3) (1) In undertaking periodic zoning, the department shall consider the role of conservancies and compensation for communities on the use of community land as wildlife migration corridors.

(2) A person who uses land other than in accordance with the zoning requirements and other relevant law, commits an offence.

Benefit sharing

17. (1) Upon request by a community, the county government may provide technical guidance and assistance in considering offers on investments in accordance with relevant law.

(2) The department in consultation with the county executive committee shall facilitate the process through

- a) Participatory mapping of resources; and
- b) Supporting land management committees in developing resource sharing agreements.

Customary knowledge systems

18. (1) The Department shall facilitate research, documentation, dissemination and application of customary methods and practices relating to rangeland management and traditional way of life.

(2) The information gathered in subsection (1) above shall be used in developing the communities, grazing zones, schedules and settling disputes.

(3) Application of customary knowledge systems will apply in compliance with relevant law.

PART IV — INFORMATION AND COMMUNICATION MANAGEMENT MECHANISM

Establishment of a community land information management system.

19. (1) The Department may in consultation with the Committee and relevant stakeholders, establish an information management system for the recording, collection, management and analysis of data and information on activities relating to community land.

(2) The information management system referred to under sub section (1) may contain—

- (a) a register of community land; and
- (b) data on natural resources, or classification of resources *****

County
communication
framework

20. (1) The department, in consultation with the county department responsible for communication, shall establish mechanisms to facilitate dissemination of information on the various public participation forums to the public in the form of media with the widest public outreach in the county, which may include—

- (n) television stations;
- (o) information communication technology centres;
- (p) county websites;
- (q) social media platforms;
- (r) radio stations;
- (s) public meetings; and
- (t) traditional media.

(2) The department shall encourage and facilitate other means of mass communication including engaging the special interest groups.

Notification
Public Forums of

21. (1) When convening a County public forum, the department shall ensure that—

- (a) a notice is circulated within the county at least 14 days prior to the proposed forum; and
- (b) the notice is announced in at least one community radio station within the county at least 14 days prior to the proposed forum.

(2) The notices in subsections 1(a) and (b) shall—

- (a) include an information statement summarising particulars of the subject matter of the proposed consultative forum in a language and form that is inclusive; and
- (b) inform the public on various ways in which to access any documents relating to the subject matter of the proposed consultative forum; and
- (c) invite the public to submit written comments or representations to the county government in respect of the proposed subject matter of the forum indicating the time and date within which such written comments or representations should be made.

(3) The department may, at its own discretion, use such other means of communication in addition to those prescribed in subsection (1) above to notify and invite the public to the public's participation forums convened under this section.

PART V — GENERAL PROVISIONS

Funds of the
Committee.

22. (1) The Committee shall be adequately resourced to effectively discharge its functions under this Act.

(2) The funds of the Committee shall consist of—

- (a) such monies as maybe appropriated by the county Assembly for the purposes of the Committee;
- (b) such monies as may be payable to the Committee pursuant to this Act or any other written law;
- (c) grants, gifts, donations or other endowments given to the Committee; and
- (d) monies from any other source provided or donated or lent to the Committee.

Annual report.

23. (1) The Department shall, at the end of each financial year, submit an annual report to the County Assembly.

(2) The annual report referred to under subsection (1), shall contain—

- (a) a description of the activities of the Committee;
- (b) the dealings in community land within the county

- (c) the impact of the exercise of any of its mandate or functions;

- (d) any impediments to the achievements of the objects and functions of the Committee; and

- (e) any other information relating to its functions that the Committee considers necessary.

(3) The annual report shall be published and publicized in a manner that the county Executive Committee Member may determine.

Conflict of interest.

24. (1) The chairperson or a member of the Committee who has a direct or indirect personal interest in a matter being considered or to be considered by the Committee shall as soon as reasonably practicable after the relevant facts concerning the matter have come to their knowledge, disclose the nature of such interest.

(2) A disclosure of interest made under subsection (1) shall be recorded in the minutes of the meeting and the chairperson or member, of the Committee shall not take part in the consideration or discussion on or vote during any deliberations on the matter.

(3) A person who fails to make the requisite disclosure under this section commits an offence.

25. (1) Dispute resolution between parties under this Act, shall be at first instance through traditional mechanisms as prescribed.

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Alternative dispute
resolution

(2) Without prejudice to the generality under section (1), further methods of disputed resolution may be applied in accordance with relevant law.

Offences

26. A person who commits an offence under this Act for which no other penalty is provided, shall be liable upon conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding six months, or both.

Regulations.

27. (1) The Executive Committee Member may in consultation with the committee make regulations for the better carrying into effect of the provisions of this Act.

(2) Without limiting the generality of subsection (1), the county Executive Committee Member may make Regulations—

- (a) prescribing the duties and obligations of parties under the Act;
- (b) prescribing conduct of community land inventory;
- (c) prescribing coordination in dissemination of information and conducting citizen awareness to the village level;
- (d) prescribing procedures for dispute resolution;

FIRST SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE COMMITTEE (s. 9)

- Meetings **1.** The Committee shall meet as often as may be necessary for the dispatch of its business but there shall be at least four meetings of the Committee in any financial year.
- Election of vice-chairperson **2.** At the first meeting, the Committee shall elect a vice-chairperson amongst their number who shall be a person of opposite gender.
- Time and place of meetings **3.** A meeting of the Committee shall be held on such date and at such time and place as the Committee may determine.
- Special meetings **4.** The chairperson shall, on the written application of one-third of the members, convene a special meeting of the Committee.
- Quorum **5.** The quorum for the conduct of business at a meeting of the Committee shall be the chairperson and any four members.
- Voting **6.** The chairperson shall preside at every meeting of the Committee at which the chairperson shall be present and in the absence of the chairperson at a meeting, the vice-chairperson shall preside and in the absence of both the chairperson and the vice-chairperson, the members present shall elect one of their number who has, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.
- Decisions of the Committee **7.** Unless a unanimous decision is reached, a decision on any matter before the Committee shall be by concurrence of a majority of all the members present and voting at the meeting.
- Vacancy. **8.** Subject to paragraph 5, no proceedings of the Committee shall be invalid by reason only of a vacancy in its membership.
- Signification of instruments and decisions of the Committee. **9.** Unless otherwise provided by or under any law, all instruments made by and decisions of the Committee shall be signified under the hand of the chairperson.

MEMORANDUM OF OBJECTS AND REASONS

The principal objective of this Bill is to provide for the transition and proper management of community land within the county government planning agenda.

Part I of the Bill contains the preliminary matters.

Part II of the bill provides for the establishment, composition and functions Transition and Community Lands Management Committee under the County Department of Lands. It provides for Appointment and of members, Role of the Department of Lands, Term of Committee Members, Vacation of Office, and Filling of Vacancy amongst other related matters.

Part III of the Bill provides for conservation, use and management of community land. This part links the Act to other relevant legislation in respect to conservation and land use planning. The department of lands is mandated under this part to map, survey, and zone community land as prescribed.

In partnership with other departments, the department has responsibility to regulate protection of fragile ecosystems and ensure conservation of the environment. The department is directed under the law upon request by communities, to support in considering offers on investments.

Part IV of the Bill provides for information and communication mechanisms. It establishes a communication framework and lays down a procedure for disseminating information.

Part V of the Bill is on general provisions where the committee is required to report to the county assembly on the impact and challenges in delivering its mandate.

The **First Schedule** provides for the meetings and procedure of the Committee.

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The enactment of this Act will occasion additional expenditure of public funds which shall be provided for in the annual estimates.

Dated the....., 2020.

NAME.....

COUNTY EXECUTIVE MEMBER REponsible FOR LANDS

DRAFT