

SPECIAL ISSUE

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REPUBLIC OF KENYA

**TAITA TAVETA COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2016

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**THE TAITA TAVETA COUNTY LIVESTOCK SALES YARD
BILL, 2016**

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THE TAITA TAVETA COUNTY LIVESTOCK SALES YARD BILL, 2015

A Bill for

AN ACT of County Assembly of Taita Taveta to provide for the establishment and control of livestock sales yards in Taita Taveta County and for connected purposes

ENACTED by the County Assembly of Taita Taveta, as follows—

PART I — PRELIMINARY

1. This Act may be cited as the Taita Taveta County Livestock Sales Yard Act, 2016.

Short title.

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

Interpretation.

“auctioneer” means any person who conducts an auction by announcing the lots and controlling bidding;

“calf” means any bovine animal under twelve weeks of age;

“casual trader” means a trader in livestock who is not a regular trader;

“County Executive Committee member” means the County Executive Committee member responsible for matters relating to livestock;

“Inspector” means the Inspector appointed under section 3;

“livestock” means all domestic animals including cattle, goats, sheep, pigs and poultry;

“regular trader” means a person licensed to trade in livestock under this Act; and

“unfit livestock” includes an infirm, diseased, ill and injured animals.

PART II — LICENSING

3. (1) The County Public Service Board shall designate a qualified person to be an animal inspector for the purposes of this Act.

Appointment of
Inspectors.

(2) The Board may appoint such other officer as may be necessary for the proper implementation of this Act.

4. (1) The Inspector shall—

Powers and duties
of Inspectors.

- (a) ensure that livestock sales yards conform to the requirements under this Act;
 - (b) ensure that only licensed traders operate sale yards;
 - (c) enforce the rules to protect animals during transportation;
 - (d) ensure that the health and safety measures prescribed in this Act are complied with; and
 - (e) ensure that the animals transported to the livestock sales yards meet the required standards.
- (2) The Inspectors shall have the power to—
- (a) recommend the issuance licenses upon inspection of the sale yards;
 - (b) enter and inspect any livestock sales yard for the purpose of ensuring compliance with this Act;
 - (c) seize and confiscate any documents suspected to be forged or fraudulently obtained;
 - (d) seize and confiscate any sick, stolen and abandoned animals;
 - (e) destroy any sick animals as per the regulations;
 - (f) return any stolen or abandoned livestock to their owners with the consent of the court;
 - (g) close any livestock sales yard which does not comply with the standards set out under this Act or any other Act.

5. (1) A person shall not hold, operate, manage or use a livestock sales yard in the county without a valid license issued pursuant to the provisions of this Act.

Application for a
license.

(2) The application for a license shall be in the prescribed form and shall be issued under the seal of the county.

- (3) A license shall set out the following particulars—
- (a) the name of the operator of the livestock sales yard;
 - (b) the location of the establishment of premises;
 - (c) the type or kinds of livestock to be handled, sold

or exchanged;

- (d) a description of the facilities to be used in conducting such a livestock sales yard;
- (e) the name of the accredited veterinarian who will supervise such livestock sales yard; and
- (f) such other information as the Governor may reasonably require.

6. The County Executive Committee member may refuse to issue or to renew a license or may suspend or revoke a license on any one or more of the following grounds—

Grounds for refusal to issue a license and for license suspension and revocation.

- (a) violation of any provision of this Act, order, or regulation issued hereunder;
- (b) selling or exchanging stolen or mortgaged livestock without authority from the owner or mortgagee;
- (c) failing to meet any prescribed measures on sanitation of the yard, housing, holding, and feeding of livestock;
- (d) in the case of livestock weighed on the licensee's scales and sold by weight, knowingly quoting incorrect weights or failing to have his scales regularly inspected and tested;
- (e) failing to pay for livestock after sale; and
- (f) being insolvent as determined by the court.

7. Each operator of a livestock sales yard shall keep the following records for each lot of livestock consigned to or sold through such livestock sales yard—

Records and documents.

- (a) the name and address of the consignor;
- (b) a description of the livestock, which includes the kind, approximate age, the sex, and any marks, brands or other distinguishing or identifying marks;
- (c) the method by which the livestock was delivered to the livestock sales yard and, in the case of livestock delivered by motor vehicle registration number;

- (d) the name and address of the purchaser of such livestock;
- (e) the price for which the livestock was sold or exchanged and the commission or other fees charged by the livestock sales yard; and
- (f) any health certificates.

(2) The records referred to in subsection (1) shall be kept by the operator of a livestock sales yard at the establishment or premises where the sale is held and conducted or such other convenient place as may be approved by the County Executive Committee member.

(3) Such records shall be open for inspection by the Inspector at all reasonable times and shall be retained and preserved for a period of at least two years.

8. (1) The license issued under subsection (4) shall be valid for a period of two years.

Duration and
renewal of license.

(2) After the expiry of a license, the County Executive Committee member may renew the license upon application.

9. The County Executive Committee member shall determine the applicable license fees from time to time.

License fees.

10. Any person who is aggrieved by the decision of the County Executive Committee member under this Act may appeal to the court.

Appeal.

PART III—ADMINISTRATION

11. The County Executive Committee member shall publish in the county gazette, the days of the week when owners shall come to sell their livestock in the livestock sales yard.

Livestock sales
yard days.

12. (1) Subject to section 4 (1) (b), an Inspector may obtain a search warrant from a court within the county to enter and search a livestock sales yard that is in contravention with the provisions of this Act.

Search and entry
warrant.

(2) An Inspector may enter and search a livestock sales yard without a search warrant where he has reason to believe that the owner of the livestock sales yard is in contravention of the provisions of this Act or regulations.

(3) Subject to sub- sections (1) and (2) the Inspector

may seize and confiscate any records or sick, stolen or abandoned livestock found in the livestock sales yard.

(4) The Inspectors and the inspection should comply with the provisions of the Penal Code.

13. (1) The County Government shall construct stalls in a public livestock sales yard.

Stalls.

(2) Where the livestock sales yard is privately owned, the owner shall construct the stalls.

14. (1) Any person may apply to the Inspector for the allocation of a stall in a livestock sales yard.

Allocation of stalls to regular traders.

(2) The Inspector shall charge an annual fee which shall be determined by the County Executive Committee member for regular traders in the livestock sales yard.

(3) An Inspector may reserve a stall for a regular trader on the trading day until nine o'clock in the morning, provided that where the regular trader fails to present themselves by nine o'clock, the Inspector shall allocate the reserved stall to a casual trader.

(4) Where a regular trader is absent from their allocated stall for more than one month, the regular trader shall be required to notify the Inspector of the absence.

(5) Subject to the provisions of subsection (4) an Inspector may allocate a stall to a casual trader for the duration of absence of the regular trader.

15. An Inspector may grant a casual trader the use of a stall on the appointed livestock sales yard days upon payment of the prescribed fee to be determined by the County Executive Committee member.

Allocation of stalls to casual traders.

16. The owner of the stall shall—

Maintenance of stalls.

(a) not assign the allocated stall to another person;

(b) keep the stall in good condition; and

(c) ensure that the stall is clean at the end of the trading day.

PART IV—TRANSPORTATION OF LIVESTOCK TO THE LIVESTOCK SALES YARD

17. (1) Livestock shall be transported in a way that will not cause injury or unnecessary suffering to the

Factors to be considered when transporting livestock.

livestock.

(2) Without prejudice to the generality of subsection (1), the following factors shall be taken into consideration during the transportation of livestock—

- (a) animals must be fit to travel;
- (b) vehicle loading and unloading facilities must be constructed and maintained to avoid injury and suffering;
- (c) persons handling livestock must be competent and should not use violence or any methods likely to cause fear, injury or suffering;
- (d) there must be sufficient floor space and height allowance; and
- (e) there must be adequate provision of water, animal feed and rest as needed.

18. Any person who transports livestock contrary to the provisions of this Act commits an offence and shall on conviction be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred thousand shillings or to both.

Offences and
penalty.

PART V — WELFARE OF LIVESTOCK IN THE LIVESTOCK SALES YARD

19. (1) No person shall permit unfit livestock to be exposed for sale in a livestock sales yard.

Unfit livestock.

(2) No person shall permit an animal to be exposed for sale in a livestock sales yard if it is likely to give birth while it is there.

20. (1) No person shall cause or permit any injury or unnecessary suffering to an animal in a livestock sales yard.

Protection of
livestock from
injury or
unnecessary
suffering.

(2) Without prejudice to the generality of sub-section (1) above, it shall be the duty of any person in charge of livestock to ensure that no injury or unnecessary suffering is caused by—

- (a) the animal being exposed to adverse weather;
- (b) inadequate ventilation being available for the animal;

- (c) the animal being hit or poked by any instrument or any other thing; or
- (d) any other cause.

21. (1) Subject to sub-section (3) below no person shall handle an animal in a livestock sales yard by—

Handling and tying
of livestock.

- (a) lifting it off the ground;
- (b) dragging it along the ground; or
- (c) suspending it clear off the ground by the head, neck, ears, horns, legs, feet, tail, fleece or wings.

(2) In addition to the provisions of sub-section (1), no person shall—

- (a) tie up or muzzle any calf; or
 - (b) tie any poultry by the neck, leg or wing.
- (3) Sub-section (1) shall not prohibit—
- (a) any poultry being lifted off the ground by the base of both wings; or
 - (b) any poultry being suspended clear off the ground by the legs when they are being weighed.

22. (1) No person shall use excessive force to control any livestock in a livestock sales yard.

Control of
livestock.

(2) Subject to the provisions of subsection (1) no person shall use in a livestock sales yard—

- (a) any instrument which is capable of inflicting an electric shock to control any livestock;
- (b) any stick, goad or other instrument or thing to hit or prod any calves; or
- (c) any stick (other than a flat slap stick or a slap marker), non- electric goad or other instrument or thing to hit or prod any pigs.

(3) The prohibition in subsection (2) (a) shall not apply to the use of an instrument mentioned in that paragraph on the hindquarters of any cattle over the age of six months or adult pigs which are refusing to move forward when there is space for them to do so.

(4) No person shall drive or lead any animal over any ground or floor, the nature or condition of which is likely

to cause the livestock to slip or fall.

23. (1) It shall be the duty of a livestock sales yard operator to ensure that no animal is kept in a pen, cage or hutch which is unsuitable for the size and species of that animal.

Penning and
caging of
livestock.

(2) Without prejudice to the generality of subsection (1) above it shall be the duty of a livestock sales yard operator to ensure that—

- (a) any pen in which any calves or pigs are kept is of sufficient size to enable all the calves or pigs kept in it to lie down at the same time; and
- (b) any cage or hutch in which any poultry or rabbits are kept—
 - (i) is of such a design as to enable the poultry to stand in their natural position, or, as the case may be, to enable all the rabbits kept in them to sit upright on all four feet without their ears touching the top of the cage or hutch; and
 - (ii) has a door which is of sufficient size to enable the poultry or rabbits (as the case may be) to be placed in, and removed from, the cage or hutch without being caused any injury or unnecessary suffering.

(3) Without prejudice to the generality of subsection (1), it shall be the duty of a livestock sales yard operator to ensure that, within the livestock sales yard—

- (a) when livestock are penned—
 - (i) those of one species are kept in separate pens from livestock of another species; and
 - (ii) they are distributed within the pens, having regard to differences in age and size, so as to avoid unnecessary suffering to them;
- (b) any fractious animal is kept in a separate pen, cage or hutch from other livestock;
- (c) livestock are not kept in pens, cages or hutches which are overcrowded;
- (d) adequate provision is made to prevent livestock

from—

- (i) escaping from the livestock sales yard; and
- (ii) coming into contact with any aggressive or fractious livestock in the livestock sales yard;
- (e) a bull is not kept in the same undivided pen in the livestock sales yard as any other animal except that—
 - (i) bulls which are halter broken may be kept together in the same undivided pen if they are all secured by the head or neck, and
 - (ii) bulls which have been reared together may be kept together in the same undivided pen without being secured by the head or neck;
- (f) a boar over the age of six months is not kept in the same undivided pen as any other animal; and
- (g) livestock with young ones are not kept in the same undivided pen as any other livestock, except where they originate from the same group of livestock and are of a mutually acceptable disposition.

(4) For the purposes of subsection (3), a “fractious animal” is an animal which is likely to cause injury to other livestock.

24. (1) It shall be the duty of the person in charge of an animal to ensure that the animal is provided with an adequate quantity of wholesome water as often as is necessary to prevent it suffering from thirst.

Feeding and watering of livestock.

(2) It shall be the duty of the owner of an animal which is kept in a livestock sales yard from one day to the next to ensure that the animal is provided with an adequate quantity of suitable food and with an adequate quantity of water at regular intervals.

25. It shall be the duty of a livestock sales yard operator or other person for the time being in charge of an animal to ensure that—

Provision of lighting and bedding.

- (a) adequate lighting is available to enable livestock kept in the livestock sales yard to be inspected

and to be fed and watered; and

- (b) an adequate supply of suitable bedding is provided for—
 - (i) any calves, dairy cattle in milk or in calf, goats in milk or in kid, or pigs; and
 - (ii) any lamb, except a lamb which is kept at the foot of its dam, or goat kids in either case under four weeks of age.

26. (1) A person shall not bring to a livestock sales yard a calf which is less than seven days old or which has an unhealed navel.

Restriction on the
sale of calves.

(2) No person shall bring to a livestock sales yard a calf which has been brought to a livestock sales yard on more than one occasion in the previous twenty-eight days.

(3) No person shall bring a calf to a livestock sales yard unless upon arrival he has furnished the livestock sales yard operator with a written declaration signed by the owner of the calf or his agent—

- (a) stating the name and address of the owner of the calf;
- (b) giving details of the identification number of the calf;
- (c) stating that the calf has not been brought to a livestock sales yard before, or, as the case may be, has been brought to a livestock sales yard only once during the previous twenty eight days; and
- (d) where the calf has been brought to a livestock sales yard once during the previous twenty eight days, stating the address of that livestock sales yard and the date on which the calf was brought there.

(4) Every declaration furnished to a livestock sales yard operator under subsection (3) shall be retained by the livestock sales yard operator for a period of six months from the date on which it is furnished to the livestock sales yard operator and the livestock sales yard operator shall, on demand made by an inspector at any reasonable time during that period, produce such declaration and allow a

copy of it or an extract from it to be taken.

(5) Where a calf has been sold and before its removal from the livestock sales yard, the livestock sales yard operator shall—

- (a) in the case of a sale by auction; and
- (b) upon request by the purchaser in the case of a sale by private treaty supply to the purchaser of the calf details in writing of—
 - (i) the identification number of the calf;
 - (ii) the date of the sale of the calf and the address of the livestock sales yard at which it was sold; and
 - (iii) where the calf has been brought to a livestock sales yard once within the previous 28 days, the address of that livestock sales yard and the date on which the calf was brought there.

(6) Every livestock sales yard operator shall—

- (a) keep a record of the details supplied to a purchaser of a calf for the purposes of subsection (5) and of the name and address of that purchaser;
- (b) retain such record for a period of six months from the date on which the details to which the record relates were supplied to the purchaser; and
- (c) produce such record to an inspector on demand being made by him at any reasonable time during that period and allow a copy of it or an extract from it to be taken.

(7) It shall be the duty of the owner of any calf kept in a livestock sales yard on any day, or of his agent, to remove it from the livestock sales yard within 4 hours of the time when the last sale by auction of a calf has taken place on that day.

27.(1) Sale of livestock at the livestock sales yard shall be conducted either by—

- (a) regular sale where the price of livestock shall be determined by the prevailing livestock sales yard

Types of sale at
livestock sales
yards.

price; or

(b) sale by auction.

(2) Where any livestock is put up for sale by auction—

(a) the date, time and place of every sale shall be advertised in the prescribed manner and such sale shall take place on the date, at the time and at the place so advertised;

(b) in lots, each lot shall *prima facie* be deemed to be the subject of a separate contract of sale;

(c) the particulars or conditions of any sale including the condition whether the sale is subject to a reserve price or not or whether a right to bid is reserved.

(3) If it is stated that the sale be without reserve or to that effect, then it shall not be lawful for the seller or any person employed by him to bid at such sale, or for the auctioneer to take knowingly any such bidding:

Provided that if it is stated that the sale shall be subject to a right for the seller to bid, then it shall be lawful for the seller or for any person acting on his behalf to bid at such auction.

(4) If it is stated that the sale will be subject to a reserve price as regards any one or more lots, it shall be lawful for the seller or any person acting on his behalf to give one bid for each such lot and no more.

(5) If the seller or any person acting on his behalf bids at any sale contrary to any of the provisions of this section, any purchaser may refuse to fulfill his purchase: Provided that the highest *bona fide* bidder shall be entitled, if he shall so elect, to have the property at the price offered by him.

(6) No auctioneer shall make a bid either on behalf of himself or as agent for any other person unless on making such bid, he announces that it is his bid.

(7) A bidder may retract his bid at any time before the sale is complete.

(8) A person commits an offence if he knowingly—

- (a) receives or makes any bid contrary to the provisions of this section; or
- (b) makes a bid which he cannot honour or is fraudulent, or is intended to avoid a valid sale which is subject to the bid.

(9) Where a person convicted of an offence under this section is a licensed auctioneer, he shall, in addition to any other penalty imposed, be liable to having his license revoked.

PART VI — GENERAL PROVISIONS

28. Any person who contravenes the provisions of this Act for which no penalty is provided commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding three months or to both.

General penalty.

29. The County Executive Committee member may make regulations prescribing for any matter necessary for the carrying out of the provisions of this Act.

Regulations.

MEMORANDUM OF OBJECTS AND REASONS

Statements of the Objects and Reasons for the Bill

The principal object of this Bill is to provide for the procedures in relation to the establishment of livestock sales yards within Taita Taveta County. It provides for the procedures for application for a license to operate or manage a livestock sales yard, inspection of the yards as well as offences and penalties in relation to the operation of livestock sales yards.

Part I (clauses 1-2) provides for the preliminary provisions, specifically the short title of the Bill and the interpretation of terms used in the Bill.

Part II (clauses 3-10) provides for the licensing provisions. It provides for the appointment of Inspectors and the powers and duties of Inspectors. It also provides for the application process for a license as well as the grounds for refusal to issue a license and for license suspension and revocation. This Part also deals with records and documents, duration and renewal of licenses, the determination of license fees by the County Executive Committee member as well as appeals against decisions of the County Executive Committee member.

Part III (clauses 11-16) provides for administration under the Bill. This Part contains provisions relating to livestock sales yards days, search and entry warrants, construction of stalls, allocation of stalls to regular traders and casual traders and the maintenance of stalls.

Part IV (clauses 17-18) provides for the factors to be considered when transporting livestock and offences and penalty.

Part V (clauses 19-27) provides for the welfare of livestock in the livestock sales yard. It contains provisions dealing with unfit livestock, the protection of livestock from injury or unnecessary suffering, the handling and tying of livestock, control of livestock, penning and caging of livestock, feeding and watering of livestock, provision of lighting and bedding, the restriction on the sale of calves and the types of sale at livestock sales yards.

Part VI (clauses 28-29) provides for the general provisions. This Part provides the general penalty and the power of the County Executive Committee member to prescribe regulations.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

This Bill delegates legislative powers to the County Executive Committee member but it does not limit fundamental rights and freedoms.

Statement of how the Bill concerns county governments

The Bill concerns county governments in terms of Article 109(3) of the Constitution as it contains provisions that affect the functions and powers of the county governments as set out in the Fourth Schedule to the Constitution.

Statement as to whether the Bill is a money Bill within the meaning of Article 114 of the Constitution

The enactment of this Bill shall occasion additional expenditure of public funds.

Dated the 4th April, 2016.

RAYMOND MWANGOLA,
Member of County Assembly.