

SPECIAL ISSUE

Kenya Gazette Supplement No. 9 (Kericho County Acts No. 5)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

KERICHO COUNTY ACTS, 2017

NAIROBI, 8th June, 2017

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THE KERICHO COUNTY TRADE LICENSING ACT, 2017

No. 5 of 2017

Date of Assent: 6th June, 2017

Date of Commencement: 8th June, 2017

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**THE KERICHO COUNTY TRADE LICENSING
ACT, 2017**

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

ENACTED by the County Assembly of Kericho as
follows—

PART I—PRELIMINARY

1. (1) This Act may be cited as the Kericho County Trade Licensing Act, 2017. Short title and commencement.

(2) This Act shall come into operation upon publication in the *Kenya Gazette*.

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

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

“business” includes a profession, trade or occupation;

“receiver of revenue” in relation to the county government, means a person designated to be a receiver of revenue under Public Finance Management Act (2012) section 157;

“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 the County Government of Kericho;

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

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

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

“Executive Member” means the County Executive Committee Member responsible for Trade, Industrialization, Co-operative Management, Tourism and Wildlife.

3. (1) A person must not conduct a business within the county, unless the person is the holder of a trade licence for that business. Any person who contravenes the provision of this section commits an offence and is liable to a fine not exceeding Kenya Shillings One Hundred Thousand.

Requirements of a
Trade Licence.

(2) For the purposes of subsection (1), if a person is granted a trade licence to conduct a business within the county of Kericho, that trade licence is valid for conducting that business within Kericho County.

4. (1) The county assembly may approve the licence fees payable for the grant or renewal of trade licences, and may approve the penalties payable for the late payment of licence fees.

County
Assembly to
determine
Licence Fees.

(2) The licence fees and penalties (if any) may be determined by the Act providing for annual county finances or in such other Act as the county assembly determines.

5. 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;
- (d) be signed in a manner specified in the approved form;
- (e) be accompanied by the prescribed application fee.

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

(3) The licensing authority may, before dealing with 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 dealt with.

(4) The prescribed application fee is not refundable.

6. (1) The licensing authority may grant to an applicant for a trade licence such kind of trade licence as the licensing authority considers appropriate.

Grant of Licence.

(2) A trade licence is granted subject to the conditions specified in Schedule 1.

(3) The licence fee for the grant of a trade licence—

(a) must be paid to the county revenue collector on or before the date of on which the trade licence is granted; and

(b) is to be calculated by the county revenue collector 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. A trade licence is deemed to be renewed if—

Renewal of a
licence.

(a) the licence fee is paid to the receiver of revenue for its renewal on or before 31 December of the current calendar year; and

(b) the holder of the trade licence provides to the licensing authority the information (if any) requested by the licensing authority about the business conducted under the trade licence.

(2) A trade licence is deemed to be renewed for a calendar year.

8. The licensing authority 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 licence set out in Schedule 1.

(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, 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. Any person who contravenes the provision of this section commits an offence and shall be liable to a fine not exceeding One Hundred Thousand Kenya Shillings.

(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 a court of competent jurisdiction against the decision. Appeal of the decision.

(2) 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.

12. (1) The licensing authority may appoint persons as licensing officers for the purposes of this Act. Licensing Officers.

(2) A licensing officer has the powers set out in Schedule 2.

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.

(a) in or in connection with an application for a trade licence; or

- (b) when furnishing information required under this Act. The Penalty is a fine not exceeding 50,000 shillings.

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 Executive member may make rules generally for the better carrying out of the provisions and purposes of this Act. Power to make Rules.

17. (1) This section applies to any by-law relating to business permits made by a local authority within the county if that by-law was in force immediately before the commencement of this Act. Savings.

(2) On and after the commencement of this Act, the by-law continues in force as if—

- (a) it had been made by the county government; and
- (b) a reference in the by-law to a local authority were a reference to the county government; and
- (c) a reference in the by-law to clerk, however described, were a reference to the licensing authority; and
- (d) any fees or charges payable to the local authority were payable to the county government.

(3) A business permit issued under the by-law continues in force as if it were a trade licence granted under this Act by the County Government of Kericho.

**SCHEDULE 1—CONDITIONS OF A TRADE
LICENCE***Section 6*

1. A trade licence is subject to the following conditions—

- (a) the holder of the licence must not contravene a provision of this Act or the rules made under this Act; and
- (b) the holder of the licence must comply with any law administered by the county government relating to health, hygiene or safety.

**SCHEDULE 2—POWERS OF LICENSING
OFFICERS***Section 12*

1. An licensing 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; and
- (b) search the premises or any part of the premises; and
- (c) inspect or examine any thing in or on the premises; and
- (d) seize any thing that may afford evidence of the commission of an offence against this Act; 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 inspector 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 inspector

reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (f).

2. However, an licensing officer must not enter premises unless—

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