

(Kericho County Legislative Supplement No. 2)

LEGAL NOTICE NO. 2

THE KERICHO COUNTY TRADE LICENSING REGULATIONS,
2018

IN EXERCISE of the powers conferred by section 16 of the Kericho County Trade Licensing Act, 2017 the County Executive Committee Member for Trade, Industrialization, Co-operative Management, Tourism and Wildlife makes the following Regulations-

THE KERICHO COUNTY TRADE LICENSING REGULATIONS
PRELIMINARY

1. These Regulations may be cited as the Kericho County Trade Licensing Regulations, 2018.

Citation

2. In these Regulations;

Interpretation

“Act” means Kericho County Trade Licensing Act, 2017;

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

“authorized officer” includes a duly authorized officer of the county, police officer and administrative police officer;

“business” includes a profession, trade or occupation;

“Chief Officer” means the county chief officer appointed under section 45 of the County Governments Act, 2012;

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

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

“licensing officer” has the meaning given by section 12 of the Act;

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

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

“Executive Committee Member” means the County Executive Committee Member responsible for matters relating to co-operative;

“Sub-County Administrator” means the administrator appointed under the County Government Act, 2012.

3. (1) An application for a trade licence shall be lodged with the licensing officer in Form -01 prescribed in the First Schedule accompanied by—

Licensing Process

- (a) proof of compliance with the laws relating to health, fire, hygiene, safety and any other laws applicable to the licence applied for;
- (b) a copy of the identification card or a passport of the person making the application ;
- (c) payment of the application fee;
- (d) a rates clearance certificate where applicable;
- (e) relevant permits, immigration documents and proof of clearance from the relevant government agencies where the applicant is a non-citizen; and
- (f) any other document or information that the licensing officer may require.
- (2) The licensing officer may by notice in the *Gazette* amend the application forms prescribed in the First Schedule.
4. (1) The Licensing Officer shall assess the application and - Application for a Licence
- (a) grant a licence with or without conditions in Form-02 prescribed in the First Schedule; or
- (b) refuse to grant a Licence and give reasons to the applicant in writing.
- (2) An application may be made in an electronic format approved by the Executive County Member.
- (3) Where a licence has been granted with conditions, the Licensing Officer may, on request of the applicant, give reasons in writing.
5. (1) An applicant shall, prior to the grant of a trade licence and on direction of the licensing officer, pay the licence fee prescribed under the second schedule. Licence Fees
- (2) For the avoidance of doubt, the licence fee prescribed under the second schedule shall not be calculated on a pro rata basis irrespective of the time of the year the application for the trade license is made.
- (3) The Executive Committee Member responsible for finance may by regulations exempt any person from payment of trade licence fee or other charges under this Act wholly or for a period of time as it shall be appropriate.
6. (1) The licensing officer shall establish and maintain a register of trade licences which shall be available for inspection by the public during government office hours. Register
- (2) The register under sub-regulation (1) shall not include commercial-in-confidence information of the applicant.
7. (1) Every license shall be displayed in a conspicuous position in the premises in respect of which it is issued. Display of the Licence

(2) A person who contravenes this Rule commits an offence and shall be, upon conviction, liable to a fine of a sum not exceeding ten thousand Kenya Shillings.

8. (1) A person whose licence is lost, destroyed or defaced may, on application in the Form -01 prescribed in the First Schedule and payment of the prescribed fee, be issued with a duplicate licence. Duplicate Licence

(2) A trade licence granted under this Act shall expire on the thirty first day of December of the year of issue.

(3) A licensee may apply for renewal of licence as provided under this Act.

(4) A licensee who fails to renew a trade licence by the thirty first day of March of the subsequent year after expiry shall be deemed to operate without a trade licence.

9. The licensing officer may, on the application of the licence in the Form -03 prescribed under the First Schedule renew a licence if satisfied that the licensee has complied with the provisions of the Act and these Rules. Renewal of a Licence.

10. (1) The licensing officer may by notice in Form -04 suspend or cancel a licence if satisfied that- Cancellation or suspension of a Licence

- (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;
- (b) the licensee has breached a condition of the licence;
- (c) the licensee has breached the requirements of any County legislation relating to a licence;
- (d) information given in the application for the licence is materially incorrect to create a false impression of the ownership of the business or the nature of its business activity
- (e) the licensee has used discriminatory, unfair or improper trading practices;
- (f) the licensee is carrying on a prohibited activity; or
- (g) the licensee has been convicted of an offence under this Act.

(2) A notice under subsection (1) shall—

- (a) be served at least seven days prior to cancellation or suspension;
- (b) set out reasons for the suspension or cancellation; and
- (c) state the period of suspension where the intention is to suspend the licence.

(3) Where a licence is suspended or cancelled, the licensee shall cease to conduct the business immediately.

(4) A person who continues with conduct of business where a licence has been cancelled or suspended under shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding six months or both.

11. A licensee may surrender a trade licence by returning it to the licensing officer.

Surrender of a
Licence

12. (1) A trade licence issued under these Regulations may, on application in Form KTL-05 prescribed in the Second Schedule and payment of the prescribed fee be transferred to a legal representative of the licensee.

Transfer of a Licence

(2) An application for transfer of a licence shall be accompanied by-

- (a) a copy of the identification card, passport or certificate of incorporation of the licensee;
- (b) a copy of the identification card, passport or certificate of incorporation of the legal representative or assignee;
- (c) payment of the prescribed fee; and
- (d) any other document or information relevant to the transfer which the licensing officer may require.

13. (1) A person aggrieved by a decision of the licensing officer under Regulations 4, 5, 9 and 10 may within fourteen days appeal in writing to the County Executive Committee Member of the applicable department against the decision.

Appeal Process

(2) There is established the Trade Licensing Appeal Committee (hereby referred to as the "Trade Appeal Committee") to be constituted by the County Executive Committee Member of the applicable department.

(3) The Trade Appeal Committee shall be an ad hoc committee and shall consist of—

- (a) the County Secretary appointed under the County Government Act, 2012 who shall be the chair to the Committee;
- (b) the Chief Officer of the applicable department;
- (c) the County Director of Revenue;
- (d) the Sub-County Administrator appointed under the County Government Act, 2012 and responsible for the area;
- (e) a coopted member related or knowledgeable to type of licence activity code; and
- (f) a County Legal Officer who shall serve as the secretary to the Committee;

(3) For the avoidance of doubt, an appeal under sub-rule (1) shall only lie in—

- (a) refusal to grant a licence;
- (b) imposition of conditions on a licence; or
- (c) cancellation or suspension of a licence.

(4) The County Executive Committee Member of the applicable department shall, on the recommendation of the Trade Appeal Committee—

- (a) confirm or reverse a refusal to grant a trade licence;
- (b) confirm or reverse the suspension or cancellation of a licence; or
- (c) confirm or modify the conditions imposed on a licence.

(5) The County Executive Committee Member of the applicable department; shall give such directions to the licensing officer as may be necessary to give effect to the decision.

(6) A person aggrieved by a decision of the Trade Appeal Committee may within twenty one days appeal to a court of competent jurisdiction against the decision.

(7) The court 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 court's decision.

14. A Licensing officer may –

Powers of Licensing
Officers

- (1) Enter any premises to—
 - (a) Inspect it in relation to an application for grant or renewal of a license; or
 - (b) Confirm whether the licensee is complying with the provisions of Act, the Regulations and the conditions of the licence;
- (2) Search the premises or any part of the premises;
- (3) Inspect or examine anything in or on the premises;
- (4) Seize anything that may afford evidence of the commission of an offence against this Act;
- (5) Take extracts from, and take copies of, any documents in or on the premises;
- (6) Take into or onto the premises such persons, equipment and materials as the authorized officer reasonably requires for the purpose of exercising any of the powers mentioned in paragraphs (1) to (5); or
- (7) Require the licensee, or any person in or the premises, to give to the licensing officer reasonable assistance in relation to the exercise of any of the powers mentioned in paragraphs (1) to (6).

15. (1) A licensing officer shall not enter any premises unless-
- (a) The owner or occupier of the premises consents to the entry; or
 - (b) The entry is made when the premises are open for conduct of the business or otherwise open for entry; or
 - (c) The authorized officer suspects on reasonable grounds that the licensee is not complying with Regulations made under this Act.
- (2) A licensing officer shall, in exercise of any function under these Regulations identify themselves to the licensee or agent of the licensee.
- (3) A licensing officer shall, not later than forty eight hours from the date of taking an action in exercise of the powers under this part, file a report in Form KTL-06 prescribed in the First Schedule with the Sub-County Administrator giving particulars of-
- (a) the action taken;
 - (b) time of taking the action;
 - (c) summary of findings;
 - (d) details of the licensee; and
 - (e) record of any goods seized including the quantity, nature and location of storage.
- (4) Notwithstanding sub rule(3), where a licensing officer has seized goods within forty eight hours, licensing officer shall file a preliminary report within forty eight hours and a detailed account of the goods not later than five working days from the date of seizure.
- (5) A licensing officer shall exercise caution while seizing goods in order to ensure that goods are not unreasonably damaged.
- (6) All good seized shall immediately be stored in the nearest County offices or any place designated for that purpose.
- (7) The County Executive Committee Member of the applicable department may take such appropriate action under the law against a licensing officer who fails to submit the report as required in sub-rule 4 or who acts contrary to the Act.
- (8) Any goods seized in exercise of the powers under these Regulations which remain unclaimed for a period exceeding six months from the date of seizure shall be forfeited to the County Government and shall be disposed in accordance with the applicable laws.

FIRST SCHEDULE

FORM KTL - 01

r (3)

KERICHO COUNTY TRADE LICENCING ACT, 2017

TRADE LICENCE APPLICATION FORM

Sub County Name:
Ward Name:

DATE: _____

(A separate application form must be completed in respect of each separate business establishment. Full and accurate completion of this form will speed up the project approval process)

A. DETAILS OF THE APPLICANT

1. Applicant's Particulars

Name: _____ Owner's ID: _____

Business Name: _____ Business ID No: _____

P.O. BOX _____ Postal Code: _____ Town: _____

E-mail: _____ Fax: _____ VAT No: _____

Cell Phone: _____ Business Tel.No: _____ PIN No: _____

Legal form of the business Entity (Limited Company, Partnership, Etc.)

Date of Incorporation registration _____
the Company/ Business is:-

Indicate whether

(a) New [] (b) Operating []

2. Give full details of proprietors or partners owing business or director/ shareholders of the company, as the case may be.

Name:

Nationality:

(Where applicable) No. of shares held:

(any additional information should be submitted on a separate sheet of paper)

B. PROPOSED LOCATION OF BUSINESS

3. Full description of the business/manufacturing for which a licence is required

.....
.....

4. (a) Indicated the number and date of issue of any licence previously held under the Act
.....
.....

(b) Give the date of commencement of the business and the period for which the licence
is now being applied for (not exceeding three (3) years)
.....
.....

5. (a) Copies of the following documents should be submitted with the application for a
licence:

- i) If the applicant is Kenya, a copy of both sides of ID/card or if a non-Kenya
current work permits together with copies of pages 1 to 5 of the passport;
- ii) Relevant entry permit (s) for non-citizen and suitable identification
document

(b) an applicant for the renewal of a licence shall submit only a photocopy of the current
licence.

I/We hereby certify that the information given in this application is true and correct. I/We
understand that it is an offence under section 14 of the Kericho County Trade Licensing
Act, 2017 to give false information in support of any application.

Applicant's Name: Designation:
.....

Applicant's Signature:Date:

CAUTION: Section 14: A person who gives false or misleading information in
connection with an application for the grant or renewal of a licence or providing any
information required under this Act is guilty of an offence and is liable to a fine not
exceeding fifty thousand Kenya Shillings or an imprisonment of a term of one year or to
both.

Indicate Enclosures:

- 1. Certificate of Incorporation in Kenya;
- 2. Inspection reports;
- 3. Others.....

To be submitted to:

Licensing Officer

Department of

County Government of Kericho

FORM KTL – 02r.4

KERICHO COUNTY TRADE LICENCING ACT, 2017

TRADE LICENCE

A licence to conduct (insert business, trade, profession or occupation to conducted) at the premises at (insert location of the premises to which licence applies) is granted for the period starting on (insert initial date of grant of the licence) and ending on 31 December (insert year)* or is renewed for the period from 1 January to 31 December (insert year).

The licence is (insert name of person to whom the licence is granted or for whom it is renewed).

The licence is granted or renewed* subject to the Kericho County Trade Licence Act, 2017 and Regulations made under the Act, and the Conditions set out below.

.....(Insert conditions relating to the particular business, trade, profession or occupation to which the license relates)

Granted by the Licensing Officer.

DATED at (..... Town) this day of 20.....

Signature..... Date.....

Licensing Officer

County Government of Kericho

FORM -03

r (9)

KERICHO COUNTY TRADE LICENCING ACT, 2017

BUSINESS REGISTRATION/RENEWAL FORM/INVOICE*

(NOTE: THIS IS NOT A PERMIT)

DATE: _____

Sub County Name: Ward Name:

Owner's Name: _____ Owner's ID: _____

Business Name: _____ Business ID No: _____

P.O. BOX _____ Postal Code: _____ Town: _____

e-mail: _____ Fax: _____ VAT No: _____

Cell Phone: _____ Business Tel. No: _____ PIN No: _____

I certify that the information registered in this form is true and accurate to the best of my knowledge.

Applicant's Signature:

NOTE: YOU ARE ADVISED TO PAY BEFORE 31ST MARCH TO AVOID BING PENALISED

FOR OFFICIAL USE ONLY:

Previous Permit Number:
Person/Business on Previous Permit:

Name of _____ and Date:.....

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Building Name: _____

Business :Category: _____

Street/Road Name: _____

Plot Number: _____

Activity Code:

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*Delete where not applicable

Business Invoice	Amount	
	KSHS	CTS
SBP		
REFUSE		
FIRE		
INSPECTION		
PUBLIC HEALTH		
SIGNAGE		
OTHERS (specify)		
Total Amount		

Detailed Activity & Remarks:
ACCOUNT NAME: KERICHO COUNTY REVENUE COLLECTION KENYA COMMERCIAL BANK, KERICHO BRANCH ACCOUNT NO: 1140754297

I certify that this form was filled and received by me on the date registered below:

Name:

Date:.....

Signature Stamp:

(Sub-County Receiver of Revenue)

FORM -04

r10

KERICHO COUNTY TRADE LICENCING ACT, 2017

NOTICE OF BUSINESS CANCELLATION OR SUSPENSION OF A LICENCE FORM

TO (holder of Licence):

.....
.....

(Particulars of licensee)

TAKE NOTICE that the licensing officer has on this day of ordered the closure of business located at cancelled /suspended your licence number.....

Following your failure to comply with the notice of..... Issued on theday of

TAKE FURTHER NOTICE that the notice takes effect immediately from the date of this notice.

Failure to comply with this Notice is an offence under the Section 15 of the Act.

Signature..... Date..... Time

Licensing Officer

Department of

County Government of Kericho

Cc Sub County Administrator

.....Sub County

FORM KTL- 05

r11, r12

KERICHO COUNTY TRADE LICENCING ACT, 2017

APPLICATION FOR *TRANSFER/SURRENDER OF TRADE LICENCE

(To be completed in in triplicate)

TO: Licensing Officer

Department of

County Government of Kericho

P O Box 112 – 20200, KERICHO

Owner's Name: _____ Owner's ID: _____

Business Name: _____ Business ID No: _____

P.O. BOX _____ Postal Code: _____ Town: _____

e-mail: _____ Fax: _____ VAT No: _____

Cell Phone: _____ Business Tel. No: _____ PIN No: _____

Type and reference number of licence held:

Name of the transferee /address of the premises to which it is desired to surrender:

New Owner's Name: _____ New Owner's ID: _____

Business Name: _____ Business ID No: _____

P.O. BOX _____ Postal Code: _____ Town: _____

e-mail: _____ Fax: _____ VAT No: _____

Cell Phone: _____ Business Tel. No: _____ PIN No: _____

Date:

Signature of Applicant:

- 1) Licensee may surrender the trade licence to the licensing officer; and
- 2) Payment of prescribed transfer fee is to accompany this application.

*Delete where not applicable

FORM KTL - 06

r15(3)

KERICHO COUNTY TRADE LICENCING ACT, 2017

LICENSING OFFICER'S REPORT

To:

Name

From:, the Licensing Officer.

Employment No.

Please take note that on the day of20..... at.....am/pm,

Iholder of national identification card no
....., being an authorized officer, entered the business premises known

as Located
at.....building

..... street and seized the following goods/obtained the
following documents/made the following finding/observations-

The details of the licensee/business owner are as follows:

Name:.....

Postal Address:

Physical address:.....

Telephone contacts:.....

The goods seized were the following:

Description	Quantity	Date of expiry	Place of custody

Signed..... Date.....

Licensing Officer

Department of

County Government of Kericho

CC Sub county Administrator

..... Sub County

SECOND SCHEDULE

LICENCE FEES

s (4)

The licensing fees and penalties (if any) may be determined by a Kericho County Finance Act providing for annual county finances or in such other Act as the county assembly determines.

Made on the 14th May, 2018

PHILIP MASON,
*County Executive Committee Member for Trade,
Industrialization, Co-operative Management, Tourism and Wildlife.*