

## **THE LIVESTOCK AND LIVESTOCK PRODUCTS MARKETING BILL, 2020**

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#### *Clause*

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## **THE LIVESTOCK AND LIVESTOCK PRODUCTS MARKETING BILL, 2020**

### **A Bill for**

**AN ACT** of Parliament to provide for the marketing of livestock and livestock products along the value chain in the livestock sector; and for connected purposes

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

### **PART I — PRELIMINARY**

Short title.           1. This Act may be cited as the Livestock and Livestock Products Marketing Act, 2020.

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

“animal” means any domestic or wild animal, and includes a bird, fish, bees or other aquatic animals;

“animal genetic resource” includes the germ plasm of an animal or other organism containing useful characteristics of actual or potential value;

“animal identification” means the combination of the

identification and registration of an animal individually, with a unique identifier, or collectively by its epidemiological unit or group, with a unique group identifier;

“animal science” includes the disciplines of animal production, range management or veterinary medicine;

“animal product” means any part or portion of, or product derived from or yielded by any animal, including any such part, portion or product that has been processed;

“apiculture” means the keeping of bees;

“aquatic animal” means fish, mollusk, crustacean or amphibian originating from an aquaculture establishment;

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

“cold chain” means facilities utilized for maintaining prescribed temperature conditions for vaccines storage and transport;

“companion animal” includes a dog, cat, horse or any other animal or bird kept as a pet;

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

“draught animal” means a camel, donkey, horse, mule, ox or any animal that provides draught power;

“domestic animal” includes horse, mare, gelding, bull, cow, ox, heifer, steer, calf, mule, ass, sheep, lamb, hog, pig, sow, goat, fowl, ostrich, dog, cat, or any emerging livestock, any wild animal, bird or reptile in a state of captivity;

“emerging livestock” means nontraditional livestock consisting of animal species and includes quail, ostrich, guinea fowl and a farmed game animal or any other animal that the Cabinet Secretary may by notice in the *Gazette* declare to be an emerging livestock species;

“food safety” means the state of food of animal origin, intended for human or animal consumption, being free of biological, chemical or physical material harmful to health;

“licence” means a license issued in accordance with the provisions of this Act and Regulations made pursuant to this Act;

“livestock” means cattle, camel, sheep, goat, pig, poultry, lagomorphs, companion animals, draught animals, bees and includes their young ones and any other animal which the Cabinet secretary may, by notice in the gazette declare to be livestock.

“livestock enterprise” means a business venture, or company formed in the livestock industry for purposes of making profit;

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

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

“livestock product” means a carcass or parts of a carcass of livestock, and any product consisting of parts of, or derived from livestock, and includes hides and skins, wool, feather, meat, dairy products, poultry products, hive products and includes any other product from livestock that the Cabinet Secretary may by order in the Gazette, declare to be a livestock product;

“livestock production” means the art of managing livestock resources and use of the resources to produce livestock for food, labour and raw material for industry for purposes of achieving social, cultural or economic benefits;

“livestock resources” means the entire worth of livestock and livestock products including land, pastures, infrastructure, knowledge, skills and gene pool;

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

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

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

on livestock and livestock products;

“livestock sector” includes the meat industry, the hides and skins, leather, wool and fur industry, the poultry industry, the pig industry, the apiculture industry, the camel industry and the small stock.

“Marketing Board” means the Livestock and Livestock Products Marketing Board established under section 18;

“produce” means livestock product;

“processor” means a person who adds value to a livestock product;

“producer” means a person who produces, processes, manufactures, prepares or treats livestock products for sale;

“public livestock Centre” means a livestock Centre established under this Act, or such other Centre as the Cabinet Secretary may, by notice in the Gazette, determine;

“rangeland” means a large unimproved or improved open land for keeping, rearing and grazing animals;

“sanitary” means the protection from risks arising from biological, chemical or physical agents that may have adverse effects on animal or human health;

“service provider” means a person engaged in the provision of technical or support services to the livestock industry;

“tsetse belts” means the areas specified as tsetse belts under this Act;

“vehicle” means any carriage or conveyance for use upon land or water, or any aircraft;

### **PART III—THE LIVESTOCK AND LIVESTOCK PRODUCTS MARKETING BOARD**

Establishment of the Livestock and Livestock Products Marketing Board.

**3.** (1) There is established a board to be known as the Livestock and Livestock Products Marketing Board.

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

(3) The headquarters of the Marketing Board shall be in Nairobi.

Composition of the Marketing Board.

4. (1) The Marketing Board shall comprise of —

- (a) a chairperson appointed by the President;
- (b) the Principal Secretary in the ministry responsible for livestock or a representative not being below the level of a Deputy Director of Veterinary Services;
- (c) the Principal Secretary in the Ministry responsible for finance or a representative;
- (d) the Director of Livestock Production;
- (e) two County Executive Committee Members responsible for matters relating to livestock nominated by the Council of Governors;
- (f) one person nominated by a livestock marketing association;
- (g) two persons representing livestock producers or livestock based cooperatives.

(2) In nominating members of the Marketing Board for appointment under this section, the nominating authorities shall observe the principles of gender, equity, regional balance, and have due regard to the principle of equal opportunities for persons with disabilities.

(3) A member under subsection (1) (e), (f) or (g) shall be appointed by notice in the Gazette.

- (4) The chairperson and the members appointed under subsection (1) (e), (f) or (g) shall serve for a term of three years and shall be eligible for re-appointment for one further term of three years upon satisfactory performance.
- Qualifications for appointment to the Marketing Board.
5. A person shall qualify for appointment as the chairperson of the Marketing Board under section 16 if that person holds an undergraduate degree in animal sciences and has ten years' experience in marketing.
- Functions of the Marketing Board.
6. The functions of the Marketing Board shall be to—
- (a) advise national and county governments on matters relating to production and marketing of livestock and livestock products;
  - (b) collaborate with relevant government agencies and the private sector to promote the trade in livestock and livestock products;
  - (c) mobilize resources for investment and promotion of marketing of livestock and livestock products;
  - (d) provide market information intelligence on supply and demand in the local, regional and international markets;
  - (e) in collaboration with research institutions, conduct studies and research designed to promote value addition and marketing of livestock and livestock products;
  - (f) identify capacity development needs and industry-skills mismatch for adoption of appropriate value addition technologies;

- (g) promote the adoption of standards and best practices in livestock production and processing that supports marketing of livestock and livestock products;
- (h) support capacity building for compliance with standards to slaughter houses, manufacturing and processing industries;
- (i) support development and rehabilitation of livestock marketing infrastructure to facilitate trade in livestock and livestock products;
- (j) collect, collate and disseminate data and information on livestock and maintain a database for use by all stakeholders;
- (k) support the promotion and improvement of livestock management systems in the country for sustainable development of the livestock industry;
- (l) develop and promote systems that will enable reduction of post-production losses for livestock and livestock products;
- (m) facilitate, in liaison with county governments and communities, the establishment of strategic business partnerships; and
- (n) provide mechanisms for price stabilization for livestock and livestock products, as appropriate.

Powers of the Marketing Board.

7. The Marketing Board shall have all the powers necessary for the proper performance of its functions under this Act and in



particular, but without prejudice to the generality of the foregoing, the Marketing Board shall have the power to—

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

The Chief Executive Officer of the Marketing Board.

8. (l) A person shall qualify for appointment as the Chief Executive Officer of the Marketing Board if that person —

- (a) is a citizen of Kenya;
- (b) has a minimum of a Bachelor's degree in animal sciences;
- (c) holds a master's degree in a livestock related field, marketing, business or any other relevant field;
- (d) has at least ten years' experience in the livestock sector preferably with a marketing bias and five of which should have been at a senior level;
- (e) has demonstrated leadership and management skills; and

(f) meets the requirements of chapter six of the constitution of Kenya.

(2) The Chief Executive Officer shall hold office for a term of three years but shall be eligible for reappointment for one further term of three years upon satisfactory performance.

Information management.

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

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

(a) shall be addressed to the Chief Executive Officer;

(b) may be subject to the payment of the prescribed fee; and

(c) may be subject to confidentiality requirements of the Marketing Board.

Limitations of the right to access information.

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

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

Competition in the sector.

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

Funds of the Marketing Board.

12. The funds of the Marketing Board shall comprise—

(a) such moneys as may be appropriated by the National Assembly for the purposes of the Board;

(b) gifts, grants, donations or endowments as may be given to the Board;

- (c) monies that may accrue to or vest in the Board in the course of the exercise of its functions under this Act;
- (d) fees for services rendered by the Board; and
- (e) monies from any other lawful source provided for the Board.

### **PART VII—GENERAL PROVISIONS**

Disqualification for appointment to the Livestock and Livestock Products Marketing Board.

- 13.** A person shall not be qualified for appointment as a member of the Board established under this Act if the person—
- (a) is a State officer excluding members representing Council of Governors & the Principal Secretary,
  - (b) is a member of a governing body of a political party;
  - (c) is an undischarged bankrupt; or
  - (d) has been removed from public office for contravening the Constitution or any other law.
  - (e) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months without the option of a fine.

Personal liability.

- 14.** (1) A member of any of the Livestock and Livestock Products Marketing Board or any officer, employee or agent of the Livestock Products Marketing Board shall not be liable for an act done by that person or omitted to be done or ordered to be done by that person in discharge of the persons' duties if done in good faith for the purpose of executing the powers, functions or duties of the livestock agency.
- (2) The provisions of subsection (1) shall not relieve the Marketing Board of the liability to pay compensation or damages to a person for an injury to him, his property or any of his interests caused by the exercise of the powers conferred on the Livestock and Livestock Products Marketing Board by this Act or by any other law or by the failure, whether

wholly or partially, or any work.

- Conduct of business and affairs of the Board. **15.** The conduct and regulation of the business and affairs of the Board shall be as provided in the Second Schedule but subject thereto, the Board may regulate its own procedure.
- Delegation by the Board. **16.** The Board may by resolution, either generally or in any particular case, delegate to any committee, member of the Board, or employee the exercise of any of the powers or the performance of any of the functions or duties of the Institution
- Functions of the Chief Executive Officer. **17.** The Chief Executive Officer of the Board shall be responsible for—
- (a) the day to day administration of the affairs of the livestock agency, subject to the direction of the Board;
  - (b) formulation of the long term strategy, budget and plans for adoption by the Board;
  - (c) administration, organization and control of the staff of the Board;
  - (d) management of funds, property and affairs of the Board;
  - (e) implementation of the policies and programs of the Institution and reporting to the Board; and
  - (f) the performance of any other duty necessary for the implementation of this Act as may be assigned by the Board of the livestock agency.
- Remuneration of board members. **18.** The members of the boards shall be paid such remuneration and allowances as the Salaries and Remuneration Commission shall advise.
- Committees of the Board, **19.**
- (1) The Board may constitute such committees as may be necessary for the performance of its functions.
  - (2) In addition to the general governance committees, the Board may establish thematic committees to address the specific industry sub-sectors.
  - (3) A committee shall be subject to the control of the Board under which it is constituted and may be discharged or reconstituted at any time as the Board may deem proper.
  - (4) The Board may co-opt experts into the membership of the specialized thematic committees, persons whose knowledge

and skills may be necessary for the performance of its function.

Engagement of experts or consultants.

**20.** The Board may engage experts or consultants to assist in the discharge of the functions of the livestock agency.

Vacation of office.

**21.** The chairperson or a member of the Board, other than an ex officio member, shall vacate office if the member –

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

(b) is unable to perform the functions of the office by reason of prolonged physical or mental incapacity;

(c) is adjudged bankrupt by a court of competent jurisdiction; or

(d) is removed from office by the Cabinet Secretary by notice in writing setting out the reasons for such removal.

Common seal.

**22.**(1) The common seal of the Marketing Board shall be kept in custody of the CEO and shall not be used except on the order of the Board.

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

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

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

Removal from office.

**23.** The chairperson or member of the Board of may be removed from Office for

(a) inability to perform the functions of the office arising out of physical or mental incapacity;

(b) gross misconduct or misbehaviour;

(c) being absent for three consecutive meetings of the Board without notice to the chairperson or without sufficient cause;

(d) incompetence; or

(e) violation of the Constitution.

Establishment of county offices and collaboration with counties.

**24.**(1) The Livestock and Livestock Products Marketing Board may establish county offices as appropriate to implement its functions.

(2) The Livestock and Livestock Products Marketing Board shall—

(a) facilitate the effective implementation of this Act in collaboration with county governments;

(b) ensure that appropriate capacity building and development is undertaken for purposes of regulating the relevant aspects of the livestock industry in the county; and

(c) advise a county upon request by the county government, on any matter in respect to the relevant livestock sector regulation.

Staff of the Board

**25.** The Livestock and Livestock Products Marketing Board may appoint such officers, agents and staff as are necessary for

the proper and efficient discharge of the functions of the Board under this Act upon such terms and conditions of service as the Board may determine.

Disclosure of interest.

**26.**(1) A member of any Board who has an interest in a matter for consideration by the Board shall disclose, in writing, the nature of that interest and shall not participate in any deliberations of the Board relating that matter.

(2) A member of the Board who fails to disclose interest in a matter in accordance with subsection (1) shall cease to be a member of the Council.

Legal proceedings against the Board. Cap 40.

**27.**(1) Proceedings against the respective livestock agencies shall be deemed to be proceedings against the 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 Chief Executive Officer of the livestock agency.

#### **PART VIII—FINANCIAL PROVISIONS**

Financial year.

**28.** The financial year of the Board established under this Act shall be the period of twelve months ending on the thirtieth June in each year.

Annual estimates.

**29.**(1) At least three months before the commencement of each financial year, the respective livestock agencies established under this Act shall cause to be prepared estimates of the revenue and expenditures for that year.

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

(a) the payment of the salaries, allowances and other charges in respect of the staff;

(b) the payment of pensions, gratuities and other charges in respect of the staff;

(c) the proper maintenance of the buildings and grounds;

(d) the maintenance, repair and replacement of the equipment and other property; and

(e) the creation of reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of any other matters.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate, and shall be submitted to the Cabinet Secretary for approval, and after the Cabinet Secretary has given approval, the Board shall not increase any sum provided in the estimates without the written consent of the Cabinet Secretary.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorization of the Board given with the prior approval of the Minister.

#### **PART XI – PROVISIONS ON DELEGATED LEGISLATION**

Regulations.

**30.** The Cabinet Secretary may, in consultation with the Council of Governors make regulations generally for the better carrying out of the purposes and provisions of this Act, and without prejudice to the generality of the foregoing, may make regulations prescribing—

(a) marketing of livestock and livestock sector products;

(b) the provision of credit, farm inputs and other incentives to support marketing of livestock and livestock products;

(c) in consultation with relevant institutions on livestock marketing, livestock research;



- (d) production, processing, distribution and marketing of bee and bee products;
- (e) imposing levies, fees or charges for purposes of this Act;
- (f) requiring the registration and certification of livestock marketing value chain actors
- (g) making provision for receiving complaints on the quality of livestock products or inputs;
- (h) appointment of inspectors as appropriate for better implementation of this Act; and
- (i) any other matter for the better carrying out of the functions of the Board.