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MERU COUNTY ACTS, 2014

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**THE MERU COUNTY WILDLIFE AND
CONSERVANCIES MANAGEMENT ACT, 2014**

No. 9 of 2014

Date of Assent: 5th December, 2014

Date of Commencement: 11th December, 2014

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2014

Meru County Wildlife Conservancies Management

No. 9

**THE MERU COUNTY WILDLIFE
CONSERVANCIES MANAGEMENT ACT, 2014**

**AN ACT of the County Assembly of Meru to provide
for the legal framework for management of wildlife
and conservancies in the county and for connected
purposes**

ENACTED by the County Assembly of Meru, as
follows—

PART I—PRELIMINARY

1. This Act may be cited as the Meru County Wildlife
Conservancies Management Act, 2014 and shall come into
force upon publication in the *Gazette*.

Short title and
commencement.

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

Interpretation.

“Board” means the Wildlife and Conservancies
Management Board established under section 4;

“County Assembly” means the County Assembly of
Meru;

“County Executive Committee” means the County
Executive Committee of County Government of Meru;

“Executive Member” means the County Executive
Member responsible for wildlife and conservancies
management;

“Gazette” means the *Kenya Gazette* or the *County
Gazette*;

“wildlife” means any living thing especially mammals
and birds that are not domesticated and includes any
vertebrate or invertebrate animal or bird and the eggs and
young thereof, but does not include a fish, except a fish in a
protected area, a domestic animal, or a domestic bird, or
eggs or young thereof, or a plant, except a plant in a
protected area;

“wildlife conservancy” for the purposes of this Act
means land set aside by the County Government for the
purposes of wildlife conservation;

3. The purpose of this Act is to provide for the legal
and institutional framework for the management and

Purpose of the
Act

promotion of sustainable management of county wildlife and conservancies.

PART II–WILDLIFE AND CONSERVANCIES MANAGEMENT BOARD

4. (1) There is established the Meru County Wildlife and Conservancies Management Board.

Establishment of
the Board.

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

- (a) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (b) borrowing money or making investments;
- (c) entering into contracts; 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.

5. The functions of the board shall be to—

Functions of the
board.

- (a) promote development and conservation of wildlife and conservancies in the county;
- (b) in collaboration with other relevant stakeholders, manage and protect wildlife and conservancies;
- (c) regulate and control human activities taking place in county conservancies;
- (d) source locally or internationally for resources required for promoting county wildlife conservation;
- (e) in collaboration with local communities and other agencies, initiate and coordinate management of programs for sustainable conservation and management of wildlife and conservancies and for control of human wildlife conflict;
- (f) provide liaison with National Government agencies responsible for wildlife conservation and management;
- (g) promote programs or projects for the benefit of the communities living along the boundaries of a conservancy;

- (h) advise the Executive Member generally on appropriate policies, laws, plans and programs to be adopted for effective, efficient and sustainable management of wildlife and conservancies; and
- (i) carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the Executive Member.

6. (1) The board shall consist of—

Composition of
the board.

- (a) non-executive Chairperson appointed by the Governor with the approval of the County Assembly;
- (b) chief officer for the time being responsible for wildlife conservation and management;
- (c) the chief officer for the time being responsible for finance;
- (d) one person nominated by the local communities living along the boundaries of conservancies and appointed by the Executive Member through a competitive process;
- (e) one person who is an expert in matters related to wildlife conservation and management appointed by the Executive Member in consultation with the Governor; and
- (f) the Chief Executive Officer who shall an *ex officio* Member and secretary to the board.

(2) A person shall be qualified for appointment as Chairperson or a Member appointed under subsection (1)

(e) if the person—

- (a) holds the relevant degree from a recognized university;
- (b) has knowledge and experience of at least five years in matters relating to wildlife conservation and management or any other related field;
- (c) meets the requirements of Chapter Six of the

Constitution.

(3) A person shall be qualified for appointment as a Member under subsection (1) (d) if the person—

- (a) holds at least a diploma from a recognized institution of higher learning;
- (b) has knowledge and experience of at least two years in matters relating to local development, wildlife conservation, community mobilization, and management or any other related field;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) is a resident of the area where a conservancy is situated.

(4) Not more than two thirds of the Members of the board under subsection (1) shall be of the same gender.

7. (1) The conduct and regulation of the business and affairs of the board shall be as set out in the Schedule.

Conduct of
business.

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

8. The remuneration of the Members of the board shall be as determined by the County Treasury.

Remuneration of
the board.

9. (1) There shall be a Chief Executive Officer of the board.

Chief Executive
Officer

(2) The Chief Executive Officer shall be appointed by the Executive Member on recommendation of the board through a competitive recruitment process, and approved by the County Assembly.

(3) To qualify for appointment as a Chief Executive Officer, a person must—

- (a) possess a degree from a recognized university; and
- (b) have had experience in management for a period of not less than five years.

(4) The Chief Executive Officer shall hold office for a period of three years, on such terms and conditions of employment as the board may determine, and shall be eligible for re-appointment for a further and final term of three years.

(5) The Chief Executive Officer shall be an *ex officio* member of the board but shall have no right to vote at any meeting of the board.

(6) The Chief Executive Officer shall —

- (a) subject to the direction of the board, be responsible for day to day management of the affairs of the board;
- (b) in consultation with the board, be responsible for the direction of the affairs and transactions of the board, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the board;
- (c) carry out any other function as may from time to time be assigned by the board.

(7) The Chief Executive Officer may —

- (a) at any time resign from office by issuing notice in writing to the Chairperson of the board;
- (b) be removed from office by the Executive Member on recommendation of the board, for—
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence;
 - (v) bankruptcy.

10. The board in consultation with the County Public Service Board may appoint such officers and other staff as are necessary for proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

Staff of the board.

(1) The common seal of the board shall be kept in the custody of the Chief Executive Officer or of such other person as the board may direct, and shall not be used except

The common seal of the board.

upon the order of the board.

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

(3) The common seal of the board shall be authenticated by the signature of the Chief Executive Officer.

(4) The board shall, in the absence of the Chief Executive Officer, in any particular matter, nominate one Member of the board to authenticate the seal of the board on behalf of the Chief Executive Officer.

(1) No matter or thing done by a Member of the board or by any officer, member of staff, or agent of the board shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the board under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Protection from
personal liability

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any, act which is done or purported to be done by him or her under the direction of the board, shall, if the court holds that such act was done bona fide be paid out of the funds of the board, unless such expenses are recovered by him or her in such suit or prosecution.

The provisions of section 12 shall not relieve the board of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Liability for
damages.

(1) The board shall, within three months after the end of each financial year, prepare and submit to the Executive Member a report of the operations of the board for the immediately preceding year.

Annual report.

(2) The annual report shall provide information regarding the activities and plans of the board during the year to which it relates sufficient to impart an accurate understanding of the nature and scope of its activities and

its plans and priorities and, without limitation, shall include—

- (a) details of the performance of the board against its key performance indicators;
- (b) report on the overall status, progress, impact and challenges or impediments in the implementation of the Act as well as the appropriate measures to address any challenges that should be taken by the various County Government departments including the board's projections;
- (c) Audited financial accounts for the previous financial year;
- (d) such information and other material as the board may be required by this Act or regulations made thereunder to include in the annual report; and
- (e) such additional information or other material as the Executive Member may request in writing.

(3) The Executive Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Clerk of the County Assembly for Tabling before the County Assembly for consideration.

(4) The County Assembly may after considering the report make recommendations to the Executive Member on appropriate ways of effectively implementing the Act.

PART III—FINANCIAL PROVISIONS

(1) The funds of the board shall consist of—

Funds of the
board

- (a) such monies as may be appropriated by County Assembly for the purposes of the board;
- (b) such gifts or monies received from any lawful source the board;
- (c) all moneys provided, donated or lent to the board;
- (d) such fees and charges payable under this Act as may from time to time be approved by the County Executive Committee.

(2) The board shall apply the money received under this section for the furtherance of the purpose of this Act.

11. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the board for that year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the board for the financial year and in particular, the estimates shall provide for the—

- (a) payment of the salaries, allowances and other charges in respect of the staff of the board;
- (b) payment of allowances and other charges in respect of Members of the board;
- (c) payment of pensions, gratuities and other charges in respect of Members of the board and staff of the board;
- (d) proper maintenance of the buildings and grounds of the board;
- (e) maintenance, repair and replacement of the equipment and other property of the board; and
- (f) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the board may deem appropriate.

(3) The annual estimates shall be approved by the board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the County Executive Committee for approval.

(4) No expenditure shall be incurred for the purposes of the board except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorisation of the board given with prior written approval of the Executive Member.

12. (1) The board shall cause to be kept proper books and records of accounts of the income, expenditure and assets of the board.

Accounts and
audit

(2) Within a period of three months after the end of each financial year, the board shall submit to the Auditor-

General, the accounts of the board together with—

- (a) a statement of the income and expenditure of the board during that year; and
- (b) a balance sheet of the board on the last day of that year.

(3) The accounts of the board shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

No. 12 of 2003.

13. (1) The board may invest any of the funds of the board in securities in which, for the time being, trustees may by law invest trust funds, or in any other securities or banks which the County Treasury may, from time to time, approve for that purpose.

Investment of funds

(2) The board may place on deposit, with such bank or banks as it may determine, any moneys not immediately required for the purpose of the board.

(3) The board shall observe due diligence in the investment of any funds under subsection (1) and (2) above.

PART IV—CONSERVATION AND MANAGEMENT

14. (1) The Executive Member shall, county subject to the approval of the County Executive Committee and the County Assembly and in consultation with the National Government establish and delineate an area to be a county conservancy.

Establishment of conservancy.

(2) The area referred to under subsection (1) shall be under public land that is vested in the County Government in accordance with Article 62 of the Constitution of Kenya.

(3) The land on which a conservancy is established under this Act, shall be demarcated accordingly, registered and title to the land issued under the name of the conservancy.

15. (1) Any person or community who owns land under which wildlife inhabits may individually or collectively apply to the board in the prescribed procedure to establish a wildlife conservancy or sanctuary in accordance with this Act.

Establishment of private and community conservancies.

(2) Upon successful application by any person or community the board shall declare such an area a private or community conservancy and the board may issue a licence or certificate to operate a private or community conservancy.

(3) A licence or Certificate issued under sub section (2) shall set out the geographical boundaries in respect of which the conservancy is being declared, and such licence or certificate may give conditions under which the conservancy shall be managed.

(4) Notwithstanding the provisions of this section, an holder of a certificate or licence previously issued under any other law shall be deemed to have complied with the provisions of this section.

(5) The Executive Member in consultation with the board shall make Regulations for the effective implementation of this section.

16. (1) The Executive Member may, establish the Community Wildlife and Conservancies Management Committees consisting of members from communities living along the boundaries of a conservancy.

Community
committees.

(2) The committees shall carry out such functions as the Executive Member may assign.

(3) The board shall ensure that at least thirty (30) per cent of all skilled and unskilled labour emanating from any employment opportunity at a conservancy emanates from local communities living along the boundaries of conservancies.

(4) The Executive Member shall regulate the procedures of the committees established under this Act.

17. (1) A member of a community living along the boundaries of a conservancy may, access a conservancy for the purposes of grazing animals on such terms and conditions as the board may determine or to carry out such other activities as the board may authorize.

Community
benefits.

(2) The Executive Member may, in consultation with a community living along the boundaries of a conservancy establish programs for the benefit of the local community from the resources generated from a conservancy.

18. A county wildlife conservancy shall be managed in accordance with this Act and the national laws governing wildlife conservation and management.

Compliance with national laws.

19. (1) The board shall—

Investment in a conservancy.

(a) in collaboration with other Government and non-Government entities develop, protect and promote a conservancy established under this Act; and

(b) promote and facilitate investments in a conservancy established under this Act.

(2) Any investment in a conservancy shall be undertaken in accordance with the prescribed Regulations and approved by the County Executive Committee.

20. The board may enter into public private partnership with any entity for better and effective implementation of this Act.

Public private partnership.

21. (1) The board shall prepare five year management and investment plans for a conservancy established under this Act which shall be approved by the County Executive Committee.

Management and investment Plan.

(2) The Executive Member shall, within fourteen (14) days of the approval of the management and investment Plan by the County Executive Committee, transmit it to the Clerk of the County Assembly for the County Assembly's consideration and approval.

22. (1) No person shall—

Prohibited activities.

(a) enter or gain access to a conservancy without authorization by the board;

(b) interfere with any animal, plant or thing in the conservancy; or

(c) carry out any activity which is prohibited under this Act or by the board.

(2) A person who contravenes this section commits an offence shall be liable for a fine not exceeding twenty thousand or to a term of imprisonment for a term not exceeding three months or to both.

PART V—ENFORCEMENT

23. (1) The board may appoint authorized officers for the purposes of ensuring compliance with this Act.

Authorized officers.

(2) The Executive Member shall issue a certificate of appointment to every person appointed under this section in the prescribed form.

24. An authorised officer shall have such powers as are necessary in order to ensure compliance with this Act.

Power of an authorized officer

PART VI—MISCELLANEOUS

25. (1) The Executive Member may, in consultation with the board make Regulations generally for the better carrying out of the objects of this Act.

Regulations.

(2) Without prejudice to the generality of subsection (1), the Regulations may—

- (a) prescribe procedure of appointing community representative to the board;
- (b) prescribe matters related to investment in a conservancy;
- (c) prescribe the rules regulating and controlling human activities in a conservancy;
- (d) prescribe forms applicable under this Act; and
- (e) prescribe the fees and charges payable under this Act.

SCHEDULE

(s. 7)

**PROVISIONS AS TO THE CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD**

1. Any Member of the board, other than chief officers shall, subject to the provisions of this Schedule, hold office for a term of three years, on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for a further and final term of three years.

Tenure of office.

2. A Member of the board may—

Vacation of office.

- (a) at any time resign from office by giving a thirty days' notice in writing to the Executive Member;
- (b) be removed from office by the Governor in the case of the Chairperson, and the Executive Member if the Member—
 - (i) has been absent from three consecutive meetings of the board without the permission of the Chairperson;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors;
 - (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a Member of the board; or
 - (vi) fails to comply with the provisions of this Act relating to disclosure.
 - (vii) serious violation of the Constitution or any other written law.

3. (1) The board shall meet not less than four times in

Meetings.

every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

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

(3) Unless three members of the board otherwise agree, at least fourteen 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 the business of the board shall be three Members including the Chairperson or the person presiding.

(5) The Chairperson shall preside at every meeting of the board at which he is present but, in his absence, the Members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the Chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the board shall be by a majority of votes of the Members present and voting and, in the 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 among the Members thereof.

4. (1) If a Member is directly or indirectly interested in any contract, proposed contract or other matter before the board and is present at a meeting of the board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact 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:

Conflict of
interest.

(2) A Member of the board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict

with the proper performance of his duties as a member or employee of the board.

(3) Where the board becomes aware that a Member has a conflict of interest in relation to any matter before the board, the board shall direct the Member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the executive in writing.

(5) Upon the board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the Member or the board and the Member with the conflict of interest shall not vote on this determination.

(6) Where the board determines that the conflict is likely to interfere significantly with the Member's proper and effective performance as provided for in subparagraph (1), the member shall resign unless the Member has eliminated the conflict to the satisfaction of the board within thirty days.

(7) The board shall report to the Executive Member any determination by the board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the board.

(8) The annual report of the board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A Member of the board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

5. (1) Within twelve months of the commencement of Code of conduct.

this Act, the board shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and staff of the board in the performance of their duties.

(2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to an existing code of conduct, the board shall publish the proposed code or amendments in the *Gazette* and in a newspaper circulating nationally, inviting public comments.

(3) The board shall include in its annual report a report on compliance with the code during the period covered by the annual report.

(4) The code of conduct adopted or prescribed under this paragraph shall be binding on the board and its staff.

6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the board by any person generally.

Execution of
Interest.

7. The board shall cause minutes of all resolutions and proceedings of meetings of the board to be entered in books kept for that purpose.

Minutes.