

SPECIAL ISSUE

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REPUBLIC OF KENYA

**KISII COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

NAIROBI, 30th September, 2015

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NAIROBI, KENYA

2015

Kisii County Solid Waste Management

No. 5

THE KISII COUNTY SOLID WASTE MANAGEMENT ACT, 2015

No. 5 of 2015

Date of Assent: 23rd September, 2015

Date of Commencement: 14th October, 2015

ARRANGEMENT OF SECTIONS

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**THE KISII COUNTY SOLID WASTE
MANAGEMENT ACT, 2015**

**AN ACT of the County Assembly of Kisii to provide for
Solid Waste Management and for connected
purposes**

ENACTED by the County Assembly of Kisii as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Kisii County Solid Waste Management Act, 2015.

Short title

2. The purpose of this Act is to enable the County Government to protect and promote the long term clean environment, health and well-being of the people within its jurisdiction by—

Objective

(a) providing, in conjunction with any other applicable law, an effective legal and administrative framework within which the County Government shall manage—

(i) manage and regulate activities that have the potential to impact adversely on the environment; and,

(ii) require premises to be properly maintained and managed; and

(b) defining the rights and obligations of the County Government and the public in relation to this purpose.

3. The Act shall apply throughout the area of jurisdiction of Kisii County.

Application

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

Interpretation

“Bulk waste” includes large appliances, machines, furniture, and other solid waste (other than construction or demolition debris or dead animals with weights or volumes greater than those allowed for bundle waste or dustbins);

“bundle waste” includes tree plants, shrubs, bush trimmings, newspapers, magazines, cartons or solid waste securely tied as a package not exceeding one meter in length or fifteen kilograms in weight;

“clinical waste” includes any waste which consists

wholly or partly of human or animal tissue, blood or other body fluids, excretions, drugs or other pharmaceutical products, swabs or dressings or syringes, needles or other sharp instruments and any other waste arising from medical, nursing, dental, veterinary, pharmaceutical or similar practice or the collection of blood for transfusion being waste which may prove hazardous to any person coming into contact with it;

“County” means Kisii County;

“County Government” means the County Government of Kisii;

“County waste” means waste which is the responsibility of the County whether under this Act or under any other law to collect treat and otherwise dispose of;

“Department” means the county department for the time being responsible for matters of environmental management;

“Domestic waste” means normal household waste produced in a residential building used wholly as a private dwelling. If any trade is carried on in a residential building or any part thereof the whole of the waste arising there from shall be considered as trade waste;

“Executive Committee Member” means the County executive committee member for the time being in charge of Water, Environment, Energy and Natural Resources or any other officer of the county authorized by the executive committee member for the purposes of this Act.

“hazardous waste” means waste which is toxic, flammable, corrosive, radioactive, explosive or otherwise dangerous, and shall also include motor oil, diesel fuel gasoline (petrol), paint, solvents, dry cells and vehicle batteries, pesticides, and infectious or medical wastes from hospitals and clinics, metallic and or oily sludge’s or solvents from commercial and industrial establishments, asbestos materials, radioactive wastes, and any such like waste which possess characteristics that make them hazardous to human beings or to the environment;

“Hazardous waste audit” means verification of records of hazardous waste disposal by an authorized institution or authority;

“Occupier” in relation to any premises, means any person—

- (a) occupying the premises;
- (b) leasing the premises;
- (c) who is not occupying the premises but is entitled to do so; or
- (d) who manages the premises or a business on the premises on behalf of a person referred to in paragraphs a, b, or c.

“Owner” means—

- (a) title holder and includes any person-lawfully claiming title under him or his agent or any person receiving rent or proceeds on his behalf.
- (b) if the person referred to in (a) above is dead, insolvent, mentally ill, a minor or under any legal disability, the executor, guardian or other person who is legally responsible for administering that person’s estate.

“Person” means a natural person or a juristic person, and includes an organ of the state.

“premises” means—

- (a) any land without any buildings or other structures on it;
- (b) any building or other structures and the land on which it is situated;
- (c) Any land which adjoins land referred to in paragraph (a) or (b) and any building or other structure on the adjoining land, if that land, building or structure is occupied or used in connection with any activity carried out on the premises referred to in paragraph (a) or (b); or
- (d) any vessel, vehicle or movable structure which is used for a scheduled use.

“Residential dwelling” means any house, room, shed, hut, cave, container, shelter, vehicle or any other structure or place whatsoever, any part of which is used or appears intended for use by any human being for sleeping or in which any human being dwells or sleeps and “room” has a corresponding meaning;

“Solid waste” means waste material generated by domestic households, institutions, commercial establishments, and industries, and all litter and clandestine piles of such wastes;

“street” includes any street, road, highways, path, sanitary lane, sand lane, thoroughfare or public space to which the public have access and includes a bridge over which a roadway runs;

“waste” includes any substance which constitutes a scrap material or an unwanted surplus substance arising from the application of any process and any substance or article which requires to be disposed of as being broken, worn out, contaminated or otherwise spoilt and for the purposes of this Act anything which is discarded or otherwise dealt with as if it were waste shall be presumed to be waste unless the contrary is proved;

“Waste management” includes cleansing, removal, collection, transport, separation, treatment and or disposal of waste in accordance with this Act;

“Waste operator” means an entity licensed by the County to carry out waste management operations within the County;

“Waste management services charge” means the charge determined by the County from time to time either of its own motion or on a proposal from a Waste manager as a waste management services charge;

“Waste treatment” includes sorting, separation, recycling, bulking, or other activity formal or informal which changes the quantity and or composition of waste pending final disposal whether or not carried out with a view to extracting useable elements;

“Permit” means a document issued by the County to a person or an entity to conduct business within its jurisdiction.

“Permit holder” means a business entity or person duly authorized by the County to conduct business within Kisii County.

PART II—ADMINISTRATION AND IMPLEMENTATION

5. (1) This Act shall be administered by the Department.

Administration of
this Act

(2) The Executive Committee Member shall, by notification in the *Gazette*, appoint such number of authorized officers as may be necessary for the proper administration of this Act.

6. (a) The County Government has the primary duty to regulate waste and its management within the County and for this purpose all waste generated or otherwise arising within the area of Kisii County shall be subjected to this Act and shall be regulated by the County Government accordingly.

Duty of care

(b) The County Government shall prepare a waste management plan of its arrangements for managing waste arising within its area of jurisdiction.

(c) The plan shall include information as to, among other things, the kinds and quantities of waste likely to be present within its area of jurisdiction during the plan period; the methods by, and arrangements under, which the waste should be treated or disposed of; the sites and equipment which the County Government and other persons are providing or propose to provide for treating and disposing of the waste; and an investment plan for implementing the plan.

(d) The County Government shall establish and maintain schemes and/ or arrangements for the removal and destruction of, or otherwise dealing with, all kinds of waste generated or otherwise arising within its area of jurisdiction however arising and may establish different schemes or

arrangements for different parts or zones of its area of jurisdiction or for different categories of waste and, where such schemes or arrangements are established or otherwise exists, to compel the use of such schemes or arrangements by persons residing in or carrying on business and / or other activities within its area of jurisdiction.

- (e) It shall be the duty of any person who produces, carries, keeps, treats, disposes of or otherwise handles waste or who otherwise has control of waste from his premises or that of any other person and, on the transfer of waste, to ensure that the transfer is made only to an authorized person or to a person for authorized transport purposes and that there is transferred with the waste such a written description of the waste and also to enable other persons to comply with this duty as respects the escape of the waste.
 - (f) The duty under rule (e) above does not apply to an occupier of domestic property in respect to the household waste produced on the property.
 - (g) The occupier or owner of any residential dwelling or trade premises within the area of jurisdiction of the County Government shall deal with waste arising from the premises in accordance with the directions issued by the County Government either specifically or under the scheme or arrangement established by the County Government under this Act for the management of domestic and / or trade waste arising in the area where the particular occupier or owner resides or carries on business or other activities.
7. (a) The County Government shall issue permit to waste operators who satisfy such requirements as to technical and financial capability as it shall stipulate.
- (b) The County Government shall determine categories of waste operators for which an application may be made and may from time to time alter such categories.
- (c) An application for a waste operator's permit shall be

Waste Operators

made on an application form provided by the County Government shall include information about the technical and financial capability of the applicant to provide the services specified in the application.

- (d) Where the County Government receives an application it shall publish the fact of the application in one newspaper with a circulation within its area of jurisdiction and shall invite members of the public to make representations within 14 days of the publication of the application.
- (e) Any person who, in an application for a waste operator's permit makes any statement which he knows to be false or reckless in any material fact shall be guilty of an offence under this Act.
- (f) A waste operator's permit shall include such terms and conditions as the County Government sees fit to specify in the permit including a description of the activities which may be undertaken under the permit; the duration of the permit; the supervision by the holder of the permit of activities to which the permit relates.
- (g) The County Government shall from time to time review the performance of waste operators and may suspend or cancel a waste operator's permit if the permit holder has breached the terms and conditions of the permit or has been guilty of negligence in managing waste whose management is authorized by the permit; or for other sufficient reason.
- (h) Subject to the process in (d) above, the County Government may on its own initiative, or on the application of the permit holder, modify the terms and conditions of the permit.
- (i) Where it appears to the County Government that the continuation of activities to which a waste operator's permit relates is causing or would cause pollution of the environment, danger to the public health or serious detriment to the amenity of the locality affected by the activities and the pollution,

danger or detriment cannot be avoided by modifying the conditions of the permit, the County Government may revoke the permit with effect from a specified date after issuing a notice to the permit holder and hearing any representations that the permit holder may wish to make as to why the permit should not be revoked.

- (j) No permit holder shall transfer the permit to another person without a written consent of the County Government.
- (k) Permits issued under this Act may be relinquished upon—
 - (i) a permit holder giving a 30 days' notice to the County Government; and,
 - (ii) receives a notification from the County Government of no objection to the relinquishment; and
 - (iii) delivering the permit to the County Government, within 14 days from the date of such notification.
- (l) Any such relinquishment shall not absolve the permit holder from any liabilities or obligations whether civil or criminal incurred during the period when he held the permit.
- 8. (a) Unless a person belongs to a category of transporters exempted by the County Government, any person who is not a registered transporter of solid waste or a permit holder in the course of any business of his or otherwise with a view to profit from transport any solid waste within the area of jurisdiction of the County Government commits an offence under this Act.
- (b) The County Government shall make provision for the registration of waste transporters. Applicants shall provide information regarding their physical address and their financial and technical capability to transport waste.
- (c) The County Government may require registered waste transporters to execute a security bond as a condition for registration.

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(d) In determining whether it is desirable for any individual to be or to continue to be authorized to transport waste the County Government shall have regard to—

- (i) whether the person, his agents, servants and/or employees have been convicted of an offence under this Act; and,
- (ii) whether that individual has been party to the carrying out of business in a manner involving commission of an offence under this Act.

(e) The County Government may revoke the registration of a person who has been convicted of an offence under this Act.

(f) If it appears to a duly authorized officer of the County Government that any waste is being or has been transported in contravention of this Act, he may, in the presence of a police officer, stop any person appearing to him to be or to have been engaged in transporting that waste and require that person to produce his authority or, as the case may be, his employer's authority, for transporting that waste and search any vehicle that appears to him to be a vehicle which is being or has been used for transporting waste.

(g) For the purposes of paragraph (f) of this Act, a person's authority to transport waste is his certificate of registration as a transporter of waste or a certified copy thereof or evidence that he is not required to be registered as a waste transporter.

9.(a) The County Government shall maintain a register containing prescribed particulars of all waste operator's permits and registrations of transporters which are for the time being in force.

Registers

(b) The County Government shall ensure that the register is open for inspection at its principal office by members of the public free of charge at all reasonable hours.

(c) The County Government shall accord members of the public reasonable facilities for obtaining, on payment of reasonable charges, copies of entries in the register.

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Collection.

10. (a) It shall be the duty of the County Government to arrange for the collection, treatment and disposal of, or otherwise dealing with, all domestic waste and street and other litter generated or otherwise arising within its area of jurisdiction and to take all necessary and reasonably practicable measures to maintain all places falling within its area of jurisdiction in a clean and sanitary condition at all times.
- (b) For the purposes of carrying out its duty under sub-rule (a) above the County Government may enter into such agreements with third parties as it deems appropriate including contracts, franchises, and concessions.
- (c) It shall be the duty of the person who generates offensive trade waste or on whose premises offensive trade waste otherwise arises to arrange for the collection, treatment and disposal of all trade waste generated by him and to take all necessary and reasonably practicable measures to ensure that the trade waste is not released into the environment so as to cause pollution thereof.
- (d) Offensive trade waste for purposes of (c) above means any waste as a result of any business or business which involves an activity, listed hereunder—
- (i) panel beating or spray panting;
 - (ii) operating a waste recycling plant including oil and petroleum products recycling;
 - (iii) scrap yard or scrap metal dealing;
 - (iv) charcoal burning,
 - (v) brick burning;
 - (vi) manure making or storing or compost making;
 - (vii) manufacture of malt of yeast;
 - (viii) cement works;
 - (ix) rolling of iron or other metal;
 - (x) garage operations.

- (e) It shall be the duty of every occupier and every owner of premises wherein any hazardous waste or clinical waste is generated, to make suitable arrangements, including the separation of such waste from other non-hazardous waste or non-clinical waste, to the satisfaction of the County Government, for the proper management of the waste and in doing so shall comply with any directions issued by the County Government
- (f) It shall be the duty of every occupier and every owner of premises wherein bulk waste is generated to make suitable arrangements for the disposal of such waste and in doing so shall comply with any directions of by the County Government.
- (g) Every occupier and/or tenant of any residential dwelling shall provide and maintain, to the satisfaction of the County Government, a container for domestic waste of a sufficient size, and fitted with a good and effective lid and shall daily cause to be placed within such container the domestic waste from the said residential dwelling in so far as the said container shall be sufficient to contain the same;
- (h) Every occupier and/or tenant of any trade premises shall provide and maintain to the satisfaction of the council a container for trade waste of a sufficient size, and fitted with a good and effective lid, and shall daily cause to be placed within such container the trade waste from the said premises in so far as the said container shall be sufficient to contain the same.
- (i) If it appears to the County Government that there is likely to be situated on any premises in its area trade waste of a kind or in quantities which, if the waste is not stored in containers of a particular kind, is likely to cause a nuisance or to be detrimental to the amenity of the locality in which the premises are situated the County Government may, by notice served on the occupier, require him to provide at the premises, containers for the storage of such waste which are

of a kind and number reasonably specified in the notice.

- (j) Occupiers of domestic and trade premises shall separate waste which can be recycled and place them in a different container provided by the County Government or the waste operator as the case may be for the purpose.
- (k) It shall be an offence under this Act to burn, throw away, or otherwise dispose of domestic and trade waste other than by handing it to, or where there is an arrangement to that effect, leaving it at an appropriate place and in an appropriate container, for collection by a licensed waste manager or a registered waste transporter.
- 11. (a) Waste shall be disposed of only in permitted disposal areas or at an approved disposal facility.
- (b) It shall be the duty of the County Government to provide places at which to deposit waste before its transfer to a place for its final disposal and places at which to dispose of waste and plant and equipment for processing it or otherwise disposing of it.
- (c) The County Government may permit another person to use facilities provided by it with or without a charge as may be appropriate.
- (d) The person in charge of the waste disposal facility and the person delivering waste to the facility shall maintain a record of all waste loads disposed of at the facility. The record shall take the form of a delivery note signed by both parties at the time of disposal of each load. The records shall be kept for a period of five years and shall be availed to the County Government on request within that period.
- (e) Waste delivered to a permit holder shall be his responsibility to him to deal with under this Act.
- (f) No person shall sort over or disturb anything deposited at a place provided or approved by the County Government for the deposit of waste or in containers for waste provided by the County Government or other person unless he is

authorized to do so by the County Government or unless she is a person entitled to the custody of the container or is authorized to do so by such a person or is a person having the function of emptying the container.

- (g) The County Government shall make provision for small scale resource recovery activities to be undertaken by organized groups at designated sites before disposal of waste.
- (h) A permit holder may do such things as it considers appropriate for the purpose of enabling waste belonging to it to be used again or enabling substances to be reclaimed from such waste and it may use, sell, or otherwise dispose of waste belonging to it or anything produced from such waste.

12. (a) The County Government shall issue directions on waste collection charges. The directions shall specify the amount of charge or charges to be imposed for different categories of services or for services in different localities or zones within the area of jurisdiction of the County; the mode of payment and receipt of the charges; and provisions as to the penalty or penalties for failure to pay the charges.

Payments

- (b) Directions on charges or waste management services may provide for the imposition of a levy to meet the costs of general cleansing but any such levy must be itemized separately on the waste bill or other invoice and must be placed by the collector in a dedicated fund.
- (c) Charges shall be collected by the person who provides the waste management services for which the charge is being levied.
- (d) There shall be paid by every person or entity to whom a waste management service is provided, a waste charge imposed in accordance with the directions issued by the County Government
- (e) The County Government hereby imposes the waste charges which are annexed to this Act.

PART III—MISCELLANEOUS PROVISIONS

- 13.** (a) The County Government shall establish and implement a system of monitoring, inspections and enforcement of waste management activities and shall inform and keep the public informed of steps it is taking to implement and improve waste management within Kisii County and the use to which the general cleansing levy is put in each year. Enforcement
- (b) Any officer or agent of the County Government duly authorized in that behalf, may at all reasonable times, enter any residential dwelling or trade premises within the area of jurisdiction of the County Government for the purposes of conducting any inspection, inquiry or the execution of works under the provisions of this Act.
- (c) In addition to such penalties for non-payment as may be stipulated in the directions issued by the County Government for non-payment of charges for waste management services, any waste management charge payable under the Act shall be a debt due and owing to collector and may be recovered as a civil debt at the instance of the collector or any person authorized by the collector to collect on its behalf.
- (d) Any power or function conferred on the County Government under this Act may be exercised or performed by a third party pursuant to an agreement between the County Government and the third party and will be deemed to have been exercised or performed under the authority of this Act.
- 14.** Any person who refuses or fails to comply with any provision of this Act or gives false information in relation to any requirements of this Act shall be guilty of an offence, and, in addition to any other penalty which may lawfully be available, shall be liable on conviction to a fine not exceeding Fifty Thousand Shillings or for a term not exceeding 4 years imprisonment or to both such fine and imprisonment. Offences and penalties
- 15.** The Executive Committee member may make Regulations generally for the better carrying out into effect of the provisions of this Act. Regulations.

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