
FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

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FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

[L.N. 402/2007.]

PART I – PRELIMINARY

1. Citation

These Regulations may be cited as the Fisheries (Beach Management Units) Regulations, 2007.

2. Interpretation

In these Regulations, unless the context otherwise requires—

“**assembly**” means a meeting of registered members of a beach management unit convened pursuant to the provisions of these regulations;

“**authorized fisheries officer**” means a person of or above the rank of assistant fisheries officer appointed in the public service, having administrative jurisdiction over a beach management unit;

“**beach**” means the defined geographical area of jurisdiction of a beach management unit established under regulation 5;

“**beach management unit**” means an organization of fishers, fish traders, boat owners, fish processors and other beach stakeholders who traditionally depend on fisheries activities for their livelihoods;

“**by-laws**” means the internal administrative rules of a beach management unit approved by the assembly and the authorised fisheries officer;

“**chairman**” means the chairman of the assembly and executive a committee of a beach management unit elected in accordance with these regulations;

“**co-management plan**” means a plan for the co-management of a particular fishery or geographical area adopted pursuant to regulation 7;

“**Director**” means the Director of Fisheries;

“**executive committee**” means a committee of beach management unit members elected en office pursuant to the provisions of regulations 14 and 15;

“**fish landing station**” means a fish landing station established by the director in accordance with the provisions of the Act;

“**member**” means a member of a beach management unit; and

“**presiding officer**” means the authorised fisheries officer or any other person nominated by him in writing to supervise or conduct beach management unit elections.

PART II – BEACH MANAGEMENT UNIT OBJECTIVES STRUCTURE, AREA OF JURISDICTION AND MANDATE IN CO-MANAGEMENT

3. Objectives

(1) The Director shall facilitate the establishment of a beach management unit for each fish landing stations.

Provided that in appropriate cases one beach management unit may be set up for two or more fish landing stations in accordance with administrative guidelines issued by the Director.

- (2) The beach management unit shall be a non-political and nonreligious body.
- (3) The objectives of a beach management unit shall be to—
 - (a) strengthen the management of fish-landing stations, fishery resources and the aquatic environment;
 - (b) support the sustainable development of the fisheries sector;
 - (c) help alleviate poverty and improve the health, welfare and livelihoods of the members through improved planning and resource management, good governance, democratic participation and self-reliance;
 - (d) recognise the various roles played by different sections of the community, including women, in the fisheries sector;
 - (e) ensure the achievement of high quality standards with regard to fish and fishery products;
 - (f) build capacity of the members for the effective management of fisheries in collaboration with other stakeholders; and
 - (g) prevent or reduce conflicts in the fisheries sector.

4. Administrative structure

A beach management unit shall consist of—

- (a) an assembly;
- (b) an executive committee; and
- (c) such sub-committees as may be specified in the by-laws of the beach management unit.

5. Beach management unit's area of jurisdiction

(1) Each beach management unit shall have jurisdiction over the area for which it is established under rule 3.

(2) The Director shall, in consultation with the relevant agencies, prior to the establishment of a beach management unit, cause the relevant land area of a fish landing station to be surveyed and its boundaries clearly delineated and marked.

(3) For the purpose of ensuring safety of fish and fishery products, a specific area of the fish landing station shall be delineated, marked and assigned for the exclusive purposes of landing and selling fish and fishery products.

(4) Activities not directly related to fish landing or trading in fish and fishery products that are, or have been, customarily undertaken at that beach, including, but not limited to—

- (a) the washing of clothes;
- (b) the watering of cattle;
- (c) the abstraction of water for domestic use, and
- (d) the provision of services for the purposes of tourism or recreation,

shall be assigned a separate area of the beach away from the area provided for under paragraph (3) above.

(5) A description of the beach, which shall include a plan and a geo-reference description of any area identified for the exclusive purpose of landing or selling fish and fishery products, shall be included in the by laws of each beach management unit.

(6) A beach management unit shall be entitled to issue by-laws which shall be binding upon its members and any persons present at or using the beach.

(7) A beach management unit may stipulate in its by-laws that specified activities as its beach may only be undertaken by its members or by members of other beach management units in accordance with any applicable co-management plan.

(8) A beach management unit shall exercise its jurisdiction over a beach in a fair, equitable and non-discriminatory manner.

(9) A beach management unit shall display in a prominent location on the beach—

- (a) a notice stating that the beach is managed by the beach management unit, which shall be identified by name; and
- (b) a copy of its by-laws.

6. Mandate of a Beach Management Unit

(1) A head, management unit shall be responsible to its members and to the Director for ensuring the orderly, safe and effective use, management and operation of the fish landing station over which it has jurisdiction, to which end it shall—

- (a) ensure that the fish landing station, together with any structures or buildings situated thereon, is kept in a clean, tidy and hygienic condition;
- (b) ensure the security of the fish landing station and any fishing vessels, nets or other equipment or structures within its boundaries;
- (c) ensure compliance with applicable hygiene standards in connection with the landing storage and sate of fish and fishery products;
- (d) in conjunction with other relevant agencies maintain safety and order at the fish landing station; and
- (e) maintain and, as necessary, repair any buildings or structure on the fish landing station.

(2) A beach management unit shall gather, analyse, use, store and transmit such information and data as may be specified in writing by the Director from time to time concerning the landing and sale of fish and fishery products, including, but not limited to—

- (a) the quantities of fish and fishery products landed; and
- (b) the prices at which they are sold.

(3) A beach management suit shall seek to ensure the safety of those of its members engaged in fishing, and, to that end—

- (a) shall monitor the seaworthiness of fishing vessels, and shall take measures to ensure that they comply with applicable safety regulations including provisions relating to the use of personal safety equipment; and
- (b) may organise or provide rescue vessel(s) or services.

(4) A beach management unit shall take measures to raise the awareness of its members and their families concerning health risks and measures so minimise and prevent to malaria and HIV-Aids and other diseases.

(5) A beach management unit may provide training to its members is fishing techniques, the marketing and processing of fish, personal financial management and other areas relevant to fisheries and shall support the activities of cooperatives and fishers' self help groups within its jurisdiction.

(6) A beach management unit may seek to regulate and promote the marketing of fish including the construction and supply of marketing facilities and the organisation of fish auctions but shall not in any circumstances have the right to determine or dictate the prices at which fish or fishery products are to be sold.

(7) A beach management unit may, with the written permission of the Director, erect such structures or buildings as may be necessary for the discharge of its functions.

(8) A beach management unit may in order to improve the economic situation of its members—

- (a) promote and facilitate investments in the fish landing station and in fishing activities undertaken from there;
- (b) support the development of sustainable alternative livelihood strategies for its members that may reduce pressure on fishery resources including, but not limited to, the provision of sustainable services to tourists.

(9) A beach management unit may—

- (a) organise, or facilitate the supply of fishing gear, ice or other necessary equipment or inputs to its members; and
- (b) provide savings and credit facilities to its members.

but it may not offer these services in competition to similar or equivalent services that are already provided at that beach.

7. Co-management areas

(1) The authorised fisheries officer shall, following a consultative process, designate at respect of each beach management unit a co-management area which shall be an area in which the beach management unit shall undertake fisheries management activities jointly with the Director.

(2) In the case of fisheries or areas in which fishing is undertaken by the members of more than one beach management unit, the authorised fisheries officer shall, following a consultative process, designate a joint co-management area in which more than one beach management unit shall share responsibilities for fisheries management with the Director.

(3) The Director shall in the circumstances specified in paragraph (2) designate areas in which each individual participating beach management unit shall have specific responsibilities particularly as regards the undertaking of patrols.

(4) Following the designation of a co-management area the authorised fisheries officer shall, in consultation with relevant beach management units, develop a draft co-management plan for that co-management area, specifying fisheries management measures that are to be taken to ensure the sustainable utilization of fisheries in that area, including, but not limited to—

- (a) the designation of closed areas in which all fishing activities or specified fishing activities are prohibited;
- (b) the designation of closed seasons either throughout the Co-management area or in respect of specified areas;
- (c) the marking of fishing vessels;
- (d) restrictions on the type of nets or other fishing gears that may be used; and
- (e) restrictions on the number of fishing vessel licences or fishing licences that may be issued.

(5) Each co-management plan shall be agreed upon between the authorised fisheries officer and the beach management unit and shall—

- (a) give effect to applicable national and regional policies and plans, and
- (b) comply with existing fisheries legislation, and
- (c) specify the roles and responsibilities of the concerned beach management unit or units and the Director with regard to its implementation and enforcement.

(6) The authorised fisheries officer shall forward the co-management plan to the Director for approval.

(7) A beach management unit shall give effect to an agreed co-management plan through its by-laws.

(8) A beach management unit shall constitute a patrol sub-committee who shall in collaboration with the Director undertake regular patrols within the co-management area, or within the designated patrol area in the case of a joint co-management area, in order to ensure compliance with the Act and any applicable co-management plan and applicable by-laws.

(9) The authorised fisheries officer and the executive committee(s) of the concerned beach management unit or units shall supervise the implementation of the co-management plan and shall periodically review its contents and revise it as necessary.

(10) If the authorised fisheries officer suspects that a beach management unit is not taking sufficient steps to give effect to a given co-management plan, such officer shall consult with that beach management unit as to the reasons for this.

(11) If, following consultations, the authorised fisheries officer is of the opinion that the relevant beach management unit is still failing to take sufficient steps to give effect to the co-management plan such officer may serve a notice to show cause why that co-management plan should not be revoked and if—

- (a) the relevant beach management unit, fails to show cause within 14 days of the date of receiving the notice; or
- (b) the authorised fisheries officer is not persuaded by the response of the beach management unit,

he may suspend or cancel the co-management plan and after notifying the beach management unit or units concerned in writing he shall forward his decision to the Director who shall within 14 days approve or vary the decision.

(12) A beach management unit that is aggrieved by a decision to suspend or cancel a co-management plan pursuant to paragraph (11) of this regulation may within 14 days of the date of notification appeal to the Director, whose decision shall be final.

(13) The executive committee of a beach management unit whose co-management plan has been cancelled shall stand suspended and an interim Committee put in place pursuant to the provisions of regulation 21.

8. Environmental protection

(1) A beach management unit shall seek to protect the aquatic environment within its co-management area and shall cooperate with the responsible authorities to that effect.

(2) A beach management unit may include in its by-laws provisions concerning the protection of the aquatic environment in its co-management area.

PART III – MEMBERSHIP OF A BEACH MANAGEMENT UNIT AND ELECTIONS

9. Membership

- (1) Membership of a beach management unit shall be open to those persons who—
- (a) depend directly or indirectly for their income or livelihoods on fisheries activities undertaken at the beach within the jurisdiction of that beach management unit;
 - (b) fall within one of the membership categories specified in regulation to; and
 - (c) would be directly adversely affected by the temporary or permanent closure of fisheries activities at that Beach.

(2) A beach management unit may provide in its by-laws that specified activities at the fish landing station over which it has jurisdiction may only be undertaken by its members.

(3) A person shall not be simultaneously a member of more than one beach management unit.

(4) A body corporate, acting through a representative notified in writing to the executive committee, may be a member of a beach management unit.

(5) In the case of a jointly owned fishing vessel, the co-owners shall determine who between them is to be a member of the beach management unit to represent their interests, and shall jointly notify the executive committee accordingly.

(6) Persons below the age of 18 years shall not under any circumstances be eligible to be registered as beach, management unit members and shall not be assigned any duties therefor.

10. Membership categories

- (1) A beach management unit shall have the following categories of members—
- (a) boat owners, meaning the owners of fishing vessels registered at its beach;
 - (b) Crew members meaning such persons other than boat owners whose fishing licences authorise them to fish from its beach; and
 - (c) **“fish traders and input suppliers”** meaning persons routinely involved in fish trading or the supply of inputs and services necessary for fishing at its fish landing station.
- (2) For the purpose of this regulation “persons involved in fish trading include—
- (a) persons who engage in the dealing of fish for sale locally on the basis of a fish trader’s licence;
 - (b) persons who engage in the dealing of fish for sale to a person or persons outside the district on the basis of a fish trader’s licence;
 - (c) persons who supply fishing gears, bait, ice or other inputs to boat owners in return for a first claim on landed fish and fishery products which they then sell on;
 - (d) persons who purchase fish at the beach for processing and sale at the beach or in the vicinity of the beach on the basis of a fish trader’s licence;
 - (e) agents or representatives of persons engaged in the large scale processing; of fish on the basis of a fish traders licence, whether or not employed by such processors; and
 - (f) persons involved, whether as employees or otherwise, in the grading, sorting, valuing, packing, and portaging of fish at that beach.

(3) For the purpose of this regulation “persons involved in the supply of inputs and services necessary for fishing” include fishing vessel builders and repairers and net repairers.

(4) Where a person’s membership of a beach management unit is dependent on that person holding a licence—

- (a) a suspension of that licence shall have effect of his right in membership of the beach management unit for an equivalent period;
- (b) a revocation of that licence shall have the effect of revoking his right to membership of the beach management unit.

11. Joining Procedure

(1) A person who wishes to apply for membership of a beach management unit shall apply in writing to the concerned executive committee.

(2) The executive committee shall forward such applications to the authorised fisheries officer for approval.

(3) If the authorised fisheries officer does not object to the application within 14, an applicant who complies with the criteria set in regulation 10 shall upon payment of the specified fee be admitted to membership of the beach management unit through the inclusion of his name in the register of members and the allocation of a member.

(4) A person not holding a licence whose entitlement to membership of a beach management unit would require him to hold such a licence may apply for provisional membership of a beach management unit.

(5) An applicant shall be entitled to be granted provisional membership unless—

- (a) such person has previously been expelled from that or another beach management unit;
- (b) the relevant co-management plan specifies a maximum limit on the number of licences to be issued at that Beach which maximum limit has been reached; or
- (c) the person has a criminal record.

(6) In the event that there are more applications for provisional membership than there are available licences pursuant to the relevant co-management plan, such applications shall be dealt with on an equitable basis giving priority to the poor and disadvantaged and those with families to support in the BMU jurisdictional area of the beach management unit.

(7) The Director shall not issue a licence to a person that relates to a particular Beach unless that person is a member or a provisional member of the relevant beach management unit.

(8) Following the grant of a licence to a provisional member that member shall notify the executive committee, which shall admit him to full membership through the inclusion of his name in the register of members and the allocation of a member registration number and membership card.

12. Resignation and expulsion of a member of beach management unit

(1) A member of a beach management unit may resign his membership at any time by notifying the executive committee in writing, but such resignation shall not affect the liability of that person to pay any outstanding fees or charges to the beach management unit.

(2) A person may be expelled from membership of a beach management unit by a decision of the assembly on the proposal of the executive committee on one or more of the following grounds—

- (a) he has been convicted in a court of law of a fisheries related offence;
- (b) he has been convicted in a court of law of any other criminal offence and sentenced to imprisonment for a period exceeding six months; or
- (c) he has persistently engaged in behaviour contrary to the objectives of the beach management unit or its by-laws and has ignored three written cautions issued by the executive committee.

(3) The dismissal of a member shall be approved by a simple majority of the beach management unit members in a meeting duly convened by the chairperson.

(4) Following the expulsion of a person from a beach management unit, the Director shall cancel any licence, registration or permit held by him that relates to the relevant beach.

(5) A person who has been expelled from a beach management unit may not be re-admitted to membership for a period of two years from the date of the expulsion.

(6) A person who is aggrieved by a decision to expel him from a beach management unit may appeal in writing to the Director within a period of 14 days of the date of the expulsion, and the decision of the Director shall be final.

13. Rights and obligations of beach management unit members

(1) A member of a beach management unit may—

- (a) participate in the decision making processes of the beach management unit;
- (b) where the member is not in arrears concerning fees or charges due to the beach management unit, stand for office and participate in elections;
- (c) benefit from any services provided by the beach management unit to its members subject to the payment of any fee or charge; and
- (d) inspect the books and records required to be maintained by the beach management unit.

(2) A member of a beach management unit shall—

- (a) comply with the by-laws;
- (b) comply with the provisions of the Fisheries Act (Cap 378);
- (c) ensure that any licences issued to him under the Act are kept up to date;
- (d) comply with the lawful instructions of an authorized fisheries Officer or an official of the beach management unit;
- (e) promptly pay any fees or charges due to the beach management unit;
- (f) not damage any property owned or used by the beach management unit;
- (g) promptly provide information to the beach management unit regarding the landing or sale of fish and fishery products as may be requested.

14. The executive committee

(1) The executive committee of a beach management unit shall have not less than 9, nor more than 15 members as provided for in its by-laws, who shall be elected by the members of the beach management unit.

(2) The composition of an executive committee shall be specified in the by-laws of each beach management unit, which may provide—

- (a) that the membership shall be distributed as follows—
 - (i) boat owners — 30%;
 - (ii) crews — 30%;
 - (iii) traders — 10%;
 - (iv) others 30%.
- (b) that notwithstanding subparagraph (a), in as far as possible at least 3 of the executive committee should be constituted by women.

(3) It shall be the duty of each member of the executive committee to seek to represent the best interests of the beach management unit as a whole in the fulfilment of his duties rather than the interests of the membership category to which he belongs.

(4) The executive committee shall consist of a chairperson, a deputy chairperson, a secretary, a treasurer and committee members.

15. Election to the executive committee

(1) A member of a beach management unit may be nominated to stand for election to the executive committee provided—

- (a) he is a citizen of Kenya and holds a National Identity Card or valid passport or driving licence;
- (b) with the exception of candidates for the elections that take place at the establishment of the beach management unit, he has been a member of the beach management unit for more than one year;
- (c) he is of sound mind;
- (d) he does not have a criminal record;
- (e) he has not been found to have breached the by-laws or rules of the beach management unit;
- (f) he does not owe any outstanding fees or charges to the beach management unit;
- (g) his candidacy is proposed and seconded by ten other members of the beach management unit who shall be in the same membership category in FORM FD/NF/1 as set out in the Third Schedule of these Regulations;
- (h) he is able to read and write, except for the secretary and treasurer who must possess at least a primary education certificate.

(2) The presiding officer shall announce the start of campaign period of not more than seven clear days before the date of the election.

(3) A beach management unit shall specify in its by-laws whether—

- (a) candidates are to stand for direct election to the positions of chairperson, deputy chairperson, secretary and treasurer; or
- (b) whether they are to stand for election to the executive committee with elections to such positions being undertaken by and from among the members of the executive committee.

(4) Elections to the executive committee shall be by secret ballot.

(5) Upon counting and announcing the election results the presiding officer shall immediately submit the results to the Director in FORM FD/ ER as set out in the Fourth Schedule of these Regulations.

- (6) A member of the executive committee—
 - (a) shall hold office for one further term;
 - (b) may stand for re-election for a second four-year term;
 - (c) may not stand for re-election immediately at the end of a second term, but may stand again for election since leaving office after four years.

16. Formation of and election to sub-committees

- (1) A beach management unit shall, through its by-laws, provide for the establishment of sub-committees depending on its particular requirements.
- (2) Ordinary members of the executive committee shall be elected by the executive committee to head the sub-committees so created.
- (3) The assembly through a voting method determined by the authorised fisheries officer shall elect members to serve in the sub-committees.
- (4) The chairperson of the executive committee shall be an *ex officio* member of all sub-committees

PART IV – ADMINISTRATION OF THE BEACH MANAGEMENT UNIT

17. Meetings of the beach management unit members

- (1) A meeting of the Beach Management Unit members convened pursuant to the provisions of these regulations shall constitute the assembly of the beach management unit.
- (2) The assembly shall be held at least once every three months, at an annual general meeting or more frequently as may be specified in the by-laws.
- (3) Additional meetings of the beach management unit members may be called by the executive committee when necessary and shall be called at the written request of one tenth of the members of the beach management unit.
- (4) The by-laws shall specify whether decision making at the assembly shall take place by—
 - (a) show of hands;
 - (b) show of hands, save for elections which shall be by secret ballot;
 - (c) show of hands, or by secret ballot in particular cases upon the decision of the assembly; or
 - (d) secret ballot.
- (5) Each participant in the assembly shall be entitled to one vote.
- (6) Unless it is otherwise provided for in these regulations, a proposal to the assembly shall be deemed to have been accepted if it is approved by more than half of those present.
- (7) The quorum of an assembly shall be half the total numbers of members.
- (8) An assembly where quorum is not achieved shall be adjourned for a period of not more than ten days.
- (9) The assembly shall be chaired by the chairperson of the executive committee or in his absence the deputy chairperson of the executive committee.
- (10) On the decision of the chairperson, persons who are not members of the beach management unit or who are beach management unit members but are not entitled to vote in its meetings may be invited to address the assembly.

(11) The authorized fisheries officer or any person delegated by him shall be entitled to attend the assembly.

18. Convening the assembly

(1) The executive committee shall, at least 30 days before convening the assembly display a notice prominently at the beach, at the offices of the beach management unit and other public places in the vicinity as will enable beach management unit members to be aware of the planned assembly.

(2) A notice of the type referred to paragraph (1) shall indicate the date, time and place of the assembly and the draft agenda of the assembly.

19. Meetings of the executive committee

(1) The executive committee shall meet at least once a month.

(2) The quorum for meetings of the executive committee shall be at least half of the members.

(3) Decisions of the executive committee shall be made by consensus, failing which a vote may be held with each member holding one vote.

(4) Additional meetings of the executive committee may be called by the chairperson when necessary and shall be called at the request of one third of its members.

(5) An authorised fisheries officer or a person nominated in writing on his behalf shall have the right to attend meetings of the executive committee as an observer.

20. Dismissal of executive committee members by the assembly

(1) The assembly may dismiss a member of the executive committee, or any sub-committee, on the grounds that he—

- (a) is proven to be of unsound mind;
- (b) has failed without reasonable cause to attend three consecutive scheduled meetings;
- (c) has engaged in or condoned illegal fishing activities;
- (d) has failed to perform the duties required of his office as specified in these regulations or the by-laws; or
- (e) is convicted of a criminal offence.

(2) An assembly to consider the dismissal of any member of the executive committee shall be convened in response to a written request signed by one-third of the beach management unit members, citing the grounds for dismissal.

(3) A decision to dismiss a member of the executive committee shall be taken by secret ballot requiring a simple majority of votes in favour of dismissal, and shall be confirmed by the authorised fisheries office in writing.

(4) A member of the executive committee who has been dismissed pursuant to subsection (1) of this regulation may within 14 days of the relevant assembly appeal in writing by notice to the Director stating the basis for the appeal.

(5) The Director shall determine any such appeal within 14 days by of receipt of the notice of appeal and shall promptly inform the beach management unit and the authorised fisheries officer.

In the event that or more two-thirds or more of the executive committee is dismissed from office by the assembly, then the entire executive committee shall stand dissolved and the authorised fisheries officer shall appoint an interim committee and call for fresh elections within ninety days of the dismissal.

21. Suspension of the executive Committee by the Director

(1) The Director or an authorized fisheries officer, having reason to believe that an executive committee or any of its members are engaged in or are condoning proscribed fishing practices, shall immediately in writing suspend the committee or the member and in their place appoint an interim committee or an interim committee member.

(2) When an authorized fisheries officer, other than the Director, makes such suspension, the officer shall report the case in writing detailing reasons for the suspension to the Director.

(3) Any committee or committee member aggrieved by the decision of an authorized fisheries officer may, within fourteen days of communication to them of such suspension, appeal so the Director.

(4) The Director may confirm, vary or reverse the decision, and shall accordingly issue instructions to the authorized fisheries officer.

(5) The decision of the Director under paragraph (4) shall be final.

(6) If the Director recommends dismissal then the authorized fisheries officer shall call for fresh elections to replace the committee or committee member so removed within ninety days of the Director's decision.

(7) The dismissed executive committee or individual committee thereof member shall return she authority card issued under these Regulations to the issuing officer.

22. Employees of the beach management unit

(1) A beach management unit may employ such part time or full time staff as it requires in accordance with its approved budget including, but not limited to, a manager, an accountant, a coxswain, security personnel and cleaners.

(2) An employee of a beach management unit shall not be entitled to stand for elected office in that beach management unit

PART V – RESPONSIBILITIES OF THE BEACH MANAGEMENT UNIT ORGANS AND OFFICERS

23. Responsibilities of the assembly

(1) The responsibilities of the assembly of a beach management unit shall be to—

- (a) approve any management plan for the beach;
- (b) approve any draft co-management plan;
- (c) approve the draft badges and work-plan of the beach management unit;
- (d) adopt the annual report and accounts of she beach management unit;
- (e) approve she level of any fees or charges payable by the members of the beach management unit;
- (f) adopt sew by-laws and amend existing by-laws;
- (g) elect the members of any sub-committees;
- (h) as necessary remove from office she members of the executive committee:
and
- (i) undertake such other tasks as may be specified in these regulations or the by-laws.

(2) The assembly of a beach management ant shall not seek, either directly or indirectly, to interfere in, re-order or otherwise modify economic relationships between members who are in different membership categories.

(3) With regard to the adoption and amendment of by-laws—

- (a) any amendments to the by-laws approved at the date of establishment of the beach management unit shall enter into effect only on receipt of the Director's written approval;
- (b) a copy of any additional by-laws, or any amendments thereto, shall within 14 days of the date of adoption be transmitted to the Director for approval;
- (c) if the Director does not respond within 21 days of the date of receipt of the by-laws then the by-laws shall be deemed to have been approved;
- (d) the Director may within 21 days of the date of receipt notify the relevant beach management unit in writing that he does not approve the by-laws or amended by-laws, stating the reasons for his decision, in which case they shall be suspended.

(4) The Director may only refuse to approve by-laws or amended by-laws submitted to him on the grounds that—

- (a) they are not in compliance with the Fisheries Act (Cap. 378), these regulations or any other legislation then in force;
- (b) they in his/her opinion frustrate the objectives of the beach management unit.

(5) Within 14 days of the receipt of a notice pursuant to subparagraph (4)(d) of this regulation a beach management unit may appeal in writing to the Minister, whose decision thereon shall be final.

24. Responsibilities of the executive committee

The duties of the executive committee shall be—

- (a) to supervise the general management of the beach management unit's activities and the implementation of its by-laws;
- (b) to approve the minutes of its previous meetings;
- (c) to supervise and review the implementation of the co-management plan;
- (d) to represent the beach management unit in relationships with unit;
- (e) to convene and prepare for the assembly, including the preparation of the agenda;
- (f) to review applications for admission to the beach management unit and resignation from it and to make recommendations to the assembly regarding the expulsion of members;
- (g) to submit the draft co-management plan and any rules to the assembly;
- (h) to submit the draft budget to the assembly;
- (i) to conclude contracts in accordance with the approved budget and plans;
- (j) to employ and as necessary dismiss staff of the beach management unit;
- (k) to maintain accounts and registers as specified in these regulations;
- (l) to exchange information with other beach management units and other relevant agencies to promote the fair and transparent pricing of fish and fish products;
- (m) to formulate funding proposals, make financial reports and present them to the assembly for approval;
- (n) to inspect and record visiting fishing vessels and give permission to land where appropriate;
- (o) to supervise the financial management of the beach management unit;

- (p) to ensure that fishing boats within their areas of jurisdiction have certificates of seaworthiness and are equipped with life-saving equipment; and
- (q) to undertake such other tasks as may specified in these regulations or the by-laws.

25. Powers and duties of the chairperson

- (1) The chairperson of a beach management unit shall—
 - (a) chair the assembly and meetings of the executive committee;
 - (b) act as the official spokesperson of the beach management third parties;
 - (c) ensure timely submission of data, information and financial reports by the committee to the assembly and the Director;
 - (d) for purposes of implementing the Act and any regulations made there under have powers to arrest any person whom he has reason to believe his committed an offence;
 - (e) seize any fish, fishing gear, vessel, or other items which he has reason to believe has been used in the commission of an offence, or in respect of which an offence has been committed;
 - (f) hand over to an authorized fisheries officer as soon as is reasonably practicable, any person arrested or item seized under the provisions in this regulation; and
 - (g) undertake such other tasks as may be specified in these regulations or the by-laws.

(2) Without prejudice to any provision in these regulations the chairperson's powers shall be limited to his areas of jurisdiction as guided by the Director.

26. Duties of the secretary

The secretary of a beach management unit shall—

- (a) convene meetings of the executive committee consultation with the chairperson;
- (b) act as the minute clerk of the assembly and at meetings of the executive committee;
- (c) maintain the correspondence of the beach management unit;
- (d) compile monthly, quarterly and annual performance reports for submission and presentation to the executive committee.
- (e) maintain and update all records of the beach management unit members, equipment, statistics and other records;
- (f) collect and submit all data and information as may be required by the Director; and
- (g) undertake such other duties as may be assigned by the chairperson.

27. Duties of the treasurer

The beach management suit treasurer shall—

- (a) prepare and make payments authorized by the executive committee;
- (b) maintain the record of financial transactions conducted by the beach management unit;
- (c) receive cash and make deposits to the beach management unit's bank account;

- (d) keep records of assets and liabilities of the beach management unit;
- (e) prepare monthly, quarterly and annual financial reports;
- (f) submit and present financial reports to the executive committee and the assembly for scrutiny and approval; and
- (g) undertake any other duty as may be assigned by the chairperson.

PART V – BEACH MANAGEMENT UNIT FINANCES AND FINANCIAL MANAGEMENT

28. Beach management unit funding

A beach management unit may with the prior written approval of the Director, levy fees and charges against its members and other users of the beach in respect of services that it provides in connection with the operation and management of the beach and its participation in co-management activities pursuant to regulation 7.

- (2) Fees and charges of the type referred in subregulation (1) may include—
- (a) membership fee payable by all members;
 - (b) an annual registration fee for fishing vessels;
 - (c) a joining fee for new members;
 - (d) landing fees payable by fishing vessels that land fish or fishery products at the fish landing station;
 - (e) charges for the use of facilities and services provided by the beach management unit;
 - (f) a rental fee in respect of buildings and constructions located on the fish landing station; and
 - (g) a marketing fee payable by persons involved in the trading of fish.

(3) Other sources of income of a beach management unit may include grants or donations from the Government, private persons, non-Governmental organisations or other donor bodies.

29. Management of beach management unit finances and assets

(1) In connection with the management of its finances and assets, a beach management unit shall—

- (a) open one or more bank accounts, the signatories to which shall be the chairperson and the treasurer and such other persons as may be so designated in writing from time to time by the executive committee;
- (b) establish a reserve fund to cover the costs of unforeseen events; and
- (c) under the guidance of the Director, establish an appropriate financial management system to support its financial operations.

(2) A beach management unit shall maintain the following books and records—

- (a) a register of members, which should be reviewed, and, as necessary, updated every three months that should contain the name, address and membership category of each member;
- (b) a register of vessels and gear owned by members of the beach management unit;
- (c) a record of dues, fees and charges owed and paid;
- (d) a record containing the minutes of the assembly;
- (e) a record containing the minutes of the meetings of the executive committee;

- (f) a record of transactions and contracts;
- (g) an inventory of assets owned or used by the beach management unit; and
- (h) financial accounts in accordance with regulation 30.

30. Financial Accounts

(1) A beach management unit shall maintain full accounts of receipts and expenditures and shall prepare an annual balance sheet and income and expenditure statement in a format specified by the Director.

(2) The assembly on the proposal of the executive committee shall adopt the annual balance sheet and income and expenditure statement annually.

(3) The executive committee of each beach management unit shall within 120 days of the end of its financial year file an annual return with the Director, in the specified format, together with a copy of its annual balance sheet and income and expenditure statement together with the stipulated filing fee.

PART VI – ESTABLISHMENT REGISTRATION, SUPPORT AND SUPERVISION, AND DISSOLUTION OF BEACH MANAGEMENT UNITS

31. Procedure for Establishment and gazettement of a Beach management unit

(1) A group of persons intending to be registered and qualify as a beach management unit shall submit an application for the establishment of a beach management unit to the Director in FORM FD/A5 as set in the First Schedule to these regulations and provided, amongst other category of members, it is signed by at least 30 boat owners.

(2) Following the survey and delineation of the beach pursuant to regulation 5(2) of these regulations, the authorised fisheries officer shall cause to be placed in prominent places on and around the beach notices calling upon potential members of the beach management unit to register their interest in becoming members within a period of 30 days.

(3) Following the expiry of that 30-day period the authorised fisheries officer shall cause to be displayed at the beach a list of persons who consider themselves potential members and shall invite comments on the list.

(4) Based on the comments received the authorised fisheries officer shall finalise the list of potential members.

(5) The authorised fisheries officer shall call a meeting of the potential members from all proposed membership category to elect between five to ten interim representatives.

(6) The authorised fisheries officer shall work with the interim representatives to determine and draft the by-laws of the beach management unit.

(7) Following the preparation of an agreed draft of the by-laws, the authorised fisheries officer shall cause a meeting to be held at which the potential members of the proposed beach management unit shall discuss and approve the draft by-laws.

(8) Following the conclusion of the meeting, the Authorised fisheries officer shall forthwith submit the following documents to the Director—

- (a) the minutes of the potential members' meeting;
- (b) the approved draft by-laws;
- (c) an application for establishment of Beach Management Unit in FORM FDIAS as set out in the First Schedule to these regulations.

(9) The Director shall assess the documents submitted to him under paragraph (8) and may—

- (a) approve the application if he is satisfied that the application and supporting documents are in order;
- (b) return the application and supporting documents to the Authorised fisheries officer with his reasons in writing, if he is not satisfied.

(10) Any party aggrieved by a decision of the Director pursuant to paragraph (9) may appeal to the Minister in accordance with the provisions of regulation 34 of the Fisheries (General) Regulations.

(11) On granting approval loan application the Director shall by notice in the Kenya *Gazette* establish the beach management unit and issue a certificate of registration (FORM FD/CR3) as set out in the Second Schedule to these regulations.

32. Registration

(1) The Director shall establish and maintain a register of beach management units which shall contain the following details of each beach management unit—

- (a) the name;
- (b) the principal office;
- (c) the number of members;
- (d) the names, addresses and telephone numbers (if any) of the chairperson and the members of the executive committee; and
- (e) the date of filing of the most recent annual return, together with a copy of that return.

(2) The Register of beach management units shall be open to public examination during normal office hours.

33. Support and supervision of beach management units

(1) The Director shall be responsible for supporting the establishment and operation of beach management units and for supervising their technical, legal and financial performance.

(2) An authorized fisheries officer shall in respect of a beach management unit—

- (a) act as the presiding officer in its elections;
- (b) routinely attend the meetings of the executive committee;
- (c) facilitate the provision of technical and other assistance;
- (d) provide general guidance and support; and
- (e) undertake such other tasks as are specified in these regulations.

(3) An authorized fisheries officer may cause the annual accounts of a beach management unit to be subject to an annual audit by such suitably qualified and responsible person as he may with the approval of the Director appoint.

(4) An authorized fisheries officer may routinely request from a beach management unit

- (a) copies of the accounts together with copies of books and records required to be maintained in accordance with these Regulations;
- (b) information concerning the discharge by them of their tasks;
- (c) information and documentation concerning the implementation of co-management plans; and

- (d) such other information as he may reasonably require to be able to satisfy himself and that the beach management unit is functioning lawfully.

(5) An authorized fisheries officer may make enquiries into the conduct of the affairs of a beach management unit during the course of which he may inspect its books and records and interview its members—

- (a) on the credible evidence of three or more members of that beach management unit who allege misconduct; or
- (b) if, having reviewed a copy of the annual return and accounts of that beach management unit, there is in the opinion of the Director, *prima fade* evidence of financial malpractice or other irregularities.

(6) If, following the conduct of an audit or such further enquiries an authorised fisheries officer finds *prima fade* evidence of financial malpractice, misconduct or that the beach management unit has not been operating in accordance with the provisions of these regulations he may require the executive committee to convene the assembly where he may present his findings to the members of the beach management unit.

(7) If the executive committee fails to convene the assembly within 30 days, the authorised fisheries officer may suspend its committee and call such a meeting himself and shall forthwith notify the Director of the suspension.

(8) If the executive committee is suspended or removed in accordance with the foregoing paragraph, the authorised fisheries officer may appoint a temporary manager to run the beach management unit until fresh elections are held.

(9) A member of the executive committee who is aggrieved by a decision of an authorised fisheries officer to remove the executive committee may within fourteen days appeal in writing to the Director, whose decision shall be final

(10) If the Director approves the decision of the authorised fisheries officer, he shall call for fresh elections to replace the committee or committee member(s) so removed within ninety days of the Director's decision.

34. Dissolution of beach management units

(1) The Minister may by notice published in the *Kenya Gazette* dissolve a beach management unit on one or more of the following grounds—

- (a) the tasks of the beach management unit no longer exist;
- (b) the beach management unit is not able to practically fulfil its tasks;
- (c) the beach management unit is insolvent;
- (d) the members of the beach management unit have repeatedly engaged in criminal activity; or
- (e) the continued existence of the beach management unit is no longer required for any other reason.

(2) Following the publication of a decision to dissolve a beach management unit the Minister shall appoint a liquidator to wind up its affairs.

PART VII – GENERAL PROVISIONS

35. Obstruction

No person shall—

- (a) wilfully obstruct an officer of a beach management unit from carrying out official duties within his area of jurisdiction and in accordance with the provisions of these regulations; or

- (b) refuse or fail to answer any questions or furnish any information or produce any document relevant to the provisions of these regulations when requested to do so by any member of the executive committee or an authorized fisheries officer.

36. Malicious damage to beach management unit documents

No person shall falsify or unlawfully alter, destroy, erase or obliterate any declaration, certificate, identification label or any other document made or issued under these regulations.

37. Penalty

Any person who contravenes the provisions of these regulations shall be guilty of an offence and liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding two years or both.

FIRST SCHEDULE
THE FISHERIES ACT
[Cap. 378.]

THE FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS

Form FD/A5

(r. 31(1))

APPLICATION FOR THE REGISTRATION OF BEACH MANAGEMENT UNIT

PART I

1. We the undersigned hereby apply for the registration of (Name) Beach Management Unit and hereby attach the by-laws for the proposed Beach 4 Management Unit.
2. List of applicants (at least 30 of the applicants must be boat owners).

	<i>Name of Applicant</i>	<i>ID Number</i>	<i>Membership Category</i>	<i>Address and Residence</i>	<i>Signature</i>
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					

3. Mailing address of the proposed Beach Management Unit
- Telephone No
- 4 (a) Other than fisheries and beach management activities, is the organization going to be involved in other activities? Yes/No.

FIRST SCHEDULE , FORM DF/A5—continued

(b) If the answer to (a) above is yes, please list the activities:

5. Does the applying organization own any movable or immovable assets? Yes/No.

If the answer is Yes please specify the assets here below and insert details of certificates of ownership stating the nature of the person who is keeping the documents (i.e. the custodian):

Name or description of the asset	Official ownership Number	Custodian

6. We, whose signatures are appended against our names in paragraph 2 above, declare that the information and particulars supplied by us herein are true, accurate and correct in every respect. We clearly understand that discovery of any false information provided by us will render this application invalid. This declaration is herewith witnessed by;

Signature of Representative Date

Name and Address of the Representative

ID/NO

7. This is to certify that the above named persons are known to me and are residents of (Location) and the information given by them is true to the best of my knowledge and I hereby witness their declaration;

Signature of Chief

Name of Chief

Dated this Day of (Month) (Year)

Stamp

8. This is to certify that I have studied this application and I am satisfied/not satisfied with this application and therefore recommend/do not recommend the application.

Signature of Authorised fisheries officer

Name of the Officer

Official Stamp

Date

PART II
OFFICIAL USE ONLY

I have studied the application for the registration of Beach Management Unit and I am satisfied/not satisfied with this application and therefore approve/do not approve the application.

Signature Date

Name

SECOND SCHEDULE
FISHERIES ACT

[Cap. 378.]

FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

Form FD/CR3

(r. 31(11))

CERTIFICATE OF REGISTRATION FOR THE BEACH MANAGEMENT UNIT (BMU)

- 1. (a) Name of the Beach Management Unit
- (b) Names(s) of landing site(s) covered the BMU
-
- (c) Postal Address of the BMU
-

- 2. Physical Location of the offices of Beach Management Unit:
 District Division/Town
- Location Sub-Location Village
- This is to certify that Beach Management Unit is duly registered as a beach management unit under the provisions of these regulations and for the purpose of management and development of fishery resources within its area(s) of jurisdiction in accordance with the provisions of these regulations and contingent to the conditions specified hereunder:

.....

.....

.....

.....

.....

Date of Registration:

Signature

Name

Official Stamp

Director of Fisheries

THIRD SCHEDULE
THE FISHERIES ACT

[Cap. 378.]

FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

Form FD/NF/1

(r. 15(1)(g))

NOMINATION FOR ELECTIONS FORM

We the undersigned, being registered members, nominate the under mentioned person as a candidate for the position of

THIRD SCHEDULE—continued

Candidates Name	ID/ No.	Place of Residence	Occupation	Membership Number	Membership Category	Age	Sex	Marital Status	Signature

We, the undersigned, being registered members, support the foregoing nomination.

	Name	BMU/Registration No.	Membership Category	Licence No.	Sign
1.					
2.					
3.					
4.					
5.					
6.					
7.					
8.					
9.					
10.					

Comments of the Presiding officer

.....

Name of Presiding officer

Signature

FOURTH SCHEDULE
FISHERIES ACT

[Cap 378.]

FISHERIES (BEACH MANAGEMENT UNIT) REGULATIONS, 2007

Form FD/ER 1

(r. 15(5))

BMU EXECUTIVE COMMITTEE ELECTION RETURNS FORM

To: The Director of Fisheries

(USE OF CAPITAL LETTERS)

Name of Beach Management Unit

Postal address of the BMU

Name of Water body District

Division Location Village

Name of Main Landing site

Name of subsidiary landing sites (for each landing site provide name and its village in brackets)
.....

Date of BMU Executive Committee Election

Total No. of fishing vessels (includes main & subsidiary landing sites)

..... Total No. of engines

Total No. of BMU members Total No. of men Total No. of women

Total No. of fish processors Total No. of "Other"

DETAILS OF EXECUTIVE COMMITTEE MEMBERS

Name (CAPITALS)	Sex (M/F)	Official position	Category (boat owner, crew, fish trader, others)	ID Number	Signature
1					
2					
3					
4					
5					
6					
7					
8					
9					
10					
11					
12					
13					
14					
15					

FOURTH SCHEDULE , FORM DF/ER1—*continued*

This is to certify that the election for the Executive committee of Beach Management Unit has been conducted in accordance with the provisions of these regulations and the results are as indicated above.

Name of Presiding Officer

Signature Date

For official use only (Director of Fisheries or Authorised fisheries officer with Administrative jurisdiction over the BMU)

(Approved/Not approved) Date

Name Signature

Stamp
