

**KIAMBU COUNTY TRADE AND MARKETS BILL, 2015**

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*Clause*

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**SCHEDULES**

**FIRST SCHEDULE**

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**LICENSING FOR COMMERCIAL ACTIVITY**

**A Bill for**

**An Act of the Kiambu County Assembly to give effect to paragraph 7(a) of part 2 of the Fourth Schedule to the Constitution; to promote industries, trade, market licensing; to provide for regulation of trade, markets and industry; and for related purposes.**

**ENACTED** by the County assembly of Kiambu as follows—

**PART I**

**PRELIMINARY**

Short title

1. This Act may be cited as the Kiambu County Trade and Markets Act.

Interpretation

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

“*butcher’s meat*” include beef, mutton, veal, lamb, kid or the meat of any other animal slaughtered for the purpose of sale;

“*busker*” means any person who performs the activity of busking;

“*busking*” includes any activity of sounding or playing a musical instrument, singing, reciting or performing conjuring, juggling, puppetry, miming, dancing or other entertainment or doing any of those things concurrently;

“*casual trader*” means a person who attends a particular market with their goods, in the hope that they may be allocated a trading position for that day only, from the vacant positions in the market;

“*chief officer*” means the chief officer in charge of trade and markets;

“*defective goods*” include goods that –

- (a) are in the particular circumstances, unfit for use or are dangerous; or
- (b) do not comply with a product safety or quality standard;

*“Directorate”* means the Directorate of Trade, Markets and Industry established under section 3;

*“Market Committee”* means the market committee constituted by the Directorate;

*“marketable commodities”* includes poultry, eggs, fresh meat, fish, ground provisions, vegetables and fruit;

*“Executive Committee Member”* means the executive committee member responsible for matters relating to trade, markets and industry as constituted in the County Government of Kiambu;

*“market operator”* means a person who leases, rents or otherwise provides a selling space or facility to a person for the purpose of conducting sales of goods at a commercial market;

*“meat”* refers to permitted meat and includes fresh meat

*“perishable goods”* refers to food products that must be used within a short period of time that are subject to decay or spoilage.

*“public market”* means a public market established under this Act;

*“regular trader”* means a trader who has been permitted to use a particular trading position on a particular day at a particular market site;

*“slaughter-house”* means any premises used in connection with the slaughtering of animals whose meat is intended for human consumption;

*“stall”* means any moveable or mobile structure used for the purpose of trading; and

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

## **PART II**

### **ESTABLISHMENT OF THE DIRECTORATE OF TRADE, MARKETS AND INDUSTRY**

Directorate of Trade,  
Markets and industry

- 3.** There is established a Directorate of Trade and markets.

Appointment

4. (1) The Directorate shall be headed by a Director of trade and markets.
- (2) The Director shall be appointed by the Executive Committee Member, on the recommendation of the County public service Board.

Functions and powers of Directorate.

5. The functions of the Directorate shall be to—
  - (a) advise the chief officer on all matters affecting the development of county trading relationships with other counties;
  - (b) represent the chief officer in county meetings, conferences when delegated;
  - (c) assist in the promotion of the county's produce and products;
  - (d) advise on commodity pricing and marketing within the county;
  - (e) facilitate the obtaining of funds for the purpose of trade development and promotion;
  - (f) advice on the criteria for the development of industry and commerce to be applied in evaluating approvals;
  - (g) administer laws relating to fair trading and consumer protection;
  - (h) promote the development of small businesses and disseminate knowledge and commercial practice to the county; and
  - (i) Evaluate investment proposals suitable for funding by the Government.

Inspection and search

6. An officer may at any reasonable time, enter a place that he believes to be a place where goods are being manufactured, prepared or supplied or services are supplied and arranged and shall —
  - (a) inspect goods or partly manufactured goods;
  - (b) take a sample of anything to which the goods are manufactured or produced;

- (c) make inquiries of any person employed or has responsibility over that place; or
- (d) inspect and take copies of records required to be kept under this Act.

Confidential  
information

- 7.**
- (1) An officer who divulges confidential information obtained during the course of inspection or search conducted under this Act commits an offence.
  - (2) This section shall not apply to information that is—
    - (a) given as evidence in court proceedings;
    - (b) given as part of a report prepared for the purpose of an investigation;
    - (c) a matter of public record;
  - (3) A person who commits an offence under this section is liable to a fine not exceeding fifty thousand shillings, or a term of imprisonment not exceeding three months or to both.

Reports

- 8.**
- (1) The Directorate shall, within three months after the end of each financial year, or within such longer period as the Chief Officer may in special circumstances allow, cause to be made and transmitted to the Executive Committee Member a report dealing generally with the activities of the Directorate during the preceding financial year.
  - (2) The Director shall from time to time furnish to the Chief Officer a report relating to a particular matter or matters investigated, or being investigated which require the special attention of the Executive Committee Member.
  - (3) The Executive Committee Member shall cause a copy of the report submitted under this section to be laid before the County Assembly.

**PART III**

**PUBLIC MARKETS**

Establishment and control of markets.

**9.** The Directorate shall establish, maintain, manage and regulate public markets for the sale of marketable commodities

Licenses of appointed places

- 10.**
- (1) A person shall not hold space in the public market within the county without a license;
  - (2) The Executive Committee Member may grant a person a license to establish and use a designated area as a public market for the sale of marketable commodities;
  - (3) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding three months or to both.

Stallage and charges.

- 11.**
- (1) The Directorate shall demand from every person—
    - (a) using a stall or place in a public market; or
    - (b) bringing into the market any marketable commodities which the Executive Committee Member may permit to be sold;
    - (c) using a weighing or measuring instrument provided and kept in the market;

such stallages and charges as maybe prescribed.

- (2) The stallages and charges payable under sub-section (1) shall be paid at such times and in such a manner as may be prescribed.
- (3) Where a person liable for payment of any stallage or charge does not pay on demand, the amount due may be recovered as a debt.
- (4) A person who assaults a public officer or a person duly authorized to collect stallage or charge is liable to a fine of fifty

thousand shillings; or to imprisonment for the term not exceeding three months or to both.

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|------------------------------------|---|
| License for commercial activities. | <p><b>12.</b> (1) For carrying out of any commercial activity from an open air market—</p> <ul style="list-style-type: none"><li>(a) a regular trader must obtain a license; and</li><li>(b) a casual trader must pay such fee as may be prescribed.</li></ul> <p>(2) A license issued under subsection (1) shall be guided as provided under the second schedule.</p>  |
| Street hawkers                     | <p><b>13.</b> (1) A street hawker may carry out their commercial activity from a designated place or street by moving from place to place.</p>  |
| Buskers                            | <p><b>14.</b> Selling by busking is permitted under this Act and shall be subject to the conditions set under the second schedule.</p>  |
| Disorder in the market             | <p><b>15.</b> (1) A person in charge of a public market or a person authorized may remove from the public market, any person who misbehaves in a disorderly manner and who misconducts himself.</p> <p>(2) A person who in a public market behaves in a disorderly manner or offensive manner commits an offense and is liable to a fine not exceeding fifty thousand shillings; or to a term of imprisonment not exceeding three months or to both.</p>  |
| Prohibited goods.                  | <p><b>16.</b> (1) A market operator or shall not sell or offer for sale prohibited goods in a public market.</p> <p>(2) A trader shall not sell or offer for sale prohibited goods.</p> <p>(3) This section shall not apply where the goods have been acquired directly from the producer, manufacturer, wholesaler, distributor or retailer of the goods and where the vendor provides to the operator prior to the sale or offering for sale at a commercial market, proof that the vendor is an authorized sales representative of the producer, manufacturer,</p> |



wholesaler, distributor or retailer of the goods subject to issuance of a license by the Directorate.

Prescribed goods.

- 17.** (1) A trader shall not sell or offer for sale at a public market prescribed goods unless information with respect to the goods is maintained by the vendor in accordance with this section and the first schedule.
- (2) Every trader shall maintain the information provided to the operator.
- (3) An officer who confiscates a traders perishable goods shall make an application to the magistrates court within 2 days.
- (4) A person who contravenes this section commits an offence and is liable to a fine not exceeding fifty thousand or imprisonment to a term not exceeding six months.

Access to prescribed goods

- 18.** Every trader shall, upon request, produce prescribed goods or provide access to prescribed goods to an officer of the Directorate.

Seizure and removal of prescribed goods

- 19.** Where an authorized officer on reasonable grounds, is satisfied that the goods are —

(a) prohibited goods; and

(b) not being sold by an authorized sales representative of the producer, manufacturer, wholesaler, distributor or retailer of the goods, -

the officer may, without laying any information or obtaining any warrant, seize and remove those goods.

Sale of meat

- 20.** (1) A person shall not sell fresh meat except in a public market or in such shops as is licensed by the Executive Committee Member.
- (2) The Executive Committee Member may grant to any person a license to sell fresh meat at any premises other than a public

market, upon payment of such sums and terms and conditions prescribed.

- (3) There shall be no payable fee for a license to sell fresh meat where a premises is licensed as a slaughter house.
- (4) A person shall not be allowed to sell meat unless he meets the standards provided for in the public health laws in force.
- (5) A person who contravenes this section commits an offence and is liable for a fine of fifty thousand shillings or to a term of imprisonment for not more than three months.

Sale of marketable  
commodities and other  
goods

- 21.**
- (1) Subject to section 23, a person shall not sell any marketable commodities in the entrance to any building or on the pavements of any road situated within the limits of a prescribed area for the purpose of this section.
  - (2) Subject to sub-section (1), a person shall not sell any marketable commodities in any part of any public place within the limits of a prescribed area.
  - (3) A person who contravenes subsection (1) commits an offence and is liable to a fine not exceeding twenty thousand shillings or to imprisonment for a period not exceeding three (3) months.

Exceptions

- 22.** Section 21 shall not apply to the carrying of marketable commodities from place to place for the purpose of sale within a prescribed area except where —
- (a) any sale in accordance with the provisions of any law relating to hawkers of any marketable commodities at any building situate within any area prescribed for the purposes of that section;
  - (b) any sale of any marketable commodities in any shop or in any public market held for public purposes

within any area prescribed for the purposes of that section;

(c) any sale of any marketable commodities in the entrance to of any building situated within any area prescribed for the purposes of that section in any case where the vendor first obtains the permission of the owner or occupier of such building to sell and so conducts their business so as not to cause obstruction to any person lawfully using such road; or

(d) any sale of any marketable commodities as defined in section 23, in any part of any public place or within any area prescribed for the purposes of section 21, by any person to whom a permit is issued and who sells at the place and in accordance with the terms and conditions specified in the permit issued.

Issuance of permits.

- 23.** (1) Every person desirous of being issued a permit authorizing the person to sell in any part of a public place or within an area prescribed for the purposes of section 22, any permitted marketable commodities shall make an application to the Directorate.
- (2) Every applicant shall produce evidence to the satisfaction of the Directorate as to their good character.
- (3) A permit under subsection (1) shall be issued by the Directorate upon payment of the prescribed fee, and shall be valid for one year from the date of issuance.
- (4) Every person to whom a permit is issued under subsection (3) must display the permit in a conspicuous place and produce their permit when required to do so by the Directorate or any officer authorized by the Directorate.

- (5) An applicant for the permit under this section who is dissatisfied by a refusal of the Directorate to grant the permit may appeal to the Executive Committee Member.

#### **PART IV - MISCELLANEOUS**

- Inspection by county health officers
- 24.** A county public medical officer shall carry out all inspection of animals and articles of food at the public market in accordance with regulations made under this Act.
- Renting of stalls for sale of meat.
- 25.**
- (1) The Directorate may lease out one or more stalls or blocks in the portion of a public market used for the sale of meat and may be leased by the Directorate to a person for a period not exceeding five years at any one time.
- (2) Subject to subsection (1)—
- (a) A person shall not be permitted to take a lease of more than one stall or block at the same time;
- (b) A lessee of any stall or block shall not assign or transfer the lease to any other person, or permit the use of any stall or block by any other person without written authorization by the Directorate.
- (3) The Executive Committee Member may by notice in writing revoke any lease granted by the Directorate under subsection (1).
- Offences
- 26.** A person who —
- (a) sells in the public market, any butcher's meat without a license; or
- (b) sells any article in the public market, otherwise than in accordance with this Act; or

- (c) within the county sells, exposes or offers for sale any butcher's meat except in a shop for which a license has been so granted; or
- (d) obstructs or opposes any officer of the Directorate in the execution of their duty under this Act or; or
- (e) creates or causes any disturbance in the public market or at or near the same during the hours when the same is open, or disturbs the quiet and good order of the same by offering any article for sale in a loud voice to attract customers or by shouting, singing, smoking or screaming therein, or in any other manner,

commits an offence.

General penalties

**27.** All penalties imposed by this Act are recoverable in a summary manner, and unless otherwise provided in this Act, any person committing an offence against this Act, is shall be liable to a fine not exceeding fifty thousand Kenya shillings or an imprisonment of three month or to both.

Savings

**28.** All markets established before the coming into operation of this Act are shall be deemed to have been established under this Act, and all rules and by-laws in force at the time of the commencement of this Act shall be deemed to have been made under this Act and shall remain in force until provisions are made in accordance with this Act.

Regulations

**29.** The Executive Committee Member may make regulations—

- (a) regulating the use of markets and market buildings;
- (b) prescribing, and regulating the pattern, description and use of, weighing or measuring instruments to be used by persons selling marketable commodities in any market;

- (c) preventing nuisances and obstructions in public markets, and for maintaining cleanliness therein and on the approaches thereto;
- (d) prescribing the goods that may be sold in any public market;
- (e) for fixing, regulating and collecting stallages or charges in any public market;
- (f) for the inspection and examination of marketable commodities sold or offered for sale in any market;
- (g) fixing the days and hours during each day on which any market may be opened;
- (h) for preventing the sale and purchase of marketable commodities in any market on any day or at any times except as fixed;
- (i) prescribing the conditions subject to which the several stalls or places in any public market may be held, occupied or used by persons having or using the same;
- (j) imposing on any person having or using any stall or place in any market the duty of taking steps and using such means for protecting from contamination any articles of food offered or exposed for sale in any market;
- (k) for maintaining order and preventing disturbances in a public market; and
- (l) for excluding or removing from public markets any person suffering from any infectious or contagious disease

**FIRST SCHEDULE**

**(SECTION 16 & 17)**

**PROHIBITED GOODS AND PRESCRIBED GOODS**

**1. Prohibited goods**

These include but are not limited to—

- (a) Hides and skins;
- (b) Live animals other than poultry and fish within stalls provided;
- (c) Fresh meats and offal except within a market stall or shop licensed as a butcher's shop
- (d) Fresh fish except within a fish stall or shop licensed;
- (e) Food which has been cooked or otherwise prepared for immediate consumption except within the licensed eating place
- (f) All counterfeit or copied goods
- (g) Illegal drugs and alcohol
- (h) Home butchered meat, poultry
- (i) Wild game meat
- (j) Weaponry
- (k) Poison or other toxic substance
- (l) Quarantined crops and seeds

**2. Prescribed goods**

Prescribed goods include but not limited to—

- 1. Dairy
- 2. fish

3. plants and plant products
  4. eggs
  5. meat and meat products
  6. grains
  7. animal food
  8. organic produce
  9. fresh fruits and vegetables
  10. dried fruits
  11. pharmaceuticals (raw animal material)
  12. charcoal
- 
- (a) A trader shall maintain with respect to the prescribed goods sold or offered for sale by the vendor the information and for the period prescribed by the regulations.
  - (b) Before a trader sells or offers for sale prescribed goods at a public market the trader shall provide to the operator of the public market the information required to be maintained pursuant to subsection (a).
  - (c) A market operator shall not operate a public market at which prescribed goods are sold or offered for sale unless the information required to be maintained by a trader pursuant to this section has been provided to the operator.
  - (d) A trader or market operator shall not falsify, obliterate or destroy the information required to be maintained pursuant to this schedule.



## **SECOND SCHEDULE**

### **(Section 12)**

#### **(1) Licenses for commercial activity**

- (a) A license under section 12 shall not entitle the regular trader to carry out such activity unless, in relation to a specific open-air market, the regular trader has been given the authorization by the Directorate.
- (b) A regular trader shall not possess more than one authorization for a post in a market that operates in the same day and time.
- (c) A regular trader using a motor vehicle to carry on their commercial activity shall have premises available where to garage the motor vehicle and store their goods.
- (d) The address of the premises used for the purpose of applying for a license shall be clearly indicated on the application.
- (e) A regular trader shall notify the Directorate about any change in the vehicle or garage within ten working days after the change occurs.
- (f) No application shall be accepted and processed by the Directorate if the address of the garage or any other addresses for the store where goods are to be stored is not given.
- (g) The Directorate shall have the right to inspect such premises and to demand any documentation that proves the ownership of the premises when the application indicates the use of such premises by more than one licensee.
- (h) The Directorate may deny issuance of a license if it makes a conclusion that such premises is not used as a store or garage by the applicant.

- (i) The license issued by the Directorate shall indicate the regular trader either as a non-food license trader or as a food related items license trader.
- (j) In the case that the commercial activity concerns the selling of food items, prior approval by the county public health authorities must be obtained.

**(2) Car boot sales (S.14).**

An application for a license under this section shall contain the following information-

- (a) the name of the applicant;
- (b) the designated area where the car boot sale will be held; and
- (c) the date when the car boot sale will be held.

**(3) Selling by Busking**

A person who sells by busking shall be subject to the following conditions;

- (a) That an application by a busker who in any street, produces on site and sells a work of art on site, is filed on the appropriate form with the Directorate;
- (b) That the place where the busker stops to sell their goods is at least five meters of walking distance away from the entrance of any commercial premises;
- (c) For purpose of paragraph (b), a fixed kiosk is considered to be a commercial premises;
- (d) That no selling by busking can be performed in the precincts of any hotel or shopping complex if not written permission from the management;
- (e) That no objects are placed on the pavement; and
- (f) That no nuisance or inconvenience is caused to the neighbors or passersby in the street.