

**SPECIAL ISSUE**

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REPUBLIC OF KENYA

**KENYA GAZETTE SUPPLEMENT**

**MAKUENI COUNTY ACTS, 2024**

**NAIROBI, 28th August, 2024**

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# THE MAKUENI COUNTY TRADE AND PUBLIC MARKETS

ACT, 2024

No. 3 of 2024

*Date of Assent: 4th April, 2024*

*Date of Commencement: 28th August, 2024*

AN ACT of the Makueni County Assembly to provide for classification, development, management and regulation of market establishments and give effect to trade development and regulation of markets in 7(a) of Part 2 of the Fourth Schedule of the Constitution and for connected purposes

ENACTED by County Assembly of Makueni, as follows—

## PART I—PRELIMINARY

### Short title and Commencement

1. This Act may be cited as the Makueni County Trade and Public Markets Act, 2024.

### Interpretation

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

“appropriate form” means a form approved by the County Executive Committee Member-In-Charge of Trade for use in applying for any license under this Act to enable a person to carry on business;

“busker” means a person who sells his or her wares within a close range of another business premises in accordance with this Act;

“butcher’s meat” include beef, mutton, veal, lamb, pork, kid or the meat of any other animal slaughtered for the purpose of sale;

“casual trader” means a person who attends a particular market with their goods, in the hope that they may be allocated a trading position for that day only, from the vacant positions in the market;

“County Executive Committee Member” means the County Executive Committee Member responsible for matters relating to Trade;

“County Public Service Board” means the Makueni County Public Service Board as established under section 57 of the County Governments Act;

“defective goods” include goods that—

- (a) are in the particular circumstances, unfit for use or are dangerous; or

(b) do not comply with a product safety or quality standard;

“designated areas” means areas set aside for certain types of trade;

“Director” means the Director responsible for Trade, Industry and Markets;

“Directorate” means the County Directorate In-charge of Trade, Industry and Markets;

“essential facilities” includes clean water, lighting, security, waste disposal, shades, warehousing and storage, awnings, paved roads and vehicle parking spaces where necessary;

“hawker” means any person who carries their wares selling from place to place;

“impoundment costs” means all those costs incurred by the Directorate or County Government in respect of impounding and storing of impounded goods or property and, where applicable, costs incurred in respect of disposal of impounded goods;

“litter” includes any receptacle, container or other matter, which has been discarded, abandoned or left behind by an hawker, casual trader, busker or by his or her customers;

“market” any trading area/ place within the County;

“Public Market” means a place where sellers and buyers have traditionally congregated for the sale and purchase of goods and services and regulated by the County Government;

“Public Nuisance” means an act or omission which affects materially the reasonable comfort and convenience of life of a class of the members of the public;

“prescribed goods” means goods approved for sale under this Act or Regulations made under this Act in particular areas;

“prohibited goods” means goods whose transportation, sale or consumption is illegal under this Act or any other relevant law;

“regular trader” means a trader who has been permitted to use a particular trading position on a particular day at a particular market site;

“sell” includes—

(a) barter, exchange or hire out;

(b) display, expose, offer or prepare for sale;

(c) store on a Public Road or Public Place with a view to sell; or

(d) provide a service for reward; and

“Sale” or “Selling” has a corresponding meaning;

“slaughter-house” means any premises used in connection with the slaughtering of animals whose meat is intended for human consumption;

“stall” means a stand, booth or compartment for the sale of goods or provision of service in a market; and

“trade” means carrying on the business of selling goods or services.

### Objects and Purpose of the Act

3. The object and purpose of this Act is to—

- (a) promote trade in the County;
- (b) promote/enable regulations of market units in the County;
- (c) regulate trade within the County;
- (d) promote local economic development;
- (e) enable the County Government to attract and promote public private partnerships and private investments in trade; and
- (f) enable the County Government to enter into joint trade ventures with other partners.

## PART II—ADMINISTRATION

### Administration

4. (1) The administration of this Act shall be vested in the County Department responsible for matter relating to Trade.

(2) The County Public Service Board may recruit such officers as may be necessary for the effective implementation of this Act.

### Functions of the Directorate

5. In addition to existing functions, the Directorate shall perform the following functions—

- (a) advise the Department on all matters relating to Trade in the County;
- (b) represent, when appropriate and considered necessary by the Executive Committee Member, the County at meetings, conferences or similar gatherings where matters of trade and investment affecting the County are discussed or considered;
- (c) encourage and assist in the promotion of the County’s produce and products including exhibiting at trade fairs;

- (d) advise on the commodities pricing and marketing information within the County;
- (e) advise the Department, on the criteria for the development of industry and commerce to be applied in evaluating approvals under any legislation which promotes trade, for the time being in force in the County;
- (g) promote the development of small businesses, to disseminate knowledge of sound business and commercial practice in the County;
- (h) undertake research into any aspect of County Trade, Commerce and Industry, including the conducting of surveys, gathering statistics and publishing reports from time to time;
- (i) to make or cause to be made and paid for out of public funds all such repairs, alterations, improvements and additions to public markets as the department considers necessary;
- (j) with the concurrence of the County Government, collaborate with National Government entities responsible for standardization, quality control and counterfeit control;
- (k) evaluate investment proposals suitable for funding by the Government or donors;
- (l) facilitate revenue collection from markets and generate regular reports to the County Treasury;
- (m) ensure laws relating to fair trading and consumer protection are adhered to; and
- (n) carry out such other functions or acts that will promote trade investment in the County.

### **Trade Promotion and Development**

**6.** The Directorate shall promote and facilitate trade development through—

- (a) providing business support and advisory services;
- (b) carrying out regular assessment on business climate;
- (c) reviewing policies and practices that affect business climate and advising the department on appropriate measures to be adopted for promoting trade development;
- (d) facilitating access to markets for goods and services produced in the County;

- (e) facilitating and promoting trade within and outside the County;
- (f) in collaboration with other stakeholders, organizing trade fairs for promoting products;
- (g) create and maintain a database of all traders within the County;
- (h) providing sectoral and inter sectoral linkages in collaboration with private sector players within and outside the County; and
- (i) performing any other role intended to facilitate and promote trading as may be assigned by the County Executive Member.

#### **County Management Committee**

7. There is established the County Management Committee which shall be the Apex Committee.

#### **Membership of the County management Committee**

- 8. (1) the County Management Committee shall comprise of—
  - (a) the Chairperson who shall be appointed by the Executive Committee Member;
  - (b) the Chief Officer responsible for Trade;
  - (c) the Chief Officer responsible for Finance;
  - (d) the Chief Officer responsible for Physical Planning;
  - (e) the Chief Officer responsible for Devolution;
  - (f) the Director Legal Services;
  - (g) the Director Public Health;
  - (h) the Director Trade who shall be the Secretary to the Committee;
  - (i) the Chairperson of the County Chamber of Commerce; and
  - (j) two (2) persons (a male and a female) nominated by the Market Management Committees and appointed by the Executive Committee member.
- (2) The nomination of persons into this Committee shall take into account the two thirds gender rule as provided for under the Constitution and any other related legislation.
- (3) The persons appointed under Clause 8 (1) (a) and (j) shall hold office for a term of three (3) years renewable once subject to performance
- (4) A person appointed as the Chairperson of the County Management Committee under Sub-clause (1) (a) shall—

- (a) be a holder of at least an under-graduate degree from a recognized institution of higher learning; and
- (b) have management experience of at least five years in public or private sector.

(5) The quorum at meetings of the County Management Committee shall be half of the membership.

#### **Functions of the County Committee**

9. The County Management Committee shall—
  - (a) advise the Executive Committee Member on all matters that relate to Market and Trade;
  - (b) compile and collate all reports from the market committees for presentation to the Executive Committee Member responsible for Trade;
  - (c) advise the Executive Committee Member on the dissolution of a Market Committee on grounds of mismanagement;
  - (d) convey actions and decisions of the Executive Committee Member responsible for Trade to all stakeholders;
  - (e) provide liaison between the traders, Market Committees and the relevant departments;
  - (f) manage disputes between traders operating in the markets that escalate from market committees; and
  - (g) carry out any other function as may be assigned by the Executive Committee Member.

#### **Market Management Committees**

10. There is established a Market Management Committee for each market within the County.

#### **Membership of Market Management Committees**

11. (1) The Market Management Committee shall consist of members representing sectors as follows—
  - (a) one representative of the large businesses sector including Wholesalers, Distributors, Supermarkets and Manufacturers;
  - (b) one representative of large shops operators;
  - (c) one representative of kiosks operators;
  - (d) one representative of bar operators and entertainment businesses;

- (e) one representative of hotels and restaurants;
- (f) one representative of real estate investors;
- (g) one representative of service providers including private hospitals, clinics, schools;
- (h) one representative of the transport sector including Boda boda, Taxi, Matatu, lorries;
- (i) one representative of the Youth;
- (j) one representative of Women;
- (k) one representative of Persons with Disabilities (PWDs);
- (l) one representative of the faith-based organizations; and
- (m) one representative of employees serving in different premises within the market.

(2) The following shall be *ex-officio* members of the Market Committee—

- (a) a representative of the Director-In-charge of Environment in the County;
- (b) a representative of the Director-In-Charge of Urban Planning in the County;
- (c) Public Health Officer assigned to the market;
- (d) one representative of Sub-Ward/ Cluster Development Committee;
- (e) one representative of hawkers, buskers, green grocers and street traders; and
- (f) the Ward Administrator of the Ward within which the market is situated.
- (g) one representative of the National Government.

(3) The nomination of persons into this Committee shall take into account the two thirds gender rule as provided for under the Constitution and any other related legislation.

(4) Upon constitution of the Market Management Committees, members shall elect their Chairperson, Vice-chairperson, Secretary and Treasurer amongst its members.

(5) A person appointed as a member of Market Management Committee should be able to read and write in the English or Kiswahili language and is a person of good standing in the community.

### Functions of the Market Management Committees

12. The Market Management Committees shall be responsible for the following—

- (a) advising on allocation of trading space or market stalls to traders;
  - (b) co-ordination of operations;
  - (c) providing liaison between the traders and the relevant department;
  - (d) managing and resolving disputes between traders;
  - (e) collect, maintain, disseminate and supply information including intelligence;
  - (f) ensuring maintenance of cleanliness and hygienic conditions;
  - (g) follow-up on maintenance of lighting installations and other utilities;
  - (h) follow-up on construction, maintenance and improvement of water supply infrastructure;
  - (i) co-ordinate the planting and maintaining of trees in public places;
  - (j) getting rid of rabid and stray dogs and other dangerous animals;
  - (k) impounding of unclaimed cattle, horses, goats, and other domestic animals;
  - (l) reporting and advising on encroachments on roads and public places;
  - (m) promotion of compliance with collection of revenue;
  - (n) co-ordination of security operations;
  - (o) intervention in matters of public nuisance;
  - (p) provision of support to authorized County government officers as may be provided for under County laws and regulations;
  - (q) representing the interests of the markets as the case may be; and
  - (r) any other function and powers as may be delegated by Executive Committee Member responsible for matters relating to Trade;
- (2) The committees shall work in liaison with the relevant County Government Departments in the performance of its functions.

**Elections**

**13.** (1) Election into the committees shall be held after every three years from the first establishment of Market Management Committees, and thereafter for the reconstitution of the Market Committees, two months to the expiration of the duration thereof or on its dissolution, as the case may be, provided that the first election to Market Management Committees may be held at any time as may be directed by the County Executive Committee Member responsible for matters relating to Trade.

(2) The Market Management Committee members can only be elected to a maximum of two terms of three years each.

(3) A representative who is removed from office or resigns before serving a term to completion shall be deemed to have served the full term for purposes of computation of time during election or re-appointment.

(4) A market management Committee or a member thereof may be removed from office by the traders in consultation with the appointing authority for—

- (a) incompetence;
- (b) misappropriation of funds;
- (c) gross misconduct;
- (d) prolonged mental or physical infirmity;
- (e) declared bankrupt;
- (f) violation of the Constitution of Kenya or any other law.

(5) Member of a market management committee may cease to hold office if he or she—

- (a) dies;
- (b) resigns; or
- (c) if removed under Sub-clause 4.

**PART III—PUBLIC MARKETS****Establishment of public markets**

**14.** The Department responsible for Trade shall establish, maintain, manage and regulate public markets for the sale of commodities therein and set up necessary infrastructure for the convenient use of such markets.

### Management of public Markets

**15.** The Department shall ensure that it reserves enough money in its budgeting cycle to be used for market improvement, provision of amenities and administrative costs in all markets within the County.

### Regulation of public Market Places

**16.** (1) A person shall not hold any market for the sale of marketable commodities in any place not being a public market established under this Act, unless authorized by the Department.

(2) The Department may authorize any person to establish and use at any place a market for the sale of marketable commodities and such Authority may be granted upon such terms and conditions as may be prescribed.

(3) A person who contravenes sub-section (1) commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding one year, or both.

### Power to impose charges for use of Stalls and other related provisions

**17.** (1) The Department may demand and take from every person—

- (a) occupying or using any stall or place in any public market;
- (b) bringing into any such market any marketable commodities or anything which the Executive Committee Member may permit to be sold therein; or
- (c) using any weighing or measuring instrument provided and kept in any such market, such stallages and charges as may be prescribed.
- (d) stallages and charges payable in respect of any public market or weighing or measuring instruments shall be paid at such times and in such manner as may be prescribed.

(2) Any person who fails to comply with the provisions of this section commits an offence and shall be liable on conviction to a fine not exceeding ten thousand Kenya shillings or to a term of imprisonment not exceeding one month or both.

### Market Days

**18.** The Executive Committee Member in consultation with the relevant stakeholders may designate certain days to be market days for public markets. All existing market days immediately before the effective date of this Act shall continue to exist subject to any law that might be enacted.

**Trading**

**19.** (1) A regular trader, who wants to carry out any commercial activity from a public market must obtain a license or, in the case of a casual trader, pay such fee as may be prescribed.

(2) A license issued under sub-section (1) shall not entitle the regular trader to carry out such activity unless it is in relation to a specific market.

(3) A regular trader shall not be issued with more than one license for a post in a market that operates on the same day and time.

(4) A regular trader using a motor vehicle to carry on their commercial activity may be provided a space to operate—

(a) in the case that the activity being undertaken concerns the selling of food items, prior to approval by the County public health authorities or any other lawful authority mandated to approve must first be sought and obtained:

Provided that with reference to food related items the Department, following recommendation by the health authorities or any other lawful authority, may order the licensee to sell or not to sell specific items as ordered by the County public health authorities or any other lawful authority;

(b) in the case of non-food related items the department may issue an order to the licensee to restrict the selling of any item that may be offensive to the public.

**Car Boot Sales**

**20.** (1) A person who organizes a car boot sale or who sells goods from a car boot in a market or any public place must be authorized in a prescribed manner.

(2) An application for Authority under this section shall contain the following information—

- (a) the name of the applicant;
- (b) the place where the car boot sale will be held; and
- (c) the date or dates when the car boot sale will be held.

**Hawking**

**21.** (1) A street hawker may carry out their commercial activity within the designated areas for hawking.

(2) A street hawker may carry out their commercial activity by parking their vehicle within the designated areas.

### **Busking**

**22.** Selling by busking is permitted and subject to the following conditions—

- (a) that the place where the busker stops to sell their goods is at least five meters of walking distance away from the entrance of any commercial premises: For such purpose, a fixed kiosk is considered to be a commercial premise;
- (b) that no selling by busking can be performed in the precincts of any hotel or any shopping complex if not by written permission from the management;
- (c) that no objects are placed on the pavement or road; and
- (d) that no nuisance or inconvenience is caused to the neighbors or passers by in the street.

### **Obstruction**

**23.** A person who obstructs a public officer or other person duly authorized to receive any stillage or charge payable in respect of a public market or any person employed to superintend such market or to keep order therein, whilst in the execution of their duty, is liable on conviction to a fine of not less than fifty thousand shillings or to imprisonment for a term not less than six months or to both.

### **Disorderly Behaviour in Public Market**

**24.** The Directorate or other person in charge of any public market or other person authorized may remove from, any market any person who behaves in the market in a disorderly or offensive manner or who misconducts himself or herself or may arrest such person without a warrant and take him or her to the nearest police station to be dealt with in due course of law.

### **Prohibited goods**

**25.** (1) No trader shall sell or offer for sale prohibited goods at a public market.

### **Seizure of goods**

**26.** Where an officer, finds goods at a public market and the officer is satisfied, on reasonable grounds, that the goods are—

- (a) controlled goods; or

- (b) not being sold by an authorized sales representative of the producer manufacturer, wholesaler, distributor or retailer of the goods, the officer may, without laying any information or obtaining any warrant, seize and remove those goods; or
- (c) any prohibited goods by this law or any other Act.

## **PART IV—TRADING AREAS**

### **Designated areas**

**27.** (1) There shall be designated areas in each public markets' urban area or such areas as the Executive Member in consultation with relevant stakeholders may designate for the purposes of facilitating trade for the prescribed goods and services.

(2) A person shall not carry out any trade or business in an area not designated as a trading area for the class of trade or business.

(3) A person who contravenes this section commits an offence and is liable on conviction to a fine not exceeding ten thousand shillings or a term of imprisonment not exceeding one month.

### **Classification of markets**

**28.** (1) There shall be such public markets in each public markets' urban area or such areas as the Executive Member may designate for the purposes of facilitating trade for the prescribed goods and services.

(2) The Executive Member shall classify the markets on the basis of geographical position, type of goods or services traded, whether permanent or occasional.

(3) The Executive Member in consultation with the relevant stakeholders may designate certain days to be market days for markets established under this Act.

### **Public Market space**

**29.** (1) The Executive Committee Member shall prescribe the guidelines for managing the allocation of trading space or operating area within a market.

- (2) The guidelines shall ensure that—
  - (a) allocation of trading space is conducted in a fair, indiscriminate and transparent manner;
  - (b) youth, women and persons with disabilities are accorded preferential treatment;

- (c) persons who were operating trade in refurbished or reconstructed markets are given priority in allocation of trading space;
- (d) allocation of trading space is conducted in an open and transparent manner;
- (e) there is inclusivity in the allocations;
- (f) the allocation of trading space does not promote monopoly and anti-competition in the market;
- (g) no trader leases more than one stall, block or space at the same time;
- (h) a trader surrenders allocated space, stall shop or any other facility within the market once he or she ceases to be a trader; and
- (i) no lessee of any stall or block assigns the lease to any other person or permits the use of any stall or block by any other person without the written permission of the authorized officer.

#### **Allocation of stalls/blocks**

**30.** (1) All stalls or blocks in the portion of a public market may be rented by the Directorate to a person upon payment of a prescribed fee.

(2) Subject to sub-section (I)—

- (a) no person shall be permitted to rent more than one stall or block at the same time;
- (b) the directorate shall retain the right to repossess any rented-out stall or block for non-use;
- (c) no tenant of any stall or block shall re-assign the stall or block to any other person or permit the use of any stall or block by any other person without the written permission of the Directorate;
- (d) the guidelines on the allocation of the stalls or blocks shall be as provided under Clause 29 (2) with necessary modifications.

(3) A person to whom a stall or block has been leased out to shall have the right to exercise the renewal option by giving the directorate at least a six months' notice prior to the expiration of the initial lease.

#### **Restricted trading areas**

**31.** (1) No person shall sell any marketable goods and commodities in the entrance to commercial premises, public buildings or on the

pavements of any road unless they have been licensed and permitted and subject to the following conditions—

- (a) that the place where the trader sells their goods is at least five meters of walking distance away from the front gate and entrance of any commercial premises or public building;
- (b) for purpose of sub-section (a), a fixed kiosk is considered to be a commercial premise;
- (c) that there shall be no selling of goods permitted in the precincts of any hotel or any shopping complex without written permission from the management;
- (d) that no nuisance or inconvenience is caused to the neighbours or motorized traffic and passers by in the street.

#### **Compliance procedures**

**32.** (1) The Department shall ensure that each public market complies with public health and environmental requirements.

(2) The Department shall collaborate with National Government entities responsible for standardization, quality control and counterfeit control.

#### **Authorized officers**

**33.** (1) The Executive Committee Member shall designate officers to be authorized officers for the purposes of this Act.

(2) Notwithstanding the provisions of this section, the County public health officers shall be authorized officers for the purposes of this Act.

(3) An authorized officer may enter any premises carrying out any trade or business, whether such premises are licensed or not for the purposes of carrying out inspections in compliance with this Act.

(4) An authorized officer entering any premises for the purposes of carrying out an inspection under this section shall, if so required, produce for inspection by the person who is or appears to be in charge of the premises an identification document.

(5) Notwithstanding the provisions of sub-section (1), all officers working in or seconded to the section, the County public health officers and officers who are for the time being referred to as enforcement officers shall be authorized officers for the purposes of this Act.

**Power of authorized officers**

**34.** In carrying out an inspection under this Act, an authorized officer shall have power to—

- (a) enter any premises carrying out any trade or business whether such premises are licensed or not;
- (b) carry out an inspection of the premises or any documentation required under this Act;
- (c) require any person in such place to produce for inspection any document or information related to compliance with the Act;
- (d) take a sample of anything from which goods are manufactured or produced;
- (e) make inquiries of any person employed at that place or who has responsibility over that place.

**PART V—MISCELLANEOUS****Regulations**

**35.** (1) The Executive Committee Member may make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of sub-section (1), the Regulations may—

- (a) prescribe guidelines for the establishment of market management committees and election of their members;
- (b) prescribe the classification of trades and businesses;
- (c) prescribe the designation of trading areas;
- (d) prescribe matters related to street trading;
- (e) prescribe the goods and services to be traded in a public market;
- (f) prescribe the guidelines for allocation of trading space in public markets;
- (g) prescribe the form of certificate for authorized officers;
- (h) regulating the use of markets and market buildings;
- (i) instruments to be used by persons selling marketable commodities in any market;
- (j) preventing nuisances and obstructions in markets and for maintaining cleanliness therein, and on the approaches thereto;
- (k) prescribing the goods that may be sold in any market;

- (l) fixing, regulating and collecting stillage or charges and the payment and collection thereof in any public market;
- (m) for the inspection and examination of commodities sold or offered for sale in any market;
- (n) fixing the days and hours during each day on which any market may be opened and for preventing the sale and purchase of commodities in any market on any day or at any times except as fixed;
- (o) prescribing the conditions subject to which the several stalls or places in any public market shall be held, occupied or used by persons having or using the same;
- (p) prescribe the period for non-use of leased stalls that shall warrant the directorate to repossess the stalls; and
- (q) provide for the modalities of conducting Annual General Meetings for the statutory committees herein.

Impose on any person having or using any stall or place in any market the duty of taking steps; for protecting from contamination any articles of food offered or exposed for sale in any market; for maintaining order and preventing disturbances in a public market.

#### **Books of accounts, reports and proper records**

**36.** The directorate, in collaboration with the County Finance Department shall—

- (a) recover all rates and other moneys to be payable under this Act;
- (b) keep a detailed cash account book in which entries are made of all moneys received by the directorate under this Act; and
- (c) generally to carry out and enforce this Act.

#### **Obstruction and disturbance**

**37.** A person who—

- (a) sells any article in the public market, otherwise than in accordance with this Act;
- (b) within the County sells, exposes or offers for sale any butcher's meat except in a shop for which a business licence has been so granted;
- (c) obstructs or opposes any officer in the execution of their duty under this Act; or

- (l) fixing, regulating and collecting stillage or charges and the payment and collection thereof in any public market;
- (m) for the inspection and examination of commodities sold or offered for sale in any market;
- (n) fixing the days and hours during each day on which any market may be opened and for preventing the sale and purchase of commodities in any market on any day or at any times except as fixed;
- (o) prescribing the conditions subject to which the several stalls or places in any public market shall be held, occupied or used by persons having or using the same;
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- (c) obstructs or opposes any officer in the execution of their duty under this Act; or

- (d) creates or causes any disturbance in the public market or at or near the same during the hours when the same is open, or disturbs the quiet and good order of the same by offering any article for sale in a loud voice to attract customers or by shouting, singing, smoking or screaming therein, or in any other manner that causes nuisance, commits an offence and is liable upon conviction to a fine of not less than ten thousand shillings or imprisonment term of one year or both.

#### **Enforcement to Promote Business Environment**

**38.** The enforcement of this Act shall be carried out in a manner that—

- (a) recognizes and respects the right to property and privacy;
- (b) supports and encourages compliance with the Act;
- (c) promotes trade and business operations; and
- (d) respects and observes the rule of law and fundamental rights.

#### **Offences**

**39.** Any person who —

- (a) knowingly in a public market behaves in a disorderly or offensive manner or who misconducts themselves, commits an offence and is liable on conviction to a fine not less than five thousand shillings or to a term of imprisonment for not exceeding six months, or to both;
- (b) carries out any trade or business in an area not designated as a trading area for the class of trade or business commits an offence and shall be liable to a fine not exceeding twenty thousand shillings;
- (c) sells any marketable goods and commodities in the entrance to commercial premises, public buildings or on the pavements of any road without license and permission as provided for under this Act commits an offence and is liable on conviction to a fine not less than five thousand shillings or to imprisonment for a period not exceeding three (3) months;
- (d) assaults an authorized officer while executing their duty, is liable on conviction to a fine not less than fifty thousand shillings or imprisonment of six months or both.

**General penalty**

**40.** Any person who commits an offence under this Act, where no other penalty is provided for, commits an offence and is liable upon conviction to a fine not exceeding ten thousand Kenya shillings.