

SPECIAL ISSUE

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THE KISII COUNTY SCIENCE AND TECHNOLOGY PARK ACT, 2015

AN ACT of the County Assembly of Kisii to provide for the establishment of the Kisii Science and Technology Park, to provide for its incorporation, functions, powers and governance and for purposes related and incidental thereto

ENACTED by the County Assembly of Kisii, as follows—

PART I — PRELIMINARY

1. This Act may be cited as the Kisii Science and Technology Park Act, 2015, and shall come into operation on such a date as the Executive Committee Member may, by notice in the Gazette, appoint.

Short title and commencement

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

Interpretation

“Board” means the Board of Directors of the Kisii Science and Technology Park established by Section 6;

“Chairperson” means the Chairperson of the Board;

“Chief Executive Officer” means the Chief Executive Officer of the Park appointed under Section 11;

“Chief Officer” means County Chief Officer for Agriculture;

“Commencement day” means the day this Act comes into operation;

“Executive Committee Member” means the County Executive Committee Member responsible for matters relating to Agriculture;

“Governor” means the Governor of Kisii County;

“Park” means the Kisii Science and Technology Park established under section 3;

“Land” includes all building and developments thereon

“Loan” means a loan made under this Act;

“Mortgage” includes charge, lien or other security or equivalent;

“Region” includes the East African Community.

3. The objective of this Act is to create a platform for convergence of innovations, scientific and technological

Objective

breakthroughs and products for social and economic development of Kisii County, her partners and the larger public.

PART II—ADMINISTRATIVE PROVISIONS

4. (1) There is established an entity to be known as the Kisii Science and Technology Park, which shall be a County Corporation.

Establishment of the
Park

(2) The Park shall be a body corporate 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 or disposing of movable and immovable property;
- (c) borrowing and making investments;
- (d) charging fees for services rendered by it and requesting for securities for such fees; and
- (e) doing or performing all other acts or things for the proper performance of its functions under this act which may lawfully be done or performed by a body corporate.

5. The headquarters of the Park shall be within Kisii County.

Headquarters

6. The functions of the Park shall be to—

- (a) to provide continual needs assessment and priority identification;
- (b) to create a modern, dynamic knowledge and resource center;
- (c) to emphasize technology transfer through a non-profit approach for public goods;
- (d) to promote entrepreneurship and commercialization;
- (e) to develop of affordable technologies for agricultural value chain development and industrialization;
- (f) to develop innovations for social and cultural advancement, gender equity and economic parity;

Functions of the
Park

- (g) to develop strategies for mitigation of climate change;
- (h) to facilitate public use of third party technologies;
- (i) to harness the natural resources within Kisii County for the economic advancement and empowerment of the local population in terms of job creation, advancing opportunities and livelihoods of the local population, health, education and other sectors of the society within Kenya and the Region;
- (j) to facilitate training, teaching and research in agriculture and other related activities either directly or through other co-operate institutions and other stakeholders;
- (k) to co-operate with the National Government and other county governments in the development of technology in agriculture and related activities including training, research and other related services and in particular, examine and approve proposals relevant to the objects and purposes of the Park as by law established; and
- (l) to initiate effective public-private partnerships in advancement of technology.

7. (1) The Management of the Park shall vest in a Board of directors which shall consist of—

Board of Directors

- (a) a Chairperson appointed by the Executive Committee Member;
- (b) the Chief Officer in the department for the time being responsible for matters relating to agriculture or a representative officer designated in writing by that Chief Officer;
- (c) the Chief Officer in the department for the time being responsible for matters relating to ICT or a representative officer designated in writing by that Chief Officer;
- (d) the Chief Officer in the Department for the time being responsible for matters relating to trade and industry or a representative officer designated in writing by that Chief Officer;

- (e) the Chief Officer to the Treasury or a representative officer designated in writing by that Chief Officer;
- (f) two representatives of academic and research institutions which have a presence in the county;
- (g) not more than four other members appointed by the Executive Committee member of whom at least one shall be from the private sector.

(2) There shall be a Chief Executive Officer who shall be the secretary to the Board.

(3) No person shall be appointed under paragraph (a) of subsection (1) unless such person has a Degree in Management, Law, Public Administration and/or a related discipline.

(4) Persons appointed to the Board shall have mixed expertise and experience for the purpose of providing policy decisions and guidelines to the Chief Executive Officer taking into account gender balance.

8. The Board shall have all powers necessary for the performance of its functions under this act and in particular but without prejudice to the generality of the foregoing, the Board shall have powers to—

Powers of the Board

- (a) give policy directions and guidance to the Chief Executive Officer;
- (b) control, supervise and administer the assets and liabilities of the Park in such a manner and as best provided for the purpose for which the Board was established;
- (c) determine the provision to be made for capital and recurrent expenditure and for the reserves of the park;
- (d) receive any grants, gifts, donations or endowments and make legitimate disbursements thereon;
- (e) enter into association with other bodies within or outside Kenya that the Board may consider desirable or appropriate;
- (f) open a bank account or bank accounts for the funds of the Park;

- (g) approve alterations in financing mechanisms including cost sharing and other charges;
- (h) employ such professionals, clerical and administrative staff and all such other staff as may be required by the Park from time to time;
- (i) establish a management structure of the Park;
- (j) procure and acquire all laboratory and technological equipments and all such other items that may be required or found necessary subject to availability of funds;
- (k) subject to existing law, purchase, take on lease, on hire or in exchange or otherwise acquire in any manner whatsoever any plant, machinery, appliance, implement, tool instrument or any other personal property of any description whatsoever for such tenure and upon such conditions and terms as the Board may deem fit;
- (l) purchase any estate or interest in any land freehold or leasehold or for some other tenure situate in the Republic of Kenya or any easement there on, right or privilege connected with or connected to any land;
- (m) borrow money, receive money on loan or deposits or otherwise certain financial accommodation in such a manner and on such terms as the Board may deem expedient, give security for repayment of any money or financial accommodation borrowed, received or obtained by issuing debentures or debenture stock or giving of existing mortgages, charges, bills of exchange, promissory notes or lien upon the whole or any part of the property, goodwill, undertaking and rights of the Park whether present or future and to redeem and pay off such securities;
- (n) invest and from time to time vary the investment of any of its monies which are not immediately required to further its objects in accordance with Section 18;
- (o) establish and support investment and trust funds for the benefit of employees or ex-employees of

the Park or dependents of such persons and to grant pension, benefits and allowances and to make such payments towards insurance as required by the relevant acts under the Laws of Kenya;

- (p) provide, establish, superintend, conduct, control and assist committee auxiliaries and other forms of organizations to advance the interest of the Park;
- (q) approve alterations in salaries wages or other terms and conditions of service of employees of the Park;
- (r) approve any individual capital work for the purpose of the Park, not included within the annual budgetary estimates in accordance with the law;
- (s) establish from among its members committees for the purpose of the Park and delegate functions thereto—
 - (i) shall have power to nominate candidates as chief executive officers, and
 - (ii) shall have power to appoint an acting chief executive officer for a period not exceeding 90 days;
- (t) consider legislative proposals and recommend their enactment to the Executive Committee Member;
- (u) identify and recommend to the Executive Committee Member a suitable person to be appointed as a patron of the Park; and
- (v) do all such things as are in the opinion of the Board incidental to the exercise of the above mentioned powers or any of them.

9. (1) The conduct and regulations of the business and affairs of the Board shall be as provided in the First Schedule.

Conduct of Business
and Affairs of the
Board

(2) Except as may be provided in the First Schedule, the Board may regulate its own procedure.

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10. The Board shall pay its members such remuneration, fees or allowances for expenses as it may determine with the approval of the Salaries and Remuneration Commission and in accordance with the law.

Remuneration of
Board Members

11. (1) There is established a Committee to be known as the delegates committee which shall consist of such number of delegates as the Board may decide from each of the partners constituting the Park.

Delegates
Committee

(2) There shall be held a delegates conference at least once in every financial year.

12. The functions of the delegates committee are

Functions of
delegates committee

- (a) approve the accounts of the Park; and
- (b) approve the activities of the park and ratify the decisions the Board;

13. (1) The Board may appoint such officers and other staff as are necessary for the proper discharge of the functions of the Park, upon such terms and conditions of service as it may determine.

Staff of the Park

(2) The Board shall make regulations generally relating to the conditions of service of officers and servants of the Park and in particular, but without prejudice to the generality of the foregoing shall make regulations relating to:

- (a) the appointment, dismissal, discipline, pay and leave of, and the security to be given to officers and servants;
- (b) appeals by officers and servants against dismissal or other disciplinary measures;
- (c) the establishment and maintenance of medical benefits and loan funds, and the contributions payable thereto and the benefits recoverable therefrom;

14. (1) There shall be Chief Executive Officer of the Park who shall be appointed by the Governor from among nominees recommended by the Board through a competitive process and whose terms and conditions of service shall be determined by this Act;

Appointment of
Chief Executive
Officer

(2) The chief executive officer shall hold office for a term not exceeding three years and on such terms as may be determined in the instruments of his or her appointment, and shall be eligible for re-appointment for a further one term only.

(3) The Chief Executive Officer shall—

(a) (i) be the Secretary to the Board, and

(ii) be an “*ex officio*” member of the Board but shall have no right to vote at any meeting of the Board;

(b) subject to the direction of the Board, be responsible for the execution of the policy of the Park and for the control and management of its day to day business;

(c) the Board shall delegate to the Chief Executive Officer such of its functions under this Act as are necessary to enable him or her to transact effectively the day to-day business of the Park;

(d) in the event of the chief executive officer being absent on leave or being incapacitated by sickness or other cause, the Board, with the approval of the Governor, may appoint a person to act as the chief executive officer during such period of absence or incapacitation, and the person so acting may exercise all the powers and discharge all duties by this Act exercisable or to be performed by the chief executive officer;

(e) the person appointed to act as the chief executive officer shall act as such for a period of ninety days, or till the appointment of a new chief executive officer, whichever is earlier;

(f) the period of ninety days in subsection (e) shall only be extended by the Board with the approval of the Governor.

15. The Chief Executive Officer may be removed or suspended from office by the Governor with recommendations of the Board upon—

(a) in the circumstances contemplated under the Anti-corruption and Economic Crimes Act 2003;

Removal of Chief
Executive Officer
from Office

- (b) upon conviction of a criminal offence other than traffic offence;
- (c) bankruptcy;
- (d) breach of the terms of employment;
- (e) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
- (f) is otherwise unable or unfit to discharge the functions of the office.

16. The Board may, by resolution either generally or in any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers of the performance of any of the functions or duties of the Board under this Act or under any other written law.

Delegation of the Board

17. (1) The Board shall appoint a Corporation Secretary to the Board who shall be responsible for its secretarial services including the recording of its decisions and the communication of those decisions to persons who are required to act on them and shall perform such other duties as may be assigned by the chief executive officer; and the terms and conditions of service for the secretary shall be determined by the Board.

Appointment of Corporation Secretary, etc and remuneration

(2) The Board may appoint, upon such terms and conditions as it thinks proper, such other officers and servants as it considers necessary or desirable for the efficient conduct and operation of the Park.

(3) Every member of staff shall, subject to this Act, exercise such powers and functions and perform the duties assigned to him or her from time to time by the chief executive officer.

(4) The members of staff appointed under subsection (2) shall be paid out of funds of the Park such salaries as the chief executive officer, with the approval of the Board may from time to time determine and such travelling and other expenses as they may incur in the performance of their duties.

18. No act or omission by any member of the Board or by any officer, employee, agent or servant of the Board shall, if the act or omission was done bona-fide for the

Protection from personal liability

purposes of executing a function, power of duty under the act render such member, officer, employee, agent or servant personally liable to any action, claim.

19. (1) No member, officer or servant of the Park shall disclose any information which he or she has acquired in the performance of his or her functions as such member, officer or servant to any person except in so far as may be necessary for the performance of such functions or for due compliance with the order of any court.

Secrecy

(2) Any person who contravenes the provisions of sub section (1) shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a period not exceeding one year or both.

20. (1) The common seal of the Park shall be kept in such custody as the Board may direct and shall not be used except on the order of the Board.

Common seal of the
of the Park

(2) The Common Seal shall be authenticated by the signature of the Chief Executive Officer of the Park and the Corporation Secretary or any other member of the Board of Management duly authorized by the Board in that behalf.

(3) The Common Seal of the Park when affixed to any document and duly authenticated under this section shall be judicially and officially noticed, and unless the contrary is provided, any necessary order or authorization of the Board of Management under this section shall be presumed to have been duly given.

PART IV—FINANCIAL PROVISION

21. (1) The funds of the Park shall comprise of—

Funds of the Park

- (a) such sums as may be granted to the Park by the County Assembly pursuant to subsection (2);
- (b) such fees, monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act or under any written law; and
- (c) All monies from any other sources provided for or donated or lent to the Park.

(2) There shall be made to the Park, out of monies provided by the County Assembly for that purpose, grants

towards the expenditure incurred by the Park in the exercise of its powers or the performance of its functions under this Act.

22. The Financial Year of the Park shall be the period of twelve months ending on the thirtieth June in each year.

Financial Year

23. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of the revenue and expenditure of the Park for that year.

Annual Estimates

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

- (a) the payment of the salaries, allowances and other charges in respect of members and staff of the Board;
- (b) the payment of pensions, gratuities and other charges in respect of members and staff of the Board;
- (c) the proper maintenance of the buildings and grounds of the Park;
- (d) for any equipment or other consumable as may be necessary for the operations of the Park;
- (e) the maintenance, repair and replacement of the equipment and other property of the park; and
- (f) the creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

24. (1) The Board shall cause to be kept all proper books and records of accounts of the income, expenditure and assets of the Park.

Accounts and Audit

(2) Within a period of three months from the end of each financial year, the Board shall submit to the Governor and the County Assembly or to an auditor appointed under this section, the accounts of the Park together with—

- (a) a statement of the income and expenditure of the Park during that year; and

(b) a balance sheet of the Park on the last day of that year.

(3) The accounts of the Park shall be audited and reported upon in accordance with the Public Audit Act, 2003.

25. The Board may invest any of its funds in securities, by law established and including and not limited to in which for the time being may by law be invested in trust funds or in any other securities or banks which the Treasury may from time to time, approve for that purpose.

Investment of funds

PART V — MISCELLANEOUS PROVISIONS

26. The Board shall have the power to source for finance as follows—

Powers of ... Park
to Source for
Finance

- (a) the County Government of Kisii by way of independent vote in the County Budget;
- (b) profitable venture and investments of all kinds undertaken by the Park;
- (c) grants and loans of all kinds from bilateral and multilateral organizations;
- (d) grants and loans of all kinds from bilateral agreements of the National or county Government;
- (e) donations of all kinds from individual or estates or institutions;
- (g) commercial loans from financial institutions;
- (h) charge and levies for programmes and activities of the Park;
- (i) tuition fees for academic programs undertaken by the Park;
- (j) license fee and royalties;
- (k) intellectual property rights; and
- (l) such other lawful income generating activity as shall be sanctioned by the Board.

27. (1) Any notice or other documents required or authorized under this Act to be served on the Park may be served—

Service of Notices

- (a) by delivery of the notice or other documents to the Chief Executive Officer or to any employee authorized by him for that purpose;
- (b) by leaving it at the office of the Chief Executive Officer; or
- (c) by sending it by registered mail to the Chief executive Officer.

(2) Any notice or other document required or authorized under this Act to be served on any person by the Park may be served—

- by delivering it to that person;
- (b) by leaving it at the usual or last known place of abode of that person; or
- (c) by sending it by registered mail to that person at his usual or last known address.

28. The Park shall have the following powers in regard to charging fees for its services notwithstanding what may be provided elsewhere under this Act—

- (a) determine and deal with fees charged for services in whatever way it deems fit;
- (b) to receive security of all kinds in lieu of fees payable by any debtors and for that purpose the Park shall have the power to effect sale by public auction or private treaty of any property provided as security for debt in the event of default on payment of the debt; and
- (c) to be entitled to a grant from the National or County Government on account of compensation for any expenses incurred by the Park for services rendered to victims of national disasters, the poor, disadvantaged and vulnerable members of society.

Fees for Park
Services

29. Any person employed by the Park shall be personally liable for any act or omission done or committed in the performance of his functions under this Act, having regard to the circumstances of the case such act or omission—

Employees to be
personally liable

- (a) is done or committed willfully or dishonestly by such person;

- (b) is attributable to the negligence of such person; or
- (c) is done or committed by such person in contravention of any provision of this Act or regulations made there under or any other written law.

30. No member, officer, servant or agent of the Park shall incur personal liability for any act done in good faith while engaged on the business of the Park

Indemnity

31. Where land is required by the Park for the purposes of the Park it may either—

Acquisition of land

- (a) if the land is not public land, acquire the land through negotiation and agreement with the registered owner thereof and in accordance with the existing National Law; or
- (b) if the land is public land, or if the Park is unable to acquire it through negotiation and agreement in accordance with paragraph (a), notify the Executive Secretary responsible for that the land specified in the notice is required for purposes of the Park.

32. For the purpose of giving effect to any country and or any institution of our county, the Governor may make Regulations for giving effect in Kenya to any such arrangements and modifying or adapting this Act in its application to cases affected by such arrangements.

Reciprocal agreements

33. The County Executive Committee Member may make regulations for or with respect to any matter which by this Act is required to be prescribed or which is necessary or expedient to be prescribed by carrying out or giving effect to this Act.

Regulations

34. Notwithstanding the provisions of any other written law, no public officer performing functions relating to the registration of companies or business names shall accept for such registration any name, which includes together with the word “Kisii Science and Technology Park” unless the application for the registration is accompanied by the written consent of the Park.

Protection of name

FIRST SCHEDULE**PROVISIONS RELATING TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF THE BOARD**

1. The Chairperson or a member of the Board other than ex-officio members shall, subject to the provisions of the Schedule, hold office for a period of three(3) years, on such terms and conditions as may be specified in the instrument of appointment, but shall be eligible for re-appointment subject to a maximum of two terms of office.

Tenure of Office

2. (1) The Chairperson may resign from office by notice in writing to the Governor.

Vacation of Office

(2) A member other than an *ex officio* member may—

- (a) at any time resign from office by notice in writing to the Governor; or
- (b) be removed from office by the Governor if the member—
 - (i) has served the full period of appointment; or
 - (ii) is adjudged bankrupt; or
 - (iii) has been absent from three consecutive meetings of the Board without its [permission; or
 - (iv) is convicted of a criminal offence that amounts to a felony under the Laws of Kenya; or
 - (v) is incapacitated by prolonged physical or mental illness for a period exceeding six months; or
 - (vi) is otherwise unable or unfit to discharge the functions of the office.

(3) Where the office of member of the Board becomes vacant before expiry of the term of office, the Governor or the Executive Committee Member, as may be appropriate, shall appoint another person to be a member of the Board in place of the member who vacates the office and the person so appointed shall hold office for the remainder of the term of the member in respect of whom the vacancy occurred and shall be eligible for re-appointment.

3. (1) The Board shall meet not less than four times in every financial year and not more than three months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding sub-paragraph (1), the Chairperson may, and upon requisition in writing by at least half of the members shall within seven days of such requisition, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be two thirds of the members including the Chairperson or the person presiding.

(5) Where there is no quorum at a meeting of the Board, or for the continuation of the meeting of the Board by reason of the exclusion of a member on account of the provisions governing disclosure of interest, the members present shall postpone consideration of the matter in question until there is a quorum.

(6) The Chairperson shall when present, preside at every meeting of the Board but the members present shall elect one of their member to preside whenever the Chairperson is absent, and the person so elected shall have all the powers of the Chairperson with respect to that meeting and the business transacted thereat.

(7) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the votes of the members present and voting, and in case of an equality of votes, the Chairperson or the person presiding shall have a casting vote.

(8) The minutes of each meeting of the Board or of a Committee of the Board shall be kept by the Chief Executive Officer and shall be confirmed by the Board or the Committee at the succeeding meeting and be duly signed by the Chairperson and the Chief Executive Office or the person presiding.