

SPECIAL ISSUE

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NYERI COUNTY ACTS, 2017

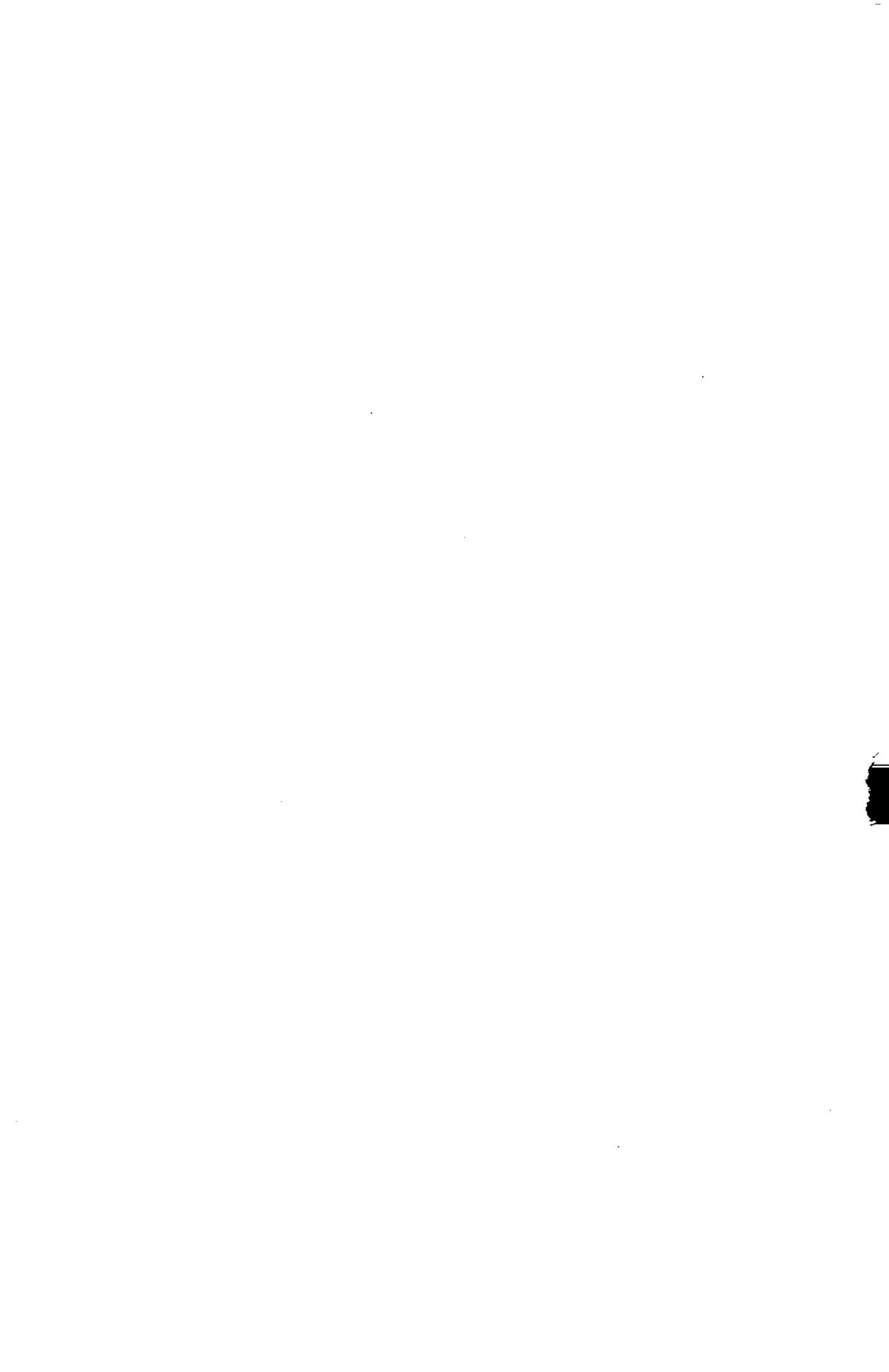
NAIROBI, 20th April, 2017

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**THE NYERI COUNTY AGRICULTURE DEVELOPMENT ACT,
2017**

No. 5 of 2017

Date of Assent: 13th April, 2017

Date of Commencement: 20th April, 2017

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**THE NYERI COUNTY AGRICULTURE DEVELOPMENT ACT,
2017**

AN ACT of the County Assembly of Nyeri to establish an efficient legal and institutional framework for development and regulation of agriculture and for connected and incidental purposes

ENACTED by the County Assembly of Nyeri as follows—

PART I—PRELIMINARY

Short title and Commencement

1. This Act may be cited as the Nyeri County Agriculture Development Act, 2016 and shall come into operation on the date of publication in the Gazette.

Objectives of the Act

2. (1) The overriding objective of this Act is to provide a comprehensive, harmonized, efficient and effective legal and regulatory framework for development and regulation of agriculture in Nyeri County.

(2) All the County Government agencies, public servants and bodies charged with development and regulation of agriculture shall at all times have due regard to, and observe, the overriding objective of this Act as set out in subsection (1).

Interpretation

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

“agriculture” includes—

- (a) crop development;
- (b) livestock development including all domesticated animals and emerging livestock;
- (c) fisheries;
- (d) value chain development;
- (e) agricultural assessment and valuation;
- (f) farm inputs;
- (g) soil and water conservation;
- (h) water harvesting and small-scale irrigation;
- (i) pest and disease control;

- (j) conservation and keeping of game animals, game birds, and aquatic animals;
- (k) game ranching and game cropping;
- (l) the use of the land for grazing, market gardening, or for nursery grounds;
- (m) fodder crops;
- (n) agro-forestry; and
- (o) use of land for the production, transformation and trade of crop, livestock and livestock products.

“agricultural land” means land that is used for agricultural purposes, and includes any land, which by any written law is zoned, registered or otherwise designated as agricultural land;

“executive member” means the County Executive Member for the time being responsible matters relating to agriculture;

“board” means the County Agriculture Development Board established under section 4 of this Act;

“licensee” means any person who is issued by a license under the provisions of this Act or regulations;

“person” includes a company, corporate body (whether incorporated by or under statute or statutory Board), association, fund, natural person, partnership and a registered scheme;

“prescribed” means prescribed under this Act;

“regulations” means regulations made under this Act.

**PART II—THE NYERI COUNTY AGRICULTURE
DEVELOPMENT BOARD**

Establishment of the Board

4. There is established the Nyeri County Agriculture Development Board which shall be a body corporate with capacity to sue and to be sued, to own and dispose property.

Membership of the Board

5. (1) The Board shall consist of—
- (a) a non-executive Chairperson appointed by the County Executive Member and approved by the County Assembly;
 - (b) the Chief officer in the County Department for the time being responsible for agriculture and livestock development or a representative;
 - (c) the Chief officer in the County Department for the time being responsible for finance or a representative;
 - (d) the Chief officer in the County Department for the time being responsible for trade or a representative;
 - (e) a Chief Executive Officer appointed under section 12 who shall also be the Secretary of the Board; and
 - (f) seven (7) other members nominated by farmers representing the following sectors; livestock, fisheries, coffee, horticulture, Veterinary, Tea and People Living with Disabilities and approved by the County Assembly.
- (2) The County Executive Member shall make rules for the nomination of members under subsection (1)(f).
- (3) The Rules made under subsection (2) shall ensure that not more than two third of the nominated members are of the same gender.
- (4) The person appointed as the Chairperson of the Board under subsection (1) (a) shall—
- (a) be nominated for appointment through a competitive recruitment process;
 - (b) meet the requirements of Chapter 6 of the Constitution of Kenya 2010;

- (c) have the relevant expertise, possess a minimum of a degree from a recognized institution and have relevant experience of not less than 5 years in the agricultural sector.

(5) Members appointed under subsection (1) (a) and (f) shall serve for a term of three years and shall be eligible for reappointment once for a further term of three years.

Qualification of Board Members

6. A person shall qualify to be appointed under subsection (f) if that person satisfies the provision of Chapter (6) six of the Constitution, possesses a minimum of a diploma from a recognized institution and relevant experience of not less than five years in the aforementioned sector.

Conduct of Affairs of the Board

7. The board may regulate its own procedures but the conduct and regulation of the affairs of the board shall be as provided in the First schedule.

Delegation by the Board

8. The Board may either generally or in particular case delegate to any committee or any member, officer, employee or agent of the board the exercise of any of the powers or the performance of any of the functions or the duties under this Act.

Functions of the Board

9. The functions of the Board shall be—
- (a) develop and implement an institutional framework for development and regulation of agriculture;
 - (b) develop an efficient, effective, harmonized and market-friendly policies and, regulations for agriculture;
 - (c) develop a regulatory framework in respect of such crops, livestock and fish as the County Executive Member may from time to time declare to be strategic to the County's economy;
 - (d) review regulations, permits, licenses and other administrative or bureaucratic requirements governing agriculture with a view to ensuring achievement of the overriding objective of this Act;
 - (e) advise the County Executive Member, County Government agencies and public officers on any matter having a bearing on regulation of agriculture or achievement of the overriding objective of this Act;

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- (f) organize, facilitate or undertake such activities or projects as may be necessary to the provision of this Act;
- (g) establish such committees or agencies for the better carrying out of its functions under this Act as it may deem fit;
- (h) ensure or enforce compliance with policies, rules, regulations or orders prescribed under this Act;
- (i) liaise and collaborate with other Agricultural regulatory bodies;
- (j) carry out other functions as may be assigned by the County Executive Member and or the Act.

Staff of the Board

10. The County Public Service Board may second and or recruit on behalf of the board on such terms and conditions as it considers fit such persons as may from time to time be necessary for discharging its functions.

Remuneration and Allowances of the Board

11. Remuneration and allowances of the board shall be determined by the County Public Service Board.

Chief Executive Officer

12. (1) There is established, within the Board a Chief Executive Officer responsible for the management of the affairs of the Board.

(2) The Chief Executive Officer shall be competitively recruited and appointed on such terms and conditions as the County Executive Member shall, in consultation with the County Public Service Board determine.

(3) The Chief Executive Officer shall be *ex-officio* member and the secretary to the Board.

Qualification of the Chief Executive Officer

13. (1) The Chief Executive officer shall have the following qualifications—

- (a) hold a degree from a recognized university in agriculture or a related field;
- (b) have at least ten years working experience with demonstrable achievements in the relevant field and administration;

- (c) must meet the requirements of Chapter (6) Six of the Constitution.

Term of Office for the Chief Executive Officer

14. The Chief Executive Officer shall hold office for a term of three years and shall be eligible for re-appointment for only one further term of three years.

Vacation from Office

15. A member of the Board shall vacate office and the office shall become vacant—

- (a) upon giving a notice of resignation to the County Executive Member;
- (b) upon death;
- (c) on the date the member begins to serve a sentence of imprisonment imposed in Kenya or in any other country;
- (d) if the member has been adjudged or otherwise declared insolvent or bankrupt and has not been discharged;
- (e) upon being convicted for a term of imprisonment of six months;
- (f) if, being an ex-officio member, the member ceases to hold their primary office;
- (g) incapacitated by prolonged physical or mental illness and is deemed otherwise unable to discharge his/her duties.

Removal from office

16. A member of the board may be removed from office for the following reasons—

- (a) failure to comply with the requirements of Chapter six of the Constitution;
- (b) gross misconduct;
- (c) being absent for three consecutive meetings without permission from the chair.

PART III—SPECIAL PROVISIONS RELATING TO THE BOARD

Protection from personal liability

17. A member of the Board or an employee of the Board or any person acting on behalf of the Board in discharging duties or functions provided by the Act shall not be liable to any civil action or other

proceedings for damages on account of or in respect of any act or omission committed or omitted in good faith.

The Agriculture Development Board Funds

18. (1) The funds of the Board shall consist of—
- (a) monies appropriated by the County Assembly for that purpose;
 - (b) monies that the Board may lawfully obtain by way of donations, gifts or grants;
 - (c) accruals;
 - (d) any expenditure incurred through the fund shall be with the approval of the board.

Books and Statement of Accounts

19. (1) The Board shall cause to be kept proper books of accounts in respect of all its activities, funds and property, including such particular statement of accounts and records as the County Executive Member may direct.

(2) The board shall within a period of three months after the end of each financial year submit to the Executive Member—

- (a) the statement of accounts of the board in respect of that financial year;
- (b) a balance sheet of the Board on the last day of that year.

(3) The accounts of the board shall be audited and reported in accordance with the public audit Act Cap 412 (b), 2003.

(4) The Executive Member may direct to be furnished with a statement of accounts in respect of such other period as he may deem necessary.

Financial Year

20. The financial year of the Board shall be the period of twelve months starting 1st of July and ending on the thirtieth June in each year or such other period as may be prescribed.

PART IV—REGULATIONS

Regulations

21. (1) The County Executive Member may in consultation with the Board make regulations generally for the better carrying out of the objects of this Act and without prejudice of the foregoing, may make regulations for—

- (a) prescribing such fees and charges for services rendered under this Act for the development of Agriculture;
- (b) regulating and monitoring value addition in Agriculture within the County;
- (c) authorising the examination and inspection of books and documents relating to the production, manufacture, distribution or sale of any produce.

PART V—GENERAL PROVISIONS

Common Seal of the Board

22. (1) The common seal of the board shall be kept in the custody of the Chief Executive Officer or such other person the board may direct and shall not be used except as shall be directed by the board.

(2) The common seal of the Board when affixed to a document and duly authenticated shall be judiciary and officially noticed unless the contrary is proved any necessary order or authorization of the board under this Act shall be presumed to have been duly given.

(3) The common seal of the board shall be authenticated by the signature of the chairperson and the Chief Executive Officer.

(4) The Board shall in absence of either the Chairperson or Chief Executive Officer in any particular manner nominate one member of the board to authenticate the seal of the board on behalf of the chairperson or the Chief Executive Officer.

Complaints

23. (1) The Board may on its own motion or upon complaint by any person—

- (a) warn any person or entity against contravening this Act or any other Act relating to agriculture;
- (b) notify any person or entity in writing on any acts or omissions which, in its opinion, constitute contravention of this Act or any other Act relating to agriculture;
- (c) require any person or entity to remedy any contravention of this Act or any other Act relating to agriculture within such period as the Board may specify in the notice.

(2) Where a contravention provided for under subsection (1) continues for fourteen days after notification or any other correspondence from the Board, the person contravening the relevant Act shall be liable to a fine of not less than three hundred thousand shillings.

(3) The fine under subsection (2) above shall be a civil debt to the Board and recoverable summarily.

(4) Nothing done under this section shall affect a person's liability for an offence under this Act.

Submission of Reports

24. The Board shall submit to the County Executive Member an annual report on the working of this Act during the preceding calendar year on or before the month of April.

SCHEDULE**PROVISIONS ON THE CONDUCT OF THE BUSINESS AND
AFFAIRS OF THE BOARD****Meetings of the Board**

1. (1) The Board shall meet at least four times in a year and not exceeding eight for the transaction of its business.
- (2) The chairperson shall preside at all meetings of the Board at which he is present, but in the absence of the chairperson, members present and constituting a quorum shall elect a Chairperson for that meeting from their number.
- (3) The quorum of the Board shall be seven members.
- (4) The decisions of the Board shall be decided by a simple majority of votes, and the Chairperson of the meeting shall have an original and a casting vote in the event of a tie.
- (5) Minutes of each meeting in proper form shall be kept in the minute book, after they have been confirmed by the Board and signed by the Chairperson at a subsequent meeting of the Board.
- (6) The acts of the Board shall not be affected by any vacancy in the membership thereof, nor by the fact that it is afterwards discovered that there were some defect in the appointment or qualifications of a person purporting to be a member of the Board.
- (7) The Board shall decide on the procedures of its own meetings.

Committees

2. (1) The Board may establish such committees, as it may consider appropriate to perform such functions and responsibilities as it may determine.
- (2) The Board shall appoint the chairperson of a committee established under subparagraph (1) from amongst its own members.
- (3) The Board may where it considers appropriate, co-opt any person to attend the deliberations of any of its committees.

Disclosure of Interest

3. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, the member shall, at the meeting and as soon as reasonably practicable after the

commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

- (2) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
- (3) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to a fine of not less than one hundred thousand shillings, or to imprisonment for a term of not less than six months, or to both.

