

**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 3 (Samburu County Acts No. 1)*



REPUBLIC OF KENYA

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***KENYA GAZETTE SUPPLEMENT***

**SAMBURU COUNTY ACTS, 2022**

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**NAIROBI, 11th February, 2022**

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IMPROVEMENT CENTER ACT, 2022**

**No. 1 of 2022**

*Date of Assent: 10th February, 2022*

*Date of Commencement: See Section 1*

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**SCHEDULE— PROVISIONS AS TO THE CONDUCT OF THE BUSINESS AND AFFAIRS OF THE BOARD****THE SAMBURU COUNTY NOMOTIO LIVESTOCK IMPROVEMENT CENTER ACT, 2022**

**AN ACT of the County Assembly of Samburu to provide for the establishment of the Nomotio Livestock Improvement Center, provide for membership, powers and functions of the Livestock improvement center and for connected purposes**

ENACTED by the County Assembly of Samburu, as follows—

**PART I—PRELIMINARY****Short title**

1. This Act may be cited as the Samburu County Nomotio Livestock Improvement Center Act, 2022 and shall come into operation on such a date as the Member of the Executive Committee may, by notice in the *Gazette*, appoint and different dates may be appointed for different provisions.

**Interpretation**

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

“Livestock” means domesticated animals raised in an agricultural setting to produce commodities such as food, fiber and labor and includes poultry and farmed fish;

“Center” means Nomotio Livestock improvement Center;

“Board” means the management Board of Nomotio Livestock improvement Center;

“Secretary” means the secretary of Nomotio Livestock improvement Center who is also the Chief Executive officer of the Center;

“Member of the Executive Committee” means the member of the Executive Committee for the time being responsible for matters relating to Livestock development;

“Livestock improvement” means continuous improvement of livestock performance in terms of milk and meat production through improvement in breeds and husbandry;

“Director” means the County director for the time being responsible for matters relating to Livestock production;

“County government” means the County government of Samburu;

“County Assembly” means the County Assembly of Samburu;

### Objectives of the Act

3. (1) The overriding objective of this Act is to—

- (a) provide for the establishment of Nomotio Livestock improvement center;
- (b) make provision for comprehensive, harmonized, efficient and effective legal and regulatory framework for improved livestock breeding, pasture production, and
- (c) training capacity building of farmers in Samburu County.

(2) All county government agencies, public servants and bodies charged with development and regulation of Livestock development shall at all times have due regard to, and observe, the objectives of this Act as set out in subsections (1)

(3) Whenever there is a conflict between this Act and any other written law having a bearing on achievement of the overriding objective of this Act, the provisions of this Act shall prevail.

### PART II—ESTABLISHMENT AND MANAGEMENT OF NOMOTIO LIVESTOCK IMPROVEMENT CENTER

#### Establishment of Nomotio Livestock Improvement Center

4. (1) There is established a body to be known as Nomotio Livestock Improvement Center in Samburu County.

(2) Nomotio Livestock Improvement Center shall be entrenched within the department of Livestock Production.

(3) The headquarters of the Center shall be in Nomotio Farm in Samburu Central sub-county.

(4) The Center may establish offices in the two other sub-counties.

#### Functions of the Center

5. The Functions of the Center shall be—

- (a) breeding of defined breeds of Livestock having high Milk yield and/or high beef production;
- (b) fodder production to enhance availability and affordability of feeds in the county;
- (c) training and capacity building of farmers and staff through short courses, demonstrations and farmer field days;
- (d) research linkages with relevant institutions;
- (e) provision of AI services to farmers;

(f) ensure that farmers have access to breeding bulls and bucks/rams within the center.

(g) to undertake to build the capacity of group ranches to create fodder production farms in each group ranch.

#### Powers of the Nomotio Livestock Improvement Center

6. (1) The Center shall have all powers necessary for the execution of its functions under this Act.

(2) Without prejudice to the generality of subsection (1), the Center shall have power to—

- (a) manage, control and administer the assets of the center in such manner and for such purposes as best promote the purpose for which the center is established;
- (b) receive any gifts, grants, donations or endowments made to the Center or any other monies in respect of the Center and make disbursements from such monies in accordance with the provisions of this Act;
- (c) enter into association with such other bodies or organizations within or outside Kenya as it may consider desirable or appropriate so as to aid the furtherance of the purposes for which the Center is established;
- (d) open and maintain a bank account or accounts for the funds of the center, and
- (e) offer its services to any person upon such terms as the Center may from time to time determine.

#### Management Board of the Center

7. (1) The management of the Center shall vest in a Board which shall comprise—

- (a) a chairperson who shall be appointed by the County Executive Committee Member for the time being responsible for matters relating to Livestock production with approval of the cabinet;
- (b) the Chief Officer in the department for the time being responsible for matters relating to Livestock production;
- (c) the Chief Officer in the department for the time being responsible for matters relating to Agriculture;
- (d) four persons who shall be appointed by the County Executive Committee Member with approval of the cabinet;



- (e) the secretary; and
  - (f) two (2) of the members provided for in subsection (d) above shall come from the communities bordering the farm.
- (2) A person shall qualify for appointment under subsection (1)(a) or (d) if the person—

- (a) is a role model crop or livestock farmer
- (b) has at least ten years experience in the relevant field;
- (c) is not a State Officer.

(3) In appointing the members of the Board under subsection (1)(a) and (d), the County Executive Committee Member shall take into account the gender, regional and other diversities of the people of Samburu County.

(4) The members of the Board shall, at the first meeting of the Board and whenever need arises, elect a Vice-chairperson from amongst the members appointed under subsection(1)(d).

(5) The chairperson and the members of the Board appointed under subsection (1)(d) shall hold office for a term of four years and shall be eligible for re-appointment for a further and final term of four years.

**Vacancy in the Board**

8. (1)The office of the chairperson or of a member of the Board appointed under section 7(1)(d) shall become vacant if the holder—

- (a) dies;
- (b) by notice in writing addressed to the County Executive committee Member resigns from office;
- (c) is convicted of an offence and sentenced to imprisonment for a term of more than six months without the option of a fine;
- (d) is absent from three consecutive meetings of the Board without good cause; or
- (e) is removed in accordance with the provisions of the Constitution.

(2) Where a vacancy occurs in the membership of the Board, the appointment procedure provided for in this Act shall, with necessary modifications, apply.

**Functions of the Board**

9. The Board shall—

- (a) formulate policies to achieve its mandate;
- (b) provide strategic direction ,leadership and oversight to the secretariat; and
- (c) undertake such activities as may be necessary for the discharge of its functions and the exercise of its powers.

**Conduct of Business and Affairs of the Board**

10. (1) The conduct and regulation of the business and affairs of the Board shall be as provided in the Schedule.

(2) Except as provided in the Schedule, the Board may regulate its own procedures.

**Secretary of the Center**

11. (1) There shall be a secretary of the Center who shall be seconded to the center by the department of Livestock production from amongst its staff.

(2) A staff shall be qualified for secondment as the Secretary if the person—

- (a) holds a degree/diploma from a recognized university;
- (b) has at least ten years post-qualification experience;
- (c) has at least five years experience in the relevant field.

(3) The Secretary shall be an *ex-officio* member of the Board but shall have no right to vote at any meeting of the Board.

(4) The Secretary shall in the performance of the functions and duties of office, be accountable to the Board.

(5) The Secretary shall be—

- (a) the Chief Executive Officer of the Center and shall be responsible for the day to day management of the Center;
- (b) the secretary of the Board;
- (c) the head of the secretariat of the center
- (d) the custodian of all of the records of the center;
- (e) responsible for—

- (i) executing decisions of the Board;
- (ii) facilitating, coordinating and ensuring execution of the centers mandate;

- (iii) preparing and submitting for approval, by the Board, programs of work for the achievement of the Centers mandate;
  - (iv) ensuring staff compliance with public ethics and values; and
  - (v) the performance of such other duties as may be assigned by the Board or by any other written law.
- (6) The Secretary shall hold office on such terms and conditions of secondment as the Board and the department of Livestock production may determine.
- (7) The Secretary may be removed from office by the Board only on grounds of—
- (a) inability to perform the function of the office arising out of physical or mental incapacity;
  - (b) gross misconduct;
  - (c) bankruptcy; or
  - (d) incompetence.
- (8) Prior to removal under subsection (7), the Secretary shall be—
- (a) informed, in writing, of the reasons for the intended removal; and
  - (b) given an opportunity to put in a defense against any such allegations either in person.

#### Secretariat

12. (1) There shall be a secretariat of the Center.
- (2) The secretariat shall comprise—
- (a) such professional, technical and administrative officers and support staff as may be appointed by the Board; and
  - (b) such public officers as may be seconded to the Board upon its request.
- (3) The staff of the Center shall be appointed by the Board subject to the Centers approved establishment.
- (4) The Board shall ensure that in the appointment of its staff—
- (a) not more than two-thirds of the staff shall be of the same gender;
  - (b) the regional and other diversity of the people of Samburu County is taken into account; and

- (c) persons with disabilities are afforded adequate and equal opportunities.

#### Delegation of powers of the Board

13. Subject to this Act, the Board may either generally or in a particular case, delegate to a member of the Board or to an employee or agent of the Center, the exercise of any of the powers or the performance of any of the functions or duties of the Center under this Act.

#### Code of conduct

14. Members of the Board and the secretariat of the Center shall subscribe to the code of conduct as the Board may, by regulations, prescribe.

#### Seal of the Center

15. (1) The seal of the Center shall be kept in the custody of the Secretary.

(2) The affixing of the seal shall be authenticated by the chairperson of the Board and the Secretary.

(3) Any document purporting to be under the seal of the Center or issued on behalf of the Center shall be received in evidence and shall be deemed to be so executed or issued, as the case may be, without further proof, unless the contrary is proved.

(4) Notwithstanding subsection (2), the Board shall, in the absence of the chairperson or the Secretary, nominate one member of the Board to authenticate the seal on behalf of either the chairperson or the Secretary.

(5) A deed, instrument, contract or other document executed in accordance with subsection (2) shall bind the Board.

### PART III—FINANCIAL PROVISIONS

#### Establishment of the Fund

16. (1) There is established a Fund to be known as the Nomotio Livestock Improvement Center Fund which shall be administered by the Secretary with the overall guidance and supervision of the Board.

(2) The Fund Administrator for the purposes of this Act shall be the secretary of the Board in line with section 116 of the Public Finance Management Act, 2012.

(3) There shall be paid into the Fund—

- (a) such monies as may accrue to or vest in the Center in the course of the exercise of its powers or the performance of its functions under this Act;



- (b) such monies including levies and fees as may be payable to the Center pursuant to this Act or any other written law;
  - (c) such gifts as may be given to the Center;
  - (d) monies from any other source provided, donated or lent to the Center; and
  - (e) monies as appropriated by the county assembly through the department's annual budget.
- (3) There shall be paid from the Fund—
- (a) the salaries, allowances and other remuneration of the staff of the Center;
  - (b) such other remuneration to persons in its service as it may consider appropriate;
  - (c) such reasonable travelling and subsistence allowances for its staff and members of the Board when engaged in the business of the Center; and
  - (d) any other operational and other expenses incurred by the Center in the performance of its functions.

#### **Financial year of the Center**

17. The financial year of the Center shall be the period of twelve months ending on the thirtieth day of June in each year.

#### **Annual estimates**

18. (1) At least three months prior to the commencement of each financial year, the Secretary shall, with the approval of the Board, cause to be prepared estimates of the revenue and expenditure of the Center for that financial year.

(2) The County Executive Committee Member shall present the estimates approved by the Board for consideration and approval by the County Assembly.

(3) Provided that not more than 30 per cent of the center's budget shall be utilized on administration.

#### **Accounts and audit**

19. (1) The Board shall cause to be kept proper books and other records of account of the income, expenditure, assets and liabilities of the Center

(2) Within three months of the end of each financial year the Board shall submit to the County Executive Committee Member for Finance the accounts of the Center together with—

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

(3) The accounts of the Center shall be audited and reported upon in accordance with the provisions of the Public Audit Act, 2003.

#### **Investment of funds**

20. (1) The Board may invest any of the funds of the Center in such manner as the Board may from time to time approve.

(2) The Board may place on deposit, with such bank or banks as it may determine, any moneys not immediately required for the purpose of the Center.

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

#### **Annual report**

21. (1) The Board shall, within three months of the end of a financial year, prepare and submit to the County Executive member an annual report on the operations of the Center for the preceding year.

(2) The annual report submitted under subsection (1) shall include—

- (a) the financial statements of the Center; and
- (b) a detailed report of the activities of the Center.

(3) The County Executive member shall, within thirty days of receipt of the annual report, cause the report to be laid before the County Assembly.

#### **Publication of information**

22. (1) The Board shall publish and publicize all important information within the mandate of the Center that affects the county and the nation.

(2) A request for information in the public interest by a citizen—

- (a) shall be addressed to the Secretary or such other person as the Board may for that purpose designate and may be subject to the to the payment of a reasonable fee in instances where the Center incurs an expense in providing the information; and
- (b) may be subject confidentiality requirements of the Board.

(3) Subject to article 35 of the constitution, the Board may decline to give information to an applicant where—

- (a) the request is unreasonable in the circumstances;
- (b) the information requested is at a deliberative stage by the Board;
- (c) the prescribed fee is not paid; or
- (d) the applicant fails to satisfy any confidentiality requirements by the Board.

#### Conflict of interest

23. (1) If a person is present at a meeting of the Board or a committee of the Board at which the matter that is the subject of consideration and is one in which that person or that person's spouse is directly or indirectly interested in a private capacity, that person shall, as soon as practicable after commencement of the meeting, declare such interest and shall not, unless the Board or committee otherwise directs, take part in any consideration or discussion of, or vote on any question touching on such matter.

(2) A disclosure of interest made under subsection(1) shall be recorded in the minutes of the meeting at which it is made.

(3) A person who contravenes subsection(1) commits an offence and is liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding five years or to both.

(4) A member of the Board and the staff of the Center shall not transact any business or trade with the Center.

#### Protection from personal liability

24. (1) No matter or thing done by a member of the board or a member of staff or agent of the Center shall, if the matter or thing is done in good faith for executing the functions, powers or duties of the Center under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) The provisions of sub-section (1) shall not relieve the Authority of the liability to pay compensation or damages to any person for any injury caused by the exercise of any of the powers or functions conferred by this Act or any other written law.

#### Legal proceedings against the Center

25. (1) Proceedings against board shall be deemed to be proceedings against the County Government and shall be subject to the Government Proceedings Act.

(2) Any notice or other processes in respect of legal proceedings under subsection (1) shall be served upon the Secretary of the Center.

#### Offences and penalties

26. A person who—

- (a) without lawful excuse ignores or fails to obey any instruction issued by a member of the Board or an employee or agent of the Center in exercise of the powers or the performance of the functions of the Center under this Act;
- (b) willfully obstructs a member of the Board or an employee or agent of the Authority in the discharge of their lawful duties; or
- (c) misrepresents, knowingly submits false or misleading information to a member of the Board or an employee or agent of the Center in exercise of the powers or the performance of the functions of the Center under this Act,

Commits an offence and is liable, on conviction, to a fine not exceeding five hundred thousand shillings or to imprisonment for a period not exceeding five years or to both.

#### Regulations

27. (1) The County Executive Committee member may, in consultation with the Board, make Regulations for the better carrying out of the provisions of this Act.

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

- (a) the authority of the County Executive Committee Member to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and for the fulfillment of the objectives of this Act;
- (b) 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.

#### PART V—SAVINGS AND TRANSITION

##### Savings and transition

28. On the commencement of this Act—

- (a) all assets and liabilities of the former Center shall remain to vest in the Center;



- (b) an agreement, whether in writing or not, a deed, bond or other instrument to which the Center was a party to or which affected the rights or obligations of the Center immediately before the commencement of this Act shall have effect as if the Center were a party to it or affected by it insofar as the Center was a party to it or was affected by it
- (c) any proceedings pending immediately before the commencement of this Act to which the Center was a party may be continued as if the Center was a party to those proceedings;
- (d) the person who immediately before the commencement of the Act held the office of chairperson of the former Board, appointed by the County Executive Committee Member, shall, subject to the provisions of this Act, serve as the chairperson of the Board of the Center under section 7(1)(a),
- (e) a person who immediately before the commencement of the Act held the office of member of the former Board, appointed by the County Executive Committee Member, shall, subject to the provisions of this Act, serve as a member of the board under section 7(1)(d),
- (f) the person who immediately before the commencement of the Act held the office of chief executive Officer of the former Center, appointed by the County Executive Committee Member, shall, subject to the provisions of this Act, serve as the secretary of the Center under section 11, and
- (g) a person who served as a staff member of the former Center shall, subject to the provisions of this Act, continue in office as a staff member of the Center under section.

**SCHEDULE**

(s. 10)

**PROVISIONS AS TO THE CONDUCT OF THE BUSINESS AND AFFAIRS OF THE BOARD****Meetings of the Board**

1. (1) The Board shall hold such number of meetings at such places and at such times as the Board shall consider necessary for the proper discharge of its functions.

(2) Notwithstanding paragraph 1, the Board shall meet not less than two times in each financial year.

(3) A meeting of the Board shall be held on such date and at such time as the chairperson shall decide.

(4) Unless the majority of the total membership of the Board otherwise agree, at least fourteen days' notice shall be given prior to a meeting of the Board.

**Special meetings**

2. Notwithstanding the provisions of paragraph 1, the chairperson or any three members may call a special meeting whenever it is expedient for the transaction of the business of the Board by giving not less than seven days' notice to the members.

**Presiding at meetings**

3. (1) The chairperson shall preside at all meetings of the Board

(2) In the absence of the chairperson at a meeting, the vice-chairperson shall preside at that meeting of the Board.

(3) In the absence of the chairperson and the vice-chairperson at a meeting, the members present shall elect one of the members to preside at that meeting of the Board.

**Quorum at meetings**

4. The quorum for the conduct of business at a meeting of the Board shall be half of the members of the Board.

**Voting**

5. (1) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by the concurrence of a majority of votes of the members present.

(2) In the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

**Vacancies and defects in appointment**

6. Proceedings of the Board shall not be invalid by reason only of a vacancy in the membership of the Board or by reason of a defect in the appointment of a member.

**Records**

7. The Secretary shall keep a record of all proceedings and meetings of the Board.