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KAJIADO COUNTY BILLS, 2020

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THE KAJIADO COUNTY LIVESTOCK SALES YARD BILL, 2020

A Bill for

AN ACT of the County Assembly of Kajiado to provide for the establishment and management of livestock sales yards and other connected purposes

ENACTED by the County Assembly of Kajiado as follows —

PART I—PRELIMINARY

Short title and Commencement

1 This Act shall be cited as the Kajiado County Livestock Sales Yard Act, 2020 and shall come into operation upon publication in the Kenya Gazette

Interpretation

2 In this Act unless the context otherwise requires —

“Animal health inspector” means a person appointed as an Animal Health Inspector pursuant to Section 17 of the Act,

“Livestock sale yard supervisor” means a person from the livestock department seconded by the Chief Officer of Department of Livestock to supervise the daily operations of the sale yard pursuant to Section 20 of the Act,,

“Auctioneer” means any person who conducts an auction by announcing the lots and controlling the bidding,

“Cess” means local levy chargeable in the day to day Activities in a sale yard,

‘County Executive Committee Member’ means a member in-charge of agriculture, livestock and veterinary services,

“Chief Officer” means officer in charge of Agriculture, Livestock and Veterinary Services

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

“Livestock sale yard” means a place gazetted as such by the County Executive Committee Member which includes but not limited to perimeter fence, holding pens for each category of livestock species, loading rumps, water troughs, sanitation blocks, auctioneer platform, office, stalls, quarantine area and incinerator pursuant to Section 5 of the Act,

“Livestock Sale Yard Technical Committee’ means the Livestock Market Technical Committee established under the provisions of Section 12 of the Act,

“Livestock Marketing Association” means a registered entity for the purpose of undertaking livestock marketing activities under the provisions of Section 6 of the Act,

“unfit livestock” includes livestock that —

- (a) are in particular circumstances unfit for human consumption or are dangerous, or
- (b) do not comply with a product safety or quality standards, or
- (c) are affected by a notifiable disease or any animal disease defined by the Animal Disease Act, Cap 364,

“Stall” means any immovable or movable structure used for the purpose of trading,

“Standard sale yard” includes a place designed and approved by the Department Livestock and established pursuant to Section 5 of the Act,

“Private entity” any entity other than the county government or an agent of the county government,

“Electronic trading platform” means a platform for conducting trading in livestock through electronic media,

Objects and Purpose

3 The purpose and objects of the Act shall be —

- (a) to establish livestock sale yards in the County,
- (b) to promote livestock marketing in the County,
- (c) to provide for the administration of the Livestock sale yards in the County,
- (d) to promote effective and efficient operation of livestock markets, and
- (e) to integrate livestock markets with other supportive business enterprises and services

Application

4 This Act shall apply within the jurisdiction of Kajiado County

PART II—ESTABLISHMENT OF LIVESTOCK SALE YARDS

Establishment of Livestock Sale Yards

5 (1) The County Executive Committee Member for Agriculture, Livestock and Fisheries may by notification, gazette a 'place' to be a livestock sale yard for purposes of trading and marketing of livestock, expressly or impliedly in physical, electronic or other such mode under this Act

(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 for Agriculture, Livestock and Fisheries 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 Executive Committee Member for Agriculture, Livestock and Fisheries 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

Management of Sale Yards

6 (1) The Livestock Sales Yards shall be operated and managed by the County Government through the Department of Agriculture, Livestock and Fisheries

(2) The Department may delegate the operation and management of the Livestock Sales Yard to a registered Livestock Sale Yard Management Committee through approval of the Livestock Sale Yard Technical committee

(3) Subject to subsection (2), the Department through the Livestock Sale Yard Technical Committee in consultation with the Livestock Sale Yard Management Committee shall determine the revenue sharing formula during the market days

Registration of Livestock Sale Yard Management Committee

7 The County Executive Committee Member for Agriculture, Livestock and Fisheries through the Department of Social Services shall—

- (a) register the Livestock Sale Yard Management Committee in the County,
- (b) cause to be kept a register of the Livestock Sale Yard Management Committee, and
- (c) guide in membership and management

Community participation in management

8 The Livestock Sale Yard Management Committee in consultation with the Livestock Sale Yard Technical Committee shall ensure community participation in the management of the Sale yard

Functions of the Livestock Sale Yard Management Committee

9 The Livestock Sale Yard Management Committee shall—

- (a) manage the sale yards on a day to day basis in consultation with Livestock Sale Yard Supervisor,
- (b) ensure there are repairs and maintenance of the market infrastructure,
- (c) safeguard the properties of the market,
- (d) ensure transparency in revenue collection including fees and levies during the market days and the management of such levies,
- (e) manage livestock market information,
- (f) settling grievances and arbitration between different Actors in the market, and
- (g) co-ordinate with the Animal Health Inspector on livestock disease surveillance and
- (h) ensure a clean environment

Livestock market monitoring

10 The Livestock Sale Yard Management Committee shall keep and maintain a livestock market register, to provide livestock sales data to be submitted to the Department of Livestock and the County Livestock Marketing Council

Construction of Stalls

11 The County may construct stalls around livestock sale yards through a recommendation from the Livestock Sale Yard Technical and approval by committee County Executive Committee Member for Agriculture, Livestock and Fisheries

PART III—ADMINISTRATION OF THE LIVESTOCK SALE YARDS

Establishment of the County Livestock Markets Technical Committee

12 (1) There is established Kajiado County Livestock Markets Technical Committee

(2) The Committee shall be reconstituted every three years

Composition of the Committee

13 (1) The County Executive Committee member for Agriculture, Livestock and Fisheries in consultation with County Livestock Marketing Council and other stakeholders shall appoint the following members to the Committee—

- (a) the Chief Officer in charge of Livestock and Veterinary Services 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 Veterinary who shall be the Secretary of the Committee,
- (d) the County Director of Livestock Production or a representative,
- (e) the County Director of Trade or a representative,
- (f) the Chairperson of the County Livestock Marketing Council,
- (g) 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
- (h) 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

(2) In appointing members to the Committee in subsection (1), the County Executive Committee member for Agriculture, Livestock and Fisheries shall ensure that not more than two thirds of the composition of this committee shall be of the same gender

Functions of the Livestock Sale Yard Technical Committee

14 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) ensure that only registered livestock market operators operate livestock markets,

- (e) advise the Department of Livestock and the stakeholders on best practices on livestock markets and trade,
- (f) monitor and report on the performance of the Market Operators to the County Executive Committee member on a regular basis,
- (g) jointly with other partners, build the capacities of the local communities to participate in livestock trade,
- (h) put in place mechanisms to ensure sharing of benefits from the markets with local communities
- (i) in liaison with livestock and veterinary departments, undertake regular education of the local communities on good practice for livestock production and trade,
- (j) ensure that livestock markets conform with the requirements of this Act,
- (k) prepare and publicize half yearly livestock trade and markets performance reports to all stakeholders in the county, and
- (l) appoint a Livestock Sale Yard Supervisor

Powers of the Committee

15 The Committee shall have the powers necessary to perform their functions as provided under section 14

Dissolution of the Committee

16 The County Executive Committee Member for Agriculture, Livestock & Fisheries may dissolve the Kajiado County Livestock Market Technical Committee

Designation of Animal Health Inspectors

17 The County Director of Veterinary Services shall designate any qualified person to be an animal health inspector for the purposes of this Act

Functions of the Animal Health Inspector

18 The Animal Health Inspector shall —

- (a) ensure that livestock sale yards conform with the requirements under this Act,
- (b) enforce the rules to protect livestock during transportation,
- (c) ensure that the health and safety measures described in the Act are complied with, and

- (d) ensure that the livestock transported to the livestock sale yards meet the required market standards

Powers of the Animal Health Inspector

19 The Animal Health Inspectors shall have the power to —

- (a) recommend the issuance of licenses upon inspection of the sale yards,
- (b) enter and inspect any livestock sales yard for the purpose of ensuring compliance with this Act,
- (c) seize and confiscate any documents suspected to be forged or fraudulently obtained, and
- (d) treat or quarantine any sick livestock as per the regulations

Designation of Livestock Sale Yard Supervisor

20 The Livestock Sale Yard Technical Committee Shall appoint a qualified person to be a Livestock Sale Yard Supervisor for the purposes of this Act

Functions and Powers of the Livestock Market Supervisor

21 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 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 the County Livestock Market Technical Committee, and
- (g) settle grievances and arbitrations between different actors in the market

Search and entry

22 (1) An Inspector or Livestock Sale Yard Supervisor may enter and search a livestock sales yard without a search warrant where he/she

has reason to believe that the owner of the livestock sales yard is in contravention with the provision of this Act or regulation

(2) Subject to sub-section (1), the Inspector or Livestock Market Supervisor may seize and confiscate any records or sick, stolen or abandoned livestock found in the livestock sales yard

(3) The Inspector or Livestock Market Supervisor shall forward the records and livestock seized and confiscated as per sub-section (2) to the Livestock Marketing Association of the sale yard for further Action

Establishment of the Cabinet Sub Committee on Livestock Sale Yard

23 (1) There is established Kajiado County known as Livestock Sale Yard Livestock Sub-Committee

Composition of the Committee of the Cabinet Sub-Committee

24 The Committee shall comprise of—

- (a) the County Executive Member for Agriculture, Livestock and Fisheries who shall be the chair of the Committee,
- (b) the County Executive Member for Lands, Physical Planning and Urban Development,
- (c) the County Executive Member for Water, Irrigation and Environment and Natural Resources,
- (d) the County Executive Member for Trade, Cooperatives and Enterprise Development
- (e) any other co-opted County Executive Committee Member

Functions of the Cabinet Sub Committee

25 The Committee shall—

- (a) oversee the overall management and operations of the livestock markets in the county,
- (b) report to the Cabinet, Livestock market issues that need the attention of the Cabinet

Powers of the Committee

26 The Committee shall have the powers necessary to perform their functions as provided under section 23

PART IV—TRANSPORTATION AND WELFARE OF LIVESTOCK

Transportation of livestock

27 Livestock shall be transported in a way that will not cause injury or suffering to them, taking the following activities 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

Movement permit

28 Livestock from the sale yards shall be moved out of the County upon issuance of the relevant permit by the Inspector

Unfit Livestock

29 No person shall permit an unfit animal to be exposed for sale in a livestock sale yard

Handling of livestock

30 No person shall handle a livestock in a livestock sale yard in a way to cause injury or suffering

Feeding and Watering of Livestock

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

Offences and Penalty

32 Any person who contravenes the provisions of this Part commits an offence shall upon conviction be liable to a fine not exceeding Kenya Shillings Fifty Thousand or to imprisonment for a term not exceeding three months

PART V—SALE AND AUCTION OF LIVESTOCK

Sale of livestock

33 (1) All livestock shall be traded in the designated sale yard

(2) Any person who contravenes the provisions of sub-section (1) by selling livestock within the radius of 5 kilometers commits an offence and shall on conviction and be liable to a fine not exceeding Kenya Shillings twenty thousand or a term of one-month imprisonment or both

Types of sale

34 (1) Sale of livestock at the livestock sales yard shall be conducted either by —

- (a) regular sale where the price of livestock shall be determined by the prevailing livestock, or
- (b) sale by auction,
- (c) electronic trading
- (2) Live weight determined by a weighing scale

Sale by auction

35 (1) 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,

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

(2) 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

(3) 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 fulfill 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

(4) 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

(5) A bidder may retract his bid at any time before the sale is complete

(6) A person who, knowingly—

- (a) receives or makes any bid contrary to the provisions of this Section, or
- (b) 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

(7) 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

Sale by Electronic trading

36 (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

Other Sale

37 The County Executive Committee Member in consultation with the Livestock Sale Yard Technical Committee and Livestock Marketing Associations may determine other types of livestock sale in the sale yard

PART VI— GENERAL PROVISIONS

General Penalty

38 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

Regulations

39 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 Act seeks to give effect to provide for establishment and control of livestock sales yards in the County

It seeks to implement the functions of the County Government in relation to Livestock and specifically the livestock sales yards

Statement on Constitutionality and Conflict of Laws

The Act 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 agriculture. In case of any conflict between the Act and any National laws, the provisions of Article 191 of the Constitution shall take effect

Dated the 13th July, 2020

JACKSON MPAADA,
*Chairperson, Agriculture, Livestock Production
Veterinary Services and Fisheries*