

SPECIAL ISSUE

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KISII COUNTY BILLS, 2018

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2018**

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THE KISII COUNTY ANIMAL DISEASE CONTROL BILL

A Bill for

AN ACT of County Assembly of Kisii to provide for the prevention and control of disease affecting animals

ENACTED by the County Assembly of Kisii as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Kisii County Animal Disease Control Act, 2013

Interpretation

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

“animal” includes all stock, ruminating animals, dogs, cats, rabbits, captive wild animals and any other animal which the County Executive Member may, by notice in the Gazette, declare to be an animal to which this Act shall apply;

“cattle” includes bulls, cows, oxen, heifers and calves;

“auctioneer” means a person who acts as an auctioneer at a sale of livestock by auction at a public sale yard or another place;

“contagious” means communicable by close contact or inoculation;

“County Executive member” means

“diseased” means infected with an infectious or contagious disease;

“farmer” means a person—

(a) who is principally occupied in producing agricultural products on a farm that is adequate in all respects for the feeding and keeping of the number of livestock on it at any time, and

(b) whose transactions in livestock are restricted to those that arise solely from the person's occupation described in paragraph (a);

“game” means game animal or game bird as defined in the that is being raised for agricultural purposes under a license issued under that Act;

“hide” means the un-tanned skin of livestock;

“hide dealer” means a person who buys or sells hides or possesses hides for sale;

“infectious” means communicable in any manner;

“infectious or contagious disease” includes tuberculosis, brucellosis, swine plague, caseous lymphadenitis, equine encephalomyelitis, foot rot in sheep, distemper in fur bearers and any disease or endoparasite or ectoparasite that the County Executive Member declares to be an infectious or contagious disease for the purpose of this Act;

“livestock” means cattle, horses and game and includes other animals designated by the regulations as livestock for the purposes of all or part of this Act or the regulations;

“livestock dealer” includes a person who, whether on the person's own behalf or as agent for another, and whether on a commission basis or otherwise—

- (a) buys or offers to buy livestock, or
- (b) sells or offers to sell, or possesses for sale any livestock or livestock carcasses or portions;

“meat” means the whole or part of a carcass of livestock but does not include the hide;

“operator” means a person, group of persons or organization engaged in the business of operating public sales;

“public sale” means a sale or offering for sale of livestock at

- (a) a public sale yard, or
- (b) another place designated by the County Secretary;

“public sale yard” means a place of business where livestock are sold, offered for sale or kept for sale;

“slaughter” means the killing of livestock for any purpose and includes the butchering and dressing of a carcass;

“slaughterhouse” means a building or place where livestock are slaughtered or held for slaughter.

Object

3. The object of this Act is to prevent the introduction and spread of infectious and contagious diseases among animals, hatcheries and poultry in the Kisii County.

PART II—ADMINISTRATION

County Veterinarian

4. The Public Service Board may appoint a qualified county veterinarian and such other officers as may be necessary for implementation of this Act.

Appointment of animal disease inspectors

5. (1) There may be appointed qualified county animal disease inspectors and such other officers as may be necessary for implementation of this Act.

(2) The County Executive Member may designate persons as inspectors for the purposes of this Act.

(3) A designation under subsection (2) may be in general terms or for a particular case or time.

Function and powers of animal inspectors

6. (1) An inspector may —

- (a) to enter into any land, structure, premises, vehicle or vessel holding or ferrying animals;
- (b) inspect any animal and subject it to any test for any disease;
- (c) order any animals to be collected, detained or isolated; and
- (d) perform any other function or exercise such other power as may be conferred under this Act or other law.
- (e) in the performance of a duty.

(2) An inspector has power under this Act.

Notice and Precautions

7. (1) A person in possession or in charge of an animal that appears to be diseased shall —

- (a) promptly notify the nearest inspector;
- (b) not dispose of the animal; and
- (c) keep the animal separate from other animals not diseased until an inspector determines that the animal is free from any communicable disease.

(2) On receipt of a notice under subsection (1) (a), an inspector shall promptly inspect the animal, and if the disease appears to exist, the inspector shall give the person in possession or in charge of the animal the necessary instructions.

Inspector to notify owner

8. (1) If it appears to an inspector that an animal is diseased, the inspector —

- (a) shall at once notify the owner or person in charge of the animal; and

- (b) may order that the owner or person keep the animal safely in quarantine where it will not be brought into contact with or be in danger of transmitting the disease to other animals until the case is fully disposed of under this Act, or for periods as may be authorized by regulation.

(2) Subsection (1) (b) does not apply if the owner of the diseased animal consents in writing to the destruction of the diseased animal, in which event the inspector shall cause the diseased animal to be destroyed at once.

(3) If it appears to the County Executive Member that there is danger of the disease being communicated through other animals on the farm or other place where the diseased animal is found or kept, the County Executive Member may authorize an inspector to quarantine the farm or other place for a period and subject to any conditions authorized by regulation.

Diseased animals to be kept apart by owner

9. (1) After the owner or person in charge of an animal has received notice from an inspector that the animal is diseased or has been subject to contagion or infection, the owner or person shall not, without written permission signed by an inspector—

- (a) permit or cause the animal to be turned out, transported, driven or led through or kept in a place where it may be brought into contact with or be in danger of transmitting disease to other animals; or
- (b) dispose of it.

(2) Despite subsection (1), the permission of the inspector may be given by sending it by electronic means to an address provided by the owner or person.

Quarantine

10. An inspector may at once seize and detain a diseased animal and, until notice is given to the owner, cause the animal to be kept at the expense of the owner in a place where it will not be brought into contact with or be in danger of transmitting the disease to other animals.

Premises to be disinfected

11. Land, water and premises where disease exists shall be thoroughly cleansed and disinfected and alterations shall be made as ordered by the inspector, by and at the expense of the owner or occupier, in a manner satisfactory to the inspector, subject to an appeal to the County Executive Member.

Permission to move animal exposed to disease

12. (1) If an owner or person in charge of an animal knows that the animal has been kept in the same stable, pasture or other place with a diseased animal or otherwise exposed to an infectious or contagious disease, the owner or person shall not turn out, lead, drive or transport the animal or permit the animal to be turned out, led, driven or transported in, on or through a place, road or highway without first obtaining written permission from an inspector.

Duty to report tuberculosis or brucellosis

13. (1) A person with knowledge or notice that an animal is affected with tuberculosis or brucellosis, or has reacted to the tuberculin test or a brucellosis test, shall immediately report the knowledge or notice to the nearest inspector.

(2) If the test has been made by the person or on the person's instructions, the person shall promptly forward the samples taken on the test, properly labeled, to a laboratory designated by an inspector.

Identification tags

14. Animals before being subjected to a tuberculin test or to a brucellosis test shall be suitably ear tagged or identified to the satisfaction of an inspector.

Retest

15. The owner or person in charge of an animal that has been subjected to a test for brucellosis or tuberculosis and designated by an inspector for retest shall isolate the animal as directed by the inspector.

Pasteurization of milk of isolated or quarantined animal Cap 336

16. (1) Milk from an animal isolated under section 11 shall not be sold for human consumption unless it has been pasteurized in accordance with the Dairy Industry Act.

(2) A person shall not sell, or offer for sale, milk from an animal in quarantine unless the milk has been pasteurized in accordance with the Dairy Industry Act.

PART III—GENERAL

Licenses required

17. (1) A person shall not carry on any of the following business unless such person is licensed under this Act to do so and is bonded if required under the regulations—

- (a) an auctioneer;

- (b) a hide dealer;
- (c) a livestock dealer; or
- (d) an operator.

(2) A person shall not maintain or operate a public sale yard unless licensed under this Act to do so and bonded if required under the regulations.

(3) A person shall not slaughter livestock for food for animals or for human consumption unless the person is licensed under this Act to operate a slaughterhouse and is bonded if required under the regulations.

Offence and penalty

18. (1) A person who—

- (a) refuses entry to an inspector authorized under section 6, or impedes or obstructs an inspector in the performance of the inspector's duty under this Act;
- (b) breaks, or causes to be broken, a quarantine or isolation imposed under this Act; or
- (c) fails to comply with this Act or a regulation or a lawful order of an inspector,

commits an offence and is liable on conviction to imprisonment for a term not exceeding six months or to a fine not exceeding two hundred and fifty thousand shillings or to both imprisonment and fine.

(2) A person who—

- (a) slaughters livestock, without a license to operate a slaughterhouse or slaughters for sale livestock in a place other than a slaughterhouse;
- (b) maintains or operates a public sale yard without a license under this Act;
- (c) carries on business as an auctioneer, a hide dealer, a livestock dealer or an operator, without a license; or
- (d) removes the hide from livestock, unless the person is the owner or a person authorized by the owner or is an inspector.

commits an offence and on conviction shall be liable to imprisonment for a period not exceeding two years or to a fine not exceeding five hundred thousand or both.

(3) If a person has been convicted of the offence of impeding or obstructing an inspector in making a test under this Act, the Court may, in

addition to any other penalty, direct that the person immediately produce the animal for testing by an inspector at the place the court directs.

(4) On proof to its satisfaction that the animal has shown a positive reaction to a brucellosis test, the court may order, in addition to any other penalty, that the animal be disposed of for immediate slaughter as directed by an inspector, in which case no compensation is payable to the owner of the animal.

(5) If a person fails to comply with a direction of the court, the person is liable as for a second offence under this section and punishable accordingly.

Suspension, cancellation or refusal to renew licenses

19. (1) A license may be suspended or cancelled, or its renewal refused, if the licensee—

- (a) knowingly gave false information on an application for the license; or
- (b) contravened this Act or the regulations, or a term or condition of the license.

(2) Notice of the suspension or cancellation of a license shall be served personally on the licensee or sent by registered mail to the licensee's last known address.

(3) A notice sent by registered mail to the licensee's last known address is conclusively deemed to be served on the person to whom it is addressed to—

- (a) on the 14th day after the notice was deposited with the post office; or
- (b) on the date on which the notice was actually received by the person, whether by mail or otherwise, whichever is earlier.

(4) A suspension or cancellation of a license, or a refusal to grant or renew a license, may be appealed in the manner and within the time established under the regulations and, on appeal, the appellate body established under the regulations may—

- (a) make an order confirming, reversing or varying the order, decision or determination under appeal;
- (b) refer the matter back with or without directions to the body that made the order, decision or determination under appeal; or
- (c) make another order it considers appropriate in the circumstances.

County Executive Member to inquire into alleged outbreak of disease

20. The County Executive Member may direct an inspector or suitable person—

- (a) to examine an alleged outbreak of disease;
- (b) to cause scientific investigation to be made to determine the nature and source of the outbreak as considered necessary; and
- (c) if the investigation shows reasonable ground for so doing, to take those measures for suppression or limitation of the outbreak as provided under this Act.

Certificate of inspector as evidence

21. A certificate purporting to be signed by an inspector stating—

- (a) that an animal is diseased; or
- (b) the facts or the result of a test for disease or vaccination or other treatment of an animal, is for the purposes of this Act, proof of the matter certified, in the absence of evidence to the contrary at a hearing or before a court, without proof of the inspector's signature or appointment.

Offence to inject tuberculin to prevent reaction

22. A person who injects any substance into an animal for the purpose of preventing reaction to the application of a test for disease, for each animal so treated, commits an offence under this Act.

Power to make Regulations

23. (1) The County Executive Member may make regulations—

- (a) prescribing the manner in which any animal which is required to be isolated under this Act shall be isolated and cared for and treated in isolation;
- (b) prescribing the manner in which any infectious or contaminated animal shall be cared for, treated, disinfected, destroyed or disposed; and
- (c) prescribing any matter which is required or permitted to be prescribed in terms of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose and objectives of this Bill is to make provision for the prevention and control of disease affecting animals.

Part I of the Bill provides for preliminary matters including the short title to the Bill, the interpretation of words and expressions used in the Bill and object of the Bill.

Part II of the Bill contains administrative provisions and provides for the appointment of county veterinarian, animal disease inspectors and their duties, duty of the owner of diseased animal to give notice and take precautions, isolation of diseased animals disinfection of premises among other precautionary measures.

Part III of the Bill contains general provisions and provides for requirement to hold licenses for certain activities, offences and penalties, suspension, cancellation or refusal to renew licenses, inquiry into outbreak of disease, certificate of inspection and making of Regulations.

The enactment of this Bill will occasion some additional expenditure of public funds which will be provided for by budgetary estimates.

Statement that the Bill is not a money Bill within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution of Kenya 2010.

Dated 13th November 2018.

ISHMAEL MATUNDURA,
*Chairperson, Agriculture, Livestock, Fisheries And Co-operative
Development Committee.*