

SPECIAL ISSUE

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

Mombasa County Gazette Supplement No. 23 (Bills No. 18)

MOMBASA COUNTY ASSEMBLY
LIBRARY
P.O. Box 90440 - 80100
MOMBASA



REPUBLIC OF KENYA

**MOMBASA COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2014

NAIROBI, 11th December, 2014

CONTENT

Bill for Introduction into the Mombasa County Assembly—

PAGE

The Mombasa County Wholesale Market Control and Licensing Bill, 20141

**THE MOMBASA COUNTY WHOLESALE MARKET CONTROL
AND LICENSING BILL, 2014**

Clauses

PART I PRELIMINARY

1. Short title.
2. Commencement.
3. Interpretation.
4. Object of the Act.

**PART II – ADMINISTRATION AND MANAGEMENT OF
WHOLESALE MARKETS**

5. Establishment of wholesale markets and sale of goods in wholesale markets.
6. Control of wholesale markets.
7. Time of operation.
8. Off market hours.
9. Lighting of fire.
10. Tampering with power meters within market.
11. Washing and cleaning products in the market.
12. Hygiene in the market.
13. Offences in the market.
14. No sale or display of food unfit for human consumption.
15. Display or exhibition of food.
16. Stalls within the market.
17. Weights and measures to be standard.
18. Leasing of stalls.
19. Charges for use of wholesale markets.

PART III – MISCELLANEOUS

20. Entry to the market.
21. Offences.
22. Regulations.

**THE MOMBASA COUNTY WHOLE SALE
MARKET CONTROL AND LICENCING BILL,
2014**

A Bill for

**An Act of the County Assembly of Mombasa to provide
for the control and licencing of wholesale markets
within the County of Mombasa and for connected
purposes**

ENACTED by the County Assembly as follows—

PART I — PRELIMINARY

1. This Act may be cited as the Mombasa County Wholesale Market Control and Licensing Act, 2014.

Short title.

2. This Act shall come into operation on such a date as the Executive Member may by notice in the gazette appoint.

Commencement.

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

Interpretation.

“county” means the County Government of Mombasa;

“Executive Member” means the County Executive Committee Member in charge of Trade;

“Wholesale Market” means open yard or built-up premises set aside for the purposes of buying and selling horticultural produce, food, farm produce or such other things as may be specified by the county from time to time.

“Market Master” means the person appointed in writing by the County to control and supervise the market or markets specified in such appointment.

“Fees & charges” shall be the latest at any point in time provided by the county;

“Stores” means an indoor enclosure in a wholesale Market;

4. The object of this Act is to provide commercially viable wholesale facility for the efficient distribution of fresh produce and other market products, control, maintain and manage wholesale markets and uphold the observance of acceptable hygiene standards.

Object of the Act.

PART II – ADMINISTRATION AND MANAGEMENT OF WHOLESALE MARKETS

5.(1) There shall be no wholesale market established within the County without the consent of the county.

Establishment of
wholesale markets
and sell of goods in
wholesale markets.

(2) No person shall sell goods in a wholesale market except with the consent of the County given by the Market Master and upon payment of the fees authorized by this Act.

6. The whole sale market shall be under the control of the Executive Member, who shall appoint a market master and such other persons as may be necessary to secure the effective control and supervision of such market.

Control of wholesale
market.

7. The wholesale market shall be opened on such days and during such hours as the Executive Member shall from time to time determine for the sale of horticultural produce, cereals or any other foodstuff as may from time to time be authorized by the County.

Time of operation of
wholesale markets.

8. No person shall be allowed to remain in the wholesale market during the hours in which the market is closed save with the prior written authority of the county.

Off market hours.

9. There shall be no fire lit in the wholesale market without written permission of the Executive Member or someone authorized by him.

Lighting of fire.

10. Any unauthorized person that connects, uses or in any other way tampers with or handles electricity from the power meters within the market is be guilty of an offence.

Tampering with
power meters within
market.

11. No person shall wash or clean any vegetables, meat, fish or other produce in the wholesale market anywhere except in such basin, sinks or other receptacles as may be provided for such purposes.

Washing and
cleaning products in
the market.

12. No person suffering from any infectious, contagious or venereal disease shall be employed or engaged in the wholesale market.

Hygiene in the
market.

13. No person in the wholesale market shall:

Offences in the
market.

- a) Commit any nuisance within the wholesale market.

- b) Hawk any goods within the wholesale market.
- c) Interfere with or molest any other person or tout, shout or call out for customers.
- d) Cause any disturbances or use any offensive, obscene, injurious or unbecoming language.
- e) Damage, foul, misuse or interfere with any fittings and equipment.
- f) Deposit or throw on the floor or ground any refuse, fruit peel or vegetable remains as to cause any area of the wholesale market to be littered.
- g) Play games or loiter within the precincts of the wholesale Market.
- h) Attempt to procure customers by means other than display.

14. (1) No person shall sell or offer any food which is unfit for human consumption in the wholesale market.

No sale or display of food unfit for human consumption.

(2) The Market master shall have the power to seize and detain any item of food or produce that he suspects to be contaminated, unwholesome or otherwise unfit for human consumption and is offered or exposed for sale in the wholesale market and he shall hand over any such item of food to the medical officer of health for destruction.

(3) The County shall not be liable to compensate the holder in respect of any item of food, which is detailed, in accordance with subsection (2).

15. There shall be no display or exhibition of any food or produce other than in the stalls provided for and any such item displayed on the pathways or over any drain within the wholesale market. The market master shall be authorised to seize and destroy and such items.

Display or exhibition of food.

16. (1) The stalls within the wholesale market shall be numbered and allocated, let or hired out on such conditions as the Market Master as advised by the Executive Member shall think fit subject to the full payment of the prescribed fee.

Stalls within the market.

(2) In no instance shall a stall be used for carrying on two or more different classes of business at one time or

under the same permit, unless otherwise so licensed and/or authorized by the County.

(3) No person shall sublet any designated stall or any part thereof without the prior written approval of the Market Master.

17. A stall owner shall;

Weights and
measures to be
standard.

- a) Keep his or her stall clean and in good order to the satisfaction of the market master.
- b) When selling by weights or measures use the prescribed standard weights and measures and provide and maintain proper weights and scale and in case of containers, use standard containers prescribed by the market master.
- c) Dispose of all the refuse, sweepings, garbage, offal and waste liquids or solid room his/her stall in the receptacles channels or drains as are may be provided for that purpose.

18. An offer to hire a stall from the County and the acceptance of the same as signified by receipt of the prescribed fees shall form a lease agreement incorporating the lessee's acceptance to comply with the standard terms by the County as directed by the Market Master and agreement to comply with any lawful instructions and order given by him for purposes of maintaining control and order of the wholesale market.

Leasing of stalls.

19. (1) The Market Master shall keep displayed in a conspicuous position in the wholesale market a list of all charges as from time to time determined by the Executive Member for the use of the wholesale market.

Charges for use of
wholesale market.

(2) The Executive Member may determine or alter the charges referred to in subsection (1) at any time and will at least one month before such charges are to come into force give notice in at least one newspaper circulating in the area in which the wholesale market is situated.

(3) The charges levied in accordance with subsection (1) shall be paid in advance.

PART III – MISCELLANEOUS

20. Any person entering or intending to enter the wholesale market shall enter only through such entrance or gateway as shall be specified by the Market Master.

Entry to the market.

21. (1) Any person giving false information to the market master or anyone authorized by him in respect of the size, weight or quantity of his produce for the purpose of paying less charges than prescribed is guilty of an offence.

Offences.

(2) Any person who commits an offence under this Act shall be guilty of an offence and liable on conviction to a fine not exceeding Kenya Shillings Ten thousand in respect of a first offence and not exceeding Kenya Shillings ten thousand in respect of a second offence or imprisonment for 6months in case of first offence or 9 months for a second or subsequent offence or both.

22. The executive committee member in charge of transport may make regulations, not inconsistent with this Act respecting any matter that is necessary or convenient to be prescribed under this Act or for the carrying out or giving effect to this Act.

Regulations.

MEMORANDUM AND OBJECTS

1. PURPOSE

The purpose of this Memorandum is to request the County Assembly's consideration and approval of the Mombasa County Wholesale Market Control and Licensing Bill, 2014 and its direction that the Bill be published for introduction in the County Assembly.

2. BACKGROUND

The Fourth Schedule part 2, paragraph 7 (a) of the Constitution of Kenya, 2010 devolves trade development and regulation including markets. County Assembly of Mombasa therefore has the mandate to pass a Bill in regard to markets for better management and control of the markets.

3. OUTLINE OF THE BILL

Part I

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

Part II

This Part provides for the management and control of wholesale markets. It also provides for hygiene that needs to be maintained in the market.

Part III

This Part provides for miscellaneous aspect which gives provisions for offences and penalties in this Act. It also empowers the Executive Member to draft regulations.

4. RECOMMENDATIONS

The Assembly is requested to:

- (a) note the contents of this Memorandum;
- (b) approve the Mombasa County Wholesale Market Control and Licencing Bill, 2014 annexed to this Memorandum; and
- (c) authorise the Speaker to publish the Bill and present it to the County Assembly for debate and enactment.

HON. MOHAMED HATIMY,
Chairperson, Committee on Finance and Economic Planning.