

**THE NYAMIRA COUNTY TRADE AND INVESTMENTS
DEVELOPMENT ACT, 2014
(No. 2 of 2014)**

Date of Assent: 24th December, 2014

Commencement Date: 31st December, 2014

Arrangement of Clauses

Clause

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**THE NYAMIRA COUNTY TRADE AND
INVESTMENT DEVELOPMENT ACT, 2014**

AN ACT of the Nyamira County Assembly to provide for the trade development, promotion, development and regulation of Micro and small enterprises in the County; to promote and facilitate investment within the County by assisting investors to invest and to provide for the establishment of the Trade and Investments Development Board, and for connected purposes.

ENACTED by the County Assembly of NYAMIRA, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Trade Development Act 2014 and shall come into operation on such date as the Member of the Executive Committee, with the concurrence of the Governor, may appoint.

Short title.

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

Interpretation.

“association” means a group of not less than Twenty (20) micro and Small enterprises registered under this Act for the purpose of accessing common services and mobilizing resources for the development of the aforementioned enterprises;

“Board” means the County Trade and Investment Development Board established under section 29;

“Department” means the department of Trade, Tourism, Investment, Industrialization and Co-operative Development.

“enterprise” means an undertaking or a business concern whether formal or informal engaged in production of goods or provision of services;

“Executive Committee Member” means the person for the time being appointed as the Executive Committee Member of Nyamira County for the Department of Trade, Tourism, Investment, Industrialization and Cooperative Development.

“factoring” means buying of invoices at a discount and taking the responsibility of collecting the payment due on them;

“farm enterprise” includes micro and small scale agricultural, livestock and fishing enterprises;

“foreign investor” means—

- (a) a natural person who is not a citizen of Kenya;
- (b) a partnership in which the controlling interest is owned by a person or persons who are not citizens of Kenya; or
- (c) a company or other body corporate incorporated under the laws of a country other than Kenya; or if incorporated in Kenya, whose controlling interest is wholly or substantially owned by persons who are not citizens of Kenya.

“Fund” means the Trade Development Fund established under section 51;

“Governor” means the governor of the County Government of Nyamira;

“Investment” means the contribution of a local or foreign capital by an investor, including the creation or acquisition of business assets by or for a business enterprise and includes the expansion, restricting, improvement or rehabilitation of a business enterprise;

“investment certificate” means an investment certificate issued under this Bill;

“licence” includes a registration, permit, approval or authorization required by law regardless of how it is described;

“local investor” means—

- (a) a natural person who is a citizen of Kenya;
- (b) a partnership in which the partnership controlling interest is owned by a person who is a citizen of Kenya;
- (c) a company incorporated under the laws of

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Kenya, in which the majority of the shares are held by a person who is a citizen of Kenya; or

- (d) a trust or trust corporation established under the laws of Kenya, in which the majority trustees and majority of trustees and beneficiaries are citizen of Kenya.

“manufacturing sector” means enterprises that add value to basic raw material to produce an enhanced product;

“micro enterprise” means a firm, trade, service, industry or a business activity—

- (a) whose annual turnover does not exceed One Million five hundred thousand shillings;
- (b) which employs less than ten people; and
- (c) whose total assets and financial investment shall be as determined by the Member of the Executive Committee from time to time,

and includes—

- (i) the manufacturing sector, where the investment in plant and machinery or the registered capital of the enterprise does not exceed ten million shillings;
- (ii) the service sector and farming enterprises where the investment in equipment or registered capital of the enterprise does not exceed five million shillings;

“Registrar” means the County Registrar of Trade Development designated as such under section 4;

“Sacco” has the meaning assigned to it in the Sacco Societies Act, (Cap 490B, of the Laws of Kenya)

“Smaller enterprise” means a firm, trade, service, industry or a business activity—

- (a) whose annual turnover ranges between One Million Five Hundred Thousand and five million shillings; and
- (b) which employs between ten and fifty people; and

- (c) whose total assets and financial investment shall be as determined by the Member of the Executive Committee from time to time,

and includes—

- (i) the manufacturing sector, where the investment in plant and machinery as well as the registered capital of the enterprise is between ten million and fifty million shillings; and
- (ii) service and farming enterprises, where the equipment investment as well as registered capital of the enterprise is between five million.

“Umbrella organization” means an organization of micro and Small-enterprise associations.

3. The object and purpose of this Act is to provide a legal and institutional framework for trade and Investment development through the promotion, development and regulation of investment opportunities and micro and small enterprises by—

Object and purpose of the Act.

- (a) providing an enabling business environment;
- (b) facilitating access to business development services by investors and micro and small enterprises;
- (c) facilitating formalization and upgrading of informal micro and Small enterprises;
- (d) promoting an entrepreneurial culture; and
- (e) promote representative associations.

PART II—REGULATION OF MICRO AND SMALL ENTERPRISES

4. (1) There shall be an office of the County Registrar of Trade Development who shall be under the direction of the Director and which office shall be an office in the county public service.

County Registrar of Trade Development.

(2) The Registrar shall be responsible for the registration of micro and small enterprises in accordance

with the provisions of this Act.

5. (1) Every association or umbrella organization which intends to be registered under this Act shall, within twenty-eight days after its formation, make an application to the Registrar for registration under this Act.

Application for registration.

(2) An application under this section shall be made in the prescribed manner and shall be accompanied by—

- (a) a copy of the constitution or other constitutive document of the applicant;
- (b) names and addresses of the founders of the association or umbrella organization;
- (c) the postal and physical address of the principal place of doing business of the applicant;
- (d) the prescribed fee, as provided for in the regulation;
- (e) A copy of the trading licence; and
- (f) such other particulars or information as may be required by the Registrar in order to assist the Registrar to determine whether or not the organisation meets the requirements for registration under this Act.

6. The Registrar shall, within Thirty days after receiving an application under this Act—

Consideration of application.

- (a) consider the application and any further information provided by the applicant; and
- (b) if satisfied that the application meets the requirements of this Act, register the association or umbrella organisation.

7. Upon registering an association or umbrella organisation, the Registrar shall issue a certificate of registration in the prescribed form.

Certificate of registration.

8. The Registrar may refuse to register an association or umbrella organization where—

Refusal of registration.

- (a) the Registrar is satisfied that such association or umbrella organization is a branch of, or is affiliated to or connected with, any

organization or association of a political nature;

- (b) any of the proposed officers has been at any time an officer of an association or umbrella organization which has been refused registration or which has had its registration cancelled under this Act;
- (c) the constitution or the rules of the association or umbrella organization are in any respect repugnant to or inconsistent with this Act or any written law;
- (d) the Registrar is satisfied that the association or umbrella organization does not exist; or
- (e) the name under which the association or umbrella organization is to be registered—
 - (i) is identical to that of any other association or umbrella organization which either is existing or has existed, or of any association or umbrella organization whose application for registration has been refused under this section;
 - (ii) so nearly resembles the name of any other association or umbrella organization as to be likely to deceive the public or the members of either association or umbrella organization as to its nature or identity; or
 - (iii) is repugnant to or inconsistent with any law or is otherwise undesirable.

9. (1) Where, in respect of any registered association or umbrella organization, the Registrar is of the opinion that the registration of an association or umbrella organization should be cancelled or suspended on the ground that—

- (a) the association or umbrella organization has, among its objects, or is likely to pursue, or to be used for, any unlawful purpose or any purpose prejudicial to or incompatible with peace, welfare or good order in Kenya;
- (b) the interests of peace, welfare, or good order in

Cancellation of registration.

Kenya would likely be prejudiced by the continued registration of the association or umbrella organization;

- (c) the constitution or rules of the association or umbrella organization are repugnant to or inconsistent with any written law;
- (d) the association or umbrella organization has wilfully, and after notice from the Registrar, contravened any of the provisions of its constitution or rules, or the provisions of this Act;
- (e) the association or umbrella organization has failed to comply, within the time allowed for compliance, with an order made under this Act;
- (f) the association or umbrella organization has dissolved itself;
- (g) the management body of the association or umbrella organization is constituted otherwise than in conformity with its constitution or rules;
- (h) a person has become an officer of the association or umbrella organization, who has been for some time an officer of an association or umbrella organization which has been refused registration under this Act or which has had its registration cancelled under this section, and the Registrar has given written notice to the association or umbrella organization in the prescribed form that such officer be removed within a period, not being less than seven days from the date of the notice, specified in the notice, and the officer has not been removed within that period;
- (i) the association or umbrella organization has failed to furnish, within the time allowed, one of the documents required under this Act; or
- (j) the association or umbrella organization is, or has without prior notice to the Registrar in the prescribed form, become a branch of or

affiliated to, or connected with, any organization or group of a political nature.

(2) The Registrar shall give written notice in the prescribed form to the association or umbrella organization calling upon the association or umbrella organization to show cause, within such period as is specified in the notice, why its registration should not be cancelled or, as the case may be suspended, and, if the association or umbrella organization fails to show cause to the satisfaction of the Registrar within the time specified, the Registrar may cancel or suspend the registration of the association or umbrella organization as the case maybe.

(3) The Registrar may, with the approval of the Member of Executive Committee, at any time cancel any registration made under this Act.

(4) The Registrar shall cancel the registration of any registered association or umbrella organization which has ceased to be an association or umbrella organization within the meaning of this Act.

(5) Where the registration of an association or umbrella organization is cancelled under this section, the Registrar shall at the same time cancel the registration of every branch of that association or umbrella organization.

(6) Where the registration of an association or umbrella organization has been suspended under this section, the association or umbrella organization shall not take any action, nor permit any action to be taken, in furtherance of its objects except—

- (a) the payment of its debts; and
- (b) such action as the Registrar may from time to time authorize

(3) An association or umbrella organization which contravenes subsection (6) commits an offence.

10. (1) If the Registrar has reason to believe that any registered association or umbrella organization has ceased to exist, the Registrar may publish in the Gazette a notice calling upon such association or umbrella organization to furnish the Registrar, within a period of three months from

Cessation of
existence of an
association, etc.

the date of the notice, with proof of its continued existence.

(2) If at the expiration of such period the Registrar is satisfied that the association or umbrella organization has ceased to exist, the Registrar shall cancel the registration of the association or umbrella organization, and shall thereupon publish in the Gazette notice of such cancellation.

(3) If the Registrar is satisfied beyond doubt that a registered association or umbrella organization has ceased to exist, the Registrar may immediately proceed under subsection (2) without having previously published a notice in the Gazette, and the remaining provisions of that subsection shall apply accordingly.

11. (1) Any association or umbrella organization aggrieved by the Registrar's refusal to register it, or by the cancellation or suspension of its registration under section of this Act may in the case of any other association or umbrella organization, appeal to the Board within thirty days of such refusal, cancellation or suspension.

Appeal from order of refusal, cancellation or suspension.

(2) An association or umbrella organization aggrieved by the decision of the Board under subsection (1) may appeal to the Magistrates' Court within thirty days on points of law.

12. (1) Every registered association or umbrella organization shall have an office and a postal address, and notice of the situation of the office and of the postal address shall be given to the Registrar in the prescribed form on application for registration.

Office and postal address.

(2) All communications and notices required or authorized to be sent under, or for purposes of this Act or regulations made thereunder may be sent by email or post addressed to the association or umbrella organization.

(3) A notice in the prescribed form of any change of the situation of the office, or of the postal address or email, of a registered association or umbrella organization shall be given to the Registrar within fourteen days of the change, and the notice shall be signed by three of the registered officers of the association or umbrella organization.

(4) Any registered association or umbrella organization

which—

- (a) operates without having an office, or without having a postal address, or without having given notice of the situation of its office or of its postal address or email address as required by subsection (1);
- (b) operates at any place to which its office may have been removed without having given notice of the change in the situation thereof to the Registrar as required by subsection (3) ; or
- (c) fails to give notice of any change of its postal address as required by subsection (3), commits an offence and shall be liable, on conviction, to a fine not exceeding Kenya Shillings Twenty Thousand.

13. (1) A notice in the prescribed form of any change of officers, or of the title of any office, of a registered association or umbrella organization shall be given to the Registrar within fourteen days of the change, and the notice shall be signed by three of the registered officers of the association or umbrella organization.

Change of officers or title of office.

(2) Any registered association or umbrella organization which fails to give notice as required under subsection (1) commits an offence.

14. (1) If the Registrar is of the opinion that a dispute has occurred among the members or officers of a registered association or umbrella organization as a result of which the Registrar is not satisfied as to the identity of the persons who have been properly constituted as officers of the association or umbrella organization, the Registrar may, by order in writing, require the association or umbrella organization to produce to him or her, within Fourteen days of the service of the order, evidence of the settlement of the dispute and of the proper appointment of the lawful officers of the association or umbrella organization or of the institution of proceedings for the settlement of such dispute.

Disputes as to officers.

(2) If an order under subsection (1) is not complied with to the satisfaction of the Registrar within the period set out in the order or such other longer period as the Registrar

may determine, the Registrar may cancel the registration of the association or umbrella organization.

(3) An association or umbrella organization aggrieved by the cancellation of its registration under subsection (2) may appeal to the Magistrates' Court within thirty days of such cancellation.

15. (1) The constitution or rules of every registered association or umbrella organization, formed after the commencement of this Act shall provide, to the satisfaction of the Registrar, for all the matters specified in the First Schedule to this Act and shall not be amended so that it ceases so to provide.

Contents of
constitution or
rules.

(2) The Registrar may, by order in writing, require any association or umbrella organization which, at the commencement of this Act, is registered to amend its constitution or rules within three months from the date of the order, to provide for all or any of the matters specified in the First Schedule to this Act, and, notwithstanding its constitution or rules, the association or umbrella organization, for the purpose of complying with the order, shall convene a meeting of the same kind as is required by its constitution or rules for amending its constitution or rules, or if the constitution or rules make no provision for such amendment, the association or umbrella organization shall convene a general meeting of members for the purpose.

(3) If a registered association or umbrella organization contravenes an order given under subsection (2), the association or umbrella organization and every officer thereof each commits an offence, and the association or umbrella organization shall, on conviction, be liable to a fine not exceeding one hundred thousand shillings, and every officer shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or both.

(4) An officer shall not be convicted of an offence under subsection (3) if the officer establishes to the satisfaction of the court that he or she exercised due diligence to prevent its commission and that the offence occurred by reason of matters beyond his or her control.

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16. (1) A registered association or umbrella organization shall not—

Consent of Registrar before amending name, constitution, etc.

- (a) amend its name, or its constitution or rules;
- (b) become a branch of, or affiliated to or connected with, any organization or group of a political nature;
- (c) dissolve itself, except with the prior consent in writing of the Registrar, obtained upon written application to the Registrar signed by at least Two Thirds of all the members of the association or umbrella organization.

(2) An application by an association or umbrella organization to do any of the things specified in subsection (1) shall be accompanied by a copy of the minutes of the meeting at which the resolution to do the same was passed, certified as a true copy by three officers of the association or umbrella organization, and the application shall be delivered to the Registrar within fourteen days from the date on which the resolution was passed.

(3) A registered association or umbrella organization which contravenes this section commits an offence.

17. (1) A person who has been convicted of a crime involving fraud or dishonesty shall not be appointed or elected—

Restriction of appointment of certain officers, etc.

- (a) to be an office bearer of any registered association or umbrella organization;
- (b) to any other office in such an association or umbrella organization the holder of which is responsible for the collection, disbursement, custody or control of the funds of the association or umbrella organization or for its accounts; or
- (c) to be trustee or auditor of such an association or umbrella organization.

(2) An officer of a registered association or umbrella organization shall not be appointed as an auditor of that association or organization.

18. Any person who—

Purporting to act as officer.

(a) acts or purports to act as an officer of a registered association or umbrella organization, and who has not been duly appointed or elected as an officer of that association or umbrella organization; or

(b) having been appointed or elected as an officer of an association or umbrella organization, otherwise than at the time of the formation of the association or umbrella organization, acts as an officer of that association or umbrella organization after the end of the period prescribed by section 41(1) of this Act for giving notice of his or her appointment or election to the Registrar, no such notice having been given within such period, commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years, or to both.

19. (1) Every registered association or umbrella organization shall keep a register of its members in such form as the Registrar may specify or as may be prescribed, and shall cause to be entered therein the name and address of each member, the date of his or her admission to membership and the date on which he or she ceases to be a member.

Register of members.

(2) A registered association or umbrella organization which contravenes subsection (1), and its officers, commits an offence, and the association or umbrella organization shall be liable on conviction to a fine not exceeding one hundred thousand shillings, and every officer shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

(3) An officer shall not be convicted of an offence under subsection (2) if the officer establishes to the satisfaction of the court that he or she exercised due diligence to prevent its commission and that the offence occurred by reason of matters beyond his or her control.

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20. (1) Every registered association or umbrella organization shall keep proper books of account, and shall cause to be entered therein details of all moneys received and payments made by the association or umbrella organization. Books of account.

(2) A registered association or umbrella organization which contravenes subsection (1) commits an offence and shall be liable on conviction to a fine of Kenya Shillings One Hundred Thousand.

21. (1) Subject to the constitution or rules of the association or umbrella organization, every treasurer and every other officer of a registered association or umbrella organization who is responsible for the accounts of the association or umbrella organization or for the collection, disbursement, custody or control of its funds shall— Treasurer to render accounts.

- (a) at least once in every year at such time as may be specified in the constitution or rules of the association or umbrella organization; or
- (b) at any other times at which he or she may be required to do so by a resolution of the members of the association; or
- (c) umbrella organization or by the rules thereof; and
- (d) upon resigning or otherwise vacating his or her office, render to the association or umbrella organization and its members a full and true account of all moneys received and paid by him or her during the period which has elapsed since the date of his or her assuming office or, if he or she has previously rendered an account, since the last date upon which he or she rendered such account, and of the moneys remaining in his or her hands at the time of rendering such account, and of all bonds, securities or other property of the association or umbrella organization entrusted to his or her custody or under his or her control.

(2) After account has been rendered under subsection (1), the treasurer or other officer shall, if he or she is resigning or vacating his or her office or if required to do

so, forthwith hand over to the succeeding treasurer or officer, as the case may be, such moneys as appear to be due from him or her, and all bonds, securities, effects, books, papers and property of the association or umbrella organization in his or her hands or otherwise under his or her control.

(3) A treasurer or other officer referred to in subsection (1) who contravenes this section commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

22. (1) A registered association or umbrella organization shall make available for inspection, all its books of account and documents relating thereto; and a record of all the members of the association or umbrella organization, when requested in writing by—

Inspection of accounts and documents.

- (a) any officer or member of the association or umbrella organization at such place and at such time as may be provided for in the constitution or rules of the association or umbrella organization; or
- (b) the Registrar, or by any person authorized by him or her in writing in that behalf, at the office of the Registrar at any reasonable time specified by him or her.

(2) A registered association or umbrella organization which fails to make available to the Registrar, at his or her office and at the specified time, any books of account, documents or record of members which he or she has been required under subsection (1) to make so available commits an offence.

(3) A person who obstructs the Registrar or any such authorized person in the carrying out of an inspection under subsection (1) commits an offence and shall be liable, on conviction, to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six months, or to both.

23. (1) Every registered association or umbrella organization shall, at least once in every year, hold a general meeting to which all its members shall be invited,

Meetings of an association or umbrella

and shall at such meeting—

organization.

- (a) render a full and true account of the moneys received and paid by the association or umbrella organization, such account being audited in accordance with the rules of the association or umbrella organization; and
- (b) cause to be elected or appointed all such officers, trustees and auditors and, where applicable, such committees as are required in accordance with the constitution and rules of the association or umbrella organization.

(2) A registered association or umbrella organization which contravenes subsection (1) commits an offence.

24. (1) Every registered association or umbrella organization shall furnish annually to the Registrar, on or before the prescribed date, such returns, accounts and other documents as may be prescribed.

Annual returns.

(2) If any return, account or other document furnished under subsection (1) is incomplete in any material particulars, it shall be taken not to have been furnished for the purposes of subsection (1).

(3) A registered association or umbrella organization which contravenes subsection (1) commits an offence.

(4) A person who wilfully makes or orders or causes or procures to be made any false entry in or omission from any return, account or other document furnished under this section commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding one year, or to both.

25. (1) Where the Registrar has reasonable cause to believe that circumstances have arisen which render it expedient for the proper performance of his or her functions under this Act so to do, he or she may, by order in writing, require any registered association or umbrella organization to furnish him or her with—

Registrar to call for information and accounts.

- (a) a true and complete copy of its constitution or rules;

- (b) a true and complete list of its officers and members;
- (c) a true and complete copy of the minutes of any meeting held by the association or umbrella organization at which officers of the association or umbrella organization were elected or appointed or are ostensibly appointed or elected;
- (d) a true and complete return of the number of meetings held by the association or umbrella organization during such period as the Registrar may determine, stating the place or places at which such meetings were held;
- (e) the audited accounts of the association or umbrella organization covering such period as the Registrar deems necessary for the purpose for which the order is made; and
- (f) such other accounts, returns and other information as may be prescribed.

(2) An order given under subsection (1) shall require compliance therewith within such period as may be specified in the order, which shall not be less than twenty-one days in respect of the documents specified in subsection (1) (a), (b), (c), (d) and (f), and not less than sixty days in respect of the documents specified in subsection (1) (e), but the Registrar may, upon application, extend the period.

(3) Where the Registrar ordered the auditing of accounts under subsection (1) (e), the cost of the audit shall be paid out of the funds of the association or umbrella organization in respect of which the order is made, unless the Registrar otherwise directs.

(4) An association or umbrella organization which, on the ground of its failure to comply with an order to furnish duly audited accounts under this section, has had its registration cancelled under section 36 shall not be registered again, and no association or umbrella organization which, in the opinion of the Registrar, is a successor of such an association or umbrella organization, shall be registered, unless in either case, in addition to compliance with the

provisions of this Act concerning registration, the application for registration is accompanied by the duly audited accounts required by the order.

(5) A registered association or umbrella organization which fails to comply with an order given under subsection (1) commits an offence.

(6) If any information or document furnished to the Registrar in pursuance of an order given under this section is false, incorrect or incomplete in any material particular, there shall be deemed to have been no compliance with such order.

(7) In this section, the expression “audited” means audited by a person approved by the Registrar.

26. The Registrar may, where it appears to him or her to be in the interests of the members of any association or umbrella organization, publish in the Gazette, or by advertisement in any newspaper or in any other manner he or she may deem necessary, any information received by him or her under section 43 or 53 of this Act.

Discretion to publish certain information.

27. (1) The Registrar or any administrative officer or any police officer of or above the rank of Senior Sergeant (in this section referred to as the requiring officer) may, in writing, require any person who he or she has reason to believe is able to give any information as to the existence or operation of any unlawful association or umbrella organization, or suspected unlawful association or umbrella organization, or as to the operations of any registered association or umbrella organization, or as to the operations or property of a association or umbrella organization which has been dissolved or has otherwise ceased to exist, to attend before him or her at a specified time, and such attendance may be required at any police station or police office situated within the district in which that person resides, or for the time being is or is found, or at the office of any administrative officer within such district, or at the office of the Registrar.

Power to investigate.

(2) Any person who, without reasonable cause, fails to comply with a requirement made under subsection (1) or, having attended in compliance therewith, refuses or fails to give his or her correct name and address and to answer

truly all questions that may be properly put to him or her, and to produce all documents in his or her custody, possession or power relating to such association or umbrella organization or suspected association or umbrella organization which he or she has been required to produce, commits an offence and shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months, or to both.

(3) The requiring officer may record in writing any statement made to him or her by the person attending before him or her, whether such person is suspected of having committed an offence under any law or not, and any such written statement shall be signed by the person making it after it has been read to him or her in a language which he or she understands, and after he or she has been invited to make any correction he or she may wish.

(4) If any person does anything which constitutes an offence under subsection (2), the requiring officer may, if he or she considers it advisable to provide for the future identification of such person, order that a photograph and impressions of fingerprints of such person be taken, and section 21 (but not including the proviso to subsection (1) thereof) of the Police Act shall apply accordingly as though the person were in lawful custody.

28. (1) The Member of the Executive Committee may, in concurrence with the Board, by regulation, prescribe measures for—

Determination of micro and small enterprises.

- (a) determining categories of micro and Small enterprises to be assisted subject to section 31 of this Act;
- (b) Determining the kind of assistance to be rendered.

PART III—COUNTY TRADE AND INVESTMENT DEVELOPMENT BOARD

29. (1) There is hereby established a Board to be known as the County Trade and Investments Development Board.

Establishment of the Board.

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

30. (1) The Board shall consist of—

Composition of the Board.

- (a) a non-executive chairperson, who shall be a person knowledgeable, with at least ten years' experience in business and entrepreneurship development or a related field who has provided exemplary service to the country, appointed by the Governor with the approval of the County Assembly;
- (b) the Chief Officer of the County Department Government for the time being responsible for matters relating to trade, Tourism, Investment, Industrialization and Cooperative Development or his or her representative;
- (c) the Chief Officer of the County Government Department for the time being responsible for finance and revenue collection or his or her representative;
- (d) the Chief Officer of the County Government Department for the time being responsible for matters relating to the youth or his or her representative;
- (e) Four persons appointed by the Governor and approved by the County Assembly to represent the following sectors—
 - (i) Manufacturing;

- (ii) Saccos and Cooperatives
- (iii) Traders; and
- (iv) Agri-business;

(f) The current Director of Trade and Investments within the County Government of Nyamira who shall act as the Secretary to the Board.

(2) The members of the Board appointed in accordance with sub section 1 (b), (c), (d) and (f) shall all be appointed in writing and shall all be *ex officio* members with no voting rights.

(3) The members of the Board shall elect from among themselves a vice chair at the first sitting of the Board who shall preside over any meeting in the absence of the Chair.

31. (1) The office of a member of the Board appointed under Section 30 (1) shall become vacant if the member—

Removal from office of a member of the Board.

- (a) is adjudged bankrupt;
- (b) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (c) is convicted of an offence involving fraud or dishonesty;
- (d) is absent, without reasonable cause, from three consecutive meetings of the Committee;
- (e) Resigns in writing addressed to the Chairperson of the Board;
- (f) is removed from office by Governor for—
 - (i) being unable to perform the functions of his office by reason of mental or physical infirmity; or
 - (ii) failing to declare his interest in any matter being considered or to be considered by the Committee; or
 - (iii) Gross misconduct or violation of Chapter six of the Constitution of Kenya.
 - (iv) any other sufficient reason as may be prescribed.
- (g) Dies.

32. The functions of the Board shall be to—

Functions of the Board.

- (a) formulate and review policies and programs for purposes of improving investments within the County and enhancing micro and small enterprises;
- (b) monitor and evaluate the implementation of existing policies and programmes related to, or affecting investment opportunities and micro and small enterprises and to further advise the County Government on appropriate policies and course of action to be taken;
- (c) to improve investment opportunities and business enterprises within the County and to undertake such other activities as may be necessary to promote the County as an attractive base for investments;
- (d) to act as a think tank in highlighting policy issues and making policy recommendation to the County to boost investment and attain County economic objectives;
- (e) to ensure co-ordination and cooperation between the public sector and the private sector on matters of investments and for policy decisions impacting on investment;
- (f) to receive and process applications for investment certificates and to issue such investment certificates;
- (g) to identify specific projects and invite interested investors for participation in those projects;
- (h) to mobilize resources for the development of investments and micro and small enterprise sector;
- (i) to promote access to markets by micro and small enterprises;
- (j) to promote innovation and development of investment products by micro and small enterprises;

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- (k) To do such things incidental or conducive to the performance of any of its functions under this clause to enhance trade and investment in the County.

33. The Board shall have all 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 Board shall have power to—

Powers of the Board.

- (a) enter into contracts;
- (b) determine the provisions to be made for capital and recurrent expenditure and for the reserves of the Board;
- (c) receive any grants, gifts, donations or endowments and make legitimate disbursements there from with notice of the county assembly approval
- (d) 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;
- (e) open such banking accounts for its funds as may be necessary;
- (f) set up such technical committees as it deems fit to assist it in the discharge of its functions under this Act;
- (g) offer services to any person upon such terms as the Board may from time to time determine;
- (h) undertake any activity necessary for the fulfilment of any of its functions as conferred herein.

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

Conduct of business and affairs of the Board.

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

35. The Board may, by resolution either generally or in

Delegation by the Board.

any particular case, delegate to any committee or to any member, officer, employee or agent of the Board, the exercise of any of the powers or the performance of any of the functions or duties of the Board under this Act or under any other written law.

36. (1) The Director shall be an *ex-officio* member of the Board and shall have no right to vote at any meeting of the Board. Director.

(2) Without prejudice to the foregoing, The Director shall—

- (a) subject to the direction of the Board, be responsible for the day-to-day management of the Board, subject to its approval on crucial matters
- (b) in consultation with the Board, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions and duties, and the general administration of the Board;
- (c) coordinate, harmonize and facilitate the integration of various public and private sector activities, programmes and trade and investment development plans relating to micro and Small enterprises;
- (d) formulate capacity building programmes for investment opportunities and enhancement of micro and Small enterprises in consultation with relevant experts;
- (e) facilitate technology development, acquisition and transfer by micro and Small enterprises;
- (f) Develop mechanisms, tools and programs for collection of comprehensive data disaggregated by sex, region and age among others, in collaboration with key stakeholders, to enable proper planning for the trade and investment sector.
- (g) In partnership with the relevant County Government departments and agencies and

other stakeholders for purposes of promoting the development of market for goods and services and for micro and Small enterprises:

- (i) provide technical assistance in the development of marketing strategies for products within the County;
- (ii) identify markets for products generated by micro and Small enterprises and provide linkages between the micro and Small enterprises and potential markets;
- (iii) organize trade fairs and Agro business shows in order to promote investment within the County as well as products generated by micro and Small enterprises;
- (iv) Conduct market research, survey and analysis on Investment opportunities within Nyamira County to determine the industry competitiveness of the County and propose strategies to enhance the County as a potential investment destination

37. The Board may upon a written request to that effect, seek permission /grant for the suitable recruitment and forwarding of staff by the Public Service Board to assist in the discharge of its functions. Staff.

38. (1) The common seal of the Board shall be kept in the custody of the Director or of such other person as the Board may direct, and shall not be used except upon the order of the Board. Common seal.

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

(3) The common seal of the Board shall be authenticated by the signature of the chairperson of the Board and the Director, but the Board shall, in the absence of either the chairperson or the Director, in any particular matter, nominate one member of the Board to authenticate the seal

of the Board on behalf of either the chairperson or the Director.

39. (1) No act or omission done by a member of the Board or by any officer, member of staff, or agent of the Board shall, if the matter or thing is done *bona fide* for executing the functions, powers or duties of the Board 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.

Protection from personal liability.

(2) Any expenses incurred by any person in any suit or prosecution brought against him in any court, in respect of any act which is done or purported to be done by him under the direction of the Board, shall, if the court holds that such act was done *bona fide*, be paid out of the general funds of the Board, unless such expenses are recovered by him in such suit or prosecution.

40. The provisions of section 39 shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him, his property or any of his interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

Liability for damages.

PART IV—FINANCIAL PROVISIONS

41. (1) The funds and assets of the Board shall consist of—

Funds of the Board.

- (a) such monies as may be appropriated by the County Government;
- (b) such monies or assets as may accrue to or vest in the Board in the course of the exercise of its powers or the performance of its functions under this Act;
- (c) such moneys as may be payable to the Board pursuant to this Act or any other written law;
- (d) such gifts as may be given to the Board; and
- (e) all moneys from any other source provided, donated or lent to the Board.

(2) All the funds of the Board and the balance at the end of each financial year shall be retained for the purposes for

which the Board is established and shall, for that purpose, establish a reserve account which shall from time to time boost the trade and investment fund for expansion of the.

42. The financial year of the Board shall be the period of twelve months commencing on the date when this Act comes into force and ending on the thirtieth day of June in each year.

Financial year.

43. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared estimates of its revenue and expenditure for that year.

Annual estimates.

(2) The annual estimates shall make provision for all estimated expenditure of the Board for the financial year.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Member of the Executive Committee for approval.

(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 authorisation of the Board given with prior written approval of the Member of the Executive Committee, and the Chief Officer to the Treasury.

44. (1) The Board shall cause to be kept proper books and records of accounts of its income, expenditure and assets.

Accounts and audit.

(2) Within a period of three months after the end of each financial year, the Board shall submit to the County Government, the accounts of the Board together with—

- (a) a statement of the income and expenditure of the Board during that year; and
- (b) a balance sheet of the Board on the last day of that year.

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

45. (1) The Board may invest any of its funds in securities in which for the time being trustees may by law

Investment of funds.

invest trust funds, or in any other securities or banks which the Treasury may, from time to time, approve for that purpose.

(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 Board.

PART V— INVESTMENT CERTIFICATES

46. (1) Any local investor may apply to the Board for an investment certificate.

Applications for investment certificate.

(2) A foreign investor who intends to invest in the County shall apply to the Board for an investment certificate.

(3) An application for an investment certificate shall be made to the Director in the prescribed form and shall contain the following information—

- (a) The name and address of the business enterprise;
- (b) the nature of the proposed investment activity and the proposed location where the activity is to be carried out;
- (c) the proposed capital structure, amount of investments and the projected growth over the next five years or more;
- (d) the estimated number of people to be employed; and
- (e) Any other information relating to the viability of the project or other matter as the applicant considers relevant to his application.

(4) If, in the opinion of the Board, additional particulars are required of any matter contained in an application for an investment certificate, it may call upon the applicant to furnish such particulars and may, in the event of failure to supply such particulars, reject such application.

47. (1) An applicant shall be entitled to an investment certificate if —

Entitlement to certificate.

- (a) the application is complete and satisfies the

applicable requirements under this Bill;

- (b) the amount to be invested by a foreign investor is at least Five Hundred Thousand United States of America dollars or the equivalent in any currency;
- (c) the amount to be invested by a local investor is at least Ten million shillings or the equivalent in any currency; and
- (d) the investment and the activity related to the investment are lawful and beneficial to the County.

(2) In determining whether an investment and the related activity to the investment are beneficial to the County for the purposes of sub clause (1)(d), the Board shall consider the extent to which the investment or activity will contribute to the conditions specified in paragraphs (a), (b) and (c), and any or all of the conditions specified in paragraphs (d), (e), (f), (g) and (h) as follows—

- (a) creation of employment opportunities for the local people in the County;
- (b) acquisition of new skills or technology for the local people in the County;
- (c) contribution to tax revenues or other Government revenues;
- (d) a transfer of technology to the local people in the County;
- (e) utilization of domestic raw materials, supplies and services;
- (f) adoption of value addition in the processing of local, natural and agricultural resources;
- (g) utilization, development and implementation of information and communication resources; or
- (h) any other factors that the Board considers beneficial to the County.

48. In considering grant of an investment certificate, the Board shall take into account the investment priority areas provided in the Schedule.

Procedures for consideration of application.

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49. (1) If the Board decides to issue an investment certificate it shall issue the certificate on the date the applicant requests. Issue of certificate.

(2) The Board may issue an investment certificate in the name of a corporation established by the applicant for the purposes of the investment or in the name of any other business organization to be used for the purposes of the investment.

(3) A local investor who does not hold an investment certificate shall register the investment with the Board.

50. An investment certificate shall be subject to the following undertaking by the investor— Conditions of certificate.

- (a) maintain proper financial records and books of account;
- (b) permit the Board or its employees or agents reasonable access to monitor the operations of the investment activity of the investor;
- (c) such conditions as the Board may specify at the time the certificate is issued; and
- (d) Produce a security bond equivalent to the investment sum from a reputable bank

51. (1) An investment certificate may be transferred only with the written approval and consent of the Board. Transfer.

(2) The transfer of an investment certificate is subject to any restrictions prescribed in the regulations.

52. At the request of the holder of the certificate, the Board may amend an investment certificate subject to any restrictions prescribed in the regulations. Amendment.

53. (1) The Board may revoke an investment certificate on the following grounds— Revocation.

- (a) that the certificate was issued on the basis of incorrect information given by the applicant for the certificate;
- (b) that the investment certificate was obtained by fraud; or
- (c) That a condition of the investment certificate was breached.

(2) If the Board proposes to revoke an investment certificate, the Board shall give the holder of the investment certificates at least thirty days written notice of the grounds for the proposed revocation and shall give the holder an opportunity to make representations as to why the investment certificate should not be revoked.

54. (1) A person who had applied for an investment certificate or person who is or was a holder of the investment certificate may request the Executive Committee Member to appoint a panel to review a decision of the Board relating to the application or certificate.

Review of Board decision.

(2) Upon receiving a request under sub clause (1), the Executive Committee Member shall appoint a panel consisting of—

- (a) a chairman who shall be an advocate of at least ten years standing; and
- (b) Two other members each of whom shall be a person who is experienced in law, economics or commerce.

(3) After conducting its review the panel may do any one or more of the following—

- (a) confirm, vary or set aside the decision appealed from;
- (b) direct that the Board reconsider a matter in accordance with such directions as the panel may make;
- (c) make an order as to the payment of costs.

(4) The Executive Committee Member may make rules governing the procedure of panels under this clause.

(5) Subject to any rules made by the Executive Committee Member, a panel may govern its own procedure.

(6) A panel shall have the same powers as a court to make orders to secure the attendance of persons, for the investigation and punishment of contempt.

(7) The Executive Committee Member shall appoint a secretary to the panel and such other as are necessary for the proper discharge of the functions of the panel.

(8) The members of a panel shall be paid such allowances and expenses as determined by the Executive Committee Member.

(9) The expenses of the panel, including the allowances and expenses of the members of the panel, shall be paid by the County.

PART VI—INVESTMENT CERTIFICATES ENTITLEMENTS

55. (1) An investment certificate shall set out the licences listed in the Third Schedule that are necessary to the proposed investment and to which the holder of the investment certificate would, on application, be legally entitled.

Entitlement to
certain licences.

(2) Upon the issue of an investment certificate, the following apply with respect to each licence set out in the certificate under sub clause (1)—

- (a) the holder of the investment certificate is entitled to have the licence issued, subject to any conditions set out in the Second Schedule or in the investment certificate, upon application made within twelve months after the investment certificate is issued and upon payment of the applicable fee, if any; and
- (b) until the license is issued or twelve months elapse after the investment certificate is issued, whichever occurs first, the licence shall be deemed to have been issued, subject to any conditions set out in the Second Schedule or in the investment certificate and subject to the requirement to pay fees under sub clause (3).

(3) The holder of an investment certificate shall pay any fees that would be payable under the relevant legislation for the licenses set out in the investment certificate in respect of the time period commencing on the day the investment certificate is issued and such fees shall be paid within six months after the investment certificate.

(4) The entitlement to licenses under sub clause (2) (a) is for the initial issue of such licence only and following that initial issue the laws under which the licenses are

issued apply in the same way as they apply to all licences, including, for greater certainty, with respect to the revocation or renewal of the licences.

(5) The Board shall facilitate the issue of licences to which the holder of an investment certificate is entitled under this clause.

56. A foreign investor shall only be granted a certificate if he has complied with national legislation in relation to the obtainment of an entry and/or work permit.

Compliance with National Immigration Legislation.

PART VII—INCENTIVES TO INVESTORS

57. 1) The County in collaboration with the National Land Commission and upon execution of a lease agreement with an investor shall provide land for investment in any of the priority areas mentioned in the Fourth Schedule.

Access to land for investment.

(2) The allocation of land shall be subject to payment of land rents and rates as determined by the National Land Commission by the investor.

58. (1) Subject to the provisions of sub clause (2) and (3)—

Guarantee against expropriation.

- (a) no enterprise shall be expropriated by the County; and
- (b) no person who owns, whether wholly or in part, the capital of any enterprise shall be compelled by law to surrender his interest in the capital to any other person.

(2) There shall not be any acquisition of an enterprise to which this Bill applies by the County unless the acquisition is for a public purpose and under a law which makes provision for—

- (a) payment of fair and adequate compensation; and
- (b) Right of access to the courts for the determination of the investor's interest or right and the amount of compensation to which he is entitled.

(3) Any compensation payable under this section shall be paid without undue delay, and authorisation for its

repatriation in convertible currency shall, where applicable be issued.

59. Investors shall have an unrestricted right to use their investments and any incomes lawfully received from any lawfully purpose and all proceeds of the proceeds of an enterprise may, subject to tax and other lawful obligations, be retained by the business organization, or disposed of in any lawful manner.

Repatriation of capital, profits and dividends.

60. (1) No official, agency, law or other legal authority shall discriminate against investors from a particular country or give special treatment to prospective foreign investors based upon their country of origin or nationality.

Prohibition against discrimination.

(2) Foreign investors shall be subject to the same laws that apply to domestic business organizations.

61. (1) The following factors shall be considered in allocation of land to a holder of an investment certificate—

Factors to consider in the allocation of Land to investors.

- (a) creation of employment opportunities to the local people in the County;
- (b) acquisitions of new skills and technology for the County;
- (c) transfer of technology to the County;
- (d) production and utilization of domestic raw materials, supplies and services; and
- (e) contribution to the socio-economic and cultural amenities of the local communities e.g. health centers, schools, feeder roads, water supply, sports, cultural events.

(2) In addition to the factors in sub clause (1) (a), (b), (c), (d) and (e) above, a holder of an investment certificate shall submit the following documents to the Investment Bureau—

- (a) detailed proposal for the proposed investment activity;
- (b) architectural plans;
- (c) certificate of incorporation or Certificate of registration;

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- (d) PIN/VAT certificate; and
- (e) financial statements or audited accounts.

(3) The investment or activity observe and implement environment friendly corporate rules and regulations for the following purposes—

- (a) preservation of the flora and fauna and ecosystem biodiversity;
- (b) solid waste management and treatment; and
- (c) Control of pollution by a adopting green city concept.

**PART VIII—DEVELOPMENT AND PROMOTION
OF MICRO AND SMALL ENTERPRISES**

62. The Board shall advise and liaise with the relevant authorities for the earmarking and zoning out of land for the development of micro and small enterprises.

Board to advise on zoning, etc, of land.

63. The Board shall advise the relevant County Government departments and other agencies in developing worksite management policy, provide suitable infrastructure, including worksites, social amenities, business information centres, model centres of excellence, common usage facilities and other facilities necessary for development of micro and small enterprises.

Development of infrastructure.

64. The Board shall, in order to promote technology transfer, acquisition and adaptation of new and modern technologies—

Technology transfer, acquisition, etc.

- (a) mobilise funds and resources for the development of appropriate technology in relevant research institutions and enterprises that develop technology for the micro and small enterprises sector;
- (b) encourage innovation and transfer of technology in order to increase competitiveness of micro and small enterprises products and services;
- (c) facilitate the registration and protection of intellectual property rights for micro and small enterprises;

- (d) provide incentives to encourage invention and innovation by micro and small enterprises;
- (e) establish centres of excellence to enhance utilization of locally available knowledge, skills and resources;
- (f) establish technology parks for graduating micro and small enterprises;
- (g) identify, collect, develop, modify, package and disseminate technology and products to the micro and small enterprises;
- (h) develop in collaboration with relevant institutions, programmes in standardization and product development for different sectors;
- (i) facilitate micro and small enterprises to access relevant equipment either through, purchasing, leasing or franchising;
- (j) develop programmes to enable micro and small enterprises comply with environmental legislation;
- (k) conduct research on available technologies with a view to improving them;
- (l) import modern and appropriate technologies for use by micro and small enterprises;
- (m) develop, in collaboration with relevant institutions, programmes for improving credit access and other financial services by micro and small enterprises.

65. (1) There is hereby established a Fund to be known as the Trade Development Fund.

Micro and Small
enterprises
Development Fund.

(2) The purpose of the fund shall be to—

- (a) finance the promotion and development of micro and small enterprises in accordance with this Act;
- (b) provide affordable and accessible credit to micro and small enterprises;

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- (c) finance capacity building of micro and small enterprises;
- (d) finance research, development, innovation and transfer of technology.

(3) The Member of the Executive Committee may, by notice in the Gazette, fix the size of the Fund sufficient to facilitate the promotion and development of micro and small enterprises.

(4) The Fund shall consist of—

- (a) such monies or assets as may accrue to or vest in the Fund under this Act;
- (b) such moneys as may be payable to the Fund pursuant to this Act or any other written law;
- (c) interest accruing on the Fund;
- (d) such gifts as may be given to the Fund; and
- (e) all moneys from any other source provided, donated or lent to the Fund.

66. The monies constituting the Fund shall be placed in an account to be used for the promotion and development of micro and small enterprises, and the surplus monies of the fund shall be invested by the Board in treasury bills, treasury bonds or other securities issued by the County Government and any income from the investments shall be credited to the Fund.

Use of surplus funds.

67. (1) The Board shall administer the Fund.

Management of the Fund.

(2) In administering the Fund, the Board shall be responsible for—

- (a) entering into agreements with financial institutions for the purpose of administering affordable and accessible credit to micro and small enterprises;
- (b) approving of all micro and small enterprises development and financing proposals;
- (c) entering into agreement with persons for purposes of providing services to the Fund;
- (d) opening and managing a bank account for the

Fund;

- (e) supervising the administration of the Fund;
- (f) causing to be kept books of accounts and other records in relation to the Fund, and preparing, signing and transmitting to the County Government in respect of each financial year and within three months after the end thereof, a statement of accounts relating to the Fund, in such details as the Treasury may direct in accordance with the Public Audit Act.

68. (1) Any association or umbrella organization, or any other institution involved in the promotion and development of the micro and small enterprise sector activities may, on application to the Board, access funds for various micro and small enterprise programmes.

Accessing the Fund.

(2) Any association or umbrella organization registered under this Act may, on an application to the Board, access funds by way of loan, factoring, guarantee and micro-insurance from the Fund for the benefit of its members.

(3) The Member of the Executive Committee may, in consultation with the Board, by Regulations make provision for—

- (a) the procedure to be followed by a person seeking to access funds from the Fund;
- (b) forms to be used while making an application under this section;
- (c) the amounts that may be accessed;
- (d) the kind of securities that may be given by an applicant under this section;
- (e) the rates of interest on the loan; or
- (f) the maximum period of loan repayment.

(4) The organization of the management and the Regulations governing the Fund receipts and expenses, custody and use shall be drawn up by the Board.

69. No suit shall lie against any public officer for anything done or omitted to be done by him or her in good faith and without negligence in the intended exercise of

Indemnification of public officers.

any power or the intended performance of any duty conferred or imposed on him or her by or under this Act.

70. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Member of the Executive Committee a report of the operations of the Board for the immediately preceding year. Annual report.

(2) The annual report shall provide information regarding the activities and plans of the Board during the year to which it relates sufficient to impart an accurate understanding of the nature and scope of its activities and its plans and priorities and, without limitation, shall include—

- (a) details of the performance of the Board against its key performance indicators;
- (b) report on the overall status, progress, impact and challenges or impediments in the implementation of the micro and small enterprises development policies and programmes as well as the appropriate measures to address any challenges that should be taken by the various County Government Departments, including the Board's projections;
- (c) a report on the growth and development of micro and small enterprises in the country;
- (d) such information and other material as the Board may be required by this Act or regulations made there under to include in the annual report; and
- (e) such additional information or other material as the Member of the Executive Committee may request in writing.

(3) In addition to what is required under subsection (2), the annual report shall include the financial statements of the Board for the year to which the report relates.

(4) The Member of the Executive Committee shall, within three months after receiving the annual report, transmit it to the Clerk of the County Assembly for tabling before the County Assembly.

71. (1) The Member of the Executive Committee may, in consultation with the Board, make Regulations for prescribing anything which under this Act may be prescribed, and generally for the better carrying into effect the provisions of this Act. Regulations.

(2) Without prejudice to the generality of subsection (1), Regulations made under this section may provide for all or any of the following matters—

- (a) forms and fees or any levies to be used under this Act;
- (b) regulation and licensing of business development service providers;
- (c) access of loans granted under section 53 (2) by micro and small enterprises;
- (d) prescribing the form of accounts to be used by associations or umbrella organization;
- (e) securing the submission to the Registrar of periodical returns relating to the constitution, rules, membership and management of associations or umbrella organization;
- (f) prescribing penalties for the breach of any such regulations.

PART IX—MISCELLANEOUS PROVISIONS

72. The Board shall work in consultation with the County Government's departments, agencies and other public authorities in the performance of its functions under this Bill. Relationship with the County Government.

73. Before the County allocates any land to an investor under this Bill, it shall do so in consultation and in accordance with the guidelines issued by the National Land Commission. Relationship with the National Land Commission.

74. A person who knowingly submits false or misleading information to the Board for the purposes of obtaining an investment certificate or obtaining any assistance from the Board is guilty of an offence is liable, to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both. Giving false or misleading information.

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75. A person who, without lawful excuse divulges information acquired in the course of acting under this Bill is guilty of an offence and is liable to a fine not exceeding one million shillings or to imprisonment for a term not exceeding two years or to both.

Improperly
divulging
information.

76. The Executive Committee Member may make regulations generally for the better carrying out of the provisions of this Act with the approval of the County Assembly.

Regulations.

77. (1) Where a dispute arises between an investor and the County in respect of an enterprise, all efforts shall be made through mutual discussion to reach an amicable settlement.

Dispute settlement
procedure.

(2) Any dispute between an investor and the County in respect to which this Bill applies which is not amicably settled through mutual discussions may be submitted at the option of the aggrieved party to arbitration under the provisions of the Arbitration Act.

(3) The decision of the arbitrator shall be final.

FIRST SCHEDULE

(s. 15)

Matters to be Provided for in the Constitution or Rules of Every Association or Umbrella Organization

1. The name of the association or umbrella organization.
2. The whole of the objects for which the association or umbrella organization is to be established.
3. The persons to whom membership is open.
4. The rates of entrance and subscription fees (if any) for membership.
5. The method of suspension or expulsion of members.
6. The titles of officers, trustees and auditors and their terms of office, and the method of their election, appointment, dismissal and suspension.
7. The composition of committees (if any) of the association or umbrella organization, the terms of office of members of such committees and the method of their election, appointment, dismissal and suspension.
8. The authority for and the method of filling vacancies on committees.
9. The frequency of, quorums for and dates of the general meetings referred to in section 52 of this Act.
10. The custody and investment of the funds and property of the association or umbrella organization, and the designation of the persons responsible therefore.
11. The purposes for which the funds may be used, and in particular the prohibition of the distribution of funds among members.
12. The inspection of books and list of members of an association or umbrella organization, by any member or officer, under section 51 (1) of this Act.
13. The annual or periodical audit of accounts.

14. The formation of branches, if branches may be formed.
15. The manner of amending the name, constitution or rules of the association or umbrella organization.
16. The manner of the dissolution of the association or umbrella organization and the disposal of its property on dissolution.

SECOND SCHEDULE

(S. 33)

Provisions as to the Conduct of Business and Affairs of the Board

1. Any member of the Board, other than an *ex-officio* member shall, subject to the provisions of this Schedule, hold office for a term of three years, on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for a further and final term of three years. Tenure of office.
2. A member of the Board, other than an *ex-officio* member, may—
 - (a) at any time resign from office by notice in writing to the Member of the Executive Committee.
 - (b) be removed from office by the Member of the Executive Committee if the member—
 - (i) has been absent from three consecutive meetings of the Board without the permission of the chairperson;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;
 - (iii) is convicted of an offence involving dishonesty or fraud;
 - (iv) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors;

- (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Board; or
 - (vi) fails to comply with the provisions of this Act relating to disclosure.
3. (1) The Board shall meet not less than four times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting. Meetings.
- (2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least seven members shall, convene a special meeting of the Board at any time for the transaction of the business of the Board.
- (3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.
- (4) The quorum for the conduct of the business of the Board shall be eight members including the chairperson or the person presiding.
- (5) The chairperson shall preside at every meeting of the Board at which he is present but, in his absence, the members present shall elect one of their numbers to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.
- (6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.
- (7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.
4. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which Conflict of

the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter: interest.

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Board may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

- (2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Board.
- (3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.
- (4) If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Member of the Executive Committee in writing.
- (5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination.
- (6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in subparagraph (1), the member shall resign unless the member has

eliminated the conflict to the satisfaction of the Board within thirty days.

- (7) The Board shall report to the Member of the Executive Committee any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.
 - (8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.
 - (9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.
 - (10) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.
5. (1) Within twelve months of the commencement of this Act, the Board shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and staff of the Board in the performance of their duties.

Code of
conduct.
 - (2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to an existing code of conduct, the Board shall publish the proposed code or amendments in the Gazette and in a newspaper circulating county wise, inviting public comments.
 - (3) The Board shall include in its annual report a report on compliance with the code during the period covered by the annual report.
 - (4) The code of conduct adopted or prescribed under this paragraph shall be binding on the Board and its staff.
 6. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any person generally or specially authorized by the Board for that purpose.

Execution of
instruments.

7. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose. Minutes.

THIRD SCHEDULE

PROCEDURES FOR CONSIDERATION OF APPLICATION FOR INVESTMENT CERTIFICATE

1. In this Schedule— Definition.
- “working day” means a day other than a Saturday, Sunday or at the option of the aggrieved party to arbitration under the provisions of the Arbitration Act, or public holiday.
2. (1) Within ten working days after a completed application is received, the Board shall prepare a written report on the application. Report on application.
3. Within five working days after the report on the application is prepared, the Board shall make its decision with respect to the application. Decision.
4. Within five working days after the decision of the Board is made, the Board shall give the applicant a written notice of the decision. Notice of decision.
5. If the Board decides to refuse to issue an investment certificate, the Board shall— If decision is to refuse to issue certificate.
- (a) prepare written reasons;
 - (b) include, with the notice to the applicant under paragraph 4, a copy of the reasons and a copy of the report prepared under paragraph 2; and
 - (c) give the Executive Committee Member, within five working days after the decision of the Board is made, a copy of the application, a copy of the application, a copy of the reasons and a copy of the report prepared under paragraph 2.

6. If an applicant does not receive a notice of the Board's decision under paragraph 4 within twenty-five working days after the completed application was given to the Board, the applicant may make a written complaint to the Executive Committee Member.

Complaint to Executive Committee Member if decision is late.

(2) The Executive Committee Member shall investigate a complaint made under sub paragraph (1) and shall, within fifteen working days after the complaint was received, inform the applicant of the results of the investigation.

7. (1) This paragraph applies if an application raises any of the following issues—

Special provisions if environment, health or security issues.

- (a) an environment, health or security issue that, in the opinion of the Board, should be referred to another person or body; or
- (b) an issue in relation to which the approval or consent of another person or body is required.

(2) If an application raises an issue described in subparagraph (1), the Board shall refer the issue to the appropriate person or body and shall inform the applicant of that referral.

(3) For the purposes of applying any time periods specified in this Schedule, the time between a referral under subparagraph (2) and the response back from the person or body to which the referral was made, shall not be counted.

8. The Board shall liaise with the appropriate authorities for the purposes of determining whether an applicant for an investment certificate is legally entitled to the licenses' listed in the Third Schedule that are necessary to the investment.

THIRD SCHEDULE

Clause (21)

Licences to Which the Holder of an Investment Certificate may be Entitled

1. Registration under the Industrial Registration Act.

General, Cap 118.

Condition: That registrable particular be submitted within six months after the issue of the investment certificate.

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2. Import licence or export licence under the Imports, Exports and Essential Supplies Act. Cap 502.

3. Registration of premises as a factory under the Factories Act. Cap 514.

4. Approval of plans under section 69G of the Factories Act. Cap 514.

5. Licences under the Nyamira Finance Act, 2013.

6. Authority or consent, under the Nyamira County Finance Act, 2013 or under the Public Health Act, to undertake construction of works or premises. Cap 242.

Condition: That the works or premises comply with all design requirements and that the works or premises will not be used until any inspections or certificates required by law are carried out or issued.

7. Development permission under section 33 of the physical planning Act, 1996 and a certificate of compliance referred to in section 30(7) of that Act. No. 6 of 1996.

8. Registration under an order under the Industrial Training Act. Cap 237.

Condition: Those registrable particulars be submitted within six months after the issue of the investment certificate.

9. Private carrier's licence under the Transport Licensing Act. Cap 404.

10. Permit to use a standardization mark under the Standards Act. Cap 496.

11. Permit required under section 25 of the Water Act, 2002. No. 8 of 2002.

12. License for a steam vessel under the Lakes and Rivers Act. Cap 409.

13. Environmental impact license under the environmental Management and Co-ordination Act, 1999. No. 8 of 1999.

Hotel

14. Hotel licence under Section 98 of the Tourism Act. No. 28 of 2011.

Condition: That the certificate of the medical officer be provided.

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15. Restaurant licence under Section 98 of the Tourism Act. No. 28 of 2011.

Condition: That the certificate of the Medical Officer of Health be provided.

16. General liquor licence and hotel liquor licence under the Liquor Licensing Act. Cap 121.

Restaurant

17. Restaurant licence under section 98 of the Tourism Act. No. 28 of 2011.

Condition: That the certificate of the Medical Officer of Health be provided.

18. Restaurant liquor licence under the Liquor Licensing Act. Cap 121.

Selling, Preparing Food

19. Licence under the Food, Drugs and Chemical Substances Act and the Nyamira Finance Act, 2013 to use premises to sell, prepare, store or display for sale, any food. Cap 254.

Agriculture — General

20. Registration under section 22 (6) of the Agriculture Act. Cap 318.

Pyrethrum Growing

21. Licence to grow the Pyrethrum Act. Cap 340.

Sisal Industry

22. Registration as a grower under Sisal Act. Cap 341.

Condition: That the particulars required under the Sisal Industry (Registration) Rules be submitted within six months after the issue of the investment certificate.

23. Licence for factory under the Sisal Act. Cap 341.

Milling Of Maize, Wheat

24. Miller's licence under the National Cereals and Produce Board Act. Cap 338.

Tea Factory

25. Manufacturing licence under the Tea Act. Cap 343.

Sugar Mill

26. Licence to operate a sugar mill or a jagger mill under the Sugar Act. No.10 of 2001.

Coffee Dealing

27. Licence to buy, sell, mill, warehouse, export or otherwise deal in or transact business in coffee under the Coffee Act, 2001. No. 9 of 2001.

28. Movement permits under the Coffee Act, 2001. No. 9 of 2001.

Dairy Industry

29. Registration under Part V of the Dairy Industry Act. Cap 336.

Condition: That the particulars required under section 32 of that Act be submitted within six months after issue of the investment certificate.

30. Dairy manager licence under the Dairy Industry Act for the person specified in the investment certificate. Cap 336.

31. Retail licence under the Dairy Industry Act. Cap 336.

32. Registration of premises as a dairy under the Public Health (Milk and Dairies) Rules under the Public Health Act. Cap 242.

33. Licence as a purveyor of milk under the Public Health (Milk and Dairies) Rules under the Public Health Act. Cap 242.

Hide, Skin and Leather Dealing

34. Buyer's licence under the Hide, Skin and Leather Trade Act. Cap 359.

35. Exporter's licence or importer's licence under the Hide, Skin and Leather Trade Act. Cap 359.

36. Registration certificate for premises under the Hide, Skin and Leather Trade Act. Cap 359.

37. Bacon factory licence under the Pig Industry Act. Cap 361.

38. Licence to slaughter pigs under the Pig Industry Act. Cap 361.

39. Licence to keep pigs under the Animal Diseases (Control of Pigs Diseases) Rules under the Animal Diseases Act. Cap 364.

(Control of Pigs Diseases) Rules under the Animal Diseases Act.

Slaughter House

40. Licence to operate a slaughterhouse under the Meat Control (Local Slaughterhouses) Regulations under the Meat Control Act. Cap 356.

41. Licence under section 8 (1) (a) of the Kenya Meat Commission Act. Cap 363.

42. Licence to slaughter pigs under the Pig Industry Act. Cap 361.

43. Licence to keep pigs under the Animal Diseases (Control of Pigs Diseases) Rules under the Animal Diseases Act. Cap 364.

Sterilizing Plant

44. Licence for a sterilizing plant under the Fertilizers and Animal Foodstuffs Act. Cap 345.

Export of Meat or Supply of Meat to Ships at Mombasa

45. Licence under section 8 (1) (b) of the Kenya Meat Commission Act. Cap 363.

Stock Trading

46. Stock trader's licence under the Stock Traders Licensing Act. Cap 498.

Fisheries

47. Certificate of registration of a vessel under the Fisheries Act. Cap 378.

48. Licence to catch fish under the Fisheries Act. Cap 378.

49. Licence for a foreign fishing vessel under the Fisheries Act. Cap 378.

Manufacturing Drugs

50. Manufacturing licence under the Pharmacy and Poisons Act. Cap. 244.

Pharmacy

51. Registration of premises under the Pharmacy and Poisons Act. Cap. 244.

Pest Control Products

52. Licence for premises under the Pest Control Products Act. Cap 346.

Motor Vehicle Components Or Accessories Dealing

53. Licence to deal in motor vehicle components or accessories under the Motor Vehicle Components and Accessories Act. Cap 520.

Second-Hand Motor Vehicle Dealing

54. Licence to carry on business of buying, or selling second-hand motor vehicles under the Second-Hand Motor Vehicle Act. Cap 484.

Scrap Metal Dealing

55. Licence under the Scrap Metal Act. Cap 503.

Mining

56. Prospecting right under the Mining Act. Cap 306.

57. Exclusive prospecting licence under the Mining Act for specified lands. Cap 306.

58. Lease under the Mining Act for specified lands. Cap 306.

59. Consent under section 10 of the Wildlife (Conservation and Management) Act for specified lands in a National Park. Cap 376.

Dealing In Precious Metal

60. Licence to trade in unwrought precious metals under the Trading in Unwrought Precious Metals Act. Cap 309.

61. Diamond dealer's licence under the Diamond Industry Protection Act. Cap 310.

Cinema

62. Cinema licence under the Films and Plays Act. Cap 222.

Making Films

63. Filming licence under the Films and Stage Plays Act. Cap 222.

64. Authorization to make a film in a National Park under the Wildlife (Conservation and Management) Act. Cap 376.

Hire Purchase

65. Licence to carry on a hire-purchase business under the Hire-Purchase Act. Cap 507.

Auctioneers

66. Licence under the Auctioneers Act, 1996. No. 5 of 1996.

FOURTH SCHEDULE

The Investment Priority Areas

- 1. Agriculture
- 2. Infrastructure
- 3. Energy
- 4. Education
- 5. Manufacturing
- 6. Real estate
- 7. Health
- 8. Information Communication and Technology
- 9. Tourism
- 10. Warehousing

FIFTH SCHEDULE

Form 1.

(r. 5)

Application for Registration of Investment

Registration Number (Official use only)

Name of Company or Individual Investor:

Contact Person, if different from above:

Address of Contact Person:

Telephone:

E-mail:

Country of incorporation, if applicable:

Date of incorporation, if applicable:

Proposed approximate investment in Kenya (in Kenya Shillings)

.....
.....
.....

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(Please include a total of foreign plus Kenyan funds, projected over the first two years of the investment, and including all types of financing)

Proposed general location (s) within Kenya of planned business activities:

.....

(An address of Land Registration Number is ideal, but naming a city or town(s) or district(s) is adequate —

please be as specific as possible)

Name of existing business, if any

.....

Nature of proposed investment:.....

.....

Planned for County hires:

Planned for expatriate hires:

Management

Management

Technical/Professional.

Technical/Professional

Skilled:

Total

Other:.....

Total

Intended sales, beginning in first year of investment in County:

Domestic

Units	value (Kshs.)	Export unit	value (Kshs.)
Year 1—
Year 2—
Year 3—

I certify that the above information is true and accurate to the best of my knowledge,

Name:

Signature:

Date:

To be submitted to:

Chief Executive Officer,

P.O. Box

Telephone:

E-mail:

Form 2.

(r. 7)

Application for an Investment Certificate

(Full and accurate completion of this form will speed up the project approval process)

PART I

A. DETAILS OF THE APPLICANT

(i) Name of Company/Business

(ii) Contact Person

(iii) Address of Contact Person

Tel

Fax

E-mail

(iv) Type of business Entity

(Limited Company, Partnership, Etc.)

(v) Country of Incorporation

(v) Dated of Incorporation

(vi) Indicate whether the company is—

(a) New ()

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(b) Operating ()

(vii) Indicate whether to manufacture under Bond (MUB).

(MUB is manufacturing for export only)

Yes No

B. PROPOSED LOCATION OF BUSINESS

- (i) Land Registration Number (L.R. No.)
- (ii) Street/Road
- (iii) Town.....
- (iii) Town
- (iv) District

C. COMPANY DIRECTORS

Name of Director	Nationality	Address

PART II

(i) Nature of activity
 Describe the nature of activity (Project Description)

(ii) MARKET (Domestic & Export)

i. Indicated expected domestic and export annual market share

.....% of Total

Domestic market

Export Market.....

(iii) Give 5 years projected sales figures (Kshs. 000)

Year	Domestic sales	sales

	Quantity	Value (KShs)	Quantity	Value
2004/5				
2005/6				
2006/7				
2007/8				
2008/9				

PART III [subsidiary]

(A) EMPLOYMENT DETAILS

LOCAL EMPLOYEES	NUMBER
Management	
Technical/Professional	
Skilled	
Others	
EXPATRIATE EMPLOYEES	NUMBER
Management	
Technical/Professional	
TOTAL	

(i) Explain need for expatriate employee(s)

.....

.....

.....

.....

PART IV:

INVESTMENT AND FINANCING PROGRAMME

A. CAPITAL COSTS (ESTIMATED)

Fixed Costs	Amount
Land & Land Development	
Plant and Machinery	
Working Capital	
Others	
TOTAL	

B. FINANCING PLAN

Type of Financing	Foreign	Local
Equity		
Loan		
TOTAL		

PART V: DECLARATION

I hereby certify that the foregoing particulars are correct to the best of my knowledge,

Name

Signature

Date

Indicate Enclosures:

- 1. Certificate of Incorporation in Kenya.
- 2. Memorandum and Articles of Association
- 3. Others

To be submitted to:

CHIEF EXECUTIVE OFFICER

P.O. Box

Tel:

Cell: Office:

E-mail:

Website:

FOR OFFICIAL USE ONLY

- 1. REF NO
- 2. DATE RECEIVED.....
- 3. RECEIVING OFFICER.....

NYAMIRA COUNTY INVESTMENT BOARD

P.O. Box

Telephone:

Office Mobile No:

E-mail:

Website:

Form 3 (r.10)

Investment Certificate

This is to certify that:.....

With contact person:

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Located at address:

Is the holder of an Investment certificate issued under the Nyamira County Investment Act, 2013 to

engage in the following business activity:

.....
.....
.....
.....
.....
.....

This certificate constitutes the following licenses, permits, registrations and authorities in so far as they may be required for the purposes of the proposed business activity. The validity of this certificate is contingent upon the investor and all business activities of the investor in Kenya remaining lawful and in satisfaction of all requirements that normally would attach to all Kenyan licences, permits, registrations and authorities.

The business activity is expected to be carried out in the following locations:

.....
.....
.....

The validity of this certificate is also contingent upon the investor paying the application fees for all relevant licences, permits, registrations and authorities within 6 months of the date of issuance, and applying for such licences, permits, registrations and authorities within 12 months. This certificate is valid for a period of 12 months from the date of issuance or until the relevant permits are granted, whichever comes first. Subsequently, each licence, permit, registration and Board shall be applied and renewed in keeping with Kenyan law.

.....
.....
.....
.....
.....
.....

The validity of this certificate is contingent upon the investor and all business activities of the investor in the County satisfying the following conditions:

.....
.....
.....
.....
.....
.....

Date of issuance:

Signed:

Chief Executive Officer,
Nyamira County Investment Board,
P.O. Box
Telephone:
E-mail:

SUBSIDIARY LEGISLATION

THE INVESTMENT (INVESTMENT REGISTRATION AND CERTIFICATES) REGULATIONS, 2013.

PART 1—PRELIMINARY

1. These regulations may be cited as the Investment Citation
(Investment Registration and Certificates) Regulations, 2013.

2. In these Regulations, unless the context otherwise Definition.
requires—

“board” means the Nyamira County Investment Board;

“competent Board” means any agency of the National Government, local Board or any other institution or organization which has the lawful power to issue a licence for an investor in Kenya;

"investor" Means sole traders, a partnership, a company or other body corporate incorporated under the laws of Kenya or those of a country other than Kenya including a trust or trust

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corporation.

“Investment certificate” means an investment certificate issued under this Bill; "licence" includes a registration, permit, approval or authorization required by law regardless of how it is described.

3. There is established a committee known as the investment committee (hereinafter referred to as the “Committee”) whose function is to review technical applications for investment certificates touching on security, environment and health.

Establishment of investment committee.

4. (1) The Committee shall be composed of the following—

Composition of the committee

- (a) The Managing Director, who shall be the chairperson;
- (b) Two persons from the Board appointed by the Managing Director;
- (c) One nominee of each relevant Board, as shall be invited by the Managing Director.

(2) The Managing Director shall invite relevant authorities to nominate representatives to the investment committee as and when the need arises.

(3) The Managing Director may designate such other person to chair the Committee on her behalf.

{Subsidiary}

PART II— INVESTMENT REGISTRATION

5. (I) A local investor shall register the investment with the Board in accordance with Part IV of this Bill.

Application.

(2) An application for registration shall be in Form 1 as set out in the Fifth Schedule.

(3) Upon receipt of the application, the Board shall issue a registration number to the applicant.

6. All letters and instruments written or made, including but not limited to communications related to registration, shall be signed by an authorized officer of the Board.

Signing Board.

PART III—INVESTMENT CERTIFICATES

7. A foreign investor who is applying for an investment certificate in accordance with Part IV of this Bill shall do in

Application.

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Form 2 as set out in the Fifth Schedule.

8. All letters and instruments written or made, including but not limited to communications related to the issuance of an investment certificate, shall be signed under the hand of the Managing Director. Signing Board.

9. The procedure set out in the Third Schedule of this Bill shall apply with respect to the consideration of an application for an investment certificate. Procedure for consideration of application.

10. The investment certificate shall take the prescribed form as set out in Fifth Schedule. Form of Certificate.

11. (1) An investment certificate shall be subject to conditions specified in these regulations. Condition of Certificate.

(2) An investment certificate shall include such conditions such as may be required by any other government body in order to ensure that Kenyan licensing and permitting requirements are satisfied and such conditions shall address *bona fide* concerns based on laws affecting health, environment and security.

(3) Notwithstanding these conditions, the Board may also specify other conditions at the time of issuance of the certificate.

12. (1) An investment certificate may be transferred only with the written approval of the Board. Transfer.

(2) A request for such a transfer shall be made in writing to the Board.

(3) The Board shall have five working days to review the transfer request and issue for a response in writing.

(4) When a transfer or a certificate would have health, environmental or security implications, the application will be referred to the investment committee.

(5) An investor who is dissatisfied with a decision of the Board may appeal and the procedure set out in clause 20 shall apply.

13. (1) An investment certificate may be amended only with the written approval of the Board. Amendment

(2) A request for an amendment shall be made in writing by an investor to the Board.

(3) The Board shall have five working days to review the

request and issue a response in writing.

(4) When an amendment of a certificate would have health, environmental or security implications, the request shall be referred to the investment committee.

(5) An investor who is dissatisfied with a decision of the Board may appeal and the procedure set out in clause 20 shall apply.

14. (1) The Board may revoke an investment certificate on the following grounds— Revocation

- (a) that the certificate was issued on the basis of incorrect information given by the applicant;
- (b) that the investment certificate was obtained by fraud; or
- (c) that a condition of the investment certificate was breached.

(2) In revoking a certificate, the procedure set out in clause 19 shall apply.

(3) An investor who is dissatisfied with a decision of the Board to revoke the certificate may appeal and the procedure set out in clause 20 shall apply.

NYAMIRA COUNTY NEW CITY ZONING REGULATIONS

1. These regulations shall be known as the “Nyamira County New City Zoning Regulations” Citation.

2. The primary purpose of these regulations are— Purpose.

- (a) to promote the use and conservation of the land and resources of New City known as the “City”;
- (b) to ensure that use of land shall be situated in appropriate locations and relationships; and
- (c) to create safe and desirable conditions for living, economic progress, recreation and other activities in the City.

3. No structure, or part thereof, shall be erected, constructed, altered and maintained, and no new use or change Scope.

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of use shall be made or maintained of any structure or land, or part thereof, except in conformity with the provisions of these regulations.

4. The land in the City is hereby divided into the following zoning districts— Zoning districts.

- (a) central business district
- (a) recreation-conservation;
- (b) residential; and
- (c) commercial manufacturing.

5. District boundaries

6. The purpose of this zoning district is to have an area of the City where the principal use is the conservation, management and low impact utilization of natural resources. Land in this district is to be used primarily for open space and recreation oriented purposes. Any residential development in this district should have an open space and recreational amenities, such as trails and parks. Recreation-Conservation District.

7. The following uses of land and buildings are allowed in the Recreation-Conservation District— Uses allowed in the Recreation-Conservation District.

- (a) forest preserves and game parks;
- (b) trails, parks and greenways;
- (c) recreational activities;
- (d) golf courses and golf driving ranges;
- (e) places of worship.

8. The maximum building height for a structure shall be 25 feet, except as otherwise specifically provided under these Regulations. Area requirement.

9. (1) The focus of this district is to promote healthy family by creating developments that are walkable, affordable and desirable. Residential District.

(2) All developments should be linked with pedestrian-oriented connections.

10. The purpose of this district is to provide a place for people to shop, work, recreate and provide services. Commercial Manufacturing District.

Zone	Permitted User	Mini. Plot Size (Ha.)	SET BACKS M			No. of Floors (Max)	Plot Coverage (Max net area)	Building Typologies/Type of Development (permitted, permitted with conditions & not permitted)
			F	S	R			
CENTRAL BUSINESS DISTRICT								
Core CBD	Commercial/Residential/Light Industries	2ha						<p>Permitted land use</p> <p>Purely business, provision of services, wholesale and retail outlets display</p> <p>Permitted with conditions</p> <p>Residential, restaurants, light industries</p>
Minimum Parking Requirement	<p>1 parking space for each 25 m² of floor</p> <p>1 parking space for each 3 persons (minimum of 10 parking spaces)</p>							
Peri-CBD	Commercial/Offices/Residential	2ha						<p>Permitted land use</p> <p>Purely business, provision of services, wholesale and retail outlets display</p> <p>Permitted with conditions</p> <p>Residential, restaurants, light industries</p>

Minimum Parking Requirement	1 parking space for each 25 m ² of floor 1 parking space for each 3 persons (minimum of 10 parking spaces)							
RESIDENTIAL DISTRICT								
Low Density Residential Development								
Planned low density	Low impact Residential	2ha	6.0	3	4.5	(GF +1)	35%	Permitted uses Town house, open spaces/parks, schools, single family dwelling Permitted with conditions Convenient stores, gas stations Not permitted Industries, offices & business
Minimum Parking Requirement	1 parking space for each 250 sq. ft. of floor space.			<ul style="list-style-type: none"> The Board will regulate the type of structures, open spaces, building coverage, utilities, landscaping and other features as per the master plan. 				
Medium Density Residential Development								
Planned medium residential	Residential	2ha	6	3	4.5	GF+4	50%	Permitted uses Multi-dwelling units, flats, schools, open spaces/parks Permitted with conditions Convenient stores, gas stations

									Not permitted Industries, offices and businesses
Minimum Parking Requirement	Each bachelor apartment unit, 1 covered space Each efficiency or 1 bedroom apartment unit, 2 covered spaces Each 2 bedroom apartment unit, 2 covered + 1 uncovered spaces Guess parking required for apartments with a minimum of 10 units at a ratio of 1 space for each 4 units								<ul style="list-style-type: none"> The Board will regulate the type of structures, open spaces, building coverage, utilities, landscaping and other features as per the master plan
High density planned residential	Residential	2ha	3	2.5	3	G+8	65%		Permitted uses Permitted uses Multi-dwelling units, flats, schools, open spaces/parks Mixed Residential Development <ul style="list-style-type: none"> Flats Masionatt es bungalows

								<p>Permitted with conditions</p> <p>Convenient stores, gas stations</p> <p>Not permitted</p> <p>Industries, offices and businesses</p>
<p>Minimum Parking Requirement</p>	<p>A pool parking for each 250ft²</p> <p>Guest parking required for apartment with a minimum of 10 units at a ratio of 1 space for each 4 units</p>							<ul style="list-style-type: none"> The Board will regulate the type of structures, open spaces, building coverage, utilities, landscaping and other features as per the master plan
RECREATION-CONSERVATION DISTRICT								
<p>Natural Park</p>								<p>Permitted land use</p> <p>Theme parks and amusement parks, hotels and restaurants not exceeding 300 sq. M, sports stadium and recreational complexes, sports recreation, walk ways and land scraping, nature parks/trails, open spaces</p> <p>Permitted with consent</p> <p>Multiplexes with recreational as dominant activity, golf courses and club house</p>

							including any allowable commercial uses. Not permitted Residential, Industrial, office and business
Urban Park							Permitted land use Theme parks and amusement parks, hotels and restaurants not exceeding 300 sq. M, sports stadium and recreational complexes, sports recreation, walk ways and land scraping, nature parks/trails, open spaces Permitted with consent Multiplexes with recreational as dominant activity, sports recreation, nature parks/trails.. Not permitted Residential, Industrial, office and business
Wildlife conservation	Conservation and tourist recreational facilities						Permitted uses with consent Liquid waste disposal, water

								features, tree planting, nature trails, environment facilities, environment protection works, leisure areas, urban forest
COMMERCIAL MANUFACTURING DISTRICT								
Commercial	Office and businesses (purely business)		3 meter s facing a common boundary.				90% of net area of lot 10% of net area must landscaped	Permitted land use Purely business, provision of services, wholesale and retail outlets display Permitted with conditions Residential, restaurants
Education		5ha	6	3	4.5	GF+4	33%	Permissible land uses Universities, training institutions, schools, hostels and related utilities, libraries, hospitals, social and cultural institutions, sports stadiums, recreational complexes Permitted with consent leisure areas,

