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NAKURU COUNTY BILLS, 2019

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CONTENT

Bill for Introduction into the County Assembly of Nakuru—

PAGE

The Nakuru County Agricultural Training and Mechanization Service Bill, 2019....1
THE NAKURU COUNTY AGRICULTURAL TRAINING AND MECHANIZATION SERVICES BILL, 2019
ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY PROVISIONS

1—Short title.
2—Interpretation.
3—Objects.
4—Guiding principles.

PART II—ESTABLISHMENT AND ADMINISTRATION

5—Establishment of the Agricultural Training Centre.
6—Functions of the Principal.
7—Functions of the Centre.
8—Establishment of the Agricultural Development Fund.
9—Board of management.
10—Functions of the Board.
11—Qualifications for appointment as a member of the Board.
12—Committees of the Board.
13—Meetings of the Board.
14—Power to co-opt.
15—Removal from office.
16—Vacancy.
17—Staff of the Board.
18—Remuneration.
19—Farmer's association.

PART III—OPERATIONAL GUIDELINES FOR MECHANIZATION SERVICES

20—Mechanization services.
21—Hiring of machinery.
22—Machinery.
23—Conditions for hiring of a machinery.
PART IV—MISCELLANEOUS PROVISIONS

24—Retainer of funds.
25—Revenue.
26—Audit.
27—Farmer's association to file a report to the Board.
28—Recall and withdrawal of machinery.
29—Report.
30—General Penalty.
31—Regulations.
The Nakuru County Agricultural Training and Mechanization Service Bill, 2019

NAKURU COUNTY AGRICULTURAL TRAINING AND MECHANIZATION SERVICES BILL, 2019

AN ACT of the County Assembly of Nakuru to provide for the establishment of the Nakuru County Agricultural Training Centre and the establishment of the Agricultural Development Fund, to provide for the regulation of the agricultural mechanization services and for other connected purposes.

ENACTED by the County Assembly of Nakuru, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Nakuru County Agricultural Training and Mechanization Services Act, 2019 and shall come into operation on publication in the Gazette.

Interpretation

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

“Administrator” means the fund administrator appointed under paragraph 9(2)(e);

“association” means a farmer’s association approved and registered by the Board under section 19;

“agriculture” includes the keeping of livestock and the cultivation of land and the use of land for any purpose of husbandry, aquaculture and food production;

“agricultural mechanization” means the use of agricultural machinery to mechanise the work of agriculture for purposes of increased productivity;

“board” means the Board of management appointed under section 9;

“centre” means the Agricultural Training centre established under section 5;

“chairperson” means the chairperson of the Board;

“county” means the County government of Nakuru;

“county Assembly” means the county Assembly of Nakuru;

“chief officer” means the Chief officer responsible for matters relating to Agriculture;
4 The Nakuru County Agricultural Training and Mechanization Service Bill, 2019

"crop agriculture" includes activities relating to or connected with crop farming, husbandry, trade or marketing;

"financial year" means a period of twelve months ending on the thirtieth day of June;

"fund" means the Nakuru County Agriculture Development Fund established under section 8;

"Gazette" has the meaning assigned to it under Article 260 of the Constitution;

"machinery" means any equipment used for ploughing, tilling, disking, harrowing, planting, spraying or harvesting; and

"principal" means the person appointed to the principal of the centre established under section 5.

Objects

3. The object of this Act is to provide for—

(a) the establishment of the Nakuru County Agricultural Training Centre to facilitate the realisation of a sustainable economic development in the county;

(b) the promotion of competitiveness in the agricultural sector and to develop a diversified crop and animal products and market outlets;

(c) the establishment of the Nakuru County Agricultural Development Fund for the promotion of a sustainable growth of agriculture in the county;

(d) an institutional framework for the management, development and regulation of the agricultural mechanization services in the county; and

(e) a comprehensive, harmonized, efficient and effective legal and regulatory framework for agricultural mechanization services in the County.

Guiding Principles

4. The guiding principles for the implementation of this Act, are the National values and principles set out in Article 10 and 232 of the Constitution.
The Nakuru County Agricultural Training and Mechanization Service Bill, 2019

PART II—ESTABLISHMENT AND ADMINISTRATION

Establishment of the Agricultural Training Centre

5. (1) The County Executive Committee responsible for Agriculture shall through a Gazette notice, establish such County Agricultural Training Centres as may be necessary for the promotion of agricultural training in the County.

(2) The centre established under subsection (1), shall be administered by a Principal competitively recruited by the County Public Service Board and appointed by the County Executive Committee Member responsible for Agriculture.

(3) The Principal shall serve on such terms as may be determined by the County Executive Committee Member responsible for Agriculture in consultation with the County Public Service Board.

Functions of the Principal

6. The Principal shall be responsible for the—

(a) Co-ordination and implementation of County Agricultural policies, programmes and activities on agricultural training;

(b) administration, organisation and control of the staff of the Centre;

(c) development of operating plans to guide the Centre in achieve its objectives;

(d) co-operation with other agencies and organisations in the agricultural sector, and with local communities among which the Centre has facilities;

(e) development of an economically efficient and cost effective internal management structure; and

(f) performance of any other function as may be assigned by the County Executive Committee Member responsible for Agriculture.

Functions of the Centre

7. The Centre shall—

(a) offer residential and non-residential training on relevant farming technologies;

(b) provide training facilities to farmers and other stakeholders involved in agricultural development;
(c) adopt innovative approaches for the development of training in market based agricultural subjects;

(d) maintain a model farm for training purposes and for demonstration to farmers and stakeholders in agriculture;

(e) provide facilities for and participate in carrying out adaptive on-farm trials of relevant technologies;

(f) serve as bulking centres of plant materials and multiplication of livestock;

(g) provide training to private individuals, staff of commercial enterprises, non-governmental organizations and public officers for the development of sustainable management of the agricultural sector; and

(h) perform such other functions as may be assigned by the County Executive Committee Member responsible for Agriculture.

**Establishment of the Agricultural Development Fund**

8. There is established the Nakuru County Agricultural Development Fund.

(2) The Fund shall consist of—

(a) such monies as may be appropriated by the assembly for purposes of the fund;

(b) monies paid to the Board for services offered under this Act;

(c) gifts, donations, grants and endowments made to the fund from any lawful source;

(d) income from any investment made by the Board; and

(e) monies from any other lawful source approved by the Board.

**Board of Management**

9. (1) The Fund shall be administrated by a Board of management appointed by the Executive Committee member responsible for finance.

(2) The Board of management shall consist of—

(a) the County Chief officer responsible for agriculture or a representative appointed in writing, who shall be the chairperson;

(b) the County Chief officer responsible for finance or a representative appointed in writing;
The Nakuru County Agricultural Training and Mechanization Service Bill, 2019

(c) the person in charge of legal services in the County or a representative appointed in writing;

(d) the Principal appointed under subsection 5(2);

(e) a person nominated by the associations from each sub county to represent farmers at the sub county level; and

(f) a person with knowledge and expertise on financial matters competitively recruited and appointed by the Executive Committee Member, who shall be the accounting officer, administrator of the fund and the Secretary to the Board.

(3) The members appointed under paragraph 9(2)(e) and (f), shall hold office for a term of three years, renewable once.

Functions of the Board

10. The Board shall be responsible for the—

(a) provision of strategic guidance and oversight of the Fund;

(b) implementation of the County policies on agricultural sector funding and mechanization;

(c) authorization and approval of the use of the Fund;

(d) co-ordination and management of projects funded by the Fund;

(e) promotion and the development agriculture in the County through agricultural mechanization;

(f) setting of standards, review and approval of the agricultural mechanization service charges from time to time;

(g) review and approval of application for the hiring of agricultural machinery by the association;

(h) primary and secondary tillage, planting services, crop spraying, farm produce transportation, grain threshing and shellng, forage harvesting, hay baling, survey;

(i) designing of water harvesting structures, perimeter survey and farm layout;

(j) supervision and the construction of dams, water pans, ponds and pump setting; and desilting dams and water pans;

(k) approval of the work plans and budgets for the Board; and

(l) performance of any other function as may be assigned by the Executive Committee Member, from time to time.
Qualifications for Appointment as a Member of the Board

No. 19 of 2012

11. A person is qualified for appointment as a member of the Board, if the person—

(a) for appointment under paragraph 9(2)(e),

(i) is a holder of a Bachelors degree from a university recognised in Kenya;

(ii) is a registered member of the association; and

(iii) meets the requirements of chapter Six of the Constitution and the Leadership and Integrity Act; and

(b) for appointment under paragraph 9(2)(f),

(i) holds a Bachelors degree in Finance from a university recognised in Kenya;

(ii) has at least 5 years experience at a management level; and

(iii) meets the requirements of chapter Six of the Constitution and the Leadership and Integrity Act.

Committees of the Board

12. (1) The Board may for effective discharge of its functions under this Act, establish committees.

(2) A committee established under subsection (1), shall be under the guidance and control of the Board.

Meetings of the Board

13. (1) The Chairperson shall convene and preside over the meetings of the Board.

(2) The Board shall, for purposes of discharging its functions under this Act, meet at least once in each quarter of the financial year.

(3) The Chairperson may, at any time, convene a special meeting of the Board.

(4) Notices of Board meetings shall be issued to each member by the chairperson or administrator, in writing or by an e-mail, at least fourteen days, before the day of the meeting.

(5) In the absence of the Chairperson, members present shall elect one of their numbers to preside over the Board meetings.
(6) The quorum for the Board meetings shall be nine (9) members present in the meeting.

Power to co-opt

14. (1) The Board may invite any person who, in the opinion of the Board, has expertise and knowledge concerning any of the functions of the Board, to attend and take part in its proceedings.

(2) A person attending a meeting of the Board in accordance with subsection (1), may take part in any deliberations, in which his or her advice is required but shall not have any right to vote on the issue.

Removal from office

No. 1A of 2015.

No. 4 of 2015.

15. (1) The Executive Committee Member may remove a person appointed under paragraph 9(2)(e) and (f) from office for—

(a) gross misconduct as outlined in the Public Service (values and principles) Act; or

(b) inability to perform the functions of his or her office by reason of mental or physical infirmity.

(2) The Executive Committee Member shall before removing a member from office, act in accordance with the provisions of Article 47 of the Constitution and the Fair Administrative Action Act.

Vacancy

16. The office of the chairperson or member of the Board becomes vacant if the holder—

(a) dies;

(b) resigns from office in accordance with the instrument of appointment;

(c) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months;

(d) term of office expires; or

(e) is removed from office in accordance with subsection 15(2) of this Act.
Staff of the Board

Act No. 17 of 2012.

17. The Chief Officer may subject to subsection 62(3) of the County Governments Act, request the County Public Service Board to second such number of staff to assist the Board perform its functions under this Act.

Remuneration

18. The Board and staff may be paid such allowances as the Executive Committee Member responsible for finance in consultation with the County Public Service Board, determine.

Farmer's association

19. (1) The Board may for purposes of this Act, register a farmer's association formed in accordance to the national legislation relating to the formation of association.

(2) An association formed under subsection (1), shall be for purposes of undertaking crop agriculture.

(3) The conduct of business and affairs of the association registered under sub section (1), shall be in accordance to the association's constitution registered with the Registrar of association and a copy deposited with the Board.

PART III—OPERATIONAL GUIDELINES FOR MECHANIZATION SERVICES

Mechanization Services

20. (1) The mechanization services shall consist of agricultural machinery and equipment procured by the County to accelerate the sustainable growth and development of agriculture.

(2) The Board shall ensure that—

(a) farmers within the county have access to its mechanization services;

(b) no mechanization services is undertaken in the county without the Board's approval;

(c) machinery is not deployed;

(i) on rocky, steep sloped, muddy and water logged terrain, or

(ii) in an environment that endangers the safety of the personnel and the equipment; and

(d) mechanization services is provided on a priority basis.
Hiring of a Machinery

21. (1) An application for the hiring and use of machinery shall be made to the Board in a prescribed manner accompanied by such prescribed fees as may be determined by the Board from time to time.

(2) A machine hired under subsection (1), may be for purposes of—

(a) primary tillage, secondary tillage or planting services;

(b) crop spraying;

(c) farm produce transportation;

(d) grain threshing and shelling;

(e) forage harvesting;

(f) hay baling;

(g) survey and designing of water harvesting structures, perimeter survey and farm layout;

(h) pump setting; and

(i) de-silting dams and water pans.

Machinery

No. 33 of 2015

22. The machinery subject to hiring out by the Board to the farmer's association, shall be such machinery as may be procured by the county in accordance to the Public Procurement and Assets Disposal Act, for purposes of the promotion of agriculture in county.

Conditions for hiring of a machinery.

23. (1) The terms and conditions for the hiring of a machinery shall be as prescribed by the Board.

(2) Despite subsection (1), a machinery hired out by the Board shall be—

(a) for the purposes of the promotion of agriculture within the county; and

(b) made to the residents of the county.
PART IV—MISCELLANEOUS PROVISIONS

Retainer of Funds

24. Monies received, saved or accrued to the Fund and the balance of the fund may at the end of each financial year be retained for the purposes for which the Fund is established.

Revenue

25. The revenue collected by the Board shall be banked and utilized for the provision of agricultural mechanisation services.

Audit

No. 34 of 2015.

26. The Fund shall be audited and reported upon by the Board to the Auditor-General in accordance with the provisions of the Public Audit Act, 2015.

Farmer’s Association to File a Report with the Board

27. (1) The farmer’s association shall through their elected representatives, submit on a quarterly basis, a report on the status of the machinery hired out to them.

(2) Despite subsection (1), the Board may monitor and evaluate the performance of the machinery hired out to the association for purposes of the promotion of agriculture in the County.

Recall and Withdrawal of Machinery

28. (1) The Board may, recall or withdraw any agricultural machinery hired out to a farmer’s association.

(2) Subject to subsection (1), the Board shall in withdrawing or recalling the machinery, be guided by—

(a) mismanagement of the machinery; and

(b) conflicts within a farmer’s association.

(3) The Executive Committee Member may withdraw agricultural machinery for purposes of disposal.

Report

29. The Board shall annually, submit a report to the Executive Committee Member responsible for Agriculture and Finance on the status of agricultural mechanization and the Fund in the County.

General Penalty
30. A person who contravenes any of the provisions of this Act, commits an offence and shall on conviction be liable to a fine not exceeding Kenya Shillings one hundred or to imprisonment for a term not exceeding one year or both.

Regulations.

31. (1) The Executive Committee Member responsible for Agriculture may make regulations generally for the better carrying out into effect the provisions of this Act.

(2) Despite sub section (1), the Executive Committee Member may make regulations on the—

(a) operation and management of machinery and equipments;
(b) procedure for hiring of a machinery; and
(c) fees payable for the hiring of machinery;
MEMORANDUM OF REASONS AND OBJECTS

The main object of this Bill is to provide for the establishment of the Nakuru County Agricultural Training Centre and its management, to provide for the establishment of the Agricultural Development Fund and to provide for the regulation of the agricultural mechanization services and for other connected purposes.

Part I— of the Bill provides for preliminary matters such the short title, interpretation, objects and guiding principles, which are the national values and principles of governance as set out in the Constitution.

Part II— of the Bill provides for the establishment of the Nakuru County Agricultural Training Centre, its functions and management. Clause 8 establishes the Nakuru County Agricultural Development Fund consisting of such monies as may be appropriated by the assembly for purposes of the fund; monies paid to the Board for services offered under this Act; gifts, donations, grants and endowments made to the fund from any lawful source; income from any investment made by the fund; and monies from any other lawful source approved by the Board.

Clause 9 establishes a Board of management to manage the Fund as well as to coordinate the mechanization services in the County. Clause 10 provides for the functions of the Board of management which inter alia includes the provision of strategic guidance and oversight on the Fund and implementation of the county policies on agriculture sector funding and mechanization. Clause 11 provides for the qualifications for appointment as a member of the Board under paragraph 9(2) (e) and (f).

Part III— contains the Operational guidelines for mechanization services. Clause 20 provides for the mechanization services which shall consist of agricultural machinery and equipment procured by the county to accelerate the sustainable growth and development of agriculture provisions. Clause 21 provides for Hiring of a machinery.

Part IV— contains for miscellaneous provisions. Clause 24 provides for the retainer of monies received, saved or accrued to the Fund. Clause 27 requires the Farmer's association to file a report with the Board whilst clause 29 requires the Board to file a report with both the Executive Committee member for Finance and Agriculture. Clause 30 provides for a general penalty for breach of the provisions of the Act and Clause 31 mandates the Executive Committee member responsible for Finance to make regulations to give effect to the provisions of the Act.

The enactment of this Bill shall occasion additional expenditure on the exchequer.

DANIEL KIRIATHE,
Chairperson, Agriculture Committee.