SPECIAL ISSUE

Siaya County Gazette Supplement No. 6 (Bills No. 6)

REPUBLIC OF KENYA

SIAYA COUNTY GAZETTE SUPPLEMENT

BILLS, 2014

NAIROBI, 26th June, 2014

CONTENT

Bill for Introduction into the Siaya County Assembly—

The Siaya County Trade Licence Bill, 2014........................................ 1

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI
THE SIAYA COUNTY TRADE LICENCE BILL, 2014

A Bill for

AN ACT of the County Assembly of Siaya to grant of trade licences, and for all connected purposes

ENACTED by the County Assembly of Siaya as follows—

1. (1) This Act may be cited as the Siaya County Trade Licence Act, 2014.

   (2) This Act comes into operation on [Date to be inserted].

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

   “approved form” means a form set out in Schedule 2 or approved by the chief licensing officer;

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

   “business” includes a profession, trade or occupation, other than a prescribed business;

   “chief licensing officer” means the chief licensing officer appointed under section 3;

   “county public officer” has the same meaning as in the County Governments Act 2012;

   “holder”, in relation to a trade licence, means the person to whom the trade licence is granted or to whom the trade licence is transferred or assigned;

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

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

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

   “trade licence”, in relation to a business, means a licence granted under this Act to conduct the business.

3. (1) The county executive committee member responsible for trade shall appoint an officer of the county government as the chief licensing officer.

   (2) The chief licensing officer has the functions and powers provided for by or under this Act.
(3) The chief licensing officer may approve forms for the purposes of this Act and amend the forms in Schedule 2.

(4) The chief licensing officer may, by instrument in writing, delegate all or any of his or her functions or powers under this Act to a county public officer, except this power of delegation and upon approval by the Committee executive member in-charge of Trade.

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.

(2) If a person contravenes subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding 500,000 shillings.

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

(a) be lodged with the chief licensing officer; and

(b) be in the approved form; and

(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 chief licensing officer.

(3) The chief licensing officer may, before determining an application, require the applicant to provide to the chief licensing officer such additional information or documents as is necessary to enable the application to be determined.

(4) The application fee (if any) is not refundable.

6. (1) The chief licensing officer shall grant an application for a trade licence if—

(a) the chief licensing officer is satisfied that the applicant has complied or will comply with all
(2) An authorised officer has the powers set out in Schedule 1.

13. (1) The chief licensing officer must establish and maintain a register of trade licences which is to be available for inspection by the public during usual government office hours.

(2) The register must contain such information as is determined in writing by the chief licensing officer, but must not include commercial-in-confidence information.

14. (1) A person must not make a statement which the person knows to be false or misleading—

(a) in or in connection with an application for the grant or renewal of a trade licence; or

(b) when providing information required under this Act.

(2) If a person contravenes subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding 250,000 shillings.

15. The licence fees that are payable for the grant or renewal of trade licences, including any additional fees for the non-payment or late payment of such licence fees, are to be determined each year by the county assembly in the County Finance Bill.

16. (1) The county executive committee member responsible for trade may make rules and regulations for the better carrying out of the provisions and purposes of this Act.

(2) Without limiting subsection (1), rules may be made for the following purposes—

(a) the payment of licence fees, including additional fees for non-payment or late payment;

(b) the exemption, waiver or reduction of licence fees;

(c) prescribing fees for services;

(d) prescribing forms;

(e) publication and service of notices and other documents;
(f) the transfer or assignment of trade licences;

(g) different categories of trade licences.

(3) The said rules and regulations shall come into operation on the day that they are gazetted.

17. (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 163A of the Local Government Act [CAP 265] that was in force on 30 September 2013 is deemed to have continued in force, subject to subsection (2), on and 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.

(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, whichever occurs first.
Part B

COUNTY OF SIAYA TRADE LICENCE ACT 2014

TRADE LICENCE

Note: business has its ordinary meaning and includes a profession (excluding regulation of the profession), trade or occupation.

A trade licence to conduct [insert business, trade, profession or occupation to be 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 trade licence] and ending on 31 December [insert year] * or is renewed for the period from 1 January to 31 December [insert year].

The holder of the licence is [insert name of person to whom the trade licence is granted or for whom it is renewed].

The licence is granted or renewed* subject to the [Insert name of County] Trade Licence Act [Insert Year] and the rules made under that Act, and the conditions set out below:

[Insert conditions relating to the particular business, trade, profession or occupation to which the licence relates]

Granted by the [Insert name of County] chief licensing officer under the [Insert name of County] Trade Licence Act [Insert Year]

DATE

Chief licensing officer

*Delete if it does not apply
MEMORANDUM OF OBJECTS AND REASONS

Article 209(4) of the Constitution together with Part 2 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)) and to issue trade and liquor licences (items 7(b) and 4(c)). 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 mentioned above in Part 2 of the Fourth Schedule of the Constitution.

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

*delete which does not apply

JAMES NUNDA,
Chairman, Trade and Industry Committee.