

THE HOMA BAY COUNTY LIVESTOCK SALES YARD BILL, 2015

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**THE HOMA BAY COUNTY LIVESTOCK SALES YARD BILL,
2015**

A Bill for

AN ACT of Homa Bay County Assembly to provide for the establishment and control of livestock sales yards and for connected purposes.

ENACTED by the Homa-Bay County assembly as follows—

PART I—PRELIMINARY

Short Title and Commencement.

1. This Act may be cited as the Homa Bay County Livestock Sales Yard Act, 2015 and shall come into force on the fourteenth day after gazettment

Interpretation.

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

“auctioneer” means any person who conducts an auction by announcing the lots and controlling the bidding;

“calf” means any bovine animal under twelve weeks of age;

“casual trader” means a trader in livestock who is not a regular trader;

“livestock” means all domestic animal including cattle, goats, sheep, pigs and poultry;

“livestock sales yard” means any place where livestock is assembled for sale;

“Regular trader” means a person licensed to trade in livestock under this Act.

“Unfit livestock” includes an infirm, diseased, ill and injured animal.

PART II—LICENSING

Application for a license.

3. (1) A person shall not hold, operate, or manage a livestock sales yard in the county without a valid license issued pursuant to the provisions of this Act.

(2) The application for a license shall be in the prescribed form and shall be issued under the seal of the Homa Bay county government.

(3) A license shall set out the following particulars—

- (a) the name of the operator of the livestock sales yard;
- (b) the location of the establishment of premises;
- (c) the type or kinds of livestock to be handled, sold or exchanged;
- (d) a description of the facilities to be used in conducting such a livestock sales yard;
- (e) the designation of the accredited veterinarian who will supervise such livestock sales yard; and
- (f) Such other information as the director may reasonably require.

Grounds for refusal to issue a license and for license suspension and revocation

4. The director may refuse to issue or to renew a license or may suspend or revoke a license on any one or more of the following grounds—

- (a) violation of any provision of this Act, order, or regulation issued hereunder;
- (b) selling or exchanging stolen or mortgaged livestock without authority from the owner or mortgagee;
- (c) failing to meet any prescribed measures on sanitation of the yard, housing, holding, and feeding of livestock;
- (d) in the case of livestock weighed on the licensee's scales and sold by weight, knowingly quoting incorrect weights or failing to have his/her scales regularly inspected and tested;
- (e) failing to pay for livestock after sale; and
- (f) Being insolvent as determined by the court.

Records and documents

5. (1) Each operator of a livestock sales yard shall keep the following records for each lot of livestock consigned to or sold through such livestock sales yard—

- (a) The name and address of the consignor;

- (b) A description of the livestock, which includes the kind, approximate age, the sex, and any marks, brands or other distinguishing or identifying marks;
- (c) 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;
- (d) The name and address of the purchaser of such livestock;
- (e) The price for which the livestock was sold or exchanged and the commission or other fees charged by the livestock sales yard;
- (f) Any health certificates.

(2) The records shall be kept by the operator of a livestock sales yard at the establishment or premises where the sale is held and conducted or such other convenient place as may be approved by the CEC; and

(3) Shall be open for inspection by the inspector at all reasonable times and shall be retained and preserved for a period of at least 2 years.

Duration and renewal of license

6. (1) The license shall be valid for one year.

(2) After the expiry of a license, the director may renew a license upon application.

License fee

7. The county executive committee member shall determine the applicable license fee from time to time.

Appeal

8. Any person who is aggrieved by the decision of the inspector under this Act may appeal to the court.

Livestock sales yard days

9. The county executive committee member shall develop a schedule of days to be published in the county gazette, the days of the week when owners shall come to sell their livestock in the livestock sales yard.

PART III—ADMINISTRATION

Power of the County Executive Committee

10. (1) The County Executive Committee Member may designate any qualified person to be an animal inspector for purposes of this Act.

(2) The CEC may appoint such other officer as may be necessary for proper implementation.

Powers and duties of Inspectors

11. The Inspector shall—

- (a) ensure that livestock sales yards conform to the requirements under this Act;
- (b) ensure that only licensed traders operate sale yards;
- (c) enforce the rules to protect animals during transportation;
- (d) ensure that the health and safety measures prescribed in this Act are complied with; and

- (e) Ensure that the animals transported to the livestock sales yards meet the required standards.
- (2) The inspectors shall have the power to—
- (a) recommend the issuance of licenses upon inspection of the sale yards;
 - (b) enter and inspect any livestock sales yard for the purpose of ensuring compliance with this Act;
 - (c) seize and confiscate any documents suspected to be forged or fraudulently obtained;
 - (d) seize and confiscate any sick, stolen and abandoned animals;
 - (e) refer any sick animals to accredited veterinarian as recommended ;
 - (f) return any stolen or abandoned livestock to their owners with the consent of the court;
 - (g) Close any livestock sales yard which does not comply with the standards set out under this Act or any other written law.

Search and entry warrant.

12. Subject to Section 11 (1) (b), an inspector may obtain a search warrant from a court to enter and search a livestock sales yard that is in contravention with the provisions of this Act.

(2) An inspector may enter and search a livestock sales yard without a search warrant where he/she has reason to believe that the owner of the

livestock sales yard is in contravention with the provisions of this Act or regulations.

(3) Subject to sub-section (1) and (2) the inspector may seize and confiscate any records or sick, stolen or abandoned livestock found in the livestock sales yard.

(4) The inspectors and the inspection should comply with the provisions of the Criminal Procedure Act.

Stalls and pens

13. The County Government shall construct stalls in the livestock sales yard.

(2) Where the livestock sales yard is privately owned, the owner shall construct the stalls.

Allocation of stalls to regular traders

14. Any person may apply to the inspector for the allocation of a stall in a livestock sales yard.

(2) The inspector shall charge an annual fee which shall be determined by the County Executive Committee for regular traders in the livestock sales yard.

(3) An inspector may reserve a stall for a regular trader on the trading day until 9 a.m.

(4) Where a regular trader fails to turn up by 9 a.m. on a trading day, the inspector may allocate the reserved stall to a casual trader.

(5) (a) Where a regular trader shall be absent from their allocated stall for more than a month the regular trader shall be requires to notify the inspector of the absence.

(b) Subject to paragraph (a) an inspector may allocate a stall to a casual trader for the duration of absence of the regular trader.

Allocation of stalls to casual traders

15. An inspector may grant a casual trader the use of a stall on the appointed livestock sales yard days upon payment of the prescribed fee to be determined by the County Executive Committee member.

Maintenance of stalls

16. The owner of the stall shall—

- (a) not assign the allocated stall to another person;
- (b) keep the stall in good condition; and
- (c) Ensure that the stall is clean at the end of the trading day.

PART IV—TRANSPORTATION OF LIVESTOCK TO THE LIVESTOCK SALES YARD

Factors to consider when transporting livestock

17. Livestock shall be transported in way that will not cause injury or unnecessary suffering to them and the following shall be taken into consideration during transportation—

- (a) ensure that animals are fit to travel;

- (b) ensure that vehicle loading and unloading facilities are constructed and maintained to avoid injury and suffering;
- (c) ensure that those handling livestock are trained and do not use violence or any methods likely to cause fear, injury or suffering to animals;
- (d) provide sufficient floor, space and height allowance; and
- (e) Facilitate the provision of water, feed and rest as needed.

(2) Livestock shall be transported to and from sales yard under valid veterinary movement permit.

Offences and penalty

18. Any person who transports livestock contrary to the provisions of this Act commits an offence and shall on conviction be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred thousand shillings.

PART V—WELFARE OF LIVESTOCK IN THE LIVESTOCK SALES YARD

Unfit livestock.

19. (1) No person shall permit an unfit animal to be exposed for sale in a livestock sales yard.

Protection of livestock from injury or unnecessary suffering

20. (1) No person shall cause or permit any injury or unnecessary suffering to an animal in a livestock sales yard(2) Without prejudice to the

generality of sub-section (1) above, it shall be the duty of any person in charge of livestock to ensure that—

- (a) adequate quantities of good quality food and water is provided to the animals;
- (b) no injury or unnecessary suffering is caused by—
 - (i) The animal being exposed to adverse weather;
 - (ii) Inadequate ventilation being available for the animal;
 - (iii) The animal being hit or poked by any instrument or any other thing; or
 - (iv) Any other cause.

Handling and tying of livestock

21. (1) Subject to paragraph (3) below no person shall handle an animal in a livestock sales yard by—

- (a) Lifting it off the ground ;
 - (b) Dragging it along the ground; or
 - (c) Suspending it clear off the ground by the head, neck, ears, horns, legs, feet, tail, fleece or wings
- (2) No person shall—
- (a) Tie up or muzzle any calf; or
 - (b) Tie any poultry by the neck, leg or wing.
- (3) Paragraph (1) above shall not prohibit—

- (a) Any poultry being lifted off the ground by the base of both wings;
or
- (b) Any poultry being suspended clear off the ground by the legs
when they are being weighed;
- (c) Rabbits being lifted off the ground and held by the skin.

Control of livestock

22. (1) No person shall use excessive force to control any livestock in a livestock sales yard.

(2) Subject to paragraph (3) below no person shall use in a livestock sales yard—

- (a) Any instrument which is capable of inflicting an electric shock to control any livestock;
- (b) Any stick, goad or other instrument or thing to hit or prod any calves; or
- (c) Any stick, other than a flat slap stick or a slap marker, non-electric goad or other instrument or thing to hit or prod any pigs

(3) The prohibition in paragraph (2) (a) above shall not apply to the use of an instrument mentioned in that paragraph on the hindquarters of any cattle over the age of 6 months or adult pigs which are refusing to move forward when there is space for them to do so.

(4) No person shall drive or lead any animal over any ground or floor, the nature or condition of which is likely to cause the livestock to slip or fall.

Penning and caging of livestock

23. (1) It shall be the duty of a livestock sales yard operator to ensure that no animal is kept in a pen, cage or hutch, which is unsuitable for the size and species of that animal.

(2) Without prejudice to the generality of paragraph (1) above it shall be the duty of a livestock sales yard operator to ensure that—

- (a) any pen in which any calves or pigs are kept is of sufficient size to enable all the calves or pigs kept in it to lie down at the same time;
- (b) any cage or hutch in which any poultry or rabbits are kept—
 - (i) is of such a design as to enable the poultry to stand in their natural position, or, as the case may be, to enable all the rabbits kept in them to sit upright on all four feet without their ears touching the top of the cage or hutch, and
 - (ii) Has a door which is of sufficient size to enable the poultry or rabbits (as the case may be) to be placed in, and removed from, the cage or hutch without being caused any injury or unnecessary suffering.

(3) Without prejudice to the generality of paragraph (1) above, it shall be the duty of a livestock sales yard operator to ensure that, within the livestock sales yard—

- (a) when livestock are penned—

-
- (i) those of one species are kept in separate pens from livestock of another species; and
 - (ii) they are distributed within the pens, having regard to differences in age and size, so as to avoid unnecessary suffering to them;
 - (b) any fractious animal is kept in a separate pen, cage or hutch from other livestock;
 - (c) livestock are not kept in pens, cages or hutches which are overcrowded;
 - (d) adequate provision is made to prevent livestock—
 - (i) escaping from the livestock sales yard, and
 - (ii) coming into contact with any aggressive or fractious livestock in the livestock sales yard;
 - (e) a bull is not kept in the same undivided pen in the livestock sales yard as any other animal except that—
 - (i) bulls which are halter broken may be kept together in the same undivided pen if they are all secured by the head or neck, and
 - (ii) bulls which have been reared together may be kept together in the same undivided pen (without being secured by the head or neck);
 - (f) a boar over the age of 6 months is not kept in the same undivided pen as any other animal; and

(g) Livestock with young at foot are not kept in the same undivided pen as any other livestock, except where they originate from the same group of livestock and are of a mutually acceptable disposition.

(4) For the purposes of paragraph (3) above, a “fractious animal” is an animal which is likely to cause injury to other livestock.

Feeding and watering of livestock

24. (1) It shall be the duty of the person in charge of an animal to ensure that the animal is provided with an adequate quantity of wholesome water as often as is necessary to prevent it suffering from thirst.

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

Provision of lighting bedding and equipment

25. It shall be the duty of a livestock sales yard operator or other person for the time being in charge of an animal to ensure that—

- (a) adequate lighting is available to enable livestock kept in the livestock sales yard to be inspected and to be fed and watered;
- (b) an adequate supply of suitable bedding is provided for—
 - (i) any calves, dairy cattle in milk or in calf, goats in milk or in kid, or pigs; and

(ii) Any lamb, except a lamb which is kept at the foot of its dam, or goat kids in either case under four (4) weeks of age. and

(c) Lighting and suitable watering and feeding equipment

Restriction on the sale of calves

26. (1) A person shall not bring to a livestock sales yard a calf which is less than seven days old or which has an unhealed navel.

(2) No person shall bring to a livestock sales yard a calf which has been brought to a livestock sales yard on more than one occasion in the previous twenty-eight days.

(3) No person shall bring a calf to a livestock sales yard unless upon arrival he has furnished the livestock sales yard operator with a written declaration signed by the owner of the calf or his/her agent—

- (a) stating the name and address of the owner of the calf;
- (b) giving details of the identification number of the calf where available;
- (c) stating that the calf has not been brought to a livestock sales yard before, or, as the case may be, has been brought to a livestock sales yard only once during the previous 28 days; and
- (d) Where the calf has been brought to a livestock sales yard once during the previous 28 days, stating the address of that livestock sales yard and the date on which the calf was brought there.

(4) Every declaration furnished to a livestock sales yard operator under paragraph (3) above shall be retained by the livestock sales yard operator for a period of 6 months from the date on which it is furnished to the livestock sales yard operator and the livestock sales yard operator shall, on demand made by an inspector at any reasonable time during that period, produce such declaration and allow a copy of it or an extract from it to be taken.

(5) Where a calf has been sold and before its removal from the livestock sales yard, the livestock sales yard operator shall—

- (a) in the case of a sale by auction, and
- (b) upon request by the purchaser in the case of a sale by private treaty supply to the purchaser of the calf details in writing of—
 - (i) the identification number of the calf;
 - (ii) the date of the sale of the calf and the address of the livestock sales yard at which it was sold; and
 - (iii) Where the calf has been brought to a livestock sales yard once within the previous 28 days, the address of that livestock sales yard and the date on which the calf was brought there.

(6) Every livestock sales yard operator shall—

- (a) keep a record of the details supplied to a purchaser of a calf for the purposes of paragraph (5) above and of the name and address of that purchaser;

- (b) retain such record for a period of 6 months from the date on which the details to which the record relates were supplied to the purchaser; and
- (c) Produce such record to an inspector on demand being made by him at any reasonable time during that period and allow a copy of it or an extract from it to be taken.

(7) It shall be the duty of the owner of any calf kept in a livestock sales yard on any day, or of his/her agent, to remove it from the livestock sales yard within four (4) hours of the time when the last sale by auction of a calf has taken place on that day.

Types of sale

27. (1) Sale of livestock at the livestock sales yard shall be conducted either by—

- (a) regular sale where the price of livestock shall be determined by the prevailing livestock sales yard price; or
- (b) Sale by auction.

(2) Where any livestock is put up for sale by auction—

- (a) the date, time and place of every sale shall be advertised in the prescribed manner and such sale shall take place on the date, at the time and at the place so advertised;
- (b) in lots, each lot shall *prima facie* be deemed to be the subject of a separate contract of sale;

- (c) The particulars or conditions of any sale including the condition whether the sale is subject to a reserve price or not or whether a right to bid is reserved.

(3) If it is stated that the sale be without reserve or to that effect, then it shall not be lawful for the seller or any person employed by him to bid at such sale, or for the auctioneer to take knowingly any such bidding:

Provided that if it is stated that the sale shall be subject to a right for the seller to bid, then it shall be lawful for the seller or for any person acting on his/her behalf to bid at such auction.

(4) If it is stated that the sale will be subject to a reserve price as regards any one or more lots, it shall be lawful for the seller or any person acting on his/her behalf to give one bid for each such lot and no more.

(5) If the seller or any person acting on his/her behalf bids at any sale contrary to any of the provisions of this section, any purchaser may refuse to fulfill his/her purchase: Provided that the highest *bona fide* bidder shall be entitled, if he shall so elect, to have the property at the price offered by him.

(6) No auctioneer shall make a bid either on behalf of himself/herself or as agent for any other person unless on making such bid, he/she announces that it is his/her bid.

(7) A bidder may retract his/her bid at any time before the sale is complete.

(8) A person who, knowingly—

- (a) receives or makes any bid contrary to the provisions of this section; or
- (b) makes a bid which he/she cannot honour or is fraudulent, or is intended to avoid a valid sale which is subject to the bid commits an offence.

(9) Where a person convicted of an offence under this section is a licensed auctioneer, he/she shall, in addition to any other penalty imposed, be liable to having his/her license revoked.

PART VI—GENERAL PROVISIONS

Regulations

28. The county executive committee member may make regulations to establish Sale Yard Management Committees specifically and generally for the purpose of carrying out the functions of this Act.

General penalty

29. Any person who contravenes the provisions of this Act for which no penalty is provided commits an offence and shall on conviction be liable to imprisonment for a term not exceeding three months or to a fine not exceeding one hundred thousand shillings.

MEMORANDUM OF REASONS & OBJECTS

The Bill has been submitted by the Member of the County Executive Committee responsible for Agriculture, Livestock and Fisheries. It seeks to provide for the establishment and control of livestock sales yards and for connected purposes.

Articles 3, 4 6 and 7 for provides for licensing procedures with regards to applications, grounds for refusal to issue licenses, validity of licenses and their renewals.

Articles 10, 11, 12, 14, 15 and 16 provides for the power of the CEC, director and inspectors.

Articles 17 and 18 provides for transportation of livestock and offences and penalties thereof.

Articles 19, 20, 21, 22, 23, 24 and 25 provides for the welfare of livestock while at the sales yards and the offences and penalties thereof including; unfit livestock, protection of livestock from injury or unnecessary suffering, handling and tying of livestock, control of livestock, penning and caging of livestock, feeding and watering of livestock, provision of lighting bedding and equipment.

Article 26 provides for restriction on the sales of calves with respect to ages and frequencies.

Article 28 and 29 provides for regulations and general penalties.

The enactment of the bill shall occasion additional expenditure on training of personnel and the establishment and control of livestock sales

yards which shall be provided for by the county government of Homa bay budget estimates.

Dated the 7th August, 2015.

C.O. MBATA,

Chairperson, Agriculture, Livestock and Fisheries Committee.