



MINISTRY OF ENVIRONMENT, CLIMATE CHANGE AND FORESTRY

REGULATORY IMPACT STATEMENT ON THE PROPOSED FOREST CONSERVATION AND MANAGEMENT (PARTICIPATION IN SUSTAINABLE FOREST MANAGEMENT) REGULATIONS

This Regulatory Impact Statement has been prepared by the Ministry of Environment, Climate Change and Forestry pursuant to sections 6 and 7 of the Statutory Instruments Act (Cap. 2A)

Introduction

This Regulatory Impact Statement has been prepared pursuant to sections 6 and 7 of the Statutory Instruments Act (Cap. 2A), which require an assessment of the likely costs, benefits, and impacts of proposed regulations.

The *Forest Conservation and Management (Participation in Sustainable Forest Management) Regulations, 2025* are anchored in the Forest Conservation and Management Act (Cap. 385) and aim to provide a clear framework for community participation in the management of public forests in Kenya.

Section 71 (1) of the Act empowers the cabinet secretary for environment, climate change and forestry to make regulations for, or with respect to, any matter which is necessary or expedient to be prescribed for carrying out or giving effect to the Act. It is pursuant to this power that the cabinet secretary has prepared the draft *Forest Conservation and Management (Participation in Sustainable Forest Management) Regulations, 2025*. These proposed Regulations are likely to result in the imposition of significant cost to the community.

Statement of the objectives and reasons for the proposed Regulations

Kenya's forests are vital for biodiversity, water catchment, climate regulation, and community livelihoods and hence are subject to a number of government regulatory, institutional and policy interventions.

The country, however, faces persistent challenges in sustainable forest management, including deforestation, encroachment, illegal logging, weak community participation, and inadequate enforcement of forest laws. While the Forest Conservation and Management Act (Cap. 385) has established a framework for conservation, gaps remain in the operationalization of community involvement, benefit sharing, private sector engagement, and clear licensing procedures. The absence of comprehensive regulations for participatory forest management has limited effective collaboration between Kenya Forest Service, county governments, local communities, and private sector actors.

The proposed *Forest Conservation and Management (Participation in Sustainable Forest Management) Regulations, 2025*, in a broad sense, seek to—

- (a) give further effect to Part V of the Forest Conservation and Management Act which contains elaborate provisions of community participation in forest conservation and management under a permit/management agreement arrangements managed by Kenya Forest Service;

- (b) strengthen national commitments to environmental sustainability, biodiversity conservation, and climate resilience. These regulations will introduce new obligations for stakeholders—particularly those in forestry, agriculture, and land use;
- (c) to provide a legal and policy framework for engaging the local communities and other stakeholders in forest management;
- (d) to support Kenya’s Vision 2030, the Bottom-Up Economic Transformation Agenda, and international climate commitments.

Specifically, the objective of the Regulations shall be to provide for—

- (a) the procedure for involving the community and other stakeholders in the participation of sustainable forest management; and
- (b) the manner in which community forest associations may exercise a right or privilege conferred upon them under the Act.

Alignment of the Regulations with Multilateral Environmental Agreements

The proposed Regulations, are aligned with Kenya’s obligations under various Multilateral Environmental Agreements that the country has ratified. Here are a few illustrations—

- (a) The Regulations promote community participation in reforestation, afforestation, and forest protection, which directly contributes to climate change mitigation and adaptation objectives under the *United Nations Framework Convention on Climate Change and the Paris Agreement*. By enabling local communities manage forests sustainably, the Regulations support Kenya’s *Nationally Determined Contributions*.
- (b) The Regulations are also consistent with the Convention on Biological Diversity’s principles of sustainable use of biodiversity and equitable benefit-sharing as envisaged under the Convention on Biological Diversity. They affirm the rights of communities as biodiversity stewards.
- (c) The Regulations advance Kenya’s commitments under the *United Nations Convention to Combat Desertification* to restore degraded lands and prevent desertification.
- (d) The Regulations promote integrated forest and wetland management, emphasizing community roles in protecting forested wetlands and catchment ecosystems critical for water regulation and biodiversity as envisioned in the *Ramsar Convention on Wetlands*.
- (e) By providing for regulated and transparent use of forest products, the Regulations reinforce the *Convention on International Trade in Endangered Species of Wild Fauna and Flora* obligations to control trade in endangered species and promote legal, traceable forest product supply chains.
- (f) The Regulations advance the *International Tropical Timber Agreement* objectives by promoting sustainable forest management, value addition, and community-based forestry enterprises. They encourage responsible harvesting, reforestation, and fair trade, thereby contributing to sustainable tropical timber governance.

Conclusion

The proposed Regulations seek to operationalize Kenya's commitments under these Multilateral Environmental Agreements by localizing their principles through community participation, sustainability, and equity. The Regulations transform international environmental obligations into practical, community-driven actions. The intent is to empower communities as key partners in achieving Kenya's global and national environmental goals.

Situational and legal analysis, and rationale, for the Regulations

Current Situation in the Forest Sector

The forest sector in Kenya plays a critical role in biodiversity conservation, water catchment protection, and livelihoods and it is of immense ecological and economic importance. However, the sector continues to suffer deforestation, illegal logging, land encroachment, weak governance, and limited community involvement.

Although the Forest Conservation and Management Act (Cap. 385) recognizes community participation as a central pillar of sustainable forest management, its operationalization remains weak and inconsistent across the country. The Act allows for the establishment of community forest associations, which can enter into management agreements with the Kenya Forest Service. However, without detailed regulations to standardize processes, community engagement has largely been discretionary, fragmented, and uneven in implementation.

Institutionally, due to lack of a strong regulatory framework, there is weak coordination between the Kenya Forest Service, county governments, and other stakeholders, as well as a lack of harmonized procedures for approval, monitoring, and reporting of community forest activities. This has led to inefficiencies, duplication, and at times, administrative confusion.

While traditional and cultural systems continue to influence forest stewardship, their informal nature and regional variations limit their ability to support consistent national forest governance.

Current Legal and Policy Framework

The Forest Conservation and Management Act (Cap. 385), in furtherance of the dictates of the Constitution of Kenya (Articles 42, 69, and 174), reiterates the right to a clean and healthy environment and mandates public participation in natural resource management.

Key provisions supporting community involvement include section 49 which recognises community forest associations and their right to participate in forest management through agreements with Kenya Forest Service, section 48(5) which requires the Kenya Forest Service to maintain a record of all community forest agreements and sections 4 and 5 which establish the principles of sustainable forest management and stakeholder participation.

Despite these legal foundations, the absence of subsidiary regulations has left significant procedural and operational gaps. The Act sets out what should happen but does not specify how it should happen — for instance, the process for community forest associations registration, criteria for approval, content of management plans, or mechanisms for benefit-sharing and conflict resolution.

Other related frameworks such as the Forest Policy (2023), Environmental Management and Coordination Act (Cap. 387), and respective County Integrated Development Plans provide for and acknowledge the need for participatory forest management but remain dependent on clear operational guidelines that the regulations are expected to provide.

Contribution of the new Regulations

The Regulations, are designed to fill the current legal and operational gaps and strengthen the framework for community participation. The proposed regulations will result into a functional, enforceable system, ensuring that community participation is not only recognized but also effectively practiced, monitored, and sustained. By providing operational clarity, strengthening accountability, and harmonizing national practice, the new regulations will mark a significant step toward equitable, sustainable, and community-driven forest management in Kenya.

Laws that impact community participation in forest conservation and management in Kenya

Long before the conception of the regulatory proposals contained in the proposed *Forest Conservation and Management (Participation in Sustainable Forest Management) Regulations, 2025*, the Kenyan law recognised the need for community participation in the management of our forest resources. These constitutional and legal provisions are discussed below.

1. *The Constitution of Kenya, 2010* at Article 42, guarantees every person the right to a clean and healthy environment. Article 69(1)(d) obligates the State to encourage public participation in environmental management, conservation, and sustainable use of natural resources. Article 69(2) provides for the right of every person has a duty to cooperate with State organs and others in protecting and conserving the environment while Article 10 provides public participation as a mandatory national value and principle of governance.
2. *Forest Conservation and Management Act (Cap. 385)*, provides the main framework for forest governance. *This Act* establishes community forest associations as vehicles for community participation. At sections 49–52 it provides that the communities can enter into agreements with the Kenya Forest Service for participatory forest management. Finally, it recognizes community rights to benefits from forest resources, including non-timber products, eco-tourism, and cultural uses.
3. *Environmental Management and Coordination Act, (Cap. 387)* provides a broad legal framework for environmental governance. Section 3 gives every person the right to a clean and healthy environment. The Act establishes public participation as a principle in environmental impact assessments and Strategic Environmental Assessments and anchors the role of National Environment Management Authority in ensuring stakeholder participation in resource use.
4. *County Governments Act (Cap. 265)* empowers county governments to promote citizen participation in governance. By sections 87–91, the Act provides mechanisms for public participation, including forums, citizen initiatives, and consultative processes, which extend to county-level forest management.
5. *Public Participation Laws and Policies (National and County Levels)*- National and county governments have frameworks and policies that operationalize Article 10 of the Constitution. Public participation legislation (in some counties) – ensure citizen involvement in resource management decisions, including forests.
6. *Land Laws-Land Act (Cap. 280) and Community Land Act (Cap. 287)*: Community land can include forests and communities have rights to manage and conserve forests on their land collectively. These land laws provide mechanisms for community rights, benefit-sharing, and dispute resolution.
7. *Wildlife Conservation and Management Act (Cap. 376)*: This Act is relevant for forests that overlap with wildlife habitats. The Act provides for community conservancies and co-management arrangements where local communities participate in conserving biodiversity.
8. *Climate Change Act (Cap. 387A)* recognizes forests as critical carbon sinks, encourages citizen and community participation in climate adaptation and mitigation programs, including reforestation and afforestation and establishes climate change funds that communities can access for conservation initiatives.

Alternative approaches (other practicable means) of achieving objectives of the proposed regulations and reasons why the other means are not appropriate

Introduction

This section:

- (a) identifies alternative, non-regulatory and regulatory approaches that could equally enhance community participation, strengthen ownership, and ensure sustainable use of forest resources and generally achieve similar objectives as those of the proposed Regulations;
- (b) explores why these available alternative, approaches meant to enhance community participation, strengthen ownership, and ensure sustainable use of forest resources and generally achieve similar objectives as those of the proposed Regulations may not be ideal nor appropriate in helping achieve the objectives of the proposed Regulations.

It is noted that, while the Draft Regulations are one pathway to achieving sustainable forest management, alternative approaches could also meet the intended objectives. These alternatives vary in terms of legal enforceability, administrative burden, and impact on stakeholders. These are discussed below.

REGULATORY OPTIONS

County Legislation

County governments, empowered under the Fourth Schedule of the Constitution and the Forest Conservation and Management Act, could enact their own laws governing community forests. *This approach would have the advantage of enabling and facilitating* localized approaches responsive to county-specific ecological and social realities.

However, multiple county legislation would lead to fragmentation, inconsistency, and enforcement challenges. Intergovernmental coordination would be complex and costly. The sector requires uniformity of action across the Republic for better outcomes.

While aligned with devolution, this option risks creating discordant protection standards and administrative inefficiencies. National regulations remain necessary to provide harmonized guidance and enable national uniformity on a matter like development and conservation of forests.

NON-REGULATORY OPTIONS

Strengthened administrative guidelines

Strengthening administrative guidelines: This would entail issuance of guidelines through the Kenya Forest Service circulars and ministerial directives and would provide clarity on community forest association formation, licensing, and private sector participation. This approach, however, lacks strong legal backing, limiting the enforceability of the objectives. It has the advantage of easy implementation and adaptability to emerging issues.

This option, however, lacks statutory authority, it cannot entail imposition of penalties or obligations. Enforcement would depend on goodwill rather than legal duty. It is, therefore, unsuitable as a standalone mechanism because it lacks enforceability and may suffer consistency issues across administrative regimes.

Public–Private Partnerships (PPPs)

PPPs would encourage contractual partnerships between the Kenya Forest Services, community forest associations, and private investors for joint forest management, reforestation, or eco-enterprises. This has the great potential to mobilize private capital and expertise into the sector. Furthermore, it encourages shared responsibility with the private sector.

The downside of this approach is that it cannot operate without regulatory safeguards and hence would still need a regulatory framework to be implemented and to govern the private sector players operating under it. Again, PPPs have potential to create inequities in benefit-sharing, marginalize communities, and may fail to adequately protect public interest in forest conservation and management. Therefore, the PPPs approach would only be effective if anchored in a clear regulatory framework defining rights, obligations, and benefit-sharing principles.

Incentive-based and market approaches

This involves the introduction of financial incentives, tax rebates, or Payments for Ecosystem Services to reward communities and enterprises engaging in sustainable forest practices. It has the advantage of the potential to encourage voluntary compliance and innovation.

However, this option may prove financially unsustainable in the long term. Such measures are historically dependent on donor or exchequer support. It could also be difficult to monitor for compliance, fairness and integrity. It can be applied as a valuable complement to regulatory approaches but it is not sufficient on its own to ensure accountability and equity.

Self-Regulation by community forest associations and user groups

This would operate by allowing community forest associations to develop internal codes of conduct, standards, and management rules to guide forest use and conservation. It has the advantage of enhancing community ownership and reduces state administrative burden. Its major downside is that its success would depend on voluntary compliance by the community forest associations, a matter that can only be hoped for. Furthermore, most community forest associations lack technical, legal, and financial capacity to enforce rules or resolve conflicts. Hence while this option may be useful as a supplementary governance tool it is inadequate as a substitute for formal regulation.

Cultural, educational, and traditional systems

This option would leverage community customs, sacred groves, taboos, religious institutions, and public education platforms to promote forest stewardship. It has the advantage of ability to build on existing social norms and values; enhances moral legitimacy.

Its major weakness lies in its informal, non-uniform nature. It also has potential to exclude marginalized groups. It lacks reliable and predetermined enforceability mechanisms. Furthermore, due to the different cultural and traditions existing in the republic, this option may be effective only in localized contexts but wholly unsuitable as a national regulatory substitute.

Collaborative partnerships and corporate social responsibility initiatives

This option involves engaging public benefits organizations, community based organisations, county governments, and private sector entities in co-management and restoration projects under corporate social responsibility or donor programs. It is useful in the mobilization of external resources and technical support.

As an option to manage continuous and long term objectives, this suffers the weakness of the fact that initiatives under it are often project-based, short-term, and donor-dependent; lacks continuity and regulatory oversight. It may serve as a complementary mechanism, but it is unsustainable as the main governance mechanism.

Alternative livelihoods and renewable energy promotion

This option would entail promoting agroforestry, eco-tourism, beekeeping, mushroom cultivation, herbal enterprises, energy-efficient stoves, solar energy, and biogas to reduce pressure on forests. It is very critical as it addresses the root causes of deforestation by improving livelihoods of the local populations who then have no pressure to encroach on, or exploit forest resources, as a means of living.

However, this option requires significant investment, capacity-building, and market access; benefits may not be equitably shared without legal frameworks. Hence, while it is a critical for long-term sustainability, it must operate within a framework of regulations.

Using the current provisions of the Act providing for joint forest management

The Act already establishes a comprehensive legal basis for community participation in forest management and conservation. It recognizes the role of communities and community forest associations in sustainable forest management, empowering them to enter into management agreements with the Kenya Forest Service. This leaves room for flexibility and allows adaptive and context-specific arrangements without being constrained by rigid regulatory requirements. Using the provisions of the Act would help avoid regulatory burden. Additional regulations could increase administrative costs, procedural complexity, and delays in approval of community management plans. Relying on the Act prevents fragmentation of legal interpretation and reduces the risk of conflicting provisions between the Act and subsidiary legislation.

However, enacting the Regulations is still necessary because the Act provides only broad principles and lacks the necessary procedural detail to ensure effective, uniform, and accountable community participation. The Regulations would provide operational clarity by, among other things, specifying procedures for registration, recognition, and oversight of community forest associations, ensuring consistent standards nationwide. The detailed Regulations would set out criteria for benefit sharing, dispute resolution, and financial management, minimizing abuse or elite capture.

Do nothing/take no action option

Under the “do nothing” option, the government would refrain from developing new subsidiary legislation and continue to rely solely on the Forest Conservation and Management Act (Cap. 385), alongside existing administrative guidelines, ministerial circulars, and community-level arrangements as well as traditional practices of the local communities.

The “do nothing” option avoids additional regulatory burden by preventing the creation of new procedures and paperwork that could increase administrative costs, delay approval of management plans, or discourage participation. It also helps maintain legal consistency, as relying solely on the parent Act minimizes the risk of conflicting interpretations between the Act and new subsidiary legislation. Furthermore, it allows adaptive, context-specific arrangements, enabling the Kenya Forest Service and communities to innovate and tailor agreements based on local needs.

However, the “do nothing” option would simply perpetuate existing implementation weaknesses. The Act provides only broad policy principles and lacks detailed procedural guidance for registration, recognition, benefit-sharing, and oversight of community forest associations. In the absence of binding regulations, the process remains highly discretionary and uneven across counties and forest stations. This has led to inconsistencies, limited accountability, and vulnerability to elite capture or misuse of benefits.

This option will mean lack of uniform national standards or enforceable mechanisms for ensuring transparency, fairness, and sustainability in community participation. It will not facilitate the achievement desired policy outcomes of equitable, effective, and accountable community participation in forest management. Regulations remain necessary to operationalize the Act’s principles and provide a predictable, enforceable framework for implementation.

Cost-benefit analysis of the Regulations

Economic benefits

The proposed regulations promise the following benefits on their implementation—

- (a) *Poverty reduction:* Implementation of the regulations will enable communities to generate income from sustainable forest-based enterprises (e.g. beekeeping, eco-tourism, timber and non-timber forest products).
- (b) *Local economic development:* Create job opportunities and encourage value addition to forest products.
- (c) *Cost-sharing:* Reduce government burden by sharing responsibilities and costs of forest management with local communities.
- (d) There is potential to increase forestry Gross Domestic Product contribution (currently 3.6%) as communities get involved in re-forestation and forest protection activities.
- (e) Currently, the National Treasury sets aside about KES 2.7B as expenditure on reforestation. With fully realised community involvement in the management of forests, it is reckoned that the National Treasury will make a saving of similar amount.

Economic costs:

The Regulations are bound to entail higher compliance costs including those relating to environmental bonds, documentation, etc. The other costs would entail costs relating to monitoring and enforcement costs for the Kenya Forest Service.

Social benefits:

Social benefits of the proposed Regulations will include—

- (a) Increased rural employment and incomes.
- (b) Empowerment of local communities by giving the local people decision-making roles in forest governance.
- (c) Minimization/eradication of conflict and enhancement of cooperation as the involvement of local communities will build trust between government agencies, communities, and other stakeholders.
- (d) Preservation of cultural values due to the engagement of the people who are then better enabled to protect their traditional knowledge, sacred sites, and customary forest uses.
- (e) Improved livelihoods and equity as the participation of the people will ensure fair access to forest benefits and involve marginalized groups (youth, women, indigenous peoples).
- (f) Formation of community organizations that act as vehicles for social mobilization, rural development, among other benefits.

Social costs:

While the impact of the Regulations can help build ownership and reduce illegal activities through shared responsibility its biggest risk is elite capture and weak organizational capacity that will afflict such initiatives to the detriment of genuine community participation in forest management.

Environmental benefits

The Regulations would—

- (a) Help in the conservation of forests and biodiversity by encourage local communities to protect natural habitats, wildlife, and tree cover.
- (b) Facilitate sustainable use of forest resources by promoting harvesting practices that maintain forest productivity and health.
- (c) Prevent deforestation and land degradation by reducing unsustainable exploitation through local stewardship.
- (d) Assist in the restoration of degraded forests through the involvement of communities in tree planting, soil conservation, and watershed protection.

Environmental costs

The implementation of the Regulations would entail risk of soil degradation and agrochemical use as well as habitat disturbance if not properly managed.

Administrative benefits

The proposed regulations would lead to:

- (a) Improved clarity and uniformity of procedures as the Regulations seek to standardize the application, approval, and monitoring processes for community forest associations nationwide.
- (b) Reduced administrative discretion and corruption risk owing to the clear procedural rules (forms, timelines, and decision criteria) limit room for arbitrary approvals or denial of community applications.
- (c) Strengthened record-keeping and information management as the Regulations seek to operationalize the reporting requirements of the Act (section 48(5) which mandates the Kenya Forest Service to keep an updated record of all approved community forest associations.
- (d) Enhanced coordination between national and county institutions that will reduce overlap and administrative conflict.
- (e) Predictable enforcement and compliance mechanisms as the Regulations specify sanctions, suspension, and appeal procedures, giving administrators a predictable pathway for action instead of ad-hoc decisions.
- (f) Administrative efficiency and cost savings owing to standardized templates for applications, management plans, and reports shorten processing time and reduce paperwork.

Administrative costs

- (a) Costs associated with sensitization and buy in campaigns so that the communities may understand and accept the regulations and the respective obligations they place on the communities.
- (b) Negotiation and agreement costs to cover expenses related to boundary demarcation, surveying and mapping forest areas allocated for community use, among others.
- (c) Costs associated with monitoring, evaluation and enforcement. These will entail monitoring compliance including field patrols, inspections, and community reporting mechanisms.
- (d) Costs associated with revenue tracking, auditing, dispute resolution.
- (e) Costs associated with technology and tools like GIS, mapping equipment, IT systems.
- (f) Miscellaneous and contingency costs.

Assumptions that inform the cost–benefit analysis

The cost–benefit analysis in this section is premised on a number of underlying assumptions about economic circumstances, institutional capacity, environmental situations, and social realities. The assumptions, if they were to remain constant would make the estimated benefits and costs feasible.

Economic assumptions include functioning markets for forest products and services, availability of investment and enterprise skills, effective cost-sharing and fiscal substitution, stable macroeconomic environment.

Social assumptions include genuine and equitable community participation, effective community governance structures, social cohesion and trust in institutions and successful capacity-building and awareness programs.

Environmental assumptions include, community stewardship would lead to improved conservation, adherence to sustainable practices by the communities, existence of proper monitoring and enforcement mechanisms, and climate and ecological conditions remaining relatively stable.

Administrative and institutional assumptions, include is effectiveness of the institutional coordination, adequate funding and human resources, functional digital and record-keeping systems, stakeholder compliance and cooperation.

In summary, the realization of projected benefits will also depend on addressing risks such as elite capture, weak enforcement, and insufficient funding. A robust implementation and monitoring framework will therefore be essential to validate and sustain these assumptions over time.

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