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SPECIAL ISSUE

Kenya Gazette Supplement No. 11 (Kericho County Acts No. 6)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KERICHO COUNTY ACTS, 2022

NAIROBI, 8th July, 2022

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THE KERICHO COUNTY FOOD SECURITY ACT, 2022

No. 6 of 2022

Date of Assent: 24th May, 2022

Date of Commencement: See Section 1

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THE KERICHO COUNTY FOOD SECURITY ACT, 2022

AN ACT of the County Assembly of Kericho to provide for the establishment of the legal and institutional framework in order to ensure that Kericho County becomes food secure and self reliant; and for related purpose

ENACTED by the County Assembly of Kericho, as follows—

PART I — PRELIMINARY**Short title**

1. This Act may be cited as the Kericho County Food Security Act, 2022 and shall come into operation on publication in the *Kenya Gazette*.

Interpretation

2. In this Act unless the context otherwise requires—

“access” in relation to food means the physical, economic and social access by a person or households to food through production, purchase or through programmes implemented by the County government to ensure that the right of every person who is otherwise unable to procure food, is actualised;

“adequate food” means the availability of food in quantity and quality sufficient to satisfy the dietary needs of individuals, free from adverse substances and acceptable within a given culture;

“County Executive Committee Member” means the County Executive Committee Members responsible for matters related to food security;

“eligibility criteria index” means the index formulated by the Food Security Committee and applied to determine the levels of access to food by potential food poor persons and their eligibility for the food distribution programme or the food subsidy programme;

“food security” means a situation where all people, at all times have regular and permanent physical and economic access to sufficient, safe and nutritious food to meet their dietary needs and food preferences for an active and healthy life;

“food subsidy programme” refers to the Programme established by the County Food Security Committee for the benefit of persons with limited capability;

“food” means everything that originates from biological sources and water, whether processed or not, which is designated as an eatable or beverage for human consumption, including food-additive materials, food

raw material and other materials used in the process of processing and the making of an eatable or beverage; risk persons county food eligibility for food subsidy programme;

“food for poor persons” means food for vulnerable persons, who cannot through their own or any other means produce or purchase essential food items and commodities in adequate quantity and quality for short or extended periods of time;

“right to food” means the right of every person to have regular, permanent and free access, of all times, either directly or by means of financial purchases, to quantitatively and qualitatively adequate, sufficient and safe food, corresponding to his or her cultural traditions and which ensures a physical and mental, individual or collective fulfilling and dignified life free of fear of hunger or under nutrition;

“vulnerable persons” include infants, children, school going children, pregnant and nursing mothers, the elderly, internally displaced persons, people with disabilities, sick persons with chronic disease such as HIV/AIDS, victims of conflict, rural people in precarious livelihood situations, marginalised population in urban areas, groups at risk of social marginalisation and discrimination and any other group that may be identified from time to time;

“CSOs” mean Civil Society Organizations representatives.

Objects and purposes

3. The Objects and Purpose of the Act—

- (a) to provide a framework that promotes the realisation of the right to freedom from hunger and access to food of acceptable quality as a fundamental human right;
- (b) to provide a framework that promotes the elimination and prevention of discrimination of marginalized groups in the access and distribution of food;
- (c) to provide a framework that promotes food production, self-sustenance and food security in relation to all persons in the County;
- (d) to provide a framework and mechanisms for the coordinated implementation of the county food policy, programmes and plans on food security;
- (e) to provide a mechanism for ensuring that food poor persons access food at all times in adequate quantities and quality through the implementation of county sponsored Programmes;

- (f) to provide for the establishment of institutions that will advance co-operative governance and procedures for co-ordinating food security functions exercised by the County;
- (g) to provide a framework for the planning budgeting and implementation of the County policy on food security and nutrition using a rights based approach and to ensure the participation of rights holders and the accountability of duty bearers;
- (h) to guarantee the integration of the needs of vulnerable persons in food and nutrition strategies;
- (i) to ensure that food is treated as a county strategic resource;
- (j) to ensure that emergency situations that threaten mass access to food are anticipated, mitigated and addressed with equity and speed; and
- (k) to provide for a cross-sectoral networking platform comprising all relevant County Departments , agencies and actors concerned with the production, storage, and sale of food for purposes connected to ensuring access to food by all people in the County at all times.

Guiding principles

4. All persons under this Act shall, in the performance of their functions under this Act abide by the following principles in addition to the national values and principles set out under Article 10 of the Constitution—

- (a) universality, non-discrimination and equity in the access to adequate food;
- (b) preservation of the freedom and dignity of every human being;
- (c) accountability of duty bearers and transparency in the food sector particularly emergency food aid;
- (d) coordinated public participation in the formulation, implementation, monitoring and control of policies and plans related to food and nutrition security in every sector of county government;
- (e) integrity and accountability in the determination of the food poor status of persons taking into account any other assistance they are eligible for including development funds or assistance from the county government targeting specific categories of

persons including women and the youth for the improvement of their general wellbeing;

- (f) empowerment and capacity building as a means of facilitating the attainment of the right to food;
- (g) targeted empowerment and capacity building initiatives for both at risk persons and persons with limited capability through the application of state sponsored programmes in order to enable those receiving assistance produce or purchase their own food in the shortest time possible;
- (h) transparency in the implementation of programmes and activities relating to food security and the allocation and utilization of public and private resources;
- (i) availability and access to timely and reliable information through the establishment of a simple, fair and accessible procedure enabling a person to seek information relevant to the enjoyment of the right to food; and
- (j) ensure that interventions are based on objective information and methods, and monitoring mechanisms and regular evaluations are established, thus ensuring transparency in the public management and social audit and that the needs of the population are taken into account.

PART II—THE RIGHT TO FOOD

The Right to Food

5. (1) Under Article 43(1)(c) of the Constitution, every person has the right to be free from hunger and to have adequate food of an acceptable quality.

(2) For the enjoyment of the right to adequate food and freedom from hunger, the county governments shall—

- (a) respect, protect and fulfil the human right to food and guarantee mechanisms for its enforcement;
- (b) ensure the availability, accessibility, adaptability and acceptability of food for all in the County by making provision for access to production resources, income and support and maintaining an enabling environment in which households can attain adequate access to food and nutrition through their own efforts;
- (c) promote the production of diverse crops and foods and put in place measures including irrigation schemes, water harvesting

schemes and other programmes that ensure the availability of adequate food for all;

- (d) put in place mechanisms that ensure the availability of farm inputs and implements and other mechanisms of food production in order to facilitate food production;
- (e) ensure physical access to food that meets the minimum dietary needs of persons or communities suffering from or threatened with starvation;
- (f) put in place adequate infrastructure to facilitate access and circulation of food particularly in areas affected by food insecurity;
- (g) formulate and implement the family support programme and other appropriate programmes targeting—
 - (i) food poor persons, households and communities for the greater enhancement of their ability to produce or purchase essential food items and commodities in adequate quantities and quality; and
 - (ii) at risk persons and persons with limited capability for the purpose of building their capacity to access food on their own through interventions that mitigate the factors that cause them to be food poor;
- (h) put in place measures to ensure the availability and accessibility of food for individuals, groups and communities caught up in food emergencies and humanitarian disasters;
- (i) protect individuals, groups and communities from encroachment or interference by any person to access to food;
- (j) take all reasonable measures to ensure that food resources and sources of food production are protected from destruction and are sustained for future use;
- (k) monitor and evaluate strategies and programmes for the realization of the right to be free from hunger and the right to adequate food;
- (l) provide an opportunity for the public to develop their understanding, skills and capacity necessary for achieving equitable and effective participation in the formulation, implementation and monitoring of any policies, strategies or programme interventions aimed at realizing food security; and

- (m) guarantee transparency and accountability in the design and implementation of programmes and interventions by ensuring that such programmes and interventions on food security are based on objective information and methods and that they are regularly monitored and assessed.

Obligation of County Government with respect to the right to food

6. (1) The county governments shall promote the physical and economic access to adequate food of acceptable quality.

(2) The county governments shall ensure that the minimum dietary needs of persons who cannot access food and basic nutrition for survival are met.

- (3) (i) The county governments shall not discriminate directly or indirectly against any person on any ground, including race, sex, pregnancy, marital status, health status, ethnic or social origin, colour, age, disability, religion, conscience, belief, culture, dress, language or birth.
- (ii) Notwithstanding subsection (i), the county government may take such action as they may consider necessary to remedy past effects of discrimination against a person or group of persons and promote equality of opportunities with regard to the right to food.
- (iii) Any action taken by the county governments under subsection (2) shall not be considered to constitute discrimination as contemplated under subsection (1).

PART III—ESTABLISHMENT OF KERICHO COUNTY FOOD SECURITY COMMITTEE

Establishment of Food Security Committee

7. (1) There is established the Kericho County Food Security Committee.

(2) The Kericho County Food Security Committee shall comprise of all the County Executive Committee Members for Agriculture, Livestock and Fisheries, Water, Environment and Natural Resources, Finance and Economic Planning, Roads, Public Works and Infrastructure, Lands, Housing and Physical Planning, Education, Social Services, Youth and Culture, Trade, Cooperatives and Wildlife, Public Service Management, Information, Communication and e-Government and a representative from the Ministry of interior and coordination.

(3) The Committee shall include five other committee members nominated by Religious Institutions, CSOs reps, Private Business Associations.

(4) The committee members nominated as per section 7 (3) shall be paid such allowance as shall be proposed by CEC Finance in consultation with the CEC Agriculture and approved by the County Assembly.

Functions of the Kericho County Food Security Committee

8. (1) The functions of Kericho County Food Security Committee shall be to—

- (a) formulate strategies, plans and programmes to facilitate the realization of the right to food taking into consideration the rights of vulnerable and marginalized persons;
- (b) appraise and review the levels of access to food by all Kericho County residents in terms of quantity and quality and liaise with county government in ensuring optimal access to food;
- (c) collaborate with the necessary entities and stakeholders in the establishment of appropriate mechanisms that ensure access by poor persons to adequate food in both quantity and quality;
- (d) promote measures to improve security and access to land and water resources and the optimum and sustainable utilization of these resources;
- (e) monitor the issuance and administration of the food eligibility card to eligible Kenyans by the county food security committees to ensure that food poor persons access food with ease and in a timely manner;
- (f) monitor the implementation of the food distribution programme and the food subsidy programme by the Sub-counties Food Security Committees;
- (g) identify food insecure Sub- counties, Wards and villages and develop affirmative action measures for ensuring that food security is realized in the county;
- (h) monitor and evaluate the implementation of policies, plans and strategies on food security and nutrition in the County and provide feedback to all Sub-county and ward food security committees, relevant departments, agencies and actors concerned with food production, storage and sale for their further action;

- (i) in consultation with the CEC responsible for disaster management, carry out emergency response and mitigation programmes including, where appropriate, food distribution and feeding programmes in the case of a food emergency or where residents are affected by malnutrition;
 - (j) promote generation of knowledge and increased understanding of the contribution of biodiversity to sustainability, production, ecosystem services, household incomes and climate change adaption;
 - (k) promoting best practises for enhanced conservation and sustainable use of biodiversity;
 - (l) promoting climate smart agriculture;
 - (m) improve communities knowledge on how to add value to agricultural products for them to generate high returns during sales and assist farmers to easily access markets.
- (2) In performing its functions under subsection (1), the Kericho County Food Security Committee shall—
- (a) collaborate with the relevant public entities—
 - (i) to put in place measures to address factors that hinder the realization of the right to food and freedom from hunger; and
 - (ii) to ensure that their economic and social programmes and activities do not negatively affect the human right to food;
 - (b) collaborate with the sub-counties Food Committees and private agencies to carry out activities that result in the increase and improvement of agricultural production and the availability, across, utilization and stability of food among women and smallholder farmers in order to decrease poverty and hunger, improve health and achieve household food and nutrition security;
 - (c) collaborate with the relevant government departments responsible for matters that relate to land in the formulation and implementation of strategies that promote agriculture and land reforms for the purpose of enhancing food security;
 - (d) strengthen the networking and coordination of relevant sectoral and integrated databases on food security and nutrition data by the relevant agencies;

- (e) promote research, nutrition surveillance, data protection, analysis and the sharing and dissemination of information on food security;
- (f) formulate an eligibility criteria index;
- (g) liaise with the National Social Assistance Authority established under the Social Assistance Act and such other entities as it considers necessary for the implementation of economic and social programmes and activities that promote the right to adequate food and freedom from hunger within the county;
- (h) create an e-platform to facilitate the linkages amongst the Sub-counties Food Security Committees and between the County Food Security Committee;
- (i) collaborate with the sub-counties food security committees in assisting households affected by emergencies to restore lost livelihoods assets, capital and means of food production through emergency programmes linked to long-term initiatives;
- (j) promote diversification and the use of alternative methods of agriculture and livestock, system and the production of diverse food crops to mitigate against drought and climatic conditions that negatively impact food production; and
- (k) perform such other functions for the better implementation of this Act or as may be conferred on it under any other written law.

Sub county food security committees

9. (1) There is established in each Sub-county food security committees

(2) The Committees shall comprise of the Head of the Decentralised unit, and the heads of the departments as cited in s.7 (1) in the decentralized unit Act.

(3) The Committee shall include five other committee members nominated by Religious Institutions, CSOs reps, Private Business Associations.

(4) The Head of the Decentralised unit shall be the Chairperson to the committee.

(5) The committee members nominated as per section 9 (3) shall be paid such allowance as shall be proposed by the CEC Finance in consultation with the CEC Agriculture and approved by the County Assembly.

Functions of the Sub-Counties Food Security Committees

10. (1) The functions of a Sub counties Food Security Committee shall be to—

- (a) oversee the implementation of the food security policy and programmes in the Sub-county, Wards and Village Units;
- (b) gather relevant information and submit to the County Food Security Committee;
- (c) facilitate capacity building of farmers within the decentralized units;
- (d) serve as an early warning mechanism on impending food insecurity situations within the decentralized units and advise on mitigation measures to address the situation;
- (e) ensure the proper identification of food insecure and eligible beneficiaries in relation to food security programmes and the correct application eligibility criteria.

PART IV—FOOD INSECURITIES AND INFORMATION MAPPING SYSTEMS**Establishment of Information and Mapping Systems**

11. (1) The Kericho County Food Security Committee shall in collaboration with the Departments responsible for environment and natural resources, finance, disaster management, agriculture, livestock, meteorology, planning, security and gender, establish food insecurity and information mapping systems to provide the information needed to develop and strengthen the capacity to respond to food emergencies.

(2) In performing its functions under subsection (1), Kericho County Food Security Committee shall—

- (a) support the development of disaster management plans in relation to food security by decentralized units;
- (b) establish a rights based early warning system and emergency preparedness strategies on food security and safety;
- (c) systematically undertake disaggregated analysis on food insecurity, vulnerability, and nutritional status of different groups in society, with particular attention to assessing any form of discrimination that may manifest itself in greater food insecurity and vulnerability to food insecurity, or in a higher prevalence of prevalence of malnutrition among specific population groups;

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- (d) develop and identify corrective measures for the purpose of addressing and preventing causes of food insecurity and malnutrition;
- (e) establish systems to ensure the feedback of information in such formats as it may consider appropriate on food security and nutrition to priority audiences at the national, county and community levels through the appropriate media;
- (f) establish risk management and vulnerability mapping systems;
- (g) establish and coordinate sector specific roles and mandates related to vulnerability and emergency response; and
- (h) undertake a food security baseline and impact assessment at all levels of governance to guide vulnerability and emergency response.

(3) In furtherance to subsection (2), the Kericho County Executive Committee Member responsible for the implementation of programmes relating to persons with special needs shall provide to the Kericho County Food Security Committee, information on vulnerability response mechanisms, including budget estimates to support vulnerable persons.

Food Impact Assessment

12. (1) In formulating and prior to the implementation of a proposals, policy, programmes or project that may affect the realization of the right to food, the relevant county organ shall carry out an environment and social impact assessment or strategic environment assessment to identify, predict, evaluate and mitigate economic, social and other effects of such policy, programme or Project.

(2) The County Food Security Committee shall cause to be undertaken an annual right to food impact assessment to identify the impact of policies, programmes and projects on the realisation of the right to food.

(3) The County Food Security Committee shall determine the manner in which impact assessments under subsection (1) shall be undertaken including—

- (a) the screening of any proposal, policy, programme or project;
- (b) the undertaking of scoping exercises and examination of alternatives measures for the achievement of the same objectives;
- (c) the undertaking of the impact analysis;
- (d) the identification and implementation of mitigation measures; and
- (e) the undertaking of public consultation.

PART V—PUBLIC PARTICIPATION**Public awareness**

13. The Kericho County Food Security Committee shall, in promoting public awareness and participation in the advancement of food security—

- (a) stimulate and increase the participation of the community in the human resources development activities, improving the, capability of the small-scale businesses, extension services in the field of food and diversification of food;
- (b) stimulate and direct the participation of professional associations and organizations in the field of food production;
- (c) stimulate and support the activities of technological research and or development in the field of food;
- (d) disseminate the knowledge and extension services in the field of agriculture and food production;
- (e) promote cooperation in the field of food in accordance with the County interest;
- (f) stimulate and increase the activities of food diversification of food consumed by the community, and the stabilization of the traditional food quality; and
- (g) promote public awareness on the advancement of food security.

PART VI—FINANCIAL PROVISIONS**Food security fund**

14. (1) The county government shall establish the Kericho County Food Security Fund which shall be administered by the County Food Security Committee, in consultation with the County Executive Committee Members for Finance and Agriculture.

(2) At least ten percent (10 %) or such other amount shall be allocated annually in the budget of the County Government for Agriculture.

(3) Kericho County may receive financial support from National Government, Donors and other well-wishers to promote food security programmes.

(4) The money allocated for the Food Security in the County shall not be reallocated to any other department and shall not be used in any other way other than for the purpose of the objects stated in this Act.

PART VII—OFFENCES

Misuse of funds

15. A person who diverts funds or food meant for the food distribution programme or the food subsidy programme to a person other than its intended beneficiary at any point along the food distribution chain commits an offence and shall, on conviction, be liable to a fine not exceeding Kenya Shillings ten million (KSh. 10,000,000) or to imprisonment for a term not exceeding four years or both.

Offences related to procurement

16. A person who procures any food, commodities or services in relation to a food distribution programme or food subsidy programme in a manner contrary to any written law on procurement commits an offence and shall be liable, on conviction, to a fine not exceeding Kenya Shillings ten million (KSh. 10,000,000) or to imprisonment for a term not exceeding four years or both.

Eligibility criteria index

17. A person who administers the eligibility criteria index in a manner other than that prescribed by the County Food Security Committees commits an offence and shall be liable, or conviction, to a fine not exceeding Kenya Shillings five hundred thousand (KSh. 500,000) or to a term of imprisonment of three years or both.

Food eligibility card

18. A person who fraudulently acquires, issues, or otherwise uses the food eligibility card commits an offence and shall be liable, or conviction, to a fine not exceeding five Kenya Shillings hundred thousand (KSh. 100,000) or to a term of imprisonment of six months or both.

General penalty

19. A person who is convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding Kenya Shillings ten million (KSh. 10,000,000) or to imprisonment for a term not exceeding three years, or both.

PART VIII—MISCELLANEOUS PROVISIONS

Regulations

20. The County Executive Committee Member responsible for Agriculture shall develop regulations as required by the Act.