

THE WILDLIFE CONSERVATION AND MANAGEMENT ACT

(No. 47 of 2013)

IN EXERCISE of the powers conferred by section 60(5) and 62(5) of the Wildlife Conservation and Management Act, 2013, the Cabinet Secretary for Environment and Natural Resources, makes the following Regulations:-

WILDLIFE CONSERVATION AND MANAGEMENT (ESTABLISHMENT AND ACCESS TO DATABASE) REGULATIONS, 2015

PART 1- PRELIMINARY

Citation and commencement

1. (1) These Regulations may be cited as the Wildlife Conservation and Management (Establishment and Access to Database) Regulations, 2015.

(2) These Regulations shall come into force on the date of their publication in the Kenya Gazette.

Interpretation

2. In these Regulations, unless the context otherwise requires –

“Act” means the Wildlife Conservation and Management Act, No. 47 of 2013;

“applicant” means any natural or legal person requesting wildlife data or information;

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters relating to wildlife;

“classified information” means-

(a) information provided to the Institute by any person or agency (however expressed) which forbid the disclosure of the information to the public; or

(b) information the disclosure of which to the public is prohibited by or under any enactment or by the order of a court,

and in either case, a reference to ‘classified’ is to be construed accordingly;

“community” means a group of individuals or families who share a common heritage,

interest, or stake in unidentifiable land, land based resources or benefits that may derived therefrom;

“copy” in relation to any document includes a copy made from a copy;

“database” means a collection of information that is organized so that it can easily be accessed, managed, and updated;

“document” means any report or background papers, other than that only in a draft form, taken into consideration in relation to a decision;

“information” includes an expression of opinion, any recommendations and any decision made;

“information transfer agreement” is a contract that governs the transfer of tangible research information between two organizations, when the recipient intends to use it for his or her own research purposes.

“Institute” means the Wildlife Research Training Institute established under section 50 of the Act;

“least concern” means a plant or animal indigenous to Kenya, other than that which is extinct in the wild, endangered, vulnerable or near threatened wildlife;

“public” means one or more natural or legal persons, and, in accordance with national legislation or practice, their associations, organizations or groups;

“restricted data” is any confidential or personal information that is protected by law or policy, and that requires the highest level of access control and security protections whether in storage or in transit. ”

“Service” means the Kenya Wildlife Service established under section 6 of the Act; and

“wildlife data information” means any information in written, visual, aural, electronic or any other material form on wildlife.

PART II-WILDLIFE DATABASE

Establishment of a wildlife database

3. (1) The Institute shall, in collaboration with the Service and other relevant lead

agencies and stakeholders, establish a comprehensive wildlife database.

(2) The database established under sub-regulation (1) shall include relevant data produced by the Kenya National Bureau of Statistics, Universities and other research institutions or as a consequence of collaborative research by the Institute with foreign institutions and researchers.

(3) The Institute shall, in consultation with the Service, the relevant lead agencies and other stakeholders, ensure that data is collected in accordance with any harmonized national standards that may be prescribed under the Act or these Regulations.

(4) The Institute shall, in respect of the data and information that it holds, progressively make the data and information available and accessible, through any means, to all the stakeholders and the general public.

(5) The wildlife data information held by the Institute shall be the official data on wildlife.

Register of wildlife data

4. (1) The Institute shall keep and maintain a public register with a reference of all the wildlife data or information held by or for it or held by or for other public authorities.

(2) Any public authority, which holds any data in respect of wildlife, shall immediately upon commencement of these Regulations notify the Institute all the wildlife information held by it and shall deposit a copy of such data with the Institute.

Methods of data collection

5. (1) The Institute and other agencies may undertake wildlife data collection by use of any internationally accepted methods including but not limited to-

- (a) census;
- (b) sample survey;
- (c) experiments; and
- (d) observational study

(2) The Institute shall, in order to enhance data quality and improve its accuracy and precision encourage the use of a data flow which takes cognizance of the following steps-

- (a) data collection in accordance with sub-regulation (1);

- (b) data capture; and
- (c) data collation.

(3) The Institute shall acknowledge the source of data, where it has not been collected by the Institute

(4) Data collected by the Institute shall be made publicly available, while personal publications shall be restricted.

Classification of wildlife

6. The Institute may classify wildlife on its database in a manner that provides ease of study and reference in accordance with the Sixth schedule to the Act, including but not limited to-
- (a) extinct in the wild;
 - (b) critically endangered;
 - (c) endangered;
 - (d) vulnerable;
 - (e) near threatened;
 - (f) protected wildlife; and
 - (g) least concern wildlife.

Purposes of keeping a database

7. The Institute shall ensure that the database maintained is in a form that may aid for any of the following purposes-
- (1) to put into effect recovery plans or conservation plans for the wildlife and its habitat;
 - (2) to seek funding to help achieve the objectives of the recovery plans or conservation plans;
 - (3) to take action to ensure viable populations of the wildlife in the wild are preserved or re-established;
 - (4) to work towards a national conservation status for the wildlife and its habitat; and
 - (5) to implement education programs for land-holders on-
 - (a) threatening processes to the wildlife or its habitat; and
 - (b) the conservation of the wildlife and its habitat;
 - (6) to regularly monitor and review the conservation status of the wildlife and its habitat;

- (7) to encourage scientific research likely to contribute to an understanding of the wildlife or its habitat including the requirements for conserving the wildlife or habitat;
- (8) to protect critical habitat, or the areas of major interest, for the wildlife;
- (9) to assess the extent of the impact, on the wildlife, of the activities to which the procedures relate; and
- (10) provide for effective measures to mitigate any adverse impact of the activities on the wildlife.

Inspection and supply of documents

8. (1) Any document required by the Act or any provision of these Regulations to be accessible by members of the public must be available for inspection-

- (a) at all working hours at the offices of the Institute; and
- (b) on the Institute's website, save for documents to be made available subject to payment of a fee .

(2) Subject to sub- regulation (1) where a document is to be available for inspection by a person under any provision in these Regulations, the person may-

- (a) make a copy of the whole or part of the document; or
- (b) require the person having custody of the document to supply the person requiring inspection a copy of the whole or part of the document, through postpaid mail on payment by the person requiring a copy the necessary charges.

(3) Subject to sub-regulation (4), any member of the public may, in any publicly available medium, reproduce, or provide commentary in relation to, any document supplied to that person or made available for inspection by members of the public under these Regulations.

(4) Sub-regulations (2) and (3) do not require or authorize the doing of any act which infringes the copyright in any work except that, where the owner of the copyright is the Institute, nothing done pursuant to that sub-regulation constitutes an infringement of the copyright.

(5) Where any document required by these Regulations to be available to the public-

- (a) is supplied to or available for inspection by members of the public; or
- (b) is supplied for the benefit of any newspaper

the publication thereby of any defamatory matter contained in the document is privileged unless the publication is proved to be with malice.

Dissemination of data

9. (1) The Institute shall take all possible measures to ensure that wildlife data is actively and systematically disseminated to the public, through any means.
- (2) The information to be made available and disseminated shall be updated as appropriate and shall include at the least-
 - (a) texts of international treaties, conventions or agreements, and of community, national, regional or local legislation, on wildlife conservation and management or relating to it;
 - (b) policies, plans and programmes relating to wildlife conservation and management;
 - (c) progress reports on the implementation of the items referred to in paragraphs (a) and (b) when prepared or held in electronic form by public authorities;
 - (d) data or summaries of data derived from the monitoring of activities affecting, or likely to affect wildlife conservation and management; and
 - (e) as much written commentaries, opinions and scholarly literature on wildlife as is available to the Institute.

Classified Information

10. Nothing in these Regulations-

- (1) shall be taken to authorize or require the disclosure of classified and restricted information in breach of the obligation of non-disclosure; or
- (2) authorizes or requires the Institute to disclose to the public or make available for public inspection any document or part of a document if, in the opinion of Institute, that document or part of a document contains or may contain classified information.

PART III-ACCESS TO WILDLIFE DATA

Access to wildlife data

11. (1) Subject to Regulation 8, a person may, upon application, access any data or information upon payment of a prescribed fee.

(2) The Institute shall avail the data or information under sub-regulation (1) in the format requested unless-

- (a) it is reasonable for it to make the information available in another format; and
- (b) the information is already publicly available and easily accessible to the applicant in another format.

(3) The following factors are to be taken into account in determining whether the conversion to the requested format is reasonable or unreasonable-

- (a) the costs to the Institute;
- (b) the potential of damage of the data;
- (c) if the person making the request is to be given access to only a part of a record, the facility with which the record may be severed in the format requested;
- (d) the possibility that the record can be converted to another format that is useful to the person making the request;
- (e) the impact on the operations of the Institute; and
- (f) the availability of the required personnel, resources, technology and equipment.

Applications

12. (1) Any applicant may request the Institute to provide him with any wildlife data.

(2) A record of all such applications shall be kept by the Institute.

(3) An application for wildlife data shall be in an Access for data Request Form A prescribed in the First Schedule

(3) A complete application for data or information under the Act shall be made upon presentation of-

- (a) a completed Access for Data Request Form under sub-regulation (3); and
- (b) a written request that provides sufficient detail to enable the Institute to identify the data required.

(5) Where an applicant requires a copy of any data or information the application must contain-

- (a) the portion or segment of document required to be reproduced; and
- (b) any amount required to be paid as a deposit before the photocopying of the record is undertaken.

Timelines for access to data

13. (1) The Institute shall, if the requested information is available, as soon as possible or, within thirty days from receipt of the request, provide such information to the applicant.

(2) If the size and the complexity of the information is such that the period referred to above cannot be complied with, the period shall be extended by a further thirty days, and the Institute shall notify the applicant of such an extension and the reasons thereof within the period set out in sub-regulation (1)

provided that if the request for data is formulated in too general a manner, the Institute shall, as soon as possible and within the period set out in sub-regulation (1), ask the applicant to provide better and more details of the request.

Refusal to grant an application

14. (1) The Institute may refuse to grant an application under Regulation 12 where the data or information requested is classified and restricted,

provided that in case of refusal the Institute shall communicate to the applicant in writing, the reasons for refusal within twenty-one days from the date of the making the decision.

(2) A record of proceedings and decision to refuse a grant of an application for data under these Regulation shall be retained by the Institute and made available for inspection by the applicant and the public in general for a period of at least one year beginning on the date on which the decision, to which the proceedings and decision relates was made.

Limitations on accessibility of information

15. For the purposes of these Regulations if a document does not exist but can be produced from machine readable documentation under the control of the Institute the information should be made available if its production would not unreasonably interfere with the operations of the Institute.

Recording of decisions

16. As soon as reasonably practicable after the Institute has made a decision it must produce a written statement of that decision which includes-

- (1) a record of the decision including the date it was made;
- (2) a record of the reasons for the decision; and
- (3) details of any alternative options considered and rejected by the Institute when making the decision.

PART IV-FINAL PROVISIONS

Saving

- 17.** The rights conferred on any person by these Regulations to inspect, copy or be supplied with documents are in addition to any such rights that person may have apart from those under these Regulations.

Offences

- 18.** (1) A person who has custody of a document which is required by these Regulation to be available to members of the public commits an offence if, without reasonable excuse, that person-

- (a) intentionally obstructs any person exercising a right conferred under these Regulations to inspect, or to make a copy of the whole or part of the document; or
- (b) refuses to supply a copy of the whole or part of the document in accordance with Regulation 9 herein or any other written law.

- (2) A person who commits an offence under sub-regulation (1) is liable on summary conviction to a penalty as prescribed in the Act.

FIRST SCHEDULE

FORMS FOR APPLICATION AND RENEWAL OF RESEARCH PERMIT

FORM A (To be completed in Triplicate)

THE REPUBLIC OF KENYA

THE WILDLIFE CONSERVATION AND MANAGEMENT ACT, 2013

**Wildlife Conservation and Management (Establishment and Access to Database)
Regulations, 2015**

Regulation

ACCESS TO DATA REQUEST

PART I- DETAILS OF APPLICANT

INDIVIDUAL APPLICANTS

NAME OF APPLICANT _____

SEX M F (First) (Middle) (Surname)

ID NUMBER _____

PIN NO. _____

ADDRESS _____ POSTAL CODE _____

TEL.
NUMBER _____

CORPORATE APPLICANTS

NAME OF APPLICANT _____

REGISTRATION NUMBER _____

(Attach copy of certificate of registration)

PIN NO. _____

ADDRESS _____ POSTAL CODE _____

TEL. NUMBER _____

Name of the contact person in regard to this application and the position held in the organization _____

FOR ALL APPLICANTS

Have you ever been convicted of any criminal violation relating to wildlife, in Kenya or in any other jurisdiction? Yes No

If yes, please list and explain type of violation and country in which the violation occurred:

Have you ever had a wildlife- related permit or license suspended or revoked?

Yes No

If yes, explain _____

PART II- DETAILS OF PERMIT

TYPE OF PERMIT _____

TYPE OF APPLICATION:

NEW APPLICATION

RENEWAL-

PERMIT NUMBER _____ GRANTED ON _____

DURATION OF PERMIT _____

(Where applicable, state period during the year in months for which permit is required)

PART III-DETAILS OF ACCESS

TYPE OF DATA _____

REASON FOR ACCESS _____

FORM TO BE TAKEN _____

PART IV-DETAILS OF RESEARCH (Where applicable)

NAME AND IDENTIFYING NUMBER OF RESEARCH PROJECT _____

NAME OF INSTITUTION _____

FACULTY _____

PART V-FINAL

OTHER DOCUMENTS (Check if attached)

- Payment of prescribed fee;
- Personal qualifications to perform the research;
- Location(s) where the research shall be conducted and where collected wildlife will be maintained;
- Name and address of the facility to be used as a study center;
- Proposed number of field research assistants and technicians;
- Recommendation from the supporting Faculty or institution and in the case of an independent researcher, a recommendation from a recognized institution with a Faculty teaching or dealing in wildlife research or education;

I hereby apply for a permit and swear by signature that the information submitted in this application and supporting documents is complete and accurate to the best of my knowledge and belief. I understand that any false statement herein may subject me to criminal penalties. I further state that I will abide by all applicable laws, those governing wildlife and the terms and conditions of this permit.

SIGNATURE OF APPLICANT _____ *DATE* _____

OFFICIAL USE ONLY

NAME OF RECEIVING OFFICER _____

DATE _____

STATION _____

PERMIT APPROVED DECLINED

If declined, reason _____
