

SPECIAL ISSUE

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REPUBLIC OF KENYA

WEST POKOT COUNTY GAZETTE SUPPLEMENT

BILLS, 2014

NAIROBI, 13th November, 2014

CONTENT

Bill for Introduction into the West Pokot County Assembly —

PAGE

The West Pokot County Trade Licence Bill, 2014 1

THE WEST POKOT COUNTY TRADE LICENCE BILL, 2014

ARRANGEMENT OF CLAUSES

Clauses

- 1— Short title and commencement.
- 2— Interpretation.
- 3— licensing authority.
- 4— Requirement for a trade license.
- 5— Application for license.
- 6— Grant of license.
- 7— Renewal of a license.
- 8— Cancellation or suspension of licenses.
- 9— Surrender of license.
- 10— Transfer of licenses.
- 11— Appeal against the decision.
- 12— Authorised officers.
- 13— Register.
- 14— Offence - false or misleading statements.
- 15— General penalty for offence.
- 16— County assembly to determine licence fees.
- 17— Power to make rules.
- 18— Savings.

SCHEDULE 1

**THE WEST POKOT COUNTY TRADE LICENCE
BILL, 2014****A Bill for**

**AN ACT of the West Pokot County Assembly to
provide for the grant of trade licences, and for
connected purposes**

ENACTED by the County Assembly of West Pokot
as follows—

PART I—PRELIMINARY

1. (1) This Act may be cited as the West Pokot
County Trade License Act, 2014, and shall come into
operation on the date of publication in the County and
Kenya Gazette.

Short title and
Commencement.

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

Interpretation.

“executive committee member” means the County
Executive member responsible for trade.

“approved form” means a form approved by the
licensing Authority;

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

“business” includes a profession, trade or
occupation;

“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;

“licensing Authority” means an officer of the
County Government appointed under section 3;

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

“receiver of revenue” has the same meaning as in
the West Pokot County Revenue Administration Act,
2014;

“trade licence” means a licence granted to conduct

a business.

3. (1) The Executive Member responsible for trade must appoint an officer of the County Government as the licensing Authority.

Licensing Authority.

(2) The licensing Authority 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) A person who contravenes the provisions of section 4 (2) above shall be liable to a fine not exceeding KSh. 100,000.

5. (1) An application for the grant of a trade licence must:

Application for licence.

- (a) be lodged with the licensing Authority;
- (b) be in the approved form;
- (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 licensing Authority.

(3) The licensing Authority may, before determining an application, require the applicant to furnish to the licensing Authority 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 licensing Authority must grant an application for a trade licence if—

Grant of licence.

- (a) the licensing Authority 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 licence 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, 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.

7. (1) The holder of a trade licence may, before the expiry of the trade licence, apply in the prescribed form for the renewal of the trade licence.

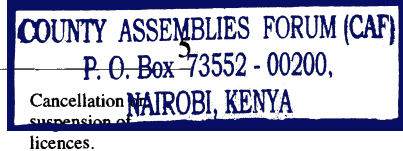
Renewal of a licence.

(2) The licensing Authority must 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 licensing Authority may, before determining an application for renewal, require the applicant to furnish to the licensing Authority 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 licensing Authority may cancel or suspend a trade licence if it is satisfied that:

- (a) the conduct of the business is endangering the health or safety of persons who live or work in the neighborhood 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 licensing Authority 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) (1) If a trade licence is cancelled or suspended, the holder of the licence must immediately cease to conduct the business.

(2) A person who contravenes provisions of section 3 (1) above shall be liable to a fine not exceeding KSh. 100,000.

(4) If the licensing Authority 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 licensing Authority, but no refund of the licence fee is payable.

Surrender of licence.

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

Transfer of licences.

11. (1) A person aggrieved by a decision of the licensing Authority may appeal to the Executive Member responsible for trade against the decision.

Appeal against the decision.

(2) The Executive Member responsible for trade may confirm, reverse or modify the decision appealed against, and make such orders and give such directions to the licensing Authority as may be necessary to give effect to



his or her decision.

12. (1) The Executive Member responsible for trade may appoint persons as authorized officers for the purposes of this Act.

Authorised officers.

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

13. (1) The licensing Authority 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 commercial-in-confidence information.

14. 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 Act.
- (c) A person who contravenes provisions of section 14 (a) and (b) above shall be liable to a fine not exceeding KSh. 50,000.

15. If a person contravenes or fails to comply with any provision of this Act, the person commits an offence against this Act and, unless another penalty is expressly provided by this Act for that offence, the person is liable on conviction to a fine not exceeding 10,000 shillings.

General penalty.

16. The County Assembly may, by or under the Act providing for annual county finances or any other Act, determine the licence fees payable for the grant or renewal of trade licences, including any penalties payable for the late payment of such licence fees.

County assembly to determine licence fees.

17. The Executive Member responsible for trade may make rules generally for the better carrying out of the

Power to make rules.

provisions and purposes of this Act.

18. (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 163 A 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 licence under this Act within that period, until the licence is granted or refused or the application is withdrawn.

SCHEDULE 1

POWERS OF AUTHORIZED OFFICERS

Section 12

1. An authorized 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 licence, or this Act or the rules made under this Act;
- (b) search the premises or any part of the premises;
- (c) inspect or examine anything in or on the premises;
- (d) seize anything that may afford evidence of the commission of an offence against this Act;
- (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 inspector reasonably requires for the purpose of exercising any of the powers mentioned in paragraphs (a) to (e); or
- (g) require the holder of the licence, or any person in or on the premises to give to the inspector reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (f).

2. However, an authorized officer must not enter premises unless:

- (a) the owner or occupier consents to the entry;
- (b) the entry is made when the premises are open for the conduct of business or otherwise open for entry; or
- (c) the authorized officer suspects on reasonable grounds that an offence is being committed against this Act in or on the premises.

MEMORANDUM OF OBJECTS AND REASONS

Article 209 (4) together with Part II of the Fourth Schedule of the Constitution 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)); to issue trade and liquor licences (items 7 (b) and 4 (c)); and to licence dogs (item 6 (a)). 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 County Governments to conduct businesses in the county in accordance with the powers stated in Part II of the Fourth Schedule of the Constitution of Kenya, 2010.

The enactment of this Bill into law does not occasion additional expenditure of public funds.

HON. HUSSEIN LODOMO,
Chairman, Trade, Tourism and co-operatives committee.