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**KENYA GAZETTE SUPPLEMENT**

**MARSABIT COUNTY BILLS, 2019**

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**THE MARSABIT COUNTY LIVESTOCK TRADE AND  
MARKETS BILL, 2019**

**A Bill for**

**AN ACT of the County Assembly of Marsabit to provide for the promotion of livestock trade and markets and for connected purposes**

**ENACTED** by the County Assembly of Marsabit as follows—

**PART I—PRELIMINARY**

**Short Title**

1. This Act shall be cited as the Marsabit County Livestock Trade and Markets Act, 2019.

**Interpretation**

2. In this Act unless the context otherwise requires —

“Animal health inspector” means a person assigned the function by the Chief Officer of the Department of Livestock for the purposes of this Act;

“Auctioneer” means a person licensed under Section 10 of the Auctioneers Act, Cap. 526;

“Cess” means local levy chargeable in the day to day activities in a livestock market;

“County Executive Committee Member” means the Executive Committee Member for the time being responsible for matters relating to livestock;

“Electronic trading platform” means a platform for conducting trading in livestock through electronic modes;

“Fund” means Livestock Sector Trust Fund established under Section 34 of this Act;

“Livestock” means all domestic animals including cattle, camels, goats, sheep, donkeys, pigs, poultry and rabbits;

“Livestock market” means a place gazetted as such by the County Executive Committee Member;

“Livestock market supervisor” means a person from the livestock department seconded by the Chief Officer of Department of Livestock to supervise the daily operations of a market;

“Market operator” means an individual, company, co-operative society, community group or entity registered under the laws of Kenya and licensed under Section 10 of this Act;

“Private entity” means any entity other than the National or County governments or their agents;

“Stall” means any structure used for the purpose of trading within the livestock market;

“Livestock Market Technical Committee” means the Livestock Market Technical Committee as established under section 13 of this Act;

“Unfit livestock” includes all livestock declared as such by the Animal Health Inspector.

### **Application of the Act**

3. The provisions of this Act shall apply to Livestock markets within Marsabit County. Operations of inter-county or inter-state livestock cross-border trade shall remain guided by existing agreement and treaties between States;

### **Objects of the Act**

4. the objects of the Act shall be—
- (a) to establish livestock markets in the County;
  - (b) to promote livestock trade in the County;
  - (c) to provide for the administration and management of the livestock markets in the County;
  - (d) to promote effective and efficient operation of livestock markets; and
  - (e) to provide linkages between livestock markets to other supportive business enterprises and services.

## **PART II—ESTABLISHMENT OF LIVESTOCK MARKET**

### **Establishment of Livestock Markets**

5. (1) The County Executive Committee Member may by notification, gazette a ‘place’ to be a livestock market for purposes of trading and marketing of livestock.

(2) All livestock markets shall conform to the standards set out in the rules and regulations under this Act.

(3) The County Executive Committee Member in consultation with the Technical Committee may by notification grant a license to a private entity or individuals after examination of the credentials, experience and

proposed plan to establish a market in a notified area for the purposes of this Act with such facilities and with such capital investment as specified by the County Government from time to time; Provided the license so granted under this sub-section shall be suspended or cancelled for violation of any provisions of the Act.

(4) The County may facilitate the establishment of livestock markets within the County.

(5) The County may facilitate the designation of temporary livestock markets within the county under special circumstances.

### **Management of Livestock Markets**

6. (1) The County may delegate the operation and management of the Livestock Markets to a licensed Market Operator.

(2) Where a market is designated as a temporary livestock market, the County Executive Committee Member in consultation with the Marsabit County Livestock Markets Technical Committee shall appoint an ad hoc committee to operate and manage it.

(3) The ad hoc committee shall consist of five persons of who shall include the following—

(a) a representative of the County Department of Livestock who shall be the Chair of the Committee.

(b) two (2) representatives nominated by the local communities.

(c) a representative from the department of trade.

(d) an expert appointed from other stakeholders with knowledge of livestock matters.

(4) The Committee shall determine the period the ad hoc committee shall serve.

### **Community Participation in Management**

7. The Market Operator shall in consultation with the Department of Livestock, ensure community participation in the management of the market.

### **Functions of the Market Operator**

8. The Market Operator shall —

(a) manage the markets on a day to day basis;

(b) ensure regular repairs and maintenance of the market infrastructure;

(c) safeguard all market infrastructure;

- (d) engage in the promotion and marketing of livestock Markets;
- (e) ensure transparency in revenue collection (fees and levies); during the market days and the management of such levies;
- (f) keep all relevant livestock market data and information as required;
- (g) coordinate with the livestock market supervisor to support the settling of grievances and arbitration between different actors in the market; and
- (h) ensure high standards of safety and hygiene in accordance with the law and as maybe directed by the Animal Health Inspector from time to time.

### **Livestock Market Register**

9. The livestock market operator shall keep and maintain a livestock market register to provide data and information as prescribed in the rules and regulations under this Act. A copy of the data and information shall be submitted to the Livestock Market Supervisor.

### **Construction of Stalls**

10. (1) The County may construct or cause the construction of stalls in the livestock markets.

(2) Where the livestock market is privately owned, the owner may construct the stalls.

## **PART III—LICENSING MARKET OPERATORS**

### **Application and issuance of a License**

11. (1) A person shall not hold, operate or manage a livestock market in the County without a valid license issued pursuant to the provisions of this Act.

(2) The application for a license shall be in a prescribed form as described in the rules and regulations and shall be issued under the seal of the Marsabit County Government.

(3) The License shall be valid for one (1) year and may thereafter be renewed.

### **Grounds for Objection, Suspension and Revocation of a License**

12. The County Executive Committee Member may decline to renew a license or may suspend or revoke a license on any one or more of the following grounds—

- (a) violation of any provision of this Act, order, or regulation issued hereunder;
- (b) selling or exchanging stolen or mortgaged livestock without authority from the owner or mortgage;
- (c) failing to meet any prescribed measures on sanitation of the market, housing, holding, and feeding of livestock;
- (d) in the case of livestock weighed on the licensee's scales and sold by weight, knowingly quoting incorrect weights or failing to have his scales regularly inspected and tested;
- (e) failing to pay for livestock after sale;
- (f) being insolvent as determined by the Court; and
- (g) poor or non-performance of duties and obligations as agreed.

### **Operation of The Markets During Suspension or Revocation**

13. (1) The County Executive Committee Member in consultation with the Marsabit County Livestock Markets Technical Committee shall appoint a caretaker committee to operate and manage a livestock market during the period of suspension or revocation of a market operator's license.

(2) The caretaker committee shall consist of five persons of who shall include the following—

- (a) a representative of the County Department of Livestock who shall be the Chair of the Committee;
- (b) two (2) representatives nominated by the local communities;
- (c) a representative from the department of trade; and
- (d) an expert appointed from other stakeholders with knowledge of livestock matters.

(3) The committee shall be in place for a period of not more than six (6) months provided that the County Executive Committee member may offer an extension of this period under special circumstances for a period of not more than a further six (6) months.

## **PARTIV—ADMINISTRATION OF THE LIVESTOCK MARKETS**

### **Establishment of Livestock Markets Technical Committee**

14. (1) There is established Marsabit County Livestock Markets Technical Committee.

- (2) The Committee shall be reconstituted every three years.



**Composition of the Committee**

15. The Executive Committee member in consultation with County Executive Committee, and other relevant stakeholders shall appoint the following members to the Committee—

- (a) The Chief Officer in charge of livestock department who shall be the chair of the Committee;
- (b) The Chief Officer for finance and economic planning or a representative;
- (c) The County Director of Livestock who shall be the Secretary of the Committee;
- (d) The County Director of Veterinary Services or a representative;
- (e) The County Director of Trade or a representative;
- (f) The Chairperson of the County Livestock Marketing Council;
- (g) A representative from the Office of the County Commissioner.
- (h) Four representatives nominated by the local community and appointed by the County Executive Committee Member. Community Representatives appointed under this clause shall serve for a maximum of one term of three years each; and—
  - (i) Two representatives appointed by the County Executive Committee member from other stakeholders with knowledge of livestock matters and who shall serve for a term of three years.
  - (ii) Ensure that not more than two thirds of the composition of this committee shall be of the same gender.

**Functions of the Committee**

16. The Committee shall—

- (a) oversee the management of the livestock markets in the county;
- (b) advise on the establishment of new markets and upgrading of existing ones;
- (c) advise the County Executive Committee member on how to set livestock market days for each livestock market within the County;
- (d) prepare and publicize a schedule for market days;
- (e) Ensure establishment of accessible and efficient licensing processes and procedures of livestock licenses;

- (f) ensure that only licensed livestock market operators operate livestock markets;
- (g) ensure security within and outside the livestock markets;
- (h) advise the Department of Livestock and the stakeholders on best practices on livestock markets and trade;
- (i) monitor and report on the performance of the Market Operators to the county Executive Committee member on a regular basis;
- (j) Jointly with other partners, build the capacities of the local communities to participate in livestock trade;
- (k) put in place mechanisms to ensure sharing of benefits from the markets with local communities;
- (l) provide and supervise all transition measures during suspension and revocation of the operator's license;
- (m) in liaison with livestock and veterinary department, undertake regular education of the local communities on good practice for livestock production and trade;
- (n) ensure that livestock markets conform with the requirements of this Act;
- (o) prepare and publicize half yearly livestock trade and markets performance reports to all stakeholders in the county;
- (p) engage in the promotion and marketing of livestock markets; and
- (q) appoint a Livestock Market Supervisor.

### **Dissolution of the Committee**

17. The Executive Committee Member may dissolve the Marsabit County Livestock Market Technical Committee with approval of the County Executive Committee.

### **Functions of the Animal Health Inspector**

18. The Animal Health Inspector shall—

- (a) enforce the rules to protect livestock during transportation and trade;
- (b) ensure that the health and safety measures described in the Act are complied with; and
- (c) ensure that the livestock in the market meet the required market standards.

**Powers of Animal Health Inspector**

19. The Animal Health Inspectors shall have the power to—
- (a) certify animals for sale in the market;
  - (b) issue livestock trading licenses at the market;
  - (c) enter and inspect any livestock market for the purpose of ensuring compliance with this Act; and
  - (d) treat or quarantine any sick livestock as per the regulations.

**Functions and Powers of the Livestock Market Supervisor**

20. The Livestock Market Supervisor shall—
- (a) seize and confiscate any documents suspected to be forged or fraudulently obtained;
  - (b) supervise the collection and safe keeping of livestock market data and information;
  - (c) recommend to the Marsabit County Livestock Market Technical Committee to make decisions from time to time;
  - (d) recommend routine repairs and maintenance of the market Infrastructure;
  - (e) check and ensure accuracy and transparency in revenue collection and records;
  - (f) provide regular reports to Marsabit County Livestock Market Technical Committee; and
  - (g) settle grievances and arbitrations between different actors in the market;

**Search and entry**

21. (1) An Inspector or Livestock Market Supervisor may enter and search a livestock market without a search warrant where he has reason to believe that the owner of the livestock market is in contravention with the provision of this Act or regulation.

(2) Subject to sub-section (1), the Inspector may seize and confiscate any records or sick, stolen or abandoned livestock found in the livestock market.

(3) The Inspector shall forward the records and livestock seized and confiscated as per sub-section (2) to the Livestock Market Supervisor for further action.

## **PART V—TRANSPORTATION, TRADE AND WELFARE OF LIVESTOCK**

### **Transportation of livestock**

**22.** Livestock shall be transported in a way that will not cause injury or suffering to them, taking the following factors into account—

- (a) ensure that animals are fit to travel;
- (b) ensure that loading and offloading facilities are constructed and maintained;
- (c) ensure that those handling livestock do not use violence or any methods likely to cause fear, injury or suffering;
- (d) provide sufficient floor, space and height allowance; and
- (e) facilitate the provision of water, feed and rest as needed.

### **Collection and Aggregation Centers for Livestock**

**23.** (1) Collection and aggregation Centre's in the proximity of the production areas may be set up by a person with infrastructure, as may be prescribed, with linkages to retail chain, or processing/export unit/premises, or any other such unit/premises.

(2) No livestock trading will be undertaken in the grounds established under Sub-section (1) above.

### **Movement permit**

**24.** Livestock from the markets shall be moved out of the County upon issuance of the relevant permit.

### **Livestock Trading License**

**25.** No person shall trade an animal within the market without issuance of a valid livestock-trading license.

### **Unfit Livestock**

**26.** No person shall permit an unfit animal to be exposed for sale in a livestock market.

### **Handling of livestock**

**27** No person shall handle a livestock in a livestock market in a way that may cause injury or suffering.

**Feeding and Watering of Livestock**

28. It shall be the duty of the owner of a livestock which is kept in a livestock market from one day to the next to ensure that the animal is provided with adequate quantity of suitable food and water at regular intervals.

**PART VI—SALE AND AUCTION OF LIVESTOCK****Sales of livestock**

29. (1) All livestock shall be traded in a designated livestock market.

(2) Any person selling livestock within the radius of 20 kilometers outside the designated market commits an offence and shall on conviction be liable to a fine not exceeding Kenya Shillings twenty thousand or a term of one-month imprisonment or both.

**Types of sale**

30. Sale of livestock at the livestock market may be conducted either by—

- (a) regular sale where the price of livestock shall be determined by the prevailing price;
- (b) sale by auction.
- (c) electronic trading;
- (d) live weight determined by a weighing scale;
- (e) contract sales; and
- (f) any other recognized livestock related sales methods.

**Sale by auction**

31. Where any livestock is put up for sale by auction—

- (a) the date, time and place of every sale shall be advertised in the prescribed manner and such sale shall take place on the date, at the time and at the place so advertised;
- (b) in lots, each lot shall automatically be deemed to be the subject of a separate contract of sale;
- (c) the particulars or conditions of any sale including the conditions whether the sale is subject to a reserve or to that effect, then it shall not be lawful for the seller or any person employed by him to bid at such sale or for the auctioneer to take knowingly any such bid;

- (d) provided that if it is stated that the sale shall be subject to a right for the seller to bid, then it shall be lawful for the seller or for any person acting on his behalf to bid at such auction.
- (e) if it is stated that the sale will be subject to a reserve price as regards any one or more lots, it shall be lawful for the seller or any person acting on his behalf to give one bid for each such lot and no more.
- (f) if the seller or any person acting on his behalf bids at any sale contrary to any of the provisions of this section, any purchaser may refuse to fulfil his purchase; provided that the highest bona fide bidder shall be entitled, if he shall so elect, to have the property at the price offered by him.
- (g) no auctioneer shall make a bid either on behalf of himself or as an agent of any person unless on making such bid, he announces that it is his bid.
- (h) a bidder may retract his bid at any time before the sale is complete:

A person who, knowingly—

- (i) receives or makes any bid contrary to the provisions of this Section; or
- (ii) makes a bid, which he cannot honour or is fraudulent, or is, intended to avoid a valid sale which is subject to the bid, commits an offence;
- (i) where a person convicted of an offence under this section is a licensed auctioneer, he shall, in addition to any other penalty imposed, be liable to having his license revoked.

### **Electronic trading**

**32.** (1) No person or entity shall establish and run any electronic trading platform for trading in livestock without obtaining a license under this Section.

(2) Save as provided in Section 30, sub-section (1), the County Government or its agencies may, however, establish and run an e- trading platform for trading in livestock.

(3) In order to evolve a unified Integrated County Livestock Market Information System and to integrate various e-platforms, the applications in the e-platform(s) should be interoperable as per specifications and standards laid down by the County Government.

**PART VII—FINANCIAL PROVISIONS****Cess payment**

33. Cess shall be charged for all animals sold in the designated livestock market as per the provisions of the Marsabit County Finance Act.

**Revenue sharing**

34. The revenue collected in the market shall be shared as follows—  
the Community will receive 40% of the total revenue collected from the market;

the County government will receive 60% of the total revenue collected from the market; and

monies generated under 34(1) shall be retained and used for the purpose of managing market facility and for connected purposes.

**Revenue collection**

35. All the overhead costs incurred in the running of the market shall be shared between the community and the County government in the same proportions as revenue collected in Section 34(1) and (2) above.

**PART—VIII GENERAL PROVISIONS****General penalty**

36. Any person who contravenes the provisions of this Act for which no other penalty is provided commits an offence and shall on conviction be liable to a fine not exceeding Fifty Thousand Shillings or to imprisonment for a term not exceeding three months or both.

**Regulations**

37. The County Executive Committee Member may make regulations with the approval of County Assembly generally for the purpose of carrying out this Act.

## **MEMORANDUM OF OBJECTS AND REASONS**

The Bill seeks to give effect to provide for the promotion of livestock trade and markets in the County. It seeks to implement the functions of the County Government in relation to Livestock and specifically the livestock trade and markets.

**PART—I** of the Bill provides for preliminary provisions of the Bill including the short title and application scope of the Act and the interpretation clause.

**PART—II** of the Bill deals with the establishment of Livestock Markets, Management of Livestock Markets, and Community Participation in Management, Functions of the Market Operator, Livestock Market Register and Construction of Stalls.

**PART—III** of the Bill deals with Licensing, application and issuance of a License, grounds for objection, suspension and revocation of a License and operation of the Markets during suspension or revocation.

**PART—IV** of the Bill provides for Administration of Livestock Markets, Establishment of Livestock Markets Technical Committee, Composition of the Committee, Functions of the Committee, Dissolution of the Committee, Functions of the Animal Health Inspector and Powers of the Animal Health Inspector, Functions and Powers of the Livestock Markets Supervisor.

**PART—V** of the Bill provides for Transportation and Welfare of Livestock, Collection and Aggregation Centers for Livestock, Movement Permit, Livestock Trading License, Unfit Livestock, Handling of Livestock, Feeding and Watering of Livestock.

**PART—VI** of the Bill provides for sale and auction of livestock, types of sale, sale by auction and electronic trading among others.

**PART—VII** of the Bill deals with Finance provisions, Cess Payment, Revenue Sharing and Revenue Collection.

**PART—VIII** of the Bill is on general provisions where General Penalties and Regulations to enhance implementation of the Act are provided for.

The enactment of this Bill will occasion additional expenditure of public funds to be provided for through the annual estimates.

## **STATEMENT ON CONSTITUTIONALITY AND CONFLICT OF LAWS**

The Bill does not contravene any of the provisions of the Constitution and is not ultra vires to any of the provisions of any national law relating



to Livestock. In case of any conflict between the Bill and any National laws, the provisions of Article 191 of the Constitution shall take effect.

Dated the 25th June, 2019.

**ELEMA DIBA GUYO,**

*Chairman, Agriculture, Livestock and  
Fisheries Development Committee.*