

SPECIAL ISSUE

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KIRINYAGA COUNTY ACTS, 2014

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THE KIRINYAGA COUNTY BUSINESS LICENSING ACT, 2014

No. 2A of 2014

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No. 2A *Kirinyaga County Business Licensing* 2014

THE KIRINYAGA COUNTY BUSINESS LICENSING ACT, 2014

AN ACT of the County Assembly of Kirinyaga to provide for licensing of business and trade activities and for related purposes.

ENACTED by the County Assembly of Kirinyaga, as follows—

Short title

1. This Act may be cited as the Kirinyaga Business Licensing Act, 2014.

Interpretation

2. In this Act—

“business activity” means any activity carried on by a person but does not include the hawking or selling of fish, agricultural produce and local articles which are the produce of the county and as may be classified in a schedule provided under section 22;

“business license” means a business licenses issued under section 7;

“business license register” means the register of business licenses established under section 20;

“Executive Committee Member” means the Executive Committee Member responsible for matters of trade;

“foreign investment registration certificate” means a foreign investment registration certificate issued by the cabinet secretary under any national legislation relating to foreign investment;

“licensee” means the holder of a business license issued under section 5;

“licensing officer” includes a person designated by the County Chief Officer under section 6;

“principal place of business” means the postal and geographic address specified by a licensee or applicant in his application under section 7;

“prohibited activity” means an activity prohibited by regulations;

“person” means an individual or registered business entity recognized by the laws of the county and national laws as a legal person; and

“trade” means carrying on the business of selling goods or services.

Objectives

3. (1) The object of this Act is to establish a legal and institutional framework for the licensing of business and trade activities.

(2) Without prejudice to the generality of sub-section 1 this Act seeks to—

- (a) establish a legal and institutional framework for licensing of business and trade activities in the County;
- (b) establish a tracking mechanism of the forms, activities and physical location of businesses in the County; and
- (c) facilitate business ownership and operations in the County.

Business person to hold a license

4. Subject to this Act, every person in the County carrying on a business activity must hold a valid business license.

Eligibility for holding a license

5. A business license shall be issued to—

- (a) a person carrying on any lawful activity;
- (b) an individual above eighteen years of age;
- (c) a foreign investor who holds a valid foreign investment certificate and a valid work permit; or
- (d) a citizen of the East African Community.

County Licensing Officer

6. (1) The Chief Officer in charge of Trade shall be the licensing officer responsible for the issuing of business licenses under this Act.

(2) The Chief Officer may delegate, in writing, any of the powers under this Act to any one or more officers.

Application for Business License

7. (1) Every application for a business license shall be in such form as may be prescribed.

(2) Every application by a foreign investor shall be accompanied by the necessary documentation provided for under the Kenya Citizenship and Immigration Act.

Issue or refusal of business license

8. The licensing officer shall consider each application made under section 7 and issue a business license to the applicant within 21 days of application.

License Conditions

9. A business license shall be issued—

- (a) for the category or categories of business activity specified in the license; and
- (b) subject to the regulations and any conditions endorsed on the license.

Validity of license

10. (1) A license shall be valid in respect of the year in which it is granted and shall expire on the 31st day of December of that year unless sooner cancelled under section 11.

(2) A business in respect of which a license has expired under sub-section (1) shall not be considered as unlicensed during the succeeding period ending on the 31st of March, for the purposes of this Act, by reason only of such expiration.

Cancellation of business license

11. A licensing officer may cancel a business license if—

- (a) the application contains any material misrepresentation or false statement;
- (b) any information given in the application for the business license was materially incorrect so as to create a false impression of the ownership of the business or the nature of its business activity;
- (c) the licensee carries on a prohibited activity;
- (d) a condition imposed is breached; or
- (e) the licensee is convicted of an offence under this Act.

Appeals

12. (1) Any holder of a cancelled business license is entitled to appeal the decision under section 11, to the Business Licensing Committee.

(2) Where an applicant is aggrieved by the decision of the Business Licensing Committee made under sub-section (1), he may, within twenty-one days, appeal to a court of law with proper jurisdiction.

Business Licensing Committee

13. (1) There is established a Business Licensing Committee composed of the following—

(a) not less than five but not more than seven members of the public representing the business community; and

(b) the County Licensing Officer;

(2) The functions of the Business Licensing Committee are—

(a) hearing of appeals as is provided for by section 13; or

(b) such other function as may from time be conferred upon it by the Executive Committee Member.

(3) The County Licensing Officer shall serve as secretary to the Committee.

(4) The Members of the Committee shall elect a Chairperson from amongst themselves.

(5) The Committee shall meet as often as is necessary and shall determine its own proceedings.

General grounds for refusal of issuance of licenses

14. (1) A licensing officer may in his/ her discretion refuse to issue a license if he/ she is satisfied—

(a) that the applicant is under the age of eighteen years;

(b) that the issue of such license is likely to cause nuisance or annoyance to persons residing, or occupying premises, in the neighbourhood of the premises in respect of which the license is sought;

(c) that the premises on which the applicant intends to conduct his business would not conform to the requirements of any law for the time being in force;

(d) that the issue of such license would conflict with any approved or proposed town planning scheme or zoning area; or

(e) that the issuance of such license is against the public interest.

(2) A licensing officer shall inform the applicant in writing of the reasons for the refusal in sub-section 1.

License not transferable

15. A business license is not transferable.

License may be amended

16. (1) Subject to this Act, a business license may be amended on written application to the licensing officer.

(2) The licensee shall inform the licensing officer in writing of any changes within 30 days.

Location of business activity

17. (1) A business license must specify the location of the premises of a business activity in respect of which a license is issued.

(2) Where a business licensee specifies a place or premises at which the licensee shall carry on the business activity, the licensee must carry on the business activity at the specified place or premises.

(3) A business licensee with multiple locations or branches for conducting business in the business in the county must apply for individual licenses for each location or branch, the business name notwithstanding.

(4) Where a business licensee does not have specific place or premises at which the licensee shall carry on the business activity, the Licensing officer may upon verification of the application allow the licensee to carry on the business activity in any part of the County.

Display and inspection of license

18. The holder of a License shall display the License in a conspicuous place on any premises occupied by him for the carrying on of the business and produce it for inspection when reasonably requested to do so by an officer authorized to do under this Act.

Production of License

19. The Licensing Officer who has reason to believe that a business person is required to hold a business license may demand from the person carrying on the business activity the production of a business license.

Offences and Penalties

20. A person who carries on a business activity without a valid license commits an offence.

Business Licensing Register

21. (1) The licensing officer shall establish and maintain in accordance with this Act, a register of business licenses.

(2) The business license register shall be available for inspection by the public during business hours and copies of entries shall be provided, upon payment of the prescribed fee.

(3) The licensing officer shall within seven days, record any amendments or changes made under section 16 on the register.

Regulations

22. (1) The County Executive Member may make regulations for the proper administration of this Act.

(2) Without prejudice to the generality of sub-section (1) above, the Chief Executive Committee Member may make regulations—

- (a) prescribing the manner and the form in which applications for a license may be made and the form in which licenses may be issued;
- (b) prescribing the terms and conditions under which a license may be;
- (c) prescribing fees payable;
- (d) prescribing the business activities for which a business license may be issued;
- (e) prescribing for penalties; or
- (f) prescribing anything which is required by this Act to be prescribed.

Savings and transition

23. (1) A license issued under the repealed Act and by-laws shall be valid until 31st December of the year in which this Act commences.

(2) Subject to sub-section (2) this Act applies to the holder of a license issued under the repealed Act and by-laws as if the holder were a licensee under this Act.

(3) The Executive Committee Member may, at any time before or within twenty one days, by order published in the *Gazette*, make such further transitional and saving provisions consequent upon the repeal and replacement of the by-laws.

