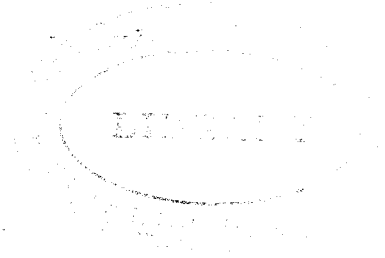


**SPECIAL ISSUE**

*Machakos County Gazette Supplement No. 11 (Bills No. 9)*



REPUBLIC OF KENYA

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***MACHAKOS COUNTY GAZETTE  
SUPPLEMENT***

**BILLS, 2016**

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**NAIROBI, 27th July, 2016**

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**MACHAKOS COUNTY MANAGEMENT OF QUARRYING  
ACTIVITIES BILL, 2016**

**A Bill for**

**AN ACT of Machakos County Assembly to regulate quarrying activities; to ensure sustainable exploitation and utilization of quarrying: to provide for rising of revenue from quarrying activities; to provide for equitable sharing of the accruing benefits; and for connected purposes**

**ENACTED** by the County Assembly of Machakos as follows—

**PART I—PRELIMINARY**

**Short Title**

1. This Act may be cited as the Machakos County Management of Quarrying Activities Act, 2016.

**Interpretation**

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

‘authorized officer’ includes any person acting under the authority of the licensing officer;

Director means the Director for the time being responsible for matters relating to natural resources;

Executive committee member means the county executive committee member for the time being responsible for matters relating to natural resources;

Quarry means a place from which building demission stone, rock, construction quarry aggregate, murrum, riprap, gravel, lime, sand, slate, shingle, brine, diatomite, kaolin, ornamental stone, sodium and potassium compounds and surface stone is excavated from the ground;

**PART II—QUARRYING**

**Objectives of the Act**

3. The object and purpose of this Act is to provide for a legislative framework for regulating quarrying activities and in particular to—

- (a) Designate quarrying exploitation areas and timelines for undertaking quarrying and related activities;
- (b) provide for the institutional framework for management and regulation of quarrying activities;

- (c) provide for the rehabilitation and protection of the environment from harmful effects of quarrying activities and related activities;
- (d) provide for benefit-sharing and investing back to the community part of the revenue collected from quarrying activities ; and
- (e) enable communities to participate in the management of quarrying activities.

### **Prohibited Quarrying Activities**

4. No person shall carry out, conduct any quarrying operations or activities unless issued with a permit by Director.

### **Licensing**

5. The Director shall ensure that the following conditions are complied with for ensuring sustainable quarry related activities including the—

- (a) requirement for quarry dealers to furnish the licensing officer with an environmental impact assessment relating to the site for which a license is sought;
- (b) requirement for rehabilitation of sites upon closure; and
- (c) other condition as may be prescribed by the Regulations under this Act.

### **Environment**

6. The Director shall ensure that all quarrying activities are in compliance with the relevant environmental protection laws.

### **Permit Application**

7. (1) A person intending to a carry out quarrying activities in the county shall make an application in the prescribed form to the Director.

(2) The application under sub section (1) shall contain—

- (a) a plan of the site plan of the land with the quarry and its surroundings;
- (b) an environmental impact assessment report;
- (c) clearance from National Environment Management Authority;
- (d) a rehabilitation plan for the quarrying site; and
- (c) such other information as the Director may deem fit.

(3) A license shall only be granted for a specific quarry.

(4) Where the applicant is not the owner of the land in which quarrying activities is to be carried out, the application shall contain consent from the land owner.

(5) An application by a contractor or a lessee shall state if written authority has been granted by the land owner on which there are quarry deposits.

### **Objection to Application for a License**

8. (1) A person may lodge objection to an application with the Director.

(2) Every objection to an application shall be made in writing to the Director, and the objector shall, at least seven days before the hearing of the application, serve the applicant with a copy of the objection together with the grounds of the objection.

(3) The Director may of its own motion take notice of any matter or thing which, in the opinion of the Director, constitutes an objection to an application, whether or not any objection has been otherwise lodged.

(4) An objector may appear personally or by an advocate at the hearing of the application.

### **Review**

9. (1) Any person aggrieved by the decision of the Director may apply for review of the decision before the Executive Committee Member.

(2) All applications for review shall be filed within thirty days of the decision.

### **Public Participation**

10. (1) Before the issuance of any quarrying activities license the Director shall invite the public to express their views.

(2) In issuing a quarrying permit the director shall ensure public participation recommendations and opinions are taken in to consideration.

### **Duration of Permit**

11. (1) A permit issued under this Act shall be valid until the 31<sup>st</sup> December of the year in respect of which it is issued.

(2) Where a permit holder breaches or fails to comply with the conditions subject to which the permit was issued, the permit shall be suspended.

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**Provision of Amenities to Workers at a Quarrying Site**

- 12.** Every permit holder shall—
- (a) at all times during the currency of the permit provide and maintain for the persons working at the quarry housing, water supply and toilets of the type, quality and size in a condition approved by the Director responsible for matters relating to public health in the county;
  - (b) maintain the land on which the quarrying operations is being carried on in a condition not detrimental to public health or safety;
  - (c) fill or drain all holes or excavations as and when required by the Director responsible for matters relating to public health in the county;
  - (d) securely fence holes or excavations required by the Director; and
  - (e) comply with any further conditions specified by the Director may endorse on the permit.

**Cancellation**

- 13.** A Director may cancel a licence if—
- (a) the application form contains any material misrepresentation or false statement;
  - (b) any information given in the application for the business was materially incorrect so as to create a false impression of the ownership of the business or the nature of its business activity;
  - (c) the licensee carries on a prohibited activity;
  - (d) a condition imposed is breached; or
  - (e) the licensee is convicted of an offence under this Act.

**Closure of a Quarry**

**14.** (1) The Director may order a permit-holder to stop the quarrying operations and close the quarry if it poses danger to the public health and safety.

(2) An order made under sub-section (1) shall remain in force until the permit holder complies with prescribed safety standards.

**Conditions before leaving a Quarry Site**

- 15.** (1) Every permit holder shall—
- (a) six months before the intended closure of the site submit to the Director a rehabilitation plan for a quarrying site; and
  - (b) upon completion of quarrying activities, fill or drain in all the holes and excavation.

**Entry and Inspection**

- 16.** (1) The Director may—
- (a) enter and inspect a quarrying site for purposes of enforcing the provisions of this Act;
  - (b) execute work that may be necessary to remedy any breach of failure to comply with the provisions of this Act or any of the conditions under which a permit has been issued; or
  - (c) recover the expenses incurred in carrying out the work in paragraph (b) from the owner of the premises.

**Fees**

- 17.** (1) Every permit holder shall pay such fee in respect of every load removed from a quarry as may be prescribed by the executive committee member.

**PART III—ADMINISTRATION**

**Duties**

- 18.** (1) The Director for the time being responsible for matters relating to natural resources shall oversee the implementation of this Act.
- (2) In performing the duties under sub section (1), the Director shall—
- (a) be responsible for the day to day administration management and control of matters relating to quarrying;
  - (b) issue quarrying licenses in accordance with this Act;
  - (c) collaborate with relevant government institution for effective management of quarrying activities in the County;
  - (d) ensure citizen participation in matters relating to quarrying;
  - (e) advise the County executive committee on matters relating to quarrying;
  - (f) enforce the provisions of this Act; and
  - (g) perform any other function as may be necessary for the implementation of this Act.

### **Transportation Hours and Tonnage**

**19.** (1) A person shall not undertake quarrying activities or transport quarry material between the hours 6.00 pm and 6.00 am.

(2) The transportation of quarry materials within the county shall only be done through designated roads for such transportation.

(3) A person who contravenes this section commits an offence and is liable upon conviction to a fine not exceeding five hundred thousand shillings or to an imprisonment term not exceeding two years or to both.

### **PART V—MISCELLANEOUS**

#### **Penalty**

**20.** A person who—

- (a) undertakes quarrying activities without a license;
- (b) conducts quarrying activities outside permitted quarry site;
- (c) fails to comply with the conditions of the quarrying license;
- (d) transports quarry materials outside the designated roads for such transportation; or
- (e) obstructs any authorized person from conducting their functions under this Act;
- (f) commits an offence and shall on conviction be liable to a fine not exceeding two hundred thousand shillings or to an imprisonment term not exceeding one year or both.

#### **General Penalty**

**21.** A person who contravenes any provisions of this Act, for which no penalty is provided shall, on conviction, be liable to a fine not exceeding five hundred thousand shillings or to an imprisonment term not exceeding three years or to both.

#### **Regulations**

**22.** (1) The Executive Committee Member shall make Regulations generally for the better carrying out the provisions of this Act.

(2) Without prejudice to the generality of subsection (1), such Regulations may provide for the—

- (a) designated quarrying site;
- (b) prescribe the hours within which quarrying activities shall be undertaken;
- (c) prescribe measures for the rehabilitation quarrying sites;



- (d) prescribe the fees payable under the Act;
- (e) prescribe the manner of public participation;
- (f) prescribe the forms of applications, notices, licences and other documents for use under the Act;
- (g) prescribe or prohibit anything required by this Act to be prohibited;
- (h) prescribe the mode of collection prescribed under this Act;
- (i) all guidelines for quarrying and related activities;
- (j) the terms and conditions of all classes of licenses issued under this Act;
- (k) conditions applicable to different types of quarrying activities;
- (l) loading requirements depending on tonnage;
- (m) rehabilitation of closed sites;
- (n) designation of sale yards for quarry material;
- (o) pricing per lorry load based on tonnage; and
- (p) such other matters as the as may be necessary for full implementation of this Act.

## **MEMORANDUM OF OBJECTS AND REASONS**

The principal object of the Bill is to establish a legal framework to regulate quarrying activities; to ensure sustainable exploitation and utilization of quarrying; to provide for raising of revenue from quarrying activities; to provide for equitable sharing of the accruing benefits; and for connected purposes.

The Bill requires that any person dealing in quarrying activities must be licensed by the county in accordance with the provisions set out. The Bill also contains provisions on public participation where the community are entitled to give their view on quarry related activities.

The Bill also creates offences and penalty and grants legislative authority to the executive committee member to make subsidiary legislation.

The enforcement of this Bill shall occasion additional expenditure of public funds which shall be provided through the estimates.

Dated the 5th May, 2016.

EDRICK MUTUA NGUNZI,

*Chairman*

*Committee of Environment, Land, Energy and Natural Resources,*