

NEW KENYA CONSTITUTION (2010)

Chapter Four—The Bill of Rights

35. (1) Every citizen has the **right of access to—** (a) information held by the State; and (b) information held by another person and required for the exercise or protection of any right or fundamental freedom.

(3) The State shall publish and publicise any important information affecting the nation.

42. Every person has the **right to a clean and healthy environment**, which includes the right—

(a) to have the environment protected for the benefit of present and future generations through legislative and other measures, particularly those contemplated in Article 69; and (b) to have obligations relating to the environment fulfilled under Article 70.

Chapter Five—Land and Environment

Part 1—Land

60. (1) Land in Kenya shall be held, **used and managed in a manner that is equitable, efficient, productive and sustainable**, and in accordance with the following principles— (a) equitable access to land; (b) security of land rights; (c) sustainable and productive management of land resources; (d) transparent and cost effective administration of land; (e) sound conservation and protection of ecologically sensitive areas; (f) elimination of gender discrimination in law, customs and practices related to land and property in land; and (g) encouragement of communities to settle land disputes through recognised local community initiatives consistent with this Constitution.

Part 2—Environment and Natural Resources

69. (1) The State shall— (a) **ensure sustainable exploitation, utilisation, management and conservation of the environment and natural resources, and ensure the equitable sharing of the accruing benefits**; (b) work to achieve and maintain a tree cover of at least ten per cent of the land area of Kenya; (c) protect and enhance intellectual property in, and indigenous knowledge of, biodiversity and the genetic resources of the communities; (d) encourage public participation in the management, protection and conservation of the environment; (e) protect genetic resources and biological diversity; (f) **establish systems of environmental impact assessment**, environmental audit and monitoring of the environment; (g) eliminate processes and activities that are likely to endanger the environment; and (h) utilise the environment and natural resources for the benefit of the people of Kenya.

(2) Every person has a duty to cooperate with State organs and other persons to protect and conserve the environment and ensure ecologically sustainable development and use of natural resources.

70. (1) If a person alleges that a right to a clean and healthy environment recognised and protected under Article 42 has been, is being or is likely to be, denied, violated, infringed or threatened, the person may apply to a court for redress in addition to any other legal remedies that are available in respect to the same matter.

NATIONAL LAND POLICY (2009)

104. Key Issues that need to be addressed in land use planning are: (c) Actualization of spatial frameworks for orderly management of human activities to ensure that such activities are carried out taking into account considerations such as the economy, safety, aesthetics, **harmony in land use and environmental sustainability**;... (f) Establishment of an appropriate framework for public participation in the development of land use and spatial plans;

135. Fragile ecosystems shall be managed and protected using the following measures: (a) Developing a comprehensive and integrated land use policy having regard to fragile areas and the needs of neighbouring communities and individuals in such areas; (b) Zoning forest land comprising water catchment areas to protect it from further degradation; (c) Developing procedures for co-management and rehabilitation of forest resources, recognizing traditional management systems and sharing of benefits with contiguous communities and individuals; (d) Establishing **participatory mechanisms for sustainable management of fragile ecosystems** in partnership with public, private and community stakeholders;

193. To address the Coastal land problems, the Government shall:... (b) Take an inventory of all Government land along the “10 mile coastal strip” and other parts of the province where the problem of squatters is prevalent and come up with a framework for conversion to community land for eventual adjudication and resettlement; ... (g) **Establish a framework for consulting indigenous** occupants of land before establishing settlement schemes and other land use projects;...

ENVIRONMENTAL MANGEMENT & COORDINATION ACT 1999

V – Protection and Conservation of the Environment

42.(1) No person shall, without prior written approval of the Director-General given after an environmental impact assessment, in relation to a river, lake or wetland in Kenya, carry out any of the following activities – (a) erect, reconstruct, place, alter, extend, remove or demolish any structure or part of any structure in, or under the river, lake or wetland; (b) excavate, drill, tunnel or disturb the river, lake or wetland;

VI – Environmental Impact Assessment

58. (5) Environmental Impact Assessment studies and reports required under this Act shall be conducted or prepared respectively by individual experts or a firm of experts authorised in that behalf by the Authority... (7) Environmental impact assessment shall be conducted in accordance with the environmental impact assessment regulations, guidelines and procedures issued under this Act.

59.(1) Upon receipt of an environmental impact assessment study report from any proponent under section 58(2), the Authority shall cause to be published in each of two successive weeks in the Gazette and newspaper circulating in the area or proposed area of the project once at least in each of two successive weeks in some one and the same a notice which shall state:- (a) a summary description of the project; (b) the place where the project is to be carried out; (c) the place where the environmental impact assessment study, evaluation or review report may be inspected; and (d) a time limit of not exceeding ninety days for the submission of oral or written comments by any member of the public on the environmental impact assessment study, evaluation or review report.

THE ENVIRONMENTAL (IMPACT ASSESSMENT AND AUDIT) REGULATIONS, 2003

Environmental impact assessment study

16. An environmental impact assessment study prepared under these Regulations shall take into account environmental, social, cultural, economic, and legal considerations, and shall— (a) identify the anticipated environmental impacts of the project and the scale of the impacts; (b) identify and analyze alternatives to the proposed project; (c) propose mitigation measures to be taken during and after the implementation of the project; and (d) develop an environmental management plan with mechanisms for monitoring and evaluating the compliance and environmental performance which shall include the cost of mitigation measures and the time frame of implementing the measures.

Public participation

17. (1) During the process of conducting an environmental impact assessment study under these Regulations, the proponent shall in consultation with the Authority, seek the views of persons who may be affected by the project.

(2) In seeking the views of the public, after the approval of the project report by the Authority, the proponent shall— (a) publicize the project and its anticipated effects and benefits... (b) hold at least three public meetings with the affected parties and communities to explain the project and its effects, and to receive their oral or written comments; (c) ensure that appropriate notices are sent out