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TRANS NZOIA COUNTY BILLS, 2019

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**THE TRANS NZOIA COUNTY AGRICULTURAL
MECHANIZATION SERVICES BILL, 2019**

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**THE TRANS NZOIA COUNTY AGRICULTURAL
MECHANIZATION SERVICES BILL, 2019**

A Bill for

**AN ACT of the County Assembly of Trans Nzoia to establish
Agricultural Mechanization Services and to provide for the
institutional framework for the development and regulation of
the same and for connected and incidental purposes**

ENACTED by the County Assembly of Trans Nzoia, as follows—

PART I — PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Trans Nzoia County Agricultural Mechanization Services (AMS) Act, 2019 and shall come into operation upon publication in the Kenya Gazette.

Interpretation

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

"Administrator" means a Sub-county Administrator and Ward Administrator

"Agriculture" means development of land and the use of farmland for any purpose of crop and animal husbandry, aquaculture and food production;

"Agricultural Machinery" includes farm tractors with related implements, equipment, and machinery heavy plant and earth moving machinery used in agriculture;

"AMS" means Agricultural Mechanization Services;

"Appropriate Agricultural Technology" means a locally suited technology that enhances agricultural productivity;

"Chief Officer" means the Chief Officer for the time being responsible for matters relating to Agriculture in the County;

"County" means Trans Nzoia County;

"County Assembly" means the County Assembly of Trans Nzoia;

"County Executive Committee Member" means the County Executive Committee Member for the time being responsible for matters relating to Agriculture in the County;

"County Government" means the County Government of Trans Nzoia;

"Crop" means any plant that is grown in significant quantities to be harvested as food, as livestock fodder, fuel, or for any other economic purpose;

"Director" means the Director for the time being responsible for matters relating to Agriculture;

"Farmer" means, a person who is principally occupied in producing agricultural products on a farm;

"Manager" means the person for the time being in charge of the AMS Station;

"Management Committee" means the committee comprising of members established under section 7 of this Act.

Object and Purpose of the Act

3. (a) The overriding objective of this Act. is to provide a comprehensive, harmonized, efficient and effective legal and regulatory framework for development and regulation of agricultural mechanization services in Trans Nzoia County.
- (b) To accelerate the growth and development of agriculture in general, enhance productivity and incomes for farmers through a combination of strategies that include access to affordable appropriate agricultural technologies and mechanization of agriculture.
- (c) All county government agencies, public servants and bodies charged with development and regulation of agriculture shall at all times have due regard to, and observe, the objectives of this Bill as set out in subsections (a) and (b).

Application

4. This Act shall apply within jurisdiction of the County Government of Trans Nzoia.

PART II — ESTABLISHMENT OF THE COUNTY AGRICULTURAL MECHANIZATION SERVICES

Establishment and Ownership of Agricultural Mechanization Services

5. (1) There is established the Agricultural Mechanization Services.

(2) The Agricultural Mechanization Services shall consist of agricultural machinery and equipment procured by the County Government, National Government or any other donor to accelerate the growth and development of agriculture.

(3) All the machinery and equipment shall remain the property of the County government.

Functions of Agricultural Mechanization Services

6. The functions of the Agricultural Mechanization Services shall be:

- (a) To develop soil and water conservation structures.
- (b) To develop agricultural land for crop production.
- (c) To offer mechanization extension to farmers in the County;
- (d) To provide mechanical services to farmers with high efficiency at subsidized price.
- (e) Continuous development, modification and testing of agricultural mechanization to suit local conditions.
- (f) Develop and operate a highly specialized agricultural machinery workshop.
- (g) Participation in County emergencies and activities as may be directed by the Chief Officer.

PART III - MANAGEMENT OF AGRICULTURAL MECHANIZATION SERVICES

Appointment of the County Management Committee

7. (1) The Agricultural Mechanization Services shall be governed by a Management Committee appointed by the County Executive member and approved by the Governor consisting:

- (2) The Management Committee shall consist of –
 - (a) Chief Officer Department of Agriculture
 - (b) Chief Officer Finance
 - (c) A farmers representative in every sub county
 - (d) One member representing private agricultural machinery firms in the County
 - (e) The County Director of Agriculture
 - (f) The County Director of Livestock Production
 - (g) The Manager AMS Station as Secretary
 - (h) The Sub-County Agricultural Officer hosting the AMS Station

(3) On the first sitting, the members shall elect the Chairman and the Vice Chairman from either the farmers' representative or a representative of private agricultural firms in (2) who shall be appointed by the County Executive Committee member.

Functions of the County Management Committee

8. (1) The Management Committee shall be responsible for-
- (a) Providing oversight over the administration of the Agricultural Mechanization Services station;
 - (b) Promoting the development of the Agricultural Mechanization Services station;
 - (c) Approving plans and programmes for implementing the County agricultural mechanization strategies; and
 - (d) Carrying out any other function assigned by the Chief Officer.

Sub-County Management Committee

9. (1) There is established in every sub county a sub-county management committee, comprising of;

- (a) The sub- county Agricultural officer
- (b) The sub- county Agricultural Engineer who shall be the secretary
- (c) A farmer's representative elected by the farmers
- (d) The sub- county Administrator
- (e) The sub- county Livestock Production Officer

Functions of the Sub-county Management Committee

10. (1) The functions of the sub-county management Committee shall include but not limited to;

- (a) Providing oversight over administration of the Agricultural Mechanization station at the sub-county level
- (b) Promoting the development of AMS station at the sub-county level
- (c) Carrying out any other function assigned by County Management committee

Term of office

11. (1) Persons appointed under sections 7(c)(d) and 9(c) shall serve for a term of three years , non renewable.

Conduct of Business

12. (1) The conduct and regulation of the business and affairs of the Management Committee shall be as set out in the First Schedule

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

Removal from Office

- 13.** A person appointed under Section (7) may
- (a). At any time resign by issuing a notice in writing to the County Executive Committee member;
 - (b). Be removed from office by the County Executive Committee member on the advice of the Management Committee in consultation with the Governor 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 the office;
 - (iv) Has been absent from three consecutive meetings of the Management Committee without the permission of the Chairperson of the Management Committee;
 - (v) Incompetency; and
 - (vi) Bankruptcy.

Management of Agricultural Mechanization Services

- 14.** Subject to Sections (6) and (8)-
- (a). The manager AMS shall be responsible for the day to day management of the Agricultural Mechanization Services Station.
 - (b). The Chief Officer shall prescribe the manner of management of the Agricultural Mechanization Services Station.

Operational Guidelines and administration of the Agricultural Mechanization Services

15. The Chief Officer shall on advice by the County Management Committee prescribe operational policies and guidelines for management and administration of the Agricultural Mechanization Services

PART IV - FINANCIAL MANAGEMENT OF AGRICULTURAL MECHANIZATION SERVICES

Finances

16. (1) The funds for financing the Agricultural Mechanization Services shall consist of –

- (a). Monies as may be appropriated by the County Assembly;

(b). Monies that may be received from the National Government as conditional or non-conditional grants

(c). Grants and donations received from any lawful source;

(d). Monies received as user charges, fees payable.

(2) The funds collected by the Agricultural Mechanization Services under Sub-section 13 (1) shall –

(a). Be paid into the County Revenue Fund

(b). An operational account shall be opened and operated with the authority and advice by County Executive Committee Member Finance.

(c). The operational bank account will be operated by the AMS solely for the provision of Agricultural Mechanization Services in the county in accordance with the annual estimates of the AMS as approved by the Chief Officer.

User Charges and Fees

17. (1) Subject to Sub-section (2) the Agricultural Mechanization Services shall charge such user charges or fees for the services rendered;

(2) The Chief Officer shall prescribe the user charges or fees payable as approved by the County Executive Committee and the County Assembly;

(3) The Agricultural Mechanization Services Station shall open a bank account into which monies received under Sub-section 13 (1) (c) and (d) shall be paid solely for the purpose of managing and administering the funds received;

(4) The funds under this section shall be managed in accordance with the Public Finance Management Act 2012 and any other Government Financial Regulations in force.

Assets acquisition and Disposal of Agricultural Machinery

18. The County Government is the title holder of the handed over agricultural machinery and is the only entity that can dispose the same, and shall do so in accordance with existing government rules and regulations, the Public Procurement and Disposals Act 2015 or such other county legislation enacted by the County Assembly.

PART V GENERAL PROVISIONS

Regulations

19. (1) The County Executive Committee Member may make regulations generally for the better carrying out of the objects of this Act.

- (2) Without prejudice to the generality of subsection (1) the regulations may
- (a). Prescribe the manner of electing members of the Management Committee;
 - (b). Prescribe for operational policies and guidelines for management and administration of the Agricultural Mechanization Services Station.

FIRST SCHEDULE (S.9)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE MANAGEMENT COMMITTEE

1. Meetings

- (1) The 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.
- (2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least half of the members shall, convene a special meeting of the Committee at any time for the transaction of the business of the Committee
- (3) Unless three quarters of the total members of the Committee otherwise agree, at least fourteen days' written notice of every meeting of the Committee shall be given to every member of the Committee.
- (4) The quorum for the conduct of the business of the Committee shall be five members and for the Committee three members including the chairperson or the person presiding
- (5) The chairperson shall preside at every meeting of the Committee 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 Committee 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 Committee shall be invalid by reason only of a vacancy among the members thereof.

2. Conflict of Interest

- (1) If a member is directly or indirectly interested in an outcome of any decision of the Committee or other matter before the Committee and is present at a meeting of the Committee at which the 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:

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Committee may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A member of the Committee 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 Committee.

(3) Where the Committee becomes aware that a member has a conflict of interest in relation to any matter before the Committee, the Committee 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 Member in writing

(5) Upon the Committee 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 the Committee and the member with the conflict of interest shall not vote on this determination

3. Code of Conduct

The Committee shall comply with the code of conduct governing public officers.

4. Minutes

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

MEMORANDUM OF OBJECTS AND REASONS

The Agricultural Mechanization Bill seeks to put in place the legal framework that will provide for the establishment and regulation of the Agricultural Mechanization Services in the County so as to accelerate the growth and development of agriculture and thus enhance food security and incomes for farmers.

PART I of the Bill provides for the short title, commencement, objects and application of the Bill

PART II provides for the establishment of the Agricultural Mechanization Services and functions of AMS

PART III provides for the following:

Section 7 Appointment of the County Management Committee

Section 8 Functions of the County Management Committee

Section 9. Appointment of the sub-county management Committee

Section 10. Functions of the sub- County management Committee

Section 11. Term of office

Section 12 Conduct of Business

Section 13 Removal from office

Section 14 Management of AMS

Section 15 Operational Guidelines and Administration of AMS

PART IV provides for finances of the AMS, User charges and fees and disposal of Agricultural Machinery

PART V provides for Regulations requiring the County Executive Member to develop necessary regulations to operationalize the Act.

First Schedule provides for how the Management Committee shall conduct its business and affairs.

ELKANA KAGUNDA,
Chairperson Agriculture Committee.

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