

The Taita Taveta County Sand Harvesting (Amendment) Bill, 2018

A Bill for;

An Act of the County Assembly of Taita Taveta to amend the Taita Taveta Sand Harvesting Act and for connected purposes.

Enacted by the County Assembly of Taita Taveta as follows—

Short title **1.** This Act may be cited as the Taita Taveta County Sand Harvesting (Amendment) Act, 2018.

Amendment section 2. to **2.** The Taita Taveta County Sand Harvesting Act, 2016 (in this Act referred to as the "principal Act") is amended in section 2 by—

(a) deleting the following definition and substituting therefor the following new definition—

"authorized officer" includes County Environment Officers, Senior County Enforcement Officers, Gazetted Environmental Inspectors, Sub County Public Health Officers, Senior Revenue officers and Mining Inspectors;

"County executive committee member" means the county executive committee member for the time being responsible for matters relating to sand harvesting, conservation and utilization;

(b) adding the following new definitions in their proper alphabetical order —

"riparian land owner" means a person who owns or occupies land which is adjacent to a river;

"Sub county committee" means the county sand harvesting utilization and conservation committee established under section 5A;

"Secretary" means the secretary of the committee or subcommittee;

Amendments to section 4. **3.** Section 4 of the principal Act is deleted and substituted therefor the following new section—

Establishment of the County Committee.

4.(1) There is established the Taita Taveta County Sand Harvesting and Management Committee consisting of the following members appointed by the County Executive Member;

(a) the chief officer for the time being responsible for matters relating to sand harvesting, conservation and utilization who shall be the chairperson;

(b) the chief officer responsible for

matters relating to finance, who shall be the vice-chairperson;

- (c) the County Commissioner or a representative nominated in writing;
- (d) the County Director of enforcement or a representative nominated in writing
- (e) the County Director of mining or a representative nominated in writing;
- (f) the County Director of environment who shall be the Secretary;
- (g) one County Land Surveyor;
- (h) a representative of National Environment Management Authority at the County level;
- (i) a representative of Water Resource Management Authority at the County level; and
- (j) one representative of the association involved in sand harvesting, conservation and utilization from each sub county.

(2) The quorum for the committee meetings shall be seven members.

(3) A member appointed under paragraph (j) shall hold office for a term of three years and may be eligible for reappointment for a single further term.

(4) The members appointed under paragraph (a) and (b) may in writing, designate a senior officer within their respective department to be the alternate chairperson or vice chairperson of the committee.

Amendment to section 5.

4. Section 5 of the principal Act is amended as follows–

(a) by deleting paragraph 5(1)(h);

(b) by deleting paragraph 5(1)(i) and substituting therefor the following new paragraphs;

(h) handle complaints and conflicts on matters related to sand harvesting, utilization and conservation; and

(i) perform any other function assigned by the county executive committee member.

Amendment of the principal Act.

5. The principal Act is amended by inserting the following new sections between section 5 and 6.

Establishment of the sub-county Committee.

5A. (1) There is established for each sub county, the sub county sand harvesting, utilization and conservation committee consisting of the following members appointed by the County Executive Member;

- (a) the area sub county administrator who shall be the chairperson to the committee;
- (b) the sub county environment officer who shall be the secretary of the committee;
- (c) the sub county revenue officer;
- (d) the sub county mining officer or a representative nominated in writing;
- (e) a representative of the National Environment Management Authority at the County level;
- (f) the Deputy County Commissioner or a representative nominated in writing;
- (g) a representative of Water Resource Management Authority; and
- (h) two representatives of the association involved in sand harvesting, utilization and conservation at the sub county.

(2) The county executive committee member shall take into account gender composition of the Committee while appointing members under paragraph 1(h).

(3) A member appointed under paragraph (g), shall hold office for a term of three years and may be eligible for reappointment for a single further term.

(4) Members shall in their first meeting elect a person of the opposite gender from the chairperson to be the vice chairperson.

(5) The quorum for the committee meetings shall be five members.

(6) A member appointed under paragraph 1(a) may in writing, designate a senior public officer within the respective county department, to be the alternate chairperson of the committee.

Functions of
the Sub
county
Committee.

5B. (1) The sub county committee shall be responsible for the sustainable management of sand harvesting within their respective area of jurisdiction.

(2) Without prejudice to the generalities of sub section (1), each sub county committee shall be responsible for–

- (a) the review of all applications for sand harvesting and transportation and make recommendations before forwarding the recommendations to the licensing officer;
- (b) the coordination and supervision of the construction of sand dams and gabions in designated conservation and utilization sites;
- (c) the monitoring and coordination of lorries transporting sand;
- (d) the monitoring of the designated sand harvesting sites and advise accordingly on those that require immediate repair;
- (e) the determination on whether the requirements of an Environmental Impact Assessment and Environmental Audit pursuant to the Environmental Management and Co-ordination Act No. 8 Cap 387 of 2015 have been fulfilled before sand utilization is allowed;
- (f) the coordination and supervision of the sand harvesting associations within the sub county in respect of which it is constituted in the process of conservation and utilization of sand resources;
- (g) the identification and making of recommendations to the County Committee sites for utilization and conservation; and
- (h) performance of any other functions as may be assigned by the county executive committee member from time to time.

Amendment to
section 6.

6. Section 6 of the principal is deleted and substituted therefor the following new section–

- Sand harvesting association. **6.** In discharging its mandate under this Act, the county and sub-county committees shall establish a stakeholder engagement plan involving stakeholders and Associations within the county to ensure sustainable conservation and utilization of sand.
- Amendment to section 7. **7.** Section 7 of the principal Act is amended as follows–
- (a) by deleting the "comma" and the words "county government" appearing immediately after the word "Association" in paragraph (c).
- (b) by deleting the word "fixed" appearing in paragraph (f) and substituting therefor the word "approved".
- Amendment to section 8. **8.** Section 8 of the principal Act is amended as follows–
- (a) by deleting the word "Association" appearing in sub section (1), and substituting therefor the words "sub county Committee".
- (b) by deleting the word "Association" appearing in sub section (2), and substituting therefor the words "sub county Committee".
- Amendment to section 9. **9.** Section 9 of the principal Act is amended follows–
- (a) by deleting the words "and lakeshore" appearing between the words "On farm" and "sand".
- (b) by deleting paragraph (c) and substituting therefor the following new paragraph;
- 9.(c)** sand harvesting or scooping shall be done concurrently with restoration of areas previously harvested; and
- Amendment to section 11. **10.** Section 11 of the principal Act is amended in sub section 11(3) as follows–
- (a) by inserting the word "and" immediately after the word "offense".
- Amendment to section 12. **11.** Section 12 of the principal Act is amended by deleting subsection 1 and substituting therefor the following new sub section–
- 12.(1)** The Committee shall in consultation with county executive committee member, taking into consideration the requirements of the Trade Descriptions Act, the County Public Finance Management Act and the market forces of the day, provide for a minimum pricing guidelines for sale of sand within the county.
- Amendment to section 15. **12.** Section 15 of the Principal Act is amended by deleting sub section (1) and substituting therefor the following new sub section –

15.(1) The county executive committee member shall appoint a licensing officer responsible for the issuance of licenses under this Act.

Amendment section 16. to **13.** Section 16 of the principal Act is deleted and substituted therefor the following new section–

16. A person who intends to harvest sand for commercial purposes shall make an application for a license in the prescribed form accompanied by such fees as may be determined by the county executive committee member, to the sub county committee.

Amendment section 17. to **14.** Section 17 of the principal Act is deleted and substituted therefor the following new section–

17. (1) The sub county committee shall consider each application made under section 16 and make recommendations to the licensing officer to issue a licence to the applicant within thirty days of receipt of such recommendations.

(2) Where the sub county committee is not satisfied with the application under sub section (1), the sub county committee shall reject the application, and inform the applicant of its decision within fourteen days.

(3) An applicant whose application has been rejected by the sub county committee, may within thirty days of receipt of the decision of the sub county committee, re submit his or her application to the sub county committee for further consideration.

(4) A licence issued under sub section (1) shall be in such form as may be prescribed.

Amendment section 20. to **15.** Section 20 of the Principal Act is amended by deleting sub section (2) and substituting therefor the following new sub section–

20. (2) The licensing officer may issue different classes of licenses for different purpose as may be provided for in the Regulations.

Amendment section 21. to **16.** Section 21 of the principal Act is deleted and substituted therefor the following new section–

Validity, Renewal and Transfer of Licences **21.** Except as otherwise provided in this Act, the sub county committee may recommend for the renewal, transfer or revocation of a licence granted pursuant to the provisions of this Act.

Amendment section 22. to **17.** Section 22 of the principal Act is amended by deleting sub section 22. (1)

- Amendment section 24. to **18.** Section 24 of the principal Act is amended in sub section 24(1), by deleting the word "court" and substituting therefor the word "committee".
- Amendment section 32. to **19.** Section 32 of the principal Act is amended by deleting the word "court" appearing in subsection (2) and substituting therefor the words "county executive committee member."
- Amendment section 33. to **20.** Section 33 of the principal Act is amended as follows–
- (a) by deleting the word "committee" appearing in subsection (1) and (2) and substituting therefor the words "sub county committee".
 - (b) by deleting the word "rehabilitation" appearing in sub section (2) and substituting therefor the word "management".
- Amendment to section 34. **21.** Section 34 of the principal Act is amended by deleting paragraph 34(d).

MEMORANDUM OF REASONS AND OBJECTS.

The principal object of this Bill is to amend the Taita Taveta County Sand Harvesting Act, 2016. Clause 2 of the Bill amends the Principal Act by deleting and providing new definitions for , authorised officer and county executive committee member and by further providing for the following new definitions, riparian land owner, sub county committee and Secretary.

Clause 3 seek to delete section 4 of the principal Act and substitute with a new section. Clause 5 introduces a new clause 5A and B.

Further, the Bill seeks to amend sections 6, 7, 8, 9 10, 11, 12, 15, 16, 17, 20, 21, 22, 24, 32, 33 and 34 of the principal Act.

Dated this.....2018

.....Signature

H.E. Majala Mlagui
CECM, Mining