

SPECIAL ISSUE

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REPUBLIC OF KENYA

**LAMU COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

NAIROBI, 25th June 2015

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THE LAMU COUNTY FISHERIES DEVELOPMENT ACT, 2015

No. 3, 2015

AN ACT of the County Assembly of Lamu to make provisions for the establishment of the Lamu County Fisheries Development Agency, and the provision for the Revolving Fund to enhance access to loans, fishing fleet and fisheries inputs, by the fishermen, fish traders, fish farmers and other persons involved in the fisheries business within the County; to promote avenues for wealth creation through creation of employment and enhance the County's economic development and for connected purposes.

ENACTED by the County Assembly of Lamu, as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Lamu County Fisheries Development Act, 2015.

Interpretation.

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

“**Agency**” means the County Fisheries Development Agency established under section 3 of this Act;

“**Beach Management Unit**” means a co-management structure by the fishing community with the County, NGOs and private sector at the fish landing site under this Act;

“**Board**” means the Board of Fisheries Development Agency under this Act;

“**County**” means the Lamu County Government;

“**County Executive Committee Member**” means the County Executive Committee Member for the time being responsible for Fisheries under this Act.

“**Fishing Fleet**” means an industrial fishing vessel with all its accessories as provided under this Act;

“**Fisheries Inputs**” means fishing gears, equipments, outboard engines, liners, fish feeds, fingerlings and other inputs that would promote fisheries development under this Act;

“**Officer Administering the Fund**” means the Chief Officer in charge of Fisheries;

“**Revolving Fund**” means a Fund established under this Act.

PART II — THE LAMU COUNTY FISHERIES DEVELOPMENT AGENCY

Establishment of the
Lamu County
Fisheries Development
Agency.

3. (1) There is established an Agency to be known as the Lamu County Fisheries Development Agency.

(2) The Agency shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (c) borrowing money or making investment; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

Functions of the
Agency.

4. The Agency shall be responsible for—

- (a) advising the County Government of Lamu on policy matters related to the fisheries development;
- (b) management of the Fisheries Revolving Fund on behalf of the County Government of Lamu;
- (c) advising fishing communities on how to maximise the economic returns from fishing activity;
- (d) promote value addition activities; and
- (e) promote development of new fishery products.
- (f) link fishers with local, regional and international markets.

Management
of the Lamu
County Fisheries
Development
Agency.

5. The management of the Agency shall be vested in the Board.

Membership of the
Board.

6. The Board shall consist of —

- (a) a chairperson appointed by the Governor and approved by County Executive Committee Member for the time being responsible for fisheries or his representative as the Chairperson;
- (b) the County Chief officer in charge of fisheries as the Secretary to the board;

- (c) the County Director of Fisheries shall oversee the day-to-day operations of the Board;
- (d) chairperson of the Beach Management Units network for Lamu County appointed by County Executive Committee Member of the time being;
- (e) chairperson of the Fisher Co-operative networks of Lamu East and Lamu West sub-counties;
- (f) two women one from Lamu East and Lamu West.

Functions of the Board.

7. Other than the functions provided under Section 4 (a), (b), (c), (d), (e) and (f) of this Act, the Board shall also carry out the following functions —

- (a) to ensure timely and efficient disbursement of funds to the beneficiaries;
- (b) to receive and discuss annual reports and returns from the Beach Management Units;
- (c) to ensure the compilation of proper records, returns and reports from the Beach Management Units;
- (d) receive and address complaints and disputes and take any appropriate action; and
- (e) perform such other duties as the Board may deem necessary from time to time for proper execution of its functions.

Conduct of Business and Affairs of the Board.

8. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the First Schedule.

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

Other Staff.

9. The Board may employ such number of staff as shall be necessary to effectively enhance the operation of the Agency.

PART III—ISSUANCE OF THE FISHING FLEET AND FISHERIES INPUTS

Acquisition and requisitions of the fishing fleet and fisheries inputs.

10. (1) In the acquisition and requisition of the fishing fleet and fisheries inputs, the procuring entity shall strictly adhere to the provisions of the Public Procurement and Disposal Act.

Issuance of
Fishing Fleet and
Fisheries Inputs.

11. (1) Issuance of fishing fleet and fisheries inputs shall be through the Beach Management Unit and the Fisher Co-operative networks within the County.

(2) In the issuance of the fishing fleet and fishing inputs, the principles of equity and gender balance shall be considered.

(3) Youth, women and people with disability shall be given due consideration in the issuance of the fishing fleet and the fishing inputs.

(4) The fishing fleet and fisheries inputs are provided under the Second Schedule.

Mode of issuance
of the fishing
fleet and fisheries
Inputs.

12. (1) The fishing fleet and fisheries inputs shall be provided on the following terms and conditions—

- (a) issued on loan basis;
- (b) a down payment of 5 per cent of the total sum of value shall be paid and receipted in advance;
- (c) the subsequent instalments shall be paid and receipted at a rate of 1.5 per cent monthly until the total sum is cleared;
- (d) all assets loaned out shall be subsidised at a rate of 20 per cent of the total cost;
- (e) there shall be a grace period of three months prior to the onset of monthly instalment repayment;
- (f) the percentage referred to under paragraph (b) and (c) shall be applicable only to fisheries inputs not exceeding Ksh.1(one) million;
- (g) those fisheries inputs exceeding the limit in paragraph (8) shall be on terms to be determined by the Board appropriately;
- (h) assets of a similar value to the inputs loaned shall act as collateral.

(2) Without prejudice to the provision of subsection (1) above the board may provide to any fisher folk assistance in the form of equipment or other implements at no cost to the fisher folk.

Eligible
beneficiaries.

13. The eligible beneficiaries shall be fisher folk and fish farmers who must meet the following terms—

- (a) registered through their respective Beach Management Unit or be a member of a self-help group;
- (b) belong to a registered fish farmer cluster;

- (c) be a honest member of the Beach Management Unit and fish farmer cluster;
- (d) belong to Beach Management Unit through co-operatives;
- (e) belong to Beach Management Unit through other social development groups; and
- (f) belong to a registered fisher co-operative society within the County.

Loan and fisheries
inputs repayment.

14. (1) Loan and fisheries inputs repayment shall be done through the Beach Management Units.

(2) Defaulters shall have their collaterals auctioned for recovery of the money after six months.

(3) The inputs shall be taken away from the defaulters, re-valued and issued to other beneficiaries.

Maintenance and
Service of
Fishing Fleet
and Fisheries
Inputs.

15. The maintenance of the issued fishing fleet and fisheries inputs shall be the sole responsibility of the beneficiary.

PART IV — FINANCIAL PROVISIONS

Establishment of
the Lamu County
Fisheries Revolving
Fund.

16. (1) There is established a Fund to be known as the Lamu County Fisheries Revolving Fund.

- (2) The Fund shall consist of—
- (a) monies appropriated by the County Assembly;
 - (b) monies ploughed back from the loaned assets;
 - (c) monies from private sector as loans, grants or donation;
 - (d) monies from investors as loans, grants or donation;
 - (e) monies from donors;
 - (f) any other loans and grants given to the Agency.

Administration of the
Fund.

17. (1) The Fund shall be administered and operated by the officer administering the Fund.

- (2) The officer administering the Fund shall —
- (i) supervise and control the administration of the Fund;
 - (ii) utilise the interest accruing thereto to defray operating expenses; and may impose any reasonable restriction or other requirements concerning such use;

- (iii) cause to be kept books of accounts and other books and records in relation to the Fund and for all loans financed from the Fund;
- (iv) prepare, sign and transmit to the Auditor-General in respect of each financial year and within three (3) months after the end thereof, a statement of accounts relating to the Fund, prepared and signed by him specifying the income of the Fund and showing the expenditure incurred from the Fund, in such details as the Board may from time to time direct in accordance with the Public Finance Management Act;
- (v) furnish such additional information as may be required for the purpose of examination and audit by the Auditor-General; and
- (vi) designate and appoint such staff as may be necessary to assist him in the administration of the Fund and may require such staff to carry out such inspections as may be necessary to verify any information submitted under this Act.

(3) Every statement of account prepared under this Act shall include details of the balances between the assets and liabilities of the Fund and shall indicate the financial status of the Fund as at the end of the financial year concerned.

Fees for
Registration,
Licence, Permits
and other Charges.

18. There shall be charged fees in accordance with the provisions of this Act as provided under the Third Schedule. Changes in this provision will be done by the Finance Executive Member every financial year when deemed necessary.

Bank Account.

19. The Agency shall open and maintain such bank accounts as are necessary for the exercise of its functions.

Estimates and
expenditure.

20. (1) At least three months before the commencement of each financial year, the Secretary of the Board shall cause to be prepared, estimates of all the expenditure required for the purposes of this Act for that year and shall present such estimates to the Board for review.

(2) The Board shall review the estimates forwarded under subsection (1) and may make such alterations thereto as it may deem appropriate and shall thereafter agree upon those estimates.

(3) The Secretary of the Board shall dispatch a copy of the estimates agreed upon by the Board under subsection (2) to the County Executive Committee Member responsible for matters relating to finance.

(4) The Chairperson of the Board or some other member thereof authorised by the Board in that behalf shall present the estimates agreed by the Board for consideration and approval by the County Assembly.

(5) Upon the approval of the estimates presented to the County Assembly under subsection (4), all monies from time to time required for the purposes of this Act shall be paid from the County Reserve Fund.

Accounts Audit.

21. (1) The Secretary of the Board shall ensure that proper books and records of accounts of the Board are kept and maintained.

(2) Within three months after the end of each financial year, the Secretary of the Board shall submit to the Controller of Budget and Auditor-General, the accounts of the Board for the year.

(3) Notwithstanding the provisions of any other written law, the accounts of the Board shall be audited and reported upon by the Controller of Budget and Auditor-General.

Remuneration of
members of the
Board.

22. Members of the Board shall receive such allowances as may be determined by the County Executive Committee Member in consultation and approval by the County Assembly.

PART V— MISCELLANEOUS PROVISIONS

Annual report of
operations of the
Agency.

23. Within three months after the end of each calendar year, the Board shall prepare and lay before the County Assembly, a report of its operations during that year.

Offences and
penalties.

24. (1) Any person who destroys or misuses the fisheries equipment issued to him commits an offence.

(2) Any person who obtains the fisheries equipment without following the procedures laid down under this Act commits an offence.

(3) Any person who contravenes the provisions of this Act shall be guilty of an offence and liable to a fine not exceeding Kenya shillings Two Hundred Thousand or imprisonment of a term not exceeding two years or both.

Regulations.

25. The Board may make regulations prescribing anything required by this Act and generally for the better carrying out of the purposes of this Act.

FIRST SCHEDULE
(Section 8)

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

1. A member of the Board shall, subject to the provisions of this Schedule, hold office for a period of 3 years on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for appointment for not more than two terms.

2. (1) A member of the Board may —

- (a) at any time resign from office by notice in writing to the County Executive Committee Member;
- (b) be removed from office by the County Executive Committee Member on recommendation of the Board if the member—
 - (i) is absent from three consecutive meetings of the Board without its permission;
 - (ii) is convicted for a criminal offence that amounts to a felony under the laws of Kenya;
 - (iii) is incapacitated by prolonged physical or mental illness for a period exceeding three months; or
 - (iv) is otherwise found unable or unfit to discharge his functions.

(2) The chairperson shall, on recommendation of the Board, be removed from office by the Governor.

Committees of
the Board.

3. (1) The Board shall meet not less than five times and not more than ten times in every financial year and not more than two months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding subparagraph (1), the Chairperson may, and shall upon requisition in writing by at least three members convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least seven days written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of business of the Board shall be six members.

(5) The Chairperson shall, when present, preside at every meeting of the Board but the members present shall elect one member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy or absenteeism of members thereof.

(8) Subject to the provisions of this Schedule, the Board may determine its own procedure and the procedure for any committee of the Board and for the attendance of other persons at its meetings and may make standing orders in respect thereof.

4. (1) The Board may establish such committees as it may deem appropriate to perform such functions and responsibilities as it may determine.

(2) The Board shall appoint the Chairperson of a committee established under subparagraph (1) from amongst its members.

(3) The Board may, where it deems appropriate, invite any person to attend the deliberations of any of its committees.

(4) All decisions by the committees appointed under subsection (1) shall be ratified by the Board.

Disclosure of
Interest.

5. (1) A member who has an interest in any contract, or other matter present at a meeting, shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A disclosure of interest made under subparagraph (1) shall be recorded in the minutes of the meeting at which it is made.

(3) A member of the Board who contravenes subparagraph (1) shall cease to be a member of the Board upon direction of the County Executive Committee Member.

Common Seal.

6. (1) The Common Seal of the Agency shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

(2) The affixing of the Common Seal of the Agency shall be authenticated by the signature of the Chairperson, the Chief Officer for Fisheries and one member nominated by the Board.

(3) Any document not required by law to be made under seal and all decisions of the Board may be authenticated by the signatures of the Chairperson, the Chief Officer for Fisheries and that member nominated by the Board under Section 7(2) above.

(4) The Common Seal of the Board when affixed to a document and duly authenticated shall be judicially and officially noticed and unless and until the contrary is proved, any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

SECOND SCHEDULE

(Section 11(4))

FISHING FLEET AND FISHERIES INPUTS

1. Fishing vessels
2. Outboard engines and inboard engines
3. Hooks and lines
4. Fishing nets for marine and fresh water lakes
5. Fish finders
6. Oars
7. GPS
8. Anchors
9. Buoys
10. Sinkers
11. Baits and lures
12. First Aid Kits
13. Ropes
14. Rods
15. Reels
16. Bobbers (floaters)
17. Echo sounders
18. Generators
19. Fish feeds pelletiser machines
20. Pond liners
21. Fish cooler boxes
22. Long liners
23. Hatchery Equipment's and
24. Other related fisheries inputs procured in accordance to the interpretation of this Act.
25. Life jackets
26. Snorkel
27. Fisheries flag for divers

THIRD SCHEDULE

(Section 18)

FEES FOR REGISTRATION, LICENCE, PERMITS AND OTHER CHARGES

1. REGISTRATION OF LOCAL FISHING VESSELS

	KSh.
A–Non-mechanised fishing vessels	100
B–Mechanised fishing vessel:	
(i) Vessel not exceeding 5 (five) metres length and $1\frac{1}{2}$ (One and half) metres beam	200
(ii) Vessel of more than 5 (five) metres but not exceeding 10 (ten) metres length	500
(iii) Vessel of more than 10 (ten) metres but not exceeding 15 (fifteen) metres length.....	5,000
(vi) Vessels of more than 15 (fifteen) metres length	10,000

FISH INSPECTION FEE

2. FISHERMEN, SPORTFISHERMEN LICENCES

2.1 Fisherman's Licence (National Government)

CLASS A

Fisherman not using any craft	50
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CLASS B

Fisherman using non-mechanised vessel:

- (i) Vessel not exceeding 5 (five) metres length..... 100
- (ii) Vessel exceeding 5 (five) metres length..... 200

CLASS C

Fisherman using mechanised vessel:

- (i) Vessel of more than 5 (five) metres length and $1\frac{1}{2}$ (one and half) metres beam..... 150
- (ii) Vessel of more than 5 (five) metres length and $2\frac{1}{2}$ (two and half) metres beam..... 300
- (iii) Vessel of more than 10 (ten) metres length and but not exceeding 15 (fifteen) metres length..... 1500
- (iv) Vessel of more than 15 (fifteen) metres length..... 5000

2.2. Sport Fishing Licence per head

- (i) Annual licence..... 1500
- (ii) Monthly Licence 600
- (iii) Fortnightly licence (2 weeks)..... 400

COUNTY ASSEMBLIES FORUM (CAF)
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