

SPECIAL ISSUE

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REPUBLIC OF KENYA

**MACHAKOS COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2014

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CONTENT

Act—

	PAGE
The Machakos County Trade Licence Act, 2014	339



MACHAKOS COUNTY TRADE LICENCE ACT, 2014**(No. 9 of 2014)***Date of Assent: 22nd December, 2014**Commencement Date: 29th December, 2014***ARRANGEMENT OF SECTIONS***Section***PART I—PRELIMINARY**

- 1—Short title.
- 2—Interpretation.

PART II—TRADE LICENCE PROVISIONS

- 3—Chief Licensing Officer.
- 4—Requirement for a trade licence.
- 5—Application of licence.
- 6—Grant of licence.
- 7—Renewal of licence.
- 8—Revocation or suspension of licence.
- 9—Surrender of licence.
- 10—Transfer or assignment of licence.

PART III—GENERAL PROVISIONS

- 11—Appeals.
- 12—Authorized officers.
- 13—Register.
- 14—Offence- false or misleading statements.
- 15—County Assembly to determine licence fees.
- 16—Power to make rules.
- 17—Savings and transitional.

SCHEDULE**SCHEDULE —Approved forms**

**THE MACHAKOS COUNTY TRADE LICENCE
ACT, 2014**

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

ENACTED by the County Assembly of Machakos as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Machakos County Trade Licence Act, 2014. Short title

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

“approved form” means a form prescribed under section 16 (2) (d) or such other form as may be approved under this Act;

“authorized officer” has the meaning given under 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 Government Act 17 of 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;

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

PART II—TRADE LICENCE PROVISIONS

3. (1) The County Executive Committee Member responsible for trade shall designate an officer of the County Government as the Chief Licensing Officer. 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 purpose 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.

4. (1) A person may not conduct a business within the County, unless the person is a holder of a trade licence for that business.

Requirement for a trade licence.

(2) A person who contravenes subsection (1), commits an offence and shall upon conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six weeks or both.

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

Application for licence

- (a) be lodged with the Chief Licensing Officer;
- (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 manner specified in the approved form; and
- (e) be accompanied by the prescribed application fee.

(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 additional information or documents necessary to enable the application to be determined.

(4) An application fee once paid shall not refundable.

6. (1) The Chief Licensing Officer shall grant an application for a trade licence if—

Grant of licence

- (a) the officer is satisfied that the applicant has complied or will comply with all laws relating to health, hygiene and safety applicable to the trade

licence applied for: and

(b) the licence fee has been paid.

(2) A trade licence shall be in the approved form and shall be granted subject to such conditions as are specified in the licence.

(3) Subject to section 8 the initial term of a trade licence shall be on the date on which the licence is granted and ends on 31 December of that year.

(4) The holder of every license shall, not later than March of every year, renew the license.

(5) The licence fee payable for a trade licence issued to a new applicant after March shall be prorated having regard to the duration of the licence before expiry.

7. (1) The holder of a trade licence may, before the expiry of the trade licence or such other prescribed date, apply in the prescribed form for the renewal of the trade licence. Renewal of
licence

(2) The Chief Licensing Officer shall grant an application for the renewal of a trade licence if—

(a) the Chief Licensing Officer is satisfied that the applicant has complied with all laws relating to health, hygiene and safety applicable to the trader licence: and

(b) the licence fee payable for the renewal of the trade licence has been paid to the receiver of the revenue.

(3) The Chief Licensing Officer may before determining an application for renewal, require the applicant to provide the Chief Licensing Officer such additional information or documents as is necessary to enable the application to be determined.

(4) Subject to section 8, a trade licence is to be renewed for a calendar year.

8. (1) The Chief Licensing Officer may revoke, suspend for a specified period or cancel a trade licence if the officer is satisfied that— Revocation or
suspension of
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; or

- (b) the holder of the trade licence has breached a condition specified in the licence.

(2) If the Chief Licensing Officer revokes or suspends a licence, the officer shall give the holder of the licence written notice of the revocation or suspension, including the period of the suspension, revocation, together with a statement of the reasons of the decisions.

(3) If a trade licence is cancelled or suspended, the holder of the licence shall immediately cease to conduct the business.

(4) A person who contravenes subsection (1), commits an offence and shall upon conviction be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six weeks or both.

(5) If the Chief Licensing Officer 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 licence to the Chief Licensing Officer, but no refund of the licence fee is payable.

Surrender of
licence

10. (1) The holder of a trade licence may transfer or assign the licence and shall give the Chief Licensing Officer written notice in the prescribed form of any transfer or assignment.

Transfer or
assignment of
licence

(2) The Chief Licensing Officer may require a person to whom a licence has been transferred to pay the prescribed fees.

PART III—GENERAL PROVISIONS

11. (1) A person aggrieved by decisions of the Chief Licensing Officer may appeal to the County Executive Committee Member responsible for trade against the decision.

Appeals.

(2) The County Executive Committee Member responsible for trade may confirm, reverse or modify the

decision appealed against, and give such directions to the Chief Licensing Officer as may be necessary to give effect to the member's decision.

(3) The Chief Licensing Officer shall comply with any direction given under sub section (1).

12. (1) The County Executive Committee Member responsible for trade may appoint persons as authorized officers for the purposes of this Act. Authorized officers

(2) An authorized 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 conditions of 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 anything in or on the premises; and
- (d) seize anything 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 or materials as the authorized officer reasonably requires for the purposes of exercising any of the powers mentioned in paragraph (a) to (e); and
- (g) require the holder of the licence, or any person in the premises, to give to the authorized officer reasonable assistance in relation to the exercise of any of the powers mentioned in paragraphs (a) to (f).

(3) An authorized officer shall not enter premises unless—

- (a) the owner or occupier of the premises consents to the entry;

- (b) the entry is made when the premises are open for the conduct of business or otherwise open for entry;
- (c) the officer suspects on reasonable grounds that the holder of a trade licence is using it contrary to this Act or other law; or
- (d) there is a court order to that effect.

13. (1) The Chief Licensing Officer shall establish and maintain register of trade licenses which shall be available for inspection by the public during official government working office hours. Register.

(2) The register shall contain such information as the Chief Licensing Officer may determine, but shall not include confidential commercial information.

14. (1) No person shall make a statement which the person knows to be false or misleading— Offence-false or misleading statements

- (a) in connection with an application for the grant or renewal of a trade licence; or
- (b) when providing information required under this Act.

(2) A person who contravenes subsection (1) commits an offence and shall upon conviction, be liable to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding six weeks or both.

15. The licence fees that are payable for grant or renewal of trade licenses 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. County Assembly to determine licence fees.

16. (1) The County Executive Committee Member responsible for trade may, with the approval of the County Assembly make Regulations generally for the better carrying out of the provisions and purposes of this Act. Power to make Regulations.

(2) Without limiting sub section (1), Regulations 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 licenses; and
- (g) different categories of trade licenses.

17. (1) Despite the repeal of the Local Governments Act (CAP 265) and the County Governments Public Finance Management Transitional Act 2013, any single business permit issued by a Local Authority under section 163A of the Local Government Act (CAP265) that was in force on 30th September 2013 shall be deemed to have continued in force, subject to sub section (2), on and after that date as if it were a trade licence granted under this Act and fees or charges payable to a Local Authority in respect of the single business permit shall be payable to the County Government.

Savings and
transitional

(2) The single business permit referred to in sub section (1) shall continue in force—

- (a) until the expiry date of such permit; 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.

SCHEDULE —CONTENT OF APPROVED FORMS

Part A

APPLICATION FORM

MACHAKOS COUNTY TRADE LICENCE ACT, 2014

BASIC REQUIREMENTS FOR AN APPLICATION FOR THE GRANT OR RENEWAL OF A TRADE LICENCE

The form prescribed under section 16 (2) (d) shall contain the following information;

1. Applicant’s name and description of business, profession, trade or occupation to be conducted.
2. Name under which business, profession, trade or occupation, is or is to be carried on
3. If business is a partnership, give full names and addresses of all partners.
4. Give any registration details of business, profession, trade or occupation.
5. Address at which business, profession, trade or occupation is or is to be carried on.
6. Address of the business, profession, trade or occupation, and email or telephone contacts.
7. Provide a description of the premises including address to which the licence is to apply.
8. Is the applicant a resident of Kenya?
9. Is the applicant an undischarged bankrupt?
10. State the date on which it is desired to begin conducting the business, profession, trade or occupation* or the number of the previous licence.
11. Please provide the following additional information: (insert additional information required)
12. Please provide the following additional documents: (insert additional documents required)
13. Application fee is attached* or no application fee applies

I certify that the particulars given above are true and correct.

Date

Signature of Applicant

Part B

MACHAKOS COUNTY TRADE LICENCE ACT, 2014

TRADE LICENCE

Note: The term “business” shall be construed in 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 31st December (*insert Year*) * or is renewed for the period from 1st January to 31st 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 (*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 Machakos Chief Licensing Officer under the Machakos Trade Licence Act, 2014

Date

Chief Licensing Officer

*delete if it does not apply