

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
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**THE MACHAKOS COUNTY OMNIBUS STATIONS AND
PARKING BILL, 2015**



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THE MACHAKOS COUNTY OMNIBUS STATIONS AND PARKING BILL, 2015

A Bill for

AN ACT of Machakos County Assembly to regulate omnibus activities in the county and to ensure order and cleanliness in the omnibus stations and for connected purposes.

ENACTED by the Machakos County Assembly as follows—

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Machakos County Omnibus Stations and Parking Act, 2015.

Interpretation

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

“authorized officer” includes the Medical Officer or any person acting under the authority of the Licensing Officer;

“County Executive Committee Member” means the County Executive Committee for the time responsible for matters relating to transport;

“omnibus” means a public service vehicle having seating capacity for more than seven passengers exclusive of the driver, and includes any vehicle having seating accommodation for not more than ten passengers exclusive of the driver, whether or not such vehicle is licensed to be a public service vehicle;

“omnibus station” means such omnibus stations as may from time to time be prescribed;

“park” means to draw up a vehicle and leave the same stationary in a street or public place for a continuous period exceeding five minutes;

“station supervisor” means the person appointed in writing by the licensing officer to manage, control and supervise the omnibus station specified in such appointment and includes their authorized assistant; and

“vehicle” includes any motorcycle, tractor, trailer, wagon, hand cart, pedal bicycle and any other motor or manual or electric vehicle.

Objects and Purposes

3. The object and purpose of this Act is to provide for a legislative framework for regulating omnibus activities and in particular to—

- (a) require the licensing of omnibus activities;
- (b) designate omnibus stations; and
- (c) provide for the institutional framework for regulating omnibus station.

PART II—REGULATION PROVISIONS

Licensing Officer

4. (1) The County Executive Committee Member in charge of transport shall be responsible for enforcing the provisions of this Act.

(2) The County Executive Committee Member may delegate, in writing, any of the powers under this Act to one or more authorized officers in the County.

Issue of Permits

5. A person shall not engage in any commercial, passenger transport business unless permitted to do so by the licensing officer.

Starting or Terminating a journey

6. (1) A driver of an omnibus when carrying passengers for hire or reward shall not, without the prior written permission of the licensing officer, start or terminate any journey at any place other than an omnibus station.

(2) A driver of a country omnibus when carrying passengers for hire or reward shall follow such routes as are prescribed for the purpose of starting or terminating any journey.

Complete Journey

7. A driver of an omnibus when carrying passengers for hire or reward, once having departed from an omnibus station, shall not return to that omnibus station until they have completed the scheduled journey in respect of such departure of scheduled journey

Parking Places

8. (1) A country omnibus, whilst plying for hire or reward and carrying passengers, shall not, without the prior written permission of the Town Director, be parked in any place other than omnibus stations.

(2) Despite subsection (1) nothing in this section shall apply to an omnibus standing at a stopping place designated as an omnibus stop for the purpose only of—

- (a) picking up passengers on the outward journey for destination outside the omnibus station; or
- (b) setting down passengers from outside the omnibus station on the onward journey.

Approval of Timetable

9. (1) An owner of an omnibus utilizing an omnibus station shall furnish the licensing officer with a copy of, their operative timetable indicating the scheduled times of arrival and departure of all services, and the licensing officer may in their discretion approve such a timetable.

(2) Before the licensing officer approves a submitted timetable they may, if necessary require that amendments be made to it in the interests of the efficient and smooth running of an omnibus station.

(3) An owner of a motor omnibus shall adhere to their approved timetable.

(4) A motor omnibus shall not remain within the omnibus station for a period exceeding one hour or such other period as the licensing officer may from time to time determine.

(5) Where the approved timetable provides an interval exceeding one hour between the arrival and departure of any motor omnibus, such omnibus shall be removed from the omnibus station to a lawful place of parking not being a parking provided adjacent to a carriageway and it shall not be returned to the omnibus station earlier than thirty minutes before departure time.

Manner of Parking

10. (1) All motor omnibuses within an omnibus station shall be under the directions of a station supervisor and the drivers of any such omnibus shall at times comply with and obey all instruction directions and orders given by the station supervisor in respect of the place and manner of parking, the time of departure and arrival and any other matters conducive to the efficient and safe operation of an omnibus station.

(2) A motor omnibus once having been parked in a parking bay shall

not be removed from such a bay without the express permission of the station supervisor except when starting a journey.

(3) The licensing officer may from time to time lay down conditions covering such matters are referred to in subsection (1) of this section and may cause such conditions to be prominently displayed at an omnibus station.

Removal of Omnibus

11. (1) Where a motor omnibus is left in an omnibus station otherwise than in the manner authorized by Part VIA of the Traffic Act or by this law, the station supervisor or a police officer may have the same removed and kept in safe custody.

(2) An owner of a motor omnibus removed in pursuance of subsection (1) shall not be entitled to recover the such omnibus until they have paid to the Licensing Officer a prescribed fee of in respect of twenty four hours or part thereof that the vehicle has been in custody together with the total sum in respect of expenses incurred in removing and keeping the same in safe custody.

Passengers

12. A person including an employee of the owner of an omnibus but not the owner of an omnibus who boards or is in an omnibus shall be deemed to be there for the purpose of being carried for hire or reward.

Sales

13. A person shall not use, or cause to be used any motor omnibus parked in the omnibus station for purpose of effecting any sale purchase or exchange of any goods.

Manner of entering an Omnibus

14. Where six or more persons are waiting to enter a motor omnibus at an omnibus station they shall form a queue, and no person shall enter or attempt to enter an omnibus ahead of any person in such a queue.

Instructions and Directions of Station Supervisor

15. Every person in an omnibus shall comply with and obey all lawful instructions, directions or orders given by a station supervisor for the purpose of controlling or supervising the omnibus station.

Power of Confiscation

16. A police officer or an authorized officer shall have powers to detain any person who contravenes the provisions of this Act.

Powers of Police Officers or Authorized Officers

17. (1) A police officer or an authorized officer shall have the power to arrest, tow and detain vehicles or confiscate vehicles where a provision of this Act has been contravened.

(2) A person, who obstructs a police officer or an authorized officer from enforcing the provisions of this Act, commits an offence.

(3) If a vehicle is towed and detained the authorized officer or police officer shall release it to the owner after payment of the towing charges, other expenses and after meeting the requirements of this Act.

Conduct of Persons

18. A person shall not deposit or cause to be deposited in an omnibus station any refuse or garbage otherwise than in receptacle provided for that purpose by the Licensing Officer.

Obstruction

19. A person at omnibus station or at a country omnibus station shall not—

- (a) willfully interfere with or obstruct a station, supervisor acting in the performance of his duties;
- (b) willfully interfere with or obstruct any person alighting from or entering or intending to board an omnibus;
- (c) enter or attempt to board an omnibus otherwise than by the doors provided for that purpose;
- (d) willfully obstruct any driver or conductor of an omnibus from acting in the performance of his duty as a driver, or conductor; or
- (e) otherwise behave in a disorderly manner.

Nuisance

20. A person shall not, within an omnibus station—

- (a) urinate in a place other than a lavatory;
- (b) interfere with or molest any other person;
- (c) tout or shout or call out for customers;

- (d) cause any disturbance or use any offensive, or abusive language;
- (e) damage, deface, foul, misuse or interfere with any part of such omnibus station or any equipment, fitting or fixture provided thereon or therein;
- (f) spit;
- (g) play games or loiter therein or thereabouts; or
- (h) operate or cause or suffer to be operated an instrument fitted into an omnibus capable of giving audible and efficient warning of its approach or position in such a manner as to be so loud and so continuous or repeated as to cause annoyance and co be a nuisance to the public.

Ticket Offices

21. Where ticket offices are provided by the Licensing Officer on payment of rent, a person shall not within or in the vicinity of an omnibus station buy or sell a ticket or any document purporting to entitle a person to travel on any omnibus except at such ticket offices.

Issue of Tickets

22. An omnibus shall not depart from the omnibus station until every passenger therein has been issued with a ticket for his journey.

Hawking and Trading

23. A person shall not hawk, solicit or carry on any trade within or in the vicinity of an omnibus station except with the prior written permission of the Licensing Officer.

Trading Facilities

24. The Licensing Officer may provide suitable trading facilities in an omnibus station and such facilities may be let or hired out upon such condition as it may from time to time determine.

Fees and Charges

25. (1) The owner of any omnibus using an omnibus station shall pay to the Licensing Officer such fees as the Licensing Officer may prescribe.

(2) For the purpose of this section any omnibus driven into an omnibus station shall be deemed to be using the omnibus station.

(3) A person shall not drive an omnibus into an omnibus station when the fees due in that respect thereof has not first been paid.

Protection from personal liability.

26. No matter or thing done by a any authorized officer, employee or agent of the Office shall, if the matter or thing is done in good faith while executing the functions, powers or duties under this Act, render the authorized officer, employee or agent personally liable for any action, claim or demand whatsoever.

Offences and Penalties

27. (1) A person who contravenes any of the provisions of this Act commits an offence, and is liable upon conviction to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding twelve months or to both.

(2) In case of a subsequent conviction for the same offence referred to in subsection (1) the fine shall not exceed one hundred thousand shillings or a term of imprisonment not exceeding three years or both.

Regulations

28. The County Executive Committee Member may make regulations for the better carrying into effect the provisions of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to omnibus activities in the county and to ensure order in the omnibus stations. The Act requires that a person before operating an omnibus be permitted in accordance with the Act. It also establishes the institutional framework.

The structure of the Bill is as follows—

Part I (clauses 1-3) of the Bill contains preliminary provisions. These include the title of the Bill, interpretation of terms and a statement of objects of the Act. Among the objects are the requirements to require the licensing of omnibus activities; designate omnibus stations; and provide for the institutional framework for regulating omnibus station.

Part II (clauses 4-27) of the Bill provides for substantive provisions. The Chief officer in charge of trade will be responsible for enforcing the provisions of the Bill assisted by other authorized officers through the power of delegation. Additionally, regulation provisions such as when an omnibus starts and when it completes a journey, parking places, timetables before being followed by omnibus need to be approved by the licensing officer, manner of parking. Further, how passengers are to

conduct themselves has also been catered for, manner of entering an omnibus, that instructions and directions of station supervisor need to be followed, among others.

Dated the 23rd February, 2015.

HON. FELIX NGUI,
Member of the County Assembly.