

**THE VIHIGA COUNTY SAND CONSERVATION
AND MANAGEMENT BILL 2019**

ARRANGEMENT OF SECTIONS

Contents

Short title and commencement.....	2
Interpretation.....	2
Objects and purpose of Bill.....	3
County Sand Conservation and Management Committee	4
Functions of the Committee	5
Sub-County Sand Management Committees	6
Sand Harvesting Associations	7
Functions of Associations	8
County Sand Conservation Fund	8
On-farm Sand Harvesting	9
Riverbed Sand Harvesting.....	9
Hours of Harvesting and Transportation	9
Sale of sand.....	9
Sustainable management	10
Licencing of Sand Harvesters.....	11
Licencing of sand dealers.....	11
Licencing officer.....	11
App1ication for licence	12
Discretion of licencing officer	12
Licence Conditions	12
Licence Fees.....	12
Form of Licence	12
Transfer of licence	12
Alteration of Licence.....	13
Validity and Renewal of Licence	13
Cancellation of Licence	14
Appeals	14
Production of a Licence	14
Collection of Revenue by Government.....	14
Road Barriers	15
Powers to Order Closure of Site	15
Powers of Entry	15
Protection from Personal Liability	16
Dispute Resolution	16
Rehabilitation of Closed Sites	16
Offences.....	16
General Penalty	17
Regulations	17

**THE VIHIGA COUNTY SAND CONSERVATION
AND MANAGEMENT BILL, 2019**

AN ACT of the County Assembly of Vihiga to regulate sand harvesting and related activities in the county and to ensure sustainable conservation and management and utilisation of natural resources and to provide for equitable sharing of the accruing benefits and for connected purposes.

ENACTED by the County Assembly of Vihiga, as follows -

PART I - PRELIMINARY

1. This Act may be cited as the Vihiga County Sand Conservation and Management Bill, 2019 and shall come into operation upon publication in the Gazette.

Short title and commencement

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

Interpretation.

"authorised officer" includes any person acting under the authority of the licencing officer;

"Committee" means the Sand Conservation and Management Committee established under Section 4 of this Act;

"dealer" means the person who buys and sells common minerals including sand;

"designated area" means any area designated as a sand harvesting area pursuant to the provisions of this Act;

"County" means Vihiga County;

"County Executive Committee Member" means the County Executive Committee Member in-charge of natural resources;

"County Government" means the County Government of Vihiga;

"designated area or site" an area or site that has been gazetted under this Bill as a sand utilization site for the time being;

"EMCA" means the Environmental Management and Co-ordination Act, 1999;

"environmental audit" means the systematic, documented, periodic and objective evaluation of environmental organization and management in order to ensure effective conservation and management of the environment;

"environment and the measures necessary to ameliorate any adverse effects;

"environmental impact assessment" means a systematic examination conducted to determine whether or not a programme, activity or project will

have any adverse impacts on the person's agent who gathers or collects sand from any designated area for the purpose of sale or one's own use;

"harvester" means a person or a person's agent who gathers or collects sand from any designated area for the purpose of sale or one's own use;

"licence holder" means a person to whom a permit has been granted under this Act;

"Licencing Officer" means the Executive Committee Member responsible for matters relating to natural resources;

"person" includes a company, association or other body of persons whether incorporated or unincorporated;

"Riparian land owner" means a person who owns or occupies land which is adjacent to a river.

"sand" means sedimentary material finer than gravel and coarser than silt with grains between 0.06mm and 2 mm in diameter and includes stones, coral, earth and turf but does not include silica sand;

"sand harvesting" means the removal, extraction, harvesting or scooping of sand from a designated areas;

"Sand harvesting", means the removal, extraction, harvesting or scooping of sand from sites;

"Sand dealer" means any person(s) authorized to harvest, remove, extract, scoop, transport or sell sand in quantities above 2 tonnes in accordance with the provisions of this Act;

"Sand loader" means any person who is over 18 years old and has been registered under this Act and is authorized to scoop and load sand on to licenced vehicles;

"licence holder" means a person to whom a permit has been granted under this Act;

"licenced vehicle" means a vehicle that has been licenced under this Act to engage in the transportation of sand;

"quarry" means a place from which building demission stone, rock, construction 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.

- 3.** The object and purpose of this Act is to provide for a legislative framework for sand conservation and management, and regulating sand harvesting, in particular to -
- Objects and purpose of Bill
- a) require the registration of sand dealers and Sand Harvesting Associations ;
 - b) provide for the sustainable conservation and management of sand resources within Vihiga County, through provision for establishment of the County Sand Conservation and Management Committee tasked with the oversight of all sand harvesting, utilization, and related activities within the County, and the Sand Conservation Fund.

- c) determine conservation standards (including sand harvesting hours and sand transportation methods), and provide for periodic assessment of designated sand harvesting sites or areas for purposes of protecting our natural resources and environment;
- d) provide for the institutional framework for conservation and management, and in particular to regulate sand harvesting while mitigating against risks of environmental degradation.
- e) educate the public on the process and importance of protecting the environment and proper utilization of our natural resources;
- f) reduce and mitigate the negative social impacts associated with sand utilization; and
- g) provide for benefits-sharing and investing back to the community part of the revenue collected from sand harvesting.

PART II— ADMINISTRATION

- 4. (1) There is established a County Sand Conservation and Management Committee consisting of -
 - a) The Chief Officer responsible for matters relating to natural resources who shall be the chairperson;
 - b) The Chief Officer responsible for matters relating to finance;
 - c) A representative of sand dealers appointed by the County Executive Committee Member in-charge of natural resources;
 - d) A representative of special interest groups appointed by the County Executive Committee Member in-charge of natural resources;
 - e) A representative from the Department of Trade appointed by the Executive Committee Member in charge of Trade;
 - f) Two representatives of the Sand Harvesting Associations being one man and one woman, appointed by the County Executive Committee Member in-charge of natural resources; and
 - g) The Director of NEMA of Vihiga County.

County Sand Conservation
and Management Committee

(2) The Committee shall be under the supervision and direction of the County Executive Committee Member responsible for matters relating to natural resources.

(3) In the absence of the Chief Officer responsible for matters relating to natural resources, the committee shall elect a chairperson from its quorum.

(4) The quorum of the Committee for purposes of the meeting shall be five members.

(5) The members of the Committee shall elect from within their composition the Secretary.

5. (1) The Committee shall –

Functions of the Committee

- (a) Maintain a register of all sand dealers; co-ordinate the various sand conservation and management activities in the county putting into consideration policies, the CIDP, the sector strategic plans, the annual development plans, work plans, and programmes and projects, ensuring sustainable yields from sand utilization for betterment of livelihoods;
- (b) Contribute to the establishment and review in consultation with the relevant agencies, sand conservation and management guidelines;
- (c) Advise County Executive Committee Member on the structure and operations of sand harvesting and related activities ensuring compliance with this Act and national Statutes, standards, and guidelines;
- (d) Formulate environmental conservancy programmes in relation to sand harvesting and utilization;
- (e) Monitor and assess activities in sand harvesting areas or sites with the view to recommending to the County Executive Committee Member new designated areas or sites for gazettelement;
- (f) Mobilize and monitor the use of financial and human resources for sand conservation and utilization management;
- (g) Oversee and supervise the Sub-County Committee and Sand Harvesting Associations ensuring sustainable sand harvesting activities in conformity with this Act;
- (h) Ensure that before sand harvesting activities are commenced, Environmental Impact Assessment is undertaken in accordance with the provisions of EMCA, 1999, and subsequent amendments to this legislations;
- (i) Formulate regulations for gazettelement by the Executive Committee Member on sand utilization and conservation taking into consideration the policies and legislations of both the County Government and National Government;

- (j) Ensure rehabilitation of the sand harvested areas or sites and other environmental damages associated with harvesting and transportation of sand within the County;
- (k) Perform any other functions assigned by the County Executive Committee Member in-charge of natural resources.

(2) In the performance of its functions under this Act, the Committee shall, subject to any other law, allow the participation of the people who may be affected by its decisions in making decisions.

6. (1) The Sub-County Sand Conservation and Management Committee is established in every Sub-County;

(2) The membership of every Sub-County Committee will be constituted in accordance with regulations to be formulated by the County Executive Committee Member in-charge of natural resources;

(3) The County Department in-charge of natural resource matters shall provide a secretariat to the Sub-County Committees;

(4) Every established Sub-County Committee shall serve for a term of three years renewable once.

7. (1) The Sub-County Sand Management Committee shall be responsible for the proper and sustainable conservation and management of all sand related activities within the sub-county in respect of which it is constituted.

Sub-County Sand
Management Committees

(2) Without prejudice to the generality of subsection one (1), the Sub-County Sand Management Committee shall:

(a) Coordinate and supervise the Sand Harvesting Associations within the particular Sub-County in the process of conservation and management of sand resources;

(b) Recommend to the Authority sites for sand conservation and utilization;

(c) Perform any other functions as the County Conservation and Management Committee may assign from time to time;

(d) Coordinate and supervise the construction of sand dams and gabions in designated conservation and utilization sites;

(e) Ensure that lorries and other sand transportation vehicles only use designated access roads to sand harvesting sites;

(f) Ensure that sand harvesting sites are appropriately rehabilitated by the Sand Harvesting Associations, County Government, and

approved dealers under its close monitoring and supervision; and

(g) Ensure that the requirements of an environmental impact assessment and environmental audit pursuant to the Environmental Management and Co-ordination Act No. 8 of 1999 have been fulfilled before sand utilization is allowed.

7. (1) The Committee shall approve the establishment of such number of Sand Harvesting Associations as is necessary which shall be registered pursuant to the law relating to registration of community-based organisations (CBOs); so approved with regard to the following factors -

- (a) Drainage network of the river and the designated sand harvesting areas or sites;
- (b) The need to ensure full participation of the community including all interest groups; and
- (c) Viability and sustainability of the Sand Harvesting Associations.

(2) Upon approval of Sand Harvesting Associations by the Committee under Subsection (1), the County Executive Committee Member shall, within seven days of such approval, submit the list of approved Sand Harvesting Associations to the County Assembly for vetting.

Sand Harvesting Associations

(3) The Assembly vide Subsection (2), within fourteen days of receipt of the list, forward to the Executive Committee Member vetted associations, for gazzement.

(4) An association shall be composed of the following members elected by interested community –

- (a) A representative of **WRUAs**;
- (b) A representative of special interest groups;
- (c) A representative of the riparian landowners;
- (d) Two women representatives who are not riparian land owners;
- (e) Two youth representatives who are not riparian land owners; and
- (f) Two elders who are not riparian land owners.

(5) An Association shall be responsible for sustainable management of sand harvesting activities in its designated area and in particular to -

Functions of Associations

(a) Ensure that before sand harvesting activities are commenced, an Environmental Impact Assessment is undertaken in accordance with the provisions of Environment Management Coordination Act, 1999;

(b) Ensure that annual Environmental Audits are conducted for all sand harvesting sites including closed sites;

(c) Ensure sustainable management of sand harvesting along riverbeds;

(d) Undertake the rehabilitation of the closed areas or sites; and

(e) Perform any other function assigned to it under this Act.

8. (1) There is hereby established a fund to be known as the County Sand Conservation Fund, (hereinafter Fund referred to as "The Conservation Fund").

County Sand Conservation Fund

(2) The Conservation Fund shall consist of such —

(a) proportion of fees or deposit bonds as may be determined by the County Sand Management Committee from time to time; and

(b) sums as may be donated or levied from industries and other projects proponents as a contribution towards the Conservation Fund.

(3) The object of the Conservation Fund shall be as supplementary insurance for the mitigation of environmental degradation where the perpetrator is not identifiable or where exceptional circumstances require the County Sand Management Committee to intervene towards the control or mitigation of environmental degradation.

9. On-farm and riverbed sand harvesting shall be carried out subject to fulfilling the following conditions -

- a) Sand harvesting shall not exceed six feet in depth;
- (b) A sand harvesting sites shall be at least fifty metres from the nearest riverbanks or dykes;
- (c) Sand harvesting shall not be undertaken concurrently with rehabilitation of the sites; and
- (d) undertaken by open-cast harvesting method and no underground tunneling or extraction of sand shall be undertaken.

On-farm Sand Harvesting

10. (1) Sand harvesting from any riverbed shall be undertaken in a manner that allows retention of adequate reserve of the sand to ensure water holding capacity.

Riverbed Sand Harvesting

- (2) Sand harvesting shall not be undertaken on any riverbank.
- (3) Loading of sand shall be done in the designated harvesting sites through controlled access points.
- (4) No sand harvesting shall take place within one hundred metres of either side of any physical infrastructure including bridges, roads, railway lines, dykes, among others.

11. (1) A person shall not —

- (a) harvest, extract or scoop sand between the hours of the day of 6p.m. and 6a.m.; and
- (b) or transport sand between the hours of the day of 8p.m. and 6a.m.

Hours of Harvesting and Transportation

(2) The transport of sand within the county shall only be done through designated roads for such purpose.

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

12. (1) The Committee shall provide minimum pricing guidelines for sale of sand within the county, but such prices shall take into consideration the requirements of the Restrictive Trade Practices Act and the market forces of the day.

Sale of sand

(2) Any person who sells sand shall be required to issue a receipt to the purchaser and keep records of such for periodic inspection by the relevant authorities.

PART III – CONSERVATION OF SAND RESOURCES

13. The Committee shall, in consultation with the relevant lead agencies, promote the sustainable management of sand resources by —

Sustainable management

- (a) promoting research in appropriate sand utilization;
- (b) creating incentives for the rehabilitation of sand harvesting areas or sites;
- (c) promoting measures for the conservation of access roads; and taking measures to encourage the planting of trees, building of gabions, and sand dams by individual land users, institutions and by community groups;
- (d) undertaking measures intended to integrate the conservation and sustainable utilization ethic in relation to sand dealings in existing activities of government institutions, private persons, and communities;
- (e) measuring the value of unexploited sand and other related resources in terms of watershed protection, influences on climate, cultural and aesthetic value, as well as actual and potential biodiversity and genetic value thereof;
- (f) identifying potential threats to sustainability of sand conservation and utilization in the county and devise measures to mitigate their effects;
- (g) engaging experts in conservation to ensure that the environment is protected at all times; and
- (h) ensuring proper utilization of the Conservation Fund.

14. (1) The Committee shall ensure that in all designated sand utilization areas or sites, sand dams and gabions are constructed.

(2) The County Executive Committee Member in-charge of natural resources shall make regulations for the construction of sand dams, gabions and any other conservation activities.

PART IV-LICENCING PROVISIONS

15. (1) No person shall use, cause or permit to remove sand from any river, farm or other land whether public or private for the purposes of sale without valid license issued under this Act for such trade or business.

Licencing of Sand Harvesters

(2) The licence in Subsection 15(1) shall be deemed to be 'monthly' unless otherwise authorized by the County Executive Committee Member in-charge of natural resources.

(3) Any person who contravenes the provisions of Subsection 15(1) commits an offence.

(4) Subsection 15(1) shall not apply to the utilization of sand for domestic purposes.

16. (1) No person or agent shall transport sand from any part of the county, unless a valid licence for such business has been issued by the government, the licence which shall be deemed to be 'monthly' unless otherwise authorized by the County Executive Committee Member in-charge of natural resources.

Licencing of sand dealers

(2) No person shall carry on or engage in any trade or business of sand harvesting unless the person is licenced to carry on such trade, occupation or business by the County Government.

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

17. (1) The County Executive Committee Member shall be the licencing officer responsible for the issuing of licences under this Act.

Licencing officer

(2) The County Executive Committee Member may, in writing, delegate any one or all of his or her powers under this Act to any one or more authorized officers.

(3) Every licence shall contain conditions for ensuring sustainable sand harvesting including –

- (a) the requirement for sand harvesters to furnish the licencing officer with an environmental impact assessment relating to the site for which a licence is sought;
- (b) the requirement for rehabilitation of sites upon closure; and
- (c) any other condition as may be prescribed by the County Executive Committee member under this Act.

18. An application for licence under this Act shall be in the prescribed form provided that the County Executive Committee Member may, in any particular case require an applicant to submit or supply such further information as the County Executive Committee Member may deem fit.

County Executive
Committee
Member shall
deem necessary.

Application for licence

19. (1) The licencing officer shall consider each application made under Section 18 and determine whether to issue a licence to the applicant or not within thirty (30) days.
(2) If the licencing officer refuses to issue a licence, they shall at the time of giving notification of the refusal, inform the applicant in writing of the reasons of the refusal and refer to the relevant provision in this Act on which the refusal is based.

Discretion of licencing officer.

20. A licence shall be issued —
(a) subject to an obligation to rehabilitate the site and surrounding areas upon closure;
(b) for the category or categories of business activity specified in the licence; and
(c) Subject to the regulations and any other conditions provided in the licence.

Licence Conditions

21. (1) An applicant for a licence shall pay such application fee as may be prescribed by the Executive Committee Member under this Act.

22. (1) A licence shall be in such form as the County Executive Committee Member may from time to time determine and shall be signed by the County Executive Committee Member or a person authorised in that behalf.

Licence Fees

(2) The County Executive Committee Member may issue different classes of licences for different purposes.

Form of Licence

23. (1) A licence issued under this Act shall not be transferred from the holder thereof to another person without the consent of the County Executive Committee Member or a person authorised in that behalf.

(2) An application for the transfer of any licence shall be in such form as may be prescribed by the County Executive Committee Member and shall be accompanied by the licence to which it relates:

Transfer of licence.

Provided that the County Executive Committee Member may in any case require an applicant for the transfer of a licence to submit or supply such further information as the

(3) For every transfer there shall be payable to the County Government such fees as may be prescribed by the County Executive Committee Member.

(4) A memorandum of the transfer of any licence shall be endorsed on the licence by the County Executive Committee Member.

(5) A person who contravenes this section commits an Offence, is liable on conviction, to a fine not exceeding one hundred thousand shillings or to an imprisonment term not exceeding two years or to both.

24. (1) Subject to this Act, the licencing officer may alter a licence from one form of dealership to another on written application by the licensee.

(2) The licensee shall inform the licencing officer, in writing, of any changes within thirty (30) days.

(3) If a licensee fails to inform the licencing officer under subsection (2), the licencing officer may impose a penalty, not exceeding five times the value of the concerned licence.

25. (1) Except as otherwise provided in this Act, the County Executive Committee Member may, subject to this Part, grant renewal of a licence, and may embody therein such conditions as may be deemed appropriate, or may refuse to grant renewal of a licence.

(2) Every licence and every renewal thereof shall be sufficiently authenticated by the County Executive Committee Member.

(3) Every grant of a licence or its every renewal shall -
(a) be subject to the payment of such fee or fees as may be prescribed;
(b) expire on the thirty-first (31) day of December each year; and
(c) specify in the licence the hours of operation stipulated under this Act.

(4) Where an application for a licence has been refused, or a licence has been cancelled, no subsequent application by the former applicant or licensee for a licence of the same description shall be considered by the County Executive Committee Member during the period of six months from the date of such refusal except at the discretion of the County Executive Committee Member.

(5) The County Executive Committee Member in refusing to grant such licence or renewal thereof shall furnish reasons for refusal to the applicant.

Alteration of Licence

Validity and Renewal of Licence

- 26.** The licencing officer 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.
- Cancellation of Licence

- 27.** (1) Any person aggrieved by the decision of the licencing officer may apply for appeal of the decision before a court.
- (2) All applications for appeal shall be filed within fourteen (14) days of the decision.
- (3) Before applying for an appeal under this section, an aggrieved person has the right to petition the County Executive Committee Member.
- Appeals

- 28.** (1) The licencing officer, any police officer or an authorized officer who has reason to believe that a person is required to hold a business licence may demand the person to produce a licence.
- (2) A person who contravenes subsection (1) commits an offence, is liable on conviction, to a fine not exceeding one hundred thousand shillings or to an imprisonment term not exceeding two years or to both.
- Production of a Licence

PART V - GENERAL PROVISIONS

- 29.** The County Sand Conservation and Management Committee shall -
- (a) facilitate the collection of revenue from sand dealers in designated sand harvesting sites or along access roads;
 - (b) ensure that at least ten per cent of the revenue collected is allocated to the Committee and the Associations to facilitate their operations;
 - (c) ensure that part of the revenue collected is allocated for community projects;
 - (d) ensure rehabilitation of closed sand harvesting sites and access roads within sand harvesting areas; and
 - (e) collect revenue from sand dealers along riverbeds and other designated sand harvesting sites.
- Collection of Revenue by Government

30. (1) For purposes of Section 28, the County Government may mount barriers on access roads leading to sand harvesting sites in accordance with the Traffic Act, Cap 403 Laws of Kenya.

court or until the owner has paid the prescribed penalty charges.

(2) The barriers shall be supervised by authorised officers and revenue collectors.

Road Barriers

(3) A trader transporting sand shall stop at such barrier and pay the prescribed fees and charges to the authorised officer.

(4) A person who contravenes this section commits an offence and the vehicle used to commit the offence may be impounded at a police station.

31. (1) The licencing officer, authorised officer or police officer may order a licence holder to stop any sand harvesting or quarrying activities and close the site if it appears that the site is in a condition dangerous to human life or detrimental to public health or safety.

Powers to Order Closure of Site

(2) An order issued under subsection 31(1) shall remain in force until the licencing officer is satisfied that the conditions have been satisfactorily improved.

(3) Any person who contravenes an order issued under this section commits an offence, is liable on conviction, to a fine not exceeding five hundred thousand shillings or to an imprisonment term not exceeding three years or to both.

32. (1) The licencing officer, authorised officer or a police officer may at any reasonable time -

(a) enter upon premise, farm, ranch or vehicle and carry out any inspection for the purpose of enforcement of this Act; or

Powers of Entry

(b) undertake any work that may be necessary to remedy any breach or failure to comply with the provisions of this Act or any of the conditions under which a licence is issued; and

(c) recover the expenses incurred in carrying out the work referred to in paragraph (b).

(2) A person obstructing an officer referred to in subsection 32(1) from undertaking their functions commits an offence and is liable on conviction, to a fine not exceeding two hundred thousand shillings or to an imprisonment term not exceeding three years or to both.

(3) A police officer or authorised officer may detain any vehicle and confiscate any goods where it is shown that those goods have been obtained in contravention of this Act.

(4) A detained or impounded vehicle referred to in subsection (3) shall not be released to its owner until authorised by a

(5) Any authorised officer or a police officer shall, before undertaking any inspection activities in this Act, produce to the relevant person proper identification documents.

33. No matter or thing done by the licencing officer or authorized officer, employee or agent shall, if the matter or thing is done in good faith while executing the functions, powers or duties of the office, render the officer, employee or agent personally liable for any action, claim or demand whatsoever.

Protection from Personal Liability

34. (1) If any dispute is referred to the Committee, the chairperson of the Committee shall convene a meeting between the complainant and the person complained against to deliberate on the grievances and make appropriate resolution.
(2) Any person, who is aggrieved by the resolution of the Committee under subsection 34(1), may within fourteen days from the date of the resolution appeal to the County Environment Committee established under EMCA 1999.
(3) Any person who is aggrieved by the decision of the County Environment Committee may further appeal to the National Environment Complaints Committee (NECC).

Dispute Resolution

35. (1) The Committee shall monitor the rehabilitation of all designated sand harvesting sites and their adjacent environment including access roads, riverbanks, and catchment areas among others to ensure environmental sustainability.
(2) The Committee shall require every licensee to prepare and submit to it a rehabilitation plan for every designated sand harvesting area.

Rehabilitation of Closed Sites

36. A person who —
(a) carries out sand harvesting or otherwise deals with sand without a valid licence;
(b) carries out sand harvesting outside designated sites;
(c) overloads sand to a vehicle for transportation contrary to prescribed requirements;
(d) collects fees or charges and is not authorised to do so under any law;
(e) transports sand outside the designated roads for such transportation;

Offences

- (f) does not stop at the barrier erected by the County Government, authorised officer or police officer;
- (g) obstructs any authorised person from conducting their functions under this Act; or
- (h) establishes a separate entity in a designated site without lawful authority under this Act; commits an offence and shall, on conviction be liable to a fine not exceeding one million shillings or to an imprisonment term not exceeding a period of three years or to both.

37. 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.

General Penalty

38. (1) The County Executive Committee Member shall, within three months after the coming into force of this Act, make regulations generally for the better carrying out the provisions of this Act.

Regulations

(2) Without prejudice to the generality of subsection 38(1), such regulations may provide for the —

- (a) guidelines for sand harvesting and related activities;
- (b) criteria for determining the number of Associations approved under this Act;
- (c) variation of the terms and conditions of licences issued under this Act;
- (d) requirements for different types of sand harvesting and conservation;
- (e) forms required under this Act;
- (f) rehabilitation of closed sites;
- (g) other forms for related activities as may be necessary;
- (h) resolution of disputes; and
- (i) such other matters as may be necessary for full implementation of this Act.

(3) Without prejudice to subsection 38(1), the nature and scope of the regulations shall be —

- (a) for the objects and purpose as set out under Section 3 of this Act;
- (b) limited to the matters set out in this Act; and
- (c) compliant with the drafting standards set out under this Act.