

SPECIAL ISSUE

Mombasa County Gazette Supplement No. 13 (Bills No. 11)

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REPUBLIC OF KENYA

**MOMBASA COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 26th October, 2015

CONTENT

Bill for Introduction into the County Assembly of Mombasa—

PAGE

The Mombasa County Trade License (Amendment) Bill, 2015 1

**THE MOMBASA COUNTY TRADE LICENSE
(AMENDMENT) BILL, 2015**

A Bill for

**AN ACT of the County Assembly of Mombasa to
amend the Mombasa County Trade License Act,
2014 and for connected purposes**

ENACTED by the County Assembly of Mombasa, as
follows—

PART I—PRELIMINARY

1. The Mombasa County Trade License Act, 2014 in this Act referred to as the “Principal Act” is amended by inserting the heading “PART I—PRELIMINARY” immediately after the enacting formula. Insertion of new Part I in Act No. 5 of 2014

2. This Act may be cited as the Mombasa County Trade License (Amendment) Act, 2015 and shall come into operation upon publication. Short title and commencement.

3. Section 2 of the principal Act is amended by deleting the meaning of county revenue collector and substituting therefor with the following new meaning— Insertion of new section 2A in Act No. 5 of 2014.

“county revenue collector” means a person or legal entity appointed in writing by the County Executive Committee member in charge of Finance to collect revenue on behalf of the County Government.

4. The principal Act is amended by inserting the following new section immediately after section 2— Insertion of new section 2A in Act No. 5 of 2014

Object of the Act;

2A. The purpose of this Act is to—

(a) provide for the establishment of the Directorate of Trade;

(b) regulate trade licensing.

5. The principal Act is amended by inserting the following new Part immediately after Section 2A. Insertion of new Part II in Act No. 5 of 2014.

PART II—ADMINISTRATION

Establishment of the Chief Licensing Officer

2B. There shall be a Chief Licensing Officer in the Office of the Chief Officer, Trade who shall be

appointed by the County Public Service Board in consultation with the County Executive Committee Member for the time being in charge of trade.

Powers of the Chief Licensing Officer

2C. (1) The chief licensing officer shall have powers to—

- (a) issue a license under this Act;
- (b) withdraw or cancel a license issued under this Act; and
- (c) impose such conditions on a license issued under this Act;
- (d) develop policies, Regulations or administrative procedures related to the implementation of this Act;
- (e) identifying the challenges faced or gaps in the implementation of this Act to the extent that they relate to the licensees and development of measures to address the challenges; and
- (f) identifying and implementing measures of ensuring compliance with this Act.

(2) The Chief Licensing Officer shall, in each year convene and facilitate for each sub-County at least one public forum with licensees.

(3) Subject to the approval by the Executive Committee Member in charge of trade, the Chief Licensing Officer may establish mechanisms for collaboration and partnership with the business community in order to ensure effective implementation of this Act.

2D. The chief licensing officer may, by an instrument in writing, delegate all or any of the powers conferred under this Act to any county public officer.

6. Section 3 (3) of the principal Act is amended by deleting the words ‘within any other county’ appearing immediately after the word “business”.

Amendment of section 3(3) of Act No. 5 of 2014.

7. The principal Act is amended by repealing section 4 and replacing it with the following new section 4—

Repeal and replacement of section 4 of the Act No. 5 of 2014.

License Fees

4. The license fees payable under this Act shall be as prescribed under the Schedule.

8. Section 8 (3) of the principal Act is amended to be as follows; Amendment of section 8(3) of Act No. 5 of 2014.

8 (3) (a) If a trade license is cancelled or suspended, the holder of the license must immediately cease to conduct the business.

(b) Any person who contravenes section 8 (3) (a) is guilty of an offence and liable to a fine not exceeding 100,000 shillings or imprisonment to a term not exceeding three months.

9. Section 11 (2) of the principal Act is repealed.

Repeal of Section 11 (2) of Act No. 5 of 2014.

10. The principal Act is amended by inserting the following new section immediately after section 12

Insertion of new section 12 in Act No 5 of 2014.

Electronic system

Amendment of section 13 of Act No. 5 of 2014.

12A. (1) The Executive Committee Member for the time being responsible for trade shall adopt such appropriate electronic system for the purposes of implementing this Act.

(2) Any transaction carried out through electronic system under this Act shall have legal effect.

(3) Where a transaction is carried out through an electronic system, the Executive Member shall ensure that there is established sufficient record as evidence of the transaction.

11. Section 13 of the principal Act is amended by inserting the following subsection immediately after subsection 2;

(2A) A person licensed under this Act shall maintain such records as may be prescribed for the purposes of complying with the requirements of this Act.

12. The principal Act is amended by inserting the following new section immediately after section 13;

Insertion of new section 13 under Act No. 5 of 2014.

Annual report

13A. The chief licensing officer shall, not later than three months after the end each calendar year, cause to

be prepared an annual report in respect to each financial year which shall consist of among others—

- (a) the number and type of licenses issued during the year classified under—
 - (i) each sub-County and wards; and
 - (ii) each town or urban area;
- (b) the challenges faced in the implementation of this Act.

MEMORANDUM OF REASONS AND OBJECTS

The purpose of this Memorandum is to request the County Assembly's consideration and approval of the Mombasa County Trade Licensing (Amendment) Bill, 2015 and its direction that the Bill be published for introduction in the County Assembly.

The Fourth Schedule Part 2, paragraph 7 (b) of the Constitution of Kenya, 2010 devolves trade development and regulation and in particular trade licensing. County Assembly of Mombasa therefore has the mandate to pass a law in regard to the revolving fund which shall aid people develop in trade within the county.

Part I of the Bill names the proposed Act, defines words and expressions used in the Bill. It also provides for the commencement date and the main objectives of the Act.

Part II of the Bill provides for administration and the office of chief licensing officer who shall deal with licensing, the electronic system and annual reports.

RECOMMENDATIONS

The Assembly is requested to—

- (a) note the contents of this Memorandum;
- (b) approve the Mombasa County Trade Licensing (Amendment) Bill, 2015 annexed to this Memorandum.

IBRAHIM KONDO,
Chairperson, Committee on Trade.

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