

SPECIAL ISSUE

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REPUBLIC OF KENYA

**SIAYA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

NAIROBI, 16th January, 2015

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SIAYA COUNTY TRADE LICENCE ACT, 2014

No. 4 of 2014

Date of Assent: 22nd December, 2014

Date of Commencement: 1st January, 2015

ARRANGEMENT OF SECTIONS

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SIAYA COUNTY TRADE LICENCE ACT, 2014**AN ACT of the County Assembly of Siaya to grant trade licences, and for all connected purposes**

ENACTED by the County Assembly of Siaya, as follows—

Short title and commencement

1. (1) This Act may be cited as the Siaya County Trade Licence Act 2014.

(2) This Act comes into operation on 1st January, 2015.

Interpretations

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;

“authorised 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 licence, means the person to whom the trade licence is granted or to whom 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 Siaya County Revenue Administration Act 2014;

“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 and upon approval by the Committee Executive Member in-charge of Trade.

Requirement for a trade licence

4. (1) A person must not conduct a business within the County, unless the person is the holder of a trade licence for that business.

(2) If a person contravenes subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding two hundred thousand shillings.

Application for licence

5. (1) An application for the grant of a trade licence must:

- (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 a 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 licence

6. (1) The Chief Licensing Officer shall grant an application for 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 is 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 must 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 to the chief licensing officer such additional information or documents as is necessary to enable the application to be determined.

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

Cancellation or 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 neighbourhood 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 contravenes subsection (3), the person is guilty of an offence punishable on conviction by a fine not exceeding five hundred thousand 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 is payable.

Transfer or assignment of licence

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

Appeals

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

(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 must comply with any direction given under subsection (3).

Authorised officers

12. (1) The County Executive Committee Member responsible for trade may appoint persons as authorised officers for the purposes of this Act.

(2) An authorised 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 office 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 must not make a statement which the person knows 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 one hundred thousand shillings.

County assembly to determine licence fees and additional fees

15. The licence 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 and regulations 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 licences.

(3) The said rules and regulations shall come into operation on the day that they are gazetted.

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 continued 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 authorised officers

Section 12

1. An Authorised 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 a trade licence is complying with the conditions of the licence, or this Act or the rules made under this Act; and
- (b) search the premises or any part of the premises; and
- (c) inspect or examine anything in or on the premises; and
- (d) seize anything that may afford evidence of the commission of an offence against this Act; and
- (e) take extracts from, and take copies of, any documents in or on the premises; and
- (f) take into or onto the premises such persons, equipment and materials as the authorised 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 authorised officer reasonable assistance in relation to the exercise of any of the powers mentioned in paragraphs (a) to (f).

2. However, an Authorised Officer must 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
- (c) the Authorised 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 made under this Act.

Schedule 2 – Approved Forms

Section 2

Part A

APPLICATION FORM

COUNTY OF SIAYA TRADE LICENCE ACT 2014

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 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 address 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 SIAYATRADE LICENCE ACT 2014

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 *[Insert name of County]* Trade Licence Act *[Insert Year]* 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 *[Insert name of County]* chief licensing officer under the *[Insert name of County]* Trade Licence Act *[Insert Year]*

DATE

Chief Licensing Officer

**Delete if it does not apply*