SUMMARY OF THE WILDLIFE CONSERVATION AND MANAGEMENT ACT, 2013

I. Introduction

The Wildlife Conservation and Management Act, 2013 is the main statute governing all wildlife resources, and it’s main aim is to improve the protection, conservation, sustainable use and management of wildlife resources. The Act revises the Wildlife (Conservation and Management) Act of 1976, and brings wildlife legislation into compliance with the Constitution.

*Principles of the Act:* devolution, effective public participation, ecosystem approach, recognition of wildlife conservation and management as a form of land use on public, community and private land, self-sustainability (benefits from wildlife offset costs), sustainable utilization and equitable benefit sharing.

II. Provisions of the Act relevant to forestry

a) The mandate of Kenya Wildlife Service (KWS)

The main implementing body for the Act is the Kenya Wildlife Service (KWS), which is charged with managing and conserving wildlife resources within National parks, wildlife conservation areas and sanctuaries in Kenya. The institution is also responsible for protecting forests within its jurisdiction and supporting the conservation, rehabilitation and protection of forests and water catchments that are significant wildlife habitats. The KWS gets funding from national budgetary allocations, investments by the service, loans, donations and revenue from joint partnerships on bio prospecting.

b) Role of County governments in Wildlife management

The Wildlife Act provides restructured governance of wildlife resources in accordance with the Constitution of Kenya, 2010. Specifically, County governments have a role through the management of national reserves (Section 35) and the County Wildlife Conservation and Compensation Committees (Section 18). These committees are required under the law to establish wildlife user rights, oversee implementation of management plans on community and private lands, oversee equitable benefit sharing of wildlife resources and review compensation.
c) Establishment of a Wildlife Endowment Fund

The Wildlife Act establishes a Wildlife Endowment Fund (Section 23). The Fund is expected to facilitate development of wildlife conservation initiatives, manage and restore protected areas, and protect endangered species, habitats and ecosystems.

d) Establishment of a Wildlife Compensation Scheme

The Act also establishes a Wildlife Compensation Scheme for financing compensation claims for human death or injury or crop and property damage caused by wildlife (Section 25). Such cases are verified by the County Wildlife Conservation and Compensation Committee. The committee then gives recommendations to the Cabinet Secretary (in the case of bodily injury or death) and the KWS (in case of crop damage or loss of property) for the payment of compensation.

e) National wildlife conservation and management strategy

The Wildlife Act has provisions for the formulation of a national wildlife conservation and management strategy for the protection, conservation and management of wildlife resources and their habitats. KWS is therefore charged with protection of forests within National parks, wildlife conservation areas and sanctuaries. These areas are strictly under the jurisdiction of KWS. The officials regulate entry and user rights of wildlife resources (Section 7) but restrict extraction of forest resources to only medicinal herbs and other non-wood products.

f) Conformity with Environmental Management and Coordination (Amendment Act (EMCA), 2015 regulations

The Wildlife Act conforms to provisions of the EMCA on conservation, protection and management of the environment (Section 26, 1) as well as the hearing of disputes by the National Environment Tribunal and the Environment and Land Court. The Act also conforms with the provision of EMCA, 1999 in relation to strategic environmental, cultural, economic and social impact assessment licenses, where required.
g) Alignment with the Water and Land Act

The Wildlife Act aligns with the Water Act in relation to the right to the use of water from any water source, reservoir or point. The Wildlife Act also provides for sustainable use of land, where a permit is granted (Section 29). It prohibits any activity that is likely to have adverse effects on the environment including seepage of toxic waste into streams, rivers, lakes and wetlands (Section 30).

h) Protection of habitats and ecosystems for wildlife conservation

The Wildlife Act provides for the protection of wetlands and marine areas that are important habitats or ecosystems for wildlife conservation (Section 33 and 36). These include mangrove forests in the coastal region of Kenya. It also provides restrictions for pollution of wildlife habitats and ecosystems (Section 89). The law sets out stiffer fines and punishments for offenders. In addition to any sentence imposed, a polluter may also be required to pay the full cost of cleaning up the polluted wildlife habitat and ecosystem (Section 89, 2).

i) Mining regulations in wildlife protected areas

The Wildlife Act regulates mining and quarrying within a wildlife protected area through EIAs in accordance with the provisions of EMCA (Section 45, 2d). A bond is also required, equivalent to the cost of environmental restoration of the site (Section 45, 2f).

j) Protection of endangered and threatened ecosystems and habitats

The Wildlife Act provides for the protection of endangered and threatened ecosystems and habitats (Section 46). It also restricts any activities involving a specimen of wildlife species that negatively impacts their survival (Section 48, 2a).

k) Incentives and benefit-sharing of wildlife resources

Section 22 (3) requires that interests of communities regarding bio-prospecting are protected through equitable benefit sharing. Section 76 (4) of the Act requires that a minimum of five per cent of the benefits from national parks are allocated to local communities neighbouring a park. Moreover, private investors of conservancies are required to provide benefits such as infrastructure, education and social amenities (Section 76, 5). The Act also affords the right to
practice wildlife conservation and management as a form of gainful land use, provided that the wildlife is maintained in a healthy, natural and secure state and the land is suitable for that practice (Section 70). To facilitate conflict resolution and cooperative management of wildlife, the Act establishes Community Wildlife Associations within specific geographical regions (Section 40, 2).

1) Consumptive and non-consumptive user rights for wildlife (Section 80)

The non-consumptive user rights include wildlife-based tourism, education and research as well as cultural purposes among others. The consumptive rights include game farming, live capture, and research involving off-take among others. The Act does not provide for extraction of forest resources within the jurisdiction of the Kenya Wildlife Service. This exclusive approach to park management means that local communities who may be dependent on forest resources for livelihood support are not supported by this Act. However, user rights such as grazing are permitted in times of drought and other natural disasters (Section 102, 4).