Bill for Introduction into the County Assembly of Nakuru —

The Nakuru County Animal Diseases Control Bill 2019

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THE NAKURU COUNTY ANIMAL DISEASES CONTROL BILL, 2019

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NAKURU COUNTY ANIMAL DISEASE CONTROL BILL, 2019

A Bill for

AN ACT of the County Assembly of Nakuru to provide for prevention and control of diseases affecting animals, livestock sale yards and County abattoirs under Article 185 (2) of the Kenya Constitution, 2010 Part 2, 1(b), 1(c) & 1(d) of the 4th Schedule and for connected purposes

ENACTED by the County Assembly of Nakuru as follows—

PART I—PRELIMINARY

Short title

1 This Bill may be cited as the Nakuru County Animal Disease Control Act, 2019

Interpretation

2 In this bill unless the context otherwise require—

“animals” means mammals, birds, reptiles, bees and life stages of fish, mollusks, crustaceans and amphibians whether originating from aquaculture establishments or removed from the wild and released to the environment for human consumption or for ornamental purposes,

“county executive member” means a member of the County Executive Committee,

“director” means the County Director of veterinary services,

“infected area” means any area declared by the Director to be an area infected by a notifiable disease,

“inspector” means a person appointed an inspector for the purposes of this bill under section 4,

“notifiable disease” includes cattle plague (rinderpest, anthrax, Contagious bovine pleura-pneumonia tuberculosis, East Coast fever, epizootic or ulcerative lymphangitis, rabies foot-and-mouth disease, sheep pox, scab, swine-fever, swine erysipelas, glanders, farcy, surra, trypanosomiasis, heartwater mange (scabies) in horses and mules, bacillary white diarrhea and pullorum disease, fowl pest, lumpy skin disease, paratuberculosis (Johnes disease), atrophic rhinitis and scrapie and any other contagious or infectious disease of animals that the County Executive Committee Member may, by notice in the Gazette declare to be a notifiable disease for the purposes of this bill

“hide” means the untanned skin of livestock,
“hide dealer” means a person who buys or sells hides or possesses hides for sale,

“livestock” include camel, cattle, sheep, goats, horses, mules, donkeys, swine, birds and bees,

“livestock dealer” includes a person who, whether on the person’s own behalf or as agent for another, and whether on a commission basis or otherwise—

(a) Buys or offers to buy livestock, or
(b) Sells or offers to sell, or possesses for sale any livestock or livestock carcasses or portions

“operator” means a person, group of persons or organization engaged in the business of operating public sales,

“public sale” means a sale or offering for sale of livestock at—

(a) a public sale yard, or
(b) another place designated by the County Director

“public sale yard” means a place of business where livestock are sold offered for sale or kept for sale,

“slaughter” means the killing of livestock for any purpose and includes the butchering and dressing of a carcass,

“slaughter house” means a building or place where livestock slaughtered or held for slaughter,

“this bill” includes any subsidiary legislation made thereunder,

“veterinary officer” means a veterinary officer in the employment of the County Government or the Director

“veterinary surgeon” is a veterinary officer in County Government service or in Private sector

Objective &Purpose

3 The object of this bill is to—

(a) provide for prevention and control of diseases affecting animals, and

(b) regulate licensing livestock sale yards and county abattoirs

PART II—ADMINISTRATION

County Director

4 (1) The Public Service Board may appoint a qualified county veterinarian as a Director and such other officers as may be necessary for the implementation of this Act
(2) The County Executive member may designate persons as inspectors for the purpose of this Act

(3) A designation under subsection (2) may be for a general term or for a particular case or time

**Function and powers of animal Inspectors**

5 An inspector may—

(a) enter into any land, structure premises, vehicle or vessel holding or ferrying animals

(b) inspect any animal and subject it to any test for any disease,

(c) order any animals to be collected, detained or isolated, and

(d) perform any other function or exercise such other power as may be conferred under this Act or other law

**Animals affected with notifiable disease**

6 (1) Every person having in his possession or charge an animal infected with a notifiable disease or suspected of being infected with a notifiable disease shall—

(a) keep such animal tied up or enclosed in a boma or other enclosed place and kept separate from other animals not so infected or suspected of being infected, and

(b) forthwith give notice of that fact to the nearest veterinary officer or inspector, and for the purposes of this subsection an animal lawfully on a farm with the agreement of the owner or occupier shall be deemed to be in the possession or charge of the owner or occupier of such farm

(2) Any veterinary surgeon/officer who has reason to believe or suspect that any notifiable disease exists on any farm or in any area shall, notwithstanding the provisions of subsection (1), forthwith give notice of that fact to the nearest inspector

(3) Any inspector to whom notice is given under sub section (1) or sub section (2) may require the person having the animal or animals in question in his possession or charge to submit to him within a period of not more than twenty-four hours, such specimens from such animal or animals or, if such animal dies, from its carcass as may be reasonably required for the purpose of ascertaining the existence and nature of the notifiable disease

(4) An inspector shall, on being satisfied of the existence or suspected existence of a notifiable disease within his/her area of
jurisdiction, forthwith cause all owners or occupiers of farms and owners of stock in the neighborhood to be notified of the outbreak, and shall further inform the most senior veterinary officer in the adjoining County

(5) Any person who contravenes any of the provisions of subsection (1) or subsection (2) shall be guilty of an offence

(6) Any person who fails to comply with requirement made under subsection (3) shall be guilty of an offence

**Power to declare areas infected**

7 The County Executive Member may, by notice in the *Gazette*—

(a) declare any area to be an area infected by notifiable disease,

(b) extend, diminish or otherwise alter the limit of an area declared to be an infected area,

(c) declare any such infected area to be free from notifiable disease, and

(d) for the purpose of preventing notifiable disease prohibit the movement of animals from one county to another

**Provisions affecting infected areas**

8 (1) The following provisions shall in the absence of other provisions made by rules under this bill apply to all infected areas—

(a) no livestock shall be moved from or into any infected area or from place to place within such area without the written permission of the Director, or of any person authorized in writing by the Director to give such permission,

(b) no animal shall be moved from any such area unless previously disinfected and treated in the manner directed by the Director or by any person so authorized in writing by him

(c) all livestock in any such area shall be herded as far as possible from any public road, and shall not graze on any road reserve,

(d) the Director or any person so authorized in writing by him may require the owner or person in charge of any animal or animals within any such area to isolate such animal or animals from other animals within the infected area or to remove such animal or animals from such area
(e) no person shall leave any such area without having complied with such reasonable precautions for preventing the spread of notifiable disease as may be required by the veterinary officer or inspector in charge of the area and

(f) the carcasses of all animals infected with notifiable disease shall be disposed of in accordance with any general or specific instructions issued by a veterinary officer or any inspector

(2) Subsection (1) d, (1) e & (1) f does not apply if the owner of the diseased animal consents in writing to the destruction of the diseased animal to be destroyed at once

(3) Any person who contravenes any of the provisions of subsection (1) shall be guilty of an offence

**Power to Prohibit Importation & Exportation of Animals**

9  (1) The County Executive member may by notice in the Gazette, prohibit for such time as he thinks necessary, or regulate, the importation or the exportation of all animals or any specified kinds of animals, or of carcasses, meat hides, skins, hair wool litter, drug, live viruses capable of setting up infections in animals, sera, vaccines and other biological or chemical products intended to be used for the control of animal disease, or fodder from any specified county port or territory

(2) Any person who contravenes the provisions of any notice issued under subsection (1) shall be guilty of an offence

**Premises to be infected**

10 Land, water and premises where disease exists shall be thoroughly cleansed and disinfected and alterations shall be made as ordered by the inspector, by and at the expense of the owner or occupier, in a manner satisfactory to the inspector, subject to an appeal to the County Executive Member

**Branding & Animal Identification**

11 Animals before being subjected to a notifiable disease test shall be suitably ear tagged and/or electronically or in any other manner identified to the satisfaction of the inspector

**Retest**

12 The owner or person in charge of an animal that has been subjected to a notifiable disease test and designated by an inspector for retest shall isolate the animal as directed by the inspector
County Director of Veterinary Services to inquire into alleged outbreak of notifiable disease

13 The County Director of veterinary services may direct an inspector or qualified person—

(a) to examine an alleged outbreak of disease,

(b) to cause scientific investigation to be made to determine the nature and source of the outbreak as considered necessary, and

(c) if the investigation shows reasonable ground for so doing, to take those measures for suppression or limitation of the outbreak as provided under this Act

Certificate of Inspector as evidence

14 In the absence of evidence to the contrary at the hearing of any matter in court of Law, a certificate purporting to be signed by an inspector stating—

(a) that an animal is diseased or

(b) the facts or the result of a test for disease vaccination or other treatment of an animal, is for the purposes of this Act, is proof of the matter as certified

Pasteurization of Milk of Isolated or Quarantined animal Cap 336

15 (1) Milk from an animal isolated under section 11 shall not be sold for human consumption unless it has been pasteurized in accordance with the Dairy Industry Act

(2) A person shall not sell, or offer for sale milk from an animal in quarantine unless the milk has been pasteurized in accordance with the Dairy Industry Act

(3) Any person who contravenes the provision of this Section shall be guilty of an offence, and punishable as provided under the Dairy Industry Act

PART III—GENERAL

Licences Required

16 (1) Unless the person is licensed under this Act and bonded if required under the regulations, a person shall not carry on business as—

(a) a hide dealer,

(b) a livestock dealer or

(c) an operator
(2) A person shall not maintain or operate a public sale yard unless licensed under this Act and bonded if required under the regulations.

(3) A person shall not slaughter livestock for food for animals or for human consumption unless the person is licensed under this Act to operate a slaughterhouse and bonded if required under the regulations.

(4) Any person who contravenes the provision of this Section shall be guilty of an offence.

Indemnity and Payment of Compensation

17 (1) No action shall lie against the County Government or any of its officers, for any act done in good faith under this Act or for any act done in good faith in connection with the diagnosis, control, prevention or treatment of notifiable diseases of animals (including the preparation of biological products), and no compensation shall be payable to any person for any act done under this Act unless the County Executive Committee Member otherwise directs.

Provided that subject to section (1), compensation for animals slaughtered under this Act shall be paid to the owner as follows—

(a) where the animal was infected by a notifiable disease, the value before it became so infected, and

(b) where the animal was not so infected but was suspected of being so infected, the value of the animal immediately before it was slaughtered.

(2) For the purposes of subsection (1) of this section the value of any animal shall be determined in accordance with the Schedule to this Act, and the costs and expenses of any such valuation shall be determined, borne and payable as therein provided.

Compensation Maybe Withheld

18 Compensation in respect of any animal slaughtered under this Act may be wholly or partially withheld where the owner or person in charge of the animal has been guilty of any breach of the provisions of this Act, and no compensation shall be paid in respect of any animal slaughtered if such animal was infected with disease when imported or became infected before it was passed by the inspecting officer at the place of entry or if such animal has been imported in breach of the provisions of this Act.

Disposal of Carcass of Slaughtered Animal

19 Where an animal has been slaughtered under this Act, its carcass shall belong to the Government and shall be buried or sold or otherwise disposed of under such conditions as a veterinary officer thinks fit and any proceeds of sale shall be paid into the consolidated Fund.
Offence and Penalty

20 (1) A person who—

(a) refuses entry to an inspector authorized under Section 6 or impedes or obstructs an inspector in the performance of the inspector’s duty under this Act,

(b) breaks, or causes to be broken, a quarantine or isolation imposed under this Act or

(c) fails to comply with this Act or regulation or a lawful order of an inspector

commits an offence under subsection 1 and is liable on conviction to imprisonment for a term not exceeding six months or to a penalty not exceeding Kenya Shillings two hundred and fifty thousand or both

(2) A person who—

(a) slaughters livestock, without license to operate a slaughterhouse or slaughters for sale livestock in a place other than a slaughterhouse

(b) maintains or operates a public sale yard without a license under this Act,

(c) carries on business as a hide dealer, a livestock dealer or an operator, without a licence, or

(d) removes the hide from livestock, unless the person is the owner or a person authorized by the owner or is an inspector

commits an offence and on conviction shall be liable to imprisonment for a period not exceeding two years or to a fine not exceeding Kenya Shillings five hundred thousand or both

(3) If a person has been convicted of the offence of impeding or obstructing an inspector in making a test under this Act, the Court may, in addition to any other penalty, direct that the person immediately produce the animal for testing by an inspector at the place the court directs

(4) On proof to its satisfaction that the animal has shown a positive reaction to a notifiable disease, the court may order in addition to any other penalty, that the animal be disposed of for immediate slaughter as directed by an inspector, in which case no compensation is payable to the owner of the animal

(5) If a person fails to comply with a direction of the court, the person is liable as for a second offence under this section and punishable accordingly
Arrested Persons to be Taken Before a Magistrate Immediately

21 Any person arrested under this bill shall be taken without any unnecessary delay before a magistrate and shall not be detained without a warrant longer that is necessary for this purpose.

Offence to Inject Substance to Prevent Reaction

22 A person who injects any substance into an animal for preventing reaction to the application of a test for a notifiable disease, for each animal so treated, commits an offence under this Act.

Punishment not Otherwise Provided

23 Any person who is guilty of any offence under this bill not otherwise prescribed shall be liable to imprisonment for a term not exceeding six months or to a fine not exceeding Kenya Shillings thirty thousand or to both.

Power to Make Regulations

24 A County Executive Committee Member may make regulations for better carrying out of this bill and in particular, but without prejudice to the generality of the foregoing power such rules may provide for—

(a) the prevention of the introduction of and the prevention and control of notifiable diseases, including the licensing of animal producers,

(b) the isolation, inoculation, removal and slaughter of animals infected by or suspected to be infected by any notifiable disease, or exposed to or likely to be exposed to any such disease,

(c) the burial or destruction of carcasses,

(d) prescribing port and places for the importation or exportation of animals,

(e) prohibiting or regulating the movement of animals,

(f) prescribing quarantine for imported animals or animals infected by notifiable disease or animals suspected of being infected by or having been in contact with any animals infected by notifiable disease,

(g) prescribing conditions under which animals may be imported or exported

(h) prescribing—

(i) the disinfection of buildings and places wherein animals infected by any notifiable disease have been stalled or kept,
(ii) the cleansing and disinfection of public markets, private auction or sale yards railway premises, lairages railway vans, trucks, carriages, motor vehicles aircraft, boats or lighters wherein any stock have been placed, kept or carried,

(iii) the disinfection of animals which have been in contact with animals infected by notifiable disease or which have been in an infected area,

(iv) the disinfection of persons and their clothing coming into contact with or employed about animals infected by notifiable disease or suspected of being infected or being in an infected place, and

(v) prescribing standards for locally manufactured biological and chemical products used for control of animal disease and prohibiting the manufacture of any such product.
SCHEDULE  (Section 18)

METHOD OF VALUATION AND APPOINTMENT OF VALUER

Where under this bill it is necessary that the value of an animal should be ascertained for the purpose of compensation payable by the County Government, the value shall be ascertained as follows—

(a) a veterinary officer may give notice in writing of his valuation of the animal to the owner thereof, and, if within seven days after the receipt of such notice the owner of the animal, or his agent does not give counter-notice in writing to the veterinary officer stating in effect that he disputes the valuation, the compensation shall be paid on that valuation.

(b) if the owner or his agent gives such a counter-notice, the question of the value of the animal shall be determined by a valuer, who shall be appointed by an agreement in writing signed by a veterinary officer and by the owner of the animal or his agent.

(c) if no such agreement is entered into within fourteen days after the service of the counter-notice by the owner or his agent, either party may, having given notice to the other party, of the place and time of his intended application apply to a subordinate Court held by a Resident Magistrate to appoint a valuer, and the Court may accordingly appoint a valuer for the purpose of determining the value of the animal.

(d) the valuer shall make his valuation in writing ready for delivery within thirty days after the date of his appointment, and his valuation shall be final and binding on the Government and the owner of the animal.

(e) if a higher valuation is determined by the valuer than the valuation specified in the notice given by the veterinary officer, the County Government shall pay the costs and expenses of the valuation and all costs reasonably incurred by the owner of the animal with respect to the valuation, but otherwise the costs and expenses of the valuation and all costs reasonably incurred by or on behalf of the Government in relation thereto may be deducted from the sum payable to the owner as compensation in accordance with the valuation of the valuer, who may tax or settle the amount of costs to be paid or deducted under this Schedule.
MEMORANDUM OF OBJECTS & REASONS

The Bill seeks to provide a framework for prevention and control of notifiable diseases affecting animals and to regulate licensing of livestock, sale yards and abattoirs

PART I – Provide for preliminaries including short title, interpretation, objects and purpose of the bill

PART II – Provide for the substantive and administration provisions of the bill that creates right and duties laying down the machinery of implementing the Law

PART III – Miscellaneous/General provide for provisions relating to obtaining licences—

(a) creating offences, and

(b) power to make regulations

Separation of Powers

The bill respects the separation of powers of National and County Government and recognizes the functions and powers of the County Government concerning agriculture

Functional Implication

The bill shall not occasion additional expense

WILSON WACHIRA,
Member of County Assembly