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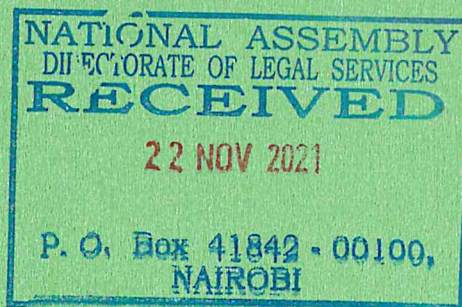
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**PROVISIONS AS TO THE CONDUCT OF BUSINESS
AND AFFAIRS OF THE BOARD OF A REGIONAL
DEVELOPMENT AUTHORITY**

THE REGIONAL DEVELOPMENT AUTHORITIES BILL, 2021

A Bill for

AN ACT of Parliament to consolidate the laws relating to regional development, to provide for the establishment powers and functions of regional development bodies; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Regional Development Authorities Act, 2021.

Short title.

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

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to regional development authorities;

“Chairperson” means the person appointed as a Chairperson of a regional development authority under this Act;

“Coast region” means that part of the area covering Lamu, Mombasa, Kilifi, Tana River, Kwale and Taita/Taveta counties including the southern half of Garissa county and the exclusive economic zone;

“Ewaso Ng’iro North River Basin” means the basin and catchment area situated within Isiolo, Laikipia, Samburu, Marsabit, Wajir, northern half of Garissa, and Mandera counties, including parts of Nyandarua, Nyeri and Meru counties;

“Ewaso Ng’iro South River Basin” means the basin and catchment area situated within Narok, Kajiado, Nyandarua and Nakuru counties;

“exclusive economic zone” means the exclusive economic zone of Kenya established and delimited by section 4 of the Maritime Zones Act, 1989 (No. 6 of 1989);

Cap. 371.

“former Authority” means—

(a) the Kerio Valley Development Authority established under section 3 of the Kerio Valley Development Authority Act;

Cap. 441

- (b) the Lake Basin Development Authority established under section 3 of the Lake Basin Development Authority Act; Cap. 442
- (c) the Tana and Athi Rivers Development Authority established under section 3 of the Tana and Athi Rivers Development Authority Act; Cap. 443
- (d) the Ewaso Ng'iro South River Basin Development Authority established under section 3 of the Ewaso Ng'iro South River Basin Development Authority Act; Cap. 447
- (e) the Ewaso Ng'iro North River Basin Development Authority established under section 3 of the Ewaso Ng'iro North River Basin Development Authority Act; and Cap. 448
- (f) the Coast Development Authority Act established under section 3 of the Coast Development Authority Act; Cap. 449

“Kerio Valley” means the area drained by, and bounded by the watersheds of the Kerio and Turkwell Rivers and their tributaries;

“Lake Basin” means the Lake Victoria catchment area and that part of Lake Kyoga catchment area situated within Kenya; and

“Tana and Athi rivers area” means the area drained by, and bounded by, the water sheds of the Tana and Athi Rivers and their tributaries.

3. (1) In implementing this Act, a person shall be guided by the principles under this section. General principles.

(2) The principles include—

- (a) adoption of an integrated ecosystem approach to conserving the environment for the benefit of the citizenry;
- (b) promotion of the integration of the economic value derived from ecosystems into the national accounting system, programmes and projects;
- (c) sustainable use of environmental resources;

- (d) promotion of equity in the management of the environment and natural resources to ensure equitable access to resources for present and future generations;
- (e) emphasis on multi-level participation in regional development;
- (f) ensuring the enjoyment of a clean and healthy environment;
- (g) the values and principles of public service under Article 232 of the Constitution;
- (h) good governance;
- (i) public participation and community involvement in the management of the environment; and
- (j) consultation and co-operation between the national and county governments.

4. (1) The Cabinet Secretary shall formulate and publish a regional development strategy at least once every ten years, to guide the protection, conservation, development and regulation of the country's basin based natural resources.

Regional
development
strategy.

(2) The regional development strategy shall prescribe the principles, objectives, standards, indicators, procedures and incentives for the protection, conservation, control, management, sustainable utilization and development of basin based natural resources.

PART II—ESTABLISHMENT OF REGIONAL DEVELOPMENT AUTHORITIES

Coast Development Authority

5. (1) There is established a regional development authority to be known as the Coast Development Authority.

Establishment and
incorporation of
the Coast
Development
Authority.

(2) The Coast Development Authority 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 and disposing of movable and immovable property;

- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all such 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.

6. (1) There shall be a Board of the Coast Development Authority comprising—

Board of the
Coast
Development
Authority.

- (a) a chairperson appointed by the President from amongst the persons appointed under paragraph (e);
- (b) the Principal Secretary of the Ministry for the time being responsible for regional development or an officer of that Ministry designated by the Principal Secretary in writing;
- (c) the Principal Secretary of the Ministry for the time being responsible for finance or an officer of that Ministry designated by the Principal Secretary in writing;
- (d) the Principal Secretary of the Ministry for the time being responsible for the environment or an officer of that Ministry designated by the Principal Secretary in writing;
- (e) eight other members appointed by the Cabinet Secretary, all of whom shall be appointed from the area affected by the operations of the Authority; and
- (f) the Managing Director of the Board who shall be an *ex-officio* member.

(2) In appointing the members under subsection (1)(e) the President and the Cabinet Secretary shall observe the principle of gender equity and regional balance.

(3) A person shall be qualified for appointment under subsection (1)(e) if the person—

- (a) has at least ten years' experience in public affairs, resource mobilization, governance or a related field; and
- (b) meets the requirements of Chapter Six of the Constitution.

(4) The chairperson and members of the Board appointed under subsection (1)(e) shall hold office for a period of three years from the date of appointment, and shall be eligible for re-appointment for one further term.

7. The Coast Development Authority shall —

Functions of the
Coast
Development
Authority.

- (a) advise the Cabinet Secretary on all matters pertaining to the conservation, management, control, standards, sustainable development and utilization of basin based natural resources in the Coast region;
- (b) co-ordinate, plan and implement policies and programmes related to integrated development and sustainable utilization of natural resources in the Coast region;
- (c) initiate, undertake and co-ordinate studies on conservation and sustainable utilization of natural resources within the Coast region;
- (d) maintain a database of natural resources and formulate and disseminate a long range development plan for the Coast region;
- (e) initiate, plan, develop and manage multipurpose dams and implement inter and intra-basin water transfer schemes for sustainable integrated development;
- (f) monitor and evaluate basin-based integrated development programmes and projects;
- (g) advise the government and other institutions on sustainable integrated development, basin-based resource management and investment opportunities;
- (h) organize consultative forums with relevant agencies and stakeholders on integrated

development and sustainable utilization of natural resources in the Coast region;

- (i) undertake programmes and projects for promotion and resolution of basin-based resource use conflicts in collaboration with other relevant authorities and stakeholders;
- (j) mobilize resources and undertake investments for sustainable utilization of basin-based resources and for self-sustainability;
- (k) co-ordinate the design and implementation of the country's regional and international commitments pertaining to conservation and sustainable utilization of natural resources within the Coast region;
- (l) approve, co-ordinate and intervene on matters affecting the natural resources within the Coast region;
- (m) implement relevant National Government strategic programmes and perform other related functions and activities as may be necessary to promote and sustain socio-economic development;
- (n) undertake programmes and projects on climate change adaptation and mitigation to build capacity and resilience through technology transfer and other means;
- (o) provide information and advice to the Cabinet Secretary on formulation of policy, strategies, master plans, management and sustainable development and utilization of basin based natural resources; and
- (p) perform any other function which the Cabinet Secretary may, by notice in the *Gazette*, prescribe.

8. (1) There shall be a Managing Director of the Coast Development Authority who shall be competitively recruited and appointed by the Cabinet Secretary on the recommendation of the Board of the Authority, and whose terms and conditions of service shall be specified in the instrument of appointment or otherwise in writing from time to time.

Managing
Director of the
Coast
Development
Authority.

(2) A person shall be qualified for appointment under this section where such person—

- (a) is a holder of a degree from a university recognized in Kenya in natural resources management, finance, business, strategic management or a related field;
- (b) has at least ten years' experience in a management position in a private or public organization; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Managing Director of the Authority shall—

- (a) be the secretary to the Board;
- (b) subject to the directions of the Board, be responsible for the day to day management of the affairs of the Authority; and
- (c) be responsible to the Board generally for the implementation of this Act.

(4) The Managing Director shall be appointed for a term of four years, and shall be eligible for reappointment for one further term upon satisfactory performance.

*Ewaso Ng'iro North River Basin Development
Authority*

9. (1) There is established a regional development authority to be known as the Ewaso Ng'iro North River Basin Development Authority.

Establishment and
incorporation of
the Ewaso Ng'iro
North River Basin
Development
Authority.

(2) The Ewaso Ng'iro North River Basin Development Authority 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 and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all such 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.

10. (1) There shall be a Board of the Ewaso Ng'iro North River Basin Development Authority comprising—

Board of the
Ewaso Ng'iro
North River Basin
Development
Authority.

- (a) a chairperson appointed by the President from amongst the persons appointed under paragraph (e);
- (b) the Principal Secretary of the Ministry for the time being responsible for regional development or an officer of that Ministry designated by the Principal Secretary in writing;
- (c) the Principal Secretary of the Ministry for the time being responsible for finance or an officer of that Ministry designated by the Principal Secretary in writing;
- (d) the Principal Secretary of the Ministry for the time being responsible for the environment or an officer of that Ministry designated by the Principal Secretary in writing;
- (e) eight other members appointed by the Cabinet Secretary, all of whom shall be appointed from the area affected by the operations of the Authority; and
- (f) the Managing Director of the Board who shall be an *ex-officio* member.

(2) In appointing the members under subsection (1) (e) the President and the Cabinet Secretary shall observe the principle of gender equity and regional balance.

(3) A person shall be qualified for appointment under subsection (1)(e) if the person—

- (a) has at least ten years' experience in public affairs, resource mobilization, governance or a related field; and
- (b) meets the requirements of Chapter Six of the Constitution.

(4) The chairperson and members of the Board appointed under subsection (1)(e) shall hold office for a

period of three years from the date of appointment, and shall be eligible for re-appointment for one further term.

11. The Ewaso Ng'iro North River Basin Development Authority shall—

Functions of the
Ewaso Ng'iro
North River Basin
Development
Authority.

- (a) advise the Cabinet Secretary on all matters pertaining to the conservation, management, control, standards, sustainable development and utilization of basin based natural resources in the Ewaso Ng'iro North River basin;
- (b) co-ordinate, plan and implement policies and programmes related to integrated development and sustainable utilization of natural resources in the Ewaso Ng'iro North River basin;
- (c) initiate, undertake and co-ordinate studies on conservation and sustainable utilization of natural resources within the Ewaso Ng'iro North River basin;
- (d) maintain a database of natural resources and formulate and disseminate a long range development plan for the Ewaso Ng'iro North River basin;
- (e) initiate, plan, develop and manage multipurpose dams and implement inter and intra-basin water transfer schemes for sustainable integrated development;
- (f) monitor and evaluate basin-based integrated development programmes and projects;
- (g) advise the government and other institutions on sustainable integrated development, basin-based resource management and investment opportunities;
- (h) organize consultative forums with relevant agencies and stakeholders on integrated development and sustainable utilization of natural resources in the Ewaso Ng'iro North River basin;
- (i) undertake programmes and projects for promotion and resolution of basin-based resource use conflicts in collaboration with other relevant authorities and stakeholders;

- (j) mobilize resources and undertake investments for sustainable utilization of basin-based resources and for self-sustainability;
- (k) co-ordinate the design and implementation of the country's regional and international commitments pertaining to conservation and sustainable utilization of natural resources within the Ewaso Ng'iro North River basin;
- (l) approve, co-ordinate and intervene on matters affecting the natural resources within the Ewaso Ng'iro North River basin;
- (m) implement relevant national government strategic programmes and perform other related functions and activities as may be necessary to promote and sustain socio-economic development;
- (n) undertake programmes and projects on climate change adaptation and mitigation to build capacity and resilience through technology transfer and other means;
- (o) provide information and advice to the Cabinet Secretary on formulation of policy, strategies, master plans, management and sustainable development and utilization of basin based natural resources; and
- (p) perform any other function which the Cabinet Secretary may, by notice in the *Gazette*, prescribe.

12. (1) There shall be a Managing Director of the Ewaso Ng'iro North River Basin Development Authority who shall be competitively recruited and appointed by the Cabinet Secretary on the recommendation of the Board of the Authority, and whose terms and conditions of service shall be specified in the instrument of appointment or otherwise in writing from time to time.

Managing
Director of the
Ewaso Ng'iro
North River Basin
Development
Authority.

(2) A person shall be qualified for appointment under this section where such person—

- (a) is a holder of a degree from a university recognized in Kenya in natural resources management, finance, business, strategic management or a related field;

- (b) has at least ten years' experience in a management position in a private or public organization; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Managing Director of the Authority shall—

- (a) be the secretary to the Board;
- (b) subject to the directions of the Board, be responsible for the day to day management of the affairs of the Authority; and
- (c) be responsible to the Board generally for the implementation of this Act.

(4) The Managing Director shall be appointed for a term of four years, and shall be eligible for re-appointment for one further term upon satisfactory performance.

*Ewaso Ng'iro South River Basin Development
Authority*

13. (1) There is established a regional development authority to be known as the Ewaso Ng'iro South River Basin Development Authority.

Establishment and incorporation of the Ewaso Ng'iro South River Basin Development Authority.

(2) The Ewaso Ng'iro South River Basin Development Authority 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 and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all such 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.

14. (1) There shall be a Board of the Ewaso Ng'iro South River Basin Development Authority comprising—

Board of the Ewaso Ng'iro South River Basin Development Authority.

- (a) a chairperson appointed by the President from amongst the persons appointed under paragraph (e);
- (b) the Principal Secretary of the Ministry for the time being responsible for regional development or an officer of that Ministry designated by the Principal Secretary in writing;
- (c) the Principal Secretary of the Ministry for the time being responsible for finance or an officer of that Ministry designated by the Principal Secretary in writing;
- (d) the Principal Secretary of the Ministry for the time being responsible for the environment or an officer of that Ministry designated by the Principal Secretary in writing;
- (e) eight other members appointed by the Cabinet Secretary, all of whom shall be appointed from the area affected by the operations of the Authority; and
- (f) the Managing Director of the Board who shall be an *ex-officio* member.

(2) In appointing the members under subsection (1) (e) the President and the Cabinet Secretary shall observe the principle of gender equity and regional balance.

(3) A person shall be qualified for appointment under subsection (1)(e) if the person—

- (a) has at least ten years' experience in public affairs, resource mobilization, governance or a related field; and
- (b) meets the requirements of Chapter Six of the Constitution.

(4) The chairperson and members of the Board appointed under subsection (1)(e) shall hold office for a period of three years from the date of appointment, and shall be eligible for re-appointment for one further term.

15. The Ewaso Ng'iro South River Basin Development Authority shall—

Functions of the Ewaso Ng'iro South River Basin Development Authority.

- (a) advise the Cabinet Secretary on all matters pertaining to the conservation, management, control, standards, sustainable development and utilization of basin based natural resources in the Ewaso Ng'iro South River basin;
- (b) co-ordinate, plan and implement policies and programmes related to integrated development and sustainable utilization of natural resources in the Ewaso Ng'iro South River basin;
- (c) initiate, undertake and co-ordinate studies on conservation and sustainable utilization of natural resources within the Ewaso Ng'iro South River basin;
- (d) maintain a database of natural resources and formulate and disseminate a long range development plan for the Ewaso Ng'iro South River basin;
- (e) initiate, plan, develop and manage multipurpose dams and implement inter and intra-basin water transfer schemes for sustainable integrated development;
- (f) monitor and evaluate basin-based integrated development programmes and projects;
- (g) advise the government and other institutions on sustainable integrated development, basin-based resource management and investment opportunities;
- (h) organize consultative forums with relevant agencies and stakeholders on integrated development and sustainable utilization of natural resources in the Ewaso Ng'iro South River basin;
- (i) undertake programmes and projects for promotion and resolution of basin-based resource use conflicts in collaboration with other relevant authorities and stakeholders;
- (j) mobilize resources and undertake investments for sustainable utilization of basin-based resources and for self-sustainability;
- (k) co-ordinate the design and implementation of the country's regional and international commitments

pertaining to conservation and sustainable utilization of natural resources within the Ewaso Ng'iro South River basin;

- (l) approve, co-ordinate and intervene on matters affecting the natural resources within the Ewaso Ng'iro South River basin;
- (m) implement relevant national government strategic programmes and perform other related functions and activities as may be necessary to promote and sustain socio-economic development;
- (n) undertake programmes and projects on climate change adaptation and mitigation to build capacity and resilience through technology transfer and other means;
- (o) provide information and advice to the Cabinet Secretary on formulation of policy, strategies, master plans, management and sustainable development and utilization of basin based natural resources; and
- (p) perform any other function which the Cabinet Secretary may, by notice in the *Gazette*, prescribe.

16. (1) There shall be a Managing Director of the Ewaso Ng'iro South River Basin Development Authority who shall be competitively recruited and appointed by the Cabinet Secretary on the recommendation of the Board of the Authority, and whose terms and conditions of service shall be specified in the instrument of appointment or otherwise in writing from time to time.

Managing
Director of the
Ewaso Ng'iro
South River Basin
Development
Authority.

(2) A person shall be qualified for appointment under this section where such person—

- (a) is a holder of a degree from a university recognized in Kenya in natural resources management, finance, business, strategic management or a related field;
- (b) has at least ten years' experience in a management position in a private or public organization; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Managing Director of the Authority shall—

(a) be the secretary to the Board;

(b) subject to the directions of the Board, be responsible for the day to day management of the affairs of the Authority; and

(c) be responsible to the Board generally for the implementation of this Act;

(4) The Managing Director shall be appointed for a term of four years, and shall be eligible for reappointment for one further term upon satisfactory performance.

Kerio Valley Development Authority

17. (1) There is established a regional development authority to be known as the Kerio Valley Development Authority.

Establishment and incorporation of the Kerio Valley Development Authority.

(2) The Kerio Valley Development Authority 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 and disposing of movable and immovable property;

(c) borrowing and lending money;

(d) entering into contracts; and

(e) doing or performing all such 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.

18. (1) There shall be a Board of the Kerio Valley Development Authority comprising—

Board of the Kerio Valley Development Authority.

(a) a chairperson appointed by the President from amongst the persons appointed under paragraph (e);

(b) the Principal Secretary of the Ministry for the time being responsible for regional development or an officer of that Ministry designated by the Principal Secretary in writing;

- (c) the Principal Secretary of the Ministry for the time being responsible for finance or an officer of that Ministry designated by the Principal Secretary in writing;
- (d) the Principal Secretary of the Ministry for the time being responsible for the environment or an officer of that Ministry designated by the Principal Secretary in writing;
- (e) eight other members appointed by the Cabinet Secretary, all of whom shall be appointed from the area affected by the operations of the Authority; and
- (f) the Managing Director of the Board who shall be an *ex-officio* member.

(2) In appointing the members under subsection (1)(e) the President and the Cabinet Secretary shall observe the principle of gender equity and regional balance.

(3) A person shall be qualified for appointment under subsection (1)(e) if the person—

- (a) has at least ten years' experience in public affairs, resource mobilization, governance or a related field; and
- (b) meets the requirements of Chapter Six of the Constitution.

(4) The chairperson and members of the Board appointed under subsection (1)(e) shall hold office for a period of three years from the date of appointment, and shall be eligible for re-appointment for one further term.

19. The Kerio Valley Development Authority shall—

Functions of the
Kerio Valley
Development
Authority.

- (a) advise the Cabinet Secretary on all matters pertaining to the conservation, management, control, standards, sustainable development and utilization of basin based natural resources in the Kerio valley;
- (b) co-ordinate, plan and implement policies and programmes related to integrated development and sustainable utilization of natural resources in the Kerio valley;

- (c) initiate, undertake and co-ordinate studies on conservation and sustainable utilization of natural resources within the Kerio valley;
- (d) maintain a database of natural resources and formulate and disseminate a long range development plan for the Kerio valley;
- (e) initiate, plan, develop and manage multipurpose dams and implement inter and intra-basin water transfer schemes for sustainable integrated development;
- (f) monitor and evaluate basin-based integrated development programmes and projects;
- (g) advise the government and other institutions on sustainable integrated development, basin-based resource management and investment opportunities;
- (h) organize consultative forums with relevant agencies and stakeholders on integrated development and sustainable utilization of natural resources in the Kerio valley;
- (i) undertake programmes and projects for promotion and resolution of basin-based resource use conflicts in collaboration with other relevant authorities and stakeholders;
- (j) mobilize resources and undertake investments for sustainable utilization of basin-based resources and for self-sustainability;
- (k) co-ordinate the design and implementation of the country's regional and international commitments pertaining to conservation and sustainable utilization of natural resources within the Kerio valley;
- (l) approve, co-ordinate and intervene on matters affecting the natural resources within the Kerio valley;
- (m) implement relevant national government strategic programmes and perform other related functions and activities as may be necessary to promote and sustain socio-economic development;

- (n) undertake programmes and projects on climate change adaptation and mitigation to build capacity and resilience through technology transfer and other means;
- (o) provide information and advice to the Cabinet Secretary on formulation of policy, strategies, master plans, management and sustainable development and utilization of basin based natural resources; and
- (p) perform any other function which the Cabinet Secretary may, by notice in the *Gazette*, prescribe.

20. (1) There shall be a Managing Director of the Kerio Valley Development Authority who shall be competitively recruited and appointed by the Cabinet Secretary on the recommendation of the Board of the Authority, and whose terms and conditions of service shall be specified in the instrument of appointment or otherwise in writing from time to time.

Managing
Director of the
Kerio Valley
Development
Authority.

(2) A person shall be qualified for appointment under this section where such person—

- (a) is a holder of a degree from a university recognized in Kenya in natural resources management, finance, business, strategic management or a related field;
- (b) has at least ten years' experience in a management position in a private or public organization; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Managing Director of the Authority shall—

- (a) be the secretary to the Board;
- (b) subject to the directions of the Board, be responsible for the day to day management of the affairs of the Authority; and
- (c) be responsible to the Board generally for the implementation of this Act.

(4) The Managing Director shall be appointed for a term of four years, and shall be eligible for re-appointment for one further term upon satisfactory performance.

Lake Basin Development Authority

21. (1) There is established a regional development authority to be known as the Lake Basin Development Authority.

Establishment and incorporation of the Lake Basin Development Authority.

(2) The Lake Basin Development Authority 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 and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all such 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.

22. (1) There shall be a Board of the Lake Basin Development Authority comprising—

Board of the Lake Basin Development Authority.

- (a) a chairperson appointed by the President from amongst the persons appointed under paragraph (e);
- (b) the Principal Secretary of the Ministry for the time being responsible for regional development or an officer of that Ministry designated by the Principal Secretary in writing;
- (c) the Principal Secretary of the Ministry for the time being responsible for finance or an officer of that Ministry designated by the Principal Secretary in writing;
- (d) the Principal Secretary of the Ministry for the time being responsible for the environment or an officer of that Ministry designated by the Principal Secretary in writing;
- (e) eight other members appointed by the Cabinet Secretary, all of whom shall be appointed from the area affected by the operations of the Authority; and

(f) the Managing Director of the Board who shall be an *ex-officio* member.

(2) In appointing the members under subsection (1)(e) the President and the Cabinet Secretary shall observe the principle of gender equity and regional balance.

(3) A person shall be qualified for appointment under subsection (1)(e) if the person—

(a) has at least ten years' experience in public affairs, resource mobilization, governance or a related field; and

(b) meets the requirements of Chapter Six of the Constitution.

(4) The chairperson and members of the Board appointed under subsection (1)(e) shall hold office for a period of three years from the date of appointment, and shall be eligible for re-appointment for one further term.

23. The Lake Basin Development Authority shall—

Functions of the
Lake Basin
Development
Authority.

(a) advise the Cabinet Secretary on all matters pertaining to the conservation, management, control, standards, sustainable development and utilization of basin based natural resources in the Lake basin;

(b) co-ordinate, plan and implement policies and programmes related to integrated development and sustainable utilization of natural resources in the Lake basin;

(c) initiate, undertake and co-ordinate studies on conservation and sustainable utilization of natural resources within the Lake basin;

(d) maintain a database of natural resources and formulate and disseminate a long range development plan for the Lake basin;

(e) initiate, plan, develop and manage multipurpose dams and implement inter and intra-basin water transfer schemes for sustainable integrated development;

(f) monitor and evaluate basin-based integrated development programmes and projects;

- (g) advise the government and other institutions on sustainable integrated development, basin-based resource management and investment opportunities;
- (h) organize consultative forums with relevant agencies and stakeholders on integrated development and sustainable utilization of natural resources in the Lake basin;
- (i) undertake programmes and projects for promotion and resolution of basin-based resource use conflicts in collaboration with other relevant authorities and stakeholders;
- (j) mobilize resources and undertake investments for sustainable utilization of basin-based resources and for self-sustainability;
- (k) co-ordinate the design and implementation of the country's regional and international commitments pertaining to conservation and sustainable utilization of natural resources within the Lake basin;
- (l) approve, co-ordinate and intervene on matters affecting the natural resources within the Lake basin;
- (m) implement relevant national government strategic programmes and perform other related functions and activities as may be necessary to promote and sustain socio-economic development;
- (n) undertake programmes and projects on climate change adaptation and mitigation to build capacity and resilience through technology transfer and other means;
- (o) provide information and advice to the Cabinet Secretary on formulation of policy, strategies, master plans, management and sustainable development and utilization of basin based natural resources;
- (p) monitor the operations and provide technical reports on the operations of any agreement or other arrangements between Kenya and other states relating to the use of the waters of Lake Victoria or of the River Nile; and

- (q) perform any other function which the Cabinet Secretary may, by notice in the *Gazette*, prescribe.

24. (1) There shall be a Managing Director of the Lake Basin Development Authority who shall be competitively recruited and appointed by the Cabinet Secretary on the recommendation of the Board of the Authority, and whose terms conditions of service shall be specified in the instrument of appointment or otherwise in writing from time to time.

Managing
Director of the
Lake Basin
Development
Authority.

(2) A person shall be qualified for appointment under this section where such person—

- (a) is a holder of a degree from a university recognized in Kenya in natural resources management, finance, business, strategic management or a related field;
- (b) has at least ten years' experience in a management position in a private or public organization; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Managing Director of the Authority shall—

- (a) be the secretary to the Board;
- (b) subject to the directions of the Board, be responsible for the day to day management of the affairs of the Authority; and
- (c) be responsible to the Board generally for the implementation of this Act.

(4) The Managing Director shall be appointed for a term of four years, and shall be eligible for re-appointment for one further term upon satisfactory performance.

Tana and Athi Rivers Development Authority

25. (1) There is established a regional development authority to be known as the Tana and Athi Rivers Development Authority.

Establishment and
incorporation of
the Tana and Athi
Rivers
Development
Authority.

(2) The Tana and Athi Rivers Development Authority 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 and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts; and
- (e) doing or performing all such 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.

Board of the Tana and Athi Rivers Development Authority.

26. (1) There shall be a Board of the Tana and Athi Rivers Development Authority comprising—

- (a) a chairperson appointed by the President from amongst the persons appointed under paragraph (e);
- (b) the Principal Secretary of the Ministry for the time being responsible for regional development or an officer of that Ministry designated by the Principal Secretary in writing;
- (c) the Principal Secretary of the Ministry for the time being responsible for finance or an officer of that Ministry designated by the Principal Secretary in writing;
- (d) the Principal Secretary of the Ministry for the time being responsible for the environment or an officer of that Ministry designated by the Principal Secretary in writing;
- (e) eight other members appointed by the Cabinet Secretary, all of whom shall be appointed from the area affected by the operations of the Authority; and
- (f) the Managing Director of the Board who shall be an *ex-officio* member.

(2) In appointing the members under subsection (1)(e) the President and the Cabinet Secretary shall observe the principle of gender equity and regional balance.

(3) A person shall be qualified for appointment under subsection (1)(e) if the person—

- (a) has at least ten years' experience in public affairs, resource mobilization, governance or a related field; and
- (b) meets the requirements of Chapter Six of the Constitution.

(4) The chairperson and members of the Board appointed under subsection (1)(e) shall hold office for a period of three years from the date of appointment, and shall be eligible for re-appointment for one further term.

27. The Tana and Athi Rivers Development Authority shall—

Functions of the
Tana and Athi
Rivers
Development
Authority.

- (a) advise the Cabinet Secretary on all matters pertaining to the conservation, management, control, standards, sustainable development and utilization of basin based natural resources in the Tana and Athi rivers area;
- (b) coordinate, plan and implement policies and programmes related to integrated development and sustainable utilization of natural resources in the Tana and Athi rivers area;
- (c) initiate, undertake and co-ordinate studies on conservation and sustainable utilization of natural resources within the Tana and Athi rivers area;
- (d) maintain a database of natural resources and formulate and disseminate a long range development plan for the Tana and Athi rivers area;
- (e) initiate, plan, develop and manage multipurpose dams and implement inter and intra-basin water transfer schemes for sustainable integrated development;
- (f) monitor and evaluate basin-based integrated development programmes and projects;
- (g) advise the government and other institutions on sustainable integrated development, basin-based

resource management and investment opportunities;

- (h) organize consultative forums with relevant agencies and stakeholders on integrated development and sustainable utilization of natural resources in the Tana and Athi rivers area;
- (i) undertake programmes and projects for promotion and resolution of basin-based resource use conflicts in collaboration with other relevant authorities and stakeholders;
- (j) mobilize resources and undertake investments for sustainable utilization of basin-based resources and for self-sustainability;
- (k) co-ordinate the design and implementation of the country's regional and international commitments pertaining to conservation and sustainable utilization of natural resources within the Tana and Athi rivers area;
- (l) approve, co-ordinate and intervene on matters affecting the natural resources within the Tana and Athi rivers area;
- (m) implement relevant national government strategic programmes and perform other related functions and activities as may be necessary to promote and sustain socio-economic development;
- (n) undertake programmes and projects on climate change adaptation and mitigation to build capacity and resilience through technology transfer and other means;
- (o) provide information and advice to the Cabinet Secretary on formulation of policy, strategies, master plans, management and sustainable development and utilization of basin based natural resources; and
- (p) perform any other function which the Cabinet Secretary may, by notice in the *Gazette*, prescribe.

28. (1) There shall be a Managing Director of the Tana and Athi Rivers Development Authority who shall be competitively recruited and appointed by the Cabinet Secretary on the recommendation of the Board of the

Managing
Director of the
Tana and Athi
Rivers
Development
Authority.

Authority, and whose terms and conditions of service shall be specified in the instrument of appointment or otherwise in writing from time to time.

(2) A person shall be qualified for appointment under this section where such person—

- (a) is a holder of a degree from a university recognized in Kenya in natural resources management, finance, business, strategic management or a related field;
- (b) has at least ten years' experience in a management position in a private or public organization; and
- (c) meets the requirements of Chapter Six of the Constitution.

(3) The Managing Director of the Authority shall—

- (a) be the secretary to the Board;
- (b) subject to the directions of the Board, be responsible for the day to day management of the affairs of the Authority; and
- (c) be responsible to the Board generally for the implementation of this Act.

(4) The Managing Director shall be appointed for a term of four years, and shall be eligible for re-appointment for one further term upon satisfactory performance.

PART III—ADMINISTRATION OF REGIONAL DEVELOPMENT AUTHORITIES

29.(1) The conduct and regulation of the business and affairs of the of the Boards of each regional development authority shall be as provided in the Schedule.

Conduct of business and affairs of regional development authorities.

(2) Except as provided in the Schedule, the Board of a regional development authority may regulate its own procedure.

30. The office of a member appointed under sections 6 (1) (e), 10 (1) (e), 14 (1) (e), 18 (1) (e), 22 (1) (e) and 26 (1) (e) shall become vacant if the member—

Vacation of office.

- (a) resigns office by notice in writing addressed to the Cabinet Secretary;

- (b) is absent from three consecutive meetings of the Board without the permission of the chairperson;
- (c) is convicted of an offence and sentenced to imprisonment for a term exceeding six months without the option of a fine;
- (d) is convicted of an offence that violates Chapter Six of the Constitution;
- (e) is unable, by reason of mental or physical infirmity, to discharge his or her functions; or
- (f) dies.

31. There shall be paid to members of the Board of each regional development authority such remuneration, fees or allowances as the Cabinet Secretary, in consultation with the Salaries and Remuneration Commission, may determine.

Remuneration of Board members.

32. The Board of a regional development authority may appoint such officers, agents and other staff as are necessary for the proper and efficient discharge its functions under this Act, upon such terms and conditions of service as the Board may determine on the advice of the Salaries and Remuneration Commission.

Staff.

33. The Board of a regional development authority may, by resolution either generally or in any particular case, delegate to any of its committees or to 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 duties of the Board under this Act or under any other written law.

Delegation by a regional development authority.

PART IV—FINANCIAL PROVISIONS

34. The funds of each regional development authority shall consist of—

Funds for regional development authorities.

- (a) such monies as may be appropriated by the National Assembly for the purposes of each regional development authority;
- (b) such monies as may accrue to each regional development authority in the performance of its functions under this Act; and

- (c) all monies from any other source provided for or donated or lent to the respective regional development authority.

35. The financial year of each regional development authority shall be the period of twelve months ending on the thirtieth of June each year.

Financial year.

36. (1) At least three months before the commencement of a financial year, the Board of a regional development authority established under this Act shall cause to be prepared the estimates of revenue and expenditure of the regional development authority for that year.

Annual estimates.

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

- (a) the payment of salaries, allowances, pension gratuities, and other charges in respect of the staff of the regional development authority;
- (b) proper maintenance of the buildings and grounds of the regional development authority; and
- (c) the maintenance, repair and replacement of the utilities, equipment and other property of the regional development authority.

(3) The annual estimates shall be approved by the Board of the regional development authority before the commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for approval, and thereafter the regional development authority shall not increase or decrease the annual estimates except with the authority of the Cabinet Secretary.

37. (1) The Board of each regional development authority shall cause to be kept all proper books and records of account of the income, expenditure and assets of the Authority.

Accounts and Audit.

(2) Within a period of three months from the end of each financial year, each regional development authority shall submit to the Auditor General the accounts of the regional development authority together with—

- (a) a statement of the income and expenditure of the regional development authority during that year; and
- (b) a statement of the assets and liabilities of the regional development authority on the last day of that year.

(3) The accounts of each regional development authority shall be audited and reported upon in accordance with the Public Audit Act, 2015.

No. 34 of 2015.

PART V—PROVISIONS ON DELEGATED POWERS

38. (1) The Cabinet Secretary may, make regulations generally for the better carrying into effect of any provisions of this Act.

Regulations.

(2) Without prejudice to the foregoing, regulations made under this section may provide for—

- (a) any matter which is required or permitted by this Act to be prescribed by regulations;
- (b) the management and sustainable development and utilization of basin based natural resources;
- (c) forms under this Act;
- (d) matters of procedure in relation to any application under this Act; and
- (e) any other matter which is necessary or expedient to prescribe in order to achieve or promote the objects of this Act.

(3) For the purposes of Article 94 (6) of the Constitution—

- (a) the purpose and objective of delegation under this section is to enable the Cabinet Secretary to make regulations to provide for the better carrying into effect of the provisions of this Act and to enable the Board to discharge its functions more effectively;
- (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 to fulfil the objectives specified under this section;

- (c) the principles and standards applicable to the regulations 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 VI—MISCELLANEOUS

39.(1) No matter or thing done by a member of the Board or any officer, employee or agent of a regional development authority shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the regional development authority under this Act, render the officer, employee or agent or any person acting under their direction liable to any action, claim or demand whatsoever.

Protection from liability.

(2) The provisions of subsection (1) shall not relieve a regional development authority 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 the powers conferred on the regional development authority by this Act or by any written law or by the failure, whether wholly or partially, of any works.

40. (1) Subject to this section, the common seal of a regional development authority shall be kept in the custody of its Managing Director or of such other person as the Board of the regional development authority may direct, and shall not be used except upon the order of the Board.

Common seal.

(2) The common seal of a regional development authority shall be authenticated by the signature of the chairperson and the Managing Director of the regional development authority.

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

41. All documents other than those required by law to be under seal made on behalf of the Board of a regional development authority shall be signified by the hand of the chairperson of the Board, the Managing Director, or any

Signification of documents.

other member of the Board specifically authorized by the Board in that behalf.

42. (1) Where a regional development authority requires land for the discharge of its functions, the regional development authority may —

Acquisition of land for the purposes of a regional development authority.

- (a) if the land is not public land, acquire the land through negotiation and agreement with the registered owner; or
- (b) if the land is public land, or if the regional development authority is unable to acquire through negotiation and agreement in accordance with paragraph (a), notify the Cabinet Secretary responsible for lands that the regional development authority requires the land specified in the notice for its purposes.

(2) A regional development authority may at any time convey, transfer or surrender any land surplus to its existing and future requirements by a conveyance or a deed of surrender either for, or without consideration.

(3) Despite subsection (2) where the land that is surplus to the existing and future requirements of a regional development authority was originally public land or trust land, the regional development authority shall surrender the land to the Government.

PART VII—SAVINGS, TRANSITION AND REPEAL

43. (1) All property, assets, rights, liabilities, obligations, agreements, contracts and other arrangements existing at the commencement of this Act and vested in, acquired, incurred or entered into by or on behalf of a former Authority and existing immediately before the commencement of this Act, shall, upon the commencement of this Act, be deemed to have vested in or to have been acquired, incurred or entered into by or on behalf of the respective regional development authority to the same extent as they were enforceable by or against the a former Authority before the commencement of the Act.

Saving and transitional.

(2) Where the transfer of any property transferred to or vested in a regional development authority under subsection (1) is required by any written law to be

registered, the regional development authority shall, within three months from the commencement of this Act or within such other period as the written law may prescribe, apply to the appropriate registering authority for the registration of the transfer and thereupon the registering authority shall, at no cost to the regional development authority or any person by way of registration fees, stamp or other duties —

- (a) make such entries in the appropriate register as shall give effect to the transfer;
- (b) where appropriate, issue to the regional development authority a certificate of title or other statutory evidence of ownership of the property or make such amendments on such certificates or in the appropriate register as may be necessary; and
- (c) make any necessary endorsements on such deeds or other documents as may be presented to such registering authority relating to the title, right or obligation concerned.

(3) The staff of each former Authority shall be the staff of the respective regional development authority.

(4) Any disciplinary proceedings that are pending before a former Authority shall be continued by the respective regional development authority.

(5) Any pension scheme, superannuation, provident fund, medical fund or any other scheme existing in a former Authority immediately before the commencement of this Act shall continue to exist as if the pension scheme, superannuation, provident fund, medical fund or any other scheme has been established pursuant to this Act.

(6) A person who, immediately before the commencement of this Act, held office as a Board member of a former Authority shall continue to hold office as a member of the Board of the respective regional development authority for their unexpired term.

(7) A Chairperson or member of the Board of a former Authority appointed prior to the commencement of this Act shall serve the remainder of their unexpired term of office.

44. (1) The Kerio Valley Development Authority Act is repealed.

Repeal of Cap.
441, Cap. 442,
Cap. 443,
Cap. 447, Cap.
448, and Cap.
449.

(2) The Lake Basin Development Authority Act is repealed.

(3) The Tana and Athi Rivers Development Authority Act is repealed.

(4) The Ewaso Ng'iro South River Basin Development Authority Act is repealed.

(5) The Ewaso Ng'iro North River Basin Development Authority Act is repealed.

(6) The Coast Development Authority Act is repealed.

SCHEDULE

[s.29 (1)]

**PROVISIONS AS TO THE CONDUCT OF
BUSINESS AND AFFAIRS OF THE BOARD OF A
REGIONAL DEVELOPMENT AUTHORITY**

1. The Board shall, at its first meeting, elect a Vice Chairperson who shall be of the opposite gender from that of the Chairperson.

Vice chairperson.

2. (1) The Board shall meet at least four times in each year.

Meetings.

(2) The Chairperson may at any time convene a special meeting of the Board and shall do so within fifteen days of a written requisition for the meeting signed by at least three members.

(3) The Chairperson shall preside at all meetings of the Board, which he or she is present and in the case of his or her absence, the Vice Chairperson shall preside.

(4) At a meeting of the Board at which neither the Chairperson or Vice chairperson is present, the members of the Council present shall elect one of their number to preside, and the person so elected shall have all the powers of the chairperson with respect to that meeting and the business transacted.

3. The quorum for the conduct of the business of the Board shall be six members.

Quorum.

4. The decisions of the Board shall be by a majority of votes, and the Chairperson of the meeting shall have an original and a casting vote.

Voting procedure.

5. The validity of any proceedings of the Board shall not be affected by any vacancy among the membership, or by any defect in the appointment of a member.

Validity of proceedings.

6. Minutes of the proceedings at meetings of the Board shall be kept in such a manner as the Board directs.

Minutes.

7. (1) If a member of the Board 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, he shall, at the meeting and as soon as reasonably practicable after the commencement

Disclosure of interest.

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 who does not disclose his or her interest in a contract or other matter or who benefits from non-disclosure under sub-paragraph (1) commits an offence and shall be liable on conviction to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding one year or both.

MEMORANDUM OF OBJECTS AND REASONS

Statement of objects and reasons for the Bill

The principal object of this Bill is to consolidate the laws relating to regional development and to provide for the establishment, powers and functions of the six (6) existing regional development bodies. The Bill standardizes the functions of regional development authorities subject to the unique areas of operation of each regional development authority. It further standardizes the membership of the Boards of each regional development authority to eleven (11) members in line with best practices in corporate governance.

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

This Bill delegates legislative power to the Cabinet Secretary responsible for regional development authorities to make regulations for the carrying into effect of its provisions. The Bill does not limit any fundamental rights or freedoms.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill may occasion additional expenditure of public funds.

Dated the 14th October, 2021.

KATOO OLE METITO,
Chairperson, Defence and Foreign Relations Committee.

