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THE MIGORI COUNTY AGRICULTURAL TRAINING CENTER (ATC) ACT, 2020
No. 7 of 2020
Date of Assent: 23rd December, 2020
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FIRST SCHEDULE—Conduct of Business and Affairs of the Board of Management.
THE MIGORI COUNTY AGRICULTURAL TRAINING CENTER (ATC) ACT, 2020

AN ACT of the County Assembly of Migori to provide for the growth and development of Agriculture in Migori, to improve productivity and production, upgrade quality and competitiveness, facilitate efficient management through establishment of a revolving fund to finance approved programs and projects in the institution to maximize on the provision of service as well as generate revenue to the County for enhanced growth

ENACTED by the County Assembly of Migori, as follows—

PART I—PRELIMINARY

Short title and Citation

1. This Act may be cited as the Migori Agricultural Training Center (ATC) Act, 2020 and shall come into effect immediately on such a date as the County Executive Committee Member in charge of Matters relating to Agriculture, Livestock, and Fisheries may, with the concurrence of the Governor, appoint by notice in the Gazette.

Interpretation

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

“Unit” means the Agricultural Training Center;

“Financial year” means a period of budget cycle covering twelve consecutive months starting from 1st July to 30th June;

“Fund” means the Demonstration Farm Fund established under Section 7;

“Officer administering the Fund” means the accounting officer of the Training Directorate for the time being responsible for the Agricultural Training unit, or a person appointed in writing for that purpose;

“Board of Management” means the Board of the Agricultural Training Centre, Migori established under section 12;

"County Executive Committee Member" means the Member of the Executive Committee responsible for matters relating to Agriculture;

“Food Crops” means Crops grown and used widely for food by the local community such as Cereals, roots and tubers and Pulses etc.;

“Cash crops” means Crops Grown specifically for sale and income generation; they are largely nonfood crops but may be food crops;
“Industrial crops” means Crops grown and produced specifically to provide raw materials for processing and/or physical transformation into other forms of usable product(s), commodities for the market;

“County Chief Officer (CCO)” means the accounting officer of the Directorate responsible for matters relating to Agriculture in the County;

“County Director of Agriculture (CDA)” means the technical officer responsible for technical issues in the department of agriculture at the County;

“Agricultural Value Chains Development” means a rural development approach that focuses on upgrading, commercializing, maximizing profits and benefits in a market system through improved technology access, efficiency and productivity of all activities and functions that deliver a product with added value involved in reproduction, production, processing or transformation, marketing and consumption of agricultural produce;

“Client” means a person who uses the services or advice of a professional person or organization;

“Casual employee” means an individual whose terms of engagement provide for his payment at end of each day;

“Piece-work” means any work the pay for which is estimated by the amount of work irrespective of the time occupied in its performance;

“Contract service” means an agreement, whether oral or in writing, and whether expressed or implied, to employ or to serve as an employee for a period of time;

“Employee” means a person employed for wage(s) or a salary.

PART II—ESTABLISHMENT AND FUNCTIONS OF THE ATC

Establishment of Miyare Agricultural Training Centre

3. There is established an institution to be known as the Miyare Agricultural Training Centre.

(2) The institution shall comprise of a school and a farm both of which shall be interdependent.

(3) The institution shall be a body corporate of the Migori County Government with perpetual succession and a common seal and shall in its corporate name be capable of—

(a) suing and being sued;

(b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
(c) borrowing or lending money;

(d) doing or performing all such other things or acts in furtherance of the provisions of this Act and which may lawfully be done by a body corporate.

(5) The institution shall be the successor to the devolved unit known by the same name and subject to this Act all rights, obligations, assets and liabilities of the former existing at the commencement of this Act shall be automatically and fully transferred to the institution and any reference to the devolved unit in any contract or document shall for all purposes be deemed to be a reference to the institution established under sub-section (1).

Objectives and Purpose of the Act

4. (1) The Objectives is to establish and Develop a farmers training centre for farmers’ modular trainings in Agriculture for increased knowledge, skills and attitude for Agricultural production in Migori County and this will improve food security and agribusiness investment.

(2) The purpose of this Act is therefore to—

(a) provide a legal framework to facilitate farmers and stakeholders training in Agriculture in the County;

(b) establish a Demonstration Farms Fund (DFF) specifically for running of commercial enterprises at the ATC and serve as farmers learning centers;

(c) establish, Strengthen and institutionalize structures for the implementation, administration and management of the Fund.

General functions of the Agricultural Training Centre

5. Subject to this Act, the following are the core functions of the Agricultural Training Centre—

(a) to offer residential and non-residential (including outreach) training on relevant technologies backed with practical demonstrations;

(b) to provide training facilities for farmers and other stakeholders involved in Agricultural development;

(c) to maintain a model farm for training purposes and for demonstration to stakeholders in Agriculture;

(d) to provide facilities for and participate in carrying out adaptive on-farm county trials of relevant research technologies;
(c) to serve as a bulking center of plant materials, multiplication of livestock and fingerlings for farmers and conservation of germplasm;

(f) to generate revenue for self-financing of commercial activities;

(g) to provide incubation for viable agri-business to stakeholders and tailor made hands on skills and knowledge.

Functional units of Agricultural Training Centre (ATC)

6. (1) Subject to this act, the Agricultural Training Centre shall have two major interdependent sections namely; the school and the farm.

(2) The Farm will comprise but not limited to Dairy, Poultry, Sugarcane, Horticulture and Cereals enterprises.

(3) The School will comprise of but not limited to Workshops and Trainings by NGOs and Government ministries.

(4) Both sub-sections (2) and (3) above shall be maintained with funds voted under Recurrent and Development votes.

(5) The commercial enterprises (both under the school and the farm) shall be maintained by a revolving fund referred to as Demonstration Farms Fund (DFF-Farm and DFF-TRAC) under section 20.

Administration of Agricultural Training Centre

Principal of the Institution

7. (1) There shall be a Principal of the institution who shall be appointed by the Migori County Public Service Board on the advice of the Chief Officer for the time being responsible for matters relating to Agriculture, livestock and fisheries development, who shall be approved by the County Assembly.

(2) The Principal shall—

(a) be the overall head of the institution;

(b) exercise overall administrative responsibility over all staff of the institution;

(c) have the overall responsibility for the direction, organization, administration and implementation of all activities of the institution;

(d) be the Secretary to the Board of Management;

(e) be responsible to the Board of management and the County Executive Committee Member on matters relating to the institution.
(3) The Principal shall hold office for such period as may be provided for by the regulations.

Other Staff of the Institution

(4) There shall be established technical and administrative staff of the institution.

(5) The technical staff of the institution shall consist of the Principal, Deputy Principal, Farm Manager, Home Economics officer, Agro-processing officer, Livestock officer, Crops officer and any other member of staff engaged in the provision of training and extension services.

(6) The administrative staff of the institution shall consist of the Principal, Deputy Principal, Executive officer, Farm Manager, Cateress, House keeper, and any other member of staff not engaged in the provision of training and extension services.

(7) All members of staff of the institution shall, subject to this Act, be appointed by the Migori County Public Service Board.

(8) Upon such terms and conditions of service as the Service Board may determine, or

(9) In the case of a person being seconded to the service of the institution from the service of another administration or any other part of the public service, upon such terms as may be agreed between the Service Board and the seconding body.

(10) The Migori County Public Service Board may, subject to such restrictions as it may impose, delegate either generally or specifically to any committee the power to appoint any member of staff of the institution.

(11) The ATC shall also employ casual labor from time to time depending on the need in the farm and in the school sections.

The Deputy Principal

(12) The deputy Principal shall—

(a) assist the Principal in administering the institution;

(b) be responsible to the Principal for planning and implementation of training programmes of the institution;

(c) in the event of the incapacity of the Principal, perform the duties of the Principal during the period of incapacity.
Establishment of a Board of Management

8. (1) Subject to this act and in order regulate the governance, administration and management of Migori ATC as contemplated by this Act.

(2) There shall be a Board of Management for assisting in the overall governance and management of the institution.

Membership of the Board of Management

9. The Board of Management shall comprise of the following members—

(a) one person drawn from each sub-county within Migori County and who shall be a practicing farmer nominated by the respective officer for the time being responsible for co-coordinating the agriculture function at the sub-county level;

(b) the Chief Officer for the time being responsible for matters relating to crops development;

(c) the Chief Officer for the time being responsible for matters relating to livestock development;

(d) the Chief Officer for the time being responsible for matters relating to Public Finance;

(e) the Chief Officer for the time being responsible for matters relating to Education;

(f) one member nominated by the Kenya Agriculture and Livestock Research Organization (KALRO) who shall be appointed on a three year term subject to performance. One co-opted member representing the physically challenged persons;

(g) the Principal of the institution who shall be the Secretary to the Board;

(h) a Chairperson who shall be elected from among persons elected under section 9(a).

Co-opted members of the Board

10. (1) The Board may from time to time co-opt into its membership such persons as it may be satisfied possess skills and experience to assist in the discharge of the Board’s functions.

(2) The number of co-opted members shall not exceed three at any particular time and such members shall have no right to vote in any Board meeting.
Nomination and appointment of members of the Board

11. (1) The Principal shall initiate the process of nomination and appointment of the members of the Board in consultation with the relevant authorities.

(2) The members of the Board specified in section 8 sub section (2) shall be appointed in a manner that satisfies the two-thirds gender rule as contemplated in Article 27(8) of the Constitution of Kenya, 2010.

(3) The chairperson specified in sub section 9 (h) shall hold a minimum of a Bachelor’s degree in agriculture or any other related field.

(4) The Board shall elect a vice Chairperson from amongst its members provided that the member so elected shall not be an ex-officio member.

(5) The Board shall be appointed in writing by the County Executive Committee Member.

Functions of the Board

12. Subject to this Act, the Board shall be the governing body of the institution and shall have the power to—

(a) promote the public interest for which the institution is established and ensure its development;

(b) promote quality training in accordance with the laid down regulations;

(c) enter into association with other stakeholders and development partners as it may deem appropriate and in furtherance of the purpose for which the institution is established;

(d) to mobilize resources from stakeholders and development partners;

(e) receive any grants, gifts, donations or endowments on behalf of the institution and make legitimate disbursements there from;

(f) to review asset and security status of ATC and make recommendations;

(g) offer advisory services to the management of the institution;

(h) encourage stakeholder participation in the programmes of the institution and to promote its services and products;

(i) participate in the annual valuation of the assets of the institution;

(j) perform any other function as may be conferred on it by this Act.
Tenure of the Board

13. (1) Subject to this Act, the term of each Board shall expire after three years from the date of appointment.

(2) The Chairperson of the Board shall hold office for a period of three years from the date of appointment and shall be eligible for reappointment for one further term for a period not exceeding three years.

(3) A member of the Board other than an *ex-officio* member shall hold office for a period of three years from the date of appointment and shall be eligible for reappointment for a further term of a period not exceeding three (3) years.

(4) In re-appointing members of the Board, the County Executive Committee Member shall maintain a proportion of new membership that ensures continuity in the affairs of the Board of Management.

Vacancy in the office of a member of the Board

14. (1) The office of a member of the Board other than an *ex-officio* member shall fall vacant—

(a) if a member resigns his office in writing to the Secretary of the Board;

(b) if the Board is satisfied that the member is, by reason of physical or mental infirmity, unable to execute the functions of his office;

(c) upon his/her death;

(d) if the member has been absent without leave for three consecutive meetings of the Board;

(e) if the appointment of the member is revoked by the appointing authority in writing;

(f) upon the expiry of three years from the date of appointment.

(2) Where the office of a member of the Board falls vacant under sub-section 14 (a) the Secretary shall notify the County Executive Committee Member within one month of the occurrence and shall request for the appointment of a replacement.

Remuneration of members of the Board

15. The Members of the Board of Management shall be paid in respect of services rendered such allowances as may be determined by the Migori County Public Service Board in consultation with the Salaries and Remuneration Commission.
Conduct of Business and Affairs of the Board of Management

16. The County Executive Committee Member may provide regulations for the better conduct of the business and affairs of the Board of Management.

PART III—FINANCIAL PROVISIONS

Financial provisions

17. Subject to this act, the financial provisions shall provide for the recurrent expenditure of Migori ATC and to meet the development expenditure thereof as contemplated by this Act.

Annual Estimates

18. (1) At least nine months before the commencement of the financial year, the Principal shall cause to be prepared annual estimates of revenue and expenditure for the institution for the financial year to which they relate.

(2) The annual estimates shall make provision for all estimated expenditure of the institution for the financial year concerned, and in particular shall provide for—

(a) the proper maintenance of buildings and grounds of the institution;

(b) the maintenance, repair and replacement of the equipment and other movable property of the institution;

(c) the funding of the cost of training and demonstration activities of the institution;

(d) the proper maintenance of the catering, accommodation and recreational facilities of the institution;

(e) the creation of reserve funds to meet future or contingent liabilities in respect of replacement of buildings or equipment, or in respect of such other matters as the County Executive Committee Member may deem fit.

(3) The annual estimates shall be consented to by the Board of Management and shall be submitted to the County Executive Committee Member for consideration.

(4) At least six months before the commencement of each financial year, the County Executive Committee Member shall present the estimates in sub-section (3) to the County Assembly for consideration and approval.
Adherence to Approved Budgetary estimates

19. No expenditure shall be incurred for the purpose of the institution except in accordance with the annual estimates approved by an Appropriations Act in respect of that financial year.

PART IV—ESTABLISHMENT AND ADMINISTRATION OF A REVOLVING FUND

Establishment of the fund

20. (1) There shall be an established Fund to be known as the Agricultural Training Centre Demonstration Farm Fund (DFF) in accordance with section 116 of the Public Finance Management Act, 2012.

(2) The Fund shall consist of—

(a) consolidated fund appropriated by the County Assembly for purposes for which the Fund is established;

(b) donor Agency Projects or program funds from Bilateral or Multilateral organization project initiative funds;

(c) monies paid as halls hire, training fees, commission, and fees that may accrue to or vest in the Fund in the course of exercising its functions assigned under this Act;

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

(e) monies from any other lawful source approved by the Board of management;

(f) all moneys realized from the sale of the—

(i) farm produce;

(ii) livestock; and

(iii) surplus or unserviceable items of farm assets, authorized for disposal by the officer administering the Fund or on his behalf by an officer appointed by him in writing for that purpose of the demonstration farms at farmers training center shall be paid into the Fund.

(3) There shall be paid out of the Fund, any expenditure approved by the Board pursuant to sections of this Act.

(4) The Fund shall be under Agricultural Training Centre management with oversight by Board of Management established under section 8.
(5) The initial capital of the Fund shall be a sum of Kenya shillings Ksh 400,000 DFF Farm and Ksh 500,000 DFF TRAC appropriated by the County Assembly in the subsequent financial year after the Bill is passed.

(6) The surplus realized in any financial year from the operations of the Fund shall be retained in a reserve account of the Fund and any deficiency realized in any financial year shall, subject to prior concurrence of the Treasury, be offset against the realized surplus held in the reserve account of the Fund.

(7) The expenditure on development and running of demonstration farms under the Fund shall be on the basis of and limited to the annual budget which shall be submitted to the county treasury for approval before the beginning of the financial year to which the budget relates.

(9) Any revision of the approved annual budget shall be referred to the county treasury for necessary approval.

(10) The Government procurement and disposal procedures shall be strictly adhered to.

(11) All receipts, earnings and accruals of the Fund and the balance of the Fund at the close of each financial year shall not be paid into the Consolidated Fund but shall be retained for the purpose for which the Fund is established.

Objectives of the Fund

21. The objective and purpose of the fund shall be to provide funds for the development and running of the commercial (Activities) enterprises at the ATC on a revolving basis. The ultimate goal of the fund is to make the ATC self-sustaining and—

(a) improve access to agricultural technologies, innovations and information;

(b) provide quality training facilities for agricultural development;

(c) promote sustainable land use and conservation of natural resources;

(d) promote household food security;

(e) to provide improved germ plasm to users;

(f) promote value-addition and utilization of agricultural produce;

(g) promote commercialization of agricultural enterprises; and

(h) supporting other agricultural development initiatives in the county through revenue collection;
empower county youths to be active participants in farming as a business.

Organization and Management of DFF

22. Subject to this act, organization and management of Demonstration Farms Fund (DFF) within the department of Agriculture, Livestock and fisheries shall be carried out at two levels; At the County Government Agricultural office and At the Agricultural Training Centre.

DFF Monitoring and Evaluation

23. (1) There shall be an annual monitoring and evaluation of DFF activities in the ATC carried out to ensure proper operation and management of the fund.

(2) The Monitoring and Evaluation will be carried out collaboratively by a team constituted by the County Chief Officer including the three sister directorates of Agriculture, Livestock and Fisheries.

(3) This unit, together with the head of accounting units shall develop standards and guidelines which will be monitored. These standards will include—

(a) training curriculum development and review;
(b) proper books of accounts;
(c) capacity gaps that require county government support;
(d) public Private Partnerships development;
(e) the membership in sub-section 2 shall include the CDA and members of the technical management committee (TMC) and a representative from county accounts unit.

DFF Monthly returns and Annual reports

24. (1) All DFF-Farm and DFF-TRAC monthly returns shall be prepared and submitted as prescribed by the Act.

(2) Monthly returns to reach CDA office by 10th of the following month with a copy to the County Executive committee Member in charge of Agriculture, Livestock and Fisheries development.

(3) Quarterly County meetings to verify and analyze DFF data for consistency, viability of enterprises and accountability.

DFF-FARM and DFF-TRAC Budgets

25. (1) All budgets shall be prepared using guidelines as may be developed by the directorate.
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(2) Annual budget will be prepared by the ATC management in consultation with the Technical Management Committee.

(3) The annual budget to be submitted to the CDA and the County Chief Officer in charge of Agriculture livestock and fisheries for approval.

(4) The approved budget be submitted to the County Chief Officer in charge of Finance and economic planning by 31st December and should be in accordance with the ATC DFF work plan.

(5) An operational budget which is an extract of the annual budget shall be prepared as and when required.

(6) The operational budgets to be submitted in person by the Principal for discussion and approval by the chief officer.

(7) Upon approval by the County Chief Officer, Agriculture, the county accounts unit shall verify the accounts balance of the ATC prior to the processing of the DFF payments by the county treasury.

(8) In special cases where revision of the budget is necessary, revised budget will be approved by the County Chief Officer Agriculture.

**Criteria for approval of DFF budgets**

26. (1) There shall be proper expenditure and accounting of money previously issued.

(2) The casual labour costs not exceeding 30% of the Total variable costs (TVC), except for labour intensive crops.

(3) The expected profit in the budget shall be a minimum of 30% of the proposed investment amount for DFF-Farm and 40% for DFF-TRAC respectively.

(4) Only variable costs items shall be funded.

(5) Certified bank account statements covering the period since last allocation of funds and for any other period requested.

(6) The submission of budgets shall be at least two weeks for DFF-Farm and one week for DFF-TRAC before commencement of the activities.

**Responsibilities at various levels**

**Ministry of Agriculture County office**

27. The role of the CEC in the department of Agriculture, livestock and fisheries shall be—

(a) policy formulation and review;
(b) development of standards and guidelines for ATC operations;
(c) monitoring and evaluation;
(d) promotion of Private Public Partnerships;
(e) support infrastructural development of the ATC with modern facilities

County Chief Officer Agriculture

28. (1) Subject to this act, the management of DFF shall be the responsibility of the County Chief Officer agriculture in conjunction with the CDA as the technical advisor.

(2) The role of County Chief Officer Agriculture includes the following—

(a) to provide technical advice on enterprise selection and implementation

(b) facilitate the opening and operation of an Account named “ATC Demonstration Farm Fund Account” for the purpose of managing the DFF funds;

(c) to ensure sound and efficient management principles are applied in the operation of DFF funds;

(d) to review, monitor and evaluate the performance of DFF on a continuous basis;

(e) to approve and forward DFF budgets forwarded by the principal for funding;

(f) to appoint the Board of Management (BOM) in conjunction with the CDA;

(g) receive, revise and update the Station budgets and cash flows;

(h) to validate and approve any project/investment proposal of the DFF surplus funds.

County Director of Agriculture

29. The role of County Director of Agriculture includes the following—

(a) to provide technical advice on enterprise selection and implementation;

(b) to receive, revise and update the farm enterprises budgets and cash flows;
(c) to ensure sound and efficient management principles are applied in the operation of DFF funds;

(d) to approve and forward DFF budgets to the CCO Agriculture that are presented by the Principal for funding;

(e) to chair the technical committee meetings;

(f) to review, monitor and evaluate the performance of DFF on a continuous basis;

(g) compile technical reports in respect of the fund;

(h) to release DFF Cheques and AlEs to the ATC Principal after receiving them from the County Accountant; and

(i) to keep and maintain the following—

(i) details of monthly expenditure and receipts register;

(ii) DFF file for the ATC.

County Accountant

30. The role of County treasuries will include the following—

(a) to receive, record and bank all DFF cheques submitted by the ATC;

(b) to verify expenditure returns in respect of ATC;

(c) to receive bank reconciliation statements for the bank accounts;

(d) to operate the DFF bank account in conjunction with the CDA and the principal;

(e) to issue official receipt books (two MR books are to be used concurrently; one for the DFF-TRAC and the other for the DFF-Farm);

(f) to receive and process DFF Payment Vouchers in accordance with the Government Financial Management Procedures;

(g) to key in all data relating to DFF transactions;

(h) to ensure safe custody of Payment Vouchers;

(i) to collect bank statements on monthly basis for DFF bank account;

(j) to keep and maintain the following books/files—

(i) DFF vote book and registers;

(ii) DFF cash book;
(iii) DFF files for the ATC;
(iv) Miscellaneous receipts (MRs);
(v) Cheque books;

Sub County Agricultural Officers

31. (1) The role of the SCAOs and their staff in conjunction with Sub County Veterinary Officer (SCVO) with regard to DFF management is to provide technical advice on enterprise selection and implementation of DFF programs in the ATC.

(2) In addition, the following are Specific roles for the SCAOs—

(a) are the members of the Technical Management Committee (TMC) comprising of the SCLO, SCVO, Fisheries Officer, Cooperative Officer and co-opted relevant stakeholders;
(b) participate in the ATC farmers training curriculum development;
(c) to market the ATC and encourage public-private partnership;
(d) carry out farmers TNA at the Sub Counties and recruit them for trainings at the ATC.

Agricultural Training Centre

32. (1) At the Agricultural Training Centre the management of DFF will be the responsibility of the ATC Principal. The role of the ATC Principal is to plan, coordinate and implement all DFF activities.

(2) Specific roles of the ATC Principal are as follows—

(a) day to day operations including planning, implementation, management and evaluation of DFF programs and activities;
(b) to ensure that sound and efficient management principles are applied in all the operations of DFF activities;
(c) to prepare annual farm enterprise budget including revenue targets in relation to the ATC's work plan;
(d) to submit the operational DFF budgets for a minimum of six months for DFF-Farm and minimum of one month for DFF-TRAC, to CDA
(e) to maintain and update records and statistics of all the property, machinery and equipment and provide for replacement and disposal of the same as need arises;
(f) to sell all DFF farm produce at the prevailing market price in line with the existing Government Financial Regulations and
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procedures including procurement rules and Regulations and account for the same;

(g) to record all details of expenditure;
(h) to record all details of receipts;
(i) to facilitate periodic evaluations and reviews;
(j) to identify DFF implementation problems and seek corrective actions;
(k) to liaise and network with other stakeholders and/or collaborators who may provide complementary support to DFF activities;
(l) promptly compile and submit DFF monthly, annual technical and financial returns/reports to the Chief Officer through the County Director of Agriculture and copy to the County Executive Committee Member.

(m) keep and maintain the following books/registers—
   (i) memorandum register;
   (ii) receipt books;
   (iii) invoice books;
   (iv) ATC assets registers;
   (v) DFF income and expenditure registers on enterprise basis: and
   (vi) files on DFF operations and correspondence;
   (vii) any other accountable documents.

PART V—FINANCIAL PROCEDURES FOR DFF

Government financial procedures

33. (1) DFF are public funds and shall therefore be subjected to the existing Financial Regulations that are in force, including the Public Finance Management act 2012.

(2) The following shall be guidelines on the operations of the fund—
(a) the funds will be operated strictly under section 4 (Deposits) at all levels;
(b) Section 102 of the Public Finance Management Act, 2012 requires that, all government officers should ensure that resources
within their area of responsibility are used in a way that is effective, efficient, economical and transparent;

(c) no expenditure in DFF will be made unless it is lawful, authorized, effective and economical;

(d) any withdrawal from the fund to be made through the Payment Voucher System which should be subjected to normal financial control systems.

Rules and regulations of the Demonstration Farms Fund

34. Subject to the Act, the rules and regulations of Demonstration Farms Fund are as follows—

(a) the ATC is to invest and generate its own funds to run the farms on revolving Fund basis;

(b) all the monies realized from sale of—

(i) farm produce;

(ii) livestock;

(iii) training activities;

(iv) any unserviceable store or surplus authorized for disposal shall be paid into the Fund;

(c) all farm produce and livestock shall be disposed at the prevailing market prices;

(d) all training charges shall be in accordance with the approved schedules by the County Chief Officer;

(e) any changes to the training charges will be effective only after the ATC receives written approval from the County chief officer Agriculture;

(f) Government procurement and disposal procedures shall be adhered to;

(g) all receipts, earnings and accruals of the fund and the balance of the fund at the close of each financial year shall not be paid to the consolidated fund but shall be retained for the purpose for which the fund was established for; and

(h) proper books of accounts and other books and records relating to the fund must be kept.
Specific offices procedures on financial management (County Government Office)

35. (1) A separate bank account will be maintained in a commercial bank

(2) The bank account shall be entitled “Demonstration Farm Fund”.

(3) The signatories of the bank account shall be—

(a) County Director of Agriculture;

(b) The ATC principal;

(c) Accountant in charge of county Agriculture department; and

(d) Chairperson Board of Management.

(4) On any transactions out of the fund, three signatories are mandatory. One MUST always be from the County Director of Agriculture, principal chair BOM and Accountant in charge of county Agriculture department.

(5) A separate cash book shall be maintained for the fund.

(6) Any release of the funds from the County Treasury MUST be based on an approved budget.

(7) Cheques issued to the ATC after budget approval MUST always be accompanied with an AIE and a covering letter.

(8) Cheques received or monies transferred by ATCs to the main DFF account MUST always be acknowledged by issuance of the relevant receipt (MR).

(9) Payments out and into the fund account at County level shall be through the Deposit Account as may be directed as DFF-Farm payment and receiving, and DFF-TRAC payment and receipting accounts.

The Agricultural Training Centre Level

36. (1) Payments out of and receipts into the account should use the respective complete (class, head, sub-head and item numbers) for DFF and TRAC account numbers.

(2) To maintain copies of the AIEs issued with the cheques.

(3) To ensure that all the receipts collected at the ATC are receipted for the County Treasuries and subsequently banked.

(4) To ensure that there is no over expenditure on DFF funds.

(5) Maintain adequate records of all the DFF transactions, that is—
(a) Receipt books for income
(b) Collection Control sheet
(c) Copies of all Payments Vouchers
(d) An Internal Control Register (I.C.R) for recording receipt books issued by the County Treasury
(6) Maintain records on all DFF assets; and
(7) To ensure that all the revenues and other incomes due to the fund are collected promptly.

Demonstration farm fund Retained capital

37. Subject to this Act, when the DFF allocations are made to the ATC, the major condition will be that in—

(a) whatever area the funds are invested, the investment to generate a profit at least 30% (for DFF-Farm) and 40% (for DFF-TRAC) of the investment amount as alluded in article 13(iii).

(b) the DFF project (Farm and TRAC) shall also require that whatever funds surrendered by the ATC entity into the County DFF account, 70% will be ploughed back to the ATC to support the next activities, 20% will be surrendered to the county government as revenue and 10% will be retained as capital/surplus fund.

(c) that the ATC can access the capital/surplus fund from time-to-time to expand their DFF enterprises or for the introduction of new enterprises/new projects, subject to approval by the BOM and the County Director of Agriculture.

Criteria and procedure for accessing surplus funds

38. Subject to this act, any project/investment of the surplus funds will only be valid after approval by the County Chief Officer. The procedure to be followed by the ATC to access the retained funds/surplus will be as follows—

(a) the surplus funds will finance capital projects that can increase income generation by the ATC, subject to approval by the County Chief Officer;

(b) the proposal for investment shall demonstrate in details the potential for the direct or indirect benefits to the ATC, and to include a cost-benefit analyses;

(c) the ATC to express interest through submission of a detailed proposal of the intended investment project to the County Chief Executive Officer;

(d) the preparation of the proposal to involve the input of the TMC.
Management of the surplus funds

39. Role of County Director of Agriculture in the management of surplus funds—
   (a) to receive and review the proposals against the set criteria;
   (b) to forward the proposals that is approved at that level to the County Chief Officer.
   (c) to prepare the requests memo to the County Accountant to effect transfer of funds/prepare cheque to the ATC for the approved proposals.
   (d) to ensure that the investment(s) where possible benefit from the economies-of-scale;
   (e) to monitor the performance of all the project(s) funded by the surplus funds and give the necessary recommendations and reports periodically;

(2) For projects whose benefits are indirect, the intended beneficiary activities to be included in the monitoring;

Role of ATC Principal in the management of surplus funds

40. Role of ATC Principal shall be—
   (a) to ensure the proposals meet the set criteria before submission;
   (b) to monitor progress of project and ensure that the ATC gets value for money
   (c) to prepare progress reports on the project
   (d) after approval of the proposal and subsequent investment of the funds, the ATC will prepare monthly progress reports on the project performance, using the format to be issued by the County Director of Agriculture.

PART VI—AUDIT OF DFF ACTIVITIES

Audit

41. Subject to the act, like all other public funds, the DFF is liable to an annual audit. The Scheduled; or on-demand audit will be carried out on—
   (a) Books of Accounts; and
   (b) DFF Enterprises

The role of Internal Audit

42. (1) The role of Internal Audit with regard to DFF will include—
   (a) to provide independent assessment on the extent of achievement of objectives and value for money;
(b) to conduct follow up reviews on the implementation of recommendations agreed upon with the management at the ATC;

(c) to provide the Chief Officer and other management staff with clarification to facilitate corrective action of systematic weaknesses or any other weaknesses in the funds management control system at the ATC;

(d) to conduct reviews and assessment of internal controls implemented and key operating systems which includes, cash management, procurement, transport and revenue collections in ATC;

(2) Subject to the act, every audit exercise shall be undertaken with the guidance of specific objectives or terms of reference.

(3) The audit report shall be sent to the audited ATC for necessary actions that have been recommended, at most one month from time of audit.

PART VII—CASUAL LABOUR UTILIZATION IN THE ATC

Labour legislation framework

43. (1) Subject to the act, and provisions or aspects in the relevant acts of the County assembly that touch on casual labour utilization/contract service, the responsibility rightly applying the requirements shall fall upon the ATC Board of Management.

(2) Employment relations in Kenya are regulated by a number of source—

(a) Constitutional rights;

(b) Statutory rights as set out in statutes and regulations;

(c) rights set by collective agreements and extension orders of collective agreements;

(d) Individual contracts.

(3) The Acts of the County assembly that form part of the labour legislation framework, and which have provisions that may have impact on individual and collective labour relations shall apply.

Important provisions on contract of employment

44. (1) Subject to the provisions of this act, Employment shall be governed by the general law of contract, as much as by the principles of common law. Thus, employment is basically seen as an individual relationship negotiated by the employee and the employer according to their special needs.
(2) Laws passed by the County assembly specifically dealing with different aspects of the employer-employee relationship shall apply.

**Casual labour authority requisition process**

45. (1) Subject to the act, the requisition process shall begin by the ATC user section making a request to the ATC Principal detailing the labour categories required, number to be engaged, period and total cost of the labour.

(2) The Principal upon receipt of the requests will analyze them to ensure they are within the budgeted provisions.

(3) The principal shall prepare a formal request(s) using a prescribed format to the County Director of Agriculture, ensuring the following—

(a) state of project duration;

(b) source of funds is stated clearly by indicating the class, head, sub head and item numbers (DFF-Farm, DFF-TRAC, Recurrent or Development);

(c) indicate the total amount of funds available for the whole project run to completion;

(d) indicate the proportion of funds in the total amount that is available for the casual labour needed;

(e) indicate the personal emoluments i.e. what each casual labour engaged will be paid for the period planned.

(4) The form to be forwarded to the County addressed to the Head of Human Resource Management at least two weeks before the scheduled activities.

**PART VIII—DEVELOPMENT OF PUBLIC-PRIVATE PARTNERSHIPS**

**Building relationships**

46. Subject to this act, ATC shall be encouraged to involve stakeholders in some of their DFF activities because of the benefits accruing from synergy, like in the aspects of marketing farm produce, leasing of facilities and processing of farm produce. The relationship should clearly identify a specific area of partnership/collaboration. The guideline for building up partnerships/collaborations MUST consist of the following parts—

(a) identifying and reviewing potential products or services range which will result in mutual benefits;
(b) identifying suitable and interested partner(s);
(c) drawing up an offer.

**Aspects of some relationships**

47. Subject to this Act, the ATC can engage in some form of relationship with key stakeholders. Some of the partnership shall include—

(a) field days and open days—

(i) field days are hosted in ATC either under the auspices of the Stakeholder forum or the ATC or other entities;
(ii) during the preparation or after the field days, the sale of some of the products/services results in some monetary benefits;
(iii) the financial benefits accruing therein shall be deemed to be DFF, and hence the monies shall be paid in to the DFF account.

**Incubation Center**

48. (1) ATC shall be developed to be technology incubation center.

(2) The concept of incubation center shall be one-stop gap institution that offer entrepreneurs (at very competitive rates) working space, capital machinery and if necessary knowledge for producing specific value-added products for sale, during which they nurture their business for a period of time.

(3) Nurturing shall continue and entrepreneur shall be expected to save some of the income for investment in own premises and machinery.

(4) In the event of an ATC entering into a partnership with an entrepreneur, the agreed proceeds to be shared from the deal will be deemed to be DFF.

(5) The period for incubation is subject to the enterprise and negotiation between ATC management and the entrepreneur.

**Technology testing and other Research trials**

49. (1) Research organizations and other stakeholders who are involved in technology testing, validation and trials, can also collaborate with the ATC.

(2) The products resultant from the research activities unless clearly stipulated in the partnership agreement, will be under the DFF project.

**Guidelines on the Management and Operation of the DFF**

50. (1) This Act gives guidelines on the Management and operation of the DFF with respect to—

(a) Financial discipline:
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(b) Procurement and Disposal procedures;
(c) Audit guidelines;
(d) Casual labour utilization;
(e) DFF surplus funds usage; and
(f) Private-Public Partnerships.

(2) The Act is intended for use but not limited to the following that will be directly involved in the administration/management of ATC programs/revenue—

(a) County executive in-charge of Agriculture, Livestock and Fisheries;
(b) County Chief Officer Agriculture;
(c) County Treasuries;
(d) Principals of Agricultural Training Centre;
(e) County Director in charge of Agriculture;
(f) Supply chain management officers.

(3) This Act is intended for use by the fund managers and all those who have a role to play in the operations of the DFF, either within the Ministry of Agriculture Livestock and Fisheries or without. This will certainly improve the administration and implementation of the processes within the DFF operations.

PART IX—GENERAL PROVISIONS

Protection of ATC Management

51. In order to protect the administration and management of Miyare ATC from personal liability while executing official duty without prejudice, provide a common seal for the ATC and create a transition for the institution as established to take charge of the affairs contemplated by this Act.

Protection of Board of Management and staff from personal liability

52. No act or deed by any member of the Board or any member of staff of the institution shall be subjected to any liability, action, claim or demand whatsoever if the Act or deed was made in good faith for the purpose of carrying out the provisions of this Act.

Common Seal

53. (1) There shall be a common seal of the institution—

(2) The common seal shall be kept in a safe within the institution and shall be used in the manner authorized by this Act.
(3) The common seal of the institution shall be authenticated by the signature of the Principal or any other authorized person in the service of the institution.

(4) The common seal of the institution affixed on a deed, instrument, contract or any other document and duly authenticated under sub-section (2) shall be binding to the institution and its successors and can be discharged in the same manner as that in which it was executed.

(5) On the appointed day, all rights, powers, privileges and liabilities, whether arising under any written law or otherwise which immediately before such date were vested in, imposed on or enforceable against the devolved Migori ATC shall by virtue of this paragraph be deemed to be vested in, imposed on or enforceable against the institution.

(6) Any reference in any written law or in any document or instrument to Migori ATC shall, on and after the appointed day, be construed to be a reference to the institution.

(7) The annual estimates of the Migori ATC for the financial year in which the appointed day occurs shall be deemed to be annual estimates of the institution for the remainder of that financial year.

(8) Every person who is a member of the staff of the Migori ATC immediately before the appointed day shall, on and after such day, be deemed to be a member of staff of the institution appointed under this Act, upon the terms and conditions of service applicable to such person immediately before such day.

Regulations

54. The County Executive Committee Member shall make regulations for the better carrying out of the purpose and provisions of this Act within three (3) months after publication.
FIRST SCHEDULE

CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD OF MANAGEMENT

[Part II Section 8]

Quorum of meetings

1. The quorum for the conduct of business at any meeting of the Board of management shall be two-thirds of the total number of members of the Board of Management.

Frequency of meetings

2. (1) The Board of Management shall meet at least once every four months.

(2) Every meeting of the Board of management shall be convened by the Chairperson in consultation with the Secretary to the Board.

(3) The notice for meetings shall be given at least fourteen days before the date of the meeting.

(4) Notwithstanding the provisions under sub-section (1), the Chairperson of the Board of management may on his own motion or upon requisition in writing by at least five Members of the Board convene a special meeting of the Board of Management at any time for the transaction of a specific business.

Committees of the Board of Management

3. (1) The Board of Management of the institution may establish such committees as it may deem appropriate to perform such functions and discharge such responsibilities as the Board may delegate.

(2) The committees so established shall make reports to the Board as appropriate.

(3) Without prejudice to the provisions of sub-section (1), the Board of Management may establish the following committees—

(a) Finance, Procurement and General Purposes Committee;
(b) Standards, Quality and Environmental Committee;
(c) Ethics and Integrity Committee;
(d) Labour, Human Rights and Welfare Committee;
(e) Projects Management Committee; and
(f) Assets Valuation Committee.
Chairperson to preside over a meeting of a Board of Management

4. (1) The Chairperson shall preside over every meeting of the Board of Management at which the Chairperson is present.

(2) In the absence of the Chairperson, the meeting shall be presided over by the Vice-chairperson.

(3) In circumstances where both the Chairperson and the Vice-chairperson are absent then the members present shall elect one amongst themselves to preside over the meeting.

Decision of the Board of Management

5. (1) A decision of the Board of Management on any matter before the Board shall be arrived at either unanimously or by a majority of the votes cast by the eligible members present.

(2) The ex-officio Members of the Board shall not be eligible to vote.

(3) Notwithstanding the provisions of sub-section (1), there shall be a minimum of five eligible voters present and voting.

(4) In circumstances where there is no outright majority of votes cast, then the decision of the Board shall be arrived at by Chairman casting his/her vote.