



REF: SUBMISSION BY KENYA WILDLIFE CONSERVANCIES ASSOCIATION (KWCA) ON THE REVIEW OF THE WILDLIFE CONSERVATION AND MANAGEMENT ACT NO. 47 OF 2013

Annex 1: Substantive and Specific Submissions

No	Issue	Rationale	Section	Suggested Changes
1.	<p>Review definitions for the existing following terms:</p> <ol style="list-style-type: none"> 1. National Park 2. National Reserve 3. Wildlife Conservancy 	<ol style="list-style-type: none"> 1. The interpretation of ‘wildlife conservancy’, includes the term ‘<i>land set asidefor wildlife conservation</i>’, which has a meaning of excluding other wildlife compatible land uses practiced by conservancies. A conservancy, unlike national parks, is a multiple land use including wildlife, a fact that should be recognized by the interpretation, ensuring wider adoption of this key conservation model. 2. The interpretation is not clear, and does not provide distinction with protected area, which is a broad term; it does not also place management responsibility on the appropriate authority. 	3	<ol style="list-style-type: none"> 1. Delete and substitute with “Wildlife Conservancy” means a geographically defined land area of ecological value managed by an individual, body corporate, group of owners or a community through legal or other effective means to achieve long-term wildlife conservation, amongst other integrated compatible land uses. 2. Delete and substitute with “national park”- means an area of public land dedicated to the protection and maintenance of biological diversity and managed by government agency through legal means.

	<p>4. Protected Area</p>	<p>3. Majority of national reserves are not managed, owing to the non-recognition by counties that management of reserves is within their mandate.</p> <p>4. Globally, protected areas and conserved areas are recognised as two distinct classes of conservation areas, where protected areas largely refer to State managed areas through gazettment, while conservation areas are managed through other effective means. To provide clarity, the Act needs to provide for protected areas as those only managed by the government.</p>		<p>3. Delete and substitute with “national reserve” means an area of community land declared to be a national reserve under this Act and managed by county governments in accordance with the provisions of this Act.</p> <p>4. Delete and substitute with “Protected Area” means a clearly defined geographical space, recognised, dedicated and managed through legal means, to achieve long-term conservation of nature with associated ecosystem services and cultural values including national park, marine park, national reserve and national sanctuary.</p>
<p>2.</p>	<p>Provide definitions for following terms not contained in Wildlife Act 2013:</p> <p>1. Conserved Areas</p> <p>2. Conservancy ranger</p> <p>3. Incentive</p>	<p>1. ‘Conserved areas’ is a conservation designation for areas that are achieving the effective <i>in-situ</i> conservation of biodiversity outside of protected areas. In 2018, parties to the Convention on Biodiversity (CBD) to which Kenya is a signatory and has further ratified, agreed under (CBD Decision 14/8), to adopt guiding principles, common characteristics and criteria for the identification of OECMs (CBD Decision 14/8). OECMs offers a significant</p>	<p>3</p>	<p>Insert the following new definition in proper alphabetical sequence</p> <p>1. “conserved areas” means a geographically defined area other than a Protected Area, which is governed and managed voluntarily by indigenous peoples and local communities through customary laws or other effective means, to achieve positive and sustained long-term outcomes for the in situ conservation of biodiversity, with associated ecosystem functions and services and where applicable, cultural, spiritual,</p>

	<p>4. Riparian reserve</p> <p>5. Wildlife scout</p>	<p>opportunity to increase recognition and support for <i>de facto</i> effective long-term conservation that is taking place outside designated protected areas under a range of governance and management regimes, implemented by a diverse set of actors, including by Indigenous peoples and local communities, the private sector and government agencies. Conservancies in Kenya, largely fall under this conservation classification.</p> <p>2. Riparian reserves form important wildlife habitats for aquatic and other wildlife including sea turtles, hippopotamus. These areas are increasingly at risk of land grab and infrastructural development, despite various legislations to protect them, which have conflicting definitions and description on riparian land- see (Land Act 2012, EMCA 1999, Water Act 2002), Survey Act Cap 299). These legislations are also not adequate to protect wildlife on riparian land nor do they give powers on declaration of such threatened lands as protected for purposes of conservation.</p>	<p>socio-economic, and other locally relevant values.</p> <p>2. “conservancy rangers” means a person employed by a conservancy to undertake wildlife surveillance, monitoring, and security within the defined area of a wildlife conservancy.</p> <p>3. “incentive” means an instrument or combination of instruments designed to encourage wildlife conservation, including policy, program, institution, or economic instruments;</p> <p>4. “riparian reserve” means land being six meters minimum and up to thirty meters maximum adjacent to the ocean, lake, sea, rivers, and water courses, protected by legal or other effective means for purposes of wildlife conservation;</p> <p>5. “wildlife scout” means a person, not being a conservancy ranger, engaged by a community wildlife association or conservation non-governmental organisation for purposes of assisting problem animal</p>
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				control, wildlife surveillance, and other conservation activities.
3.	<p>Kenya Wildlife Service</p> <p>1. The functions of research under subsection 7(l) and (q) establish forensic laboratories are misplaced as they fit within the functions of the Wildlife Research and Training Institute under section 52.</p> <p>2. Board of trustees (Sec 8):</p> <p>i. Representation of conservancies in the board of KWS was reduced from 3 to one following the enactment of Statutes Law (Miscellaneous</p>	<p>1. Functions- The Wildlife Research and Training Institute was established to undertake and coordinate wildlife research, releasing KWS from these functions, to avoid overlap and promote efficiency.</p> <p>2. Board of Trustees-</p> <p>i. County governments play a key role in administration of 28 national reserves and 6 marine reserves occupying 18, 268.2km² land mass, a larger area than national parks. Majority of the national reserves are inadequately functioning, thus under risk of encroachment, illegal settlements and developments. Inclusion of county government representation through the council of governors' nominee in the board of KWS will enhance management of national reserves and collaboration with county governments.</p> <p>ii. Limiting the representation of Community conservancies to only one</p>	Part II: 7, 8	<p>1. Delete sub-sections 7 (l) and 7 (q)</p> <p>2. Insert the following new Subsection 8(2)(f) immediately after subsection (e)-A nominee of the Council of Governors</p> <p>3. Delete subsection 8(2)(f) with the following new paragraph- 8(2)(g) “four other persons with both local and international technical experience in either fundraising, law, wildlife, finance, business, finance, business or investment matters or marine conservation, appointed by the Cabinet Secretary, two of whom shall be from community and privately managed wildlife areas, nominated by an umbrella wildlife conservancy body.</p>

	<p>Amendment) Act No. 18 of 2018.</p> <p>ii. County governments representation on board of KWS absent, despite significant area by national reserves administered by the county governments.</p> <p>ii. Marine conservation issues are not given prominence within the governance structure of KWS, despite their ecological, livelihoods and economic significance to the country.</p>	<p>(1) in the KWS board and its eventual exchange of the positions to professionals should be revised. While inclusion of professionals in the board is a welcome development, adequate communities and landowner's representation by 2 persons goes a long way in promoting and entrenching conservation outside State protected areas, which host 65% of wildlife, and which present significant threats to the future of wildlife. Requirement for the community representatives should include the desired skills set to professionalize KWS board.</p> <p>iii. Inclusion of marine skills within the KWS board is recommended, considering that marine conservation is largely untapped in Kenya and is characterized by overlapping sectoral policies, despite the developing global programs and trends focused on exploiting the blue economy.</p> <p>iv. The total number of KWS board will not change, remaining at eleven, if the above recommendations are adopted.</p>		
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<p>4.</p>	<p>Honorary wardens</p> <ol style="list-style-type: none"> 1. The appointment of honorary wardens has not entirely been based on merit. 2. The roles and powers are not clear, thus subject to abuse or not exercised. 3. A significant number of honorary wardens do not have relevant skills to support KWS in its functions 	<ol style="list-style-type: none"> 1. The law should provide for a clear process of vetting and appointing honorary wardens to avoid appointment of unmerited persons. Among the criteria, be performance based and ground knowledge of conservation issues on a localized area/ecosystem. 2. This position should also be subject to open application by individuals, to enable appointment of persons of merit, based on set criteria. 3. The powers, roles and terms of the honorary wardens should also be clearly defined and enhanced to play an effective role in wildlife management. 4. KWS to invest in skills development of honorary wardens 	<p>12 (5)</p>	<p>Delete and substitute subsection 12 (5) with the following new subsection-</p> <ol style="list-style-type: none"> (a) The Cabinet Secretary may, on the recommendation of the Service, appoint suitable persons to be suitable persons to be honorary wardens for purposes of assisting the Service in the carrying out provisions of this Act; (b) The Cabinet Secretary shall consider merit in appointing honorary wardens including; competence, performance and contribution to wildlife conservation and geographical knowledge of a conservation area; (c) The Cabinet Secretary, in consultation by the Service shall develop guidelines for nomination, appointment criteria of honorary wardens; and (d) The guidelines shall the selection criteria, powers, roles and responsibilities of the honorary wardens.
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<p>5.</p>	<p>Community Wildlife Conservation Committees (CWCC)</p> <p>1. Name and Composition of CWCC</p> <p>i. The name ‘Community Wildlife Conservation Committee’ is misleading since the composition of its members is not only community but also includes government officials.</p> <p>ii. Having the chair of CWCC as the county commissioner defies the principle of devolution of wildlife</p>	<p>1. Name and Composition of CWCC</p> <p>i. The CWCC, includes government officers and community representatives. CWCCs are further set up in each of the 47 counties in Kenya. In the foregoing, the name should be replaced with ‘County Wildlife Conservation Committees’.</p> <p>ii. CWCCs were introduced in the Wildlife Act 2013 with the intention of devolving wildlife conservation and management services, thus promoting ownership and responsibility of wildlife by the public. It is recommended that competitively appointed persons, not being a public officer, be the chair of CWCC. County commissioner may serve as ex-offio member in the committee and not as chair persons.</p> <p>iii. County government representation in the CWCC composition is essential to align wildlife conservation with county land use , planning and development processes in accordance with the Physical and Land Use Planning Act, 2019. This further has potential to embrace wildlife conservation at county levels, mitigate human wildlife</p>	<p>18 & 19</p>	<p>1. Delete and substitute section 18 title with the following new title -County Wildlife Conservation Committees</p> <p>2. Delete and substitute section 18 with the following new section-</p> <p>18. The Service shall set up in each County, a County Wildlife Conservation Committee, which shall consist of-</p> <p>3. Delete and substitute section 18(a) with the following new section</p> <p>(a) a chairperson, not being a public officer, appointed by the Cabinet Secretary through a competitive process, who shall have at least five years’ experience in wildlife conservation and management from the respective county;</p> <p>4. Insert the following new Sub-Section immediately after subsection 18(a)-</p> <p>(b) A representative of the county government;</p> <p>5. Delete subsection 18(1) (f) and substitute with the following new subsection-</p>
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	<p>conservation to landowners and communities, which is underpinned in the Wildlife Policy 2020 and the Wildlife Act 2013.</p> <p>iii. County governments exclusion in CWCC limits county government goodwill to embrace conservation in county land uses and development processes.</p> <p>iv. There is no criteria to guide nomination of four community representatives by</p>	<p>conflicts and loss of wildlife corridors and habitats due overlapping land uses.</p> <p>iv. Clear criteria for appointment of chairs need to be developed, to attract persons from the respective counties, highly experienced and skilled in community conservation issues. A code of conduct and clear reporting structures should be developed for the CWCC who report to the respective KWS regional assistant directors.</p> <p>v. Need to include that the four community representatives nominated by the community wildlife associations must be from the respective county, and are involved in an association involved in wildlife conservation and further ensure gender and youth inclusion.</p> <p>2. Functions and operations</p> <p>i. The original roles of CWCC provided under the Wildlife Act 2013 were designed to improve coordination of wildlife conservation and management services through devolved structures that promote collaboration of wildlife with the public.</p>	<p>18(1)(f) four persons not being public officers knowledgeable in wildlife matters nominated by community wildlife associations. The nominations of the community representatives shall ensure geographical representation within a county, gender equity and youth inclusion.</p> <p>6. Delete Subsection 18 (3) and substitute with the following new subsection- 18. (3) Despite subsection (2), additional meetings may be held with the prior consent of the Director General of the Service.</p> <p>7. Delete section 19 and Substitute with the following new section- 19.(1) The functions of the County Wildlife Conservation Committee shall be to-</p> <p>a) recommend to the Service on registration, and implementation of wildlife user rights as provided for under this Act;</p> <p>b) recommend to the Service on approval of protected area and conserved areas management plans under the provisions of this Act;</p> <p>c) recommend to relevant stakeholders on implementation of equitable benefit sharing</p>
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	<p>the community wildlife associations, thus risk of nomination without merit.</p> <p><i>2.Functions and operations of CWCC</i></p> <p>i. The reduced functions of the CWCC as amended in 2018, limit effective access to a wide range of wildlife conservation and management services by the public through devolved structures;</p> <p>ii. The reporting and accountability structure of CWCC overlap, whereby KWS is responsible to set</p>	<p>ii. The effective functioning of CWCCs was limited by availability of adequate financial resources. It is recommended that a guaranteed annual budget line is created under KWS to provide for operations of CWCC, whose role supports decentralization of functions and roles, thus improved access of wildlife services to the public.</p>	<p>arrangements in accordance with the provisions of this Act;</p> <p>d) bring together all relevant stakeholders within the county to actively harness their participation in the planning and implementation of projects and programmes related to the protection, conservation and management of wildlife resources in the county;</p> <p>e) recommend to the Service on ecosystem management planning ensuring that county level land use plans, protected and conservation areas management plans are aligned;</p> <p>f) harness communities and landowners participation in county level in land use planning initiatives with particular regard to critical wildlife habitats, corridors and dispersal areas for the better management and conservation of wildlife;</p> <p>g) advise community wildlife associations or conservation organisations on mechanisms for mitigation of human wildlife conflict;</p> <p>h) review, verify and recommend claims resulting from loss or damage caused by wildlife for payment of compensation; and</p> <p>i) perform such other functions as the Service may require or delegate to it.</p>
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	<p>up CWCCs, provides budget for their meeting allowances, but consent is required from the Cabinet Secretary for more than legislated number of meetings (sec 18(3)-(2018 amendments)</p>			
<p>6.</p>	<p>Management of National parks, National sanctuaries & Marine parks</p> <p>1. There lacks a comprehensive section on management of national parks, which are core conservation areas for wildlife in Kenya.</p> <p>2. A standard management</p>	<p>1. It is recommended that the Wildlife Act provides for a specific comprehensive part for national parks, national sanctuaries and marine parks without mixing with reserves, since their management objectives and limits of use vary.</p> <p>2. National Parks management be decentralised from headquarter, where each park is semi-autonomous in management, led by a chief park warden. This will recognize the dynamics of the national parks and unlock their potential to sustain their operations through different park specific and suitable ecosystem services (carbon credits, payment for ecosystem services,</p>	<p>Part VI</p>	<p>1. Insert the following new Part- Conservation and Management of National Parks, National Sanctuaries and Marine Parks</p> <p>2. Insert the following new section-</p> <p>“Each national park, national sanctuary and marine park shall be managed by a Chief Park warden of the Service, who shall be responsible for the day-to-day management of the park. The chief warden shall report to the respective officer in charge of an administrative conservation area”.</p>

	<p>model of national parks is adopted, which may not recognise dynamics of each park, nor suit all national parks, thus limiting effectiveness of significant number of national parks.</p> <p>3. National parks, and reserves are not adequately funded, with only 8% of land under State protection, Kenya cannot afford to have any park or reserve de-gazetted or rendered unviable.</p>	<p>diverse models of eco-tourism) for revenue generation.</p> <p>3. Establish parks management committees, which include representation of local communities to build a sense of ownership, relevant government and non-government partners, county government and revenue generation plan.</p> <p>4. The management of parks requires multiple financing sources, primarily from adequate parliamentary appropriation, considering the significant contribution of the parks into the national economy.</p> <p>5. Each park to be given autonomy to generate revenue from ecosystem and ecological values of the parks, including but not limited to carbon credits, payment for ecosystem services, conservation fees, diverse models of eco-tourism, depending on the opportunities by each park.</p> <p>6. The non-implementation of section 76(4) on allocation of benefits from national parks to adjacent local communities highly</p>		<p>3. Include new sections that-</p> <p>a) Every national park, national sanctuary and marine park shall be managed in accordance with an up-to-date management plan that includes a revenue generation plan, and complies with the requirements of this Act.</p> <p>b) Every national park and marine park shall develop respective management plan gazetted within two years of the enactment of the Act. The management plan shall include measures for benefit sharing with adjacent local communities.</p> <p>c) The Service shall prepare an annual progress report in respect to each park on the state of the park and measures taken to address threats to the park and progress in implementing the management plan.</p> <p>d) No development that has potential for significant impact on the ecological integrity of a national parks, national sanctuaries and marine park, shall be carried in the absence of approved management plan, and without prior public consultation and parliament approval.</p>
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	<p>4. Communities living adjacent to national parks incur significant losses from wildlife, with minimal or no benefits from the national parks.</p> <p>5. Some national parks have lost significant conservation value due to massive infrastructure developments, which would require prior wide public consultation and national assembly approval, e.g. Hells Gate National Park.</p>	<p>contributes to negative perceptions about wildlife by communities and triggers many incidents of human wildlife conflicts. A specific benefit sharing provision from national parks and marine sanctuary, to neighbouring communities need to be provided for, both monetary and non-monetary.</p> <p>7. Considering that parks are areas of public interest, it is important that public participation is conducted and national assembly approval, prior to any significant infrastructural development that has significant impact to the ecological integrity of the park. Infrastructure development in any park should also be in line with the approved and gazetted management plan of the park.</p>	<p>4. Insert new section that- “Every national park and marine park will establish a park management committee to provide oversight in the implementation and oversight of the management plan. The park management committee shall be composed of representation from adjacent local communities, county officer in charge of environment or natural resources, or wildlife, and private sector representation.</p> <p>5. Include new section on-Financing Operations and Management of Parks-</p> <p>a) In preparation of the annual financial estimates, the Service shall cause each park to develop annual budget estimates in line with the park management plan.</p> <p>b) The parks annual budgets shall be aggregated as part of the Service annual budget estimates.</p> <p>c) The Cabinet Secretary shall ensure adequate appropriation of the Service annual budget estimates by parliament.</p>
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				<p>d) A minimum of twenty percent of revenue generated by a park shall be retained for investment in capital development including infrastructure.</p> <p>6. Include new section on benefit sharing that- “a minimum of ten percent (10%) of annual gross revenue from national parks shall be allocated to park adjacent communities. Such monies shall be utilised to enhance community conservation efforts, livelihood improvement projects, human wildlife conflict mitigation measures or cover costs for land dedicated to wildlife conservation by communities and private landowners.</p> <p>7. Include new section that- “the Cabinet Secretary shall develop guidelines, in consultation and recommendation by the Service on the permitted activities and developments within the Parks”.</p> <p>8. Maintain current provisions (Sec 31 &32) on gazetting of parks.</p>
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<p>7.</p>	<p>Management of National Reserves and Marine Reserves</p> <p>1. There lacks comprehensive provisions on arrangement of management of national reserves by both KWS in collaboration with county governments. Section 35 only provides for instances where there is declaration of national reserves.</p> <p>2. Majority of reserves are not receiving adequate county investments, thus deteriorating, and risk degazetting</p>	<p>1. Absence of clear provisions on the role of county governments in wildlife conservation, especially that there are 28 national reserves and 6 marine reserves occupying 18, 268.2km², has resulted in minimal or no county investments or accountability and some are deteriorating, risking degazetting or illegal settlement.</p> <p>2. There is need for a specific comprehensive part for national reserves, separate from national parks since their management objectives and limits of use vary.</p> <p>3. A co-management arrangement of national reserves and marine reserves is required between KWS and respective county governments, where the former provides oversight roles, and the latter in day-to-day management. The co-management agreements need to be time specific (10-20 years), to enhance effective management of reserves.</p>	<p>Part VI</p>	<p>1. Insert the following new Part- Conservation and Management of National Reserves, and Marine Reserves</p> <p>2. Insert the following new section-</p> <p>a) “Each national reserve and marine reserve shall be managed through a period specific co-management agreement between the Service and respective county government where the reserve occurs. The co-management agreement will provide for the powers, roles and responsibilities of the Service, in line with the Constitution of Kenya 2010 on separation of powers and the provision of this Act.</p> <p>b). A county government shall establish an effective management structure to run the reserve or may enter into a third party arrangement with a component entity to undertake day to day management of the reserve, so far as the agreement is in line with the co-management agreement between the Service and the county government.</p> <p>3. Insert the following new section-</p>
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	<p>or illegal settlements.</p> <p>3. Majority of national reserves lack clear boundaries, thus encroached, defeating the conservation objective.</p> <p>4. Majority of county governments have no technical capacity to manage national reserves, thus risk of mis-management or no-management.</p> <p>5. The Act is silent on de-gazetting of reserves that have totally lost</p>	<p>4. To improve efficiency of county governments to manage reserves, the Wildlife Act to provide for legal arrangements to facilitate counties to engage management arrangements with experts or firms or conservation bodies to improve management of the reserves, on their end.</p> <p>5. The Act needs to compel county governments to manage reserves effectively, where they occur. Currently most reserves have low levels of management capacities and are at risk of degazetting.</p> <p>6. Provide a requirement for national reserves to gazette their management that include benefit sharing plans within two years of the enactment of the Act.</p>	<p>“Every national reserve and marine reserve shall be managed in accordance with an up-to-date management plan that includes a revenue generation plan, and complies with the requirements of this Act”.</p> <p>4. Insert the following new section-</p> <p>“Every national reserve and marine reserve shall develop and have respective management plan gazetted within two years of the commencement of this Act. The management plan shall include measures for benefit sharing with adjacent local communities”.</p> <p>5. Insert the following new sections-</p> <p>a. A county government in charge of a reserve shall prepare an annual progress report on the state of the reserve and measures taken to address threats to the reserve and progress in implementing the management plan.</p> <p>b. No development that has potential for significant impact on the ecological integrity</p>
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	<p>their ecological integrity with no chance of rehabilitation, and only exist as paper reserves.</p> <p>6. Communities are excluded in the management or access to benefits from national reserves, since section 76(4) only addresses benefits from national parks.</p>		<p>of a national reserve, and marine reserve, shall be carried in the absence of an approved management plan, and without prior public consultation and parliament approval.</p> <p>6. Insert the following new section-Reserve Management Committee “Every national reserve and marine reserve will establish a reserve management committee to provide oversight in the implementation and oversight of the management plan. The reserve management committee shall be composed of county-based warden of the Service, representation from adjacent local communities, relevant conservation entities and private sector that contribute to the well-being of the reserve”.</p> <p>7. Insert the following new section -Financing Operations and Management of Reserves, which will include-</p> <ul style="list-style-type: none"> a. In preparation of the county annual financial estimates, the County government shall cause each reserve to develop annual budget estimates in line with the reserve management plan. b. The County government annual budgets shall include adequate
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			<p>allocation to cover the operational costs of the reserve.</p> <p>c. A minimum of thirty percent of revenue generated by a reserve shall be retained for investment in capital development including infrastructure.</p> <p>8. Include new section on benefit sharing that- “a minimum of twenty percent of annual gross revenue from national reserves and marine reserves shall be allocated to reserve adjacent communities. Such monies shall be utilised to enhance community conservation efforts, livelihood improvement projects, or human wildlife conflict mitigation measures.</p> <p>9. Insert the following new section-</p> <p>“County government in charge of management of a national reserve shall in consultation with the National Land Commission, ensure that the reserve it manages, has clearly demarcated boundaries and acquire title deed”.</p> <p>10. Insert the following new section- “the County Government shall develop guidelines on permitted activities within a reserve, in consultation and recommendation</p>
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				<p>by the Service and participation by the local communities”.</p> <p>11. Insert provision that county government may request relevant national entity responsible for national road maintenance to improve road network within reserve.</p> <p>12. Maintain current provisions (Sec 35 &37) on declaration of national reserve and variation of boundaries of a national reserve respectively.</p>
8.	<p>Wildlife Conservancies</p> <p>1. The Wildlife Act 2013 made progress in recognizing conservancies; however, there are inadequate provisions to facilitate their effective recognition and growth.</p>	<p>1. Currently provisions relevant to conservancies are spread across section 39, 40, and 43. Interpretation and awareness of the relevant clauses by communities and other actors create challenges of interpretation and implementation.</p> <p>A specific and comprehensive part on conservancies is recommended, considering that conservancies account for 11% of Kenya’s land mass (approximately 6.3 million hectares), thus an important conservation model and strategy, underpinned by the principles of</p>	Part VI	<p>1. Insert the following new Part- Wildlife Conservation and Management on Community and Private Lands</p> <p>2. Insert the following new section 39-Right to practice Wildlife Conservation and Management</p> <p>a) “Every person or community has the right to practice wildlife conservation and management as a form of land use”.</p> <p>b) The right specified in subsection (a) shall require the party to invest resources for that practice.</p>

<p>2. Conservancies have largely been mis-interpreted, due to exclusion or non-recognition of other compatible land uses.</p> <p>3. Conservancies have been mis-interpreted as wildlife user right requiring licensing.</p> <p>4. Conservancies registration with KWS is low, due to absence of clear registration guidelines, and conservancy regulations which are yet to be gazetted despite being</p>	<p>devolution and collaboration, in the Wildlife Policy 2020 .</p> <p>A specific part on conservancies also aligns with the structure of the Wildlife Policy 2020, which under part 4.3, provides for “Wildlife Conservation and Management on Community and Private Lands”.</p> <p>2. Criteria on who can establish a conservancy excludes requirement on ownership of land or rights to use land for such purpose, thus risking irregular establishments whose conservation objective may not be long term.</p> <p>3. Sections 43 on ‘standards of management of conservancy’, 70(3) providing for requirement for licensing to undertake wildlife conservation, are incorrect, as they mis-interpret conservancies as wildlife user rights, contrary to which they are land uses, complementing parks and reserves, and creating wildlife corridors and dispersal areas.</p>	<p>c) The party shall ensure that the wildlife is maintained in healthy, natural and secure state; provided that this practice shall be carried out on land suitable for this practice, subject to fulfillment of registration requirements with the Service under this Act.</p> <p>3. Insert the following new section after section 39-Establishment of Wildlife Conservancy or Sanctuary “Any person, group of persons, community or corporate body who owns or manages land on which wildlife inhabits may individually or collectively establish a wildlife conservancy or sanctuary, in accordance with the provisions of this Act”.</p> <p>4. Insert the following new section-Registration of Wildlife Conservancy or Sanctuary</p> <p>a) Any person, group of persons, corporate body or community on community or private land who desires to have the area registered as a wildlife conservancy, shall apply to the Service by completing the prescribed form.</p>
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	<p>developed in 2016.</p> <p>5. Majority of conservancies are either donor dependent or rely on one source of revenue-tourism, threatening their long-term sustainability.</p>		<p>b) The application form submitted shall be accompanied by:</p> <ul style="list-style-type: none"> i. Certificate of registration under relevant laws; ii. Constitution or equivalent document; iii. A map specifying the geographic boundaries of the conservancy or sanctuary in respect of which the application is made; iv. Evidence of land ownership or right of use of land; v. a management plan or concept proposal for the management of a wildlife conservancy or sanctuary detailing land use and zoning plan, benefits sharing with local communities or its members, and conservation and management activities, in accordance to Fifth Schedule to The Act on Management Planning; <p>c) The Service shall take into consideration the following to register a wildlife conservancy or sanctuary:</p> <ul style="list-style-type: none"> i. long-term intention of managing land for wildlife conservation, with integrated compatible land uses;
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				<ul style="list-style-type: none">ii. land ownership or right of use of the land by person other than owner;iii. assessment or inventory of biodiversity contained in the proposed conservancy or sanctuary;iv. ecological viability of the land, current or potential;v. size of land vis a vis the species occurring in the land or intended to occur in the land;vi. national physical and land use plans, county physical and land use plans and local physical land use plans;vii. proposed governance and benefit sharing plans; andviii. socio-economic viability of the proposed wildlife conservancy or sanctuary;ix. contiguous land use patterns and their effect on proposed wildlife conservancy or sanctuary <p>d. Upon satisfaction of the above requirements, the Service shall register the wildlife conservancy or sanctuary and issue a certificate of registration in the name of the registered conservancy.</p>
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			<p>e. The Service shall maintain a register of wildlife conservancies and sanctuaries registered under this Act.</p> <p>5. Insert the following new section- Management of a Wildlife Conservancy or Sanctuary</p> <p>a) A wildlife conservancy or sanctuary shall be managed in accordance with an approved management plan.</p> <p>b) The Service shall provide technical assistance and advice in the preparation of management plan for a wildlife conservancy and sanctuary.</p> <p>d) A wildlife conservancy or sanctuary may engage or employ a qualified natural or third party entity to undertake day to day management of the conservancy or sanctuary, in accordance to its management plan.</p>
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				<p>e) Where a wildlife conservancy or sanctuary management is considered below the standard expected from the management plan, by the Service, or there is a request for assistance from the wildlife conservancy or sanctuary, the Service shall make suitable recommendation which may include -</p> <ul style="list-style-type: none">i. action to be undertaken by the wildlife conservancy or sanctuary;ii. action to be undertaken by the wildlife conservancy or sanctuary in conjunction with the Service;iii. action to be undertaken by the Service on behalf of the wildlife conservancy or sanctuary;iv. deregistration of the conservancy as the last option, where the conservancy is considered to have entirely lost its ecological viability, with no option of rehabilitation. <p>f) A wildlife conservancy may engage or employ a conservancy ranger for purposes of wildlife security, animal problem control, implement human wildlife mitigation measures and other conservation activities, in collaboration with the Service and in accordance to this Act.</p>
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			<ul style="list-style-type: none">g) Upon engaging or employing conserve ranger, a wildlife conservancy or sanctuary shall submit the particulars of the ranger to the Service, based on prescribed form.h) The Service shall, at the request of wildlife conservancy or sanctuary, provide capacity and skills training of conservancy rangers, at reasonable or subsidized cost;i) The Service shall maintain a register of conservancy rangers employed by wildlife conservancy or sanctuary. <p>6. Insert the following new section-Wildlife Conservancy or Sanctuary Sustainability</p> <ul style="list-style-type: none">a) A wildlife conservancy or sanctuary may enter into long-term agreement with the landowner(s), community land management committee on behalf of the community for purposes of sustained wildlife conservation and management;b) A wildlife conservancy or sanctuary may enter into collaboration or partnership with any person, legal entity, private sector entity or conservation organizations, to leverage on its capacity and funding;
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				<p>c) A wildlife conservancy may adopt diverse nature based income streams to secure adequate resources to support operations of the conservancy; and</p> <p>d) A wildlife conservancy or sanctuary may receive support from county or national government entity for purposes of enhancing conservation objectives.</p> <p>e) Wildlife conservancies and sanctuaries within an ecosystem may establish a landscape level association for purposes of coordination of ecosystem planning and coordination.</p> <p>f) Wildlife conservancies and sanctuaries may establish a national umbrella association for purposes of coordination and promotion of conservancies governance and management standards.</p> <p>7. Insert the following new section- Deregistration of Wildlife Conservancy or Sanctuary</p> <p>a. A wildlife conservancy or sanctuary may apply to the Service for the withdrawal of registration giving sufficient grounds to withdraw.</p>
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				<p>b. In considering the application for withdrawal, the Service in consultation with the registered applicant of the conservancy or sanctuary, shall consider all reasonable measures to intervene or mitigate against the withdrawal.</p> <p>Insert a new section- Conservancy Dispute Resolution</p> <p>8. Where a dispute or conflict arises relating to wildlife conservancy or sanctuary ownership, governance or management, the disputing or conflict parties shall give priority to use of alternative methods of dispute resolution including traditional or community by-laws, internal conflict resolutions mechanism and, or meditation.</p> <p>b) Any matter that may remain un-resolved in the manner prescribed above, shall in all appropriate cases be referred to the National Environment Tribunal for determination, pursuant to which an appeal subsequent thereto shall, where applicable, lie to the Environment and Land Court as established under the Environment and Land Court Act, 2011</p>
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<p>9.</p>	<p>Community Wildlife Associations and Wildlife Managers</p> <p>1. Interpretation of Wildlife manager under section 3, as ‘registered persons to manage a conservancy or sanctuary’ contradict with scope of application in sections 40 and 41 which refer wildlife manager as ‘individual owner’.</p> <p>2. The functions of wildlife manager (sec 41) are equated to those of the community wildlife associations, while the functions are designed for the</p>	<p>1. The mandatory registration and regulation of Wildlife Managers by KWS be removed, since it increases the bureaucracies on management of conservancies.</p> <p>2. The registration of CWAs be made less bureaucratic, with KWS only required to recommend their registration to the relevant authority responsible for registration, depending on the registration regime opted by conservancy.</p> <p>3. CWAs are established on both terrestrial and marine areas. Section 40 and 41 only recognizes CWA establishment on terrestrial lands, despite the existence of community associations to support conservation on marine areas through the CWA model. The definition and scope of CWAs be revised to include conservation efforts by communities in marine areas.</p> <p>4. Community Wildlife Associations are assumed to be established at community level, yet they are currently at county or landscape levels, coordinating ecosystem issues and national level as well, promoting good conservation standards. This structure</p>	<p>40 & 41</p>	<p>1. Delete the term ‘wildlife manager’ under section 3</p> <p>2. Delete section 40 and substitute with the following new section-Community Wildlife Associations</p> <p>3. Delete section 40(1) and substitute with the following new section 40 (1) Communities, landowners, groups of landowners, may establish a wildlife association and register under the appropriate law.</p> <p>(2) The object and purpose for which an association is established is to facilitate coordinated planning and cooperative management of wildlife within a specified area.</p> <p>(3) The application for registration referred to in sub-section (1) shall consider the following-</p> <p>(a) a list of the wildlife conservancy , sanctuary or other wildlife conservation activities in which they are involved in and in the case of an association their membership;</p>
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	<p>latter rather than individual persons.</p> <p>3. The registration of CWAs is highly bureaucratic since it involves approval by the cabinet secretary, upon recommendation by KWS and in consultation with CWCC. This process is likely to discourage registration of CWAs.</p> <p>4. Registration of wildlife managers, who are responsible for conservancy management, limits the independence and capacity of conservancies and</p>	<p>has facilitated coordination of conservation outside government protected lands from the community to landscape and national levels. The national umbrella association of conservancies is recognized under the Wildlife Act (Sec 53(1)(f)(i)) as a member of the Wildlife Training and Research Institute.</p> <p>The reviewed Wildlife legislation needs to provide for recognition of CWAs at community, landscape and national levels.</p>	<p>(b) constitution with clear governance structures;</p> <p>(c) a draft plan for the association detailing-</p> <ul style="list-style-type: none"> (i) type of wildlife resources in their area and type of wildlife conservation initiatives being undertaken; (ii) measures and type of wildlife conservation activities that are being proposed; (iii) land use practices in the area and proposed measures to ensure land use compatibility with wildlife conservation; (iv) methods of monitoring wildlife and wildlife user activities undertaken by communities and landowners in the area; (v) community wildlife scouting scheme that will help to provide wildlife surveillance and assist in addressing problem animal control; and
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	<p>sanctuaries from employing persons fit for conservancy management.</p>		<p>(vi) any other aspect deemed necessary; and</p> <p>(3) The Service shall keep an up to date record of all registered community wildlife associations,</p> <p>3. Delete section 41 and substitute with the following new section-Functions of Community Wildlife Associations</p> <p>41. A registered community wildlife association shall undertake the following functions:</p> <p>(a) ensure that the association membership coordinates conservation activities of its membership including conservancies and sanctuaries under their jurisdictions pursuant to their respective approved constitution;</p> <p>(b) assist the service in combating illegal activities, including poaching and bushmeat trade;-</p> <p>(c) keep the Service and County Wildlife Conservation committee informed of any development changes and occurrences within their area that may adversely affect wildlife;</p> <p>(d) assist in problem animal control through community wildlife scouts drawn from among their membership or employees; and</p>
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				(e) do any other act that is necessary to enhance community and landowners participation in wildlife protection, conservation and management.
10.	<p><u>Wildlife Research and Training</u></p> <p>1. There is overlap over research coordination functions between the Service (see Sec 7(l)) and the Research Institute (see Sec 51).</p> <p>2. National and marine reserves and Conservancies not adequately involved and benefiting from research and training.</p>	<p>1. All research functions are coordinated by the research institute and not KWS, to avoid overlap. Section 7(l) should be deleted while section 52 is reviewed to comprehensively maintain the function with the Institute.</p> <p>2. There is a need for provisions requiring research findings to be retained with the conservation /protected area subject of the research.</p> <p>3. Prior Informed Consent requirements for conducting research, research fees payable to the conservancy and reserve</p> <p>4. Benefit sharing on research with bioprospecting to include protected or conserved area</p> <p>5. The Institute to provide training on developing skills on wildlife utilisation as provided in the Act, including taxidermy.</p>		<p>1. Delete section 52 and substitute with the following new section –Functions of the Institute</p> <p>52. The object and purpose of the Institute shall be to undertake, coordinate and grant permits of, all research activities in the field of wildlife conservation and management and ensure application of research findings in conservation planning, implementation and decision making.</p> <p>2. Insert the following words in section 52 (1)(g) ‘wildlife utilisation related skills’ immediately after the word ‘management’.</p> <p>3. Insert the following new subsection immediately after subsection 59(1)-</p> <p>a) The Institute shall ensure that prior informed consent is obtained by a person making an application for a research permit from the relevant community or authority in charge of an area where research is to be conducted, prior to the grant of a permit.</p>

	<p>3. Wildlife research centralised at head quarter institutions (KWS & WTRI), thus out of reach by communities and other partners or players.</p> <p>4. Multiple research licensing government institutions at national and county levels which dis-incentivizes development of research as a viable wildlife user right.</p>	<p>6. Research functions and facilities be devolved to county level offices.</p> <p>7. Ensure research is not dis-incentivized by huge fees and bureaucracy.</p>	<p>b) An application for a research permit shall be accompanied by a proposed benefit sharing plan for both monetary and non-monetary benefits to be allocated to the community, conservation area or entity where the research was conducted.</p> <p>4. Insert the following new subsection immediately after subsection 59 (2)-</p> <p>A person granted a research permit in any protected area or wildlife conservation area including conservancies, shall upon completion of research, deposit a copy of research findings with the conservation area management authority, where research was undertaken.</p> <p>5. Delete section 57 and substitute with the following new section-Delegation of Function</p> <p>Subject to this Act, the Board of the Institute may, by resolution either generally or in any particular case, delegate the performance of functions of the institute or duties of the Board to an agent of the Institute at national or county level, employee or officer or a committee of the Board of the Institute.</p>
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<p>11.</p>	<p><u>Incentives</u></p> <p>1. The title for Section 70 on Incentives and sharing is misleading since the scope of the section does not provide any provisions for incentives nor benefit sharing.</p> <p>2. Conservation marginally incentivized compared to other competing or complementing land uses and sectors e.g., tourism, mining, agriculture, which are more incentivized or have less barriers.</p>	<p>1. The Wildlife Policy 2020 recognizes incentives to motivate Kenyans to adopt wildlife conservation and management as a preferred and beneficial land-use.</p> <p>2. Opportunity for government and private sector collaboration to equitably fund conservation, within and outside State protected areas exist under the Wildlife Act through the Wildlife Conservation Trust Fund (see amendments of Sec 23 under Statutes Law (Miscellaneous Amendment) Act No. 18 of 2018. The provision of the Trust Fund should be maintained in the review of the Act, with a few amendments to incentivize the private sector to play a significant role in wildlife conservation.</p> <p>3. Monetary and non-monetary incentives are proposed to create an investment enabling environment as follows:</p> <p>Monetary Incentives</p> <p>i. Zero rate value added tax on conservation fees for the following categories of wildlife conservation areas- national parks, marine parks,</p>	<p>70</p>	<p>Delete section 70 and substitute with the following new section-Incentives</p> <p>70 (1) Notwithstanding the provisions of any relevant revenue or finance Act, the Cabinet Secretary responsible for Finance may, on recommendation of the Cabinet Secretary, propose tax and other fiscal incentives, to induce or promote wildlife conservation.</p> <p>(2) Without prejudice to the generality of subsection 1, the tax and fiscal incentives, may include-</p> <ul style="list-style-type: none"> b) value added tax waiver on conservation fees for the following categories of wildlife conservation areas- national parks, marine parks, national reserves, wildlife conservancies and sanctuaries c) customs and excise waiver in respect of imported capital goods and supplies for investment in wildlife conservation; d) tax rebates to conservation activities and other services that promote management and conservation; e) land rates, land rent and stamp duty waiver to land registered for
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	<p>3. Disincentives and absence of incentives creates doubt on the long-term sustainability of wildlife conservancies.</p> <p>4. Except for the recent government economic stimulus program to support conservancy rangers' salaries, there is no direct government funding to conservation outside protected areas, despite the majority of wildlife occurring on community and private lands and the fact that wildlife is a significant GDP contributor.</p>	<p>national reserves, wildlife conservancies and sanctuaries;</p> <p>ii. Customs and excise taxes exemption on conservancy capital goods and conservation donations including Ranger patrol vehicles, wildlife monitoring equipment, Community rangers uniforms, binoculars, torches and other daily use assets needed for effective conservancy management;</p> <p>iii. Stamp duty exemption on land registered for conservation through leases or purchase</p> <p>iv. Land Rates and rent exemption for land registered as wildlife conservancy or sanctuary in accordance to provisions of this Act</p> <p>v. Tax relief for private sector institutions engaged in support to wildlife conservation</p> <p>vi. No fees charged to registration of wildlife conservancy or sanctuary with KWS</p>	<p>conservation and management of wildlife;</p> <p>f) tax relief for private sector institutions engaged in support to wildlife conservation;</p> <p>g) parliamentary budgetary allocation to support essential operational costs of wildlife conservation and management on conserved areas outside protected areas.</p> <p>h) waiver of registration fees for conservancies with the Service</p> <p>(3) The Cabinet Secretary in consultation with the Service, shall facilitate other non-fiscal incentives to promote conservation, including but not limited to-</p> <p>(a) cost-sharing of conservation costs, technologies, and practices ;</p> <p>(b) education, technical assistance and extension services by the Service;</p> <p>(c) recognition and public acknowledgement of landowners and communities engaged in conservation;</p> <p>(d) encouraging investments and marketing of ecotourism activities and facilities in conserved areas; and</p> <p>(e) encouraging eco-labeling and certification.</p>
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				<p>Insert the following new subsection-</p> <p>4)The Cabinet Secretary shall develop regulations and guidelines to facilitate</p>
12.	<p><u>Wildlife Utilization</u></p> <p>1. The Service is the appropriate authority for application of grant of wildlife user right instead of CWCC, due to the technical nature of the activity.</p> <p>2. There are viable wildlife utilization options not recognized under Wildlife Act including live trade, translocation and bird cropping.</p>	<p>1. Reference to the report by the taskforce on consumptive wildlife utilisation (2019), KWCA endorses adoption of the recommendations.</p> <p>2. The application of wildlife user rights should be with the Service and not CWCC, considering the technical issues for consideration in the application. CWCC may recommend to the Service on suitability of the application.</p> <p>3. Include additional consumptive wildlife user rights: translocation, live trade of specified species and bird cropping for sandgrouse, guineafowl, francolin.</p> <p>4. The Act should provide for a list of wildlife species to which all wildlife user rights may be allowed, which is informed by a criteria that considers national conservation priorities.</p>		<p>1. Delete subsection 80(1) and substitute with the following new subsection-</p> <p>“The Cabinet Secretary may, upon successful registration of an applicant with the Service, on recommendation by the County Wildlife Conservation Committee, grant a permit for specified non-consumptive wildlife user right, including-</p> <ul style="list-style-type: none"> a. wildlife- based tourism b. commercial photography and filming c. educational purposes d. research purposes e. cultural purposes f. religious purposes <p>2. Delete subsection 80(3) and substitute with the following new subsection-</p> <p>The Cabinet Secretary may, upon successful registration of an applicant with the Service, on recommendation by the County Wildlife Conservation Committee, grant a license for</p>

	<p>3. The Wildlife Act does not provide for the specific wildlife species to which all consumptive wildlife utilisation may be licensed, but only provides for game farming species.</p> <p>4. Majority of consumptive wildlife user rights including game ranching, culling, cropping, research involving off take, are not implemented despite their recognition in the Wildlife Act (Sec 80 (3)).</p>			<p>specified consumptive wildlife user right, including-</p> <ul style="list-style-type: none"> a. game farming b. game ranching c. research involving off-take d. cropping e. culling f. translocation g. live trade <p>3. Delete subsection 80(4) and substitute with the following new subsection-</p> <p>Subject to subsection 80(3), the wildlife species in which each consumptive wildlife utilisation may be allowed shall be as set out in the tenth schedule.</p> <p>4. Insert the following new subsection 80(5)-</p> <ul style="list-style-type: none"> a) In determining whether to recommend grant of a permit for non consumptive user right or license for consumptive user right, the Service shall consider the following: <ul style="list-style-type: none"> i) benefit sharing plan for benefits derived from utilisation;
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	<p>5. Concern of abuse of cropping and game ranching, as there lacks comprehensive regulations to facilitate their oversight, regulation and enforcement.</p> <p>6. Wildlife species for game ranching not provided for within the schedules</p> <p>7. High costs of translocation of wildlife, which is a dis-incentive to re-populating habitats and promoting viable wildlife populations</p>			<p>ii) measures to be undertaken by the permit applicant to ensure the well-being of the wildlife subject of the user right, including prevention of cruelty of animals;</p> <p>iii) proposed management and conservation activities of land where utilisation is to take place;</p> <p>iv) the impact of the proposed user right to the conservation priorities of the country</p> <p>b) The Cabinet Secretary, in consultation and recommendation with the Service, shall develop criteria for listing wildlife species for consumptive wildlife utilisation, taking into consideration national conservation priorities.</p> <p>c) The Cabinet Secretary shall develop rules and regulations on grant of wildlife user rights, which shall</p>
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	<p>8. Translocation as a management tool and its recognition as a user right is not provided under the Wildlife Act</p>			<p>prescribe conditions subject to which any license or permit may be granted or issued for each user right and regulation of wildlife products from utilisation.</p> <p>5. Delete the tenth schedule and substitute with the following new schedule-Wildlife Species for Which Consumptive Wildlife Utilisation May Be Allowed</p> <ul style="list-style-type: none"> A. GAME FARMING -include list of wildlife species B. GAME RANCHING- include list of wildlife species C. RESEARCH INVOLVING- include list of wildlife species D. OFFTAKE -include list of wildlife species E. CROPPING- include list of wildlife species including the following birds: sandgrouse, guineafowl, francolin, quelea F. CULLING-include list of wildlife species G. TRANSLOCATION-include list of wildlife species H. LIVE TRADE-include list of wildlife species
13	<u>Benefit sharing</u>	1. The omission of benefit sharing arrangement from national reserves to		1. Include new section on benefit sharing that-

<p>1. Use of the term ‘benefits’ under Section 76 (4), where a minimum of five percent of benefits from national parks shall be allocated to local communities, is vague.</p> <p>2. Section 76 (4) fails to provide for benefit sharing mechanism for national reserves and only provides for national parks at a minimum of 5% benefits.</p> <p>3. Communities and landowners neighbouring government protected areas and who dedicate their</p>	<p>communities has resulted in an influx of the reserves by local communities. A clear benefit arrangement would promote equity, and promote conservation effectiveness through a collaborative approach by counties and communities.</p> <p>2. Disaggregation of benefits from parks and reserves is recommended since the latter are considered community areas held in trust by county government, while the parks are public lands with wider public interest beyond the adjacent local communities.</p> <p>3. The term ‘benefit’ for the purposes of benefit sharing compounded by a percentage, needs to be clarified as monetary benefit, and further as the gross total revenue. Absence of clear benefit sharing provisions in Wildlife Act 2013 is a key driver of negative attitudes to conservation e.g. contest by communities and county government of Taita Taveta county over Tsavo parks, subdivision of community owned lands with critical wildlife habitats e.g. Amboseli. Constitution of Kenya 2010 (Art 69) and the Wildlife policy demand equity in benefit sharing.</p>	<p>“a minimum of twenty percent of annual gross revenue from national reserves and marine reserves shall be allocated to reserve adjacent communities. Such monies shall be utilised to enhance community conservation efforts, livelihood improvement projects, or human wildlife conflict mitigation measures.</p> <p>2. Include new section on benefit sharing that- “a minimum of ten percent (10%) of annual gross revenue from national parks shall be allocated to park adjacent communities. Such monies shall be utilised to enhance community conservation efforts, livelihood improvement projects, human wildlife conflict mitigation measures or cover costs for land dedicated to wildlife conservation by communities and private landowners.</p> <p>3. Include new section on benefit sharing that- “Benefit sharing for wildlife conservancies and sanctuaries shall be implemented in accordance to the management plans of the respective conservancies and sanctuaries.</p> <p>4. Delete subsection 76(1) and substitute with the following subsection- The Cabinet Secretary shall, upon advice by the Service, in consultation with the Commission on Revenue Allocation and relevant county governments with national</p>
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	<p>lands as migratory corridors and dispersal areas need to be included as primary beneficiaries of benefits sharing from the protected areas.</p> <p>4. The monetary benefit sharing formula for national reserves and national parks needs to be disaggregated and increased from minimum of 5%.</p> <p>5. Provision of non-monetary benefits from national parks and national reserves is absent, which is only implemented by few national parks but inconsistent.</p>	<p>3. Disaggregation of monetary benefit sharing formula for national parks and national reserves is recommended, since national reserves were developed on community lands, with county governments, meant to administer in trust for the communities. The percentage of benefits from reserve should therefore be more compared to national parks at the ratio of minimum of 10%:20% of the annual gross total revenues. National parks and reserves need to review their revenue generation models from sustainable activities including grant of concessions, conservation fees, carbon credits, payment for ecosystem services, biodiversity offsets, among others.</p> <p>5. The development of the guidelines for benefit sharing from national reserves need to be developed in consultation and recommendation by county governments.</p> <p>6. Retain that benefit sharing plan for conservancies be administered in accordance with respective management plans.</p>		<p>reserves and marine reserves, formulate guidelines regarding benefit sharing, and the manner in which the same shall be distributed, within two year upon commencement of this Act.</p>
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	<p>5. The implementation of incentives and benefit sharing under section 76 has not been realized to-date, owing to absence of guidelines required to facilitate its roll-out. No timeline was provided for their development, thus limiting ability to implement.</p>			
<p>14</p>	<p><u>Compensation</u></p> <p>1. Inadequate implementation of section 24 on wildlife compensation scheme, characterised with backlog of unpaid claims due to inadequate budgetary allocation, and unestablished compensation scheme.</p>	<ol style="list-style-type: none"> 1. A sustainable financing mechanism to address human wildlife conflict incidents need to be established, considering that government financing alone is inadequate. 2. Increased investments by the government in mitigating human wildlife conflicts would go a long way in reducing the costs of compensation. 3. Private sector needs to be a key partner to support in mitigation of human wildlife conflicts, owing to its capacity to innovate technology, livelihood options compatible with wildlife co- 	<p>24 & 25</p>	<ol style="list-style-type: none"> 1. Pursuant to the taskforce report by the KWCA, recommends consideration of adoption of the following: <ol style="list-style-type: none"> a. Establishment of an independent human wildlife coexistence fund. b. The fund shall coordinate fundraising and financing of a compensation scheme, human wildlife mitigation scheme, promote adoption of appropriate technology and education. c. The compensation scheme under the fund to include parliament budget appropriation and a private sector led

	<p>2. Address of human wildlife conflict has largely focused on compensation, with minimal investment on promoting human-wildlife coexistence, thus increased negative attitudes to wildlife.</p> <p>3. The proposed insurance scheme under section 24 not operationalized</p> <p>4. A number of wildlife species and all marine species were removed from the compensation schedule through amendments in 2018, despite their</p>	<p>existence including eco-tourism investments.</p> <p>4. The tourism sector is a key beneficiary of wildlife , thus a levy on tourism or conservation fees to fund cost of hosting wildlife including compensation and conflict mitigation is recommended.</p> <p>5. Ownership of wildlife by communities through incentives to adopt wildlife conservation as a beneficial land use, minimizes intolerance to wildlife.</p> <p>6. Existing consultation programs by communities in Amboseli and Mara, have proven effective, as they devolve responsibility and accountability by the people. Government support to the consolidation programs would enhance their adoption and lower direct cost by the government.</p> <p>7. Snakes have resulted in significant loss of human life. Their removal increases negative perception to wildlife. Adoption of technology to verify related claims is recommended. Further, wild dogs and wild pigs populations are in</p>	<p>insurance program. The insurance scheme to handle human injuries, livestock and property losses, while government appropriation to cover loss of human life.</p> <p>d. The fund has diverse funding sources including-adequate budget parliament appropriation, conservation levies, tourism levies, payment for ecosystem services, donations, grants and private sector contributions.</p> <p>e. The fund to promote in-kind donations, including technologies that facilitate human wildlife conflict mitigation.</p> <p>f. The fund be governed by a board of trustees composed of the Ministry relevant for wildlife, KWS, Wildlife Training and Research and Training Institute, county government representation, private sector representation, conservancies and communities representation.</p>
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	<p>significant contribution to human life and livestock losses - snakes, wild dog, wild pig. This aggravates negative attitudes and perceptions for conservation by communities and the general public.</p>	<p>high decline, and their removal from list of species to which compensation may be paid, increases risk of their further decline through possible retaliation.</p>	<p>g. A pilot scheme be implemented within high conflict zones.</p> <p>h. The fund to support existing community consolation programs, to enhance community ownership and oversight.</p> <p>2. Insert the following wildlife species in respect to which compensation may be paid in Third schedule-</p> <p>A. Death and Injury-venomous snakes, shark, wild pig</p> <p>B. Crop, livestock and property damage- wild dog</p>
<p>15</p>	<p>Offences and penalties</p> <p>1. Application of some offences under section 102 on protected areas, extend to wildlife conservancies, by virtue of broad interpretation of 'protected</p>	<p>1. Offences under section 102 to be clear that they only apply to national parks, national reserves and national sanctuary, since the prohibited activities are recognized land uses within wildlife conservancies, and controlled through respective management plans. Conservancies are multiple land uses unlike parks and reserves.</p> <p>2. Ecosystem plans are tools that can mitigate extensive encroachment of gazetted wildlife corridors or other protected habitats, in the event there is</p>	<p>Insert the following new section</p> <p>1. Delete offences under the following sections by inserting the following new offences</p> <p>i. Sec 102 (1)(d)-burn charcoal in a national park, national reserve and national sanctuary</p> <p>ii. (g) undertakes extractive activity in a national park, national reserve and national sanctuary</p> <p>iii. 102 2(A) enter any national park, national reserve and national sanctuary with</p>

	<p>area’, under section 3. This overlaps with the objective of wildlife conservancies whose permitted activities are different from those of parks and reserves.</p> <p>2. Ecosystem management plans have no legal backing, despite the recognition of their significance</p>	<p>requirement for their gazetting and offence provided for their contravening.</p>	<p>livestock without permit or written permission</p> <p>2. A person who contravenes an approved ecosystem plan commits an offence and shall be liable, upon conviction, to a fine of not less than five hundred thousand.</p>
16	<p><u>Poaching & illegal wildlife crime</u></p> <p>1. Poaching and illegal wildlife crime remain a significant threat to Kenya’s wildlife.</p>	<p>1. Poaching for bushmeat, animal skins, claws, teeth, ivory and rhino horn continue to pose a threat to wildlife. While efforts to control poaching for ivory and rhino horn have largely borne fruit, resurgence is a future possibility and poaching for products from endangered and threatened species is an issue of global and national concern.</p>	<p>Insert a new section as follows-</p> <p>a. The Cabinet Secretary shall, formulate and publish in the gazette a National Strategy to Combat Poaching and Illegal Wildlife Trade.</p> <p>b. The strategy shall provide specific interventions to address poaching and illegal wildlife trade and shall adopt a multi-agency and multi stakeholder approach towards its implementation.</p>

		<ol style="list-style-type: none"> 2. A multi-stakeholder strategy to address poaching and illegal trade in wildlife products is a vital missing link in a coordinated effort to address the problem. 3. Development of a strategy for poaching and IWT has been proposed in a project <i>Combating Poaching and Illegal Wildlife Trade</i> implemented by Ministry of Wildlife and Trade funded by GEF-UNDP to provide a specific intervention for Kenya to develop a strategy to address IWT. 		<ol style="list-style-type: none"> c. The Strategy shall adopt multiple approaches and ensure a healthy balance between law enforcement, reducing demand for illegal products and supporting local communities to pursue sustainable livelihood opportunities. d. In implementing the strategy, interventions shall ensure that benefits from wildlife conservation outweigh the benefits associated with engaging in illegal wildlife crimes and the general cost associated with living wildlife crimes.
17	<p>Ecosystem Planning</p> <ol style="list-style-type: none"> 1. Despite section 7 requiring the Service to coordinate preparation of ecosystem plans, there is no legal framework to guide on its preparation. 	<ol style="list-style-type: none"> 1. Despite the requirement for ecosystem plans under the Wildlife Act, only 1 such plan (Amboseli) has been prepared and gazetted in the Country. 2. While ecosystem management plans are mentioned in the Act and recognized as significant, they have no legal provisions; this needs to be specified. This includes corridors within and between ecosystems and in the dispersal areas. 		<p>Insert a new section- Ecosystem Planning</p> <ol style="list-style-type: none"> 1. Every landscape or seascape comprising an area recognised as an ecosystem shall be managed through a collaboratively developed ecosystem plan. 2. In determining the geographical extent of an ecosystem, stakeholders shall consider the ecosystem functions, ecological processes, drainage, wildlife seasonal migratory routes, and minimum viable conservation area. 3. Within a period of two years upon commencement of this Act, the Service shall

	<p>2. Majority of wildlife corridors and migratory routes identified under the Corridors and Dispersal Areas report, are encroached due to absence of ecosystem plans.</p>	<p>3. Wildlife policy requires ecosystem approach in conservation, as a measure to ensure viable populations and prosperity of wildlife. On the contrary, conservation in the past two decades has taken an isolated unit approach, yet wildlife requires ecosystems to function and survive climate change and other environmental shocks.</p> <p>4. Provide that each landscape shall be managed through an ecosystem plan coordinated by a landscape level wildlife association.</p> <p>5. Provide process required to create an ecosystem management plan:</p> <ul style="list-style-type: none"> ● Define what parameters to be used to delineate an ecosystem. ● Provide procedures for preparing and gazetting an ecosystem plan, which integrates parks and reserves management plans, conservancy management plans and county level land use plans. ● Provide a penalty (fine and jail term) for contravening a gazetted ecosystem plan ● Requirement on gazetting of ecosystem plans. 		<p>cause to be developed a ten year ecosystem plan.</p> <p>4. Development and implementation of an ecosystem plan, shall be achieved through coordination by an ecosystem planning committee composed of the Service, representatives of respective county governments within an ecosystem, landscape level conservancy associations, county level community wildlife associations, conservation partners and technical experts from the relevant sectors.</p> <p>5. Preparation of an ecosystem plan shall consider and align with national and county spatial plans and be informed by national parks, reserves, wildlife conservancies land use plans.</p> <p>6. Upon completion of the process to develop an ecosystem plan, the plan shall be approved by the Cabinet Secretary and published in gazette notice</p>
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<p>18</p>	<p>Other significant Wildlife Conservation Areas/Options</p> <p>1. Currently there are critical wildlife conservation areas excluded from the Wildlife Act such as wetlands, urban green spaces e.g. Tana Delta, L. Oloiden, Lake Naivasha, L. Baringo, L. Lotikipi, L. Elemetaita, L. Olbolosat, L. Magadi,</p> <p>2. Significant wildlife corridors and migratory areas are being lost at massive rate to other competing land uses. There are no provisions under the Wildlife Act to facilitate land purchase for</p>	<p>These lakes are wetlands of significant biodiversity value, contain iconic species, riparian lands and aquatic animals including birds, reptiles, amphibians, aquatic plants and microorganisms. Are recognized as RAMSAR sites, IBAs of global significance, yet are faced by anthropogenic threats that negatively affect wildlife, KWS powers to protect this species is a grey area and conflict water, fisheries, wildlife, land laws make it complicated to manage it for posterity. This category of conserved areas may include wildlife in green spaces on private and public land, as important biodiversity zones.</p> <p>4. To provide provisions for land purchase and easements required to be registered against the land title to prevent change of intended purchase.</p> <p>5. Emerging co-management arrangement between government agencies and private individual or communities e.g. existing Agricultural development corporations lands of Mutara Ranch & Galana Kulalu, have presented opportunity to expand land under conservation. They also exist in marine areas, where communities are</p>	<p>Insert the following new section-Co managed conservation areas</p> <p>a) The Cabinet Secretary, within one year of commencement of this Act, shall cause to be identified ecologically significant conservation areas on public lands currently not recognized as parks and reserves.</p> <p>b) The Cabinet Secretary may, on the recommendation of the Service, in consultation with the National Land Commission and respective county governments, by notice in the Gazette, declare such areas as co-managed conservation areas.</p> <p>c) The Cabinet Secretary shall develop regulations on permitted activities and conservation arranged on co-managed conservation areas.</p> <p>d) The Service in consultation with land owners and users within such co-management areas shall develop a co-managed area committee to provide for governance and management arrangement.</p> <p>e) A co-managed conservation area shall be managed through a five-year integrated management plan.</p> <p>f) Private persons, entities or communities may enter into a co-management agreement with the relevant government agency in</p>
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<p>conservation or land banking.</p> <p>3.Co-management arrangement of public lands by entities and communities is emerging, while its not provided for in the Wildlife Act.</p> <p>4.There lacks for provisions that protect threatened conservation habitats, that are that are not gazetted as wildlife protected areas. These could include migratory corridors, Non gazetted sites such as Ramsar Site and public lands e.g riparian,</p>	<p>establishing community based institutions on public land, e.g. Kiunga, Pate.</p>		<p>charge of management or use of the land, which shall define the conservation management objectives, access rights and benefit sharing arrangements.</p>
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19	Wildlife Conservation Trust Fund	<p>Wildlife Act 2013, under section 23, as amended vide Statutes Law (Miscellaneous Amendment) Act No. 18 of 2018, provided for establishment of a Wildlife Conservation Trust Fund. In the review of the Act, this section be maintained subject to the following revisions:</p> <ol style="list-style-type: none"> 1. Ensure that the fund is governed by a board of trustees and not a governing body, where the trustees are diverse to include public officers and other sectors including the private sector. 2. Ensure that the allocation of the fund is equitable to both protected areas and conservation areas outside State management. 	23	<ol style="list-style-type: none"> 1. Delete subsection 23(1) and substitute with the following subsection- <p style="margin-left: 40px;">There is established a Wildlife Conservation Trust Fund that shall be vested in a board of trustees established in accordance with subsection (2)</p> 2. Delete subsection 23 (2) and substitute with the following new subsection- <p style="margin-left: 40px;">The board of trustees referred to in subsection (1) shall serve as a public private partnership and comprise-</p> <ol style="list-style-type: none"> a. a non-executive chairperson, not being a public officer, appointed by the cabinet secretary; b. the Principal Secretary for the time being responsible for matters relating to finance; the Principal Secretary for the time being responsible for matters relating to wildlife management; c. The Director General of the Service, who shall be the secretary;
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