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**THE WILDLIFE CONSERVATION AND
MANAGEMENT (AMENDMENT) BILL, 2019**

A Bill for

AN ACT of Parliament to amend the Wildlife Conservation and Management Act and for connected purposes.

ENACTED by the Parliament of Kenya, as follows —

1. This Act may be cited as the Wildlife Conservation and Management (Amendment) Act, 2019.

Short title.

2. Section 16 of the Wildlife Conservation and Management Act, in this Act referred to as “the principal Act”, is amended in subsection (2) by inserting the following new paragraph immediately after paragraph (c) —

Amendment of section 16 of No. 47 of 2013.

(ca) payment of compensation required to be made under sections 25 and 76;

3. The principal Act is amended by inserting the following new section immediately after section 21 —

Insertion of section 21A in No. 47 of 2013.

Provision of funds for County Wildlife Conservation and Compensation Committees.

21A (1) The Cabinet Secretary and the Service shall, as the case may be and in each financial year, provide adequate funds for the —

(a) management of the affairs of each County Wildlife Conservation and Compensation Committee; and

(b) payment of compensation required to be made under sections 25 and 76.

(2) The Cabinet Secretary and the Service shall, as the case may be and where no appeal has been lodged in accordance with this Act, ensure that compensation under section 25 is undertaken within six months of a determination of the respective County Wildlife Conservation and Compensation Committee.

4. Section 23 of the principal Act is amended in subsection (4) by inserting the following new paragraph immediately after paragraph (f) —

- (fa) provide support to local communities negatively affected by activities undertaken with respect to wildlife conservation and management;

5. Section 24 of the principal Act is amended —

Amendment of section 24 of No. 47 of 2013.

(a) in subsection (1) by —

- (i) deleting the word “Government” appearing in the introductory clause in subsection (1) and substituting therefor the words “Cabinet Secretary”;
- (ii) deleting paragraph (a) and substituting therefor the following new paragraph —

- (a) monies annually allocated for this purpose by the National Assembly;

(b) by deleting subsection (2) and substituting therefor the following new subsection —

(2) The Wildlife Compensation Scheme shall be used to finance compensation claims under section 25.

6. Section 25 of the principal Act is amended —

Amendment of section 25 of No. 47 of 2013.

(a) in subsection (3) by inserting the words “within six months of the recommendations” immediately after the words “and where appropriate” in the introductory clause;

(b) in subsection (4) by deleting the words “due consideration” appearing immediately after the words “the service for” and substituting therefor the words “the purpose of processing the payment for compensation”;

(c) in subsection (5) by inserting the words “within six months” immediately after the words “award and pay” in the introductory clause; and

(d) in subsection (6) by —

- (i) deleting the word “either” appearing immediately after the words “of compensation by”; and

(ii) deleting the words “or the Service” appearing immediately after the words “and Compensation Committee”.

7. Section 76 of the principal Act is amended —

Amendment of section 76 of No. 47 of 2013.

(a) by deleting subsection (4) and substituting therefor the following new subsection —

(4) The Cabinet Secretary shall, in formulating the guidelines, ensure that the guidelines comply with the condition that a minimum of ten percent of the benefits from protected areas declared or published under section 31(1) shall be allocated to local communities neighbouring or negatively affected by activities undertaken for the preservation of the protected areas.

(b) by inserting the following new subsection immediately after subsection (4) —

(4A) The determination of the minimum percentage of the benefits to be allocated to local communities under subsection (4) shall be based on the gross total revenue and fees collected with respect to the protected area.

8. The Third Schedule to the principal Act is amended in Part A by inserting the words “and poisonous snakes” immediately after the words “wild pig”.

Amendment of the Third Schedule to No. 47 of 2013.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The Bill seeks to amend the Wildlife Conservation and Management Act, No. 47 of 2013, in order to make further provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees established under the Act. It also provides a timeline of six months for the compensation for human death, human injury or crop and property damage caused by wildlife in accordance with the Act to be finalised.

The Bill makes further provision for the payment of compensation and other entitlements due to local communities affected by wildlife in accordance with the Act. This is essential to enable counties perform their county functions as provided under Part 2 of the Fourth Schedule to the Constitution.

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

This Bill does not delegate legislative powers nor does it limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

The Bill concerns county governments in that it makes further provision for the allocation of adequate facilities to County Wildlife Conservation and Compensation Committees in each county. It also provides timelines for the compensation by the Committees to victims of injury caused by wildlife in accordance with the Act. This will affect counties in the performance of their functions as listed under Part 2 of the Fourth Schedule to the Constitution.

The Bill makes further provision for the payment of compensation due to local communities affected by wildlife in accordance with the Act. This is essential to enable counties perform their county functions as provided above. It also facilitates counties to perform their functions under paragraph 14 of the said Part 2 of the Fourth Schedule to the Constitution. The Bill therefore affects the functions and powers of county governments in terms of 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

The Bill deals with matters other than those listed in the definition of a money Bill under Article 114 (3) of the Constitution and is therefore not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 14th November, 2019.

JOHNES MWARUMA,
Senator.

Section 16 of No. 47 of 2013 that the Bill proposes to amend—

16. Annual Estimates.

(1) At least three months before the commencement of each financial year, the Board or Trustees shall cause to be prepared estimates of revenue and expenditure of the Service for the ensuing year.

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

- (a) payment of salaries, allowances, pensions, gratuities and other charges in respect of the staff of the Service, regional wildlife conservation area committees and community wildlife scouts;
- (b) payment of salaries, allowances, pensions, gratuities and other charges in respect of the county wildlife conservation and compensation committees, as the case may be;
- (c) payment of allowances in respect of the County Wildlife Conservation and Compensation Committees;
- (d) the proper maintenance of the buildings and grounds of the Service;
- (e) the maintenance, repair and replacement of the equipment and other property of the Service; and
- (d) the creation of such reserve funds as the Service may deem appropriate to meet the recurrent expenditure and contingent liabilities of the Service.

(3) The members of the County Wildlife Conservation and Compensation Committee shall be paid such allowances as may be approved by the Cabinet Secretary on the advice of the Salaries and Remuneration Commission.

(4) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and shall be submitted to the Cabinet Secretary for approval with the concurrence of the National Treasury, and thereafter the Board shall not increase the annual estimates without the consent of the Cabinet Secretary.

Section 23 of No. 47 of 2013 that the Bill proposes to amend —

23. The Wildlife Endowment Fund.

(1) The Service shall establish a Wildlife Endowment Fund and which shall be vested in the Board of Trustees.

(2) There shall be paid into the Endowment Fund —

- (a) moneys appropriated by Parliament for purposes of the Endowment Fund;

- (b) a proportion of such moneys as may be levied for payment of environmental services by beneficiaries in productive and service sectors as a contribution towards the Endowment Fund as the Cabinet Secretary may, upon the recommendation of the Service, determine;
 - (c) income from investments made by the Board of Trustees of the Endowment Fund; and such grants, donations, bequests or other gifts as may be made to the Endowment Fund; and
 - (d) such grants, donations, bequests or other gifts as may be made to the Endowment Fund.
- (3) The functions of the Wildlife Endowment Fund shall be to—
- (a) develop wildlife conservation initiatives;
 - (b) manage and restore protected areas and conservancies;
 - (c) protect endangered species, habitats and ecosystems;
 - (d) support wildlife security operations;
 - (e) facilitate community based wildlife initiatives; and
 - (f) such other purposes as may be provided for by rules made under this Act.

Section 24 of No. 47 of 2013 that the Bill proposes to amend —

24. The Wildlife Compensation Scheme.

(1) The Government shall establish a Wildlife Compensation Scheme that shall consist of —

- (a) monies specifically allocated for this purpose through the budget process;
- (b) an insurance scheme to be established by the Cabinet Secretary responsible for matters relating to finance; and
- (c) monies from any other source approved by the Cabinet Secretary for the time being responsible for matters relating to finance; and

(2) The Wildlife Compensation Scheme shall be used for financing compensation claims for human death or injury or crop and property damage caused by wildlife.

Section 25 of No. 47 of 2013 that the Bill proposes to amend—

25. Compensation for personal injury or death or damage to property.

(1) Where any person suffers any bodily injury or is killed by any wildlife listed under the Third Schedule, the person injured, or in the case of a deceased person, the personal representative or successor or assign, may launch a claim to the County Wildlife Conservation and

Compensation Committee within the jurisdiction established under this Act.

(2) The County Wildlife Conservation and Compensation Committee established under section 18 shall verify a claim made under subsection (1) and upon verification, submit the claim to the Cabinet Secretary together with its recommendations thereon.

(3) The Cabinet Secretary shall consider the recommendations made under subsection (2) and where appropriate, pay compensation to the claimant as follows—

- (a) in the case of death, five million shillings;
- (b) in the case of injury occasioning permanent disability, three million shillings;
- (c) in the case of any other injury, a maximum of two million shillings, depending on the extent of injury.

(4) Any person who suffers loss or damage to crops, livestock or other property from wildlife specified in the Seventh Schedule hereof and subject to the rules made by the Cabinet Secretary, may submit a claim to the County Wildlife Conservation and Compensation Committee who shall verify the claim and make recommendations as appropriate and submit it to the Service for due consideration.

(5) The County Wildlife Conservation and Compensation Committee shall review the claim and award and pay a compensation valued at the ruling market rates:

Provided that no compensation shall be paid where the owner of the livestock, crops or other property failed to take reasonable measures to protect such crops, livestock or property from damage by wildlife or his land use practices are in compatible with the ecosystem-based management plan for the area.

Section 76 of No. 47 of 2013 that the Bill proposes to amend —

76. Guidelines on incentives and benefit-sharing.

(1) The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation, formulate guidelines regarding incentives and benefit sharing, and the nature and manner in which the same shall be distributed.

(2) The Cabinet Secretary shall publish in the Gazette within twenty-one days of the formulation rules and regulations to govern the regime on incentives and benefits.

(3) The guidelines under this section shall be subjected to public scrutiny at every stage of their formulation within the framework of the laws on devolution and land management.

(4) The guidelines on benefit sharing shall comply with the minimum conditions that a minimum of five per cent of the benefits from national parks shall be allocated to local communities neighbouring a park.

(5) Subject to Article 66 of the Constitution, private investments in conservancies shall benefit local communities and investors shall provide such benefits by applying various options including infrastructure, education and social amenities.

The Third Schedule of No. 47 of 2013 that the Bill proposes to amend –

THIRD SCHEDULE (S.25)

**WILDLIFE SPECIES IN RESPECT OF WHICH COMPENSATION
MAY BE PAID**

A. Death and Injury

- Elephant
- Lion
- Leopard
- Rhino
- Hyena
- Crocodile
- Cheetah
- Buffalo
- Poisonous snakes
- Hippo
- Shark
- Stone Fish
- Whale
- Sting ray
- Wild dog
- Wild pig

B. Crop, livestock and property damage

- Elephant
- Lion
- Leopard
- Rhino
- Hyena
- Crocodile
- Cheetah
- Buffalo
- Hippo
- Zebra
- Eland
- Wildebeest
- Snake Wild dog