

SPECIAL ISSUE

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REPUBLIC OF KENYA

**TRANS NZOIA COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2016

NAIROBI, 5th April, 2016

CONTENT

Bill for Introduction into the County Assembly of Trans Nzoia—

PAGE

The Trans Nzoia County Trade Licence Bill, 2016..... 1

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NAIROBI, KENYA

**THE TRANS NZOIA COUNTY TRADE LICENCE BILL,
2016**

ARRANGEMENT OF CLAUSES

Clause

- 1—Short title and commencement
- 2—Interpretation
- 3—County Licensing officer
- 4—Requirement for a trade licence
- 5—Application for licence
- 6—Grant of licence
- 7—Renewal of a licence
- 8—Cancellation or suspension of licences
- 9—Surrender of licence
- 10—Transfer of licences
- 11—Appeal against the decision
- 12—Licensing officers
- 13—Register
- 14—Offence - false or misleading statements
- 15—County assembly to approve licence fees and additional fees
- 16—Power to make rules
- 17—Savings

SCHEDULE 1

**THE TRANS NZOIA COUNTY TRADE LICENCE
BILL, 2016**

A Bill for

**AN ACT of the County Assembly of Trans Nzoia to
provide for the grant of Trade licences, and for
connected purposes**

ENACTED by the Trans Nzoia County Assembly as
follows—

1. (1) This Act may be cited as the Trans-Nzoia
County Trade Licence Act, 2016.

Short title and
commencement

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

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

Interpretations

“approved form” means a form set out in Schedule 2;

“authorised officer” has the meaning given by section
12;

“business” includes a profession, trade or occupation,
other than a prescribed business;

“county assembly” means the Trans-Nzoia County
Assembly;

“county government” means the Trans-Nzoia County
Government;

“County licensing officer” means an officer of the
county government appointed under section 3;

“holder”, in relation to a trade licence, means the
person to whom the licence is granted;

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

“prescribed” means prescribed by the rules made under
this Act;

“receiver of revenue” has the same meaning as in the
section 157 of Public Finance Management Act, 2012.

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

3. (1) The County Executive Committee member

County licensing

responsible for finance shall appoint an officer of the county government as the County Licensing Officer. officer

(2) The county licensing officer has the functions and powers provided for by or under this Act.

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

(2) If a person fails to comply with subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding one hundred thousand shillings.

5. (1) An application for the grant of a trade license must— Application for licence

- (a) be lodged with the county licensing officer; and
- (b) be in the approved form; and
- (c) contain such information and be accompanied by such documents as are required by the approved form; and
- (d) be signed in a manner specified in the approved form; and
- (e) be accompanied by the prescribed application fee (if any).

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

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

(4) If an application fee has been prescribed, the application fee is not refundable.

6. (1) The county licensing officer shall grantan application for a trade licence if— Grant of licence

- (a) the county 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 license fee has been paid to the receiver of

revenue.

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

(3) The licence fee for the grant of a trade licence is to be calculated on a pro rata 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 that calendar year.

(4) A trade licence is granted for the period remaining in a calendar year from the date of its grant, unless the trade licence was granted on the first day of that calendar year in which case it is granted for the whole of that calendar year.

(5) A trade permit must be conspicuously displayed at the business premise

(6) Scanning of a trade permit is an offence punishable by six months imprisonment or a fine of ten thousand shillings or both.

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.

Renewal of a licence

(2) The county licensing officer shall grant an application for the renewal of a trade licence if:

- (a) the applicant has complied with all laws relating to health, hygiene and safety applicable to the trade licence; and
- (b) the licence fee payable for the renewal of the trade licence has been paid to the receiver of revenue.

(3) The county licensing officer may, before determining an application for renewal, require the applicant to furnish to the county licensing officer 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.

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

Cancellation or
suspension of
licences

- (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 of the trade licence has breached a condition of the trade licence.

(2) If a county licensing officer cancels or suspends a trade licence (or revokes any such suspension), the authority must give the holder of the licence written notice of the cancellation or suspension, including the period of the suspension, or revocation, together with a statement of the reasons for the decision.

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

(4) If a person fails to comply with subsection (3), the person is guilty of an offence punishable on conviction by a fine not exceeding one hundred thousand shillings or a jail term not exceeding six months or both.

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

9. The holder of a trade licence may surrender the licence by returning it to the county licensing officer, but no refund of the licence fee is payable.

Surrender of licence

10. The holder of a trade licence must give the county licensing officer written notice of any transfer or assignment of the licence.

Transfer of licences

11. (1) A person aggrieved by a decision of the county licensing officer may appeal to the county executive member responsible for finance against the decision.

Appeal against the
decision

(2) The county executive member responsible for finance may confirm, reverse or modify the decision appealed against, and make such orders and give such directions to the county licensing officer as may be necessary to give effect to his or her decision.

12. (1) The county executive committee member

Licensing officers

responsible for finance may appoint persons as authorised officers for the purposes of this Act.

(2) An authorised officer has the powers set out in Schedule 1.

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

Register

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

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

Offence - false or misleading statements

- (a) in or in connection with an application for a trade licence; or
- (b) when furnishing information required under this Bill.

(2) If a person contravenes subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding fifty thousand shillings or jail term not exceeding three months or both.

15. (1) The 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 fees, are to be approved each year by the county assembly in the County Finance Act.

County assembly to approve licence fees and additional fees

16. (1) The county executive committee member responsible for finance may make rules generally for the better carrying out of the provisions and purposes of this Act.

Power to make rules

(2) Without limiting subsection (1), rules may be made for the following purposes:

- (a) the collecting of trade licence fees including additional fees;
- (b) the exemption, waiver or reduction of trade licence fees;
- (c) prescribing fees for services;

- (d) prescribing forms;
- (e) Publication and service of notices and other documents.

17. (1) Despite the repeal of the Local Government Act [CAP 265] and the County Governments Public Finance Management Transition Act 2013, any single business permit issued by a local authority under section 163A of the Local Government Act [CAP 265] that was in force on 30 September 2013 is deemed to have continued in force after that date as if it were a trade licence granted under this Act and any fees or charges payable to a local authority in respect of the single business permit were payable to the county government. Savings

(2) The single business permit referred to in subsection (1) continues in force:

- (a) for 3 months from the date of commencement of this Act; or
- (b) If the holder of the single business permit applies for a trade license under this Act within that period, until the licence is granted or refused or the application is withdrawn.

SCHEDULE 1 – POWERS OF AUTHORISED OFFICERS SECTION 12

1. An authorised officer may:

- (a) Enter any premises for the purposes of:
 - (i) Granting or renewing a trade licence; or
 - (ii) Finding out whether the holder of a trade licence is complying with the license, 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 Bill; and
- (e) Take extracts from, and take copies of, any documents in or on the premises; and

- (f) take into or onto the premises such persons, equipment and materials as the authorised officer reasonably requires for the purpose of exercising any of the powers mentioned in paragraphs (a) to (e); and
- (g) Require the holder of the licence, or any person in or on the premises to give to the authorised officer reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (f).

SCHEDULE 2 – APPROVED FORMS

SECTION 2

PART A

**COUNTY OF TRANS-NZOIA TRADE LICENCE
ACT 2015**

**APPLICATION FOR THE GRANT / RENEWAL OF
A TRADE LICENCE**

**TRANS-NZOIA COUNTY GOVERNMENT
BUSINESS REGISTRATION/RENEWAL FORM**

FORM NO.				
Please revise the required information carefully before filling the registration form				
BUSINESS IDENTIFICATION AND ADDRESS				
Business Id No		Business Name		
Certificate of Registration No/ID No.			PIN	VAT No.
P. O. Box	Postal code.	Postal Town	Tel No.	Telephone Fax
Email Address		Business Physical Address		Plot No
OWNER/CONTACT PERSON DETAILS				
Name			Designation	
P. O. Box	Postal code.	Postal Town	Tel No.1	Telephone No 2
BUSINESS DETAILS				
Business Activity Description		Business premise area (square meters)		No. of Employees
Other business classification Details (e.g. No of students, fuel machines, beds, conference rooms etc.)				
DECLARATION				
I declare that the information provided in this form is true and correct concerning the business				
.....				
Name		Signature		Date
FOR OFFICIAL USE ONLY				
Business Activity code		Activity Descriptions		
Business Zone code		Business zone Name	Trading Centre	
Relative Size	Small	Medium:	Large:	
Officer's Name		Signature		Date

PART B**PERMIT NO.****REPUBLIC OF KENYA****TRANS NZOIA COUNTY GOVERNMENT****GRANTS THIS TRADE LICENCE PERMIT TO:**

Business ID. No		Business Name:	
Certificate of Registration No./ID No.	Pin Number	VAT NO.	Application No.

To Engage In The Activity/Business/Profession Or Occupation Of:

Business Activity Code and Description	Detailed Activity Description
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Having Paid a Trade Licence Permit Fee Of:

(Ksh.)

MR. NO. _____

Ksh. (In Words): _____

Business under this Permit shall exclusively be conducted at the address as indicated below:

P.O Box	Postal Code	Postal Town	Business Physical Address	Plot. No
Telephone No. 1	Telephone No. 2	Fax	Email Address	

Validity Period: Date Of Issue _____ Expiry Date _____

Name of Officer Issuing this Permit

County Licensing Officer/County Revenue Officer

Stamp and Signature

NOTICE: Granting this permit DOES NOT EXEMPT the business identified above from complying with current regulations on Health and Safety as established by the Government of Kenya and the Trans-Nzoia County Government
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MEMORANDUM OF OBJECTS AND REASONS

Article 209(4) of the Constitution of Kenya 2010 together with Part 2 of the Fourth Schedule of the Constitution of Kenya gives counties the power to impose fees and charges for services provided and for regulatory purposes in respect of certain licensed activities. Examples include the power to licence undertakings that sell food (item 2(d)) and to issue trade and liquor licences (items 7(b) and 4(c)). These licensing powers are not taxing powers, but are a power to charge fees for services.

The Bill provides for the grant of trade licences by the County Government to conduct businesses in the county in accordance with the powers mentioned above in Part 2 of the Fourth Schedule of the Constitution.

Dated the 24th February, 2016

HON. ANDREW KUTITILA,
Chairperson,
Planning, Trade and Co-operatives Committee.

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