

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**NATIONAL ASSEMBLY BILLS, 2019**

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**NAIROBI, 7th February, 2019**

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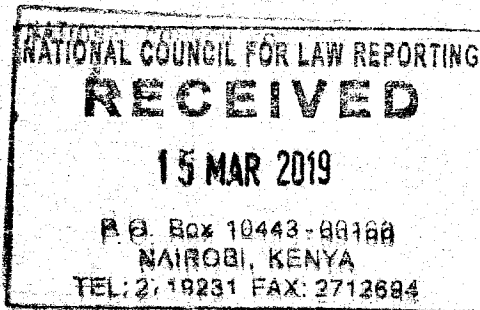
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CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Livestock and Livestock Products Marketing Board Bill, 2019 ..... 5



**THE LIVESTOCK AND LIVESTOCK PRODUCTS  
MARKETING BOARD BILL, 2019  
ARRANGEMENT OF CLAUSES**

*Clause*

**PART I—PRELIMINARY**

1—Short title.

2—Interpretation.

**PART II—ESTABLISHMENT, FUNCTIONS AND  
POWERS OF THE LIVESTOCK AND LIVESTOCK  
PRODUCTS MARKETING BOARD**

3—Establishment of the Board.

4—Headquarters of the Board.

5—Functions of the Board.

6—Membership of the Board.

7—Powers of the Board.

8—Vacation of office.

9—Term of office.

10—Conduct of business and affairs of the Board.

11—Remuneration.

12—Chief Executive Officer.

13—Qualification of the Chief Executive Officer.

14—Functions of the Chief Executive Officer.

15—Removal of the Chief Executive Officer.

16—Staff.

17—Experts.

18—Common Seal.

19—Protection from personal liability.

20—Liability for damages.

**PART III—FINANCIAL PROVISIONS**

21—Funds of the Board.

22—Financial year.

23—Annual estimates.

24—Accounts and Audit.

**PART IV—MISCELLANEOUS PROVISIONS**

25—Public engagement strategy.

26—Reports.

27—Information management.

28—Limitation of the right to access information.

29—Competition in the sector.

30— Regulations.

**PART V—REVOCATION AND SAVING**

31—Revocation of L. N. 77/2016.

32—Members of the former Board.

33—Rights and Obligations.

34—Transfer of Staff.

**SCHEDULE**

**CONDUCT OF BUSINESS AND AFFAIRS OF  
THE BOARD**

**THE LIVESTOCK AND LIVESTOCK PRODUCTS  
MARKETING BOARD BILL, 2019**

**A Bill for**

**AN ACT of Parliament to establish the Livestock and  
Livestock Products Marketing Board and for  
connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

**PART I—PRELIMINARY**

1. This Act may be cited as the Livestock and Livestock Products Marketing Board Act, 2019.

Short title.

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

Interpretation.

“Board” means the Livestock and Livestock Products Marketing Board established by section 3;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to livestock;

“consumer” has the meaning assigned to it under section 2 of the Consumer Protection Act;

No. 46 of 2012.

“former Board” means the Board of the National Livestock Development and Promotion Service;

“livestock” means—

- (a) cattle, camel, sheep, goat, pig, poultry, rabbit, bees;
- (b) companion animal, draught animal; and
- (c) any other animal which the Cabinet Secretary may by order in the *Gazette*, declare to be livestock for the purpose of this Act;

“livestock industry” means any activity that involves the production, processing, marketing or distribution of livestock and livestock products or services;

“livestock infrastructure” means structures and facilities serving the livestock economy which includes roads, holding grounds, water points, disease free zones, markets and livestock transport vehicles;

“livestock market information system” means a system that collects, analyses and distributes marketing information on livestock and livestock products;

“livestock products” means –

- (a) a carcass or parts of a carcass of livestock, and any product consisting of parts of, or derived from livestock, and includes hides and skins, wool, feather, meat, dairy products, poultry products and hive products; and
- (b) any other product from livestock that the Cabinet Secretary may by order in the *Gazette*, declare to be a livestock product for the purpose of this Act; and

“producer” means a person who rears livestock for purposes of selling the livestock or livestock products.

**PART II—ESTABLISHMENT, FUNCTIONS AND  
POWERS OF THE LIVESTOCK AND LIVESTOCK  
PRODUCTS MARKETING BOARD**

**3.** (1) There is established the Livestock and Livestock Products Marketing Board.

Establishment of  
the Board.

(2) The Board is 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 and disposing of movable and immovable property;
- (c) borrowing money or making investments;
- (d) entering into contracts; and
- (e) doing or performing all other things or acts necessary for the proper performance of its functions under this Act, which may lawfully be done or performed by a body corporate.

**4.** (1) The headquarters of the board shall be in Nairobi.

Headquarters of  
the Board.

(2) The Board may establish offices in other counties.

**5.** The Board shall, in consultation with the county governments, perform the following functions—

Functions of the  
Board.

- (a) regulate the livestock and livestock products marketing promotion industry;

- (b) collaborate with other relevant agencies to promote the trade of livestock and livestock products including trade agreements, marketing organisations and co-operatives;
- (c) advise national and county governments on matters relating to marketing of livestock and livestock products;
- (d) liaise with the private sector and other agencies on matters relating to marketing of livestock and livestock products in order to limit duplication of effort and ensure optimal use of available resources;
- (e) coordinate and mobilize resources for investments and promotion of marketing of livestock and livestock products;
- (f) facilitate the marketing of livestock and livestock products through provision of market information intelligence on supply and demand locally and internationally;
- (g) in collaboration with research institutions conduct studies and research designed to promote value addition and marketing of livestock and livestock products;
- (h) facilitate the development of skills and adoption of appropriate value addition technologies before the export of livestock products from Kenya;
- (i) promote the adoption of standards and best practices in livestock production and processing that supports marketing of livestock and livestock products;
- (j) support infrastructure improvements in slaughter houses, manufacturing and processing industries;
- (k) develop and rehabilitate livestock marketing infrastructure to facilitate trade in livestock and livestock products;
- (l) promote livestock insurance schemes in the country ;
- (m) collate and disseminate data and information on livestock and livestock products including

ownership and monitor a database for use by all stakeholders;

- (n) advise the National and County governments on levies, fees and charges for purposes of planning and enhancing harmony and equity in the sector;
- (o) advise the national and county governments on matters relating to policies on marketing of livestock and livestock products ;
- (p) in collaboration with county governments, support the promotion and improvement of livestock management systems in the country for sustainable development of the livestock industry;
- (q) develop and promote systems that will enable reduction of post-production and slaughter house losses for livestock and livestock products; and
- (r) facilitate, in liaison with county governments and communities, the establishment of strategic business partnerships.

6. (1) The Board shall consist of the following members—

Membership of  
the Board.

- (a) a chairperson;
- (b) the Principal Secretary in the Ministry responsible for livestock or their representative;
- (c) the Principal Secretary in the Ministry responsible for finance or their representative;
- (d) two persons nominated by the Council of Governors with knowledge on livestock matters;
- (e) two persons appointed by the Cabinet Secretary taking into consideration the principles of gender and regional balance and having experience in livestock development;
- (f) one person nominated by the Kenya Private Sector Alliance;
- (g) one person nominated by the Kenya Livestock Marketing Council; and
- (h) the Chief Executive Officer who shall be an *ex officio* member.

(2) The Chairperson shall be appointed by the President with the approval of the National Assembly.

(3) A person shall not be qualified for appointment as a member of the Board under sub-section (1) (d), (e) and (f) if the person—

- (a) is a State or public officer;
- (b) is a member of a governing body of a political party;
- (c) is an undischarged bankrupt; or
- (d) has been removed from public office for contravening the Constitution or any other law.

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

Powers of the Board.

- (a) manage, control and administer its assets in such a manner and for such purposes as best promotes the purpose for which the Board is established;
- (b) open such bank accounts for its funds as may be necessary;
- (c) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (d) subject to approval of the Cabinet Secretary for the time being responsible for matters relating to finance, invest any of the Board's funds not immediately required for the purposes of this Act, as it may determine;
- (e) receive gifts, grants, donations or endowments made to the Board and make disbursements therefrom;
- (f) enter into association with such other bodies or organisations within or outside Kenya as it may consider desirable or appropriate and in furtherance of the purposes for which the Board is established; and
- (g) undertake any activity necessary for the fulfillment of any of its functions.



**8.** (1) A member of the Board, other than an *ex-officio* member, shall cease to be a member of the Board if such person—

Vacation of office.

- (a) is unable to perform the functions of the office by reason of mental or physical infirmity;
- (b) is adjudged bankrupt;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (d) is absent from three consecutive meetings of the Board without good cause;
- (e) resigns in writing by a notice addressed to the Cabinet Secretary;
- (f) dies; or
- (g) is removed in accordance with the provisions of the Constitution.

(2) The Board shall be properly constituted notwithstanding a vacancy in its membership.

**9.** The Chairperson and members appointed under section 6 (1) (d) (e) and (f) shall hold office for a term of three years renewable for one further term only.

Term of office.

**10.** (1) The Board shall conduct its affairs in accordance with the provisions of the Schedule, but subject thereto, the Board may regulate its own procedure.

Conduct of business and affairs of the Board.

(2) The Board may establish committees for each produce as may be necessary to enable the carrying out of any specialized activities with respect to the promotion or management of that livestock or livestock product.

(3) The membership of the committees shall be drawn from the Board.

(4) The committees to be established under subsection (2) shall include a committee on marketing and a committee on consumer affairs.

**11.** The members of the Board shall be paid such remuneration, allowances and disbursements for expenses as may be approved by the Cabinet Secretary in consultation with the Salaries and Remuneration Commission.

Remuneration.

**12. (1)** There shall be a Chief Executive Officer of the Board who shall be appointed by the Board through an open, transparent and competitive basis.

Chief Executive Officer.

(2) The Chief Executive Officer shall be an *ex officio* member of the Board.

**13. (1)** A person shall qualify for appointment as the Chief Executive Officer if that person—

Qualification of the Chief Executive Officer.

- (a) is a citizen of Kenya;
- (b) has a minimum of a Bachelor's degree in—
  - (i) agriculture;
  - (ii) livestock;
  - (iii) marketing;
  - (iv) business; or
  - (v) any other relevant field; and
- (c) has not less than five years' experience in the livestock sector.

(2) The Chief Executive Officer shall hold office on such terms and conditions of employment as the Board may determine.

**14. (1)** The Chief Executive Officer shall be responsible for the—

Functions of the Chief Executive Officer.

- (a) day-to-day operations of the Board;
- (b) administration, organisation and control of the staff of the Board;
- (c) management of funds, property and affairs of the Board;
- (d) implementation of the policies and programmes of the Board;
- (e) development of an operations plan for achieving the Board's objectives; and
- (f) performance of any other duty necessary for the implementation of this Act as may be assigned to the Chief Executive Officer by the Board.

(2) The Chief Executive Officer shall submit to the Board for approval, not later than three months before the

commencement of each financial year, a programme of activities of the Board in respect of that financial year.

**15.** (1) The Board may remove the Chief Executive Officer from office in accordance with the terms and conditions of service on grounds of—

Removal of the Chief Executive Officer.

- (a) inability to perform the functions of the office arising out of physical or mental incapacity;
- (b) gross misconduct or misbehaviour;
- (c) incompetence or neglect of duty; or
- (d) any other ground that would justify the removal from office under the terms and conditions of service.

(2) Before removal under subsection (1), the Chief Executive Officer shall be—

- (a) informed in writing of the reasons for the intended removal; and
- (b) given an opportunity to put in a defence against the allegations.

**16.** The Board may appoint such officers, agents and staff as are necessary for the proper and efficient discharge of the functions of the Board under this Act, upon such terms and conditions of service as the Board may determine in consultation with the Salaries and Remuneration Commission.

Staff.

**17.** The Board may engage the services of such experts in respect of any of its functions in which the experts have special competence.

Experts.

**18.** (1) The common seal of the Board shall be kept in the custody of the Chief Executive Officer or of such other person as the Board may direct, and shall not be used except on the order of the Board.

Common Seal.

(2) The affixing of the common seal of the Board shall be authenticated by the signature of the Chairperson and the Chief Executive Officer.

(3) The Board shall in the absence of either the Chairperson or the Chief Executive Officer, in any particular matter, nominate one member of the Board to authenticate the seal of the Board on behalf of either the Chairperson or the Chief Executive Officer.

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

19. (1) No matter done by a member of the Board or by any officer, member of staff, or agent of the Board shall, if the matter or thing is done *bona fide* for the purpose of executing the functions, powers or duties of the Board under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable in an action, claim or demand whatsoever.

Protection from personal liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done *bona fide*, be paid out of the funds of the Board, unless such expenses are recovered by him or her in such suit or prosecution.

20. The provisions of section 19 shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Liability for damages.

### PART III—FINANCIAL PROVISIONS

21. The Funds of the Board shall consist of—

Funds of the Board.

- (a) such moneys as may be appropriated by the National Assembly for the purposes of the Board;
- (b) gifts, grants, donations or endowments as may be given to the Board;
- (c) monies that may accrue to or vest in the Board in the course of the exercise of its functions under this Act;
- (d) fees for services rendered by the Board; and
- (e) monies from any other lawful source provided for the Board.

22. The financial year of the Board shall be the period of twelve months ending on the thirtieth of June in each year.

Financial year.

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

Annual estimates.

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

Accounts and Audit.

(2) Within the period of three months after the end of each financial year, the Board shall submit to the Auditor-General, the accounts of the Board in respect of that year together with—

- (a) a statement of income and expenditure during the year; and
- (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 upon in accordance with the provisions of the Public Audit Act.

No. 34 of 2015.

#### **PART IV—MISCELLANEOUS PROVISIONS**

**25.** (1) The Board shall, every two years, prepare and publish a public engagement strategy setting out the steps that it intends to take to—

Public engagement strategy.

- (a) develop networks and partnerships between livestock and livestock products co-operative societies; and
- (b) form joint ventures and partnerships between livestock and livestock products co-operatives and private sector with a view of creating opportunities for marketing of livestock and livestock products.

(2) The public engagement strategy shall, in particular, identify actions which the public may take to contribute to the achievement of the objects of the Act.

**26.** (1) The Board shall, not more than three months after the end of each financial year, prepare a report setting out—

Reports.

- (a) a description of the Board's activities during the year;
- (b) whether the objectives of the Board for the year under review were met and the reasons why any targets were not achieved;

- (c) the progress made towards the improvement of the livestock industry;
- (d) the actions taken by the national and county governments to address the challenges facing the livestock industry during the year;
- (e) any further efforts which may be necessary to achieve the objectives of the Board;
- (f) recommendations on the legal and administrative measures necessary in carrying out its functions; and
- (g) any further information relating to the function of the Board.

(2) The Board shall submit the report to Parliament.

(3) Parliament may at any time require the Board to submit a report on a particular issue.

**27.** (1) The Board shall publish and publicize all important information within its mandate affecting the livestock sector.

Information management.

(2) Any person may request for information from the Board and such request for information—

- (a) shall be addressed to the Chief Executive Officer;
- (b) may be subject to the payment of the prescribed fee; and
- (c) may be subject to confidentiality requirements of the Board.

**28.** (1) The right of access to information guaranteed under Article 35 of the Constitution is hereby limited under Article 24 of the Constitution to the nature and extent specified in subsection (2).

Limitation of the right to access information.

(2) The Board may decline to give information to an applicant where in its opinion the divulging of the information would compromise the integrity of the Board.

**29.** In the discharge of its functions under this Act or any other written law, the Board shall in liaison with the Competition Authority ensure that there are no dominant undertakings in the sector as defined in section 23 of the Competition Act.

Competition in the sector.

No. 12 of 2010.

**30.** (1) The Cabinet Secretary may in consultation with the Board, make regulations for the better carrying into effect the functions of the Act. Regulations.

(2) For the purpose of Article 94(6) of the Constitution—

(a) the purpose and objective of the delegation under this section is to enable the Cabinet Secretary to make rules to provide for the better carrying into effect the provisions of this Act;

(b) the authority of the Cabinet Secretary to make regulations under this Act will be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section;

(c) the principles and standards applicable to the rules made under this section are those set out in the Interpretation and General Provisions Act and the Statutory Instruments Act, 2013. Cap. 2.  
No. 23 of 2013.

#### **PART V—REVOCATION AND SAVING**

**31.** The National Livestock Development and Promotion Service Order is hereby revoked. Revocation of L.  
N. 77/2016.

**32.** Upon the commencement of this Act, any member of the former Board shall be deemed to be a member of the reconstituted Board for the unexpired period of his or her term of service. Members of the  
former Board.

**33.** All rights, obligations and contracts which, immediately before coming into operation of this Act, were vested in or imposed on the former Board shall by virtue of this section, be deemed to be the rights, obligations and contracts of the Board. Rights and  
Obligations.

**34.** (1) Every person who, immediately before the commencement of this Act, was an officer or member of staff of the former Board, not being then under notice of dismissal or resignation shall be an officer or member of staff of the Board. Transfer of Staff.

(2) The Chief Executive Officer of the former Board shall be the Chief Executive Officer of the Board and shall serve for his or her unexpired term.

**SCHEDULE**

(s. 10)

**CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD**

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

(2) A meeting of the Board shall be held on such date and at such time as the Chairperson shall appoint.

(3) Unless the majority of the membership of the Board otherwise agree, at least fourteen days' notice of every meeting shall be given to every member.

(4) The Chairperson shall on the written application of at least one-third of the members, convene a special meeting of the Board.

(5) The quorum for the conduct of the business of the Board shall be one half of all the members.

(6) The Chairperson shall, when present, preside at every meeting of the Board but the members present shall elect one 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 an 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) Subject to subparagraph (5), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

2. (1) A member who has an interest in any contract, or other matter present at a meeting shall at the meeting and as soon as reasonably practicable after the commencement, disclose the fact thereof 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.

Disclosure of interest by Board members.



(2) A disclosure of interest made under subparagraph (1) 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 on conviction to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

3. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board.

Execution of instruments.

4. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

Minutes.

## **MEMORANDUM OF OBJECTS AND REASONS**

The principal object of this Bill is to streamline the marketing of livestock and livestock products in Kenya. This is in light of the fact that although the livestock industry is a very important source of income for many households in Kenya, its regulation is carried out by different entities leading to duplication and competition among the various entities. This results in poor service delivery by the entities and thus the main beneficiaries of the industry are the middlemen as opposed to the livestock farmers.

The streamlining of the industry is to be achieved through the establishment of the Livestock and Livestock Products Marketing Promotion Board which is to be the main body dealing with the concerns of the marketing of livestock and livestock products in the country. It is expected that this will result in an efficient livestock and livestock products marketing industry in Kenya.

**PART I (Clauses 1-2)** of the Bill provides for preliminary provisions of the Bill including the short title and commencement of the Act and the interpretation clause.

**PART II (Clauses 3-20)** of the Bill deals with the establishment, functions and powers of the Board. Clause 3 specifically establishes the Livestock and Livestock Products Marketing Promotion Board. The functions and powers of the Board are outlined under clauses 5 and 7 respectively.

**PART III (Clauses 21-24)** of the Bill deals with the financial provisions. The sources of funds for the Board are outlined in clause 21. The Board is required to comply with prudent financial management systems including the provisions of the Public Audit Act, No. 34 of 2015.

**PART IV (Clauses 25-30)** of the Bill contains miscellaneous provisions. It provides for the requirement of the Board to have a public engagement strategy. It also outlines the guiding principles for the Cabinet Secretary when formulating delegated legislation.

**PART V (Clauses 31-34)** of the Bill contains revocation and saving provisions.

### **Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms**

The Bill delegates legislative powers to the Cabinet Secretary. It does not limit fundamental rights and freedoms.

### **Statement that the Bill concerns county governments**

The Bill affects the functions of the county governments and is therefore a Bill concerning counties for purposes of the Standing Orders.

**Statement that the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill will occasion additional expenditure of public funds to be provided for through the annual estimates.

Dated the 6th February, 2019

**BASHIR ABDULLAIH,**  
*Member of Parliament.*