



THE NATIONAL ASSEMBLY
PAPERS LAID

DATE: 13 MAR 2024

DAY:
TUESDAY

TABLED

Hon Owen Baya, MP
Deputy Leader, Majority Party
Inzofu mwale

REPUBLIC OF KENYA

MINISTRY OF MINING, BLUE ECONOMY AND MARITIME AFFAIRS

STATE DEPARTMENT FOR THE BLUE ECONOMY AND FISHERIES

FISHERIES MANAGEMENT AND DEVELOPMENT ACT, CAP 378, LAWS
OF KENYA

EXPLANATORY MEMORANDA FOR: -

- 1) The (Recreational Fisheries), Regulations, 2024;
- 2) The (Beach Management Units) Regulations, 2024;
- 3) The (Fish Safety and Quality), Regulations, 2024;
- 4) The (Aquaculture Fisheries), Regulations, 2024;
- 5) The (Inland Fisheries), Regulations, 2024;
- 6) The (Fish Levy Trust Fund), Order, 2024;
- 7) Fisheries (General), Regulations, 2024, and;
- 8) The (Marine Fisheries), Regulations, 2024.

MARCH 2024

**EXPLANATORY MEMORANDUM TO
THE FISHERIES MANAGEMENT AND DEVELOPMENT
(RECREATIONAL FISHERIES) REGULATIONS, 2024**

PART I

Name of Statutory Instrument:	The Fisheries Management and Development (Recreational Fisheries) Regulations, 2024.
Name of Parent Act:	The Fisheries Management and Development Act, Cap 378.
Enacted pursuant to:	Section 208(2)(m) of the Fisheries Management and Development Act, Cap 378.
Name of the Ministry	Ministry of Mining, Blue Economy and Maritime Affairs
Gazetted on:	1 st March, 2024
Tabled on:	

PART II

1. Purpose of the Statutory Instrument

The purpose of these Regulations is to operationalize section 208(2)(m) of the Fisheries Management and Development Act, Cap 378. These Regulations seek to guide the process of recreational fishing and recreational fishing-related activities, sport fishers and sport fishing-related activities, ornamental fishing, and ornamental fishing-related activities in the Kenyan fishery waters. It is also meant to promote sustainable fisheries management and development in the Kenyan Fishery waters of the ocean, lakes, rivers, dams, and other Kenyan fishery water bodies. The specific objectives are to -

- a. provide for modalities of accessing Kenya's Fishery Waters by the Recreational Fishers;
- b. provide for registration and licensing of recreational fishers
- c. provide for fees and other charges for promoting the development of recreational fisheries; and,
- d. promote management and conservation of Kenya fishery waters by the recreational fishers.

2. Legislative Context

These Regulations have been formulated in conformity with the Constitution of Kenya, 2010. Further, the Regulations have been made in conformity to the provisions of Article 2(5) and 2(6) of the Constitution, 208(2)(m) of the Fisheries Management and Development Act Cap 378 laws of Kenya, previously No. 35 of 2016, section 24 of the Statutory Instruments Act, No. 23 of 2013 and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya.

3. Policy Background

The Proposed Regulations will bring to effect Section 208(2)(m) of the Fisheries Management and Development Act, Cap 378

The ideation process to establish the Fisheries Management and Development (Recreational Fisheries) Regulations, 2024 was to give effect to the provisions of section 5 (1) of the Act which provides that “the objective of this Act is to protect, manage, use and develop the aquatic resources in a manner which is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security” Similarly, these Regulations seek to give effect to section 5(2)(a), 5(2)(b), 5(2)(c), 5(2)(f) and 5(2)(n) of the Act.

These Regulations provide a platform where the County Governments and the National Governments can address issues of Governance, coordination, and administration of Recreational Fishing and Recreational Fisheries related activities within Kenya’s Fishery waters, for better and improved management and conservation of the fishery resources for sustainability.

4. Consultative Outcome

To ensure nationwide public participation, the Cabinet Secretary carried out consultations and stakeholder engagement forums. The Regulations were first presented to the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) for their input and approval after which they were subjected to county consultations.

These consultations had the fisheries stakeholders from various regions divided into four clusters comprised of stakeholders from the Western and Nyanza, Central and Rift Valley, Eastern and the North Eastern, and Coastal regions. These included the main public and private institutions and individuals who will be directly or indirectly affected by the proposed statutory instrument.

The stakeholders were notified of the ongoing process and invited to give their submissions on the draft Regulations within a specified reasonable period. The Ministry also presented the said Regulations to various MDAs within the sector for harmonization with other legislations in the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) and after, the SWAG-PLS for a second time. After the approval of the SWAG-PLS, the Regulations were presented to the County Executive Committee Members (CECM) Caucus for consultations.

The representatives included:

1. Council of Governors
2. County Governments Sector Working Group (Policy Legislation and Standards)
3. County Governments;
4. Beach Management Units;
5. Fish Processors;
6. Fish Exporters;

7. Artisanal Fishers;
8. Non-Governmental Organisations;
9. MDAs;
10. Fish Traders; and
11. Fish farmers.

The following is the full list of consultative forums held.

S.No	Targeted Stakeholders	Dates
1.	Sector Working Group (Policy Legislation and Standards)	17 th - 18 th February, 2020
2.	Stakeholders in the Western and Nyanza Regions, Kisumu Hotel Kisumu County.	23 rd to 24 th January, 2020
3.	Fisheries Stakeholders in the Central and Eastern Regions, West Wind Hotel Meru County	23 rd to 24 th January, 2020
4.	Fisheries Stakeholders in the Northern Region and parts of Coastal region (Lamu and Tana River Counties), Palm Oasis Resort Garissa County.	23 rd to 24 th January, 2020
5.	Coastal Region and parts of eastern region (Machakos, Makueni and Kitui Counties) Fisheries Stakeholders, Pride Inn Hotel Kwale County	20 th to 21 st January 2020
6.	Rift Valley, North Rift Region Counties Trans Nzoia, Elgeyo Marakwet, Turkana, Nandi, Uasin Gishu, West Pokot and Bungoma Counties, Aturukan Hotel, Kitale	23 rd to 24 th January, 2020
7.	Rift Valley, South Rift Regions; Nakuru, Baringo, Bomet, Kajiado, Kiambu, Laikipia, Nairobi, Narok and Nyandarua at Dairy Training Institute Naivasha	23 rd to 24 th January, 2020
6.	Harmonization and MDA's stakeholder consultations	13 th to 14 th February, 2020
7.	Sector Working Group (Policy Legislation and Standards)	14 th February, 2020
8.	County Executive Committee Members	17 th February, 2020
9.	National Stakeholder Validation Workshop, Laico Regency Hotel Nairobi	24 th February, 2020

	Sensitization and presentation before the Parliamentary Select Committee on Agriculture for both the National Assembly and the Senate	2 nd March, 2020
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N/B: Attached is a detailed matrix indicating representations received from the stakeholders.

269 written and oral representations were also received from interactive stakeholder meetings aimed at capturing comments about the Regulations as attached. The Regulations were also uploaded to the former Ministry of Agriculture, Livestock, Fisheries and Cooperatives website. The consultation documents and the responses to this consultation are attached herewith.

5. Guidance

It will be necessary to continuously engage with all stakeholders in the application of these Regulations. These regulations, being new in many aspects, will need to be brought to the attention of the public and fisheries officers through public education. The Ministry through the State Department for The Blue Economy and Fisheries has embarked on sensitization forums for all stakeholders and Government Officials to familiarize them with the objectives of these Regulations.

6. Impact

(a) The Impact on Fundamental Rights and Freedoms

These Regulations will have a positive impact on and promote gender equality and generally reduce inequality. Furthermore, it will provide opportunities for equitable prosperity to persons engaged in fishing and fishing-related activities. These Regulations will promote devolution as they provide how the National government and the County Governments shall operate on matters of management and governance of Recreational Fishing and recreational fisheries-related activities. The Regulations will play a critical role in the empowerment of women and young people in the fisheries value chain and discourage exploitative practices at the grassroots.

(b) The impact on the public and private sector

The Constitution of Kenya in its article 6 (2) provides that, the governments at the National and County levels are distinct and interdependent and shall conduct their mutual relations on the basis of consultation and cooperation. This Regulation is meant to achieve the objective of consultation and cooperation between the two levels of government for the benefit of Kenyan citizens who form both the private and public sectors. Recreational Fisheries is a devolved function subject to the provisions of section 106(1) of the Act. These Regulations therefore is compliant with the principles of devolution. Sport fishers occasionally compete in the catch and release of fish. This therefore is a great avenue for tourism and therefore has a great impact on the public and private sectors.

(c) The impact on the environment

Climate change impacts on fisheries could potentially affect the four dimensions of food security; availability of aquatic foods will vary due to changes in habitats, stocks and species distribution;

stability of supply will be impacted by changes in seasonality and increased variance in ecosystem productivity.

In the recent past, key infrastructure like landing sites have been affected by flooding and this has seriously affected fisherfolk from landing their produce hence affecting their source of revenue and livelihoods. The Regulations in its part III have provided for Conservation and Management Measures. Regulation 13-17 has provided for measures to be undertaken to conserve and manage the fishery resources. It has equally provided for prohibited fishing methods and consequences for non-compliance.

(d) Regulatory Impact Assessment Report

These Regulations does not require a Regulatory Impact Assessment Report to be developed.

7. Monitoring and Review

The Ministry will continuously seek feedback from the public on the application of the Regulations to monitor the operation.

8. Contact Person.

The Department in charge of Policy Direction and implementation of these Regulations is the State Department for The Blue Economy and Fisheries with the following contact person: -

Betsy Muthoni Njagi

Principal Secretary

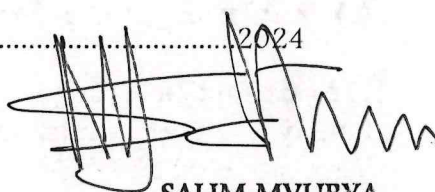
State Department for The Blue Economy and Fisheries

Email: ps@blueeconomy.go.ke

Disclaimer

These notes act only as a guideline and as such they are not exhaustive for clarity; proper reference should be made to the main body of this Regulations.

Made on the.....13/3/2024.....


SALIM MVURYA

Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs

**EXPLANATORY MEMORANDUM TO
THE FISHERIES MANAGEMENT AND DEVELOPMENT
(BEACH MANAGEMENT UNITS) REGULATIONS, 2024**

PART I

Name of Statutory Instrument:	The Fisheries Management and Development (Beach Management Units) Regulations, 2024.
Name of Parent Act:	The Fisheries Management and Development Act, Cap 378.
Enacted pursuant to:	Section 37 of the Fisheries Management and Development Act, Cap 378.
Name of the Ministry	Ministry of Mining, Blue Economy and Maritime Affairs
Gazetted on:	1 st March, 2024
Tabled on:	

PART II

1. Purpose of the Statutory Instrument

The purpose of these Regulations is to operationalize section 37 of the Fisheries Management and Development Act, Cap 378. These Regulations seek to promote sustainable fisheries management and development in the fisheries sector to improve the fisherfolks' livelihoods through proper governance of the sector. The specific objectives are 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) improve planning and resource management, good governance, democratic participation and self-reliance;
- (d) ensure production of safe and quality fish and fishery products;
- (e) build capacity of the members for the effective co-management of fisheries in collaboration with other stakeholders;
- (f) prevent, reduce or resolve conflicts in the fisheries sector; and
- (g) strengthen co-management through formation of beach management unit networks.

2. Legislative Context

These Regulations have been formulated in conformity with the Constitution of Kenya, 2010. Further, the Regulations have been made in conformity to the provisions of Article 2(5) and 2(6) of the Constitution, sections 37 and 208 of the Fisheries Management and Development Act Cap 378 laws of Kenya, previously No. 35 of 2016, section 24 of the Statutory

Instruments Act, No. 23 of 2013 and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya.

3. Policy Background

The Proposed Regulations will bring to effect Section 37 and 208 of the Fisheries Management and Development Act, Cap 378

The ideation process to establish the Fisheries Management and Development (Beach Management Units) Regulations, 2024 was to give effect to the provisions of section 5 (1) of the Act which provides that “the objective of this Act is to protect, manage, use and develop the aquatic resources in a manner which is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security” Similarly, these Regulations seek to give effect to section 5 (2) (a), 5 (2) (c), 5 (2) (d), 5 (2) (g), 5 (2) (j) and 5 (2) (r) of the Act.

These Regulations provide a platform where the County Governments and the National Governments can address issues of Governance, coordination, and administration of the Beach Management Units, for better and improved management and conservation of the fishery resource for sustainability.

4. Consultative Outcome

To ensure nationwide public participation, the Cabinet Secretary carried out consultations and stakeholder engagement forums. The Regulations were first presented to the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) for their input and approval after which they were subjected to county consultations.

These consultations had the fisheries stakeholders from various regions divided into four clusters comprised of stakeholders from the Western and Nyanza, Central and Rift Valley, Eastern and the North Eastern, and Coastal regions. These included the main public and private institutions and individuals who will be directly or indirectly affected by the proposed statutory instrument.

The stakeholders were notified of the ongoing process and invited to give their submissions on the draft Regulations within a specified reasonable period. The Ministry also presented the said Regulations to various MDAs within the sector for harmonization with other legislations in the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) and after, the SWAG-PLS for a second time. After the approval of the SWAG-PLS, the Regulations were presented to the County Executive Committee Members (CECM) Caucus for consultations.

The representatives included:

1. Council of Governors
2. County Governments Sector Working Group (Policy Legislation and Standards)
3. County Governments;
4. Beach Management Units;
5. Fish Processors;

6. Fish Exporters;
7. Artisanal Fishers;
8. Non-Governmental Organisations;
9. MDAs;
10. Fish Traders; and
11. Fish farmers.

The following is the full list of consultative forums held.

S.No	Targeted Stakeholders	Dates
1.	Sector Working Group (Policy Legislation and Standards)	17 th - 18 th February, 2020
2.	Stakeholders in the Western and Nyanza Regions, Kisumu Hotel Kisumu County.	23 rd to 24 th January, 2020
3.	Fisheries Stakeholders in the Central and Eastern Regions, West Wind Hotel Meru County	23 rd to 24 th January, 2020
4.	Fisheries Stakeholders in the Northern Region and parts of Coastal region (Lamu and Tana River Counties), Palm Oasis Resort Garissa County.	23 rd to 24 th January, 2020
5.	Coastal Region and parts of eastern region (Machakos, Makueni and Kitui Counties) Fisheries Stakeholders, Pride Inn Hotel Kwale County	20 th to 21 st January 2020
6.	Rift Valley, North Rift Region Counties Trans Nzoia, Elgeyo Marakwet, Turkana, Nandi, Uasin Gishu, West Pokot and Bungoma Counties, Aturukan Hotel, Kitale	23 rd to 24 th January, 2020
7.	Rift Valley, South Rift Regions; Nakuru, Baringo, Bomet, Kajiado, Kiambu, Laikipia, Nairobi, Narok and Nyandarua at Dairy Training Institute Naivasha	23 rd to 24 th January, 2020
6.	Harmonization and MDA's stakeholder consultations	13 th to 14 th February, 2020
7.	Sector Working Group (Policy Legislation and Standards)	14 th February, 2020
8.	County Executive Committee Members	17 th February, 2020
9.	National Stakeholder Validation Workshop, Laico Regency Hotel Nairobi	24 th February, 2020

	Sensitization and presentation before the Parliamentary Select Committee on Agriculture for both the National Assembly and the Senate	2 nd March, 2020
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N/B: Attached is a detailed matrix indicating representations received from the stakeholders.

269 written and oral representations were also received from interactive stakeholder meetings aimed at capturing comments about the Regulations as attached. The Regulations were also uploaded to the former Ministry of Agriculture, Livestock, Fisheries and Cooperatives website. The consultation documents and the responses to this consultation are attached herewith.

5. Guidance

It will be necessary to continuously engage with all stakeholders in the application of these Regulations. These regulations, being new in many aspects, will need to be brought to the attention of the public and fisheries officers through public education. The Ministry through the State Department for Blue Economy and Fisheries has embarked on sensitization forums for all stakeholders and Government Officials to familiarize them with the objectives of these Regulations.

6. Impact

(a) The Impact on Fundamental Rights and Freedoms

These Regulations will have a positive impact on and promote gender equality and generally reduce inequality. Furthermore, it will provide opportunities for equitable prosperity to persons engaged in fishing and fishing-related activities. These Regulations will promote devolution as they provide how the National government and the County Governments shall operate on matters of management and governance of the Beach Management Units. The Regulations will also further promote devolution down to the persons at the Beach Management Units from the County Governments. This is further decentralization of power from the County Government down to the smallest unit called the Beach Management Units (BMUs). The Regulations have provided for how elections shall be conducted in the selection of the BMU leadership. The Regulations will play a critical role in the empowerment of women and young people in the fisheries value chain and discourage exploitative practices at the grassroots. The Regulations seek to implement the provisions of Article 43(1) (c) on the right to be free from hunger and to have adequate food of acceptable quality by providing fish as a source of food.

(b) The impact on the public and private sector

The Constitution of Kenya in its article 6 (2) provides that, the governments at the National and County levels are distinct and interdependent and shall conduct their mutual relations on the basis of consultation and cooperation. This Regulation is meant to achieve the objective of consultation and cooperation between the two levels of government for the benefit of Kenyan citizens who form both the private and public sectors. These consultations have been decentralized further to the Beach Management Units which are the smallest units of management and governance in the fisheries sector.

(c) The impact on the environment

Climate change impacts on fisheries could potentially affect the four dimensions of food security; availability of aquatic foods will vary due to changes in habitats, stocks and species distribution; stability of supply will be impacted by changes in seasonality and increased variance in ecosystem productivity.

In the recent past, key infrastructure like landing sites have been affected by flooding and this has seriously affected fisherfolk from landing their produce hence affecting their source of revenue and livelihoods. The Regulations have granted a mandatory role to the BMUs to protect the aquatic environment within its co-management areas and to cooperate with the responsible authorities to this effect. Several BMUs may come up together to form a network and establish joint co-management areas. These Regulations have made it mandatory for BMUs to include in their by-laws provisions concerning the protection of the aquatic environment in their co-management areas

(d) Regulatory Impact Assessment Report

These Regulations does not require a Regulatory Impact Assessment Report to be developed.

7. Monitoring and Review

The Ministry will continuously seek feedback from the public on the application of the Regulations to monitor the operation.

8. Contact Person.

The Department in charge of Policy Direction and implementation of these Regulations is the State Department for The Blue Economy and Fisheries with the following contact person: -

Betsy Muthoni Njagi

Principal Secretary

State Department for The Blue Economy and Fisheries

Email: ps@blueeconomy.go.ke

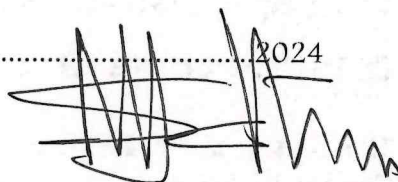
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Made on the.....

13/3/2024,

2024



SALIM MVURYA

Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs

**EXPLANATORY MEMORANDUM TO
THE FISHERIES MANAGEMENT AND DEVELOPMENT
(SAFETY AND QUALITY) REGULATIONS, 2024**

PART I

Name of Statutory Instrument:	The Fisheries Management and Development (Safety and Quality) Regulations, 2024.
Name of Parent Act:	The Fisheries Management and Development Act, Cap 378.
Enacted pursuant to:	Sections 58(4) and 208 of the Fisheries Management and Development Act, Cap 378.
Name of the Ministry	Ministry of Mining, Blue Economy and Maritime Affairs
Gazetted on:	1 st March, 2024
Tabled on:	

PART II

1. Purpose of the Statutory Instrument

The purpose of these Regulations is to operationalize sections 58(4) and 208 of the Fisheries Management and Development Act, Cap 378. These Regulations seek to promote sustainable fisheries management and development in the fisheries sector to improve the fisherfolks' livelihoods through proper governance of the sector. The specific objectives are to -

- (a) regulate the handling, storage and processing of fish by prescribing methods of handling, storage and processing of fish; support the sustainable development of the fisheries sector;
- (b) prescribe requirements for governing the safety and quality of fish, fish products and fish feed by ensuring the production of safe and quality fish and fishery products;
- (c) provide for the licensing of any person to engage in any form of fishing, or of handling, transporting, processing or selling of fish products;
- (d) provide modalities and criteria for organizing and regulating the marketing and distribution of fish;
- (e) provide for prohibition or controlling the importation, exportation and introduction into Kenya of live fish of any kind or species; and
- (f) prescribe the forms to be used for various matters when transacting business under these Regulations;

2. Legislative Context

These Regulations have been formulated in conformity with the Constitution of Kenya, 2010. Further, the Regulations have been made in conformity to the provisions of Article 2(5) and

2(6) of the Constitution, sections 58(4) and 208 of the Fisheries Management and Development Act Cap 378 laws of Kenya, previously No. 35 of 2016, section 24 of the Statutory Instruments Act, No. 23 of 2013 and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya.

3. Policy Background

The Proposed Regulations will bring to effect Section 58(4) and 208 of the Fisheries Management and Development Act, Cap 378

The ideation process to establish the Fisheries Management and Development(Safety and Quality) Regulations, 2024 was to give effect to the provisions of section 5 (1) of the Act which provides that “the objective of this Act is to protect, manage, use and develop the aquatic resources in a manner which is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security” Similarly, these Regulations seek to give effect to section 58(4), 208(2)(d), 208(2)(d) 208(2)(e) 208(2)(g) 208(2)(j) and 208(2)(r) of the Act.

These Regulations provide a platform where the County Governments and the National Governments can address issues of Governance, coordination, fish traceability, fish movement, safety and quality assurance.

4. Consultative Outcome

To ensure nationwide public participation, the Cabinet Secretary carried out consultations and stakeholder engagement forums. The Regulations were first presented to the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) for their input and approval after which they were subjected to county consultations.

These consultations had the fisheries stakeholders from various regions divided into four clusters comprised of stakeholders from the Western and Nyanza, Central and Rift Valley, Eastern and the North Eastern, and Coastal regions. These included the main public and private institutions and individuals who will be directly or indirectly affected by the proposed statutory instrument.

The stakeholders were notified of the ongoing process and invited to give their submissions on the draft Regulations within a specified reasonable period. The Ministry also presented the said Regulations to various MDAs within the sector for harmonization with other legislations in the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) and after, the SWAG-PLS for a second time. After the approval of the SWAG-PLS, the Regulations were presented to the County Executive Committee Members (CECM) Caucus for consultations.

The representatives included:

1. Council of Governors
2. County Governments Sector Working Group (Policy Legislation and Standards)
3. County Governments;
4. Beach Management Units;

5. Fish Processors;
6. Fish Exporters;
7. Artisanal Fishers;
8. Non-Governmental Organisations;
9. MDAs;
10. Fish Traders; and
11. Fish farmers.

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N/B: Attached is a detailed matrix indicating representations received from the stakeholders.

269 written and oral representations were also received from interactive stakeholder meetings aimed at capturing comments about the Regulations as indicated in the attached document. The Regulations were also uploaded to the former Ministry of Agriculture, Livestock, Fisheries and Cooperatives website. The consultation documents and the responses to this consultation are attached herewith.

5. Guidance

It will be necessary to continuously engage with all stakeholders in the application of these Regulations. These regulations, being new in many aspects, will need to be brought to the attention of the public and fisheries officers through public education. The Ministry through the State Department for Blue Economy and Fisheries has embarked on sensitization forums for all stakeholders and Government Officials to familiarize them with the objectives of these Regulations.

6. Impact

(a) The Impact on Fundamental Rights and Freedoms

These Regulations will have a positive impact on and promote gender equality and generally reduce inequality. Furthermore, it will provide opportunities for equitable prosperity to persons engaged in fishing and fishing-related activities. These Regulations will promote devolution as they provide how the National government and the County Governments shall operate on matters of management and governance of fish traceability, fish movement, safety and quality assurance. The Regulations are therefore true champions of consumer protection under article 46 of the Constitution. Similarly, the Regulations seek to implement the provisions of Article 43(1) (c) on the right to be free from hunger and to have adequate food of acceptable quality by providing fish as a source of food.

(b) The impact on the public and private sector

The Constitution of Kenya in its article 6 (2) provides that, the governments at the National and County levels are distinct and interdependent and shall conduct their mutual relations based on consultation and cooperation. This Regulation is meant to achieve the objective of consultation and cooperation between the two levels of government for the benefit of Kenyan citizens who form both the private and public sectors. Quality and safe fish for consumption is a vital issue of which if the contrary is provided will affect the health of citizens who form part of the private and public sectors. These regulations therefore have the objective of providing safe and quality food for a wealthy and healthy nation.

(c) The impact on the environment

Climate change impacts on fisheries could potentially affect the four dimensions of food security; availability of aquatic foods will vary due to changes in habitats, stocks and species distribution;

stability of supply will be impacted by changes in seasonality and increased variance in ecosystem productivity.

In the recent past, key infrastructure like landing sites have been affected by flooding and this has seriously affected fisherfolk from landing their produce hence affecting their source of revenue and livelihoods. The Regulations have provided for fish inspectors with a clear mandate to regulate the sector and ensure the disposal of fish that may be unwanted in a proper manner, approval of the fish establishment and enterprises, handling of fish unfit for human consumption, traceability, prohibited harvest areas, marine protected areas, laboratories, placing of fish on the market and use pharmaceuticals, drugs, antibiotics, etc in aquaculture all have impact on the environment. The Regulations have provided for a mandatory health certificate failure to which a person shall be committing an offence under the Regulations.

(d) Regulatory Impact Assessment Report

Regulatory Impact Assessment Report has been developed and is hereby attached to these Regulations

7. Monitoring and Review

The Ministry will continuously seek feedback from the public on the application of the Regulations to monitor the operation.

8. Contact Person.

The Department in charge of Policy Direction and implementation of these Regulations is the State Department for The Blue Economy and Fisheries with the following contact person: -

Betsy Muthoni Njagi

Principal Secretary

State Department for The Blue Economy and Fisheries

Email: ps@blueeconomy.go.ke

Disclaimer

These notes act only as a guideline and as such they are not exhaustive for clarity; proper reference should be made to the main body of this Regulations.

Made on the.....

13/2/2024

2024

SALIM MVURYA

Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs

**EXPLANATORY MEMORANDUM TO
THE FISHERIES MANAGEMENT AND DEVELOPMENT (AQUACULTURE)
REGULATIONS, 2024**

PART I

Name of Statutory Instrument:	The Fisheries Management and Development (Aquaculture) Regulations, 2024.
Name of Parent Act:	The Fisheries Management and Development Act, Cap. 378.
Enacted pursuant to:	Section 74 (1) and (2) of the Fisheries Management and Development Act, Cap. 378.
Name of the Ministry	Ministry of Mining, Blue Economy and Maritime Affairs.
Gazetted on:	1 st March, 2024.
Tabled on:	

PART II

1. Purpose of the Statutory Instrument

The purpose of these Regulations is to provide for the participatory conservation of aquaculture resources in Kenya. These Regulations promote the integration of wise-use of aquaculture resources and operations in the local, county and national management for ecological, aesthetic, cultural and socio-economic development. This will lead to the protection of the diversity of aquaculture habitats, flora and fauna.

2. Legislative Context

These Regulations have been developed pursuant to Article 2 (5) and (6) of the Constitution in terms of implementing international protocols, conventions and treaties regarding fisheries, section 74 (1) and (2) of the Fisheries Management and Development Act, Cap. 378 which empowers the Cabinet Secretary to make Regulations for the aquaculture sector, section 24 of the Statutory Instruments Act, and section 31 of the Interpretation and General Provisions Act, on the general powers of making subsidiary legislation.

3. Policy Background

The proposed Regulations have been made pursuant to the powers vested in the Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs under section 74 (1) and (2) of the Fisheries Management and Development Act, Cap. 378. Section 74 of the Act mandates the Cabinet Secretary to regulate the aquaculture sector.

Aquaculture is one of Kenya's fisheries resources. Aquaculture has grown with significant forward and backward linkages particularly due to increased demand for aquaculture inputs that gave rise to establishment of fish-feed cottage industries, private fish seed production hatcheries, increased demand for skilled labour for pond construction and fish handling, aqua-shops and fish trade.

The low adoption of aquaculture technologies includes aquaponics, cage culture, aqua parks, breeding and feed formulation. There is also inadequate application of modern technologies and innovations that can increase productive capacity and the most affected are the small-scale fishers whose level of adoption is low which compromises efficiency in fisheries value chain operations.

The introduction of these Regulations will result in efficiency and effectiveness in the value chain operations and increased productive capacity.

4. Consultative Outcome

To ensure nationwide public participation, the Cabinet Secretary carried out consultations and stakeholder engagement forums. The Regulations were first presented to the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) for their input and approval after which they were subjected to county consultations.

These consultations had the fisheries stakeholders from various regions divided into four clusters comprised of stakeholders from the Western and Nyanza, Central and Rift Valley, Eastern and the North Eastern, and Coastal regions. These included the main public and private institutions and individuals who will be directly or indirectly affected by the proposed statutory instrument.

The stakeholders were notified of the ongoing process and invited to give their submissions on the draft Regulations within a specified reasonable period. The Ministry also presented the said Regulations to various MDAs within the sector for harmonization with other legislations in the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) and after, the SWAG-PLS for a second time. After the approval of the SWAG-PLS, the Regulations were presented to the County Executive Committee Members (CECM) Caucus for consultations.

The representatives included:

1. Council of Governors
2. County Governments Sector Working Group (Policy Legislation and Standards)
3. County Governments;

4. Beach Management Units;
5. Fish Processors;
6. Fish Exporters;
7. Artisanal Fishers;
8. Non-Governmental Organisations;
9. MDAs;
10. Fish Traders; and
11. Fish farmers.

No	Targeted Stakeholders	Dates
1.	Public Institutions, County Governments, BMUs and private sector in the aquaculture business at Golf Hotel, Kakamega.	8 th -9 th September, 2021.
2.	Internal stakeholders— KMFRI, KeFS, SDBE & F at Sagana Fisheries and Aquaculture School of Excellence.	9 th May, 2021.
3.	Presentation of the Aquaculture Regulations to SWAG at Sweet Lake Resort, Naivasha	12 th – 13 th October, 2021.
4.	Consultation with the Coastal Counties comprising of Kwale, Kilifi, Mombasa, Tana River, Lamu and Taita Taveta Counties at North Coast Beach Hotel.	28 th – 29 th October, 2021.
5.	Consultation with Kitui, Machakos, Makueni, Nakuru, Narok, Kajiado and Nairobi Counties at KEFRI, Kitui County.	28 th – 29 th October, 2021.
6.	Consultation with Busia, Siaya, Kisumu, Homa Bay, Migori, Nyamira and Kisii Counties at Agricultural Training Center (ATC), Kisii County.	28 th – 29 th October, 2021.
7.	Consultation with Kirinyaga, Embu, Meru, Kiambu, Tharaka Nithi, Laikipia, Nyandarua and Nyeri Counties at National Aquaculture Research Development and Training Center, Sagana.	28 th – 29 th October, 2021.
8.	Consultation with Vihiga, Kakamega, Bungoma, Trans Nzoia, Bomet, Kericho, Nandi, Turkana, West Pokot and Uasin Gishu County at Goshen Inn Hotel, Eldoret.	28 th – 29 th October, 2021.

9.	Consultations with CECS responsible for Fisheries, at Machakos University.	23 rd November, 2021.
10	National Validation 6 th May, 2022 Machakos University.	10 th December, 2021

N/B: Attached is a detailed matrix indicating representations received from the stakeholders.

The consultation documents were availed on the former Ministry of Agriculture, Livestock, Fisheries and Cooperatives website and responses could be sent to the Ministry by email or post.

The consultation made proposals as shown in the matrix attached. The consultation documents and the responses to this consultation are attached herewith.

5. Guidance

It will be necessary to continuously engage with all stakeholders in the application of these Regulations. These Regulations, being new in many aspects, will need to be brought to the attention of the public and fisheries officers through public education.

6. Impact

(a) The Impact on Fundamental Rights and Freedoms

These Regulations have been formulated in conformity with the Constitution of Kenya, 2010. Further, the Regulations have been made in conformity to the provisions of Article 2(5) of the Constitution, section 208 of the Fisheries Management and Development Act, 2016, section 24 of the Statutory Instruments Act, No. 23 of 2013 and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya.

(b) The impact on the private sector

Going by the responses and support received during the formulation of these Regulations, it is expected that the application thereof will create a positive impact on the private sector. These Regulations propose issuance of aquaculture licences and aquaculture permits to private groups, co-operatives, partnerships or company to establish aquaculture establishments and harvest products in aquaculture establishments. This will spur investments in the value chain

operations of the aquaculture sector. This will consequently result in greater investor confidence and growth of the GDP.

(c) The impact on the public sector

Fisheries being a critical sector, the public agencies vested with the responsibility of implementing these Regulations have an enormous task of ensuring a positive impact envisaged by these Regulations is delivered to the general public. It is expected that the many changes and new features contained in these Regulations will enable the public agencies involved in aquaculture fisheries-related activities to deliver their services much faster. The stakeholders in the fisheries sector will benefit immensely from the application of these Regulations.

7. Monitoring and Review

The Ministry will continuously seek feedback from the public on the application of the Regulations to monitor the operation.

8. Contact Person

The Department in charge of Policy Direction and Implementation of these Regulations is the State Department for Blue Economy and Fisheries with the following contact person—

Betsy Muthoni Njagi

Principal Secretary

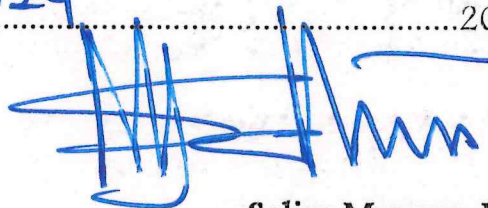
State Department for the Blue Economy and Fisheries

Email: ps@blueeconomy.go.ke

Disclaimer

These notes act only as a guideline and as such they are not exhaustive and for clarity, proper reference should be made to the main body of these Regulations.

Made on the 13/3/2024.....2024.



Salim Mvurya, EGH

Cabinet Secretary for Mining, Blue Economy and Maritime Affairs

**EXPLANATORY MEMORANDUM TO
THE FISHERIES MANAGEMENT AND DEVELOPMENT
(INLAND FISHERIES) REGULATIONS, 2024**

PART I

Name of Statutory Instrument:	The Fisheries Management and Development (Inland Fisheries) Regulations, 2024.
Name of Parent Act:	The Fisheries Management and Development Act, Cap 378.
Enacted pursuant to:	Section 208 of the Fisheries Management and Development Act, Cap 378.
Name of the Ministry	Ministry of Mining, Blue Economy and Maritime Affairs
Gazetted on:	1 st March, 2024
Tabled on:	

PART II

1. Purpose of the Statutory Instrument

The purpose of these Regulations is to operationalize section 208 of the Fisheries Management and Development Act, Cap 378. These Regulations seek to promote sustainable fisheries management and development in the Kenyan Inland Fishery waters of the lakes, rivers, dams, and other inland fishery water bodies. Inland Kenyan Fishery waters are mostly artisanal fishers. These Regulations seek to provide how the artisanal fishers shall conduct their fishery activities within the inland waters. The Regulations therefore have the sole purpose of improving the fisherfolks' livelihoods through proper governance of the sector. The specific objectives are to -

- a. provide for modalities of accessing Kenya's inland fishery waters;
- b. promote the realization of economic benefits from Kenya's inland fishery resources;
- c. provide for fees and other charges for promoting the development of artisanal fishers;
- d. promote management and conservation of inland fishery resources; and strengthen monitoring, control, and surveillance within Kenya's inland fishery waters

2. Legislative Context

These Regulations have been formulated in conformity with the Constitution of Kenya, 2010. Further, the Regulations have been made in conformity to the provisions of Article 2(5) and 2(6) of the Constitution, 208 of the Fisheries Management and Development Act Cap 378 laws of Kenya, previously No. 35 of 2016, section 24 of the Statutory Instruments Act, No.

23 of 2013 and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya.

3. Policy Background

The Proposed Regulations will bring to effect Section 208 (2) (o) of the Fisheries Management and Development Act, Cap 378

The ideation process to establish the Fisheries Management and Development(Inland Fisheries) Regulations, 2024 was to give effect to the provisions of section 5 (1) of the Act which provides that “the objective of this Act is to protect, manage, use and develop the aquatic resources in a manner which is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities and to introduce fishing to traditionally non-fishing communities and to enhance food security” Similarly, these Regulations seek to give effect to section 5 (2) (a), 5 (2) (c), 5 (2) (d), 5 (2) (g), 5 (2) (j) and 5 (2) (r) of the Act.

These Regulations provide a platform where the County Governments and the National Governments can address issues of Governance, coordination, and administration of the Inland/Riverine, Kenya’s Fishery waters, for better and improved management and conservation of the fishery resources for sustainability.

4. Consultative Outcome

To ensure nationwide public participation, the Cabinet Secretary carried out consultations and stakeholder engagement forums. The Regulations were first presented to the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) for their input and approval after which they were subjected to county consultations.

These consultations had the fisheries stakeholders from various regions divided into four clusters comprised of stakeholders from the Western and Nyanza, Central and Rift Valley, Eastern and the North Eastern, and Coastal regions. These included the main public and private institutions and individuals who will be directly or indirectly affected by the proposed statutory instrument.

The stakeholders were notified of the ongoing process and invited to give their submissions on the draft Regulations within a specified reasonable period. The Ministry also presented the said Regulations to various MDAs within the sector for harmonization with other legislations in the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) and after, the SWAG-PLS for a second time. After the approval of the SWAG-PLS, the Regulations were presented to the County Executive Committee Members (CECM) Caucus for consultations.

The representatives included:

1. Council of Governors
2. County Governments Sector Working Group (Policy Legislation and Standards)
3. County Governments;
4. Beach Management Units;
5. Fish Processors;

6. Fish Exporters;
7. Artisanal Fishers;
8. Non-Governmental Organisations;
9. MDAs;
10. Fish Traders; and
11. Fish farmers.

The following is the full list of consultative forums held.

S.No	Targeted Stakeholders	Dates
1.	Sector Working Group (Policy Legislation and Standards)	17 th - 18 th February, 2020
2.	Stakeholders in the Western and Nyanza Regions, Kisumu Hotel Kisumu County.	23 rd to 24 th January, 2020
3.	Fisheries Stakeholders in the Central and Eastern Regions, West Wind Hotel Meru County	23 rd to 24 th January, 2020
4.	Fisheries Stakeholders in the Northern Region and parts of Coastal region (Lamu and Tana River Counties), Palm Oasis Resort Garissa County.	23 rd to 24 th January, 2020
5.	Coastal Region and parts of eastern region (Machakos, Makueni and Kitui Counties) Fisheries Stakeholders, Pride Inn Hotel Kwale County	20 th to 21 st January 2020
6.	Rift Valley, North Rift Region Counties Trans Nzoia, Elgeyo Marakwet, Turkana, Nandi, Uasin Gishu, West Pokot and Bungoma Counties, Aturukan Hotel, Kitale	23 rd to 24 th January, 2020
7.	Rift Valley, South Rift Regions; Nakuru, Baringo, Bomet, Kajiado, Kiambu, Laikipia, Nairobi, Narok and Nyandarua at Dairy Training Institute Naivasha	23 rd to 24 th January, 2020
6.	Harmonization and MDA's stakeholder consultations	13 th to 14 th February, 2020
7.	Sector Working Group (Policy Legislation and Standards)	14 th February, 2020
8.	County Executive Committee Members	17 th February, 2020
9.	National Stakeholder Validation Workshop, Laico Regency Hotel Nairobi	24 th February, 2020

	Sensitization and presentation before the Parliamentary Select Committee on Agriculture for both the National Assembly and the Senate	2 nd March, 2020
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N/B: Attached is a detailed matrix indicating representations received from the stakeholders.

269 written and oral representations were also received from interactive stakeholder meetings aimed at capturing comments about the Regulations as attached. The Regulations were also uploaded to the former Ministry of Agriculture, Livestock, Fisheries and Cooperatives website. The consultation documents and the responses to this consultation are attached herewith.

5. Guidance

It will be necessary to continuously engage with all stakeholders in the application of these Regulations. These regulations, being new in many aspects, will need to be brought to the attention of the public and fisheries officers through public education. The Ministry through the State Department for Blue Economy and Fisheries has embarked on sensitization forums for all stakeholders and Government Officials to familiarize them with the objectives of these Regulations.

6. Impact

(a) The Impact on Fundamental Rights and Freedoms

These Regulations will have a positive impact on and promote gender equality and generally reduce inequality. Furthermore, it will provide opportunities for equitable prosperity to persons engaged in fishing and fishing-related activities. These Regulations will promote devolution as they provide how the National government and the County Governments shall operate on matters of management and governance of the Kenyan Inland Fishery Waters. The Regulations will play a critical role in the empowerment of women and young people in the fisheries value chain and discourage exploitative practices at the grassroots. The Regulations seek to implement the provisions of Article 43(1) (c) on the right to be free from hunger and to have adequate food of acceptable quality by providing fish as a source of food.

(b) The impact on the public and private sector

The Constitution of Kenya in its article 6 (2) provides that, the governments at the National and County levels are distinct and interdependent and shall conduct their mutual relations on the basis of consultation and cooperation. This Regulation is meant to achieve the objective of consultation and cooperation between the two levels of government for the benefit of Kenyan citizens who form both the private and public sectors. These consultations have been decentralized further to the Beach Management Units who manages the fishery resource at the lowest level of management. The Beach Management Units are the smallest units of management and governance in the fisheries sector. They are therefore responsible for the management of all the inland fishery waters within their jurisdiction.

(c) The impact on the environment

Climate change impacts on fisheries could potentially affect the four dimensions of food security; availability of aquatic foods will vary due to changes in habitats, stocks and species distribution; stability of supply will be impacted by changes in seasonality and increased variance in ecosystem productivity.

In the recent past, key infrastructure like landing sites have been affected by flooding and this has seriously affected fisherfolk from landing their produce hence affecting their source of revenue and livelihoods. The Regulations in its part V have provided for Conservation and Management Measures. Regulation 26, for example, provides that no person shall engage in fishing or in any activity that disturbs any spawn or spawning fish in a breeding area as designated under a fisheries management plan or beach management unit co-management plan.

(d) Regulatory Impact Assessment Report

These Regulations does not require a Regulatory Impact Assessment Report to be developed.

7. Monitoring and Review

The Ministry will continuously seek feedback from the public on the application of the Regulations to monitor the operation.

8. Contact Person.

The Department in charge of Policy Direction and implementation of these Regulations is the State Department for The Blue Economy and Fisheries with the following contact person: -

Betsy Muthoni Njagi

Principal Secretary

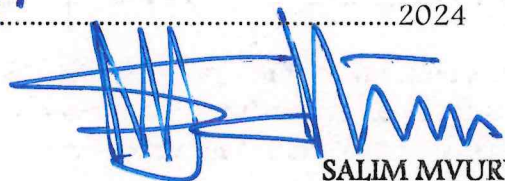
State Department for The Blue Economy and Fisheries

Email: ps@blueeconomy.go.ke

Disclaimer

These notes act only as a guideline and as such they are not exhaustive for clarity; proper reference should be made to the main body of this Regulations.

Made on the.....13/3/2024......2024



SALIM MVURYA

Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs

**EXPLANATORY MEMORANDUM TO
THE FISH LEVY TRUST FUND ORDER, 2024**

PART I

Name of Statutory Instrument:	The Fish Levy Trust Fund Order, 2024.
Name of Parent Act:	The Fisheries Management and Development Act, Cap 378.
Enacted pursuant to:	Section 208 of the Fisheries Management and Development Act, Cap 378.
Name of the Ministry	Ministry of Mining, Blue Economy and Maritime Affairs
Gazetted on:	1 st March, 2024
Tabled on:	

PART II

1. Purpose of the Statutory Instrument

The purpose of this Order is to operationalize section 28 of the Fisheries Management and Development Act, Cap 378. This Order seek to promote sustainable fisheries management and development in the fisheries sector to improve the fisherfolks' livelihoods through sustainable financing. The specific objectives are to -

- a) promote fisheries management and conservation;
- b) mobilize, manage and avail resources for grants, fisheries awards, capacity building and dissemination by expanding access to finances to persons in the fisheries sector including women, youth and persons with disabilities, enterprises or groups and micro, small and medium enterprises for economic growth towards the realization of the goals of promotion of optimum utilization of living fishery resources;
- c) Provide financial resources for urgent mitigations for climate change and natural disasters that may affect the livelihoods of the fishers; and
- d) Promote public awareness on fisheries conservation and management

2. Legislative Context

This order has been formulated in conformity with the Constitution of Kenya, 2010. Further, the Order has been made in conformity to the provisions of Article 2(5) and 2(6) of the Constitution, section 208 of the Fisheries Management and Development Act Cap 378 laws of Kenya, previously No. 35 of 2016, section 24 of the Statutory Instruments Act, No. 23 of 2013 and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya.

3. Policy Background

The proposed Order will bring to effect Section 208 of the Fisheries Management and Development Act Cap 378. Moreover, the Fish Levy Trust Fund is established under Section 28(1) of the Fisheries Management and Development Act 2016. Section 28(3) provides that the object of the fund shall be to provide supplementary funding for activities geared towards management, development and capacity building, awards, and urgent mitigation to ensure the sustainability of the fisheries resource.

The ideation process to establish a Fish Levy Trust Fund was necessitated by the need for a fund for the sustainability of fisheries development activities initiated by the Lake Victoria riparian Countries and supported by the Lake Victoria Environmental Management Programme (LVEMP). Each member State at the time was mandated to establish a Fish Levy Fund to be held in a trust. The fund was to be sourced from a percentage levy sourced from the fish producers, traders and exporters. The Fund was envisioned as a collaborative effort to foster development while utilizing the available Fisheries Co-management Strategies put in place by the various Member State governments.

Hitherto, Kenya did not have a fish levy fund hence levies have not been charged on fishing and fishing-related activities. This resulted in a gap in supplementary funding for fisheries management, development, and capacity building.

In 2016, The Fish Levy Trust Fund was established under section 28 of the Fisheries Management and Development Act Cap 378, previously No. 35 of 2016 to provide supplementary funding for activities geared towards management, development and capacity building, awards and urgent mitigation to ensure the sustainability of the fisheries resource. The Fund is administered by a 5-member Board of Trustees nominated through an open and competitive process that meets the requirements of Chapter 6 of the Constitution. As such, it became necessary to operationalize the Fund through the development of the Fish Levy Trust Fund Order, 2024.

The fund shall be applied to activities geared towards management, development and capacity building, awards, and urgent mitigation to ensure the sustainability of the fisheries resource. Whereas an administration fee will apply, borrowed funds will be repaid without charging interest. This will facilitate the stakeholders such as Beach Management Units, fishing crews, traders, and processors to pool resources to buy equipment such as fishing gear, boats, and refrigerating facilities among others. To ensure equity in the development of every segment of the fisheries sector, the Order proposes that any person will be eligible to access the fund as long as the purpose for obtaining the fund is to fulfil the object of the Fund.

4. Consultative Outcome

To ensure nationwide public participation, the Cabinet Secretary carried out consultations and stakeholder engagement forums. The Order was first presented to the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) for their input and approval after which they were subjected to county consultations.

These consultations had the fisheries stakeholders from various regions divided into four clusters comprised of stakeholders from the Western and Nyanza, Central and Rift Valley, Eastern and

the North Eastern, and Coastal regions. These included the main public and private institutions and individuals who will be directly or indirectly affected by the proposed statutory instrument.

The stakeholders were notified of the ongoing process and invited to give their submissions on the draft Order within a specified reasonable period. The Ministry also presented the said Order to various MDAs within the sector for harmonization with other legislations in the Sector Working Group on Policy, Legislation and Standards (SWAG-PLS) and after, the SWAG-PLS for a second time. After the approval of the SWAG-PLS, the Order was presented to the County Executive Committee Members (CECM) Caucus for consultations.

The representatives included:

1. Council of Governors
2. County Governments Sector Working Group (Policy Legislation and Standards)
3. County Governments;
4. Beach Management Units;
5. Fish Processors;
6. Fish Exporters;
7. Artisanal Fishers;
8. Non-Governmental Organisations;
9. MDAs;
10. Fish Traders; and
11. Fish farmers.

The following is the full list of consultative forums held.

S.No	Targeted Stakeholders	Dates
1.	Sector Working Group (Policy Legislation and Standards)	21st May 2021.
2.	Stakeholders in the Western and Nyanza Regions.	11th November 2021
3.	Fisheries Stakeholders in the Central and Rift Valley Regions	2nd December 2021
4.	Fisheries Stakeholders in the Northern and Eastern Regions	9th December 2021
5.	Coastal Region Fisheries Stakeholders	20th December 2021
6.	Harmonization and MDA's stakeholder consultations	8th and 9th March 2022
7.	Sector Working Group (Policy Legislation and Standards)	24th March 2022
8.	County Executive Committee Members	19th May 2022

9.	National Stakeholder Validation Workshop	22 nd June, 2022
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N/B: Attached is a detailed matrix indicating representations received from the stakeholders.

318 written and oral representations were also received from interactive stakeholder meetings aimed at capturing comments about the Order as attached. The Order was also uploaded to the Fish Left Trust Fund website. The consultation documents and the responses to this consultation are attached herewith.

5. Guidance

It will be necessary to continuously engage with all stakeholders in the application of this Order. This Order, being new in many aspects, will need to be brought to the attention of the public and fisheries officers through public education. The Fund has embarked on sensitization forums for all Beach Management Units and Government Officials to familiarize them with the object of the Fund and the stipulations of the Order.

6. Impact

(a) The Impact on Fundamental Rights and Freedoms

This Order will have a positive impact on and promote gender equality and generally reduce inequality. Furthermore, it will provide opportunities for equitable prosperity to persons engaged in fishing and fishing-related activities. This will play a critical role in the empowerment of women and young people in the fisheries value chain and discourage exploitative practices at the grassroots.

(b) The impact on the public and private sector

Although the Fisheries sector has huge potential it has continued to receive limited budgetary allocation devoted to fisheries management, development, capacity building and urgent mitigation to cushion fisherfolk against the adverse impact of climate change.

The implementation of this Order will revolutionize the fisheries sector where industry will contribute levies for the management and development of the fisheries sector. The levies collected from persons engaged in fishing or fishing-related activities in line with the Fish Levy Order and the Fish Levy Trust Fund will be used to support the small-scale fishers to expand access to finances and attract and facilitate investment in micro, small and medium enterprises.

This will in turn see an increase in fish landing from the current 125,000 to 350,000 MT hence having a positive impact on food and nutrition security in the country while contributing significantly to the Country's GDP not to mention increased incomes and improved livelihoods to key stakeholders in the fish value chain including fishermen.

(c) The impact on the environment

Climate change impacts on fisheries could potentially affect the four dimensions of food security; availability of aquatic foods will vary due to changes in habitats, stocks and species distribution; stability of supply will be impacted by changes in seasonality and increased variance in ecosystem productivity.

In the recent past, key infrastructure like landing sites have been affected by flooding and this has seriously affected fisherfolk from landing their produce hence affecting their source of revenue and livelihoods. The Order will provide for support to fishers affected by climate change and variability.

Further, the Order will support programs that enhance the conservation and management of fisheries resources. This will be achieved through capacity building on the same and the issuance of awards to encourage innovation and employment of conservation strategies.

(d) Regulatory Impact Assessment Report

A Regulatory Impact Assessment Report has been prepared and attached to this memorandum as **Annexure 2**.

7. Monitoring and Review

The Ministry will continuously seek feedback from the public on the application of the Order to monitor the operation.

8. Contact Person.

The Department in charge of Policy Direction and implementation of these Regulations is the State Department for The Blue Economy and Fisheries with the following contact person: -

Betsy Muthoni Njagi

Principal Secretary

State Department for The Blue Economy and Fisheries

Email: ps@blueeconomy.go.ke

Disclaimer

These notes act only as a guideline and as such they are not exhaustive for clarity; proper reference should be made to the main body of this Order as well as its Regulatory Impact Assessment Report.

Made on the.....

13/3/2024

2024

SALIM MVURYA

Cabinet Secretary Ministry of Mining, Blue Economy and Maritime Affairs

**EXPLANATORY MEMORANDUM TO
THE FISHERIES MANAGEMENT AND DEVELOPMENT (GENERAL) REGULATIONS, 2024**

PART I

Name of Statutory Instrument:	The Fisheries Management and Development (General) Regulations, 2024.
Name of Parent Act:	The Fisheries Management and Development Act, Cap 378.
Enacted pursuant to:	Section 208 of the Fisheries Management and Development Act, Cap 378.
Name of the Ministry	Ministry of Mining, Blue Economy and Maritime Affairs
Gazetted on:	1 st March, 2024
Tabled on:	

PART II

1. Purpose of the Statutory Instrument

The purpose of these Regulations is to operationalize section 208 of the Fisheries Management and Development Act, Cap 378. These Regulations seek to promote sustainable fisheries management and development in the fisheries sector to improve the fisherfolks' livelihoods through proper governance of the sector. The specific objectives are to -

- a) Facilitate proper consultation between the County Governments and the National Government on matters that promote fisheries management and conservation;
- b) Facilitate proper exchange of information in fisheries management and conservation between County Governments and the National Government
- c) Enable proper coordination, implementation, and administration of the Act and other Regulations made under it; and
- d) Promote public awareness of fisheries conservation and management via licensing and authorization model.

2. Legislative Context

These Regulations have been formulated in conformity with the Constitution of Kenya, 2010. Further, the Regulations have been made in conformity to the provisions of Article 2(5) and 2(6) of the Constitution, section 208 of the Fisheries Management and Development Act Cap 378 laws of Kenya, previously No. 35 of 2016, section 24 of the Statutory Instruments Act, No. 23 of 2013 and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya.

3. Policy Background

The Proposed Regulations will bring to effect Section 208 of the Fisheries Management and Development Act, Cap 378

The ideation process to establish the Fisheries Management and Development (General) Regulations, 2024 was to remedy any issue that might have been left out in the other Regulations that have been developed. These Regulations also are very lean in nature making it easier to bring on board in the future any other issue that might have been left out.

These Regulations provide a platform where the County Governments and the National Governments can address issues of implementation, coordination, and administration of the Act through consultation and exchange of information for management and conservation of the fishery resource for sustainability.

4. Consultative Outcome

To ensure nationwide public participation, the Cabinet Secretary carried out consultations and stakeholder engagement forums. The Oder was first presented to the Sector Working Group on Policy, Legislation, and Standards (SWAG-PLS) for their input and approval after which they were subjected to county consultations.

These consultations had the fisheries stakeholders from various regions divided into four clusters comprised of stakeholders from the Western and Nyanza, Central and Rift Valley, Eastern and the North Eastern, and Coastal regions. These included the main public and private institutions and individuals who will be directly or indirectly affected by the proposed statutory instrument.

The stakeholders were notified of the ongoing process and invited to give their submissions on the draft Regulations within a specified reasonable period. The Fund also presented the said Regulations to various MDAs within the sector for harmonization with other legislations in the Sector Working Group on Policy, Legislation and Standards (SWAG-PLS) and after, the SWAG-PLS for a second time. After the approval of the SWAG-PLS, the Regulations was presented to the County Executive Committee Members (CECM) Caucus for consultations.

The representatives included:

1. Council of Governors
2. County Governments Sector Working Group (Policy Legislation and Standards)
3. County Governments;
4. Beach Management Units;
5. Fish Processors;
6. Fish Exporters;
7. Artisanal Fishers;
8. Non-Governmental Organisations;
9. MDAs;
10. Fish Traders; and
11. Fish farmers.

The following is the full list of consultative forums held.

S.No	Targeted Stakeholders	Dates
1.	Sector Working Group (Policy Legislation and Standards)	17 th - 18 th February, 2020
2.	Stakeholders in the Western and Nyanza Regions, Kisumu Hotel Kisumu County.	23 rd to 24 th January, 2020
3.	Fisheries Stakeholders in the Central and Eastern Regions, West Wind Hotel Meru County	23 rd to 24 th January, 2020
4.	Fisheries Stakeholders in the Northern Region and parts of Coastal region (Lamu and Tana River Counties), Palm Oasis Resort Garissa County.	23 rd to 24 th January, 2020
5.	Coastal Region and parts of eastern region (Machakos, Makueni and Kitui Counties) Fisheries Stakeholders, Pride Inn Hotel Kwale County	20 th to 21 st January 2020
6.	Rift Valley, North Rift Region Counties Trans Nzoia, Elgeyo Marakwet, Turkana, Nandi, Uasin Gishu, West Pokot and Bungoma Counties, Aturukan Hotel, Kitale	23 rd to 24 th January, 2020
7.	Rift Valley, South Rift Regions; Nakuru, Baringo, Bomet, Kajiado, Kiambu, Laikipia, Nairobi, Narok and Nyandarua at Dairy Training Institute Naivasha	23 rd to 24 th January, 2020
6.	Harmonization and MDA's stakeholder consultations	13 th to 14 th February, 2020
7.	Sector Working Group (Policy Legislation and Standards)	14 th February, 2020
8.	County Executive Committee Members	17 th February, 2020
9.	National Stakeholder Validation Workshop, Laico Regency Hotel Nairobi	24 th February, 2020
	Sensitization and presentation before the Parliamentary Select Committee on Agriculture for both National Assembly and the Senate	2 nd March, 2020

N/B: Attached is a detailed matrix indicating representations received from the stakeholders.

269 written and oral representations were also received from interactive stakeholder meetings aimed at capturing comments about the Regulations as indicated attached. The Regulations were

also uploaded to the Ministry of Agriculture, Livestock, Fisheries and Cooperatives website. The consultation documents and the responses to this consultation are attached herewith.

5. Guidance

It will be necessary to continuously engage with all stakeholders in the application of these Regulations. These regulations, being new in many aspects, will need to be brought to the attention of the public and fisheries officers through public education. The Ministry through the State Department for Blue Economy and Fisheries has embarked on sensitization forums for all stakeholders and Government Officials to familiarize them with the objectives of these Regulations.

6. Impact

(a) The Impact on Fundamental Rights and Freedoms

These Regulations will have a positive impact on and promote gender equality and generally reduce inequality. Furthermore, it will provide opportunities for equitable prosperity to persons engaged in fishing and fishing-related activities. These Regulations will promote devolution as they provide how the National government and the County Governments shall operate. The Regulations will play a critical role in the empowerment of women and young people in the fisheries value chain and discourage exploitative practices at the grassroots. The Regulations seek to implement the provisions of Article 43(1) (c) on the right to be free from hunger and to have adequate food of acceptable quality by providing fish as a source of food.

(b) The impact on the public and private sector

The Constitution of Kenya in its article 6 (2) provides that, the governments at the National and County levels are distinct and interdependent and shall conduct their mutual relations on the basis of consultation and cooperation. This Regulation is meant to achieve the objective of consultation and cooperation between the two levels of government for the benefit of Kenyan citizens who form both the private and public sectors.

(c) The impact on the environment

Climate change impacts on fisheries could potentially affect the four dimensions of food security; availability of aquatic foods will vary due to changes in habitats, stocks and species distribution; stability of supply will be impacted by changes in seasonality and increased variance in ecosystem productivity.

In the recent past, key infrastructure like landing sites have been affected by flooding and this has seriously affected fisherfolk from landing their produce hence affecting their source of revenue and livelihoods. The Regulations have granted a discretionary power to the County Executive Committee Member to- impose conditions as to the methods used in the disposal of fish; and conditions for fresh fish movement, storage, and marketing; general hygiene conditions of fish landing stations, auction, wholesale and retail markets; general health conditions for fish processing facilities; conditions for handling fish and fish products on-shore; conditions for

culture and placing on the market of fish culture products and recreational fisheries. All these conditions will be geared towards early warning signs for adverse effects of climate change.

(d) Regulatory Impact Assessment Report

These Regulations does not require a Regulatory Impact Assessment Report to be developed.

7. Monitoring and Review

The Ministry will continuously seek feedback from the public on the application of the Regulations to monitor the operation.

8. Contact Person.

The Department in charge of Policy Direction and implementation of these Regulations is the State Department for The Blue Economy and Fisheries with the following contact person: -

Betsy Muthoni Njagi

Principal Secretary

State Department for The Blue Economy and Fisheries

Email: ps@blueeconomy.go.ke

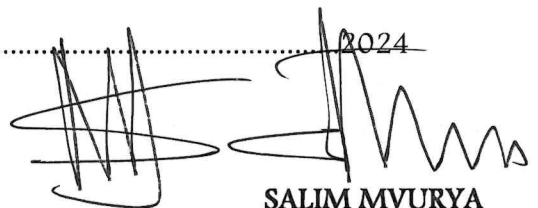
Disclaimer

These notes act only as a guideline and as such they are not exhaustive for clarity; proper reference should be made to the main body of this Regulations.

Made on the.....

13/3/24.

2024



SALIM MVURYA

Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs

**EXPLANATORY MEMORANDUM TO
THE MARINE FISHERIES REGULATIONS, 2024**

PART I

Name of Statutory Instrument:	The Marine Fisheries Regulations, 2024.
Name of Parent Act:	The Fisheries Management and Development Act, Cap 378, previously No. 35 of 2016
Enacted pursuant to:	Section 208 of the Fisheries Management and Development Act, 2016.
Name of the Ministry	Ministry of Mining, Blue Economy and Maritime Affairs.
Gazetted on:	1 st March, 2024
Tabled on:	

PART II

1. Purpose of the Statutory Instrument

The objective of these Regulations is to provide for a framework to ensure sustainable and beneficial use of the Kenya marine fisheries resources. These Regulations will strengthen the legal and institutional framework needed to exploit Kenya's potential in the marine fisheries sector and make it substantively contribute to the national development agenda. This will be realized through increased fish landings which will in turn translate to increased revenue collection, job opportunities and contribute to food security.

2. Legislative Context

Kenya has full jurisdiction and exercises sovereign rights over all her fishery resources, fishing and fishing-related activities, utilization of fish and genetic material derived from fish, persons (including non-citizens) and vessels (including foreign vessels) who access the Kenya fishery waters, among others in accordance with Section 4 of the Fisheries Management and Development Act Cap 378. These Regulations seek to protect, manage, use, and develop the marine resources in a manner that is consistent with ecologically sustainable development, to uplift the living standards of the fishing communities, and to ensure optimum utilization of the living resources in the exclusive economic zone. These Regulations have been formulated in conformity with the Constitution of Kenya, 2010. Further, the Regulations have been made in conformity to the provisions of Article 2(5) and 2(6) of the Constitution, sections 58(4) and 208 of the Fisheries Management and Development Act Cap 378 laws of Kenya, previously No. 35 of 2016, section 24 of the Statutory Instruments Act, No. 23 of 2013 and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya.

3. Policy Background

The proposed Regulations have been made pursuant to the powers vested in the Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs section 208 of the Fisheries Management and Development Act. Section 208 of the Fisheries Management and Development

Act, mandates the Cabinet Secretary to prescribe the manner in which Kenya shall manage and exploit of coastal fisheries.

Fish stocks in the coastal waters continue to dwindle. Besides overfishing, transshipment is another challenge affecting marine fisheries. Whereas transshipment is banned by the Fisheries Management and Development Act, mechanisms for enforcing the landing of fish caught in the EEZ are lacking thus leading to continued transshipment of fish caught in our EEZ in breach of the provisions of the Act. The Distance Water Fishing Nations (DWFNs) do not submit full and correct data on what they catch which in turn contributes to loss of revenue.

Moreover, most of the marine fish harvested in Kenya is by artisanal fishermen who restrict their operations within a few kilometres from the coastline as they are not sufficiently equipped to venture into the deep sea. There are, however, several commercial fishermen operating modern fishing vessels that trawl prawns along the Kenyan coast. The main challenges facing fishermen are the acquisition of efficient fishing gears such as motorized boats, and ice for the storage of their catch. The fishing industry's contribution to the economy remains low. The low contribution to the economy contributes to low budgetary support to the sector leading to insufficient empowerment of the fisher folks and weak fishing organizations. Weak fishing organizations are unable to add value such as fish storage, processing, packaging, net-making, boat building and restaurants business. This vicious cycle must be broken by attaining self-sustenance of the sector through transformation and affordable levies and fees which are charged to all fishers based on the value of total landed fish.

The introduction of these Regulations will result in efficiency and effectiveness in service delivery and improvement in the ease of doing business in Kenya for the fisheries sector.

4. Consultative Outcome

The formulation of these Regulations was spearheaded by the former Ministry of Agriculture, Livestock, Fisheries and Cooperatives through an Inter-Agency Committee (Committee) established on the 23rd November, 2021. It was further finalized by the current Ministry of Mining, Blue Economy and Maritime Affairs. The Committee was to review and complete drafting the Marine Fisheries Regulations, 2022. The same could not however be finalized by the year 2022 and 2023 respectively. The same have seen the light of day this year 2024. The committee was also to spearhead the public participation process. The initial draft of these Regulations was subjected to public scrutiny where views were received from stakeholders and members of the public. Physical and virtual meetings with select stakeholders were held to discuss the draft. A total of 21 meetings were held between the Ministry and key stakeholders. The Ministry also received written representations. The following is the full list of persons and institutions consulted in February 2022.

No	Targeted Stakeholders	Dates
1.	Public Institutions, County Governments and BMUs	7 th February 2022.
2.	Members of County Assemblies – Kwale, Kilifi, Mombasa, Tana River, and Lamu Counties.	8 th – 11 th February 2022.
3.	BMUs from Mombasa, Kilifi, Tana River, and Lamu Counties.	9 th – 12 th February 2022.

4.	Industrial, Processors, Ornamental and Sport fishers.	13 th February 2022.
5.	Fish Traders, small scale processors, investors, and NGOs/Environmentalists.	13 th February 2022.
6.	Governors from the Coast Region.	14 th February 2022.
7.	Consultations with Non-Coastal Counties. Narok, Bomet, Kericho, Baringo, Nyandarua and Nakuru 19 th April, 2022	19 th April, 2022
8.	Consultations with non-coastal counties 19 th April, 2022 Kisumu, Kisii, Nyamira, Homabay, Migori, Busia, Kakamega, Siaya, Bungoma and Vihiga	19 th April, 2022
9.	Consultations with Non-Coastal Counties 19 th April, 2022, Embu, Isiolo, Meru, Marsabit, Tharaka Nithi and Kitui Counties, Garisa, Mandera and Wajir	19 th April, 2022
10	Consultations with non-coastal, Nyeri, Nairobi, Kajiado, Kiambu, Kirinyaga, Muranga, Laikipia	19 th April, 2022
11	Consultations with the SWAG – 20 th April, 2022 – Naivasha Simba Lodge Hotel	20 th April, 2022
12	Consultations with CECS responsible for Fisheries 5 th May, 2022 Machakos University	5 th May, 2022
13	National Validation 6 th May, 2022 Machakos University	6 th May, 2022

N/B: Attached is a detailed matrix indicating representations received from the stakeholders.

The consultation documents were availed on the Ministry of Agriculture, Livestock, Fisheries and Cooperatives website and responses could be sent to the Ministry by email or post.

The consultation made proposals as shown in the attached matrix. The consultation documents and the responses to this consultation are attached herewith.

5. Guidance

It will be necessary to continuously engage with all stakeholders in the application of these Regulations. These Regulations, being new in many aspects, will need to be brought to the attention of the public and fisheries officers through public education.

6. Impact

(a) The Impact on Fundamental Rights and Freedoms

These Regulations have been formulated in conformity with the Constitution of Kenya, 2010. Further, the Regulations have been made in conformity to the provisions of Article 2(5) of the Constitution, section 208 of the Fisheries Management and Development Act, section 24 of the Statutory Instruments Act Cap 2A and section 31 of the Interpretation and General Provisions Act, Chapter 2 of the Laws of Kenya. The Regulations seek to implement the provisions of Article 43(1) (c) on the right to be free from hunger and to have adequate food of acceptable quality by providing fish as a source of food.

(b) The impact on the private sector

Going by the responses and support received during the formulation of these Regulations, it is expected that the application thereof will create a positive impact on the private sector. These Regulations empowers artisanal fishers to access the EEZ which is expected to increase the quantity of landed fish which will spur investments including manufacture of fishing gear, fish processing industries thereby creating employment, and promoting food security. This will consequently result in greater investor confidence and growth of the GDP.

(c) The impact on the public sector

Fisheries being a critical sector, the public agencies vested with the responsibility of implementing these Regulations have an enormous task of ensuring a positive impact envisaged by these Regulations is delivered to the general public. It is expected that the many changes and new features contained in these Regulations will enable the public agencies involved in marine fisheries related activities to deliver their services much faster. The stakeholders in the fisheries sector will benefit immensely from the application of these Regulations.

7. Monitoring and Review

The Ministry will continuously seek feedback from the public on the application of the Regulations to monitor the operation.

8. Contact Person.

The Department in charge of Policy Direction and implementation of these Regulations is the State Department for The Blue Economy and Fisheries with the following contact person: -

Betsy Muthoni Njagi

Principal Secretary

State Department for The Blue Economy and Fisheries

Email: ps@blueeconomy.go.ke

Disclaimer

These notes act only as a guideline and as such they are not exhaustive for clarity; proper reference should be made to the main body of this Regulations as well as its Regulatory Impact Assessment Report.

Made on the.....

13/3/2024

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SALIM MVURYA

Cabinet Secretary, Ministry of Mining, Blue Economy and Maritime Affairs