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KISUMU COUNTY BILLS, 2024

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THE KISUMU COUNTY QUARRYING BILL, 2024

A Bill for

AN ACT of the County Assembly of Kisumu to regulate quarrying activities; to ensure the safe and sustainable exploitation and use of land, quarry resources and materials and the environment; to establish a system of benefit sharing in the exploitation of quarry resources between the resource exploiter, the county government and the local community; and for connected purposes

ENACTED by the County Assembly of Kisumu, as follows—

PART I — PRELIMINARY

Citation

1. This Act may be cited as the Kisumu County Quarrying Act, 2024.

Interpretation

2. In this Act —

“authorized officer” includes an environmental officer, county enforcement officers, any person acting under the authority of the Licensing Officer or any person acting under the provisions of this Act;

“benefit” means any gains, proceeds or profits from the exploitation of quarry resources;

“benefit sharing” means the sharing of any benefits arising from the exploitation of quarry resources in a fair and equitable manner;

“benefit sharing agreement” means an agreement on the manner in which revenue accruing from natural resources shall be shared out between an affected entity and a county;

“Committee” means the Quarry Control Committee established under section 5;

“dealer” means a person who buys, sells or trades in quarry resources;

“executive committee member” means the executive committee member responsible for matters relating to environment;

“exploitation” means the extraction or use of quarry resources for commercial benefit;

“investor” means a person or his or her agent who gathers or collects quarry resources or materials from any gazetted area for purposes of sale or own use;

“license” means a permit issued by the county government or authorized officer to engage in trade, occupation or business of quarrying and transportation of quarry materials and products from any of the gazetted areas;

“local community” means—

- (a) people living in a ward within which a quarry resource or material is situated; and
- (b) people displaced to make way for the exploitation of quarry resources and material;

“person” means a company, association or other body of persons whether incorporated or unincorporated;

“quarry” means any place (not being a mine as defined in the Mining Act) where quarry material or quarry mineral has been removed or is being removed, whether by excavation or otherwise, to supply material for construction purposes, other than dimension stones for construction industry;

“quarry material” means rock, stone, sand (including sea sand), marl, gravel, clay, fill, limestone, and manganese where such material does not contain any materials in economically workable quantities as defined in the mining Act;

“quarry mineral” means gypsum and any other substance that the Cabinet Secretary may, by notice published in the Gazette declare to be a quarry mineral;

“quarry zone” means any area designated as such by the executive committee member under section 13; and

“rehabilitation” means to restore to previous condition or set up again in good condition.

Objects of the Act

3. The object of this Act is to provide for the regulation and control of quarrying activities and in particular—

- (a) designate quarrying exploitation areas and the timelines for undertaking quarrying and related activities;
- (b) provide a framework for the management and regulation of quarrying;
- (c) provide for benefit sharing and investment back to the local community part of the benefits received from quarrying and other related activities;

- (d) provide for the rehabilitation, preservation and protection of the environment from harmful effects of quarrying and related activities; and
- (e) enable local communities to participate in the management of quarrying activities.

Guiding Principles

4. All persons shall be guided by the following principles in the performance of their functions under this Act—

- (a) transparency and inclusivity;
- (b) revenue maximization and adequacy;
- (c) efficiency and equity;
- (d) accountability and participation of the people;
- (e) rule of law and respect for human rights of the people; and
- (f) sustainable environment and resource management.

PART II — ESTABLISHMENT OF THE QUARRYING CONTROL COMMITTEE

Establishment of the Quarrying Control Committee

5. There shall be established the County Quarrying Control Committee consisting of —

- (a) a chairperson, who shall be elected by the members of the Committee from amongst the members referred to in paragraph (f);
- (b) the Chief Officer in the Department responsible for environment or a representative nominated by the Chief Officer in writing;
- (c) the Chief Officer in the Department responsible for Finance or a representative nominated by the Chief Officer in writing;
- (d) the Chief Officer in the Department responsible for infrastructure or a representative nominated by the Chief Officer in writing;
- (e) the County Public Health Officer; and
- (f) seven members appointed by the Executive Committee Member as follows—
 - (i) five persons, two of whom shall be of the opposite gender, representing the local communities in areas where quarrying activities are undertaken;

- (ii) one person nominated civil society organizations dealing with quarrying related matters within the County; and
- (iii) one person nominated by quarry operators in the County.

Tenure of Office

6. (1) The Chairperson and members of the Committee appointed under section 5(1)(f) shall hold office for a period of three years and are eligible for re-appointment for a further one term.

(2) The other members of the Committee shall hold office by virtue of their office and shall cease to be members of the Committee whenever they cease to hold office in their respective Departments.

(3) Where a person is nominated to serve in the Committee by the respective Chief Officers, such person shall cease to be a member of the Committee when the nominating Chief Officer ceases to be a Chief Officer in the relevant Department.

Vacancy in the Committee

7. (1) The Chairperson and any other member appointed under section 5(1)(f) may at any time, by notice in writing under his or her hand addressed to the Executive Committee Member.

(2) If the executive Committee member is satisfied that the Chairperson or any other member to whom this section applies—

- (a) has been absent from three consecutive meetings of the Committee without the permission of the Board;
- (b) has become bankrupt or made an arrangement with his or her creditors;
- (c) has ceased to represent the interests in respect of which he or she is appointed; or
- (d) is incapacitated by physical or mental illness is otherwise unable or unfit to discharge the functions of his office, the executive committee member may declare the office as chairperson or a member of the Board, as the case may be, to be vacant, and shall notify the fact in such manner as the executive committee member considers fit; after which, the office shall be vacant.

(3) Where a vacancy occurs in the office of a member appointed under section 5(1)(f), the executive committee member shall appoint another person nominated in accordance with that section to fill the vacancy.

Functions and powers of the Quarrying Control Committee

8. (1) The Committee shall—

- (a) coordinate the preparation of benefit sharing agreements between the county and an affected entity,
- (b) ensure sustainable exploitation and utilization of quarry resources and materials;
- (c) maintain a register of all quarry investors;
- (d) oversee the administration of funds set aside for community projects to be implemented under a benefit sharing agreement;
- (e) facilitate and monitor the implementation of a benefit sharing agreement entered into between the County Government and an affected entity;
- (f) conduct research regarding the exploitation and development of quarry resources and benefit sharing in the county;
- (g) determine appeals arising out of conflicts regarding the preparation and implementation of benefit sharing agreements;
- (h) advise the county government on policy and implementation of legislation relating to benefit sharing in quarry resource exploitation;
- (i) oversee the establishment of local benefit sharing committees;
- (j) ensure the proper and timely payment of funds to the county and local communities as provided under this Act;
- (k) build the capacity of local communities in negotiations for benefit sharing and implementation of related projects;
- (l) identify, in consultation with sector specific organizations, incentives and benefits to promote the conservation of quarries;
- (m) recommend designated roads for transportation of quarry products and other excavated material in accordance with this Act;
- (n) recommend to the county executive committee designated quarrying areas for gazettelement; and
- (o) promote the restoration of the environment after the exploitation of a quarry resource in an affected area; and
- (p) perform any other function assigned by any other written law.

(2) The Committee may, in furtherance of its functions, collaborate with such other bodies or organizations within or outside the county as it

may consider necessary for the better performance of its functions under this Act.

(3) The Committee shall have regard to the following in the performance of its functions—

- (a) all existing law regulating the mining, resource sharing and natural resources sector in Kenya;
- (b) all existing arrangements for benefit sharing between local communities and an affected.
- (c) entity under any law in Kenya; and
- (d) obligations imposed on the county under any national legislation or agreement relating to the exploitation of natural resources, environmental conservation and mining.

COMMITTEE SECRETARIAT

Establishment and composition of the Secretariat for the Committee

9. There shall be established the Kisumu County Quarrying Control Committee secretariat and shall be composed of at least five persons and not more than seven persons—

- (a) Chief Officer for the time being responsible for Environment, who shall be the head of the Secretariat;
- (b) The Director for environment or a representative nominated by the Director in writing;
- (c) the Director for the time being responsible for Finance or a representative nominated by the Director in writing;
- (d) the Director for the time being responsible for Infrastructure or a representative nominated by the Director in writing; and
- (e) the Director for the time being responsible for Public Health.

Functions of the Secretariat

10. The Committee Secretariat shall—

- (a) provide advisory services to the County Quarrying Control Committee on matters related to quarrying activities in the County;
- (b) coordinate research on environmental protection, disseminate findings and advise on best practices;
- (c) identify County-wide quarrying needs and vulnerabilities;

- (d) coordinate capacity building programmes for the Quarrying Sector Personnel;
- (e) develop a data base for developments within the Quarrying Sector;
- (f) coordinate monitoring and evaluation within the Quarrying Sector;
- (g) ensure implementation of the Quarrying coordination framework and policies;
- (h) mobilize resources for the quarry sites management sector;
- (i) promote partnerships, networks, linkages for effective co-ordination and information sharing and;
- (j) co-ordinate activities of the County Quarrying Control Committee.

CONDUCT AND DISCLOSURE OF INTEREST

Conduct and Disclosure of Interest

11. (1) A member of the Committee or its Secretariat may not—

- (a) attend, participate in, vote or influence the proceedings during a meeting of the Committee if, in relation to the matter before the Committee, that member has an interest, including a financial interest, that precludes him or her from acting in a fair, unbiased and proper manner; or
- (b) make private use of, or profit from, any confidential information obtained as a result of performing his or her functions as a member of the Committee.

(2) For purposes of sub-section (1)(a), a financial interest means a direct material interest of a monetary nature, or to which a monetary value may be attributed.

Cessation of Membership

12. (1) A member of the Committee or the Secretariat established in terms of this Act ceases to be a member if—

- (a) that person resigns from the committee or its Secretariat;
- (b) the County Executive Committee Member for Environment terminates that person's membership for adequate reason so long as that person was appointed pursuant to this Act; or
- (c) the term for which the member was appointed has expired and the membership has not been renewed; and
- (d) contravenes any of the conditions set out in Section 12.

PART III—ADMINISTRATION OF QUARRYING ACTIVITIES*COLLECTION OF FEES AND OTHER LEVIES***Imposition of fees and other levies**

13. (1) The Committee shall, with the approval of the executive Committee member, determine and review the amount of fees and levies payable by affected entities in respect of a quarry mining, transportation and dealings where a written law does not prescribe the fees and levies chargeable.

(2) In making a determination under subsection (1), the Committee shall take into account—

- (a) the total capital investment of the affected entity;
- (b) the prevailing market value of the quarry resource and material;
- (c) the commercial viability of the quarry resource or material being exploited;
- (d) the impact of the exploitation on the local community, the affected sub county and the environment; and
- (e) obligations of the affected entity under any existing benefit sharing agreement with the affected sub county.

(3) The Committee shall monitor compliance with the written law and the implementation of any benefit sharing agreement entered into pursuant to this Act or any other written law.

County Revenue Board

14. (1) The County Revenue Board shall collect all fees, levies and any other payments as determined by the Committee under section 10 from affected entities.

(2) The monies collected pursuant to this section shall be paid into the County Revenue Fund.

(3) The Revenue Board shall declare to the Committee the total sum collected from affected entities with respect to each quarry resource or material as provided for under this Act.

*QUARRYING ACTIVITIES AND LICENSING***Licensing**

15. (1) No person shall open, establish or operate a quarry for the purposes of extracting quarry material, resources or quarry mineral except under, and in accordance with this Act.

(2) The County Executive Committee Member may, on the recommendation of the Committee, by notice in the *Gazette* —

- (a) declare as a specified area any area in which quarry zones are to be established; and
- (b) establish quarry zones within such specified area.

Limitations on Licensing

16. (1) No person shall open, establish or operate a quarry or undertake quarrying activity for the purposes of extracting quarry material, resources or quarry mineral except under, and in accordance with a license granted for that purpose under this Act.

(2) No person shall transport any quarry materials, resources or undertake any quarry activity except under, and in accordance with a license granted for that purpose under this Act.

(3) No license shall be granted to a person to operate a quarry within a specified area unless such quarry is located within a quarry zone.

Application for a Quarry License

17. (1) An application for a license to operate a quarry shall be filed with the executive Committee Member in the prescribed form and shall be accompanied by the prescribed fee and the prescribed particulars.

(2) Every applicant for a license shall cause to be displayed in a prominent place at the proposed site of the quarry a notice in the prescribed form for a period of not less than twenty-one days, commencing from the date on which the application for a license is filed with the Executive Committee Member.

(3) On receipt for an application for a license, the executive committee member shall consult with the Committee and other relevant authorities and shall, subject to the provisions of subsection (1) above either grant or refuse the application and, in the event of refusal, shall notify the applicant in writing of the grounds for refusal.

(4) A license granted under this section may contain such terms and conditions as the executive committee member considers advisable.

(5) A license granted under this section—

- (a) shall, unless previously revoked, remain in force for such period as may be determined by the Executive Committee Member acting on the advice of the Committee; or

- (b) may, if the executive committee member sees fit, upon expiry of the period determined pursuant to paragraph (a), be renewed upon payment of the prescribed fee, for a period determined.

Grounds of refusal to grant license

18. (1) The executive committee member shall refuse to issue a license to operate a quarry or undertake any other quarry activity where in the opinion of the executive committee member, the operation of the quarry would be against the interest of the public, taking into account—

- (a) the preservation of the character of the environment including the fauna and flora;
- (b) the availability of natural environment for the enjoyment of the public;
- (c) the need, if any, for restricting excessively large total quarry output in the locality;
- (d) the traffic density on roads in the area where the quarry is to be operated;
- (e) any possible effect on the water table or surface drainage pattern;
- (f) the nature and location of other land uses that could be affected by the quarry operation;
- (g) the character, location and size of nearby communities;
- (h) danger of pollution to the neighborhood; and
- (i) any other factors which in the opinion of the executive committee member will be against the public interest.

(2) Where the executive committee member proposes to refuse an application for a license, the executive committee member shall notify the applicant in writing and afford the applicant an opportunity to show cause why the license should not be refused.

Surrender of License

19. (1) A license may with the consent of the executive committee member and on payment of the prescribed fee, be surrendered at any time to the executive committee member, however, liability incurred by the licensee prior to the surrender shall not be affected.

(2) subject to subsection (1), the executive committee member may, in writing suspend or revoke a license—

- (a) where the executive committee member is satisfied that the license has been obtained as a result of any misleading, false or fraudulent representation, or in consequence of any incorrect information;
- (b) where there has been a contravention of the provisions of this Act or of any regulation made under this Act or other written law;
- (c) where there has been a breach of any of the restrictions or conditions stipulated in the license;
- (d) where any mineral is discovered within or in close proximity to the quarry' or where the executive committee member is satisfied that, having regard to any circumstance arising subsequent to the issue of a license, the operation of the quarry is against the interest of public safety, public order or public health.

(3) Before the suspension or revocation of a license, the executive committee member shall serve notice in writing on the licensee, specifying the reasons for the proposed suspension or revocation and shall afford the licensee an opportunity of making representations to show cause why a license should not be suspended or revoked, as the case may be.

(4) In the case of a surrender, suspension or revocation of a license, the executive committee member shall cause notice of the fact to be published in the gazette, and a copy sent by registered post and electronically sent at the licensee last known address.

Security for rehabilitation

20. (1) Every licensee shall—

- (a) for rehabilitation of the land on which a quarry is located, maintain on deposit with the County Government such security in such amount and form and subject to such conditions as may be prescribed; and
- (b) the executive committee member may, owing to special circumstances or in special cases, grant exemption in part or in full from such deposit subject to such terms and conditions as the executive committee member on the advice of the Committee, may consider fit to impose.

(2) Where such rehabilitation is not carried out in accordance with the requirements of this Act, or of the regulations or of the terms and conditions of the license, the executive committee member may—

- (a) forfeit the security deposited under subsection (1); and

- (b) authorize any person to enter upon the premises on which the quarry is situated and perform such work as is necessary for the rehabilitation; and the cost thereof shall be recovered as a debt due by the licensee; and such cost shall in the first instance be paid out of the moneys forfeited and the balance (if any) refunded in accordance with the law.

License not transferable

- 21. A license issued under this Act is not transferrable.

PART V— BENEFIT SHARING AGREEMENT**Benefit Sharing Agreement**

22. (1) Every licensed quarrying entity shall enter into a benefit-sharing agreement with the County Government before the exploitation of a quarry resource in the affected sub-county.

(2) The benefit sharing agreement shall include non-monetary benefits that may accrue to the local community and the contribution of the quarrying entity in realizing the same.

Functions of the Committee in Benefit Sharing Agreements

23. In adopting a Benefit Sharing Agreement, the Committee shall—

- (a) negotiate the terms of a benefit sharing agreement with an affected entity on behalf of the local community;
- (b) monitor the implementation of projects required to be undertaken in the sub county pursuant to a benefit sharing agreement;
- (c) determine the amount of money to be allocated to each local community from monies that accrue under a benefit sharing agreement under this Act;
- (d) convene public forums to facilitate public participation with regard to proposed benefit sharing agreements during negotiations prior to execution by the Board;
- (e) convene public forums for the purpose of facilitating public participation with regard to community projects proposed to be undertaken using monies that accrue to the county pursuant to this Act; and
- (f) make recommendations to the CEC Member on projects to be funded using monies which accrue to the county government pursuant to this Act.

Approval of Benefit-Sharing Agreement

24. (1) Every benefit sharing agreement shall be approved by the county assembly prior to the execution of the agreement by the parties.

(2) Each Sub-county and local community benefit sharing agreement shall be deposited with the CEC Member within thirty days of its execution and a copy shall simultaneously be submitted to the County Assembly.

Local Community Benefit-sharing Forum

25. (1) There shall be established by each affected local community a Local Benefit Sharing Forum comprising of five persons elected by the residents of the local community.

(2) A public officer shall not be eligible for election as a member of a local community benefit sharing forum.

(3) The members of a local community benefit sharing forum shall serve for a single term of five years.

(4) The Committee shall facilitate meetings and the election of the members of the Local Community Benefit Sharing Forum.

(5) A local community benefit sharing forum shall not hold more than eight meetings in one year.

(6) The functions of a Local Community Benefit Sharing Forum shall be to—

- (a) negotiate with the Committee for the purpose of entering into a local community benefit sharing agreement on behalf of the community;
- (b) identify local community projects to be supported by money allocated to the local community by the Committee under this Act; and
- (c) oversee the implementation of projects undertaken at the local community using money devolved under this Act.

(7) The Local Community Benefit-sharing Forum shall be paid sitting allowances in accordance with the guidelines by the Salaries and Remuneration Commission.

PART VI —ENFORCEMENT OF SAFETY

Enforcement of safety

26. (1) If an authorized person specified in section 12 finds in any respect any quarry to be operated—

- (a) in a dangerous or defective manner so as to threaten or tend to bodily injury;
- (b) in a manner detrimental to the fauna and flora of the neighborhood or to the welfare or health of any person, or
- (c) in a manner that is likely to cause injury of the livestock, the person shall—
 - (i) give notice in writing to the person operating the quarry stating in the notice, the particulars in which the authorized officer considers the quarry to be dangerous or defective, and
 - (ii) require it to be remedy the danger or defect either forthwith or within such times as the authorized officer may specify.

(2) Despite subsection (1) (i) and (ii), the authorized officer may recommend work to be suspended until the danger is removed.

(3) On receipt of the notice, the person operating the quarry shall comply with the notice, or, if there is an objection, the person operating the quarry shall immediately state the objection in writing to the Committee.

(4) The Committee shall with all reasonable dispatch consider the objection and give written notice to the objector on the Committee's decision which shall be final.

(5) Where the person operating the quarry states the objection to the Committee, the person shall cease to operate the quarry and shall withdraw all persons from the danger indicated in the notice until such time as the matter is determined by the Committee.

(6) If in the opinion of the authorized officer giving notice, there is no immediate danger, the authorized person with the approval of the Board, may allow work to proceed during the time the matter is being determined, under such restrictions and upon such conditions to ensure safety as the Committee may consider necessary.

Investigations

27. (1) An authorized environmental officer, public health officer, any other authorized officer or any other officer authorized by the CEC Member for any purpose related to the administration or enforcement of this Act, may at all reasonable times enter, inspect and examine any premises, vehicle or land on which a quarry is being operated or where quarried material or quarried minerals is stored or transported or any place where books, records or other documents are or should be kept pursuant to this Act and—

- (a) examine into and make inquiry respecting the condition of any quarry and all matters relating to the safety, welfare and health of the persons employed therein;
- (b) inspect and examine the conditions of the external parts of any machine used upon such quarry;
- (c) inspect the storage of explosives on any quarry and direct in what manner they shall be stored;
- (d) audit or examine the books and records and any account, voucher, letter, telegram or other document that relates or may relate to the information that is or should be in the books or records or amount of levies and fees payable under this Act;
- (e) examine the goods described by an inventory or any process or matter, an examination of which may, assist in determining the accuracy of an inventory or in ascertaining the information that is or should be in the books or records of the amount of levies payable under this Act;
- (f) require a licensee and any other person on the premises to give all reasonable assistance with the audit or examination and to answer all questions relating to the audit or examination either orally or in writing, on oath or by statutory declaration and for that purpose, require the person to attend with the officer at any such premises, land or vehicle;
- (g) if during the course of an audit or examination, it appears to the person that there has been a contravention of this Act, seize and take away any of the records, books, accounts, vouchers, letters, telegrams and other documents and retain them until they are produced in any court proceedings.

(2) The Committee or any person authorized under this Act may at all reasonable times enter, inspect and examine any premises or land on which a quarry is being operated or where quarry material is stored for the purpose of determining whether any minerals in economically workable quantities are to be found.

PART VIII — MISCELLANEOUS PROVISIONS

Offences

28. (1) A person who —

- (a) fails to furnish information required to be furnished to the CEC Member or the Committee under this Act;

- (b) makes a statement which the quarrying entity knows to be false or which the entity has no reason to believe to be true; or knowingly makes a false statement under this Act; commits an offence.
- (2) A person who is found guilty of an offence under subsection (1) is liable, on conviction —
- (a) in the case of a natural person, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment; and
 - (b) in the case of a body corporate, to a fine not exceeding one million shillings.
- (3) Where a body corporate is found guilty of an offence under this Act shall be liable, on conviction, to a fine not exceeding five million shillings.
- (4) An affected entity that continues to be in breach of this Act may be liable to cancellation of its license.

REHABILITATION OF A QUARRY SITE

Conditions before leaving a quarry site

- 29.** (1) Every Licensee shall—
- (a) six months before the intended closure of a quarry submit to the Committee a rehabilitation plan for the quarry;
 - (b) Fence and plant trees within or around the quarry site and;
 - (c) upon completion of quarrying activities, fill or drain all the holes and excavation.

Environmental and Social Considerations

30. The licensee shall be guided by the following considerations in conducting quarrying activities —

- (a) environmental considerations—
 - (i) common mineral dam(s) or gabion(s) are constructed in designated common mineral harvesting sites;
 - (ii) where more than one common mineral dam or gabion is to be constructed, they shall be at most 200 meters apart;
 - (iii) lorries shall use designated access roads only to common mineral harvesting sites;
 - (iv) designated common mineral harvesting sites are rehabilitated appropriately by the licensee under close monitoring and supervision by the Director in compliance

with Environmental Management and Co-ordination Act, 1999;

- (v) common mineral harvesting or scooping is restricted to the riverbeds with no harvesting allowed on riverbanks to avoid widening of rivers; it specifies the area of common mineral harvesting and the depth to which the harvesting will be done; and
 - (vi) The requirements of an environmental impact assessment/environmental audit pursuant to the Environmental Management and Co-ordination Act No. 8 of 1999 have been fulfilled.
- (b) Social considerations—
- (i) Mineral loaders are over 18 years of age residing within the local community;
 - (ii) Licensees shall pay a negotiated and agreed wage to mineral loaders subject to the prescribed minimum wage as prescribed in the regulations under this Act;
 - (iii) the loaders shall organize themselves into recognized groups with clear operational structures for their self-regulation; and
 - (iv) the Committee shall oversee the operations of the loaders; and the licensee shall support local community projects in consultation with the Committee.

Riverbed harvesting

31. (1) Quarrying from any riverbed shall be undertaken in a way that ensures adequate reserve of the common mineral is retained to ensure water retention.

(2) Quarrying shall be prohibited on any riverbanks.

(3) Loading of common mineral shall be done in the designated harvesting sites through controlled access points.

(4) No quarrying shall take place within 100 metres of either side of any physical infrastructure including bridges, roads, railway lines, dykes, among others.

(5) No quarrying shall take place during heavy rains.

REGULATIONS

Delegated Legislation

32. (1) The County Executive Committee Member shall make regulations for the better carrying into effect the provisions of this Act.

(2) In particular, and without prejudice to the generality of the power conferred by sub-section (1), the exec shall make Regulations—

- (a) prescribing the fees in respect of anything required to be done under this Act;
- (b) procedures for electing and nominating members to the Board, Benefit Sharing Committees and the Local Benefit Sharing Forums;
- (c) prescribing procedures of the Board, Sub County Benefit Sharing Committees and the Local Benefit Sharing Forums;
- (d) prescribing the administration of the Fund;
- (e) prescribing mode for the payment of fees and levies under this Act;
- (f) prescribing the revenue sharing formula between sub counties that share a quarry resource; and
- (g) prescribing anything which is required to be prescribed or is necessary to give effect to this Act.

MEMORANDUM OF OBJECTS AND REASONS

The principal objective of the Kisumu County Quarrying Bill, 2024 is to regulate quarrying activities within Kisumu County to ensure the safe, sustainable, and environmentally sound exploitation of quarry resources. This Bill seeks to establish a legal framework that balances the economic benefits of quarrying with the need to protect land, natural resources, and the well-being of local communities. The Bill further introduces a benefit-sharing system to ensure equitable distribution of revenues derived from quarrying between resource exploiters, the County Government, and local communities, thereby fostering sustainable development and social equity.

PART I (Clauses 1-2): Contains preliminary provisions, including the short title, interpretation, and objectives of the Act.

PART II (Clauses 3-10): Outlines the licensing and regulatory framework for quarrying activities. This part vests the authority to issue quarrying licenses in the County Executive Committee (CEC) Member for Environment and Natural Resources and provides guidelines on the application, approval, and conditions of licenses.

PART III (Clauses 11-15): Focuses on environmental protection, including requirements for environmental impact assessments, measures for minimizing environmental harm, and obligations for site rehabilitation upon the cessation of quarrying activities.

PART IV (Clauses 16-20): Establishes a benefit-sharing framework, requiring resource exploiters to share a portion of their revenues with the County Government and local communities.

PART V (Clauses 21-24): Provides for monitoring, compliance, and enforcement mechanisms, including the appointment of quarry inspectors and the imposition of penalties for violations of the Act.

PART VI (Clauses 25-27): Includes miscellaneous provisions such as offenses related to illegal quarrying, indemnity for officials acting in good faith, and the delegation of powers to the CEC Member to make regulations necessary for the implementation of the Act.

Statement on the Delegation of Legislative Powers and Limitation of Fundamental Rights and Freedoms

This Act delegates legislative powers to the County Executive Committee (CEC) Members responsible for Environment and Natural Resources to make regulations necessary for its effective implementation. The Act does not limit any fundamental rights or freedoms as guaranteed under the Constitution.

Statement that the Bill is a Money Bill within the Meaning of Article 114 of the Constitution

This Bill is not a Money Bill within the meaning of Article 114 of the Constitution. However, its enactment and implementation shall result in additional expenditure of public funds.

Dated the 28th October, 2024.

NEREAH OKOMBO,
Member of County Assembly.