

THE FOREST CONSERVATION AND MANAGEMENT BILL, 2014**ARRANGEMENT OF CLAUSES****PART I - PRELIMINARY**

1. Citation and commencement
2. Interpretation
3. Application of the Act
4. Guiding principles
5. National Forest Management Guidelines

PART II - ADMINISTRATION

6. Establishment of Kenya Forest Service
7. Functions of the Service
8. The Board
9. Functions of the Board
10. Powers of the Board
11. Committees of the Board
12. Conduct of the business and affairs of the Board
13. Remuneration and allowances of Board members
14. The Director General of the Service
15. Staff of the Service
16. Uniformed and disciplined staff
17. Kenya Forestry College
18. Honorary foresters
19. Protection from personal liability
20. Forest conservancy areas and committees
21. County forest conservation committees
22. Forestry research and development
23. Role of the professional body

PART III - FINANCIAL PROVISIONS

24. Funds of the Service
25. Financial year
26. Annual estimates
27. Accounts and audit

28. Forest conservation and management trust fund
29. Sources of funds
30. Management of the Fund

PART IV- CONSERVATION AND MANAGEMENT OF FORESTS

31. Classification of forests
32. Creation and management of public forests
33. Creation and management of community forests
34. Management of private forests
35. Variation of boundaries or revocation of public forests
36. Declaration and reversion of provisional forests
37. Exchange of forest areas with private land
38. Arboreta and recreational parks
39. Donation and bequests
40. Declaration of a nature reserve
41. Protection of tree species
42. Joint management of forests
43. Management of indigenous forests
44. Management of plantation forests
45. Concession over public and community forests
46. Forest management agreements on community land
47. Consent for mining and quarrying
48. Management plans

PART V - COMMUNITY PARTICIPATION

49. Application for community participation
50. Obligations of a forest association
51. Assignment of forest user rights
52. Termination or variation of a management agreement
53. Customary rights

PART VI - INCENTIVES FOR INCREASING FOREST AND TREE COVER

54. Provision of incentives
55. Benefit sharing arrangements
56. Tax and fiscal incentives

57. National tree planting week

PART VII - TRADE IN FOREST PRODUCTS

58. Authorization and public sector involvement

59. Eligibility of authorization

60. Chain of custody

61. Grading and valuation of timber and other products

62. Export and import procedure

63. Prohibition on trade in restricted forest produce

PART VIII - ENFORCEMENT AND COMPLIANCE

64. Powers of officers

65. Use of firearms

66. Prosecutorial powers

PART IX - OFFENCES AND PENALTIES

67. Prohibited activities in forests

68. Counterfeiting or unlawful affixing of marks

69. Offences relating to mining or quarrying

70. Other offences

71. Compensation for loss or damage

72. General penalty

73. Disputes

PART X - MISCELLANEOUS

74. Rules

75. Maintenance of Registers

76. International instruments, covenants and agreements

77. Cooperation regarding cross border forest resources

78. Environment law to apply

PART XI - TRANSITIONAL PROVISIONS

79. Repeals

80. Savings

SCHEDULES

FIRST SCHEDULE - CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

SECOND SCHEDULE - PROVISIONS FOR PUBLIC CONSULTATION

THIRD SCHEDULE - PUBLIC FOREST RESERVES

AN ACT of The National Assembly to provide for the establishment, development and sustainable management, including conservation and rational utilisation of all forest resources for the socio-economic development of the country.

BE IT ENACTED BY THE NATIONAL ASSEMBLY OF KENYA AS FOLLOWS-

PART I - PRELIMINARY

Citation and commencement

1. This Act may be cited as the Forest Conservation and Management Act, 2014 and shall come into force upon notice in the Gazette by the Cabinet Secretary.

Interpretation

2. In this Act unless the context otherwise requires-

“Board” means the Board of the Kenya Forest Service;

“Cabinet Secretary” means the Cabinet Secretary responsible for matters relating to forestry;

‘chain of custody’ means the channel through which products are distributed, tracked and monitored from their origin in the forest to their end-use;

“commercial use” means any use of forest products or forest land, other than direct use for personal purposes or infrastructure development and it includes uses involving trade or any other disposition of forest products or forest land for direct or indirect financial benefits;

“community” means a clearly defined group of users of forest land identified on the basis of ethnicity, culture or similar community of interests as provided under Article 63 of the Constitution;

“community forest” means forest as classified under section 31(3);

“community forest association” means a group of local persons who have registered as an association or other organization established to engage in forest management and conservation;

“concession agreement” means authorization which is a long term agreement issued by the Service or the County Department responsible for forestry for the management of a specified forest area at a price determined after forest valuation and bidding;

“contract” means authorization entered into with a third party for performance of specified activities on behalf of the Service or the County Department responsible for forestry in a forest area for a specified fee;

“county” means a county established under article 176(1) of

the constitution;

“county department” means the county department for the time being responsible for forestry;

“county executive committee member” means the county executive committee member responsible for matters relating to forestry;

“county chief officer” means the county chief officer responsible for the administration of the county department responsible for forestry;

“customary rights” mean the rights which result from a long series of habitual or customary actions, constantly repeated, which have, by such repetition and by uninterrupted acquiescence, acquired the force of a law within a geographical or sociological unit;

“devolution” means the transfer of rights, authority and responsibilities by the Service to the County Government;

“ecosystem” means a dynamic complex of plant, animal micro-organism communities and their non-living environment interacting as a functional unit;

“forest’ means a land area of more than 0.5 hectares, with a tree canopy cover of more than 10%, which is not primarily under agricultural or other specific non-forest land use.

“forestland” means a tract of land, including its flora and fauna, that is devoted to growing trees for the production of timber, wood and other forest products;

“forest community” means a group of persons who have a traditional association with a forest for the purposes of livelihood, culture or religion;

“forest concession” means the right of use granted to an individual or organization in respect to a specific forest area on public land by means of a long-term contract for the purpose of commercial forest management and utilization;

“forest industries” means all businesses and organizations whose primary activities include growing, managing, processing or marketing of trees;

“forest manager” means a person responsible for the management of a forest under his/her charge and implementation of this Act including-

- (a) In the case of public forest, the Kenya Forest Service;
- (b) in the case of community forest, the County government; and
- (c) in the case of a private forest, the owner or manager of

the private forest.

“forest management plan” means a written document establishing direction and goals for the management, conservation and utilization of a specific forest land area; specifying-

- (i) all silvicultural practices and activities necessary to accomplish the merchantable production of a forest product; and
- (ii) all practices that will minimize adverse environmental effects and improve livelihoods,

“forest officer” includes the professional, technical and disciplined cadre of the Service;

“forest owner” means -

- (a) in the case of public forests, the Kenya Forest Service;
- (b) in the case of community forests, the County Government;
- (c) in the case of private forests, an individual, association, institution or body corporate;

“forest resources” means anything of practical, commercial, social, religious, spiritual, recreational, educational, scientific, subsistence, or other potential use to humans that exists in the forest environment, including but not limited to flora, fauna, and microorganisms;

“Forest Sink Initiative” means such initiative or scheme by the Government to promote the establishment of forests as carbon sink and climate change mitigation and adaptation.

“Forestry Society of Kenya” means the registered association of professional foresters;

“Fund” means the fund established pursuant to Section 28.

“green zone” trees planted in an urban area covering less than 0.5 ha.

“indigenous forest” means a forest which has come about by natural regeneration of trees primarily native to Kenya;

“Institute” means the Kenya Forestry Research Institute established under the Science, Technology and Innovation Act, No. 28 of 2013;

“joint management agreement” means authorization where the Service or the County Department responsible for forestry agrees to enter into partnership with other persons for the joint management of a specified forest area, specifying the contribution, rights and obligations of each party and setting

out the methods of sharing the costs and benefits accruing from the forest so managed;

“licence” means a permit or other written authorization issued under the provisions of this Act;

“licensing authority” means the person responsible for the issuance of licenses under his/her charge –

(a) in the case of public forest, the Kenya Forest Service;

(b) in the case of community and private land, the County government;

“nature reserve” means an area of land declared to be nature reserve under section 40;

“permit” means authorization issued to a person to undertake a specified forestry-related activity or service;

“person” means a natural person, an association, organization or a corporate body;

“private forest” means forest as classified under section 31(4);

“property mark” means a mark placed on a log, timber or other forest produce with a prescribed instrument to denote ownership by the Service, County Government or any other owner;

“protected tree” means any tree or tree species which has been declared under this Act to be protected;

“provisional forests” means any forest which has been declared a provisional forest by the Cabinet secretary under section 36;

“public forest means forest as classified under section 31(2);

“Service” means the Kenya Forest Service established under section 6 of this Act;

“special-use licence” means authorization issued to a person to undertake an activity whose primary purpose is to yield public benefit in transportation, communication, energy, research or education;

“timber” means any tree that has been felled or which has fallen, and cut wood or logs;

“timber licence” means authorization issued to a person for timber harvesting in a specified forest area;

“wildlife” means all forms of fauna and flora other than domesticated plants and animals.

Application of the Act

3. This Act shall apply to all forests on public, community and private lands.

Guiding principles

4. The implementation of this Act shall be guided by the following principles —

- (a) good governance and access to public information, and a participatory approach to forest conservation and management shall be enshrined to ensure the effective involvement of stakeholders in forest conservation and management;
- (b) forest resources management and conservation shall be devolved wherever possible and appropriate to those owners and managers of forest resources.
- (c) wherever possible, an ‘ecosystem approach’ shall be adopted in the conservation and management of forests;
- (d) the rights and responsibilities of communities and private land owners to manage and utilize forest and forest resources shall be recognized;
- (e) benefits accruing from forest conservation and management, shall be enjoyed and equitably shared by the people of Kenya;
- (f) scientific knowledge and expertise, professionalism and international best practice, including the provisions of multilateral environmental agreements, shall form the cornerstone of sustainable forest conservation and management;
- (g) indigenous knowledge and intellectual property rights embodied in forest biodiversity and genetic resources shall be protected.

National Forest Management Guidelines.

5. The Cabinet Secretary shall in consultation with relevant stakeholders develop national forest management guidelines for sustainable use of forests and forest resources in the country.

PART II - ADMINISTRATION

Establishment of the Kenya Forest Service

6. (1) There is hereby established a Service to be known as the Kenya Forest Service, which shall be the successor of the Kenya Forest Service established under the Forests Act, 2005.

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

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging or disposing of moveable and immovable

property;

- (c) entering into contracts; and
- (d) undertaking or performing all other activities necessary for the proper performance of its functions under this Act that may lawfully be done or performed by a body corporate.

Functions of the Service

7. The functions of the Service shall be to –
- (a) conserve, protect and manage all public forests in accordance with the provisions of this Act;
 - (b) prepare and implement management plans for all public forests, and upon request prepare management plan for forests on community land or private land in consultation with forest owners;
 - (c) assess applications for the use of forests and forest resources to individuals, corporate bodies and communities, and issue licenses to this affect and in accordance with this Act;
 - (d) establish and implement benefit sharing arrangements in accordance with the provisions of this Act;
 - (e) assist County Governments to build capacity for forestry development on community and private lands;
 - (f) in consultation with relevant stakeholders, develop programmes for tourism and for recreational and ceremonial use of public forests;
 - (g) promote forestry education and training
 - (h) register and maintain a register of all forest management plans on public land;
 - (i) collaborate with individuals, and private and public research institutions in identifying research needs and applying research findings;
 - (j) manage water catchment areas primarily for soil and water conservation, carbon sequestration and other environmental services;
 - (k) enforce the provisions of the Act and any forestry and land use rules and regulations made pursuant to any other written law.
 - (l) in consultation with the Director General of Public Prosecution, train prosecutors from amongst the forest officers for purposes of prosecuting court cases under this Act in accordance with any other law relating to prosecution of criminal cases.
 - (m) in consultation with the County Government and

relevant stakeholders, prepare a Forest Status Report and a Resource Assessment report after every two and five years respectively, which the Cabinet Secretary shall forward to the National Assembly and disseminate to the public.

The Board

- 8.** (1) The Service shall be managed by a Board comprising of-
- (a) the chairperson, appointed by the President, from among the Board members in accordance with the provisions of this Act;
 - (b) the principal secretary responsible for forestry or a designated representative;
 - (c) the principal secretary responsible for National Treasury or a designated representative;
 - (d) the chief executive officer of the National Land Commission or a designated representative;
 - (e) the chief executive officer of the Kenya Forestry Research Institute, or a designated representative;
 - (f) The Director General who shall be an ex-officio member of the Board;
 - (g) four other persons appointed by the Cabinet Secretary, of whom-
 - (i) one shall be nominated by the Forestry Society of Kenya;
 - (ii) one shall be nominated by a national body representing community forest associations;
 - (iii) one shall represent the forest industry;
 - (iv) one shall represent the civil society working in forest conservation.
- (3) The members of the Board under subsection (1) (a) and (1) (h) shall hold office for a period of three years and shall be eligible for re-appointment for a further term of three years.
- (4) The appointment of the chairperson and the members under subsection (1) (h) shall be by name and by notice in the Gazette.
- (5) All appointments made under this Section shall be in accordance with the provisions of the Constitution of Kenya.

Functions of the Board

9. The functions of the Board shall be to:-

- (a) ensure the efficient management of the Service;
- (b) consider and recommend to the Cabinet Secretary the establishment of public forests on un-alienated Government land and any other Government land;
- (c) consider and recommend to the Cabinet Secretary the determination and alteration of boundaries of public forests;
- (d) approve the policies of the Service affecting forestry practice and development;
- (e) formulate policies for the administration and management of Kenya Forestry College;
- (f) consider all management agreements, including the granting of management licences for public forests;
- (g) negotiate for financial and other incentives for the advancement of the forestry-related activities of private persons, companies, communities and non-governmental organisations;
- (h) co-ordinate and monitor inter-agency forestry activities in the country;
- (i) develop modalities and guidelines for joint management of forests between the Service, County Governments, government agencies, private sector and forest communities;
- (j) advise the Cabinet Secretary on all matters pertaining to the establishment, development, conservation and utilisation of forests in Kenya;
- (k) consider applications for the undertaking of activities within public forests;
- (l) prescribe criteria for access to assistance by owners of private forests;
- (m) establish forest conservancy areas for purposes of conservation and management; and
- (n) approve the provision of credit facilities and technical training for community-based forest industries, and the provision of incentives to persons who exploit wood and non-wood forest products sustainably.

Powers of the Board

10. (1) The Board shall have all the powers necessary for the proper performance of the functions of the Service under this Act and, in particular but without prejudice to the generality of the foregoing, the Board shall have power to-

- (a) approve and ratify the policies of the Service;

- (b) enter into contracts;
- (c) manage, control and administer the assets of the Service in such manner and for such purposes as are best to promote the purpose for which the Service is established;
- (d) receive any gifts, grants, donations or endowments made to the Service or any other moneys in respect of the Service and make disbursements there from in accordance with the provisions of this Act;
- (e) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Service is established;
- (f) open a banking account or accounts for the funds of the Service;
- (g) invest any moneys of the Service not immediately required for the purposes of this Act;
- (h) determine and issue the terms and conditions for the appointment and enlistment of personnel to the Service,
- (i) cooperate with other organisations undertaking functions similar to its own, whether within Kenya or otherwise.
- (j) set aside land for forestry research;
- (k) offer services to any person upon such terms as the Board may from time to time determine.

(2) Subject to this Act, the Board may, by resolution either generally or in any particular case, delegate to any committee of the Board or to any member, officer, employee or agent of the Board, the exercise of any of the powers of the performance of any of the functions or duties of the Board under this Act.

Committees of the Board

11. (1) The Board may from time to time establish committees for the better carrying out of its functions.

(2) The Board may, with the approval of the Cabinet Secretary, co-opt into the membership of committees established under subsection (1) other persons whose knowledge and skills are found necessary for the functions of the Board.

Conduct of business and affairs of the Board

12. The business and affairs of the Board shall be conducted in accordance with the First Schedule.

Remuneration and allowances of Board members

13. A member of the Board shall be paid such remuneration or allowances, as the Salaries and Remuneration Commission shall determine.

The Director General of the Service

14. (1) The Board shall, through a public and competitive recruitment process, recommend three suitably qualified persons for appointment as Director General by the Cabinet Secretary.

(2) The Cabinet Secretary shall appoint the Director General from amongst the persons recommended under sub-section (1) above.

(3) A person shall be qualified for appointment as the Director General of the Service if the person—

- (a) is a citizen of Kenya;
- (b) satisfies the requirements of Chapter Six of the Constitution;
- (c) possesses a first degree in forestry from a university recognized in Kenya;
- (d) has had at least ten years proven experience in the relevant field at management level.

(4) The Director General shall hold office for a term of four years, and be eligible for re-appointment for a further term of four years based on performance.

(5) The Director-General shall be responsible for the day to day management of the Service.

(6) The Director-General shall subject to the direction of the Board, be responsible for the direction of the affairs and transactions of the Service and the exercise, discharge and performance of its objectives, functions and duties.

Staff of the Service

15. The Board may appoint such officers and other staff of the Service as are necessary for the proper and efficient discharge of the functions of the Service under this Act, upon such terms and conditions of service as the Board may determine.

Uniformed and disciplined staff

16. (1) The Board may, designate, specific officers and staff to be uniformed and disciplined in order to carry out protection and enforcement functions assigned to the Service.

Kenya Forestry College

17. (1) There is hereby established the Kenya Forestry College which shall provide forestry education, vocational and technical training courses in conservation, management, sustainable utilization and protection of forests and allied natural resources.

(2) The College shall develop training programmes from certificate to diploma level in forest management and utilization.

(3) The College shall, in consultation with stakeholders design training programmes to support apprenticeship and vocational training in the forest sector including short courses for communities, private forest owners and forest industries.

(4) The Board shall establish a standing Committee to supervise the functioning of the College.

Honorary foresters

18. (1) The Cabinet Secretary may, on recommendation of the Board, appoint suitable persons to be honorary foresters for the purpose of assisting the carrying into effect the provisions of this Act.

(2) An honorary forester shall:-

- (a) be appointed by notice published in the Gazette;
- (b) hold office, subject to such conditions as the Cabinet Secretary may prescribe, for a period of three years; and
- (c) have such functions as may be prescribed by rules made under this Act.

Protection from personal liability

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

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

Forest conservancy areas and committees

20. (1) The Board shall establish forest conservancy areas for the proper and efficient management of forests and may divide such conservancy areas into ecosystems.

(2) There shall be established a forest conservation committee in respect of each conservancy area.

(3) The functions of the forest conservation committee shall be to—

- (a) advise the Board on the ideas, desires and opinions of the people within the forest conservancy areas in all matters relating to the conservation and utilization of forests within such area;
- (b) monitor the implementation of this Act and other forest regulations within the area;
- (c) review and recommend to the Board applications for licenses and renewals thereof;
- (d) Monitor the management of public forests in the relevant conservancy area;
- (e) identify and recommend areas to be set aside for the creation of public forests; and
- (f) perform such other functions as the Board may require or delegate to it.

(4) A forest conservation committee shall consist of—

- (a) a chairman appointed by the Board, who shall have at least ten years' experience in forestry and forest management;
- (b) The County chief officer responsible for forestry or a designated representative from each county in the conservancy area;
- (c) the forest officer in-charge of the conservancy area who shall be the secretary;
- (d) Three other persons nominated by the Board representing:-
 - (i) Community forest associations within the conservancy.
 - (ii) Forest industries operating within the conservancy.
 - (iii) Civil society organizations within the conservancy involved in forest conservation.

(5) The members of the Forest Conservation Committee under

subsection (4) (a) and (4) (d) shall hold office for a period of three years and shall be eligible for a further term of three years.

(6) Persons who are not members of the committee may be invited to attend meetings of the committee and take part in its deliberations but shall not have voting powers.

(7) A member of a forest conservation committee shall be entitled to be paid such allowances as the Salaries and Remuneration Commission may determine.

(8) The Board shall set aside funds for the proper functioning of the committees.

(9) The Cabinet Secretary may in consultation with the Board, make rules and regulations governing the procedures and functions of the Forest Conservation Committees.

County forest conservation
committees

21. (1) There shall be established a county forest conservation committee in respect of each county.

(2) The functions of the county forest conservation committee shall be to—

(a) advise the County Government on the ideas, desires and opinions of the people within the county in all matters relating to the conservation and utilization of public and community forests within the county;

(b) monitor the implementation of this Act and other forest regulations within the county;

(c) ensure the fair distribution of benefits derived from resources in community forests.

(d) review and recommend to the County Department responsible for forestry applications for licenses and renewals thereof in respect of community forests;

(e) review and recommend to the Service on forestry applications for licenses and renewals in respect of public forests;

(f) monitor the management of community forests in the county; and

(g) identify and recommend areas to be set aside for the creation of community forests.

(3) The Committee shall consist of—

(a) a chairman appointed by the County Governor, who shall have at least five years' experience in forest conservation and management;

(b) the County chief officer responsible for forestry who

shall be the secretary;

- (c) the County chief officer responsible for agriculture or a designated representative;
- (d) the County chief officer responsible for water or a designated representative;
- (e) the Ecosystem Conservator responsible for public forests in the County;
- (f) three other persons nominated by the County Executive Committee member responsible for forestry representing:-
 - (i) community forest associations within the conservancy.
 - (ii) forest industries operating within the conservancy
 - (iii) civil society organizations involved in forest conservation.

(4) The members of the County Forest Conservation Committee under subsection (3) (a) and (3) (f) shall hold office for a period of three years and shall be eligible for re-appointment for a further term of three years.

(5) Persons who are not members of the committee may be invited to attend meetings of the committee and take part in its deliberations but shall not have voting powers.

(6) A member of a county forest conservation committee shall be entitled to be paid such allowances as the Salaries and Remuneration Commission may determine.

(7) The County Executive Committee member responsible for forestry shall set aside funds for the proper functioning of the committee.

(8) The County Executive Committee member responsible for forestry may make rules and regulations governing the procedures and functions of the committee.

Forestry research and development

22. (1) The Kenya Forestry Research Institute, as established under the Science, Technology and Innovation Act No 28 of 2013, shall be the lead agency in forestry research and development.

(2) The Institute shall develop research and development programmes aimed at providing information and technologies for sustainable development of forestry and allied natural resources for a socio-economic development.

(3) The Institute shall, in consultation with relevant

organizations -

- (a) prepare forestry research and development strategies for the country;
- (b) conduct expert training courses in forestry and allied natural resources;
- (c) disseminate research findings to support forestry development in the country and counties; and
- (d) participate in the development and monitoring of national forest standards.

(4) The Institute shall, on a regular basis, compile and submit a record relating to forestry research and development.

Role of the professional body

23. (1) A professional body established by law to represent the forestry profession in Kenya shall develop, use and communicate their knowledge for the purpose of sustaining and enhancing forest resources for diverse benefits in perpetuity.

(2) The organization shall develop its code of ethics that will protect and serve the public by inspiring, guiding, and governing members in the conduct of their profession.

PART III - FINANCIAL PROVISIONS

Funds of the Service

24. The funds of the Service shall consist of-

- (a) such moneys as may be appropriated by National Assembly for the purposes of the Service;
- (b) such moneys as may accrue to or vest in the Service in the course of the exercise of their powers or the performance of its functions under this Act;
- (c) such moneys as may be payable to the Service pursuant to this Act or any other written law;
- (d) such gifts as may be given to the Service; and
- (e) all moneys from any other source provided, donated or lent to the Service.

Financial Year

25. The financial year of the Service shall be the period of twelve months ending on the thirtieth of June in each year.

Annual Estimates

26. (1) At least two months before the end of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Service for that financial year.

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

particular shall provide for–

- (a) preparation and operationalization of management plans for all forests on public land;
- (b) protection and conservation of all indigenous forests on public land;
- (c) development and promotion under license of timber and bamboo plantations and recreational tourism on public land;
- (d) fulfillment of any other activities either in the Strategic Plan or as deemed necessary by the Board;
- (e) payment of the salaries, allowances and other charges in respect of the members of staff of the Service
- (f) payment of the pensions, gratuities and other charges in respect of retirement benefits payable to the members of staff of the Service;
- (g) proper maintenance of the buildings and grounds of the Service;
- (h) proper maintenance, repair and replacement of the equipment and other movable property of the Service;
- (i) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance, replacement of buildings or equipment, or in respect of such other matters as the Board may deem fit; and
- (j) capacity building for county governments for forestry development.

(3) The annual estimates shall be submitted to the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Service except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Board given with prior written approval of the Cabinet Secretary, and the Cabinet Secretary responsible for the National Treasury.

Accounts and Audit

27. (1) The Board shall cause to be kept proper books and other records of accounts of the income, expenditure, assets and liabilities of the Service.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the Controller and Auditor-General the accounts of the Service, in respect of that year, together with a statement of–

- (a) income and expenditure during that financial year; and
- (b) assets and liabilities of the Service on the last day of that financial year.

(3) The accounts of the Service shall be examined, audited and reported upon annually by the Controller and Auditor-General in accordance with the provisions of the Public Audit Act.

Forest Conservation
Management Trust Fund

and **28.** (1) There is hereby established a fund to be known as the Forest Conservation and Management Trust Fund.

(2) The objects of the Trust Fund shall be to nurture, promote and inspire innovations in forest conservation and shall be used for the following purposes -

- (a) development of public, community and private forests;
- (b) maintenance and conservation of indigenous forests;
- (c) promotion of commercial forest plantations;
- (d) rehabilitation of provisional forests;
- (e) provision of forest extension services;
- (f) development of national community forestry programmes;
- (g) development of national reforestation programmes;
- (h) development of a national programmes for craft apprenticeship and vocational training in forest resource based enterprises;
- (i) development of forest sink initiatives;
- (j) facilitation of education and research activities;
- (k) establishment of arboreta and botanical gardens;
- (l) maintenance and protection of sacred trees and groves and other areas of cultural, ethno-botanical or scientific significance;
- (m) undertaking of surveys and establishment of databases;
- (n) protection and management of unique trees and forests for biodiversity conservation;
- (o) establishment of nurseries and production of seedlings;
- (p) silvicultural practices and tree improvement,
- (q) protection and management of protected trees,

and

- (r) such other purposes as may be prescribed by rules made under this Act and the rules made thereunder.

Sources of funds

29.(1) The Fund shall consist of -

- (a) monies from time to time appropriated by the National Assembly for purposes of the Fund;
- (b) moneys levied upon forest beneficiaries in such manner as the Cabinet Secretary may, upon the recommendation of the Board and in consultation with the Cabinet Secretary for National Treasury, determine;
- (c) income from investments made by the Board; and
- (d) such grants, donations, bequests or other gifts as may be made to the Fund.

Management of the Fund

30. (1) The Trust Fund shall vest in the Service and shall be administered by a Board of five Trustees to be appointed by the Cabinet Secretary by a notice in the Gazette on such terms and conditions as he/she deems fit.

(2) The Fund Trustees shall with the approval of the Board:-

- (a) determine the amounts of money payable in respect of any purpose for which the Fund is established and formulate the conditions for disbursement;
- (b) make necessary investments from the Fund for the realisation of the Fund's objectives, in securities approved from time to time by the National Treasury; and
- (c) keep and maintain audited accounts of the Fund and publish such accounts in such manner as may be approved by the National Treasury.

PART IV - CONSERVATION AND MANAGEMENT OF FORESTS

Classification of forests.

31. (1) Forests may be classified as public, community or private forests.

(2) Public forests include-

- (a) all forests on public land;
- (b) forestland lawfully held, used or occupied by any State organ, except any such land that is occupied by the State organ as lessee under a private lease;
- (c) forestland transferred to the State by way of sale, reversion or surrender;

- (d) forestland in respect of which no individual or community ownership can be established by any legal process;
 - (e) the forest reserves set out in the Third Schedule to this Act and any other forest reserves gazetted by the Cabinet Secretary.
- (3) Community forest' include-
- (a) forestland that is—
 - (i) lawfully held, managed or used by specific communities as forest area, grazing areas or shrines; or
 - (ii) lawfully held as trust land by the county governments; or
 - (b) ancestral forestlands and forestlands traditionally occupied by hunter-gatherer communities; or
 - (c) such other forest that may be set aside as a community forest by the respective County Government.
- (4) Private forests include-
- (a) forestland held by any person under any freehold tenure;
 - (b) forestland held by any person under leasehold tenure; and
 - (c) any forest owned privately by an individual, institution or body corporate for commercial or non commercial purposes.

Creation and management of public forests

32. (1) All public forests in Kenya are vested in the Service, subject to any rights of user in respect thereof, which by or under this Act or other written law, have been or are granted to any other person.

(2) The Cabinet Secretary may, on the recommendation of the Board and after consultation with the National Land Commission declare any un-alienated public land or any land purchased or otherwise acquired by the Service to be a public forest.

Creation and management of community forests

33.(1) All community forests are vested in the County Government, subject to any rights of user in respect thereof, which by or under this Act or other written law, have been or are granted to any other person.

(2) The County Government may, with approval of the Cabinet Secretary, and after consultation with the National

Land Commission declare any community forest where -

- (a) the land is an important catchment area, a source of water springs, or is a fragile environment;
- (b) the land is rich in biodiversity or contains rare, threatened or endangered species;
- (c) the forest is of cultural or scientific significance; or

the forest supports an important industry and is a major source of livelihood for the local community.

(3) Each County Government shall be responsible for the protection and management of all forests and woodlands under its jurisdiction, and shall ensure that such forests are managed on a sustainable basis in accordance with an approved management plan.

(4) The provisions contained in this Act regarding the management of indigenous forests shall apply to the management of indigenous forests situated within the jurisdiction of a county.

(5) A forest officer responsible for the area shall, in consultation with the county forest conservation committee, make inspection visits at least twice a year, and shall make a report thereon to the County chief officer responsible for forestry as to whether such forests are managed in accordance with the provisions of this Act.

Management of private forests

34. (1) A person who owns a private forest, including a forest in the course of establishment, on land owned by the person, may apply to the Service for registration under this section.

(2) The Board shall register a forest under subsection (1) where the forest meets the criteria prescribed in rules made under this Act.

(3) Upon registration under subsection (2), the owner of a private forest shall be entitled to receive from the Service -

- (a) technical advice regarding appropriate forestry practices and conservation;
- (b) subject to availability of funds, loans from the Fund for the development of the forest, provided that the funds are obtained and utilised in accordance with the procedures set out by the Service;

(4) A person who establishes or owns a private forest may apply to the relevant authorities for exemption from payment of all or part of the land rates and such other charges as may be levied in respect of the land on which the forest is established.

Variation of boundaries or
revocation of public forests

35.(1) A notice under this Part which proposes to vary the boundaries of a public forest or change the status of a forest area shall be published by the Cabinet Secretary where the proposal is recommended by the Service after consultation with the National Land Commission and subsequently approved by a resolution of The National Assembly.

Provided that such variation of boundaries or change of status of a forest area does not–

- (a) endanger any rare, threatened or endangered species;
- (b) adversely affect its value as a water catchment area; and
- (c) prejudice biodiversity conservation, cultural site protection of the forest or its use for educational, recreational, health or research purposes.

(3) The Service shall not recommend any such proposal unless –

- (a) the proposal has been subjected to an independent Environmental Impact Assessment; and
- (b) public consultation in accordance with the Second Schedule has been undertaken and completed in relation to the proposal.

Declaration and reversion of
provisional forests

36.(1) Upon the recommendation of the Board or the County Government, the Cabinet Secretary may, by order published in the Gazette, declare any community or private forest, which in the opinion of the Board is mismanaged or neglected, to be a provisional forest.

(2) A declaration under sub-section (1) of this section shall only be made where–

- (a) the forest -
 - (i) is an important catchment area or a source of water springs;
 - (ii) is rich in biodiversity and contains rare, threatened or endangered species;
 - (iii) is of cultural or scientific significance; or
 - (iv) supports an important industry and is a source of livelihood for the surrounding forest communities; and
- (b) the Director General has issued a notice requiring the forest owner, as the case may be, to undertake specific silvicultural practices to improve the forest,

and such notice has not been complied with, or the forest owner is unable to undertake the specified practices.

(3) A provisional forest shall be managed by the Service in collaboration with the owner thereof for a period of three years subject to review, and any profits accruing therefrom shall be paid to such owner less the expenses incurred by the Service in managing the forest concerned.

(4) A provisional forest shall revert to the owner where the Board is satisfied that it has been adequately rehabilitated and the owner has given an undertaking to efficiently manage it.

(5) The Board may, upon reversion of a provisional forest, prescribe for observance by the owner such conditions as may be necessary to ensure compliance with the provisions of this Act.

Exchange of forest area with private land

37. (1) Subject to sub-section (2), the Service or the County Department responsible for forestry may in consultation with the relevant government agencies and stakeholders, and with approval of the Cabinet Secretary, exchange part of a forest area with private land with the consent of the owner of such land where-

- (a) the exchange enhances the efficient management and protection of the forest;
- (b) the exchange is equitable to the Service and the land owner, according to an independent valuation;
- (c) an independent Environmental Impact Assessment has been conducted and has shown that such exchange shall not adversely affect the environment; and
- (d) the forest area to be exchanged does not contain rare, threatened or endangered species and is not a water catchment area or a source of springs.

(2) The Service or a County Government may, with the approval of the Cabinet Secretary, acquire by purchase any land suitable to be declared a public or community forest under this Act.

No purchase or exchange shall be transacted under this section unless prior public consultation is carried out in accordance with the Second Schedule.

Arboreta and recreational Parks

38.(1) Every County Government shall, establish and maintain arboreta, green zones or recreational parks for the non-consumptive use of persons residing within its area of

jurisdiction.

- (2) For the purposes of subsection (1), every County Government shall cause housing estate developers within its jurisdiction to make provision for the establishment of green zones at the rate of at least five percent of the total land area of any housing estate intended to be developed.
- (3) Every County Government shall, establish and maintain a recreational park in every market centre within its area of jurisdiction.
- (4) The Service shall facilitate and initiate the provision of technical assistance in the establishment and maintenance of green zones, recreational parks and arboreta by County Governments.
- (5) No arboretum or recreational park shall be converted to any other use unless the County Department responsible for forestry, consults the residents of the area in the jurisdiction within which such arboretum, green zones or recreational park is situated.
- (6) For purposes of this section, a County Department responsible for forestry may in consultation with the Service prescribe conditions as to the species of trees to be planted in a green zone, arboretum or recreational park.

Donations and bequests

39. (1) Any person who is registered as proprietor of land in accordance with the provisions of any written law may donate or bequeath all or part of that land to the Service, County Department responsible for forestry, an educational institution, an association or a non-Governmental organisation for the development of forestry and the conservation of biodiversity.

(2) The forest established on the land so donated or bequeathed under subsection (1) shall be gazetted in accordance with this Act.

(3) The forest or land so donated or bequeathed shall not be used for any purpose other than the establishment and conservation of forests as originally desired by the previous owner.

Declaration of nature reserves

40. (1) The Cabinet Secretary may, upon the recommendation of the Board of the Service and after consultation with the relevant County Government and relevant stakeholders, by Notice in the Gazette, declare any public, community land or private land, as a nature reserve.

(2) Where a nature reserve declared as such will occur within community or private land, the Cabinet Secretary shall make prior agreed arrangements for compensation to the forest owner.

(3) Every nature reserve shall be established for the following purposes-

- (a) the conservation of forestland of particular environmental, cultural, scientific or other special significance;
- (b) the preservation of biological diversity and threatened or endangered species.

(4) The Cabinet Secretary shall, at least ninety days before the making of an order this section-

- (a) publish in the Gazette and in at least two newspapers of nationwide circulation a notice of the intention to make the order; and
- (b) invite comments from members of the public.

(5) The Cabinet Secretary shall in consultation with the Service take into account any comments received before making an order under this section.

(6) Whenever the Cabinet Secretary proposes to amend or revoke the order under this section, public notice of such an intention shall be given, and an opportunity for public comment provided as mentioned in subsection (4) (b).

(7) Upon declaration of a public, community or private land as a nature reserve, the Director General shall in consultation with the relevant county governments, government agencies and stakeholders, prepare a management plan in respect to the declared nature reserve.

Protection of tree species

41. (1) The Cabinet Secretary, on the advice of the Kenya Forestry Research Institute, by order published in the Gazette, declare any tree species or family of tree species to be protected in the whole country or in specific areas thereof, and shall cause this information to be disseminated to the public.

(2) No person shall fell, cut, damage or remove, trade in or export or attempt to export any protected tree species or family of trees or regeneration thereof or abet in the commission of any such act.

(3) The provisions of subsection (1) shall be reversed when the Cabinet Secretary, on the advice of the Kenya Forestry Research Institute, is satisfied that the protection is no longer

necessary.

(4) The Cabinet Secretary may prescribe regulations and/or guidelines for the protection and regeneration of the protected species.

Joint management of forests

42.(1) A forest owner may enter into an agreement with any person for the joint management of any forests.

(2) The agreement referred to in subsection (1) may enjoin such person to use or refrain from using such forest or any part thereof in order to ensure the conservation of biodiversity:

Provided that where an agreement enjoins such person to use or refrain from using the forest in any particular manner, it shall contain modalities of payment of compensation to such person for any loss incurred thereby.

(3) Where any person enters into an agreement in accordance with sub-section (1) of this section, the agreement shall be enforceable against such person or his successors in title, assignees or any or all other persons deriving title from him.

(4) Nothing in this section shall render enforceable any conservation agreement entered into under sub-section (1) where the use of such forest in accordance with such agreement contravenes the provisions of any law for the time being in force, or is inconsistent with any prior agreement relating to the use of such forest and which is binding on such owners, their successors in title or persons deriving title from them.

Management of indigenous forests

43. (1) All indigenous forests and woodlands shall be managed on a sustainable basis for purposes of -

- (a) conservation of water, soil and biodiversity;
- (b) riverline and shoreline protection;
- (c) cultural use and heritage;
- (d) recreation and tourism;
- (e) sustainable production of wood and non-wood products;
- (f) carbon sequestration and other environmental services;
- (g) education and research purposes.
- (h) habitat for wildlife in terrestrial forests and fisheries in mangrove forests

(2) In pursuance of sub-section (1), the Service shall, in consultation with the forest conservation committee for the area

where the indigenous forest is situated, prepare forest management plans.

- (3) The Board may enter into a joint management agreement for the management of any public indigenous forest or part thereof with any person, institution, government agency or forest association.

Management of plantation forests

44. (1) All plantation forests in public and community forests shall be managed on a sustainable basis with the primary objective being the production of wood and other forest products and services for commercial purposes.

(2) Where the Board is satisfied that all or part of a public forest which is a plantation forest may be efficiently managed through a licence, concession, contract, joint agreement, it may place an advertisement in two daily newspapers of national circulation calling for applications from interested persons for the management of the same.

(3) Where the County Forest Conservation Committee is satisfied that all or part of a community forest which is a plantation forest may be efficiently managed through a licence, concession, contract, joint agreement, it may place an advertisement in two daily newspapers of national circulation calling for applications from interested persons for the management of the same.

(4) An applicant under subsections (2) and (3) shall submit his application together with a proposed management plan in respect of the forest which is the subject of the application.

(5) Any person aggrieved by the decision of the Board or the County Forest Conservation Committee to enter into a management agreement for a plantation forest under this section may appeal to the National Environment Tribunal within sixty days of the decision made.

(6) All licences, concessions, contracts or joint management agreements made under this Section shall be in accordance with the provisions of the Constitution of Kenya, the Public Procurement and Disposal Act and other relevant laws of Kenya.

Concession on public and community forests

45. (1) Where the Service or County Department responsible for forestry is satisfied that utilization of a public or community forest can be done through the granting of concessions, the Service or the County Government respectively may grant the same subject to the provisions of the Constitution of Kenya, the Public Procurement and Disposal

Act, the Environmental Management and Co-ordination Act, 1999 and any other relevant laws.

- (2) In addition to subsection (1), the grantee of a concession shall -
 - (a) comply with the guidelines or management plans prescribed by the Service or the County Government;
 - (b) prepare environmental and or social impact assessments as required under the laws governing environmental protection;
 - (c) prepare a concession area forest management plan that shall include inventories, reforestation or replanting programmes, annual operation plans and community user rights and benefits;
 - (d) protect the concession area from destruction and encroachment by other persons;
 - (e) ensure that the forest areas under his management are maintained for the conservation of biodiversity, cultural or recreational use;
 - (f) maintain the physical boundaries of the concession;
 - (g) take precautions to prevent the occurrence and spread of forest fires in connection with any or all operations within or outside the concession area;
 - (h) ensure that all structures and facilities constructed or operated by and in connection with any activities are maintained according to the conditions of the licence;
 - (i) pay applicable land rent, fees and other charges for utilizing forest resources within the concession area;
- (3) The licence shall indicate the nature of the concession, including its physical location and boundaries, and the purpose for which it is granted.
- (4) A grantee of a concession under this section shall be held personally responsible for any loss or damage, including the negligence of his/her employees, arising from his/her operations on the land for which the concession has been obtained.
- (5) The Service or County Government may by notice in the Gazette withdraw a concession granted under this section where a grantee breaches any of the conditions

prescribed under subsection (2).

Forest management agreements

46.(1) The Service or the County Department responsible for forestry may, upon application by any person, institution or organization, and after approval by the Service or County Department responsible for forestry has been obtained, enter into an appropriate management agreement for all or part of any forest within its jurisdiction.

(2) A management agreement entered into under subsection (1) shall specify-

- (a) the period for which the forest shall be managed;
- (b) the terms and conditions under which the applicant shall manage the forest;
- (c) any royalties and charges payable in respect thereof to the Service or the County Department responsible for forestry;
- (d) the mechanism for settlement of disputes arising in respect of the agreement; and
- (e) the circumstances under which the agreement may be terminated.

(3) Nothing in this section shall be deemed to transfer or to vest in any person, institution, or organisation any right of ownership of any land declared to be a public or community forest, other than the privilege of management and control.

(4) No management agreement shall convert a public or community forest into a settlement area.

(5) The Cabinet Secretary shall issue regulations, rules or guidelines to give effect to this section.

Consent for mining and quarrying

47.(1) The Service or the County Department responsible for forestry shall only give its consent for mining and quarrying operations in a forest area where –

- (a) the area does not contain rare, threatened or endangered species;
- (b) the forest does not have any cultural importance or contain sacred trees or groves;
- (c) an independent Environmental Impact Assessment and/or audit has been carried out;
- (d) the miner has undertaken through execution of a bond the value of which shall be determined by the Board or the county forest conservation committee, to rehabilitate the site upon completion of the mining operation to a level prescribed by the Service or the County Department responsible for

forestry;

- (e) the forest is not an important catchment area or source of springs:

Provided that the Cabinet Secretary shall, on the recommendation of the Board, and in consultation with the Cabinet Secretary responsible for mining, and the relevant government agencies, publish rules to regulate and govern mining operations in forest areas; and

- (f) the carrying on of the mining and quarrying operations shall not contravene any rules made under this Act.

(2) Subject to subsection (1), mining and quarrying may be carried out in a public or community forest under the authority of a licence issued by the Service or the County Department responsible for forestry respectively and in accordance with the Mining Act.

(3) A licence under subsection (2) shall not be issued unless the applicant has implemented safety measures to prevent injury to human beings, livestock and wildlife traversing the forest.

(4) The conditions on which a licence for mining and quarrying, or any other activity carried out in the forest, shall, where the activity concerned is likely to result in the depletion of forest cover in any forest, include a condition requiring the licensee to undertake compulsory restoration and re-vegetation immediately upon the completion of the activity.

(5) Re-vegetation shall be undertaken in consultation with the Service, which shall determine the seeds and seedlings proposed to be used in such re-vegetation.

Management Plans

48.(1) Every public forest, community forest, nature reserve and provisional forest shall be managed in accordance with a management plan that complies with the requirements prescribed by rules made under this Act.

(2) The Service shall be responsible for the preparation of a management plan with respect to each public forest, nature reserve and provisional forest.

(3) Every County Government shall be responsible for the preparation of a management plan with respect to each Community forest within its jurisdiction.

(4) In preparing a management plan, the Service or the County Department responsible for forestry shall consult with the local forest conservation committees.

(5) It shall be the duty of the Director General and the County Executive Officer responsible for forestry matters to

give effect to provisions of management plans in respect to public and community forests respectively.

(6) The Board and the County Forest Conservation Committee shall approve forest management plans for public and community forests respectively.

PART V - COMMUNITY PARTICIPATION IN PUBLIC AND COMMUNITY FORESTS

Application for community participation

49. (1) A member of a forest community may, together with other members or persons resident in the same area, register a community forest association under the Societies Act.

(2) An association registered under subsection (1) may apply to the Service or the County Department responsible for forestry for permission to participate in the conservation and management of a public or community forest respectively in accordance with the provisions of this Act.

Provided no such application shall be made where there is an existing prior agreement or license.

(3) The application referred to in subsection (2) shall be in the prescribed form and shall contain –

- (a) a list of the members of the association and its address;
- (b) the Constitution of the association;
- (c) the association's financial regulations;
- (d) the area of forest for which the association proposes to undertake conservation and management;
- (e) the association's proposals concerning –
 - (i) use of forest resources;
 - (ii) methods of conservation of biodiversity;
 - (iii) methods of monitoring and protecting wildlife and plant populations and enforcing such protection; and
- (f) such other information as the Director General or the County chief officer responsible for forestry may require.

(4) The Service or County Department responsible for forestry may give consent to develop a forest management plan in accordance with the regulations, rules and standards prescribed.

(5) The Director General or the County chief officer responsible for forestry shall cause to be kept an up to date record of all associations participating in the conservation or

management of public or community forests respectively.

Obligations of a forest association

50. (1) An association approved by the Director General or the County chief officer responsible for forestry under section 49 to participate in the management or conservation of such a forest or part of a forest shall -

- (a) protect, conserve and manage such forest or part thereof pursuant to an approved management agreement entered into under this Act and the provisions of the management plan for the forest;
- (b) formulate and implement forest programmes consistent with the traditional forest user rights of the community concerned in accordance with sustainable use criteria;
- (c) protect sacred groves and protected trees;
- (d) assist the Service or the County Department responsible for forestry in enforcing the provisions of this Act and any rules and regulations made pursuant thereto, in particular in relation to illegal harvesting of forest produce;
- (e) with the approval of the Board or the County Department responsible for forestry enter into partnerships with other persons for the purposes of ensuring the efficient and sustainable conservation and management of forests;
- (f) keep the Service or the County Department responsible for forestry informed of any developments, changes and occurrences within the forest which are critical for the conservation of biodiversity;
- (g) help in fire fighting; and
- (h) do any other act that is necessary for the efficient conservation and management of the forest.

(2) The Management Agreement between the Director General or the County chief officer responsible for forestry and the association shall confer on the association all or any of the following forest user rights-

- (a) collection of medicinal herbs;
- (b) harvesting of honey;
- (c) harvesting of fuel wood;
- (d) grass harvesting and grazing;
- (e) collection of forest produce for community based industries;

- (f) ecotourism and recreational activities;
- (g) scientific and education activities;
- (h) plantation establishment through the plantation establishment and livelihood improvement scheme;
- (i) contracts to assist in carrying out specified silvicultural operations;
- (j) development of community wood and non-wood forest based industries; and
- (k) other benefits which may from time to time be agreed upon between an association and the Service:

Provided that:

- (i) none of the activities specified in this subsection shall be carried out so as to conflict with the conservation of biodiversity; and
- (ii) the Director General or the County chief officer may, in consultation with the association, make rules regulating the performance thereof.

In case of establishment of plantations under the non resident cultivation, the cultivator shall be allowed to cultivate in the forest for a period not exceeding three years.

All management agreements made under this Section shall be in accordance with the provisions of the Constitution of Kenya, the Public Procurement and Disposal Act and other relevant laws of Kenya.

Assignment of forest user rights

51.(1) An association may, with the approval of the Director General or the County chief officer in charge of forestry, assign any or all its rights under a management agreement to a suitably qualified agent on mutually agreed terms.

(2) The Director General or the County chief officer in charge of forestry shall not approve any assignment that is inconsistent with the main objectives and purposes set out in the management agreement.

(3) The management agreement shall be deemed to provide that an association shall be liable for all the activities, acts and omissions of the assignees of its rights under the agreement.

Termination or variation of a management agreement

52. (1) The Director General or the County chief officer in charge of forestry may terminate a management agreement with an association or withdraw a particular user right where -

- (a) an association breaches the terms and conditions thereof;

(b) it is considered that such action is necessary for purposes of protecting and conserving biodiversity; or

(c) the association itself so requests.

(2) Where the Director General or the County chief officer intends to terminate a management agreement or withdraw a particular user right on either of the grounds stipulated in subsection (1) (a) or (b) of this section, he shall give the affected association thirty days' notice to show cause why the management agreement should not be so terminated or the user right so withdrawn.

(3) Where an association is aggrieved by the decision of the Director General or the County chief officer under this section, it may, within thirty days after being notified of the decision, appeal to the Board or the County Forest Conservation Committee against the decision.

(4) Nothing in this section shall be construed to limit the grounds on which, in accordance with the terms of a management agreement, the agreement or any user right may be terminated.

Customary rights

53. Nothing in this Act shall be deemed to prevent any member of a forest community from using, subject to such conditions as may be prescribed, such forest produce as it has been the custom of that community to take from such forest otherwise than for the purpose of sale.

PART VI - INCENTIVES FOR INCREASING FOREST AND TREE COVER

Provision of incentives

54. (1) The Cabinet Secretary shall, by regulation, establish a Facility to provide financial and technical support for:-

- (a) community forestry programmes;
- (b) reforestation and afforestation;
- (c) apprenticeships and vocational training;
- (d) forest sink initiatives; and
- (e) payment for ecosystem services.

Incentives and benefit sharing

55.(1) The provisions of Section 19 of the Land Act, 2012 shall apply to this section in regard to:-

- (a) provision of incentives for communities and individuals to invest in income generating natural resource conservation programmes
- (b) measures to facilitate the access, use and co-management of forests, water and other resources by

communities who have customary rights to these resources.

- (c) procedures on the involvement of stakeholders in the management and utilization of land based natural resources.
 - (d) measures to ensure benefit sharing with the affected communities.
- (2) The Cabinet Secretary shall, in consultation with the National Land Commission and the Commission on Revenue Allocation, formulate guidelines regarding incentives and benefit sharing, and the nature and manner in which the same shall be distributed.
 - (3) The Cabinet Secretary shall, by regulation develop guidelines and regulations on payment for environmental services indicating institutional frameworks, engagement modalities, benefit flow mechanisms and funding mechanisms.
 - (4) The guidelines under sub-sections (2) and (3) shall be subjected to public scrutiny at every stage of their formulation within the framework of the laws on devolution and land management.

Tax and fiscal incentives

56. (1) The Cabinet Secretary responsible for the National Treasury may, on the recommendation of the Cabinet Secretary, propose tax and other fiscal incentives to increase investments in forest land use and forest resource utilization in order to promote forest conservation and management, and to prevent or abate forest degradation.

(2) Without prejudice to the generality of subsection (1), the tax and fiscal incentives, may include—

- (a) customs and excise waiver in respect of imported capital goods or tax rebates to forest industries and other establishments investing in plants, equipment and machinery for improved resource utilization and for using other energy resources as substitutes for hydrocarbons;
- (b) exemption from payment of all or part of the land rates and such other charges as may be levied in respect of the land on which a private forest is established;
- (c) income and other tax deductions to landowners in exchange for the establishment of a forest conservation easement; and
- (d) provision of payments for environmental services

from public goods derived from forests.

National tree planting week

57. The Cabinet Secretary shall plan and execute programmes necessary for observing the national tree-planting week and world forest day.

PART VII - LICENSING AND TRADE IN FOREST PRODUCTS

Authorization and private sector involvement

58. (1) The Service or the County Department responsible for forestry may, whenever circumstances make it necessary or appropriate to do so, invite the private sector to participate in the sustainable management of forests under their jurisdiction.

(2) The Service or the County Department responsible for forestry may issue authorisations for forestry activities in form of:-

- (a) a permit;
- (b) a timber licence;
- (c) a special-use licence;
- (d) a contract;
- (e) a joint management agreement; and
- (f) a concession agreement.

(3) No authorization shall be issued in respect of a forest for which there is a pre-existing authorization, except on terms mutually agreed upon by all the parties involved.

Eligibility for authorization.

59. (1) A person shall not be eligible to apply for an authorisation unless that person –

- (a) possesses the necessary legal capacity to enter into binding agreements, and has the technical and financial capacity to undertake the forestry activities for which the authorisation is sought; and
- (b) in the case of a foreign investor, has complied with all the laws for the time being in force relating to investment by foreigners.

(2) In the case of timber-licences, contracts and concessions:-

- (a) legal capacity includes the competence to enter into contracts which for business entities shall be demonstrated through proof of registration;
- (b) technical capacity includes the competence to undertake forestry activities, as demonstrated by employment of technical staff, access to equipment, satisfactory past performance and a record of good compliance with the laws and standards; and

- (c) financial capacity includes solvency and ability to conform to good business practices as demonstrated by the applicant's financial statements for the past three years, where applicable, and tax compliance certificates.

Chain-of-Custody

60. (1) The Service and the County Department responsible for forestry shall establish and maintain a Chain-of-Custody system, to verify the origin of forest products from public, community and private forests and the compliance of license holders in accordance with this Act.

(2) The Service shall upon request support the process of establishing and maintaining the chain of custody for a County government.

(3) A person in possession or trading in forest products shall comply with the requirements of the chain-of-custody system established under this section.

Grading and valuation of timber and other forest products

61. (1) The Cabinet Secretary in consultation with the relevant stakeholders shall make rules and regulations to establish standards for the grading and valuation of timber and other forest products.

(2) On the advice of the registered association of professional foresters, the Cabinet Secretary may, by Notice in a Gazette, authorize any person to be a timber grader or valuer under this Act.

Export and import procedure

62. (1) No person shall import, export, re-export or introduce any forest products into or from Kenya without a permit issued by the Service under this Act.

(2) To give effect to this provisions, the Cabinet Secretary may by notice in the Gazette, publish rules regulating the export and import of forest products.

Prohibition on trade in restricted forest produce

63. The Cabinet Secretary may declare by Notice in the Gazette any forest produce that may not be exported or imported.

PART VIII - ENFORCEMENT AND COMPLIANCE

Powers of officers

64. (1) The Director General or any authorized officer of the Service may -

- (a) demand from any person the production of an authority or licence for any act done or committed by that person in a public, community or provisional forest, or in relation to any forest produce for which a licence required under this Act or under any rules made

thereunder;

- (b) require any person found within or without a public, community or provisional forest who has in his possession any forest produce suspected to have come from such forests, to give an account of the manner in which he became possessed thereof, and, where the account given is not satisfactory, arrest and take such person before a magistrate:
- (c) search any person suspected of having committed an offence under this Act or of being in possession of any forest produce in respect of which an offence has been committed, and arrest the person, seize and detain any baggage, package, parcel, conveyance, tent, hut or building under the control of that person or his agent or servant:

Provided that no person shall be arrested under this section unless the officer has reasonable cause to believe that that person may fail to appear to answer a summons, or unless that person refuses to give his name and address or gives a name and address which there is reasonable cause to believe is false;

- (d) search any vehicle or vessel and seize and detain any forest produce in respect of which there is reason to believe that an offence has been committed, together with any tools, equipments, vessels, vehicles or livestock used in the commission of the offence:

Provided that the officer seizing such property shall forthwith report the seizure to the magistrate having jurisdiction over the area where the offence takes place;

- (e) seize and detain any livestock found in a public, community or provisional forest without any person in charge of them:
- (f) confiscate any equipment or receptacle placed without authority in a public, community or provisional forest.

(2) The Director General or any authorized officer of the Service may-

- (a) enter any private forest registered under section 34(1) in order to assess the condition thereof or to perform any such other act which he considers necessary in the circumstances; or
- (b) enter the premises of any forest-based industry or forest produce dealer to inspect any forest produce placed or found within the premises to satisfy himself that the industry or dealer is abiding by

the provisions of a licence issued under this Act:

Provided that during such inspection due regard shall be given to the rights of the proprietor.

(c) take all reasonable steps to prevent the commission of an offence under this Act; and

(d) where qualified to do so, administer oaths and take sworn testimony for the purposes of an investigation conducted under this Act.

(3) In enforcing this section, any officer of the Service who is of or above the rank of Sergeant Forest Ranger shall have the same powers conferred to relevant officers under the Criminal Procedure Code and the National Police Service Act.

Use of firearms

65. (1) The President may, through the Inspector General of Police, make available to the Service such firearms as may be necessary for the Service to carry out its functions under this Act.

(2) Any officer of the Service, after acquiring the requisite paramilitary and skill at arms training, and when authorised by the Director General, may use firearms for the following purposes: -

(a) in the course of law enforcement against-

(i) any person charged with an offence punishable under this Act, when that person is escaping or attempting to escape from lawful custody;

(ii) any person who, by force, removes or attempts to remove any other person from lawful custody;

(iii) any person who, by force, attempts to prevent the lawful arrest of himself or any other person; or

(iv) any person unlawfully hunting any animal within a forest area or nature reserve.

(b) for the protection of people and property against any animal causing destruction to human life or property or crops; and

(c) in the course of animal population control.

(3) Notwithstanding the foregoing, an officer of the Service shall not resort to the use of firearms -

(a) under paragraph (a)(i) of sub-section (2), unless the officer concerned has reasonable grounds to believe that he cannot otherwise prevent the escape, and unless he has given ample warning to such person that he is about to use a firearm against him, and the

warning is unheeded;

- (b) under paragraph (a)(ii) or (iii) of sub-section (2), unless the officer concerned believes on reasonable grounds that he or any other person is in danger of grievous bodily harm, or that he cannot otherwise prevent the removal, or, as the case may be, effect the arrest.

Prosecutorial powers

66. A forest officer may on the authority of the Director General and with the leave of the Director General of Public Prosecution given under the relevant law, conduct any prosecution for any offence committed under this Act.

PART IX - OFFENCES AND PENALTIES

Prohibited activities in forests

67. (1) Except under a licence or permit or a management agreement issued or entered into under this Act, no person shall, in a public, community or provisional forest –

- (a) fell, cut, take, burn, injure or remove any forest produce;
- (b) be or remain therein between the hours of 7 p.m. and 6 a.m. unless using a recognised road or footpath, or is in occupation of a building authorised by the Director General or the County chief officer responsible for forestry, or is taking part in cultural, scientific or recreational activities;
- (c) erect any building or livestock enclosure, except where the same is allowed for a prescribed fee;
- (d) smoke, where smoking is by notice prohibited, or kindle, carry or throw down any fire, match or other lighted material;
- (e) de-pasture or allow any livestock to be therein;
- (f) clear, cultivate or break up land for cultivation or for any other purpose;
- (g) enter any part thereof which may be closed to any person;
- (h) collect any honey or beeswax, or hang on any tree or elsewhere any honey barrel or other receptacle for the purpose of collecting any honey or beeswax, or enter therein for the purpose of collecting honey and beeswax, or be therein with any equipment designed for the purpose of collecting honey or beeswax;
- (i) construct any road or path;
- (j) set fire to, or assist any person to set fire to, any grass

or undergrowth or any forest produce;

(k) possess, bring or introduce any chain saw or logging tools or equipment;

(l) damage, alter, shift, remove or interfere in any way whatsoever with any beacon, boundary mark, fence notice or notice board.

(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(3) Any person who contravenes the provisions of section 41(2) shall be guilty of an offence and is liable on conviction to a fine not exceeding one million or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(4) Any person who contravenes the provisions of section 62 shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five million shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

Counterfeiting or unlawfully affixing marks

68. Any person who, without lawful authority -

(a) marks any forest produce, or affixes upon any forest produce, a mark ordinarily used by a forest officer to indicate that the forest produce is the property of the Service or the County Department responsible for forestry, or that it may or has been lawfully cut or removed;

(b) alters, obliterates, removes or defaces any stamp, mark, sign, licence, permit or other document lawfully issued under the authority of this Act, or removes or destroys any part or a tree bearing the stamp or other mark used by any forest officer;

(c) covers any tree stump in any public or community forest with brushwood or earth, or by any other means whatsoever conceals, destroys, or removes or attempts to conceal, destroy or remove such tree stump or any part thereof;

(d) wears any uniform or part of a uniform, or any badge or other mark issued by the Service to be worn by forest officers or other employees of the Service, or who in any other way holds himself out to be an employee of the Service; or

(e) counterfeits or issues without lawful authority any

licence or other document purporting it to be a licence or document issued under this Act or any rules made thereunder,

commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

Offences in relation to mining,
quarrying

69. Any person who contravenes the provisions of this Act in relation to activities in forest areas relating to mining, quarrying or re-vegetation commits an offence and shall be liable on conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and imprisonment.

Other Offences

70. (1) Any person who -

- (a) commits a breach of, or fails to comply with the provisions of this Act;
- (b) commits a breach of, or fails to comply with any of the terms or conditions of a licence issued to him/her under this Act;
- (c) fails to comply with a lawful requirement or demand made or given by a forest officer;
- (d) obstructs a person in the execution of his/her powers or duties under this Act;
- (e) makes or is found in possession of charcoal in a public, community, or provisional forest; or in private forest or farmlands without a licence or permit of the owner as the case may be:

Commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment.

(2) Any person who wilfully or maliciously sets fire to any public, provisional, community or private forest commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both such fine and imprisonment.

(3) Any person who operates a sawmill in a manner contrary to that prescribed in rules made under this Act commits an offence and is liable on conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding three years, or to both such fine and imprisonment.

(4) Save under a licence or permit or a management

agreement issued or entered into under this Act, no person shall, in a forest capture or kill any animal, set or be in possession of any trap, snare, gin or net, or dig any pit, for the purpose of catching any animal, or use or be in possession of any poison or poisoned weapon:

Provided that nothing in this sub paragraph shall be deemed to prohibit the capturing or killing of an animal in accordance with the conditions of a valid license or permit issued under the Wildlife Conservation and Management Act, 2013.

(5) Any livestock found in any forest shall, unless the owner thereof proves to the contrary, be deemed to be there under the authority of the owner as well as the person, if any, actually in charge of the livestock.

(6) The livestock detained under section 64(1)(e) shall be auctioned at the expiry of seven days if the owner does not reclaim it, and the proceeds of such auction shall be paid to the Service.

(7) Neither the Service nor the County Government or any of their officers shall be liable for the injury, loss or death of any livestock so seized and detained under Section 64(1)(e).

(8) Any person who, in any forest area -

- (a) introduces any exotic genetic material or invasive plants without authority from the Service or County Department responsible for forestry;
- (b) dumps any solid, liquid, toxic or other wastes in a forest without authority of the Service or the County Department responsible for forestry;
- (c) grows any plant from which narcotic drugs can be extracted; or
- (d) extracts, removes, or causes to be removed, any tree, shrub or part thereof for export;

commits an offence and is liable on conviction to a fine not exceeding three million shillings or to imprisonment for a term not exceeding ten years, or to both such fine and imprisonment.

Compensation for loss or damage

71. (1) Where a person is convicted of an offence of damaging, injuring or removing forest produce from any forest, the forest produce shall be forfeited to the owner. The court may in addition to any other ruling order -

- (a) that such person pay to the forest owner, by way of compensation, a sum equal to the determined value of the forest produce so damaged, injured or removed and where the value cannot be estimated,

ten thousand shillings for each offence:

- (b) if it is proved to the satisfaction of the court that the person so convicted is the agent or employee of another person, that other person to pay by way of compensation to the forest owner, the value of the forest produce, unless after hearing that other person, the court is satisfied that the offence was not due to his negligence or default;
- (c) the vessels, vehicles, tools or implements used in the commission of the offence be forfeited to the Service:

Provided that the value of the forest produce shall be either the commercial value of the forest produce or the cost of restoring the damage caused to the forest as a result of the offence committed, whichever is higher.

(2) Where a person is convicted of an offence of occupying or cultivating land in a forest area without a licence, the court may, in addition to any other penalty imposed under this Act, order such person to remove any buildings, enclosures, huts or crops within a period to be specified in the order, and if the person so convicted fails to comply with an order within the period so specified, the buildings, enclosures, huts or crops shall be deemed to be the property of the Service, the County Department responsible for forestry or the private forest owner, as the case may be, and may be disposed of as the Service, County Department responsible for forestry or the private forest owner may think fit:

Provided, however, that expenses incurred as a result of keeping in custody anything seized or detained under this section shall be borne by the person whose property is seized or detained.

General penalty

72. Any person found guilty of an offence against the provisions of this Act for which no specific penalty is provided shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding three months, or to both such fine and imprisonment.

Disputes

73. (1) Any dispute that may arise in respect of forest conservation, management, utilization or conservation shall in the first instance be referred to the lowest possible structure under the devolved system of government as set out in the Devolution of Government Act.

(2) any matter that may remain un-resolved in the manner prescribed above, shall be referred to the National Environment

Tribunal for determination, pursuant to which an appeal subsequent thereto shall, where applicable, lie in the Environment and Land Court as established under the Environment and Land Court Act, 2011.

PART X - MISCELLANEOUS

Rules

74.(1) The Cabinet Secretary may, on the recommendation of the Board, make rules and regulations for or with respect to any matter which is necessary or expedient to be prescribed for carrying out or giving effect to this Act.

(2) Without prejudice to the generality of the foregoing, rules and regulations may be made under this section for –

- (a) formulating guidelines on incentives and benefit sharing;
- (b) specifying the conditions subject to which any licence, permit or authorization may be granted or issued under this Act;
- (c) regulating activities in public forests, provisional forests, nature reserve and visitor indemnity;
- (d) prescribing measures that enhance community participation in the conservation and management of forests;
- (e) providing for protection of endangered and threatened tree species;
- (f) prescribing measures and mechanisms for participatory forest management agreements with other stakeholders and lead agencies;
- (g) prescribing the manner of representation of communities and other stakeholders to the Board, Forest Conservancy Committees and County Forest Conservation Committees;
- (h) controlling the harvesting, collection, sale of and disposal of forest produce including timber grading and marking;
- (i) prescribing the amount of royalties or fees payable under this Act generally or in particular cases;
- (j) regulating the use and occupation of public forest land for the purposes of residence, cultivation, and grazing;
- (k) providing guidelines for eco-tourism including recreation, camping, picnicking and cultural activities;
- (l) providing guidelines for management planning process;

- (m) providing the circumstances in which licences, permits, leases, concessions and other agreements may be applied for, granted, varied or cancelled, and the manner in which a person to whom a licence is granted may exercise a right or privilege conferred upon him/her by the licence;
- (n) regulating the felling, working and removal of forest produce in areas where trees may be felled or removed;
- (o) providing for compulsory use of property marks by the Service, the County Department responsible for forestry and owners of private forests for the purpose of identifying wood sold from public, community, provisional and private forests;
- (p) prescribing conditions under which mismanaged or neglected forests may be declared provisional forests and conditions for reverting them to the original owners;
- (q) providing for the creation of new forest areas including establishment of commercial forests;
- (r) regulating production, transportation and marketing of charcoal;
- (s) ensuring compliance with international obligations.
- (t) regulating engagement and operationalization of the payment for environmental services scheme.

(3) Rules made under this section may require acts to be performed or done to the satisfaction of the Service, and may empower the Board to issue orders imposing conditions and dates upon, within or before which such acts or things shall be performed or done.

(4) Upon the recommendation of the County Department responsible for forestry and in consultation with the Board, the Cabinet Secretary may make rules in respect of any community forests in the County.

(5) The provisions of Section 27 of the Interpretation and General Provisions Act shall not apply to rules made under this section.

Maintenance of Registers

75. (1) The Director General in consultation with County Chief Officer responsible for forestry shall maintain registers of forest management and conservation activities which shall include but not limited to the following:-

- (a) licences issued under this Act;
- (b) public forests;

- (c) community forests;
- (d) private forests registered under section 34 of this Act;
- (e) forest management agreements and concessions under this Act; and
- (f) forest management plans;

(2) All registers maintained under this section shall be open for inspection at the office of the Director General and the County chief officer responsible for forestry, by members of the public during official working hours.

International instruments, conventions and agreements

76. (1) The provisions of this Act shall be carried out in accordance with any treaties, conventions or international agreements concerning forests or forest resources as provided for under the Constitution of Kenya.

(2) The Cabinet Secretary may make regulations and give direction to ensure compliance with international instruments, conventions and agreements ratified by Kenya.

Co-operation regarding cross-border forest resources

77. The Director General may, with the approval of the Board, develop management plans for purposes of sustainable management of cross-border forest resources.

Environment law to apply

78.(1) The provisions of this Act with respect to conservation, management and protection of the environment shall be in conformity with the provisions of the Environmental Management and Coordination Act.

(2) The provisions of the Environmental Management and Coordination Act, 1999 regarding reference to the Tribunal established under that Act shall apply to hearing of appeals arising from the decisions made under this Act.

(3) No user rights or other licence or permit granted under this Act shall exempt a person from complying with any other written law concerning the conservation and protection of the environment.

(4) A user or other related right shall not be granted under this Act where the requirement for a strategic environmental, cultural, economic and social impact assessment licence under the Environmental Management and Coordination Act, 1999 has not been complied with.

PART XI - TRANSITIONAL PROVISIONS

Repeals

79. The Forests Act, 2005 and Timber Act cap 386 are hereby repealed.

Savings

80. Notwithstanding the repeal of the Forests Act:-

- (1) any land which immediately before the commencement of this Act, was a gazetted forest reserve as set out in the Third schedule shall be deemed to be a public forest under this Act;
- (2) any licence, contract or agreement issued under the repealed Act shall remain in force as if it were a licence, contract, or agreement issued under this Act:

provided that where the licence, contract or agreement in force immediately before the commencement of this Act relates to activities now outlawed under this Act, shall cease upon commencement of this Act;

- (3) all participatory forest management plans shall be revised to be in conformity with the provisions of this Act.
- (4) the rules and regulations falling within the ambit of the repealed shall remain in force until replaced with rules and regulations made under this Act.
- (5) a person who immediately before the commencement of this Act was an employee of the Service under the repealed Act, shall continue to hold or act in that office as if appointed to that position under this Act, and all benefits accruing to employees under the repealed Act shall continue accruing to them under this Act.
- (6) members of the Board who immediately before the commencement of this Act were appointed as Board members of the Service under the repealed Act, shall continue to hold and act as Board members as if appointed to that position under this Act, for a period not exceeding one year.
- (7) the Forest Management and Conservation Fund established under the repealed Act, shall continue as if established under this Act.

FIRST SCHEDULE (s. 12)**CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD**

Tenure of office and conduct of business of the Board

1. (1) The chairperson of the Board shall hold office for a term of three years and shall be eligible for re-appointment for one further

term of three years.

(2) Other than ex-officio members, a member of the Board shall, subject to the provisions of this section, hold office for a period not exceeding three years on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for one further term of three years.

(3) The members of the Board shall be appointed at different times so that the respective expiry dates of their terms of office fall at different times.

(4) A member other than the chairperson or an ex-officio member may -

(a) at any time resign from office by notice in writing to the Cabinet Secretary;

(b) be removed from office by the Cabinet Secretary if the member -

(i) has been absent from three consecutive meetings of the Board without the permission of the chairman; or

(ii) is adjudged bankrupt or enters into a composition scheme or arrangement with his creditors; or

(iii) is convicted of an offence involving fraud or dishonesty; or

(iv) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings; or

(v) is incapacitated by prolonged physical or mental illness; or

(vi) is found to have acted in a manner prejudicial to the aims and objectives of this Act; or

(vii) fails to comply with the provisions of this Act relating to disclosure; or

(viii) is otherwise unable or unfit to discharge his/her functions as a member of the Board.

Meetings of the Board

2. (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:

Provided that the chairperson may call a special meeting of the Board at any time where he deems it expedient for the transaction of the business of the Board.

(2) Other than a special meeting, or unless three quarters of members agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board by the secretary.

(3) The quorum for the conduct of business of the Board shall be half of the members' and unless a unanimous decision is reached,

decisions shall be by a majority vote of the members present, and in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(4) The chairperson shall preside over all meetings of the Board in which he is present, but in his/her absence, the vice-chairman shall preside, and in his/her absence the members present shall elect one of their number who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(5) At the first meeting of the Board, the members shall elect a vice-chairperson, not being a public servant, from among its members.

Disclosure of interests

3.(1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at the meeting of the Board at which the contract, proposed contract or matter is the subject of consideration, he/she shall, at the meeting and as soon as practicable after the commencement thereof, disclose that fact and shall be excluded at the meeting at which the contract, proposed contract or matter is being considered.

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

Board may regulate procedure.

4. Save as provided in this Schedule, the Board may regulate its own procedure.

SECOND SCHEDULE (s. 35)

PROVISIONS FOR PUBLIC CONSULTATION

1.(1) Where this Act imposes a requirement for public consultation, the responsible authority shall publish a notice in

relation to the proposal –

- (a) in the Gazette;
- (b) in at least two national newspapers;
- (c) in at least one newspaper circulating in the locality to which the proposal relates; and
- (d) in at least one Kenyan radio station broadcasting in that locality.

(2) The notice shall in each case –

- (a) set out a summary of the proposal;
- (b) State the premises at which the details of the proposal may be inspected;
- (c) invite written comments on or objections to the proposal;
- (d) specify the person or body to which any such comments are to be submitted; and
- (e) specify a date by which any such comments or objections are required to be received, not being a date earlier than 60 days after publication of the notice.

2. The responsible authority shall make arrangements for the public to obtain copies, at reasonable cost, of documents relating to the proposal which are in the possession of the responsible authority.

3. The responsible authority shall consider –

- (a) any written comments or objections received on or before the date specified under paragraph 2(2) (e); and
- (b) any comments, whether in writing or not, received at any public meeting held in relation to the proposal at which the responsible authority was represented, or pursuant to any other invitation, to comment.

4. The responsible authority shall publish, through the same media as were employed pursuant to paragraph 1, notice of the fact that a copy of the decision in writing of the responsible authority in relation to the proposal, and of the reasons thereof, is available for public inspection at the same premises as were notified under paragraph 1(2) (b).

5. Where rules made under this Act so require, the responsible authority shall cause a public meeting to be held in relation to a proposal before the responsible authority makes its decision on the proposal.

THIRD SCHEDULE (s. 32)

PUBLIC FOREST RESERVES

Name of Forest	LN. No.	Name of Forest	LN. No.	Name of Forest	LN. No.	Name of Forest	LN. No.
1. Aberdare	48/1943	2. Kessop	102/1941	3. Marenk	50/1967	4. Northern Tinderet	44/1932

Name of Forest	LN. No.	Name of Forest	LN. No.	Name of Forest	LN. No.	Name of Forest	LN. No.
5. Aberdare	48/1943	6. Ketnwan	15/1949	7. Marmaret	44/1932	8. Nthangu	532/1960
9. Aberdare	48/1943	10. Kiagu	335/1959	11. Marop	15/1949	12. Nthoani	27/2013
13. Abiero Hill	42/2/2013	14. Kiambicho	185/1961	15. Marsabit	44/1932	16. Ntugi	335/1959
17. Amara	69/6/2012	18. Kiambu	44/1932	19. Mataa	532/1960	20. Nuu	303/1961
21. Arabuko Sokoke	48/1943	22. Kiamuti	185/1961	23. Mathews Range	454/1956	24. Nyaitara	80/1997
25. Bahati	44/1932	26. Kibithewa	335/1959	27. Mau Narok	110/1967	28. Nyambeni	335/1959
29. Bangali	39/2/2013	30. Kibwezi	80/1936	31. Mbalambala	40/2/2013	32. Nyamweru	57/1941
33. Bonjoge	371/1994	34. Kieiga	335/1959	35. Mbili	235/1991	36. Nyasumbi	139/1995
37. Buda	44/1932	38. Kierera	335/1959	39. Mchungunyi	235/1991	40. Nyeri	44/1932
41. Bunyala	421/1956	42. Kiganjo	44/1932	43. Menengai	127/1977	44. Nyeri Hill	26/1944
45. Chebartigon	15/1949	46. Kijabe Hill	184/1980	47. Meru (Lower Imenti)	104/1938	48. Nyeri Municipality	200/1987
49. Cheboyit	102/1941	50. Kijegge	335/1959	51. Meru (Upper Imenti)	104/1938	52. Nzau	532/1960
53. Chemorogok	15/1949	54. Kikingo	335/1959	55. Metkei	26/1954	56. Ol Arabel	107/1941
57. Chemurokoi	102/1941	58. Kikuyu Escarpment	48/1943	59. Misango	28/2013	60. Ol Bolossat	104/1938
61. Chepalungu	360/1956	62. Kilala	532/1960	63. Mkongani North	406/1956	64. Ol Pusimoru	196/1957
65. Chepkuchumo	27/1962	66. Kilulunyi	235/1991	67. Mkongani West	406/1956	68. Ololua	102/1941
69. Cherial	15/1949	70. Kilungu	14/1933	71. Mnangei/Siyoi	22/2013	72. Onoo Water Point	139/1995
73. Choke (Mnjonyi)	235/1991	74. Kimanyi	34/2/2013	75. Modagache (Weni-Tole)	235/1991	76. Otacho	219/1992
77. Chonyi (Kaya)	88/1994	78. Kimojoch	15/1949	79. Murinduko	385/1994	80. Pemwai	15/1949
81. Dagoretti	104/1938	82. Kinyesha Mvua	235/1991	83. Molo	44/1932	84. Perkerra Catchment	27/1962
85. East Ngamba	101/1978	86. Kinyo	15/1949	87. Mosegem	15/1949	88. Rabuur	219/1992
89. Eastern Mau	57/1941	90. Kiongwani	532/1960	91. Mount Elgon	44/1932	92. Ramogi	42/2/2013
93. Eburu	44/1932	94. Kioo	532/1960	95. Mount Kenya	48/1943	96. Ranen	37/2/2013
97. Eldoret 1 and 11	258/1966	98. Kipipiri	218/1956	99. Mount Kenya	48/1943	100. Ribe(Kaya)	88/1994
101. Embakasi	102/1941	102. Kipkabus	64/1961	103. Mount Kenya	48/1943	104. Rumuruti	44/1932
105. Embobut	26/1954	106. Kipkabus	57/1941	107. Mount Kenya	48/1943	108. Sagegi Hill	219/1992
109. Endau	253/1993	110. Kipkunnur	102/1941	111. Mount Londiani	44/1932	112. Saimo	15/1949
113. Escarpment	57/1941	114. Kiplombe Hill	2/1936	115. Mount Londiani	44/1932	116. Sanao	15/1949
117. Figi	235/1991	118. Kiptaberr	49/1967	119. Mount Londiani	44/1932	120. Sekenwo	27/1962
121. Fururu	235/1991	122. Kitalale	2/1977	123. Mount Nyiru	454/1956	124. Sekhendu	152/1977
125. Gaikuyu	253/1993	126. Kitale Township	44/1932	127. Mrima	304/1961	128. Shimba	407/1956
129. Giribe	219/1992	130. Kiteta Hill	14/1933	131. Mt Elgon	44/1932	132. Sogotio	102/1941
133. Gogoni	44/1932	134. Kithendu	532/1960	135. Mtarakwa	15/1949	136. Sokta Hill	15/1949
137. Gonja	304/1961	138. Kitondu	532/1960	139. Mtege	235/1991	140. South Laikipia	44/1932
141. Got Kwer	35/2/2013	142. Kitoo	532/1960	143. Muguga	104/1938	144. South Mbooni	14/1933

Name of Forest	LN. No.	Name of Forest	LN. No.	Name of Forest	LN. No.	Name of Forest	LN. No.
145. Got Agulu	139/1995	146. Kitumbuuni	532/1960	147. Mukobe	27/1962	148. South Nandi	76/1936
149. Got Kwach	139/1995	150. Kiu (Ngungu)	532/1960	151. Mukogodo	89/1937	152. South Western Mau	44/1932
153. Got Otaro	33/2/2013	154. Kokani	32/2/2013	155. Mumbaka	284/1986	156. South Western Mau	44/1932
157. Goye	235/1991	158. Kuja Bull Camp	38/2/2013	159. Mumoni	253/1993	160. South Western Mau	44/1932
161. Gwasi Hills	106/2005	162. Kulundu	235/1991	163. Munguni	335/1959	164. Southern Mau	102/1941
165. Hewani	30/2/2013	166. Kwa Hill	219/1992	167. Muringato Nursery	44/1932	168. Susu	235/1991
169. Ikilisa	532/1960	170. Kyai	532/1960	171. Mutejwa	335/1959	172. Tarambas Hill	15/1949
173. Imba/Chakuyu	321/1993	174. Kyemundu	532/1960	175. Mutha	25/2013	176. Teressia	76/1936
177. Iveti	14/1933	178. Laliak	44/1932	179. Mutharanga	335/1959	180. Thunguru Hill	335/1959
181. Jibana (Kaya)	88/1994	182. Lambwe	43/2/2013	183. Mutito Hill	25/1962	184. Thuuri	335/1959
185. Jombo	102/1941	186. Lelan	128/1958	187. Mutula	532/1960	188. Timau	12/1950
189. Kabarak	27/1962	190. Lembus	280/1959	191. Muumandu	7/1955	192. Timboroa	44/1932
193. Kabiok	15/1949	194. Leroghi	2/1936	195. Mwachi	104/1938	196. Tinderet	44/1932
197. Kaisungor	102/1941	198. Likia Extension	68/6/2012	199. Mwachora	235/1991	200. Tinderet	44/1932
201. Kakamega	14/1933	202. Loitokitok	221/1977	203. Mwakamu	235/1991	204. Tinderet	44/1932
205. Kalimani	532/1960	206. Londiani	44/1932	207. Mwandongo	235/1991	208. Tingwa Hill	26/1954
209. Kambe (Kaya)	88/1994	210. Lugari	3/1977	211. Mwina	31/2013	212. Toropket	102/1941
213. Kamiti	14/1933	214. Lusoi	215/1984	215. Nabkoi	44/1932	216. Trans Mara	102/1941
217. Kangure	185/1961	218. Maai	26/2/2013	219. Nairobi Arboretum	44/1932	220. Tulimani	532/1960
221. Kapchemutwa	102/1941	222. Maatha	335/1959	223. Nakuru	128/1977	224. Tumeya	64/1961
225. Kapchorua 1	102/1941	226. Macha	235/1991	227. Namanga Hill	304/1979	228. Tumeya	57/1941
229. Kapchorua 11	102/1941	230. Maeta	139/1995	231. Namuluku	285/1986	232. Turbo	145/1968
233. Kapkanyar	49/1967	234. Magumo North	253/1978	235. Nanyungu	283/1986	236. Turbo	145/1968
237. Kapolet	57/1941	238. Magumo South	305/1979	239. Ndatai	532/1960	240. Tutwain	15/1949
241. Kapsaret	44/1932	242. Mailuganji	107/1941	243. Ndengu	235/1991	244. Uaso Narok	386/1960
245. Kaptagat	57/1941	246. Maji Mazuri	44/1932	247. Ndiwenyi	235/1991	248. Ururu	76/1936
249. Kaptaroi	76/1936	250. Makongo	303/1961	251. Ndotos Range	454/1956	252. Utangwa	532/1960
253. Kaptimom	15/1949	254. Makongo	532/1960	255. Nduluni-Kalani	532/1960	256. Utunene	532/1960
257. Karaini	385/4/11/94	258. Makuli-Nguuta	532/1960	259. Ngaia	335/1959	260. Uuni	532/1960
261. Karua A	185/1961	262. Makunga	23/2013	263. Ngamba	303/1961	264. Waiya	532/1960
265. Karua B	185/1961	266. Malaba	14/1933	267. Ngangao	125/2005	268. Wanga	286/1986
269. Karua C	185/1961	270. Mandunguni	109/2004	271. Ngare Ndare	44/1932	272. Wayu	29/2013
273. Karura	44/1932	274. Mangrove Swamps	44/1932	275. Ngare Ndare	44/1932	276. Weni-Mbogho	235/1991
277. Kasigau	102/1941	278. Mangrove Swamps	44/1932	279. Ngomenyi	235/1991	280. Weni-Mwana	235/1991

Name of Forest	LN. No.	Name of Forest	LN. No.	Name of Forest	LN. No.	Name of Forest	LN. No.
281. Katende	532/1960	282. Mangrove Swamps	44/1932	283. Ngong Hills	90/1985	284. West Molo	44/1932
285. Katimok	15/1949	286. Mangrove Swamps	44/1932	287. Ngong Road	44/1932	288. Western Mau	44/1932
289. Kegonga	139/1995	290. Mangrove Swamps	44/1932	291. Njuguni	335/1959	292. Western Mau	44/1932
293. Kemeto	15/1949	294. Marabu-Magina	219/1992	295. Njukiini West	385/1994	296. Wire	36/2013
297. Kenze	532/1960	298. Maragoli	266/1957	299. North Mbooni	14/1933	300. Witu	454/1962
301. Kererr	26/1954	302. Maranga	24/2013	303. North Nandi	76/1936	304. Yale	235/1991