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**WEST POKOT COUNTY GAZETTE
SUPPLEMENT**

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THE WEST POKOT COUNTY TRADE LICENCE ACT, 2015

No.2, 2015

AN ACT of the County Assembly of West Pokot 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

Short Title.

1. This Act may be cited as the West Pokot County Trade License Act, 2015.

Interpretation.

2. (1) In this Act—

“executive committee member” means the County Executive Committee Member responsible for trade;

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

“authorised officer” has the meaning given by section 20;

“business” includes a profession, trade or occupation;

“travelling wholesaler” means a person who, whether on personal account or as the servant of another person, sells goods by wholesale other than in trading premises;

“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 meaning assigned to it under the Public Finance Management Act, 2012;

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

PART II—THE ESTABLISHMENT OF LICENSING AUTHORITY

Licensing Authority.

3. (1) The County Public Service Board shall appoint an officer of the County Government to be known as the Licensing Authority.

(2) The Licensing Authority has the functions and powers provided for by or under this Act.

Application for a trading licence.

4. (1) An application for a trading licence shall be made, on such form as may be prescribed, to the appropriate Licensing Authority.

(2) An application for the grant of a trade licence shall—

- (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;
- (d) be signed in a manner specified in the approved form; and
- (e) be accompanied by the prescribed application fee (if any).

(3) An application may be made in an electronic format approved by the Licensing Authority.

(4) 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.

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

(6) Any person who makes any statement while making an application for a trading licence which is untrue commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding six months or to both.

(7) Where a person is convicted of an offence under this section, the court may, in addition to any penalty that it may impose, order that the trading licence of that person be revoked or that the person shall be disqualified from holding any trading licence under this Act for such period as the court may specify in the order.

Grant of licence.

5. (1) The Licensing Authority shall grant an application for a trade licence if—

- (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.

Renewal of a licence.

6. (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.

(2) The Licensing Authority shall renew 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 7, a trade licence is to be renewed for a calendar year.

Cancellation or suspension of licences.

7. (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 the Licensing Authority cancels or suspends a trade licence (or revokes any such suspension), the authority shall 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.

(2) If the Licensing Authority cancels or suspends a trade licence (or revokes any such suspension), the authority shall 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) (a) if a trade licence is cancelled or suspended, the holder of the licence shall immediately cease to conduct that business.

(b) a person who contravenes provisions of sub-section 3(a) above shall be liable to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding six months or to both.

(4) If the Licensing Authority revokes the suspension of a trade licence, the holder of the licence may resume conducting that business.

PART III—HAWKER’S LICENCE

Hawker’s licence.

8. (1) No person shall act as a hawker unless that person is in possession of a valid hawker’s licence granted for that purpose by the Licensing Authority.

(2) A Licensing Authority may, on application made in the prescribed manner and on payment of the appropriate fee, grant to the applicant a hawkers licence.

(3) A hawker’s licence shall be in such form as may be prescribed and shall be granted subject to such conditions as to—

- (a) the kind of goods which may be hawked;
- (b) the area within which the hawking shall be restricted; and
- (c) the hours during which the goods may be hawked, and such other conditions as the Licensing Authority may think fit to impose.

(4) Where any person employs a servant to hawk goods, that person shall take out a licence to be carried by the servant when so employed, and where it is desired that more servants than one shall be employed, an additional licence shall be taken out in respect of each additional servant.

(5) Except as provided for by law, no hawker's licence shall be required in respect of any person who acts as a hawker of—

- (a) fish, poultry, vegetables, eggs, fruits, firewood or newspapers;
- (b) any goods *bona fide* made by a person's handicraft in or on any premises where that person normally resides or by the handicraft of an employee or members of that person's family;
- (c) any other goods which the Executive Committee Member may, by statutory instrument, declare to be goods which may be hawked without a hawker's licence under this Act.

(6) A Licensing Authority may refuse to grant a hawkers licence under this section without assigning any reason for the refusal, and may revoke any hawker's licence granted under this section if it is satisfied that any of the terms and conditions upon which the hawker's licence was granted has been contravened.

(7) Any applicant who is aggrieved by the refusal of the Licensing Authority to grant that person a hawker's licence may appeal to the Executive Committee Member.

(8) The Executive Committee Member 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 that decision.

- Duration of hawker's licence. **9.** Unless earlier revoked, a hawker's licence granted under this Act in respect of any year shall expire on the thirty-first day of December of that year.
- Licence is not transferable. **10.** A hawker's licence granted under this Act shall be personal to the holder of the licence and shall not be transferable.
- Production of hawker's licence. **11.** Every person who holds a hawker's licence granted under this Act shall carry it at all times while acting as a hawker, and shall produce the licence for inspection on the demand of any administrative officer, police officer or any person authorised in writing by the Licensing Authority.

PART IV—TRAVELLING WHOLESALER'S LICENCE

- Travelling wholesaler's licence. **12.** (1) No person shall act as a travelling wholesaler unless that person is in possession of a travelling wholesaler's licence granted for that purpose under this Act.
- (2) The Licensing Authority may, on application made to it in the prescribed manner and on payment of the appropriate fee, grant to the applicant a travelling wholesaler's licence.
- (3) A travelling wholesaler's licence shall be in such form as may be prescribed and shall be granted subject to such conditions as the Licensing Authority may deem fit to impose.
- (4) In addition to any condition which the Licensing Authority may impose under subsection (3), every travelling wholesaler's licence shall be subject to the condition that the holder of the licence shall not sell, or permit the sale of, goods by retail.
- (5) The Licensing Authority may issue a travelling wholesaler's licence either generally, or in respect of any part of the county.
- (6) A travelling wholesaler's licence granted under this Act shall be personal to the holder of the licence and shall not be transferable.

(7) The Licensing Authority may refuse to grant a travelling wholesaler's licence under this section without assigning any reason for the refusal, and may revoke any travelling wholesaler's licence granted under this section if it is satisfied that any of the terms and conditions upon which the travelling wholesaler's licence was granted has been contravened.

(8) Any applicant who is aggrieved by the refusal of the Licensing Authority to grant travelling wholesaler's licence may appeal to the Executive Committee Member.

(9) The Executive Committee Member 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.

Duration of travelling wholesaler's licence.

13. Unless earlier revoked, a travelling wholesaler's licence granted in respect of any year shall expire on the thirty-first day of December of that year.

servant.

14. Where a person holding a travelling wholesaler's licence employs a servant to act as a travelling wholesaler, that person shall take a licence to be carried by the servant when acting as a travelling wholesaler and, when it is desired that more servants than one shall be so employed, an additional licence shall be taken out in respect of each additional servant.

Production of travelling wholesaler's licence.

15. Every person who holds a travelling wholesaler's licence, including every servant of that person, shall carry the licence at all times while acting as a travelling wholesaler, and shall produce the licence for inspection on the demand of any administrative officer, police officer or any person duly authorised in writing by the Licensing Authority.

PART V—GENERAL PROVISIONS

- Duplicate licence. **16.** Where a Licensing Authority is satisfied that any licence granted under this Act has been lost or destroyed, the Licensing Authority which granted the licence shall, on application made to it and on payment of the fee prescribed by a regulation, issue a duplicate of the licence to the applicant.
- Surrender of licence. **17.** 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.
- Transfer of licence. **18.** (1) Subject to this Act, any holder of a licence granted under this Act, except a hawker's or travelling wholesaler's licence, may make an application for the transfer of that licence; or for the relocation of business or change of plot; and, on payment of the appropriate fee, the Licensing Authority may transfer the licence to any other fit and proper person—
(a) in respect of the same trade; or
(b) in respect of a trade different from that in respect of which it was originally granted, and shall endorse the particulars of any such transfer on the licence.
(2) Notwithstanding subsection (1), the Licensing Authority may refuse to transfer a licence under this section without assigning any reason for the refusal.
- Appeal against the decision. **19.** (1) A person aggrieved by a decision of the Licensing Authority may appeal to the Executive Committee Member responsible for trade against the decision.
(2) The Executive Committee 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 the decision made.

Authorized officers.

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

(2) 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 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).

(3) Notwithstanding section 20(2) above, an authorised officer shall 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 authorised officer suspects on reasonable grounds that an offence is being committed against this Act in or on the premises.

Exhibition of trading licence.

21. Every holder of a trading licence shall keep the licence exhibited in a conspicuous place in the trading premise.

Register.

22. (1) The Licensing Authority shall establish and maintain a register of trade licenses which is to be available for inspection by the public during usual government office hours.

(2) The register shall contain such information as is prescribed, but must not include information that is commercial-in-confidence.

Offence-false or misleading statements.

23. (1) A person shall not make any statement which the person knows to be false or misleading—

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

(2) A person who contravenes provisions of subsection (1) above shall be liable to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding three months or to both.

General penalty.

24. 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 ten thousand shillings.

County Assembly to determine licence fees.

25. 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.

Power to make rules.

26. The Executive Committee Member responsible for trade may make rules generally for the better carrying out of the provisions and purposes of this Act.

CAP 265 of 2013

27. (1) Despite the repeal of the Local Government Act 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 30th 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.

CAP 265 of 2013

(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.