



KERICHO COUNTY ASSEMBLY
SECOND ASSEMBLY
(Second Session)

THE DELEGATED COUNTY LEGISLATION COMMITTEE.

REPORT ON THE KERICHO COUNTY TRADE LICENSING RULES, 2017
(Submitted pursuant to standing order 193)

APRIL, 2018

CLERK'S CHAMBERS
KERICHO COUNTY ASSEMBLY BUILDING
KERICHO

TABLE OF CONTENTS

1.0 PREFACE	3
1.1 Mandate of the Committee	3
1.2 Committee Membership	5
2.0 The Kericho County Trade Licensing Rules,2017	6
3.0 Committee Observations	6
4.0 Committee Recommendations.....	8
5.0 Acknowledgement.....	8

1.0 PREFACE

1.1 Mandate of the Committee

The Committee on Delegated County Legislation is established pursuant to the Kericho County Assembly's Standing Order 193 which states that :

- 1) There shall be a select Committee to be known as the Committee on Delegated Legislation.
- 2) Whenever a statutory instrument is submitted to the County Assembly pursuant to the Constitution, any law or these Standing Orders, the statutory instrument shall, unless a contrary intention appears in the relevant legislation, be laid before the County Assembly by the Chair of the relevant Sectoral Committee, or any other member and shall thereafter stand referred to the Committee on Delegated Legislation.
- 3) The Committee shall consider in respect of any statutory instrument whether the statutory instrument:-
 - a) Is in accord with the provisions of the Constitution, the Act pursuant to which it is made or other relevant written law;
 - b) Infringes on fundamental rights and freedoms of the public;
 - c) Contains a matter which in the opinion of the Committee should more properly be dealt with in an Act of the Assembly;
 - d) Contains imposition of taxation;
 - e) Directly or indirectly bars the jurisdiction of the Court;
 - f) Gives retrospective effect to any of the provisions in respect of which the Constitution or the Act does not expressly give any such power;

- g) Involves expenditure from the County Revenue Fund or other public revenues;
- h) Is defective in its drafting or for any reason the form or purport of the statutory instrument calls for any elucidation;
- i) Appears to make some unusual or unexpected use of the powers conferred by the Constitution or the Act pursuant to which it is made;
- j) Appears to have had unjustifiable delay in its publication or laying before Assembly;
- k) Makes rights, liberties or obligations unduly dependent upon non-reviewable decisions;
- l) Makes rights, liberties or obligations unduly dependent insufficiently defined administrative powers;
- m) Inappropriately delegates legislative powers;
- n) Imposes a fine, imprisonment or other penalty without express authority having been provided for in the enabling legislation;
- o) Appears for any reason to infringe on the rule of law;
- p) Inadequately subjects the exercise of legislative power to Assembly scrutiny ; and
- q) Accords to any other reason that the Committee considers fit to examine

(4) If the Committee-

- a) resolves that the statutory instrument, be acceded to, the Clerk shall convey that resolution to the relevant County department or the authority that published the statutory instrument;
- b) does not accede to the statutory instrument, or part of a statutory instrument, the Committee may recommend to the County Assembly that the County Assembly resolves that all or any part of the statutory

instrument, as the case may be, be annulled, the instrument or part thereof shall henceforth stand annulled.

1.2 Membership of the Committee

The Committee on Delegated Legislation was constituted on 4th October, 2017 and the membership of the Committee is as follows:-

1. Hon. Kipyegon Koech - Chairperson
2. Hon. Ann Cherono - Vice-Chairperson
3. Hon Stanley Bett - Member
4. Hon.Alfred Cheruiyot - Member
5. Hon. Hellen Chepkirui - Member
6. Hon. Milka Wangare - Member
7. Hon. Humphrey Kirui - Member
8. Hon. Ann Kosgey - Member
9. Hon. Philipm Rono - Member
10. Hon. Anthony Ruto - Member
11. Hon. Eric Korir - Member
12. Hon. Annah Tonui - Member
13. Hon.Kassim Abdulrashid - Member
14. Hon Jackline Chebet - Member
15. Hon.Eric Bii - Member
16. Hon.Hezron Ngetich - Member
17. Hon.Paul Chirchir - Member

2.0 The Kericho County Trade Licensing Rules

The Kericho County Trade Licensing Act, 2017 was published on 8th June 2017 and it came into force on the date of publication in the Kenya Gazette. Section 16 of the said Act provides that:

‘The Executive Member may make rules generally for the better carrying out of the provisions and purposes of this Act.’

On 4th September 2017 the County Executive Committee member in charge of Trade Industrialization, Co-operative management, Tourism and wildlife forwarded rules on Trade Licensing to the County Assembly. The said rules were thereafter committed to the committee on delegated legislation on 11th October, 2017.

On 15th -18th March 2018 the said committee had meetings at Joventure Hotel, Kisumu County to deliberate on the said Rules.

3.0 Committee Observations

The Committee observed the following:

1. That Section 16 of the Kericho County Trade Licensing Act, 2017 provides that the Executive Member may make rules regarding trade licensing;
2. That the said rules conform to the provisions of the Constitution, the Statutory Instruments Act and the Kericho County Assembly Standing Orders.

3. That Rule 3 sub rule 2 be amended by inserting the word **'Kenya'** immediately after the word **'the'** appearing the second time
4. That Rule 3 sub rule 4 be amended by deleting the word **'section'** and replacing it with the word **'rule'**
5. That Rule 5 sub rule 1 be amended by deleting the words **'in the Second Schedule'** and replacing them with the words **'Kericho County Finance Act'**
6. That Rule 7 sub rule 2 be amended by deleting the word **'section'** and replacing it with the word **'rule'**
7. That Rule 9 be amended by deleting the words **'this Act'** and replacing them with the words **'the Act and these rules'**
8. That Rule 10 sub rule 4 be amended by deleting the word **'section'** and replacing it with the word **'rule'** and by deleting the word **'to'** appearing the second time
9. That Rule 15 sub rule 2 be amended by deleting the words **'this part'** and substituting them with the words **'these rules'**
10. That Rule 15 sub rule 4 be amended by deleting the word **'Paragraph'** and substituting it with the word **'sub rule'**
11. That Rule 15 sub rule 8 be amended by deleting the words **'this part'** and substituting them with the words **'these rules'**

4.0 Committee Recommendations

In view of the Committee's considerations and observations, and pursuant to County Assembly's Standing Order 193(4), the Committee recommends The Kericho County Trade Licensing Rules 2017, be acceded to subject to reprinting of the rules in order to amend the changes made by the committee as earlier stipulated.

5.0 Acknowledgement

The Committee wishes to thank the Offices of the Speaker and the Clerk of the Assembly for the necessary support extended to it in the execution of its mandate.

Mr. Speaker Sir,

It is my pleasant duty, pursuant to Standing Order 193 (3), to present the Report of the Committee on Delegated County Legislation on **The Kericho County Trade Licensing Rules, 2017** for consideration by the House.

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

Hon.Kipyegon Koech,

Chairman-Committee on Delegated County Legislation