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TANA RIVER COUNTY ACTS, 2017

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THE TANA RIVER COUNTY LIVESTOCK GRAZING CONTROL ACT, 2017

No. 10 of 2017

Date of Assent: 3rd July, 2017

Date of Commencement: See Section 1

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*Tana River County Livestock Grazing Control***NO. 10**

THE TANA RIVER COUNTY LIVESTOCK GRAZING CONTROL ACT, 2017

AN ACT of the County Assembly to provide for the establishment of a legislative and institutional framework for the management and orderly use of grazing resources; to minimise conflict and maximise peaceful coexistence between the various land users, through planning, identification and documentation of the areas according to the different types of land users in the county; to control the influx, movement and conflict brought by graziers from other counties and for connected purposes

ENACTED by the County Assembly of Tana River, as follows—

PART I — PRELIMINARY

1. This Act may be cited as the Tana River County Livestock Grazing Control Act, 2017 and shall into force upon publication in the *Gazette*.

Short title and
commencement.

2. In this Act, unless otherwise requires—

Interpretation.

“Board” means the Grazing Management Board established under Section 13 of this Act;

“building” means a structure or erection of any kind, whether permanent or temporary, movable or immovable and whether completed or not;

“cadastral maps” means a map or series of maps referred to under Section 15 of the Land Registration Act, 2012;

Act No.3 of 2012

“cattle” includes bulls, cows, oxen, heifers and calves;

“Committee” means a Grazing Permit Committee established under Section 19 of this Act;

“community” means a clearly defined group of users of land on the basis of ethnicity, culture or similar community of interest as provided under Article 63(1) of the Constitution, which holds a set of clearly defined rights and obligations over land and land-based resources;

“County Executive Committee Member” means the County Executive Committee member for the time being responsible for Livestock;

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“farming area” means an area where farming is practiced or an area identified, allocated and demarcated for farming purposes;

“grazing area” means an area identified and designated for grazing purposes in accordance with this Act;

“interest” means a right in or over land;

“livestock” means all domestic animals including cattle, camels, goats, sheep, pigs, donkeys, horses and includes other animals designated by the regulations as livestock for the purposes of all or part of this Act or the regulations;

“natural resources” means the physical non-human factors and components whether renewable or non-renewable;

“Panel” means a Grazing Permit Appeals Panel appointed under Section 26 of this Act;

“registrar” means the Registrar of Grazing appointed under Section 36 of this Act; and

“Ward Community Assembly” means a Ward Community Assembly appointed under Section 15 of this Act

3. The object and purpose of this Act is to—

Object and purpose
of this Act.

- (a) address threats in grazing areas accruing from widespread migration of livestock of the County;
- (b) address and influx of migratory grazing, its exacerbation of resource-based conflicts and the spread of diseases;
- (c) tackle frequent and severe droughts coupled with overstocking and degradation of the environment;
- (d) deal with issues of tenure security in grazing areas;
- (e) identify grazing areas and designate this area for planned sustainable use;
- (f) promote the role of pastoral communities in the sustainable management of use of the grazing resources;
- (g) guarantee equal access to grazing resources to all members of the communities residing in the

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county including women and people with special needs;

- (h) establish process for the resolution of disputes internally, as well as cross-boundary disputes; and
- (i) ameliorate opportunities to use and access improved technologies in the enhancement of the grazing resource use.

4. Whenever there is a conflict—

Conflict of laws.

- (a) between this Act and national legislation, Article 191 of the Constitution shall prevail;
- (b) between this Act and a legislation of another county, the provisions of this Act shall prevail;
- (c) between this Act and another legislation of Tana River County, the provisions of this Act shall prevail.

5. In the performance of the functions and exercise of powers under this Act, every person dealing with land shall be guided by—

Guiding principles.

- (a) the principles of the land policy set out in Article 60 of the Constitution;
- (b) the national values and principles of governance set out in Article 10 of the Constitution.

**PART II — ADMINISTRATION AND
MANAGEMENT**

Grazing Management Board

6. (1) There is hereby established a Board to be known as the Grazing Management Board at the county level.

Establishment of the Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal.

(3) The Board shall be capable in its corporate name of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and/or disposing of movable and immovable property;
- (c) entering into contract;

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- (d) borrowing and lending money;
- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act, and which may lawfully be done or performed by a body corporate.

7. (1) The Board shall comprise of not fewer than five and not more than nine members.

Composition of the Board.

(2) The Board shall consist of—

- (a) a Chairperson nominated and appointed by the Governor, with the approval of the County Assembly;
- (b) County Executive Committee member, department responsible for livestock;
- (c) Chief Officer, department responsible for land or his or her representative;
- (d) Chief Officer, department of finance or his or her representative;
- (e) a surveyor;
- (f) a legal practitioner; and
- (g) such other persons, not more than three, as the Board may co-opt from time to time.

(3) The members referred to in subsection (2) paragraphs (b) to (c) shall be *ex officio* members of the Board.

(4) The members of the Board referred to in subsection (2) paragraphs (e) to (g) shall be appointed by the County Executive Committee member, with the approval of the County Assembly.

(5) In exercising the power conferred under subsection (4), the appointing authority shall consider the following—

- (a) priority to be given to persons who ordinarily reside within the county;
- (b) not more than one third of the persons appointed shall be of the same gender; and
- (c) persons living with disabilities and youth should also be represented.

(6) The County Public Service Board may, where necessary, for purposes of strengthening the capacity of the

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Board, designate such technical or professional staff having expertise relating to—

- (a) land administration and management;
- (b) agriculture and livestock;
- (c) environment, geology and natural resources;
- (d) water management;
- (e) planning;
- (f) survey
- (g) legal matters;
- (h) investment and economic matters;
- (i) wildlife and forestry; and
- (j) any other areas that requires technical expertise.

(7) The Board shall be registered in accordance with this Act or any other relevant legislation.

8. (1) There shall be a Secretary to the Board who shall be appointed by the County Executive Committee member and who shall be the chief executive officer of the Board, and shall be responsible for the management of the day-to-day activities of the Board.

Secretary to the Board.

(2) The Secretary shall be the head of the Secretariat and shall be responsible to the Board in ensuring that the Secretariat satisfactorily carries out duties and performs functions assigned to it by the Board.

(3) The Secretary shall be an *ex officio* member of the Board and shall have no right to vote at the meetings of the Board.

9. (1) A person shall qualify to be elected as a member of the Board under section (7) (2) (g) if he or she—

Qualification for Appointment to the Board.

- (a) is a citizen of Kenya;
- (b) complies with the requirements of Chapter Six of the Constitution;
- (c) is of sound mind;
- (d) has at least completed O Level from a recognised institution.

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(2) A person shall qualify to be elected as a member of the Board under section (7)(2) paragraphs (e) and (f) if he or she—

- (a) complies with the requirements stipulated in subsection (1) paragraphs (a) to (c) above;
- (b) has at least a Bachelors Degree from a recognised university; and
- (c) has been duly registered with the relevant professional body.

(3) A person shall qualify to be elected as the Chairperson to or Secretary to the Board under section (7)(2) paragraph (a) if he or she—

- (a) complies with the requirements stipulated in subsection (1) paragraphs (a) to (c) above; and
- (b) has at least attained postgraduate from a recognised university.

10. (1) A person who is a member of the Board, other than an *ex officio* member, may be removed from or cease to be a member of the Board if he or she—

Removal from the Board.

- (a) resigns in writing under his or her hand to the appointing authority;
- (b) ceases being a citizen of Kenya;
- (c) violates the Constitution;
- (d) exhibits gross misconduct in the performance of his or her functions;
- (e) is incompetent or neglects duty;
- (f) becomes physical or mental incapacitated to an extent of being incapable to perform the functions of office;
- (g) is convicted of a criminal offence—
 - (i) and sentenced to a term of imprisonment of not less than six months; or
 - (ii) which directly or otherwise reflects adversely on his status as a member of the Board;
- (h) is adjudged bankrupt by a competent court of law; or
- (i) dies.

(2) The provisions of sub section (1) shall apply to the removal of the Chairperson.

(3) An *ex officio* member shall cease holding office or being a member of the Board when he or she ceases being a holder of the relevant office.

11. (1) The functions of the Board shall, subject, to this Act and any other applicable law, include—

Functions of the Board.

- (a) carrying out research on matters relating to management of grazing areas generally and matters relating to the use of technology in the management of grazing areas for economic benefits;
- (b) overseeing the development of grazing plans;
- (c) maintaining an up to date database or inventory of all its activities;
- (d) preparing a comprehensive record of the demarcated grazing area as approved by the Ward Community Assemblies;
- (e) overseeing the collection and remittance of any fees issued in connection or contiguous to the use and transit through grazing areas;
- (f) managing income accruing to the community for community good, purpose and interest;
- (g) keeping and updating all records showing monetary accruals;
- (h) facilitating the committees in the discharge of their functions;
- (i) organising and facilitating democratic election of members of the Committees;
- (j) overseeing, supervising and regulating the committees in their management and administrative functions over grazing areas;
- (k) continuously monitoring and evaluating compliance by the committees with the provisions of this Act or any other applicable law;
- (l) ensure the protection of all land uses in the County and harmonious co-existence amongst all land users in the County;

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- (m) developing a monitoring and evaluation framework for the Ward Community Assemblies and their Committees in the management of the grazing area;
- (n) in partnership with other constitutional and legal government bodies, ensuring compliance in addressing all historical land issues in the County;
- (o) managing and solving disputes or differences that may arise between the various Ward Community Assemblies;
- (p) manage conflicts, which are not of criminal nature arising, between internal and external graziers as well as internal graziers, farmers and agro-pastoralists; and between;
- (q) promoting the participation of community members in the decision making of the committees;
- (r) receive bi-annual reports from the committees for onward transmission to the county Assembly on the status of the implementation of the functions and obligations under this Act;
- (s) collate all reports and prepare the annual report to the County Executive for submission to the County Assembly on the status of grazing areas; and
- (t) doing or performing any other functions as may be assigned by legislation.

(2) In the performance of its functions and obligations under sub section (1), the Board shall oversee the effective coordination of the operations of all the Ward Community Assemblies and their Committees and Panels.

12. The Board shall have power to—

Powers of the Board.

- (a) ensure compliance and enforcement of provisions of this Act;
- (b) receive and hear appeals on decisions made by a Grazing Permit Appeals Panel; and
- (c) any other power that may be assigned to it by legislation.

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13. (1) The business and affairs of the Board and annual general meetings shall be conducted in accordance with the Sixth Schedule.

Meetings of the Board.

(2) Without prejudice to subsection (1), the Board may regulate its own procedure.

(4) The Board may invite any person including a technical or professional expert where required to attend any of its meetings and to participate in its deliberations, but such a person shall not have a vote in any decision of the Board.

14. (1) A member of the Board, including the Chairperson, other than an *ex officio* member shall hold office for a period of three consecutive years and may be eligible for re-appointment for another one further and final term of three years.

Board's Term of Office.

(2) The Secretary shall hold office for six years and shall be eligible for re-appointment.

(3) A member of the Board, including the Chairperson and the Secretary, other than an *ex officio* member may however choose to leave office at any time before the end of the term by resigning.

Ward Community Assembly

15. (1) There shall be established a Ward Community Assembly in respect of each ward.

Established of Ward Community Assembly.

(2) A Ward Community Assembly shall consist of all adult members of the community in a ward.

16. The functions of a Ward Community Assembly shall, subject to this Act, include—

Functions of Ward Community Assembly.

- (a) identification and demarcation of areas that may be used for grazing;
- (b) preparing a comprehensive record of the demarcated grazing area;
- (c) identification of the seasons of use and the approximate carrying capacity of a grazing area;
- (d) developing grazing plans in collaboration with the relevant authorities;
- (e) resolving of grazing related disputes, which are not of criminal nature, arising within its area of jurisdiction;

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- (f) receiving complaints in relation to the grazing areas under its jurisdiction;
- (g) preparation of a schedule of all complaints arising in their areas of jurisdiction and their status to be presented quarterly to the Board;
- (h) preparation and submission of reports on the status of grazing areas, bi-annually, to the Board for transmission to the County Assembly; and
- (i) performing any other function that may be assigned to it by legislation.

17. A Ward Community Assembly shall have all powers necessary for the proper performance of its functions under this Act and without prejudice to the generality of the foregoing, shall have powers to—

Powers of Ward
Community
Assembly.

- (a) remove members of a Grazing Permit Committee under its jurisdiction;
- (b) remove members of a Grazing Appeals Panel under its jurisdiction;
- (c) approve short-term grazing agreements with external and transiting graziers within the grazing areas under its jurisdiction;
- (d) manage all records on benefits accruing from the grazing resources;
- (e) assist in the resolution of disputes amongst residents in its respective areas of jurisdiction; and
- (f) safeguard the interests of the residents of its respective ward at all times and ensure their priority in the use and access of the resources.

18. (1) The business and affairs of a Ward Community Assembly and annual general meetings of the community members shall be conducted in accordance with the Fifth Schedule.

Meetings of Ward
Community
Assembly.

(2) Without prejudice to subsection (1), a Ward Community Assembly may regulate its own procedure.

(3) A Ward Community Assembly may invite any person including a technical or professional expert where required to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of a Ward Community Assembly.

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Grazing Permit Committee

19. (1) There shall be established, for every ward, a Committee to be known as the Grazing Permit Committee.

Establishment of
Grazing Permit
Committee.

(2) A Grazing Permit Committee shall consist of not less than three and not more than seven members.

(3) The Ward administrator shall be the Chairperson and an *ex officio* member of a Grazing Permit Committee under his or her jurisdiction.

(4) Members of a Grazing Permit Committee other than an *ex officio* member, shall be elected by the respective Ward Community Assembly.

(5) Each Committee shall have a Secretary who shall be elected by the members in their first meeting from among themselves.

(6) The membership of a Committee shall observe the principle that not more than two-thirds of its members shall be of one gender.

20. A person shall qualify to be elected as a member of a Grazing Permit Committee if he or she—

Qualification for
Appointment to a
Committee.

- (a) is a citizen of Kenya;
- (b) complies with the requirements of Chapter Six of the Constitution;
- (c) is of sound mind;
- (d) has at least a diploma from a recognised institution.

21. (1) A person who is a member of a Committee other than an *ex officio* member, may be removed from or cease to be a member of a Committee if he or she—

Removal from a
Committee

- (a) resigns;
- (b) ceases being a citizen of Kenya;
- (c) violates the Constitution;
- (d) exhibits gross misconduct in the performance of his or her functions;
- (e) is incompetent or neglects duty;
- (f) becomes physical or mental incapacitated to an extent of being incapable to perform the functions of office;

- (g) is convicted of a criminal offence—
 - (i) and sentenced to a term of imprisonment of not less than six months; or
 - (ii) which directly or otherwise reflects adversely on his status as a member of the Board;
- (h) is declared bankrupt; or
- (i) dies.

(2) An *ex officio* member shall cease holding office or being a member of a Committee when he or she ceases being a holder of the relevant office.

22. A Committee shall, subject to this Act and any other applicable law—

Functions of a Committee.

- (a) be responsible for issuance of grazing permits;
- (b) receive and process applications for grazing permits;
- (c) oversee the collection and remittance of any fees issued in connection or contiguous to the use and transit through grazing areas;
- (d) manage all records on permits issued in their respective areas of jurisdiction;
- (e) maintain an up to date database or inventory of all its activities; and
- (f) perform any other function that may be assigned to it by legislation.

23. A Committee shall have power to—

Powers of a Committee.

- (a) ensure compliance and enforcement of any conditions or restrictions attached to or imposed on a permit;
- (b) issue permit;
- (c) decline the issuance of permit;
- (d) revoke a permit; and
- (e) alter a permit.

24. (1) The business and affairs of a Committee and annual general meetings shall be conducted in accordance with the Seventh Schedule.

Meetings of a Committee.

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(2) Without prejudice to subsection (1), a Committee may regulate its own procedure.

(3) A Committee may invite any person including a technical or professional expert where required to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of a Committee.

25. (1) A member of a Committee, other than an *ex officio* member, shall hold office for a term of three consecutive years and shall be eligible for reappointment for another one further and final term of three consecutive years.

Committee's Term
of Office.

(2) A member of a Committee, other than an *ex officio* member may however choose to leave office at any time before the end of the term by resigning.

Grazing Permit Appeals Panel

26. (1) There shall be established a Grazing Permit Appeals Panel in respect of each ward.

Establishment of
Grazing Permit
Appeals Panel.

(2) A Grazing Permit Appeals Panel shall consist of not less than three and not more than five members

(3) One village administrator shall be among the members of the Panel, and who shall be an *ex officio* member of the Panel subject to the following—

- (a) the membership of the village administrators under this sub section shall be on a rotational basis until;
- (b) no village administrator shall serve for more than one term in a consecutive sequence;
- (c) the village administrators in each ward shall determine the order in which each one of them would serve in the Panel in their respective Wards and the list should be submitted to the respective Ward Community Assembly.

(4) Members of a Grazing Permit Appeals Panel, other than an *ex officio* member, shall be elected by the respective Ward Community Assembly.

(5) Each Panel shall have a chairperson who shall be elected by the members in their first meeting from among themselves.

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(6) The membership of a Panel shall observe the principle that not more than two-thirds of its members shall be of one gender.

27. A person, other than an *ex officio* member, shall qualify to be elected as a member of a Grazing Permit Appeals Panel if he or she—

Qualification for
Appointment to a
Panel.

- (a) is a citizen of Kenya;
- (b) complies with the requirements of Chapter Six of the Constitution;
- (c) is of sound mind;
- (d) has at least a diploma from a recognised institution.

28. (1) A person who is a member of a Panel, other than an *ex officio* member, may be removed from or cease to be a member of a Panel if he or she—

Removal from a
Panel.

- (a) resigns;
- (b) ceases being a citizen of Kenya;
- (c) violates the Constitution;
- (d) exhibits gross misconduct in the performance of his or her functions;
- (e) is incompetent or neglects duty;
- (f) becomes physical or mental incapacitated to an extent of being incapable to perform the functions of office;
- (g) is convicted of a criminal offence—
 - (i) and sentenced to a term of imprisonment of not less than six months; or
 - (ii) which directly or otherwise reflects adversely on his status as a member of the Board;
- (h) is declared bankrupt; or
- (i) dies.

(2) An *ex officio* member shall cease holding office or being a member of a Panel when—

- (a) the term of being a member as stipulated under section 26 (3) expires; or

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- (b) a person ceases being a holder of the relevant office.

29. A Panel shall, subject to this Act and any other applicable law—

Functions of a Panel.

- (a) be responsible for the receipt and processing of applications for appeals regarding grazing permits, whether an application was approved or declined by a Committee;
- (b) manage all records on appeals regarding grazing permits issued in their respective areas of jurisdiction;
- (c) maintain an up to date database or inventory of all its activities; and
- (d) perform any other function that may be assigned to it by legislation.

30. A Panel shall have power to—

Powers of a Panel.

- (a) ensure compliance and enforcement of the provisions of this Act regarding issuance of permits; and
- (b) reverse a decision of a Committee where there is proof that a Committee erred in arriving at a particular decision in the issuance of permits under this Act.

31. (1) The business and affairs of a Panel and annual general meetings shall be conducted in accordance with the Seventh Schedule with the necessary modifications.

Meetings of a Panel.

(2) Without prejudice to subsection (1), a Panel may regulate its own procedure.

(3) A Panel may invite any person including a technical or professional expert where required to attend any of its meetings and to participate in its deliberations, but such person shall not have a vote in any decision of a Panel.

32. (1) A member of a Panel, other than an *ex officio* member, shall hold office for a term of two consecutive years and shall be eligible for reappointment for another one further and final term of two consecutive years.

Panel's Term of Office.

(2) A member of a Panel, other than an *ex officio* member, may however choose to leave office at any time before the end of the term by resigning.

33. (1) A member of the Board, including the Chairperson, Secretary and *ex officio* members, shall not take office before taking oath as prescribed under the first schedule.

Oath of Office.

(2) A member of a Committee, including the Chairperson and *ex officio* members, shall not take office before taking oath as prescribed under the second schedule.

(3) A member of a Panel, including the Chairperson and *ex officio* members, shall not take office before taking oath as prescribed under the third schedule.

(4) Any person who violates the provisions of this Section commits an offence and upon conviction shall be liable to a fine not exceeding fifty thousand or imprisonment for a term not exceeding six months or both.

34. (1) A decision of a Ward Community Assembly shall be binding if it is supported by if it is supported by at least two thirds of the registered adult members of the Ward Community Assembly.

Decision Making.

(2) A decision of the Board shall be by a majority of the members present.

(3) A decision of a Grazing Permit Committee shall be binding if it is supported by a simple majority of the members present in a meeting.

(4) A decision of a Grazing Permit Appeals Panel shall be binding if it is supported by a simple majority of the members present in a meeting.

35. (1) Subject to this Act and any other written law, a Ward Community Assembly may make rules for regulating the management and administration of grazing areas under its jurisdiction.

Grazing Area
Management Rules.

(2) Such rules may provide for—

- (a) the regulation of investments on the land;
- (b) the determination of terms of any leases granted for purposes of investment;
- (c) the conservation and rehabilitation of the land;
- (d) land use and physical planning; and
- (e) any other relevant matter.

36. (1) There shall be appointed by the County Public Service Board, a Registrar of Grazing who shall be a public officer as may be considered necessary for the effective discharge of functions under this Act.

Registrar of Grazing.

(2) Any officer appointed under this Act shall be competitively recruited and vetted by the County Public Service Board.

37. A person shall qualify for appointment as Registrar of Grazing if such a person—

Qualification for
Appointment as
Registrar.

- (a) is a citizen of Kenya;
- (b) holds a degree from a university recognised in Kenya;
- (c) is an advocate of the High Court of Kenya of not less than five years standing, a land surveyor, a land economist or an expert in any other relevant field;
- (d) has had at least ten years experience in land administration or management; and
- (e) meets the requirements of chapter six of the Constitution.

PART III — RECOGNITION AND PROTECTION OF GRAZING RIGHTS, GRAZING CONTROL AND MANAGEMENT

38. (1) Pursuant to Article 66 of the Constitution, the State shall have the power to regulate the use of any land, or interest in or right over land, in the interest of defence, public safety, public order, public morality, public health or land use planning.

General Regulation
of Land.

(2) Despite the provisions of subsection (1) and pursuant to section 22 of the Fourth Schedule to the Constitution, the management of grazing areas shall be subject to national and county government laws and policies relating to—

- (a) fishing, hunting and gathering;
- (b) protection of animals and wildlife;
- (c) water protection, securing sufficient residual water, hydraulic engineering and safety of dams;
- (d) forestry;

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- (e) environmental laws;
- (f) energy policy; and
- (g) exploitation of minerals and natural resources.

39. (1) No person shall be allowed to graze livestock within the county without obtaining a grazing permit unless provide otherwise by legislation.

Grazing Permit.

(2) Despite the provision of subsection (1), a permit shall not be required for residents of Tana River County who graze their livestock within their respective wards of residence.

(3) A grazing permit shall be mandatory in the case of—

- (a) a grazier from another county who wishes to come to Tana River County with his or her livestock to graze;
- (b) a grazier from another county who wishes to transit across or through the county with his or her livestock; or
- (c) a grazier from within the county wishing to move, with his or her livestock, from his or her ward of residence to another ward for purposes of looking for pasture.

40. (1) Grazing permit shall be issued by the respective Grazing Permit Committee and consented to by the respective Ward Assembly Committee.

Issuance of Permit.

(2) Grazing permits shall be issued only to citizens of Kenya or to those who have filed the necessary declarations of intention to become such, as required by the naturalisation laws, and to groups, associations, or corporations authorised to conduct business under the laws of Kenya.

(3) A Grazing Permit Committee shall grant permits only in respect of the areas under its jurisdiction.

(4) A permit shall specify the period and such conditions as may be necessary.

(5) A grazing permit shall contain a condition limiting the class or number of animals that may be allowed in the grazing area to which it relates, or in such part of such grazing area as may be specified.

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(6) A Committee shall specify from time to time the number of stock and seasons of use.

(7) A Committee, in consultation with its Ward Community Assembly, may assign a distinctive number or letter or a combination of number and letter to areas authorised for grazing under this Act.

(8) A permit shall not be issued in respect of areas which have not been authorised to be used for grazing.

(9) In the issuance of permits, priority shall be given to those within or near an authorised grazing area.

41. (1) Every application for the grant or renewal of a grazing permit shall be in such form as may be determined by the Board and shall be accompanied by the appropriate fee.

Application for a
Permit.

(2) Every application for the grant or renewal of a grazing permit shall relate to one grazing area only.

(3) In this Act "the appropriate fee" means a fee determined by reference to the number of animals per herd in the grazing area to which the application relates during the calendar year immediately preceding the date of the application.

(4) An application for a permit shall be made to the respective Committee in the areas where the grazing area being applied for is situated.

(5) The application under this section shall contain—

- (a) a comprehensive proposal on the nature, orientation and other justification for the need to graze in the area in question;
- (b) a disclosure as to whether the applicant has been previously convicted of an offence under this Act or any other related legislation at any time in force, giving full particulars of the offence of which he or she was convicted, of the court by which he was convicted, of the date of the conviction; and
- (c) such other matters as may be prescribed.

(6) A Committee shall, within twenty-one consecutive days after the submission of application for a permit, prepare a notice setting forth the names of all applicants, the types of permits applied for, the areas in respect of

which the permits are applied and the time, date and place of a hearing meeting, and shall forthwith cause a copy of the notice to be published and posted in some conspicuous public places including offices of the different administrators within the respective Ward for a period of not less than twenty-one consecutive days;

(7) Any person may lodge objection to an application.

(8) Every objection to an application shall be made in writing to the Secretary to the relevant Committee, at least seven days before the hearing of the application.

(9) A Committee may of its own motion take notice of any matter or thing which, in the opinion of the Committee, constitutes an objection to an application, whether or not any objection has been otherwise lodged.

(10) Where in respect of an application a Committee acts in pursuance of subsection (9), the Committee shall inform the applicant of the nature of the objection, and shall, if the applicant so requests, adjourn the hearing for such period, not being less than seven days, as the Committee considers necessary to enable the applicant to reply thereto.

(11) Every person making an application shall, save as otherwise provided, appear in person or by an advocate before a Committee, and shall satisfy the Committee that there is need for the grant of a permit of the type applied for in the particular locality in respect of which the application is made.

(12) A Committee may require the personal appearance before it of the applicant, and of any other person whose attendance is considered by the committee to be necessary.

(13) Any objector may appear personally or by an advocate at the hearing of the application.

(14) A local authority may authorise, in writing, any person to appear before any Committee having jurisdiction in any part of the area within the jurisdiction of the local authority for the purpose of representing the inhabitants of that part in respect of any objection lodged to an application.

(15) Where a Committee considers it necessary to take evidence respecting any question to be determined by the court, such evidence shall be given on oath, and the chairperson shall be empowered to administer oaths.

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(16) For the purposes of Chapter XI of the Penal Code (Cap. 63) (which concerns offences relating to the administration of justice), all proceedings before a Committee shall be deemed to be judicial proceedings.

(17) Every Committee shall maintain records of all its proceedings, and, in particular, of the purpose for which an application was made, and notes of the evidence given and of the arguments adduced and the decision of the court thereon.

(18) A Committee shall, within twenty-one days of receipt of an application, record the application and assess the same on the basis of the objections received if any and the interests of the ward, and shall ensure that—

- (a) the available areas are suitable with regard to the nature of the permit being sought; and
- (b) the areas conform to the prescribed requirements of the occupational health and safety regulations.

42. (1) A Committee may upon expiration, renew a permit if it considers it reasonable to do so.

Renewal of Permit.

(2) No permit holder who has complied with the rules and regulations laid down shall be denied renewal of such permit.

43. (1) A Committee shall not grant or renew a permit under this Act unless the applicant has paid the appropriate fee.

Permit fee.

(2) The grazing fees shall be determined by the Board, in consultation with the Ward Community Assemblies, with the approval of the County Assembly.

(3) The Board may, by regulations, vary the amount of the appropriate fee.

(4) Any person who contravenes the provision of this section commits of an offence and upon conviction shall be liable to a fine of Kenya shillings ten thousand per permit.

44. A permit shall have effect and force only for the period of its validity.

Validity of a Permit.

45. (1) A holder of a grazing permit shall not transfer the permit to any other person and any such purported transfer shall be void and of no effect.

Non-transferability.

(2) Where the holder of a grazing permit dies, the permit shall continue in full force and effect for the benefit of the permit holder's personal representative, or, as the case may be, his or her spouse or any other member of his or her family, for the period of four months, or for the period then unexpired of the term of the permit, whichever is the longer, after the death of the permit holder and shall then expire.

46. (1) A Committee may, at any time, when it considers it proper to do so, refuse an application for the grant or renewal of a grazing permit.

Denial of Permit.

(2) Whenever a Committee decides to refuse an application for the grant or renewal of a grazing permit, it shall, by at least 21 days' notice in writing, notify the applicant—

- (a) of its decision and of the reasons therefor;
- (b) of the time limit within which, and of the manner in which, an appeal or application for review against such decision may be made to the relevant Panel within 21 days of the denial; and
- (c) if, at the date on which such application is made, the areas to which the application relates are used as a grazing area, whether such areas may, in accordance with the provisions of this Act, continue to be so used.

47. In case the permit holder feels unjustly treated by a committee in the renewal of the permit he or she has a right to make an application to the relevant Panel to review the decisions of a committee.

Review.

48. (1) A permit shall not be issued to any person who—

Who qualifies for a permit.

- (a) has failed to satisfy a Committee, if called upon to do so, of his or her good character and standing in relation to the expectations in this Act;
- (b) has been convicted of grazing without a permit or of any offence against any law for the time being in force relating to grazing;
- (c) has been convicted of an offence and sentenced to imprisonment without the option of a fine in

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Kenya or elsewhere for a period in excess of six months;

- (d) is not resident in Kenya;
- (e) is under eighteen years of age; or
- (f) is an undischarged bankrupt.

(2) An existing permit may not be renewed if a Committee is satisfied that—

- (a) the permittee is not a fit and proper person to hold the permit; or
- (b) the permittee has been convicted of an offence under this Act or any related legislation at any time in force; or
- (c) has been convicted of an offence and sentenced to imprisonment without the option of a fine in Kenya or elsewhere for a period in excess of six months; or
- (d) the grazing to which the permit relates is conducted in a manner that is in breach of this Act, or any other rules and regulations for the time being in effect, or conditions set by a Committee; or
- (e) the conditions of the permit have not been satisfactorily fulfilled; or
- (f) the areas to which the permit relates are not in a proper state of repair, or do not comply with the reasonable requirements of health and safety and in the case of private land the owner of the areas or is unable to give satisfactory guarantees that the necessary repairs will be carried out, or due compliance effected, as the case may be, within a time specified by a Committee.

49. (1) A Committee shall, at any time, revoke a grazing permit if it is satisfied that—

Revocation of
Permit.

- (a) the permit has been obtained by fraud or by misrepresentation;
- (b) there has been a contravention of any provision of this Act or of any Regulation made thereunder; or

- (c) the holder of a permit has not, within a reasonable time, complied with the requirements of this Act.

(2) Before revoking a grazing permit pursuant to this section, a Committee shall, by at least 21 days notice in writing, notify the holder of the permit of its intention to revoke the permit and of the reasons therefor.

50. (1) A Committee shall, at any time, alter a grazing permit if it is satisfied that—

Alteration of Permit.

- (a) there is an error on the permit;
- (b) there has been a contravention of any provision of this Act or of any regulation made thereunder; or
- (c) the holder of a permit has not, within a reasonable time, complied with the requirements of this Act.

(2) Before altering a grazing permit pursuant to this section, a committee shall, by at least 21 days' notice in writing, notify the holder of the permit of its intention to revoke the permit and of the reasons therefor.

51. (1) There shall be maintained a register of grazing areas in which shall be kept—

Register of Grazing Areas.

- (a) a cadastral map showing the extent of the areas identified for grazing purposes;
- (b) names and identity of all members of each Ward Community Assembly; and
- (c) any other requirement as shall be required under legislation.

(2) The Registrar shall not register any instrument purporting to dispose of rights or interest in the designated grazing areas except in accordance with this Act or any other written law.

(3) A certificate purporting to be under the hand of an officer, authorised by the Board in that behalf, that a grazing area specified in the certificate is not entered in the register shall, until the contrary is proved, be evidence of the matters so certified and it shall not be necessary to prove the signature of such officer, or that he or she was such an officer, or that he or she was in fact so authorised.

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52. (1) Each Committee shall, in collaboration with the Registrar, establish and maintain a register of grazing permits of every permit granted by it under this Act.

Register of Grazing
Permits.

(2) There shall be entered in the register—

- (a) the full name, address and description of the holder of a permit;
- (b) an exact description of the location and the limit and extent of the grazing area to which a permit relates;
- (c) the date on which a permit was issued and the expiry date thereof; and
- (d) such other particulars of, or in respect of, a permit or of the grazing area to which it relates as the Board may, from time to time, direct.

(3) The Registrar shall not register any instrument purporting to dispose of rights or interest in a designated grazing area except in accordance with this Act or any other written law.

(4) Whenever a grazing permit is altered or revoked, there shall be entered in the register such particulars of the alteration or revocation, as the case may be, as the Board may, from time to time, direct.

53. (1) During periods of severe drought or other natural causes, or in cases of outbreaks stock disease, during the life of the permit, a Ward Community Assembly may, in its discretion upon consultation with the Board, authorise a Committee, to remit, reduce, refund in whole or in part, or authorise postponement of payment of grazing fees for such a period so long as the emergency exists.

Waiver of fees.

(2) Such authorisation must also get approval of the Board.

54. A Ward Community Assembly shall permit, under regulations, free grazing where livestock kept for domestic purposes shall be provided for, within the existing law or laws hereinafter enacted.

Grazing for domestic
purposes.

55. Neither the demarcation of a grazing area nor the holding of a grazing permit shall create any right, entitlements, interests or estate in or to the lands.

Permit and Land
Rights.

56. (1) Whenever, in relation to a grazing area, a Ward Community Assembly is of opinion that there is grave and immediate danger—

- (a) to public health arising from the manner in which such grazing area is managed or maintained; or
- (b) by virtue of non-compliance with the provisions of this Act or of regulations made thereunder, a Ward Community Assembly, in consultation with the Board, may suspend such a grazing area, by serving a notice requiring—
 - (i) the immediate closure of such a grazing area or part thereof; and
 - (ii) that the grazing of animals in that grazing area ceases forthwith.

(2) A notice issued under subsection (1) may specify the steps that ought to be taken, or the things that ought to be done, before such grazing area or part thereof, as the case maybe, is reopened or before the grazing of animals is resumed in that grazing area.

(3) Upon service of notice under subsection (1), persons in charge of a grazing area or persons grazing with the suspended area shall forthwith comply with the terms of the notice.

(4) Any person who fails to comply with the terms of a notice issued under subsection (1) shall be guilty of an offence punishable with a fine of not less than Kenya Shillings one hundred thousand.

(5) A notice under subsection (1) of this section shall not be construed in any way affecting any proceedings, whether instituted before or after such notice, in which a contravention of any provision of this Act or of regulations made thereunder is alleged.

(6) Any person aggrieved by a notice under subsection (1) of this Section may, not later than 21 days after the service of the notice, appeal to the Board.

(7) On hearing of an appeal under subsection (6) of this section, the Board may, with the approval of the relevant Ward Community Assembly, cancel or confirm the notice, and the decision of the Board on such hearing shall be final.

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57. (1) Whenever a Committee refuses to grant or renew, or revokes, a grazing permit, the applicant for, or the holder of, such permit may, within 21 days after the date of the service of the notice of, as the case may be, the refusal or revocation, appeal to the relevant Panel against such refusal or revocation.

Appeals Against
Refusal or
Revocation.

(2) Whenever a committee refuses to grant or renew, or revokes, a grazing permit in respect of an area which, at the time a Committee made its decision, was lawfully being used as a grazing area, such an area may, if a committee is satisfied that there is no danger to public health, continue to be used as a grazing area—

- (a) until the time for making an appeal has elapsed; or
- (b) if an appeal is made, until such time as the appeal is first mentioned before the relevant Panel, and thereafter the area may be so used only by leave of the Panel.

(3) Whenever, in a grazing area there is continued grazing, notwithstanding the refusal or revocation of a grazing permit in relation to that area, the provisions of this Act and the regulations made thereunder, shall continue to apply to such areas for purposes of revenue accruals until the actual determination is made.

(4) Should the Board consider it was proper for a Committee to revoke or refuse an application for the grant or renewal of a grazing permit, it shall, by at least 21 days' notice in writing, notify the applicant of its intention to uphold the decision of a Committee and of the reasons therefor.

(5) No decision shall be quashed on appeal solely by reason of any omission or error in such record, unless it appears that a substantial miscarriage of justice has thereby been occasioned.

58. (1) Appeals from the Board shall lie in the Environment and Land Court within twenty-one days from the date of the decision of the Board.

Appeals from the
Board.

(2) On the hearing of an appeal under this Section, the Court may—

- (a) dismiss the appeal, with or without costs; or
- (b) allow the appeal, with or without costs.

(3) On the hearing of an appeal under this section, the onus of establishing that the provisions of this Act in relation to the granting, renewal or continuing in force of a permit have been complied with shall lie on the person making the appeal.

PART IV — SPECIAL RIGHTS, ENTITLEMENTS AND NATURE OF GRAZING

59. Grazing may be allowed on—

Categories of
Grazing Area.

- (a) communal land;
- (b) reserve land; or
- (c) any other category of land approved by a Ward Community Assembly in consultation with the Board.

60. (1) Customs and practices relating to grazing shall be taken into consideration as long as they are—

Grazing Customs
and Traditions.

- (a) not repugnant to justice and morality; and
- (b) consistent with the provisions of this Act, the Constitution and any other applicable law.

(2) The culture of each community shall be recognised in accordance with Article 11(1) of the Constitution.

61. (1) A Ward Community Assembly may reserve special purpose areas within a grazing area including—

Other Land Use
Rights in Grazing
Areas.

- (a) farming areas;
- (b) settlement areas;
- (c) access and rights of way;
- (d) watering points; or
- (e) any other purpose.

(2) Any area designated for special purposes under subsection (1) shall not be used for unrelated non-designated purposes.

(3) Except with the written authority of the Board and ratification by the relevant Ward Community Assembly, no person shall—

- (a) erect or occupy any building or other structure on a designated grazing area;
- (b) plough or cultivate any portion of a grazing area;

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- (c) obstruct the access to any watering place on the land, or prevent or attempt to prevent any person from drawing water from, or watering stock at, such a watering place, or pollute the water at such watering place or interfere with the operation of any windmill, water-pump, water-pipe, dam or storage tank or other appurtenance installed or constructed at such a watering place; or
- (d) carry on any activity on the land, other than the lawful grazing of stock, which may prevent or restrict the residents of the indigenous community concerned from a reasonable exercise of their grazing rights.

(4) A person who contravenes any provision of this Section commits an offence and shall, upon conviction, be liable to a fine not exceeding one hundred thousand Kenyan shillings or imprisonment for a period not exceeding one year.

62. Nothing in this Act shall be construed in any way to diminish or impair the right to the possession and use of water for mining, agriculture, manufacture, or other purpose which has heretofore vested or accrued under existing law validly affecting the lands or which may be hereafter initiated or acquired and maintained in accordance with the law.

Water Rights.

63. Nothing contained in this Act shall restrict the acquisition, granting or use of permits or rights of way within a grazing area under the existing laws.

Fences,
Improvements
Right of way.

64. (1) Nothing contained in this Act shall restrict prospecting, locating, developing, mining, entering, or patenting the mineral resources in a grazing area under applicable law thereto.

Developing of
Mineral resources.

(2) Subject to any other law, natural resources found in a grazing area shall be used and managed—

- (a) sustainably and productively;
- (b) for the benefit of the whole community including future generations;
- (c) with transparency and accountability; and

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- (d) on the basis of equitable sharing of accruing benefits.

65. Nothing contained in this Act shall prevent the use of timber, stone, gravel, clay, coal, and other deposits by miners, prospectors for mineral, *bonafide* settlers and residents, for firewood, fencing, buildings, and domestic purposes within areas subject to the provisions of this Act.

Use of Natural
Resources.

66. Neither the Board nor the committee shall allocate any part of a grazing area to a member or a group of members of a community for exclusive use and occupation.

Exclusive Use and
Occupation.

67. Nothing in this Act shall be construed in any way to alter or restrict the right to legitimate permitted hunting and fishing within a grazing area in accordance with the Wildlife Act and any other legislation.

Hunting and Fishing
Rights.

68. Nothing contained in this Act shall prevent or restrict communities who practice gathering from continuing with their traditional lifestyle within grazing areas subject to the provisions of this Act any other legislation.

Gathering Rights.

69. (1) Every member of the community has the right to equal benefit from grazing areas.

Non-discrimination.

(2) Equality includes full and equal enjoyment of rights of use and access.

(3) Women, men, persons living with disabilities and marginalised groups have the right to equal treatment in all dealings in grazing areas.

(4) The Board, committees and the Ward Community Assemblies shall not directly or indirectly discriminate against any member of the community on any ground including race, gender, marital status, ethnic or social origin, color, age, disability, religion or culture.

70. Unless the contrary is expressed in the register, all grazing areas shall be subject to the following overriding interests as may for the time being subsist and affect the same, without their being noted on the register—

Overriding Interests.

- (a) spousal rights over matrimonial property;
- (b) trusts including customary trusts;
- (c) rights of way, rights of water and profits subsisting at the time of first registration under this Act;

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- (d) natural rights of light, air, water and support;
- (e) rights of compulsory acquisition, resumption, entry, search and user conferred by written legislation;
- (f) leases or agreements for leases for a term not exceeding two years, periodic tenancies and indeterminate tenancies;
- (g) charges for unpaid rates and other funds which, without reference to registration under this Act are expressly declared by any written law to be a charge upon land;
- (h) rights acquired or in process of being acquired by virtue of any written law relating to the limitation of actions or by prescription;
- (i) electric supply lines, telephone and telegraph lines or poles, pipelines;
- (j) aqueducts, canals, weirs and dams erected, constructed or laid in;
- (k) pursuant or by virtue of any power conferred by any written law; and any other rights provided under any written law.

71. (1) Any land which has been used, for farming purpose, before the year 1963 shall upon commencement of this Act be deemed to be farming land and such land shall be vested according to the use it was put for.

Conversion of Land.

(2) Any land which has been used communally, for public purpose, before the commencement of this Act shall upon commencement of this Act be deemed to be public land vested in the national or county government, according to the use it was put for.

- (3) Private land may not be used for grazing unless—
 - (a) the owner of the parcel of land consents to such use; or
 - (b) the land is converted to either community or public land by—
 - (i) transfer;
 - (ii) surrender;

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(iii) operation of the law in relation to illegally acquired community or public land; or

(iv) operation of any other written law.

(4) The following areas shall not be converted into grazing areas—

- (a) farming areas;
- (b) settlement areas;
- (c) community conservation areas;
- (d) cultural and religious sites;
- (e) urban development areas;
- (f) heritage sites; and
- (g) any other area as may be determined by the community, county government or national government for the promotion of public interest.

72. (1) No person shall graze livestock in a farming area without seeking consent of the owner or owners, as the case may be.

Grazing in Farming Areas.

(2) Any person who contravenes this Section commits an offence and shall be liable upon conviction—

- (a) to a minimum fine of Kenya shillings one hundred thousand or imprisonment for a term of not less than three years or both; and
- (b) shall pay the cost of the destruction caused to the owner of the farming area.

73. (1) No grazing shall be allowed in non-designated areas.

Grazing in Non-Designated Areas.

(2) Any person who contravenes this section commits an offence and upon conviction shall be liable to a fine of Kenya shillings five hundred thousand or to imprisonment for a term of not less than five years.

PART V — INVESTMENT AND CONSERVATION

74. (1) Where any investment is to be put up in a grazing area, it shall be on the basis of an agreement drawn in accordance with this Section.

Investments and Benefit Sharing.

(2) An agreement relating to investment shall contain provisions on the following aspects—

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- (a) requirement for an environmental, social, cultural and economic impact assessment and measures to mitigate any negative effects;
- (b) continuous monitoring and evaluation of the impact of the investment to the community;
- (c) payment of royalties at 5% to the community;
- (d) requirement for the investor to build capacity and transfer technology to the community; and
- (e) any other particular necessary for purposes of determining how local communities benefit from investments in their land.

(3) Based on the particulars contained in sub section (2), every investor in addition to social corporate responsibilities, shall negotiate with the Board and the Ward Community Assemblies at reasonable terms.

75. (1) The Board may make rules and regulations for the sustainable resource conservation of land based natural resources within the grazing areas.

Resources
Conservation.

(2) Without limiting what the Board may prescribe under subsection (1), the rules and regulations may contain—

- (a) measures to protect critical ecosystems and habitats;
- (b) incentives for communities and individuals to invest in income generating natural resource conservation programs;
- (c) measures to facilitate the access, use and co-management of forests, water and other resources by communities who have customary rights to these resources;
- (d) procedures for the registration of natural resources in an appropriate register;
- (e) procedures on the involvement of stakeholders in the management and utilization of land-based natural resources.

76. The Board is authorised to continue the study of erosion and flood control and to perform such work as necessary to protect and rehabilitate the areas subject to the

Study of erosion
and flood control.

provisions of this Act, through collective interdepartmental funds as shall be available and set aside for that purpose.

PART VI — FINANCIAL PROVISIONS

77. (1) There is hereby established a Fund to be known as the Livestock Grazing Management and Control Fund which shall be managed and administered by the Board.

Establishment of
Fund.

(2) The object and the purpose of the Fund shall be to provide funds to be used for running the activities of the various entities established under this Act in relation to grazing.

78. (1) There shall be credited to the Fund—

Revenue and
expenditure of the
Fund.

- (a) sums of money which may from time to time be voted by the County Assembly for that purpose;
- (b) income from any investment made by the Board;
- (c) any sums of money borrowed by the Board with the consent of the County Executive Committee member;
- (d) any gifts, donations, grants and endowments made to the Fund; or
- (e) and any funds accrued from any other lawful source.

(2) There shall be paid out of the Fund any expenditure approved by the Board and incurred in connection with the facilitation of administration of the functions under this Act.

PART VII — SETTLEMENT OF DISPUTE

79. (1) The Board shall set up dispute resolution mechanisms in accordance with the law.

Dispute Resolution
Mechanism.

(2) In resolving disputes related to grazing area, priority shall be given to—

- (a) alternative dispute resolution mechanisms which includes dispute resolution processes and mechanisms that fall outside the government judicial processes; and
- (b) traditional dispute resolution mechanisms;

(3) Customary law and practice of the locality shall apply to resolve disputes subject to Section 60 of this Act, the Constitution and any other law.

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(4) Any person aggrieved by a decision of a Committee shall first appeal to the respective Panel, and if not satisfied with the resolution of a Panel he or she may further appeal to the Board and then to the court.

(5) The court may—

- (a) confirm, set aside, amend or review the decision which is the subject of the appeal; or
- (b) make any order in connection therewith as it may deem fit.

80. (1) Where a dispute related to grazing occurs, the parties may agree to use mediation to resolve the dispute. Mediation.

(2) The mediator shall be designated upon request by the parties from among members of the community.

(3) The mediation shall take place in a private or in informal setting where the parties participate in the negotiation and design of the format of the settlement agreement.

(4) The mediator shall have the power to bring together persons to a dispute and settle the dispute through the following functions—

- (a) convene meetings for hearing of disputes from parties and keep record of the minutes;
- (b) establish ground rules for the conduct of parties;
- (c) structure and manage the negotiation process and help clarify facts and issues; and
- (d) help the parties to generate options to resolve their dispute.

81. (1) Parties to a dispute may apply for arbitration to a Committee or the Board as the case may be. Arbitration.

(2) An arbitration committee shall be appointed and given the following powers—

- (a) summon witnesses;
- (b) take evidence upon oath or affirmation; and
- (c) require the production of any document deemed necessary for the arbitration.

(3) The Parties shall be bound by the award delivered by an arbitration committee subject to their mutual consent.

PART VIII — GENERAL PROVISIONS

82. Where a person commits an offence under this Act where no penalty has been provided, the person shall upon conviction be liable to imprisonment for a term not exceeding three years or to a fine not exceeding five hundred thousand shillings or to both.

General penalty.

83. Any person found guilty for contravening the provisions of this Act, may further to the penalties issued and at the discretion of the Board be blacklisted and barred from getting a grazing permit for a period of five consecutive years.

Blacklisting of
Offenders.

84. (1) Any person who attempts to influence a member of a Committee, a Panel, the Board, a Ward Community Assembly or any other staff member or an agent of a Committee, a Panel, the Board, or a Ward Community Assembly not to enforce an obligation in terms of this Act, or any other applicable legislation or decision relating to grazing, commits an offence and on conviction shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding two years or both.

Offences and
Penalties.

(2) A member or staff or an agent of a Committee, a Panel, the Board or a Ward Community Assembly who accedes to an attempt mentioned in subsection (1), commits an offence and on conviction shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding two years.

(3) A person who—

- (a) without justification or lawful excuse, obstructs, hinders, threatens a member of a Committee, a Panel, the Board, a Ward Community Assembly or a member of staff or agent acting under this Act;
- (b) submits false or misleading information;
- (c) without reasonable excuse, fails to appear before a meeting of a Committee, a Panel, the Board or a Ward Community Assembly when required to do so;
- (d) misrepresents to or knowingly misleads a member a Committee, a Panel, the Board or a Ward Community Assembly or a member of staff

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or agent of a Committee, a Panel, the Board or a Ward Community Assembly acting under this Act, commits an offence and is liable on conviction to a fine not exceeding five hundred thousand Kenya shillings or to imprisonment for a term not exceeding two years or to both.

(4) Any person who violates or fails to comply with any provision of this Act for which no other penalty is provided, commits an offence and is liable on conviction to a fine not exceeding two hundred and fifty thousand Kenya shillings or imprisonment for a term not exceeding eighteen months or both.”

85. (1) The Board shall publish and publicise all important information affecting the county within its mandate.

Access and
Management.

(2) A person may request for information within the mandate of the Board in the public interest.

(3) A request for information under subsection (2)—

(a) shall be addressed to the Secretary of the Board or such other person as the Board may designate for that purpose;

(b) may, where the Board incurs expense in providing the information, be subject to payment of a reasonable fee; and

(c) may be subject to confidentiality requirements of the Board.

(4) Subject to the provisions of Article 35 of the Constitution and the law relating to freedom of information and data protection, the Board may decline to give information to an applicant where—

(a) the request is unreasonable in the circumstances; or

(b) the applicant fails to satisfy any confidentiality requirements imposed by the Board.

(5) The right of access to information under Article 35 of the Constitution shall be limited to the nature and extent specified under this section.

86. Subject to section 91 of the County Governments Act, the Board shall, in such manner as it considers

Publicity of Board
Contacts.

appropriate, publish a notice for public information specifying—

- (a) the location of their respective offices; and
- (b) their address or addresses, telephone numbers and other means of communication or contact.

87. (1) The County Executive Committee member, in consultation with the Board, shall in relation to grazing areas, make regulations, within three months after the passing of this Act, in respect to all or any of the following matters—

Regulations relating
to Grazing areas.

- (a) the procedure for application and issuance of grazing permits and the manner in which applications will be handled;
- (b) prescribing other functions and procedures of the Committees;
- (c) the manner in which, animals are to be assembled, penned, rested and restrained within grazing areas;
- (d) the washing and disinfecting of animals;
- (e) the times at which grazing may take place;
- (f) the retention, identification and presentation for the purpose of inspection by a veterinary inspector of animals, carcasses, offals and viscera;
- (g) the storage and disposal of carcasses, offals, hides and waste products;
- (h) structures, mechanisms, processes and procedures for community participation including notification and public comment procedures;
- (i) public meetings and hearings taking into consideration special needs of people who cannot read or write, people with disabilities, women and other disadvantaged groups;
- (j) receipt, processing and consideration of petitions, and complaints lodged by members of the public; or
- (k) any other matter that may be provided for by legislation.

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(2) When making regulations or issuing guidelines to provide for or to regulate the matters of this Act, the Board must take into account the capacity of the county and decentralized units therein to comply with those matters.

(3) A provision of a regulation made under this Act may—

- (a) apply generally or be limited in its application;
- (b) apply differently according to different factors;
- (c) authorise any matter or thing to be done from time to time; or
- (d) do any combination of those things.

(4) Any person who contravenes the provisions of Regulations made under this section shall be guilty of an offence.

(5) Pursuant to Article 94 of the Constitution, the legislative authority delegated to the County Executive Committee member in this Act shall be exercised only for the purpose and intent specified in this section and in accordance with the principles and standards set out in the Interpretation and General Provisions Act and the Statutory Instruments Act.

88. The Board shall provide, by suitable rules and regulations, for cooperation with local associations of farmers, stockmen, government land officials, and official State agencies engaged in conservation or propagation of wildlife interested in the use of grazing areas.

Cooperation with
wildlife
Conservation
Associations.

89. (1) The Board shall also be empowered to accept contributions towards the administration, protection, and improvement of lands within or without the exterior boundaries of a grazing area.

Acceptance and use
of
Contributions.

(2) Monies, so received to be covered into the County Treasury as a special fund, which is appropriated and made available until expended, as the Board may direct, for payment of expenses incident to the said administration, protection, and improvement, and for refunds to depositors of amounts contributed by them in excess of their share of the cost.

90. The County Executive Committee member, in consultation with the Board, is authorised to co-operate with departments in government in carrying out the purpose

Cooperation with
Government
departments.

of this Act, and in the coordination of range administration, particularly where the same stock grazes part time in a grazing area and part time in a national forest or other areas of conservation.

91. This Act shall be aligned with the Natural Resource (Benefit Sharing) Bill, 2014 once the latter comes into law. Saving provisions.

SCHEDULES

FIRST SCHEDULE

OATH/AFFIRMATION OF OFFICE: CHAIRPERSON TO / A MEMBER OF / SECRETARY TO THE GRAZING MANAGEMENT BOARD

I having been appointed as the chairperson to/a member of/ Secretary to the Grazing Management Board under the Tana River County Livestock Grazing Control Act, 2017, do solemnly (swear/declare and affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic; that I will faithfully and fully, impartially and to the best of my knowledge and ability, discharge the trust and perform the functions and exercise the powers devolving upon me by the virtue of this appointment without fear, favour, bias, affection, or prejudice. (SO HELP ME GOD).

Sworn/ declared by the said.....

Before me, this.....Day of.....

.....

Judge/ Magistrate/ Commissioner of Oaths

SECOND SCHEDULE

OATH/AFFIRMATION OF OFFICE: CHAIRPERSON TO / A MEMBER OF A GRAZING PERMIT COMMITTEE

I having been appointed as the chairperson to/a member of the (Insert name of Ward) Grazing Permit Committee under the Tana River County Livestock Grazing Control Act, 2017, do solemnly (swear/declare and affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic; that I will faithfully and fully, impartially and to the best of my knowledge and ability, discharge the trust and perform the functions and exercise the powers devolving upon me by the virtue of this appointment without fear, favour, bias, affection, or prejudice. (SO HELP ME GOD).

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Sworn/ declared by the said.....

Before me, this.....Day of.....

.....

Judge/ Magistrate/ Commissioner of Oaths

THIRD SCHEDULE

**OATH/AFFIRMATION OF OFFICE: CHAIRPERSON TO / A
MEMBER OF A GRAZING PERMIT APPEALS PANEL**

I having been appointed as the chairperson to/a member of the (Insert name of Ward) Grazing Permit Appeals Panel under the Tana River County Livestock Grazing Control Act, 2017, do solemnly (swear/declare and affirm) that I will at all times obey, respect and uphold the Constitution of Kenya and all other laws of the Republic; that I will faithfully and fully, impartially and to the best of my knowledge and ability, discharge the trust and perform the functions and exercise the powers devolving upon me by the virtue of this appointment without fear, favour, bias, affection, or prejudice. (SO HELP ME GOD).

Sworn/ declared by the said.....

Before me, this.....Day of.....

.....

Judge/ Magistrate/ Commissioner of Oaths

FOURTH SCHEDULE**COMMUNITY PARTICIPATION GUIDELINES**

The following guidelines shall guide the Board while conducting community participation activities:

1. Build a realistic timeframe for the consultation, allowing reasonable period for each stage of the process
2. Be clear as to the type of the public, community or profession to be consulted, the issues or matter for consultation and for what specific purpose.
3. Ensure that the consultation document is as simple and concise as possible, providing the summary of the issues or matter for consultation and clearly setting out the questions to be address.
4. Publish and distribute the documents as widely as possible, including but not limited to providing hard copies, community radio announcements and traditional media.

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5. Ensure that all responses are carefully and open-mindedly analysed and the results made widely available to the public, including an account of the views expressed and the reasons for the decisions taken.

6. Disclose all information relevant for the community to understand and evaluate the decision.

7. Ensure that stakeholders have fair and equal access to the community participation process and their opportunity to influence decisions.

8. Ensure that all commitments made to the community, including those by the decision-maker, are made in good faith.

9. Undertake and encourage actions that build trust and credibility for the process among all the participants.

10. Be personally responsible for the validity of all data collected, analyses performed, or plans developed by it or under its direction.

11. Ensure that there is no misrepresentation of work performed or that was performed under the relevant body's direction.

12. Examine all of its relationships or actions, which could be legitimately interpreted as a conflict of interest by clients, officials, the public or peers.

13. Should not engage in conduct involving dishonesty, fraud, deceit, misrepresentation or discrimination.

14. Should not accept fees wholly or partially contingent on the client's desired result where that desired result conflicts with its professional judgment.

FIFTH SCHEDULE

**MEETINGS AND PROCEDURE FOR A WARD COMMUNITY
ASSEMBLY**

1. Each Ward Administrator shall convene the first meeting of the Ward Community Assembly under his or her jurisdiction.

2. Each Ward Community Assembly shall, on its first meeting, decide—

- (a) when and where it meets;
- (b) who shall convene all meetings after the initial meeting;
- (c) who shall preside over its meetings;
- (d) who shall take minutes of its meetings and deliberations; and
- (e) the quorum for its meetings.

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3. Unless three quarters of the members otherwise agree, at least seven days notice in writing of a meeting shall be given to every member of a Ward Community Assembly.

4. If any person has a personal or fiduciary interest in any matter before a Ward Community Assembly, and is present at a meeting of the Ward Community Assembly at which any matter is the subject of consideration, that person shall as soon as is practicable after the commencement of the meeting, declare such interest and shall not take part in any consideration or discussion of, or vote on any question touching such matter.

5. A disclosure of interest made under paragraph 4 shall be recorded in the minutes of the meeting at which it is made.

6. A person who contravenes paragraph 7 commits an offence and is liable, upon conviction, to a fine not exceeding one hundred thousand, or to imprisonment for a term not exceeding one year or to both.

7. A question before the meeting shall be decided with a supporting vote of at least two thirds of the members present.

8. Each Ward Community Assembly shall keep minutes of proceedings of its meetings and decisions taken.

SIXTH SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

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

Meetings of the Board.

(2) The Chairperson shall convene the ordinary meetings of the Board.

(3) The County Executive Committee member shall convene the first meeting of the Board.

(4) Despite the provisions of sub-paragraph (2), the Chairperson shall, upon a written request by at least five members of the Board, convene a special meeting of the Board at any time where he or she considers it expedient for the transaction of the business of the Board.

(5) Unless three quarters of the total number of the 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 by the chairperson.

(6) The quorum for the conduct of the business of the Board shall be two-thirds of the total number of members including the Chairperson or the person presiding.

(7) The Chairperson shall preside at every meeting of the Board at which he or she is present and in his or her absence, the members of the Board present shall elect one person from their number to preside over the meeting of the Board and he or she shall have all the powers of the Chairperson.

(8) 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 the case of an equality of votes, the Chairperson or person presiding over the meeting shall have a casting vote.

(9) The proceedings of the Board shall not be invalidated by reason of a vacancy within its membership.

(10) Subject to 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 thereof.

2. (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, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

Disclosure of
Interest.

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

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of the Board by any person generally or specially authorised by the Board for that purpose.

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*Tana River County Livestock Grazing Control***SEVENTH SCHEDULE****CONDUCT OF BUSINESS AND AFFAIRS OF THE
COMMITTEE**

1. (1) A Committee shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

Meetings of a
Committee.

(2) The Chairperson shall convene the ordinary meetings of a Committee.

(3) Despite the provisions of sub-paragraph (1), a Chairperson shall, upon a written request by at least five members of a Committee, convene a special meeting of a Committee at any time where he or she considers it expedient for the transaction of the business of a Committee.

(4) Unless three quarters of the total number of the members of a Committee otherwise agree, at least fourteen days' written notice of every meeting of a Committee shall be given to every member of a Committee by the Chairperson.

(5) The quorum for the conduct of the business of a Committee shall be two-thirds of the total number of members including the Chairperson or the person presiding.

(6) The Chairperson shall preside at every meeting of a Committee at which he or she is present and in his or her absence, the members of the Committee present shall elect one person from their number to preside over the meeting of a Committee and he or she shall have all the powers of the Chairperson.

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

(8) The proceedings of a Committee shall not be invalidated by reason of a vacancy within its membership.

(9) Subject to provisions of this Schedule, a Committee may determine its own procedure and for the attendance of other persons at its meetings thereof.

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before a Committee and is present at a meeting of the Committee at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the commencement thereof, disclose his or her interest in the matter and shall not take part in the deliberations over, or vote on, the matter.

Disclosure of interest

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

(3) Any contract or instrument which if entered into or executed by a person not being a body corporate, would not be required to be under seal may be entered into or executed on behalf of a Committee by any person generally or specially authorised by a Committee for that purpose