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THE LAMU COUNTY TRADE LICENCE ACT, 2015

No. 10 of 2015

AN ACT of the County Assembly of Lamu to provide for the grant of trade licence, and for connected purposes.

ENACTED by County Assembly of Lamu as follows—

PART I — PRELIMINARY

Short title and
commencement. 1. (1) This Act may be cited as the Lamu County Trade Licence Act, 2015.

(2) This Act shall come into operation one month after enactment by the County Assembly.

Interpretation.

2. In this Act unless the context otherwise requires—

“Approved form” means a form set out in schedule 2 or approved by the Chief Licensing Officer;

“Authorized officer” has the meaning given by Section 12;

“Business” includes a profession (excluding regulation of the profession, trade or occupation, other than a prescribed business;

“Chief licensing officer” means an officer of the county government appointed under Section 3;

“County assembly” means County Assembly of Lamu;

“County government” means Lamu County Government;

“Holder” in relation to a trade licence means a person to whom a licence is granted;

“Licence fees” means the fee payable for the grant or renewal of a trade licence;

“Prescribed” means stipulated by this Act and the rules made under this Act;

“Receiver of revenue” means the Chief Officer for finance appointed in writing by the County Executive Committee Member responsible for finance pursuant to Section 157 of Public Finance Management Act, 2012;

“Trade licence” means a licence granted to conduct a business.

PART II – TRADE LICENCE PROVISIONS

Chief licensing officer.

3. (1) The County Executive Committee Member responsible for trade shall, in writing, appoint an officer of the County Government as the chief licensing officer.

(2) The chief licensing officer has the functions and power provided for under this Act.

Requirement for a Trade Licence.

4. (1) A person shall not conduct a business within the county unless the person is the holder of a trade licence for that particular business.

(2) If a person fails to comply with sub-section (1), the person is guilty of an offence punishable on conviction by a fine not exceeding five hundred thousand shillings or imprisonment for a term of not more than one year or to both.

Application for licence.

5. (1) An application for the grant of a trade licence shall—

- (a) be lodged with the chief licensing officer; and
- (b) be in the prescribed form; and
- (c) contain such information and be accompanied by the documents specified in schedule 2, part A;
- (d) be declared and signed by the applicant;
- (e) be accompanied by the prescribed fee (if any).

(2) An application may be made in an electronic format approved by the chief licensing officer.

(3) The chief licensing officer shall, before determining an application, require the applicant to furnish such additional information or documents as is necessary to enable the application to be determined.

(4) The prescribed application fees once paid shall not be refunded.

Grant of licence.

6. (1) The chief licensing officer shall grant an application for a trade licence within 21 days if—

- (a) the licensing officer is satisfied that the applicant has complied with all laws relating to health, hygiene and safety applicable to the trade licence applied for; and
- (b) the licence fee has been paid in full to the receiver of revenue.

(2) A trade licence is to be in standard form approved by the chief licensing officer and granted subject to such conditions (if any) as are specified.

(3) The licence fee for the grant of a trade licence is to be calculated on a *prorata* basis having regard to the period remaining in a calendar year after the date on which the trade licence was granted for new business establishment; unless it was granted on the first day of the calendar year.

(4) An original trade licence shall be conspicuously displayed at the business premise.

(5) Falsifying a trade licence is an offence punishable on conviction to imprisonment for a term not exceeding one year or a fine of hundred thousand shillings or both.

Renewal of
licence.

7. (1) The holder of a trade licence shall, before the expiry of the trade licence, apply in the prescribed form for the renewal of the trade licence upon payment of the prescribed application fee.

(2) The chief licensing officer shall grant an application for the renewal of a trade licence, if the applicant complies with the conditions set out in Section 6 (1) of this Act.

(3) The chief licensing officer may, before determining an application for renewal, require the applicant to furnish such additional information or documents as is necessary to enable the application to be determined.

(4) Subject to Section 8, a trade licence is to be renewed for a calendar year.

Cancellation or
suspension.

8. (1) The chief licensing officer may cancel or suspend a trade licence if satisfied that:

- (a) the conduct of the business is endangering the health or safety of persons who live or work in the neighbourhood of the premises from which the business is conducted; or
- (b) the holder has breached a condition of the trade licence.

(2) If a trade licence is cancelled or suspended or any such suspension is revoked, the chief licensing officer shall within 7 days give the holder of the licence written notice of such cancellation or suspension, including the period of the cancellation or suspension, together with a statement of the reasons for the decision.

(3) If a trade licence is cancelled or suspended the holder of the licence shall immediately cease to conduct business.

(4) If a person fails to comply with sub-section (3) the person is guilty of an offence punishable on conviction to a fine not exceeding five hundred thousand shillings or a jail term not exceeding one year or both.

(5) If a chief licensing officer revokes the suspension of a trade licence, the holder of the licence may resume conducting the business.

Surrender of licence.

9. The holder of a trade licence may surrender the licence by returning it to the chief licensing officer, but the licence fee shall not be refunded.

Transfer of licences.

10. (1) The holder of a trade licence shall give two weeks written notice to the chief licensing officer of any transfer or assignment of the licence.

(2) The chief licensing officer shall charge a transfer fee.

Appeal.

11. (1) A person aggrieved by the decision of the chief licensing officer may appeal to the County Executive Committee Member for trade against the decision.

(2) The County Executive Committee Member responsible for trade may confirm, reverse or modify the decision appealed against and make such orders and give such directions to the chief licensing officer as may be necessary.

(3) The decision of the County Executive Committee Member for trade shall be final.

Licensing Officers.

12. (1) The County Executive Committee Member responsible for trade may in writing appoint persons as authorised officers for the purposes of this Act.

(2) An authorized officer has powers as set out in schedule 1.

Register.

13. (1) The chief licensing officer shall establish and maintain a register of trade licences which is to be available for inspection by the public during usual office hours.

(2) The register shall contain such information as is prescribed, but shall not include confidential commercial information.

False or misleading.

14. (1) A person shall not make a statement which the person knows to be false or misleading—

(a) when applying for a trade licence; or

(b) when required to furnish information under this Act.

(2) If a person contravenes sub-section (1), the person is guilty of an offence punishable on conviction to a fine not exceeding five hundred thousand shillings or jail term of not more than one year or both.

County
Assembly to
approve fees.

15. The County Assembly shall approve licence fees that are payable for the grant or renewal of trade licences including any additional fees for the non-payment or late payment of such licence fee contained in the finance Bill.

Power to make
rules.

16. (1) The County Executive Committee Member responsible for trade shall make regulations for the better carrying out of the provisions of this Act with the approval of the County Executive Committee.

(2) Without limiting sub-section (1), regulations shall be made for the following purposes—

- (a) method or basis of charging a trade licence;
- (b) collecting of trade licence fees including additional fees;
- (c) prescribing fees for services;
- (d) prescribing form;
- (e) publication and service of notices and other documents.

SCHEDULE I — POWERS OF AUTHORIZED OFFICERS

Section 12

1. An authorised officer may —
 - (a) Enter any premises for the purpose of—
 - (i) Granting or renewing a trade licence; or
 - (ii) Finding out whether the holder of a trade licence is complying with the conditions of the licence, or this Act or the rules made under this Act; and
 - (b) Search the premises or any part of the premises; and
 - (c) Inspect or examine anything in or on the premises; and
 - (d) Seize anything that may afford evidence of the commission of an offence against this Act; and
 - (e) Take copies or extracts of any document in or on the premises; and
 - (f) Take into or on to the premises such persons, equipment or materials as the authorized officers reasonably requires for the purposes of exercising any of the powers mentioned in paragraph (a) to (e); and
 - (g) Require the holder of the licence, or any person in or on the premises, to give to the authorized officer reasonable assistance in relation to the exercise of any of the powers mentioned in paragraph (a) to (f).
2. However, an authorized officer shall not enter premises unless —
 - (a) the owner or occupier of the premises consents to the entry; or
 - (b) the premises are open for the conduct of business or otherwise open for whatever reason; or
 - (c) a warrant is obtained if the authorized officer suspects on reasonable grounds that an offence is being committed against this Act in or on the premises.

SCHEDULE II — APPROVED FORMS

Section 2

PART A

APPLICATION FORM

LAMU COUNTY TRADE LICENCE ACT, 2015

APPLICATION FOR THE GRANT/RENEWAL OF A TRADE LICENCE

The application shall contain the following details with necessary modification—

1. Applicant's name and description of business, profession, trade or occupation to be conducted.
2. Name under which business, profession, trade or occupation, is to be carried on.
3. If business is a partnership, full names and address of all partners.
4. Registration details of business, profession, trade or occupation.
5. Registered office of the business, profession, trade or occupation.
6. Postal address(es) of the business, profession, trade or occupation and e-mail or telephone contacts.
7. Physical address of the place of business.
8. Identification details of the applicant.
9. Date on which it is desired to begin conducting the business, profession, trade or occupation or the previous licence number.
10. The applicant to provide such additional information and documents as may be necessary.
11. The applicant to make a declaration regarding the correctness of the information given.
12. Payment of the prescribed application fees.

PART B

LAMU COUNTY TRADE LICENCE ACT, 2015

TRADE LICENCE

A trade licence to conduct..... (insert business, trade, profession or occupation to be conducted) at a premise situated at (insert location of the premises to which licence applies) is granted for..... the period starting on (insert initial date of the grant of the trade licence) and ending on 31st December (insert year) or is renewed for the period from 1st January (insert year) to 31st December (insert year).

The holder of the licence is (insert name of person to whom the trade licence is granted or for whom it is renewed).

The licence is granted or renewed subject to the Lamu County Trade Licence Act (2015) and the rules made under that Act and the conditions set out below:

[Insert conditions relating to the particular business, trade, profession or occupation to which the licence relates]

Dated this day of (year).....

Granted by(Signature)

Chief Licensing Officer

Stamp