

THE WILDLIFE CONSERVATION AND MANAGEMENT ACT

(No. 47 of 2013)

IN EXERCISE of the powers conferred by section 116 (2) (e) of the Wildlife Conservation and Management Act, 2013, the Cabinet Secretary for Environment and Natural Resources, makes the following Regulations:-

WILDLIFE CONSERVATION AND MANAGEMENT (COMMUNITY PARTICIPATION) REGULATIONS, 2016

PART 1- PRELIMINARY

Citation and commencement

1. (1) These Regulations may be cited as the Wildlife Conservation and Management (Community Participation) Regulations, 2016.

(2) These Regulations shall come into force on the date of their publication in the Kenya Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires –

“Act” means the Wildlife Conservation and Management Act, No. 47 of 2013;

“approved” means sanctioned for the time being by the Institute;

“Association” means a community wildlife association registered by the Committee under the Act and these Regulations;

“Committee” means the County Wildlife Conservation and Compensation Committee established under section 18 of the Act;

“community” means a group of individuals or families who share a common heritage, interest, or stake in unidentifiable land, land based resources or benefits that may derived therefrom;

“community participation” means involving the community in decision making over decisions and plans on the resources that affect them;

“conservation area” means a tract of land, lake or sea with notable environmental, natural features, biological diversity, cultural heritage, or historical importance that is protected by law against undesirable changes;

“non-governmental organization” means a private voluntary grouping of individuals

or associations, not operated for profit or for other commercial purposes but which have organized themselves nationally or internationally for the benefit of the public at large and for the promotion of social welfare, development charity or research in the areas inclusive of, but not restricted to, health, relief, agriculture, education, industry, environment, conservation, sustainability and the supply of amenities and services;

“private sector” means that part of the economy that is not State controlled, and is run by individuals and companies for profit; and

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

“village council” means the village council established under section 53 of the County Governments Act; and

“wildlife manager” means any person registered by the Committee for the purpose of managing a wildlife conservancy or sanctuary.

Objectives

3. Pursuant to section 116 (2) (e) of the Act, the Service shall undertake measures to enhance community participation in the conservation and management of wildlife so as to-
 - (1) promote the conservation of wildlife and its habitats outside core protected areas;
 - (2) involve communities in the management of wildlife thus taking care of corridors, migration routes and buffer zones as well as to ensure that local communities obtain substantial and tangible benefits from wildlife conservation;
 - (3) ensure that wildlife is appropriately valued in order to reduce illegal off-take and to encourage sustainable use by rural communities; and
 - (4) create an enabling environment, which will ensure that legal and sustainable wildlife schemes directly benefit local communities.

PART II-COMMUNITY PARTICIPATION

Service to enhance community participation

4. (1) The Service shall involve the community in-
 - (a) development of conservation plans for community managed wildlife areas;
 - (b) utilization of wildlife resources;
 - (c) utilization of natural resources in protected areas;

- (d) extraction of minerals and other extractive resources in protected areas in accordance with Regulations on Mining formulated under the Act;
- (e) deriving benefits from direct conservation activities including licensing, direct sales, tourism, and other commercial activities;
- (f) protection of wildlife;
- (g) wildlife security operations;
- (h) delineation and establishment of boundaries of conservation area;
- (i) harnessing cultural conservation methods and practices;
- (j) re-establishment of wildlife dispersal areas;
- (k) regulation of establishment of community conservancies and other types of conservation areas;
- (l) management of wildlife in the community's locality;
- (m) access to data on the management of wildlife in accordance with wildlife Data Regulations in a manner that is not injurious to the overall conservation plan of the area;
- (n) access to protected areas in accordance with Regulations on activities in Protected Areas; and
- (o) declaration of wildlife ecosystems and habitats in need of protection.

Role of Communities

5. (1) The Service shall engage and involve communities adjacent to protected areas in the management of protected areas within the different county government units.
- (2) In attainment of sub-regulation (1) the Service shall-
 - (a) involve communities in managing human and wildlife conflicts
 - (b) negotiate and enter into contractual agreements with communities regarding the utilization of resources obtained from a local protected area
 - (c) promote transparency and accountability in the utilization of resources obtained from the protected areas
 - (d) ensure equitable sharing of benefits with communities
 - (e) support communities in entrepreneurship programmes promoting conservation
 - (f) identify the socio economic needs of neighboring communities and reconcile them with the management of then adjacent protected areas
 - (g) where feasible, communities may be allowed to use specified natural resources and perform certain cultural practices in protected areas.

Avenues of community participation

6. (1) The Community shall be involved in the following ways, but not limited to-

- (a) Community and private conservancies as provided for under the Act and the Regulations
 - (b) Community wildlife associations as provided for under the Act and these Regulations
 - (c) Wildlife managers as provided for under the Act and these Regulations
 - (d) Public participation as provided under the Act
 - (e) Representation in the Committee in accordance with the Act and the Compensation Regulations.
- (2) The community may-
- (a) Co-opt technical expertise when required
 - (b) Combat illegal activities including poaching and bush meat trade
 - (c) Keep regional wildlife conservation area committee informed of any development changes and occurrences within their area that may adversely affect wildlife
 - (d) Ensure efficient and prudent management of financial resources
 - (e) Check and ensure proper keeping and maintenance of the conservation area records
 - (f) Build networks and partnership with relevant institutions for information sharing, technological transfers and resource mobilization
 - (g) Undertake routine wildlife and other natural resource inventory

PART III- COMMUNITY WILDLIFE ASSOCIATION AND WILDLIFE MANAGERS

Community wildlife associations and wildlife managers

7. Pursuant to section 40 of the Act, communities, landowners, groups of landowners and existing representative organizations may establish a community wildlife association and register under the appropriate law or in the case of an individual owner, may be registered as a recognized wildlife manager by the Committee.

Application for registration as a community wildlife association

8. (1) Application for registration as a community wildlife association shall be in prescribed Form A in the First Schedule and shall contain, in addition to the requirements under section 40 (3) of the Act:-
- (a) Name of the association
 - (b) Office bearers
 - (c) Manner of representation
 - (d) A strategic plan containing vision, mission, objectives, activities, output and monitoring and evaluation mechanisms

(2) The Constitution required under section 40(3) (b) of the Act shall, among other provisions, include-

- (a) a clear governance structure as approved by the Committee;
- (b) Roles and responsibility of different organs of the association;
- (c) Methods of resolving conflicts; and
- (d) Code of conducts, disciplinary measures and penalties.

(3) A registered association shall undertake the functions prescribed under section 41 of the Act and any other function that may be prescribed by the Service.

Application for registration as a wildlife manager

9. (1) A person may be registered as a wildlife manager in accordance with section 40 of the Act.

(2) Any person who wishes to be registered as a wildlife manager shall apply to the Committee in Form B prescribed in the First Schedule to these Regulations.

Registration fee

10. A person or group seeking registration under these Regulations shall only be registered upon payment of the prescribed registration fee in the Second Schedule to these Regulations.

Registration by the Committee

11. (1) Upon receipt of applications for registration, the Committee shall either –

- (a) reject the application and immediately inform the applicant of the rejection and the reasons thereof;
- (b) request for more information from the applicant and review the application upon receipt of the further information;
- (c) summon the applicant or applicants for an oral interview; or
- (d) approve the application.

(2) The Committee shall issue a certificate of registration as an association or wildlife manager upon approval of an application.

(3) The Committee shall notify the Service of all persons registered as associations or wildlife managers and the Service shall cause their names to be entered into the register of wildlife managers.

Role of wildlife manager

12. (1) A wildlife manager shall carry out the functions prescribed under section 41 of the Act

Deregistration of Wildlife Managers

13. A wildlife manager may be deregistered –
- (a) upon individual application to the Committee;
 - (b) on application of a member of the public to the Committee;
 - (c) on recommendation by the Service; or
 - (d) by the Committee on its own motion.

Reasons for deregistration of Wildlife Managers

14. A wildlife manager may be deregistered –
- (a) if found to be engaging in illegal activities;
 - (b) if found corrupt;
 - (c) fails to comply with the management plan;
 - (d) mismanages wildlife; or
 - (e) any other compelling reasons.

Effect of deregistration of a Wildlife Manager

15. (1) Upon deregistration of a wildlife manager, the Committee shall –
- (a) delete their name and particulars from the register of wildlife managers;
 - (b) withdraw their certificate of registration;
- (2) A deregistered wildlife manager shall no longer be authorized to manage wildlife.

Register of Wildlife Managers

16. The Committee shall maintain a Register of Wildlife Managers which shall contain the following particulars –
- (1) name of the wildlife manager;
 - (2) national identity card number of the wildlife manager;
 - (3) area managed by the wildlife manager; and
 - (4) registration certificate number of the wildlife manager;

Relationship between the Service and the associations

17. The Service may in facilitating the work of the associations-
- (a) Facilitate and approve the establishment of wildlife conservation areas
 - (b) Enter into agreements with associations on conservation
 - (c) Oversee the performance of associations
 - (d) Oversee wildlife investments in the associations

- (e) Assist in protection of wildlife and visitors in associations
- (f) Provide technical assistance to associations
- (g) Undertake resource inventory and monitoring in associations
- (h) Undertake capacity building and institutional strengthening of wildlife associations and managers

Relationship between the Committee and the Association

18. The Committee may -

- (a) Act as a forum for arbitration of and resolution of conflicts to resolve major land and natural resource conflicts pertaining wildlife conservation areas
- (b) Reconcile interests of major stakeholders in associations
- (c) Provide and coordinate technical advice to the associations
- (d) Provide advice to associations including by-laws and formation of contracts
- (e) Verify and approve contracts, agreements and leases entered with the communities and associations
- (f) Advise village council on wildlife nature based enterprise
- (g) Coordinate implementation of wildlife resources by-laws
- (h) Facilitate the development of integrated land use and wildlife management plans
- (i) Coordinate the implementation and monitoring of the wildlife management plans in conservation areas
- (j) Endorse investments in wildlife conservation areas
- (k) Enhance linkages and networks with relevant conservation and government bodies

Role of village council of elders

19. The respective village council of elders shall have the following roles in conservation

- (a) Coordination of natural resource management activities at the village level
- (b) Recommend the formation of an association
- (c) Prepare integrated land use plans to harmonize land use systems in conservation area
- (d) Formulate wildlife and natural resources by-laws to govern conservation areas
- (e) Monitor wildlife association activities
- (f) Set aside land for establishment of wildlife conservation area or conservancies
- (g) Ensure a secure and favorable business environment in wildlife conservation areas
- (h) Ensure that sectoral policies and plans are implemented in conservation areas
- (i) Enter into agreement with wildlife association /wildlife manager on management of wildlife conservation area

PART IV- NON-GOVERNMENTAL ORGANISATIONS

- 20.** In consultation with the Service, non-governmental organisations may-
- (a) assist wildlife association in establishment of community conservation areas;
 - (b) sensitize the local communities on wildlife conservation and management and sustainable utilization;
 - (c) assist local communities to develop integrated land use plans;
 - (d) assist the communities develop by-laws contracts and leases;
 - (e) provide technical assistance to associations;
 - (f) build the capacities of the associations in areas not limited to prudent financial management; annual plans; audits and strategic actions and gender mainstreaming;
 - (g) facilitate joint business venture; or
 - (h) carry out resource inventory in community conservation areas

PART V-PRIVATE SECTOR

- 21.** (1) The private sector may-
- (a) enter into concession or joint venture agreements in resource utilization and investments in community conservation areas;
 - (b) market and promote the community conservation areas;
 - (c) assist in protection and management of wildlife resource; and
 - (d) upon request, participate in wildlife association meetings
- (2) The private sector shall in case of any agreement with the community or an Association, adhere to or fulfill the terms and conditions of the concession agreements or joint ventures.

FIRST SCHEDULE

FORMS OF APPLICATION

Form A

Application for Registration as a Community Wildlife Association under regulation 8

Form B

Application for Registration as a wildlife manager under regulation 9(3)

DRAFT