

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

Kisii County Gazette Supplement No. 2 (Bills No. 2)



REPUBLIC OF KENYA

***KISII COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2015

NAIROBI, 6th March, 2015

CONTENT

Bill for Introduction into the Kisii County Assembly —

	PAGE
The Kisii County Pounds Bill, 2015	1

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

THE KISII COUNTY POUNDS BILL, 2015

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title.
- 2—Interpretation.
- 3—Scope and Application.
- 4—Object and Purpose.
- 5—Prohibition of animals running at large.
- 6—Owner of animal liable for damages and fine.

PART II—ESTABLISHMENT AND ADMINISTRATION OF POUND

- 7—Establishment of pounds by the Department.
- 8—Appointment of the Pound Master.
- 9—Functions of the Pound Master.

PART III—GENERAL PROVISIONS

- 10—Seizure of animal by the Pound Master.
- 11—Seizure of animals by a land occupier or owner.
- 12—Poundage fees.
- 13—Right of animal owners.
- 14—Loss of ownership of an animal.
- 15—Prevention of spread of diseases.
- 16—When the common pound is not safe.
- 17—Protection against Liability.
- 18—Sale after Notices.
- 19—Food to be furnished impounded animal.
- 20—Recovery of expenses.
- 21—Procedure for recovery.
- 22—Disputes regarding demand for damages, how determined.
- 23—Report to the County executive committee.

PART IV—OFFENCE AND PENALTIES

- 24—Unlawful release of an animal in a pound.
- 25—General Penalty.

THE KISII COUNTY POUNDS BILL, 2015

A Bill for

AN ACT of the County Assembly of Kisii to provide for the establishment and management of pounds; the prohibition of roaming animals in the streets and other public places and for the connected purposes

ENACTED by the County Assembly of Kisii, as follows—

PART I—PRELIMINARY

1. This Act may be cited as Kisii County Pounds Act, 2014. Short title.

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

“animal” includes cattle, goat, sheep, horse, donkey, mule, dog camel or poultry;

“department” means Kisii County Department of Urban Development;

“pound” means a pound established by the department under section 3;

“pound master” means a person for the time being appointed by the department to be in-charge of a pound under section 3;

“urban area” has the same mean as the same meaning as in the Urban Areas and Cities Act and shall include centres gazetted by the County Executive Committee Member under this Act.

3. This Act shall apply in the urban areas within Kisii County and such other areas as the County Executive Member may by notice in the gazette determine. Scope and application.

4. The object and purpose of this Act is to— Object and purpose.

- (a) regulate the roaming of animals in streets and other public areas of the county not designated for animals; and
- (b) provide for the establishment and management of pounds in the county.

5. No animal shall be allowed to run at large in any street or public area forming part of urban area.

Prohibition of animals running at large.

6. The owner or occupant of any land is responsible for any damage caused by any animal under the person's charge and keeping as though such animal were the person's own property, and the owner of any animal not permitted to run at large under this Act is liable for any damage done by such animal.

Owner of animal liable for damages and fine.

PART II—ESTABLISHMENT AND ADMINISTRATION OF POUNDS

7.(1) The department may establish and maintain pounds for the reception and detention of any animal impounded under this Act.

Establishment of pounds by the department.

(2) A pound established under subsection (1) shall maintain and conform to such standards as the County Executive Committee Member may from time to time by Regulations prescribe.

8.(1) The County Executive Committee Member shall appoint a pound master to be in-charge of the pounds in the county.

Appointment of the pound master.

(2) The department may, on such terms as the County Service Board may determine employ such number of staff as may be required for the maintenance of pounds.

9. The pound master shall receive into any pound and detain therein any animal brought to him for such purpose and shall feed every animal impounded therein properly.

Functions of the pound master.

PART III—GENERAL PROVISIONS

10.(1) The pound master or any person authorized to do so by the department may seize any animal found straying in any street or public place and may take such animal to a pound and shall forthwith—

Seizure of animals by the pound master.

- (a) record the particulars of the animal and the reason for the impoundment; and
- (b) post a notice of the impoundment or a copy thereof in some conspicuous place on or near the door of his or her office and keep it so

posted for at least one week, unless the animal is sooner claimed by the owner.

(2) Where the animal or animals impounded at the same time is or are of the value of fifty thousand or more, the pound master shall cause a copy of the notice to be published in a newspaper in the area once a week for two successive weeks.

11. (1) The owner or occupier of any land may seize any animal which is found trespassing on such land, take it, or cause it to be taken, to a pound.

Seizure of animals
by a land occupier
or owner.

(2) If the owner of the animal is known, the pound master shall give the owner notice in writing of having impounded or caused the impoundment of the animal.

(3) A person impounding an animal under subsection (1) shall fill a prescribed form indicating the following particulars—

- (a) name and address of the person impounding;
- (b) description of the animal;
- (c) an estimate of the damage, if any, caused by the animal;
- (d) an undertaking to reimburse the owner of the animal all cost incurred if it is proved that the impoundment was illegal or the claim for damages was unfounded; and
- (e) any other particulars as may be prescribed by the County Executive Committee Member.

(4) Where the animal causes any damage on any property of the person impounding the animal—

- (a) the pound master shall assess and ascertain the damage and approve that an amount not exceeding five thousand shillings be payable by the owner of the animal to the Pound Master who shall in turn pay the same to the person who incurred the damages before release of the animal to the owner; and
- (b) record the assessment in writing.

12. The owner of every impounded animal shall, in addition to any other payment, pay such daily poundage fees as the County Executive Committee Member may from time to time determine before the release of the impounded animal.

Poundage fees.

13. (1) No animal shall be released from any pound, to any person other than the owner of, or the person normally having control of that animal.

Right of animal owners.

(2) The owner of an impounded animal is entitled to collect the animal at any time, without payment of any fees, upon giving satisfactory security to the pound master for all costs, damages and poundage fees that may be established against the owner.

14. (1) Any animal not claimed within 14 days of having been received into a pound shall be deemed to be ownerless.

Loss of ownership of an animal.

(2) The department, or any person so authorized by the department, may cause any animal deemed to be ownerless to be sold by public auction.

(3) The proceeds of the sale under subsection (2) shall be applied—

- (a) to offset the expenses incurred by holding the auction sale;
- (b) payment of the poundage fees; and
- (c) surplus, if any, shall be retained for a period of six months from the date of the sale and thereafter paid to the owner of the animal sold upon proof of ownership thereof within six months from the date of sale, failing which the same shall be forfeited to the department.

15. The pound master or any person authorized by the department to do so, may at any time order the killing of any animal taken to a pound and detained therein, if it appears to the department that such killing is necessary or advisable for the prevention of spread of disease.

Prevention of spread of diseases.

16. When the common pound of any area or place is not secure, the pound master may confine the animal in any other place within the limits of the pound master.

When the common pound is not safe.

17. No liability shall attach to the department, the pound master or any person in respect of—

Protection against
Liability.

- (a) the release of any animal to a person other than the owner or the person normally having control of the animal;
- (b) the payment of any proceeds of sale to a person other than the owner of the animal sold;
- (c) the killing of any animal; or
- (d) any loss or damage incurred by or caused to any person by reason of the impounding of or other dealing with an animal according to this Act.

18. (1) If an animal is impounded, notices for the sale thereof shall be given by the pound master or person who impounded it within such period as the County Executive Committee Member may by Regulations prescribe.

Sale after notices.

(2) The notices of sale shall be posted up for three clear successive days in a public place in the area in which the animal was impounded and shall specify the time and place at which the animal will be publicly sold, if not sooner redeemed by the owner or someone on the owner's behalf, upon payment of the penalty to be prescribed under the Regulations by the County Executive Committee Member.

19. Every pound master and every person who impounds or confines, or causes to be impounded or confined, an animal in a common pound or in an open or close pound, or in an enclosed place, shall daily furnish the animal with good and sufficient food, water and shelter during the whole time that it continues to be impounded or confined.

Food to be
furnished
impounded
animal.

20. (1) Every such person who furnishes an animal with food, water and shelter may recover the value thereof from the owner of the animal and also a reasonable allowance for the person's time, trouble and attendance in the premises.

Recovery of
expenses.

21. (1) The expenses referred to under subsection (1) may be recovered with costs by summary proceeding before a court in like manner as fines, penalties or forfeitures for the breach of any law may by law be

Procedure for
recovery.

recovered and enforced by the court, and the court shall ascertain and determine the amount of such value and allowance when not otherwise fixed.

(2) The pound master or other authorized person may, instead of such summary proceeding, enforce the remuneration to which the person is entitled in the manner provided for in the Regulations.

22. If the owner, disputes the amount of damages so claimed, the amount shall be decided by the majority of three persons, one to be named by the owner of the animal, one by the person distraining or claiming damages, and the third by the pound master.

Disputes regarding demand for damages, how determined.

23. The pound master shall cause to be prepared and submitted to the County Executive Committee Member a statement indicating the following—

Report to the County Executive Committee Member.

- (a) the number of animals impounded or distrained, as the case may be;
- (b) the number of animals sold and the amounts received;
- (c) the sum received as poundage fees and cost of keep by the pound master or party distraining;
- (d) the damages paid by any party;
- (e) all disbursements and to whom paid;
- (f) any receipts and expenditures in connection therewith

24. 1) Any person who, without lawful Authority, either releases or attempts to release any animal being properly conveyed to or held within a pound

Unlawful release of an animal in a pound.

25. 1) Any person who commits an offence under this Act for which no other penalty is provided commits an offence and shall upon conviction be liable—

General penalty.

- (a) in the case of a first offence, to a fine not exceeding fifty thousand Kenya shillings, or to imprisonment for a term not exceeding six months, or to both such fine and imprisonment; or
- (b) in the case of a second offence, to a fine not exceeding one hundred thousand Kenya

shillings, or imprisonment for a term not exceeding nine months, or to both such fine and imprisonment.

(3) Offences under this Act shall be cognizable to the police.

MEMORANDUM OF OBJECTS AND REASONS

The principal purpose and objectives of this Bill is to provide for the establishment and management of pounds; the prohibition of roaming animals in the streets and other public places and for the connected purposes.

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 scope and application, objects and purpose of the Bill, prohibition of animals roaming and liability of owner of animals for any damage.

PART II of the Bill provides for the establishment and administration of animal pounds, appointment of pound master and the functions of the pound master.

PART III of the Bill contains general provisions and provides for seizure of animals by pound master and a land occupier, poundage fees, right of owner of impounded animal, prevention of spread of diseases and related matters, sale of animals after notice, impounded animals to be fed, recovery of expenses and reporting.

PART IV of the Bill deals with offences and penalties. The enactment of this Bill will not occasion a small expenditure of public funds which will be provided under budgetary allocation.

Statement on Delegated Powers to Legislate

The Executive Committee Member responsible for culture is empowered make necessary Regulations for the better functioning of various provisions of the Act.

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 the 27th November, 2014.

MOSES ONDERI,
ECM, Lands, Housing, Physical Planning and Urban Development.

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA