

# **ELGEYO/MARAKWET COUNTY LIVESTOCK SALE YARD ACT 2024**

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## **THE ELGEYO MARAKWET COUNTY LIVESTOCK SALE YARD ACT, 2024**

**AN ACT** of the County Assembly of ELGEYO/MARAKWET to give effect to clause 1(b) of Part 2 of the Fourth Schedule to the Constitution; to provide for the development and management of livestock sale yard and for connected purposes.

**ENACTED** by the County Assembly of ELGEYO/MARAKWET as follows —

### **PART I- PRELIMINARY**

#### **Short title and commencement**

1. This Act may be cited as the Elgeyo/Marakwet County Livestock Sale Yard Act, 2024 and shall come into operation upon publication in the Gazette.

#### **Interpretation**

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

“auctioneer” means a person licensed as an auctioneer pursuant to section 10 of Auctioneers Act;

“chief officer” means the chief officer responsible for matters relating to livestock;

“county executive committee member” means the county executive committee member responsible for matters relating to livestock;

“county” means Elgeyo/Marakwet County;

“Technical Committee” means the Elgeyo/Marakwet County Livestock Sale Yard Technical Committee established pursuant to section 6(1) of this Act;

“Management Committee” means the Elgeyo/Marakwet County Livestock Sale Yard Management Committee established pursuant to section 18 of this Act;

“consignor” means a person usually the seller, who delivers livestock to a carrier for transporting to an intended buyer named in the transportation documents;

“department” means the county department responsible for matters relating to livestock;

“Electronic Trading” means the buying and selling of livestock on online platforms.

“Gazette” means the Kenya Gazette published by the authority of the national government, or a supplement to the Kenya Gazette;

“inspector” means a person designated as a livestock health inspector pursuant to section 9 of this Act;

“operator” in the case of—

- (i) a public livestock sale yard, means, a duly registered livestock marketing group; or
- (ii) a private livestock sale yard, means, a person duly licensed to manage a livestock sale yard in accordance with the provisions of this Act;

“livestock” for purposes of this Act, includes cattle, donkeys, camel, sheep, goat, pig, poultry, rabbit, companion animals, draught animals, bees and any emerging livestock;

“livestock sale yard” means a place designated as a livestock sale yard pursuant to section 5 of this Act;

“stall” means any immovable or movable structure used for the purpose of trading within the livestock sale yard; and

“standard sale yard” includes perimeter fence, holding pens for each category of livestock species, loading rumps, weighing scale, water trough, feed trough, manure pit, parking bay, sanitation blocks, auctioneer platform, office, stalls, quarantine area or incinerator.

“Precincts” means the area surrounding the livestock sale yard to a radius of one kilometer.

“Traceability” means the ability to quickly and efficiently track and trace the history, distribution and location of livestock

“Unfit livestock” means livestock that-

- (a) Are in particular circumstance unfit for human consumption or dangerous, or
- (b) Do not comply with a product safety or quality standards, or
- (c) Are affected by notifiable disease or any animal disease defined by the Animal Disease Act, Cap 364

### **Objects**

3. The objects of this Act is to-

- (a) provide for the development and management of livestock sale yards in the county;
- (b) promote livestock marketing in the county;
- (c) provide for a framework for the effective and efficient operation of livestock sale

- yards;
- (d) Facilitate open and transparent collection of revenue in the sale of livestock.
  - (e) Integrate livestock sale yard with other supportive business enterprises and services; and
  - (f) provide a framework for effective disease surveillance and control in the county.

### **Application**

- 4. This Act shall apply to livestock trade and livestock markets within the county.

## **PART II- LIVESTOCK SALE YARD**

### **Standard Livestock sale yard**

- 5. (1) The county executive committee member may designate a place in a strategic area within the county, to be a standard livestock sale yard.
- (2) A standard livestock sale yard referred to under paragraph (1) may be public or private.
- (3) A public livestock sale yard shall be designated by the county executive committee member on the recommendation of the Committee.
- (4) The county executive committee member shall on designation of an area to be a public livestock sale yard under subsection (3), publish the designation in the Gazette.
- (5) The specifications applicable for the establishment of a livestock sale yard under this Act, shall be the Kenya Standard KS2773:2018 issued and approved by the Kenya Bureau of Standards.
- (6) The county executive committee member shall make regulations for effective operationalization of this section.

### **Livestock Sale Yard Technical Committee**

- 6. (1) A public livestock sale yard established pursuant to section 5 of this Act, shall be managed by a committee to be known as the Elgeyo/Marakwet County Livestock Sale Yard Technical Committee.
- (2) The Committee shall be appointed by the county executive committee member and shall comprise—

- (a) the chief officer responsible for matters relating to livestock who shall be the chairperson;
  - (b) the county director responsible for livestock production who shall be the secretary;
  - (c) the county director responsible for trade and industrialization;
  - (d) county director responsible for cooperative development;
  - (e) county director responsible for social development;
  - (f) county director responsible for environment;
  - (g) the county director responsible for veterinary services;
  - (h) the county director responsible for county revenue;
  - (i) the county director responsible for public health;
  - (j) the chairperson of the umbrella body responsible for livestock marketing groups within the county; and
  - (k) the chairperson of the county chamber of commerce.
- (3) The Committee may co-opt a person whose knowledge and expertise is necessary to assist it effectively discharge its functions under this Act.
- (4) The Committee referred to under subsection (1), shall be under the department.
- (5) The department shall offer support and administrative services to the Committee for efficient discharge of the functions of the Committee under this Act.
- (6) The members of the Committee shall be paid such allowances as the county executive committee member may in consultation with the Salaries and Remuneration Commission determine.
- (7) The Committee shall conduct its meeting in the manner set out in the Schedule to this Act

### **Management of a livestock sale yard**

7. (1) Public sale yards shall be operated and managed by the County Government through the Department of Agriculture, Livestock, Fisheries and Irrigation.
- (2) The county shall put in place the necessary infrastructure to promote an efficient marketing, trading and value addition of the livestock sale yards within the county.
- (3) The county may construct stalls around livestock sale yards through a recommendation from the livestock sale yard technical Committee and approval

by the County Executive Committee Member.

### **Functions of the Committee**

**8. The Committee shall-**

- (a) supervise the management of the livestock sale yards within the county;
- (b) provide advisory services to the county executive committee member on the establishment of new livestock sale yard;
- (c) in consultation with the county executive committee member, be responsible for the setting of livestock market days for each sale yard within the county;
- (d) ensure that only registered livestock marketing groups operate livestock sale yards;
- (e) advise the department and the livestock marketing groups on the national and international best practices;
- (f) monitor the performance of the livestock marketing groups;
- (g) jointly with other partners, build the capacities of the livestock marketing groups for better management of a livestock sale yard;
- (h) oversee the use of funds allocated to the livestock marketing groups for the benefit of the community;
- (i) be responsible for the receipt of reports of the livestock marketing groups on the management of a livestock sale yard;
- (j) be responsible for the resolution of conflicts arising in the management of the livestock sale yard;
- (k) where appropriate recommend to the county executive committee member, the dissolution of the management of a livestock marketing group in the manner prescribed; and
- (l) be responsible for the mobilization of resources for the effective management of a livestock sale yard.
- (m) In consultation with the sale yard management Committees and with the approval of the County Executive Committee Member designate a place and date for the County Annual Livestock Auction Day.

## **Livestock Health Inspectors**

9. (1) The chief officer shall on the recommendation of the county director of veterinary services, designate qualified persons within the county public service, to be livestock health inspectors for the purposes of this Act.

(2) A person designated as an inspector under subsection (1), shall —

- (a) ensure that only livestock with a movement permit are admitted to a livestock sale yard;
- (b) ensure that livestock sale yard conform to the requirements under this Act;
- (c) enforce the standards for the protection of livestock during transportation;
- (d) ensure that any livestock bought within a sale yard is marked and or branded.
- (e) Ensure that the traceability records are proper which records shall include but not limited to records on:-
  - (i) seller's and buyer's name
  - (ii). the arrival and departure date of the livestock
  - (iii) description of the livestock
  - (iv) the nature of sale and price
- (f) ensure that the health and safety measures described in this Act are complied with;
- (g) undertake random stock route inspection and disease surveillance; and
- (h) ensure that the livestock transported to the livestock sale yard meet the required health standards.

## **Powers of a Health Inspector**

10. A livestock health inspector under this Act, shall have the power to-

- (a) Recommend to the county executive committee member the issuance or revocation of licenses issued under this Act, upon an inspection of a livestock sale yard;
- (b) enter and inspect any livestock sale yard for the purpose of ensuring compliance with this Act;
- (c) seize any document suspected to be fraudulently obtained for purposes of this

Act; and

- (d) treat or quarantine any sick livestock in accordance with the law relating to the treatment and quarantine of livestock.

### **Search and Entry**

- 11.** (1) An inspector appointed under this Act, may without a warrant —
  - (a) enter a livestock sale yard, a carrier or any premises between 6am and 6pm, for the purpose of determining whether this Act is being violated, to—
    - (i) inspect or search such livestock sale yard, carrier or premise and examine any material, object or substance found within it;
    - (ii) demand any information regarding the management of a livestock sale yard;
    - (iii) inspect any operation or process carried out on such livestock sale yard, and demand any information regarding such operation or process from the owner or person in charge of such premises or from any person carrying out such operation or process;
    - (iv) take relevant photographs; or
  - (b) stop, search and detain any person who is suspected of committing an offence under this Act.
- (2) An inspector exercising the authority vested under this section may request the presence and assistance of such law enforcement personnel as may be considered necessary.
- (3) An inspector shall while on duty, exhibit the official identification card or on demand by any person affected by the exercise or performance of any power, duty or function of such inspector under this Act.
- (4) A person who obstructs or impedes an inspector from exercising the powers under this Act, commits an offence.

### **Sale of Livestock**

- 12.** (1) A person shall not sell a livestock outside precincts of the designated livestock sale yard on or during sale yard market days.
- (2) A person who sells livestock outside the precincts of a designated livestock sale

yard, commits an offence, and shall on conviction be liable to a fine not exceeding twenty thousand shillings or an imprisonment term of one month, or to both.

### **Types of sale**

**13.** Sale of livestock at the livestock sale yard may be conducted through-

- (a) regular sale, where the price of livestock shall be determined by the prevailing market price; or
- (b) sale by auction;
- (c) live weight determined by an approved weighing scale; or
- (d) electronic trading.
- (e) The County Executive Committee Member in consultation with the Livestock Sale Yard Technical Committee and Livestock Management Committee may determine other types of livestock sale in the sale yard.

### **Sale by auction**

**14.** Sale of livestock through auction shall be undertaken in accordance with the Auctioneers Act.

### **Electronic trading**

- 15.** (1) A person who intends to trade in livestock, shall not operate an electronic trading platform without a license issued under this Act.
- (2) Despite the requirement of subsection (1), the county may for purposes of this Act, establish and manage a livestock sale yard electronic trading platform.

## **PART III- TRANSPORTATION AND WELFARE OF LIVESTOCK**

### **Unfit Livestock**

**16.** No person shall permit an unfit animal to be exposed for sale in a livestock sale yard

### **Feeding and Watering of Livestock**

**17.** It shall be the duty of the owner of a livestock which is kept in a livestock sale yard from one day to the next to ensure that the animal is provided with adequate quantity of suitable food and water at regular intervals

### **Transportation of livestock for sale**

- 18.** (1) A person who intends to transport livestock within or outside the county shall on payment of a prescribed fee, obtain a movement permit from the department.
- (a) A person shall not move livestock or cause any livestock to be moved without the livestock being inspected and certified fit and a movement permit issued by the department.
  - (b) The department shall be responsible for the issuance of a “No Objection Permit” for the transportation of livestock outside the county.
  - (c) A person who transports livestock under this Act shall ensure that 
    - (i) livestock is transported in a manner that does not cause injury or suffering;
    - (ii) livestock is inspected and fit to travel;
    - (iii) loading and offloading facilities are well maintained;
  - (d) sufficient floor, space and height allowance is provided in holding or transport facilities; and
    - (iv) those attending to the livestock do not use violence or any harmful method that is likely to cause fear, injury or suffering.

### **Temporary livestock sale yard**

- 19.** (1) The county executive committee member may for purposes of this Act and in such special circumstances for a specified period of time, designate a place within the county, to be a temporary livestock sale yard.
- (a) For purposes of subsection (1), “special circumstances” includes circumstances which disrupt the ordinary functioning of the livestock sale yard necessitating the closure of such sale yard for a prolonged period of time due to either conflict within a locality or natural disaster or maintenance of a livestock sale yard.
  - (b) The county executive committee member shall on designation of a place as a temporary livestock sale yard, appoint a person within the department to oversee its operations.

## **Livestock sale yard Management Committee**

**20.** (1) There is established a livestock sale yard management committee for each public sale yard appointed by the county executive committee member.

(a) This committee shall comprise of-

- (i) eight community members drawn from the catchment area of the public livestock sale yard;
- (ii) three persons each representing livestock traders, transporters and input suppliers within the livestock sale yard; and
- (iii) the area chief and the ward administrator shall be ex- officio members of the group.

(b) The Committee shall-

- (i) Manage the public livestock sale yard on a day-to-day basis;
- (ii) ensure that there are repairs and maintenance of the livestock sale yard infrastructure;
- (iii) safeguard the properties of the livestock sale yard;
- (iv) ensure transparency in revenue collection during the market days and the management of such levies;
- (v) collect and disseminate any livestock market data and information;
- (vi) mobilize the community to participate in livestock marketing activities;
- (vii) settle grievances between different actors in the market;
- (viii) provide information to the Livestock Sale Yard Management Committee on violation of this Act;
- (ix) coordinate with the inspectors appointed under this Act, on livestock disease surveillance and ensure a clean market environment;
- (x) promote livestock trade; and
- (xi) keep the records and reports of the market operations.

(c) A person appointed as a member of the committee under paragraph (2)(a)(b), shall hold office for a period of three years renewable once subject to satisfactory performance.

(d) In appointing the members of the committee, the executive committee members shall ensure that not more than two thirds of the composition of

members under subsections (2) (a) and (b) shall be of the same gender.

(3) The members shall elect a Chairperson from the membership under sub-section (2)(a).

### **Community Participation on Management**

**21.** The Livestock Sale Yard Management Committee in consultation with the Livestock Sale Yard Technical Committee shall ensure community participation in the management of the sale yard

### **Livestock Marketing Data Manager**

**22.** (1) The county director responsible for livestock shall designate a qualified person within the department to be the manager responsible for the management of livestock marketing data.

(2) A person designated under subsection (1), shall for purposes of this Act, provide data to the Committee about the management of a livestock sale yard, and be the liaison officer between the Committee and the group.

### **Records to be kept**

(3) (1) An operator of a livestock sale yard shall in the prescribed form, keep the following records for each lot of livestock consigned to or sold through such livestock sales yard—

- i. The name and address of the consignor;
- ii. a description of the livestock, which includes the kind, approximate age, the sex, and any marks, brands or other distinguishing or identifying marks;
- iii. the method by which the livestock was delivered to the livestock sales yard and, in the case of livestock delivered by motor vehicle, registration number;
- iv. the name and address of the purchaser of such livestock;
- v. the price for which the livestock was sold or exchanged and the commission or other fees charged by the livestock sales yard; and
- vi. any other livestock health certificate contemplated under this Act.

(2) The records under subsection (1), shall be kept by the operator of a livestock

sale yard at the establishment or premises where the sale is held and conducted or such other convenient place as may be approved by the county executive committee member.

## **PART IV- LICENSING**

### **Application for a License**

- 21.** (1) A person shall not operate a private livestock sale yard without a valid license issued under this Act.
- (2) An application for the issuance of a license under subsection (1), shall be submitted to the Technical Committee in the prescribed form.
- (3) The application under subsection (2), shall be accompanied by—
- (a) a copy of identification documents of the applicant and the relevant supporting documents as may be prescribed;
  - (b) environmental impact assessment report issued by the body responsible for environment at the national level; and
  - (c) proof of payment of the prescribed application fee.
- (4) The Technical Committee shall on receipt of the application under subsection (3) assess the application and make a recommendation to the county executive committee member.

### **Issuance of a License**

- 22.** (1) The county executive committee member may on receipt of the recommendation from the Committee—
- (a) grant a license with or without conditions in the prescribed form, upon being satisfied that the applicant has met all the conditions for the grant of a license;
  - or
  - (b) refuse to grant a license by giving reasons in writing, for the refusal.
- (2) A license issued under this section shall be in the prescribed form and shall contain—
- (a) the name of the operator of the livestock sale yard;
  - (b) the location of the livestock sale yard;
  - (c) the type of livestock to be handled, sold or exchanged;

- (d) statement of compliance with standard for livestock markets by the body for the time being responsible for standards in Kenya;
  - (e) details of the accredited veterinarian who is responsible for the supervision of livestock sale yard; and
  - (f) such other information as the county executive committee member may deem necessary.
- (3) A license issued under this Act shall be valid for a period of one year and may be renewed on an application and subject to such terms and conditions as may be imposed.
- (4) A person who has been granted a license under this Act, shall at all reasonable times and upon request by an inspector, produce the license.
- (5) A person whose license is lost, destroyed or defaced may in the prescribed form and upon payment of such prescribed fees, apply for a replacement of the lost, destroyed or defaced license.

### **Grounds for refusal to grant a license**

- 23.** (1) The county executive committee member may refuse to grant a license where a person—
- (a) violates any provision of this Act or any other written law;
  - (b) fails to meet any other measures on sanitation of the yard, housing, holding, and feeding of livestock;
  - (c) knowingly quotes incorrect weights or fails to have his or her scales regularly inspected and tested, in the case of livestock weighed on the licensee's scales and sold by weight; or
  - (d) is adjudged bankrupt.
- (2) Where the county executive committee member refuses to grant a license under subsection (1), the county executive committee member shall within fourteen days from the date of the decision, notify the applicant of the decision, giving reasons for such refusal.
- (3) A person whose application has been rejected by the county executive committee member under subsection (3), may upon receipt of the notice of refusal, resubmit an

application to the Committee after addressing the issues that led to the rejection.

### **Revocation or suspension of a license**

- 24.** (1) The county executive committee member may revoke or suspend a license issued under this Act where—
- (a) an offence under this Act, or in respect of the licensed activity under any other written law, has been committed by the licensee or any employee of the licensee;
  - or
  - (b) there is a contravention of any of the conditions set out in the license.
- (2) The county executive committee member shall before making a decision to revoke or suspend a license issued under this Act, provide the licensee with a reasonable opportunity to be heard.

### **Application for Review or Appeal**

- 25.** (1) A person who is dissatisfied with the decision of the county executive committee member under section 22(1)(b) or 24, may apply for a review of the decision before the county executive committee member.
- (2) An application for a review under subsection (1) shall be made —
- (a) where there has been a discovery of new and important matter or evidence which after the exercise of due diligence, was not within the knowledge of the applicant, or could not be produced by the applicant at the time the decision was made; or
  - (b) on account of some mistake or error apparent on the face of the record or for any other sufficient reason.
- (2) An application for review under subsection (1), shall be in the prescribed form and be lodged within fourteen days from the date of the decision.
- (3) The county executive committee member shall within ninety days, from the date of receipt of the application, hear and determine the application made under this section.
- (4) A person who is dissatisfied with the decision made under subsection (4), may challenge the decision before a Magistrate's court established pursuant to Article 169(1)(a) of the Constitution and the Magistrates' Courts Act.

## **PART V- MISCELLANEOUS PROVISIONS**

### **Display of a License**

26. (1) A person who has been issued with a license under this Act, shall display or cause to be displayed in a conspicuous place, within the livestock sale yard in respect of which it is issued.
- (2) A person who fails to display a license pursuant to subsection (1), commits an offence and shall on conviction be liable to a fine of a sum not exceeding ten thousand shillings or to imprisonment for a term of one month.

### **General Offences and penalties**

27. A person who contravenes the provisions of this Act for which no other penalty is provided commits an offence and shall on conviction be liable to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding six months or both.

### **Guidelines**

28. The county may jointly with the national government or another county government, establish guidelines as may be agreed upon between the county and the national government or another county pursuant to Article 189 (2) of the Constitution for effective implementation of this Act.

### **Regulations**

29. (1) The county executive committee member may with the approval of the county assembly make regulations for effective implementation of this Act.
- (2) Despite subsection (1) the county executive committee member may make regulations on—
- (a) the forms to be used for purposes of this Act;
  - (b) the infrastructure standards for the construction of a livestock market;
  - (c) operationalization of private livestock sale yard;

- (d) appeals procedure to be followed under this Act; and
  - (e) prescribed measures of sanitation of the livestock market, housing, holding, and feeding of livestock.
- (3) For purposes of Article 94(6) of the Constitution—
- (a) the purpose and objective of the delegation under this section is to enable the county executive committee member to make regulations for better carrying into effect the provisions of this Act; and
  - (b) the authority of the county executive committee member to make regulations under this Act shall be limited to bringing into effect the provisions of this Act and fulfilment of the objectives specified under this section.
- (4) The principles and standards applicable to the delegated power referred to under this Act are those found in—
- (a) the Statutory Instruments Act;
  - (b) the Interpretation and General Provisions Act; and
  - (c) the functional and institutional integrity of each level of government as specified in the Fourth Schedule to the Constitution.

### **Savings and Transition**

- 30.** A license or permit issued prior to coming into force of this Act, shall unless suspended, cancelled or expires, continue to be in force, as a license or permit issued under this Act.

## **SCHEDULE**

### **Section 6(7)**

#### **1. Meetings**

- (1) The chairperson shall convene meetings of the Committee at least once in every quarter of a financial year, by issuing a fourteen-day notice.
- (2) The chairperson may at any time or on receipt of a written request of at least two members, convene a special meeting of the Committee.
- (3) In the absence of the chairperson from any Committee meeting, the members present shall elect one of their number to preside.
- (4) At every meeting of the Committee the person presiding shall have a casting

and deliberative vote.

- (5) The quorum for the meetings of the Committee shall be two thirds of the membership.

## **2. Committees**

- (1) The Committee may establish such sub committees for effective performance of its functions under this Act.
- (2) The Committee shall appoint the chairperson of a subcommittee established under subparagraph (1) from amongst its members.
- (3) The Committee may invite any person to attend the deliberations of any of its sub committees.
- (4) All decisions by the sub committees appointed under paragraph shall be ratified by the Committee.

## **3. Declaration of Interest**

- (1) A member who has an interest in any matter present at a meeting shall disclose the interest and not take part in the deliberations of the issue.
- (2) A disclosure of interest made under subparagraph (1) shall be recorded as minutes of the meeting.
- (3) A member of the Committee who contravenes subparagraph (1) may on the directive of the county executive committee member, cease to be a member.
- (4) The removal under sub paragraph (1) shall be subject to the provisions of Article 47 of the Constitution.