

**NANDI COUNTY FOREST CONSERVATION AND MANAGEMENT BILL, 2015**

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**A Bill for–**

**AN ACT** of the County Assembly of Nandi to provide for the establishment, development and sustainable management, including conservation and rational utilization of forest resources within Nandi County for the socio-economic development of the county; and for other connected purposes.

**PREAMBLE**

**RECOGNIZING** that forests play a vital role in the stabilization of soils and ground water, thereby supporting the conduct of reliable agricultural activity, which is a fundamental economic activity in Nandi County;

**REALISING** that forests play a crucial role in protecting water catchment areas within Nandi County and that they moderate climate by absorbing greenhouse gases;

**FURTHER** recognizing that forests provide the main habitat for most biological diversity and a major habitat for wildlife within Nandi County;

**ACKNOWLEDGING** that forests are the main source of domestic fuel wood for the people of Nandi County and Kenya as a whole, and that they provide essential raw materials for wood based industries and a variety of non-wood forest products; and

**WHEREAS** Nandi County is committed to sustainable use of forestry resources and is committed under international conventions and other agreements to promote the sustainable management, conservation and utilization of forests and biological diversity.

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**ENACTED** by the County Assembly of Nandi as follows–

### PART I – PRELIMINARY

- Short title.** 1 This Act may be cited as the Nandi County Forest Conservation and Management Act, 2015 and shall come into operation upon the approval of the Governor and publication in the Kenya Gazette.
- Application.** 2 This Act shall apply to all county forests and woodlands not gazetted as National forests or woodlands and private forests within Nandi County.
- Interpretation.** 3 In this Act, except where the context otherwise requires–
- “Activity” includes any operations, development, works or conduct;
- “Afforestation” means the establishment of a tree crop on an area where such trees are absent;
- “Arboretum” means a botanical garden of trees;
- “Association” means a community forest association registered under the Societies Act;
- “Askari” means a County officer employed to enforce the County Act and laws among other duties;
- “Biodiversity” means the variability among living organisms from all sources, including the ecological complexes of which they are part and the diversity within and among species, and ecosystems;
- “Catchment area” means any land drained by a river, stream, or fixed body of water and its tributaries having a common source of surface run-off;
- “Chainsaw” means motorized equipment used for cutting wood;

“Concession” means the right of use granted to an individual or organization in respect of a specified forest area;

“Consumptive use” in relation to a forest, means the removal of a forest produce whereas “non-consumptive use” shall be construed accordingly;

"County" means the County Government of Nandi;

“County Forest” means—

- a) Any forest situated on trust land which has been set aside as a forest by a local authority pursuant to the provisions;
- b) Any arboretum, recreational park or mini-forest created under section 30 of the Forest Act; and
- c) Any forest established as a local authority forest in accordance with the provisions of section 24 of the Forest Act.

“County Revenue Fund” means a revenue fund created for each County by the Constitution of Kenya under Article. 207

“Deforestation” means the negative reduction of forest cover from the original status;

“Department” means Lands, Environment and Natural Resources;

“Environmental impact assessment” shall be the meaning assigned to it under the Environmental Management and Coordination Act, Act No. 8 of 1999;

“Farm forestry” means the practice of managing trees on farms whether singly, in rows, lines, boundaries, or in woodlots or private

forests;

“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, and includes any state forest;

“forest area” means any land declared to be a forest land under this Act;

“forest community” means a group of persons who—

- a) have a traditional association with a forest for purposes of livelihood, culture or religion; or
- b) are registered as an association or other organization engaged in forest conservation;

“forest officer” includes the Director, a forester, a disciplined officer of the service, or an honorary forester;

“forest owner” means—

- a) in the case of local authority forests, a local authority;
- b) in case of private forests, an individual, association, institution or body corporate.

“forest produce” includes bark, animal droppings, beeswax, canes, charcoal, creepers, earth, fibre, wood, frankincense, fruit, galls, grass, gum, honey, leaves, flowers, limestone, moss, murrum, myrrh, peat, plants, reeds, resins, rushes, rubber, sap, seeds, spices, stones, timber, trees, water, wax, withies, and such other things as may be declared by the County Executive to be forest produce for the purpose of this Act;

“forestry” refers to the science of establishing, tending, utilizing and

protecting forest and tree resources, and includes the processing and use of forest and tree products;

“Good Forestry Practices” means the proper implementation of harvest, renewal and maintenance activities known to be appropriate for the forest and environmental conditions under which they are being applied and that minimize detriments to forest values including significant ecosystems, important fish and wildlife habitat, soil and water quality and quantity, forest productivity and health and the aesthetics and recreational opportunities of the landscape, and also includes, but is not limited to the forestry management practices set out in the Forest Act 2005;

“indigenous forest” means a forest which has come about by natural regeneration of trees primarily native to Nandi County, and includes bamboo forests;

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

“livestock” means domesticated animals such as cattle, goats, sheep, assess, horses, camels and pigs and includes the young thereof;

“management agreement” means an agreement between a local authority and any person or organization for the purpose of managing a local authority forest;

“management plan” refers to a systematic programme showing all activities to be undertaken in a forest or part thereof during a period of at least five years, and includes conservation, utilization silvicultural operations and infrastructural development;

“mini-forest” refers to a group of trees occupying less than ten hectares of land;

"Officer" means an individual appointed by County for the administration and enforcement of this Act who shall be the Forestry Technician/Inspector or such other person or persons so appointed;

"Owner" means a person having any right, title, interest or equity in land affected by this Act;

"Permit" means a consent issued pursuant to the provisions of this Act;

"person" means natural person or corporate person;

"plantation forest" means a forest that has been established through afforestation or reforestation for commercial purposes;

"private forest" refers to any forest owned privately by an individual, institution or body corporate;

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

"protected forest" means a forest which has got any tree or tree species which has been declared under this Act or any National Law to be protected;

"receiver of revenue" is a person or persons appointed, in writing, by the County Executive Committee member for finance to be responsible for collecting, receiving and accounting for such county government revenue as the County Executive Committee member for finance may specify in their letters of designation;

"responsible authority" in relation to a County forest area means the County Government of Nandi and in case of private forests means the



private land owner;

“sacred grove” means a grove with religious or cultural significance to a forest community;

“sawmill” means a set of machinery used to process and convert wood into saw timber;

“Silviculture” means the theory and practice of controlling forest establishment, composition, growth and quality of forests to achieve the objectives of management;

“sustainable use” in relation to a forest, means the use of a forest and any of its natural resources in a manner and to an extent which does not compromise the capacity of the forest and its use by future generations, and does not degrade the carrying capacity of supporting ecosystems;

“sustainable management” in relation to a forest, means management of the forest so as to permit any such use of it as constitutes sustainable use;

“timber” means—

- a) any tree which has been felled or which has fallen; or
- b) any part of any tree which has been cut off or fallen, and all wood whether sawn, split, hewn or otherwise fashioned;

“tree” means any timber producing plant, or shrubs, bush of any kind, and includes a sawn, sapling or reshoot of any age, or any part thereof;

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

“woodland” means an open stand of trees less than ten metres tall which has come about by natural means.

**PART II – ADMINISTRATION**

**Appointment of forest officers.**

4 The Director of Forests, Deputy Director of Forests or any other duly appointed officer by the County shall be the authorized officers for the purpose of this Act.

The County shall employ such foresters, rangers community scouts and other assistants as are necessary for the acquisition of such County forests and for their administration, protection, improvement and use.

**Functions of the County forest officers in respect of this Act.**

5 The functions of the County forest officers shall be to–

- (a) formulate for approval of the County, guidelines regarding the management, conservation and utilization of all types of forest areas within Nandi County;
- (b) manage all forests within the jurisdiction of Nandi County;
- (c) protect forests within Nandi County in accordance with the provisions of this Act;
- (d) promote forestry education and training including greening initiatives in schools
- (e) collaborate with individuals, private and public research institutions identifying research needs and applying research findings; including collaboration with private persons for the management of County forests;
- (f) draw or assist in drawing up management plans for all indigenous, County and private forests in collaboration with the owners or lessees, as the case may be;
- (g) provide forest extension services by assisting forest owners, farmers and associations in the sustainable management of forests;
- (h) enforce the conditions and regulations pertaining to logging, charcoal

- making and other forest utilization activities;
- (i) develop programmes and facilities in collaboration with other interested parties for tourism, recreational and ceremonial use of forests;
  - (j) collaborate with other organizations and communities in the management and conservation of forests and for utilization of the biodiversity therein;
  - (k) promote the empowerment of associations and communities in the control and management of forests;
  - (l) manage forests on water catchment areas primarily for purposes of water and soil conservation, carbon sequestration, sustainable water abstraction and other environmental services;
  - (m) enforce the provisions of this Act and any forestry and land use rules and regulations made pursuant thereto or to any other written law;
  - (n) in consultation with the Director of Public Prosecution, train prosecutors from among the forest officers for purposes of prosecuting court cases under this Act in accordance with any other law relating to the prosecution of criminal cases:

Provided that except with the permission in writing of the County Executive Committee member, no Forest-officer shall, as principal or agent, trade in timber or other forest produce, or become interested in any lease of any forest or in any contract for working any forest, whether within or without the territories to which this Act extends; and

- (o) ensure that forests are planted within Nandi County to ensure a sustainable forest cover.

**Duties of the forest officers.**

6 (1) A forest officer may–

- (a) demand from any person the production of any authority or

license for any act done or committed by that person in a County forest, or in relation to any forest produce for which a license is required under this Act or under any rules made thereunder;

(b) require any person found within the County forest who has in his possession any forest produce suspected to have been taken from such forest, to give an account of the manner in which he/she became possessed thereof, and where the account given is not satisfactory thereof arrest and take such person before a magistrate;

(c) search any person suspected of having committed an offence under this Act or 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 agent or servant:

Provided that no person shall be arrested under this section unless the forest officer has reasonable cause to believe that that person may fail to appear to answer a summons, or unless that person refuses to provide their identification, name and address or gives a name and address which there is reasonable cause to believe to be 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 forest 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 County forest without any person in charge of them; and
- (f) confiscate any equipment or receptacle placed without authority in a County forest.

2) The Director or any forest officer may–

- (a) enter any private forest in order to assess the condition thereof or to perform any such other act which he considers necessary in the circumstance for the preservation and/or conservation of the forest;
- (b) within reasonable hours, 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 license under this Act:

Provided that under such inspection, due regard shall be had to the property rights of the forest owner;

- (c) take all reasonable steps to prevent the commission of an offence under this Act; and
- (d) where qualified to do so, administer and take sworn testimony for the purposes of an investigation conducted under this Act.

**PART III – CREATION, PROTECTION AND MANAGEMENT OF FORESTS**

**Ownership of forests and right**      7 Nothing in this Act shall be deemed to prevent any member of a

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- to forest produce.** 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.
- Exemption of payment rates.** 8 A person who establishes or owns a private forest may apply to the County 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.
- Arboreta and recreational parks.** 9 Private forests may include arboreta and recreational parks.
- Purchase of land by county.** 10 (1) The County may, with the approval of the Governor, acquire by purchase any land suitable to be declared a County forest under this Act.  
(2) From time to time, as tracts of land are acquired, the County shall designate and organize such lands as County forests.  
(3) The County shall protect such lands from wildfire and trespass and cause them to be so managed as to produce continuous crops of timber for use of the people and industries of the County.  
(4) No purchase or exchange shall be transacted under this section unless prior public consultation is carried out.
- County to establish arboreta or recreational parks.** 11 (a) The County shall, as far as reasonably practicable, establish and maintain arboreta, mini-forests or recreational parks for non-consumptive use of persons residing within its area of jurisdiction.  
(b) The County shall establish and maintain a recreational park in every market centre within its jurisdiction. The County shall also promote urban forestry in the major towns of the County.  
(c) No arboreta, mini-forest or recreational park shall be converted to any other use unless the County consults the residents of the area in the jurisdiction within which such arboretum; mini-forest or

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recreational park is situated.

**Donation of land  
for development  
of forestry**

12 (a) 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 County, an educational institution, an association or non-governmental organization for development of forestry and conservation of biodiversity.

(b) The forest established on donated or bequeathed to the County shall be gazetted in accordance with this Act and named after the person who has made the donation or bequest unless the instrument states otherwise.

(c) 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 donor.

**Conservation of  
nature reserves**

13 (a) No cutting, grazing, removal of forest produce, hunting or fishing, shall be allowed in a nature reserve except with the permission of the County Executive Committee member or a person designated in writing by the County Executive Committee member to do so, granted that it shall be in consultation with other conservation agencies, and such permission shall only be given with the object of facilitating research.

(b) The County shall have authority to designate portions of the County forests as wildlife or fish sanctuaries and shall promulgate rules and regulations for the protection and breeding of wildlife or fish within such areas.

**Application for  
utilization of  
forest to be made  
to the County.**

14 (a) Any forest community, or person who is desirous of utilizing or conserving any grove or forest which is part of a nature reserve for cultural, religious, educational, scientific or other reasons shall submit an application, in the prescribed form to the County Executive Committee member.

(b) Upon receipt of the application, the County shall make inquiries regarding the application, including the authenticity and suitability of

the site vis-a-vis the activities for which the application is made, and based on such inquiry, the County Executive Committee member may within three months of receipt of the application:-

- i. grant the application as requested;
- ii. grant the application on specified terms and conditions; or
- iii. refuse to grant the application, giving reasons for such refusal.

**Aggrieved party's right of appeal.**

**[No. 8 of 1999]**

15 Any person aggrieved by the decision of the County Executive Committee member under section 14 may appeal to the National Environment Tribunal established under the Environmental Management and Coordination Act within fourteen [14] days of the decision.

**Preparation of a management plan.**

16 (1) Sacred groves found in any County forest or private forest shall not be interfered with and any person who, without lawful authority, fells, cuts, damages, or removes any such grove or tree or regeneration thereof, or biodiversity therein, or abets in the commission of any such act commits an offence.

(2) County forest shall be managed in accordance with a management plan that complies with the requirements prescribed by rules made under this Act.

(3) The Department shall be responsible for the preparation of a management plan with respect to County forests within its jurisdiction.

(4) The Department may discharge its responsibilities under this section by preparing any requisite plan and adopting it or by adopting a plan prepared by another person or body.

(5) In preparing and adopting a management plan, the Department shall consult the County Forest Conservation Committee.

(6) The Department 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.

(7) The provisions contained in this Act regarding the management of indigenous forests shall apply to the management of indigenous forests within the jurisdiction of the County.

**Management agreement.**

17 (1) County may, upon application by a company, government agency, a forest community, a professional association, an educational institution, or a non-governmental organization, a cooperative society or an individual, and after approval by the Director of forests has been obtained, entered 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 in respect thereof to the County;
- d) the mechanisms 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 vest in any person, institution, or organization any right of ownership of any land declared to be a County forest, other than the privilege of management

(4) No management agreement shall convert a County forest into a settlement area.

**Management of indigenous forests and woodlands.**

18 All indigenous forests and woodlands shall be managed on a sustainable basis for purposes of–

- a) conservation of water, soil and biodiversity;
- b) river line protection;

- c) cultural use and heritage;
- d) recreation and tourism;
- e) sustainable production 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 wetlands and other water bodies; and
- i) regulated livestock grazing and/or cut and carry of livestock pasture on zoned grazing areas.

**Mining and quarrying in forests.**

- 19 The County 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 has been carried out; or
  - d) the forest is not an important catchment area or source of springs:
- Provided that the County Executive Committee member may, with the approval of the County Assembly, and in consultation with the Cabinet Secretary responsible for mining, publish rules to regulate and govern mining operations in forest areas; and ensure that the carrying out of mining and quarrying operations shall not contravene any rules made under this Act.

**License for mining and quarrying.**

- 20 Any person who intends to carry out mining and quarrying activities in a County forest must obtain a license issued by the Department.

#### **PART IV – COMMUNITY PARTICIPATION**

**Registration of Community Forest**

- 21 (1) A member of a forest community may, together with other members or persons resident in the same area, register a Community

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- Association.** Forest Association under the Societies Act of Kenya.
- [Act No. 4 of 1968]**
- (2) An association registered under subsection (1) may apply to the Department for permission to participate in the conservation and management of a County forest in accordance with the provisions of this Act:
- Provided that no application under this section shall be made where there is an existing prior agreement or license.
- Application to be in prescribed form.** 22 The application referred to in Section 21 (2) shall be as set out under the first schedule and shall contain—
- a) a list of 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; and the costs involved;
    - ii. methods of conservation of biodiversity; and
    - iii. methods of monitoring and protecting wildlife and plant populations and the means of enforcing such protection; and
  - f) such other relevant information that the County may require.
- County to keep records of associations.** 23 The County Executive Committee member shall cause to be kept an up to date register of all associations participating in the conservation or management of forests.
- Functions of community forest** 24 The association approved by the County to participate in the management or conservation of a forest or part of a forest shall—

**associations.**

(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 County 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 County enter into partnerships with other persons for the purposes of ensuring the efficient and sustainable conservation and management of forests;

(f) keep the County informed of any developments, changes and occurrences within the forest which are critical for the conservation of biodiversity; and

(g) help in fire fighting; and do any act that is necessary for the efficient conservation and management of the forest.

**Forest user rights.**

25 The management agreement between the County and the association may 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 timber or fuel wood;
- (d) grass harvesting and grazing;
- (e) collection of forest produce for community based industries;
- (f) ecotourism and recreational activities;
- (g) scientific and educational activities;
- (h) plantation establishment through non-resident cultivation;
- (i) contracts to assist in carrying out silvicultural operations;
- (j) development of community wood and non-wood forest based industries;
- (k) other benefits which may from time to time be agreed upon between an association and the County:

Provided that;

- (i) none of the activities specified in the subsection shall be carried out so as to conflict with the conservation of biodiversity;
- (ii) the County may, in consultation with the association, make rules regulating the performance thereof; and
- (iii) in case of plantation establishment the non-resident shall be allowed to cultivate in the forest for a period not exceeding three years.

**Termination of management agreement.**

26 (1)The County may terminate the management agreement with an association or withdraw a particular user right where–

- (a) an association grossly breaches the terms and conditions

thereof;

(b) considers such action as necessary for purposes of protecting and conserving biodiversity; or

(c) the association so requests.

(2) Where the Department intends to terminate a management agreement, it shall give the affected association fifteen days' notice to show cause why the management agreement should not be terminated or the user rights withdrawn.

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

**PART V – ENFORCEMENT**

**Offenses – false or misleading statements.**

27 (1) A person making an application to the County must not make a statement in connection with this Act which that person knows to be false or misleading–

- a) in connection with an application for the grant of a license or permit; or
- b) generally, when providing information required under this Act.

(2) If a person contravenes subsection (1), the person is guilty of an offence and is punishable on conviction by a fine not exceeding KShs. 250, 000/= shillings or imprisonment not exceeding one year, or both.

**Prohibited activities in forests.**

28 (1) Except under a license or permit or management agreement issued or entered into under this Act, no person in a County forest shall–

- 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 they are using a recognized road or footpath, or is in

occupation of a building authorized by the County, or 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 light, carry or throw down any fire, match or other lighted material;
- e) de-pasture or allow any livestock to be therein between the hours of 7 p.m. and 6 a.m.;
- f) clear, cultivate or break up land for cultivation or for any other purpose;
- g) enter any part of the forest which may be closed to any person;
- h) collect 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 purposes of collecting honey and beeswax, or 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; and
- 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, in any forest area—

- (a) introduces any exotic genetic material or invasive plants without authority from the County;

(b) dumps any solid, liquid, toxic or other wastes;

(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 upon conviction to a fine of not less than three million shillings or to imprisonment for a term of not less than ten years, or to both.

**Counterfeiting or  
unlawfully  
affixing marks.**

29 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 produce is the property of the County, or that it may or has been lawfully cut or removed;

(b) alters, obliterates, removes or defaces any stamp, mark, sign, license, 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 County forest 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 the County to be worn by forest officers or other employee of the County, or who in any other way holds himself out to be an employee of the County; or

(e) counterfeits or issues without lawful authority any license or



other document purporting it to be a license or document under this Act or any rules made thereunder;

Commits an offence and shall be liable upon conviction to a fine not less than two hundred thousand shillings or to imprisonment for a term of not less than three (3) years or to both.

**Other offences.**

30 (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 and conditions of a license issued to him 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 execution of his powers or duties under this Act;

(e) makes or is found in possession of charcoal in County, provisional or private forest, or a farmland without a license or permit of the owner as the case may be:

Commits an offence and is liable upon conviction to a fine of not less than fifty thousand shillings or to imprisonment for a term of not less than one year, or to both.

(2) A person who willfully or maliciously sets fire to any private, provisional or County forest commits an offence and is liable upon conviction to a fine of not less than two hundred thousand shillings, or to imprisonment for a term not less than one year or to both.

(3) Any person who operates a sawmill in a manner contrary to that prescribed in the rules made under this Act commits an offence and is

liable upon conviction to a fine not less than five hundred thousand shillings or to imprisonment for a term of not less than three years, or to both.

(4) Save under a license 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 person or firm operating quarries or conducts sand and soil harvesting activities in the forest must obtain a certificate from the County, failure to which he shall be guilty of an offence.

(6) Where a person is convicted of an offence of occupying or cultivating land in a forest area without a license, 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, failure to comply with the order, the buildings, huts, crops, enclosures shall be deemed to be the property of the County or forest owner, as the case may be, and may be disposed of as County or forest owner may think fit:

Provided, however, that the 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.

(7) Whoever fully destroys, injures or defaces a guide post, sign, fence, enclosure or structure within a County forest; or willfully

destroys, injures or removes a tree, shrub or plant or flower within a County forest; or violates any reasonable regulation adopted by the County and published by posting in conspicuous places; or willfully uses or resells planting stock produced in County forest nurseries in violation of such conditions of sale or for planting as shall have been approved by the County in connection with a sale or furnishing of trees or plantings by the County is guilty of an offence.

(8) 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 upon conviction to imprisonment of not less than six months or to a fine of not less than one hundred thousand, or to both.

**Livestock found  
in the County  
forest.**

31 (1) Any livestock found in a County forest, shall be detained, unless the owner thereof proves to the contrary, and shall be deemed to be there under the authority of the owner as well as the person, if any, actually in charge of the livestock:

Provided that neither the County nor any of its officers shall be liable for injury, loss or death of any livestock so seized or detained.

(2) The livestock detained under subsection (1) above may be auctioned at the expiry of seven days if the owner does not reclaim it and the proceeds of such an auction shall be paid to the County Revenue Fund.

**General penalty.**

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

**Compensation  
for loss or  
damage.**

33 Where a person is convicted of damaging, injuring or removing forest produce from any forest, 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; or

(c) the forest produce be removed, and any vessels, vehicles, tools or implements used in the commission of the offence, be forfeited to the County:

Provided that the value of the forest produce shall be either the commercial value of the forest produce or the cost of repairing the damage caused to the biodiversity as a result of the activities complained of.

**PART VI – TIMBER ON TRANSIT**

**Conditions on transit of timber.** 34 No person shall move timber into or from, or within the County unless such timber is accompanied by a permit.

**Form of permit.** 35 (1) In the case of timber from gazette national forests, the permit shall be as prescribed by national laws.  
(2) In the case of County and private forests, the permit shall be in the form described under the second schedule and shall be in print and a fee shall be charged for the said permit.

**PART VII – MISCELLANEOUS PROVISIONS**

**Authorized officers.** 36 The County Executive Committee Member may appoint persons as

**NANDI COUNTY FOREST CONSERVATION AND MANAGEMENT BILL, 2015**

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authorized officers for the purposes of this Act.

**Permits and licenses.**

37 (1) Permits or licenses to perform certain activities under this Act shall be issued by the County Government upon making an application to the Department by the applicant and payment of the requisite fees to be receipted and remitted to the County Revenue Fund.

(2) An application referred to in subsection (1) above shall be in the form set out under the third schedule.

**Notices.**

38 (1) Except where otherwise specifically provided in this Act any notice, permit or consent which the County is authorized or required to give may be signed by the County Executive Committee member or by any officer of the County duly authorized by him, in writing, to sign such notice, permit or consent.

(2) Any such notice, permit or consent purporting to bear the signature of the County Executive Committee member shall for the purpose of this Act be deemed, until the contrary is proved, to have been duly issued by the County.

(3) Any notice or other document required or authorized by or under this Act to be served on a corporation shall be duly served if served to the chief executive officer of the corporation.

**Service of notices.**

39 The following shall constitute proper service of notices, summons or any other document in relation to this Act—

- a) sending through registered post in which case it will be deemed to have been received on the third day from the date of registering the mail;
- b) by delivering it to the premises and having it received by whoever is found in the premises; or

**NANDI COUNTY FOREST CONSERVATION AND MANAGEMENT BILL, 2015**

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- c) by affixing or pasting it on a conspicuous place within the premises.

**County's duty to enforce this Act.**

40 (1) It shall be the duty of the County to control and take appropriate measures to protect and conserve County forests by enforcing this Act.

(2) No suit, prosecution or other legal proceedings shall lie against any authorized officer for anything done in good faith and without negligence under this Act.

**Penalties.**

41 Any person who fails to comply with the requirements of any notice served under this Act within the time specified by such notice shall be guilty of an offence and upon conviction, be liable to a fine not exceeding ten thousand shillings in respect of a first offence and not less than fifteen thousand shillings in respect of a second or subsequent offence or imprisonment for a period not exceeding six months, or to both.

**Persons bound to assist Forest-officers and Police Officers.**

42 (1) Every person who exercises any right in a reserved or protected forest, or who is permitted to take any forest-produce from, or to cut and remove timber or to pasture cattle in, such forest, and every person who is employed by any such person in such forest, and every person in any village contiguous to such forest who is employed by the County or National Government or who receives payment from the Government for services to be performed to the community, shall be bound to furnish without unnecessary delay to the nearest Forest-officer or Police Officer any information he may possess respecting the commission of, or intention to commit, any forest-offence, and shall forthwith take steps, whether so required by any Forest-officer or Police Officer or not,—

- a) to extinguish any forest fire in such forest of which he has

knowledge or information;

- b) to prevent by any lawful means in his power any fire in the vicinity of such forest of which he has knowledge or information from spreading to such forest;
- c) assist any Forest-officer or Police Officer demanding his aid in preventing the commission in such forest of any forest-offence; and
- d) when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender.

(2) Any person who, being bound so to do, without lawful excuse (the burden of proving which shall lie upon such person) fails—

- a) to furnish without unnecessary delay to the nearest Forest-officer or Police Officer any information required under subsection (1);
- b) to take steps, as required by subsection (1), to extinguish any forest fire in a county or private forest;
- c) to prevent, as required by subsection (1), any fire in the vicinity of such forest from spreading to such forest; or
- d) to assist any Forest-officer or Police Officer demanding his aid in preventing the commission in such forest of any forest-offence, or, when there is reason to believe that any such offence has been committed in such forest, in discovering and arresting the offender shall be punishable with imprisonment for a term not exceeding three months, or with fine not exceeding five hundred thousand shillings, or with both.

**Prosecution of matters under this Act.**

43 The County Government shall liaise with the Office of the Director of Public Prosecution to provide a special prosecutor to prosecute

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matters for and on behalf of the County Government under this Act.

**Regulations.** 44 The County Executive Committee member may make Regulations generally for the better carrying out of the objects of this Act.

**Fines.** 45 Fines payable under this Act shall be remitted to the County Revenue Fund.





Proposed County forest:

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**B. ASSOCIATIONS PROPOSAL**

i. Costs involved in use of forest reserves:

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ii. Proposed methods of conservation of biodiversity:

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iii. Methods of monitoring and protecting wildlife and plant population:

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**SECOND SCHEDULE**

**(S. 35 (2))**

**FORM OF TIMBER ON TRANSIT PERMIT**

Triplicate (Counterfoil to be retained by the issuing officer).

Permit No.

1. Name and residence of the person to whom the permit is granted. 2. Quantity.

3. Description of timber.

4. Fees paid if any.

5. Marks if any on the timber.

6. From Forest or depot removed.

7. To what place?

8. Route.

9. Timber allowed.

10. Vehicle registration No.

11. Remarks.

Signature of the issuing officer: .....

Date: .....

Designation: .....

Duplicate (Counterfoil to be retained by the issuing officer).

**THIRD SCHEDULE**

**(S. 37 (2))**

**APPLICATION FOR PERMIT (OR LICENSE) TO PERFORM ACTIVITIES IN THE  
COUNTY FOREST**

**A. DETAILS OF THE APPLICANT**

- (i) Name of applicant .....
- (ii) Address .....
- (iii) Tel .....
- (iv) Fax .....
- (v) E-mail .....
- (vi) Physical address .....
- .....

**B. ACTIVITY**

Describe the nature of activity your application is related to

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.....  
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(i.e. harvesting of timber or fuel wood, grass harvesting and grazing, harvesting honey or beeswax, collection of forest produce for community based industries, erect a building or livestock enclosure, operate a saw mill, operating a quarry, or any other such activity carried out as per the Act)

**C. DECLARATION**

*I, .....[NAME OF APPLICANT]....., do hereby certify that the above stated information is true and accurate to the best of my knowledge, information and belief.*

*Signature:* .....

*Date:* .....

**THE CONSTITUTION OF KENYA, 2010**

**THE COUNTY GOVERNMENTS ACT, ACT NO 17 OF 2012**

**NANDI COUNTY**

**FOREST CONSERVATION AND MANAGEMENT BILL 2015**

**NANDI COUNTY FOREST CONSERVATION AND MANAGEMENT BILL, 2015**

**BEING THE FORESTRY CONSERVATION AND MANAGEMENT BILL FOR**

**THE NANDI COUNTY**

**STATEMENT OF OBJECTS AND REASONS**

**WHEREAS**

- a) The Constitution 2010 places a responsibility upon the Government to ensure *inter alia*, the exploitation of natural resources for the benefit of Kenyans;
- b) Sections 22, 23, 24 and 25 of the County Governments Act 2012 provide for the enactment of laws by County Governments;
- c) Nandi County hosts Forests which are under the management of the National Government through the Kenya Forest Service;
- d) Nandi County is blessed with a tree cover estimated at nineteen percent [19%] and wishes to enhance this to at least forty percent [40%];
- e) It is important to prohibit or regulate the destruction or injuring of trees in the National and County Forests;
- f) There is need to balance the need or conservation and the continuing need of the people of Nandi County to use the forest land for their *bona fide* livelihood needs.

Further, apart from its environmental value, forests are a big source of income for the County Government; but it has been observed that due to constant negligence, inefficiency and lack of proper vigilance, the forests are open to encroachments and serious mismanagement. This state

## **NANDI COUNTY FOREST CONSERVATION AND MANAGEMENT BILL, 2015**

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of affairs has resulted in huge loss to the Government due to theft of trees/wood and other related crimes.

The punishment provided for offenders is not sufficiently deterrent. There is need to check the crimes more effectively.

AND WHEREAS the County Government has determined that it is desirable to enact this Bill for the purposes of:

- a) preserving and improving the forests in Nandi County through Good Forestry Practices;
- b) promoting Good Forestry Practices that sustain healthy forests and woodlands;
- c) minimizing the destruction or injuring of trees;
- d) regulating and controlling the removal, maintenance and protection of trees;
- e) minimizing and guarding against dangerous conditions which may result in injury;
- f) protecting, promoting and enhancing the aesthetic values of forests and woodlands;
- g) contributing to human health and quality of life through the maintenance of forests and woodlands cover;
- h) Providing wildlife habitat; and
- i) Livelihood improvement and wealth creation among the local communities through promotion of nature based enterprises.

The purpose of this Bill is to create a county law relating to the planting and conservation of forests; and to provide for the regulation and control of sustainable utilization of forest produce and the sustained management of forests and forest reserves. The following are the most important changes that the Bill is intended to bring about:

- i. more transparent rules regarding forestry;
- ii. provision for private and county forests;

**NANDI COUNTY FOREST CONSERVATION AND MANAGEMENT BILL, 2015**

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- iii. certainty of tree tenure;
- iv. provision for the control/ownership of existing forest reserves and
- v. forest enterprises;
- vi. introduction of the concepts of modern forest management;
- vii. new rules of enforcement

**DR. JOHN KIPKORIR CHUMO**

**COUNTY EXECUTIVE FOR LAND, ENVIRONMENT AND NATURAL RESOURCES**

Approved on: .....

Made on this.....day of .....2016

BY ORDER OF THE NANDI COUNTY GOVERNMENT