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REPUBLIC OF KENYA

**KAJIADO COUNTY GAZETTE  
SUPPLEMENT**

**BILLS, 2015**

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**THE KAJIADO COUNTY TRADE LICENCE BILL, 2015****A Bill for**

**An Act of the County Assembly of Kajiado to provide for the imposition of rates on land and buildings in the County of Kajiado, and for connected purposes**

**ENACTED** by the Kajiado County Assembly as follows—

**Short Title and Commencement**

1. (1) This Act may be cited as the Kajiado County trade Licence Act 2015.

(2) This Act comes into operation on [date to be inserted].

**Interpretation**

2. In this Act, unless the context otherwise requires—

“approved form” means a form set out in schedule 2 or approved by the chief licensing officer;

“authorized officer” has the meaning given by section 12;

“business” includes a profession, trade or occupation, other than a prescribed business;

“chief licensing officer” means the chief licensing officer appointed under section 3;

“county public officer” has the same meaning as in the County Governments Act 2012;

“holder”, in relation to a trade license means the person to whom the trade licence is granted or to who the trade licence is transferred or assigned;

“licence fee” means the fee payable for the grant or renewal of a trade licence;

“prescribed” means prescribed by the rules made under this Act;

“receiver of revenue” has the same meaning as in the Kajiado County Revenue Administration Act 2015;

“trade licence”, in relation to a business, means a licence granted under this Act to conduct the business.

### **Chief Licensing Officer**

3. (1) The county executive committee member responsible for Trade shall appoint an officer of the county government as the chief licensing officer.

(2) The chief licensing officer has the functions and powers provided for by or under this Act.

(3) The chief licensing officer may approve forms for the purposes of this Act and amend the forms in Schedule 2.

(4) The chief licensing officer may, by instrument in writing, delegate all or any of his or her functions or powers under this Act to a county public officer, except this power of delegation.

### **Requirement for a Trade Licence**

4. (1) No person shall conduct a business within the county, unless the person has duly been granted a Trade Licence for that business in accordance with this Act.

(2) If a person contravenes subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding Five Hundred Thousand (500,000) shillings.

### **Application for Licence**

5. (1) An application for the grant of a trade licence shall—

(a) be lodged with the chief licensing officer; and

(b) be in the approved form; and

- (c) contain such information and be accompanied by such documents as are required by the approved form; and
- (d) be signed in am manner specified in the approved form; and
- (e) be accompanied by the prescribed application fee (if any).

(2) An application may be made in an electronic format approved by the chief licensing officer.

(3) The chief licensing officer may, before determining an application, require the applicant to provide to the chief licensing officer such additional information or documents as is necessary to enable the application to be determined.

(4) The application fee (if any) is not refundable.

### **Grant of License**

6. (1) The chief licensing officer shall grant a trade licence if—

- (a) the chief licensing officer is satisfied that the applicant has complied or will comply with all laws relating to health, hygiene and safety applicable to the trade licence applied for; and
- (b) the licence fee has been paid to the receiver of revenue.

(2) A trade licence has to be in the approved form and is granted subject to such conditions (if any) as are specified in the trade licence.

(3) Subject to section 8, the initial term of a trade licence starts on the date on which the trade licence is granted and ends on 31 December of that year.

(4) The licence fee for the grant of a trade licence is to be calculated on a prorata basis having regard to the initial term of the trade licence.

### **Renewal of Licence**

7. (1) The holder of a trade licence may, before the expiry of the trade licence or such other prescribed date, apply in the prescribed form for the renewal of the trade licence.

(2) The chief licensing officer shall grant an application for the renewal of a trade licence if—

- (a) the chief licensing officer is satisfied that the applicant has complied with all laws relating to health, hygiene and safety applicable to the trade licence; and
- (b) the licence fee payable for the renewal of the trade licence has been paid to the receiver of revenue.

(3) The chief licensing officer may, before determining an application for renewal, require the applicant to provide the chief licensing officer such additional information or documents as is necessary to enable the application to be considered.

(4) Subject to section 8, a trade licence is to be renewed for a calendar year.

### **Cancellation of Suspension of Licence**

8. (1) The chief licensing officer may suspend for a specified period or cancel a trade licence if he or she is satisfied that:

- (a) the conduct of the business is endangering the health or safety of persons who live or work in the neighborhood of the premises from which the business is conducted; or
- (b) the holder of the trade licence has breached a condition of the trade licence.

(2) If the chief licensing officer cancels or suspends a trade licence (or revokes any such suspension), the chief licensing officer must give the holder of the licence written notice of the cancellation or suspension, including the period

of the suspension, or revocation, together with a statement of the reasons for the decision.

(3) If a trade licence is cancelled or suspended, the holder of the licence must immediately cease to conduct the business.

(4) If a person who contravenes subsection (3), is guilty of an offence punishable on conviction by a fine not exceeding 500,000 shillings.

(5) If the chief licensing officer revokes the suspension of a trade licence, the holder of the licence may resume conducting the business.

### **Surrender of Licence**

9. The holder of a trade licence may surrender the licence by returning it to the chief licensing officer, but no refund of the licence fee shall be refundable.

### **Transfer or Assignment of License**

10. The holder of a trade licence may transfer or assign the licence and must give chief licensing officer written notice in the approved form of any transfer or assignment.

### **Appeals**

11. (1) A person aggrieved by a decision of chief licensing officer may appeal against the decision to the county executive committee member responsible for trade.

(2) The county executive committee member responsible for trade may confirm, reverse, or modify the decision appealed against, and give such directions to the chief licensing officer as may be necessary to give effect to the member's decision.

(3) The chief licensing officer shall comply with any direction given under subsection (3).

### **Authorized Officers**

12. (1) the county executive committee member responsible for trade may appoint persons as authorized officers for the purposes of this Act.

(2) An authorized officer has the powers set out in schedule 1.

### **Register**

13. (1) The chief licensing officer must establish and maintain a register of trade licences which is to be available for inspection by the public during usual government hours.

(2) The register must contain such information as is determined in writing by the chief licensing officer, but must not include commercial-in-confidence information.

### **Offence—False or Misleading Statements**

14. (1) A person shall not make a statement which the person knows or has reasonable grounds to believe, to be false or misleading—

(a) in or in connection with an application for the grant or renewal of a trade licence; or

(b) when providing information required under this Act.

(2) If a person contravenes subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding Two Hundred and Fifty Thousand (250,000) shillings.

### **County Assembly to Determine Licence Fees and Additional Fees**

15. The license fees that are payable for the grant or renewal of trade licences, including any additional fees for the non-payment or late payment of such licence fees, are to be determined each year by the county assembly in the County Finance Bill.



**Power to Make Rules**

16. (1) The county executive committee member responsible for trade may make rules generally for the better carrying out of the provisions and purposes of this Act.

(2) Without limiting subsection (1), rules may be made for the following purposes—

- (a) the payment of licence fees, including additional fees for non-payment or late payment;
- (b) the exemption, waiver or reduction of licence fees;
- (c) prescribing fees for services;
- (d) prescribing forms;
- (e) publication and service of notices and other documents;
- (f) the transfer or assignment of trade licences;
- (g) different categories of trade licence.

**Savings and Transitional**

17. (1) Despite the repeal of the Local Government Act [CAP 265] and the county Governments Public Finance Management Transition Act 2013, any single business permit issued by a local authority under section 163A of the Local Government Act [CAP 265] that was in force on 30 September 2013 is deemed to have remained in force, subject to subsection (2), on and after that date as if it were a trade licence granted under this Act and any fees or charges payable to a local authority in respect of the single business permit were payable to the county government.

(2) The single business permit referred to in subsection (1) continues in force—

- (a) for 3 months from the date of commencement of this Act; or

- (b) if the holder of the single business permit applies for a trade licence under this Act within that period, until the licence is granted or refused or the application is withdrawn, whichever occurs first.

**Schedule 1—Powers of Authorized Officers**

1. An authorized officer may—
  - (a) enter any premises for the purposes of—
    - (i) granting or renewing a Trade Licence; or
    - (ii) finding out whether the holder of Trade Licence is complying with the conditions of the licence, or this Act or the rules made under this Act;
  - (b) search the premises or any part of the premises;
  - (c) inspect or examine anything in or on the premises;
  - (d) seize anything that may afford evidence of the commission of an offence against this Act;
  - (e) take extracts from, and take copies of, any documents in or on the premises;
  - (f) take into or onto the premises such persons, equipment and materials as the authorized officer reasonably requires for the purpose of exercising any of the powers mentioned in paragraphs (a) to (e); and
  - (g) require the holder of the licence, or any person in or on the premises, to give to the authorized officer reasonable assistance in relation to the exercise of any of the powers mentioned in paragraphs (a) to (f).
2. However, an authorized officer shall not enter premises unless—
  - (a) The owner or occupier of the premises consents to the entry; or
  - (b) The entry is made when the premises are open for the conduct of business or otherwise open for entry; or

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- (c) The authorized officer suspects on reasonable grounds that the holder of a trade licence is not complying with the conditions of the trade licence, or this Act or the rules mad under this Act.

**Schedule 2–Approved****PART A****APPLICATION FORM****COUNTY OF KAJIADO TRADE LICENCE ACT 2015****APPLICATION FOR THE GRANT/ RENEWAL OF A TRADE  
LICENCE**

Note: Business has its ordinary meaning, and includes a profession (excluding regulation of the profession), trade or occupation.

1. Applicant's name and description of business, profession, trade or occupation to be conducted.
2. Name under which business, profession, trade or occupation is or is to be carried on.
3. If a business is a partnership, give full names and addresses of all partners.
4. Give any registration details of the business, profession, trade, or occupation.
5. Address at which business, profession, trade or occupation is or is to be carried on.
6. List P.O Box address of the business , profession, trade or occupation, and email and telephone contacts.
7. Provide a description of the premises including addresses to which the licence is to apply.
8. Is the applicant a resident of Kenya?
9. Is the applicant an undischarged bankrupt?
10. State the date on which it is desired to begin conducting the business, profession, trade or occupation\* or the number of the previous licence

11. Please provide the following additional information/*insert additional information required*].
12. Please provide the following additional documents:*[insert additional documents required*.
13. Application fee is attached\* or no application fee applies.

I certify that the particulars given above are true and correct.

DATE

*Signature of Applicant*

*\*Delete if it does not apply*

**PART B****COUNTY OF KAJIADO TRADE LICENCE ACT 2015****TRADE LICENCE**

Note: Business has its ordinary meaning, and includes a profession (excluding regulation of the profession), trade or occupation.

A trade licence to conduct *[insert business, trade, profession, or occupation to be conducted]*.

At the premises at *[insert location of the premises to which licence applies]*.

Is granted for the period starting on *[insert initial date of grant of the trade licence]* and ending on 31 December *[insert year]*\* or is renewed for the period from 1 January to 31 December *[insert year]*.

The holder of the licence is *[insert name of person to whom the trade licence is granted or for whom it is renewed]*.

The licence is granted or renewed\* subject to the Kajiado Trade Licence Act 2015 and the rules made under that Act, and the conditions set out below:

*[insert conditions relating to the particular business, trade, profession or occupation to which the licence relates]*.

Granted by the Kajiado Chief Licensing Officer under the Kajiado Trade Licence Act 2015.

DATE

***Chief licensing officer***

*\*Delete if it does not apply*

### **MEMORANDUM OF OBJECTS AND REASONS**

Article 209(4) of the Constitution together with Part 2 of the Fourth Schedule of the Constitution gives counties the power to impose fees and charges for services provided and for regulatory purposes in respect of certain licensed activities. Examples include the power to licence undertakings that sell food (item 2 (d)) and to issue trade and liquor licences (items 7(b) and 4(c)). These licensing powers are not taxing powers, but are a power to charge fees for services.

The Bill provides for the grant of trade licences by County Governments and to conduct businesses in the county in accordance with the powers mentioned above in Part 2 of the Fourth Schedule of the Constitution.

The enactment of this Bill into law does not occasion addition expenditure of public funds.

**HON. SAYIANKA KOSEI.**  
*Chairman, Sectoral Committee on Finance and Economic Planning.*