

MIGORI COUNTY TRADE LICENSING ACT NO.3 OF 2016

**ACT NO. 3 OF 2016.**

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**MIGORI COUNTY TRADE LICENSING ACT NO.3 OF 2016**

**A Bill of the County Assembly of Migori to provide for the grant of trade Licences, and for connected purposes**

**ENACTED** by the Migori County Assembly

**1.** (1) This Act may be cited as the Migori County Trade Licence Act, 2016.

**Short title and commencement**

(2) This Act comes into operation one month after enactment by the County Assembly.

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## Interpretations

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

“approved form” means a form set out in Schedule 2 or approved by the County Assembly;

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

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

“county assembly” means Migori County Assembly;

“county government” means Migori County Government;

“County licensing officer” means an officer of the county government appointed under section 3;

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

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

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

“receiver of revenue” has the same meaning as in the section 157 of Public Finance Management Act, 2012.

“Trade licence” means a licence granted to conduct a business.

### County licensing officer

3. (1) The county executive committee member responsible for Trade shall appoint or designate an officer of the county government as the County licensing officer.

(2) The County licensing officer has the functions and powers provided for by or under this Bill.

### Requirement for a trade licence

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

(2) If a person fails to comply with subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding fifty thousand shillings or three months in jail or both.

### Application for licence

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

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

(b) be in the approved form; and

(c) contain such information and be accompanied by such documents as are required by the approved form; and

(d) be signed in a manner specified in the approved form; and

(e) be accompanied by the prescribed application fee (if any).

(2) An application may be made in an electronic format approved by the County licensing officer.

(3) The County licensing officer may, before determining an application, require the applicant to furnish to the

County licensing officer such additional information or documents as is necessary to enable the application to be determined.

(4) If an application fee has been prescribed, the application fee is not refundable.

**Grant of licence**

**6. (1)** The County licensing officer shall grant an application for a trade licence if:  
(a) the County licensing officer is satisfied that

the applicant has complied with all laws relating to health, hygiene and safety applicable to the trade licence applied for; and

(b) the licence fee has been paid to the receiver of revenue.

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

(3) The licence fee for the grant of a trade licence is to be calculated on a pro rata basis having regard to the period remaining in a calendar year after the date on which the trade licence was granted for new business establishment, unless it was granted on the first day of that calendar year.

(4) A trade licence is granted for the period remaining in a calendar year from the date of its grant, unless the trade licence was granted on the first day of that calendar year in which case it is granted for the whole of that calendar year.

(5) Trade Permit must be conspicuously displayed at the business premise

(6) Scanning of Trade Permit is an offence punishable six months imprisonment/ Fine ten thousand shillings or Both.

**Renewal of a licence**

**7. (1)** The holder of a trade licence shall, before the expiry of the trade licence, apply in the prescribed form for the renewal of the trade licence upon payment of the prescribed application fee.

(2) The County licensing officer must grant an application for the renewal of a trade licence if:

(a) the applicant has complied with all laws relating to health, hygiene and safety applicable to the trade licence; and

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

(3) The County licensing officer may, before

determining an application for renewal, require the applicant to furnish to the County 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.

**Cancellation or suspension of licences**

**8.** (1) The County licensing officer may cancel or suspend a trade licence if it is satisfied that:

- (a) the conduct of the business is endangering the health or safety of persons who live or work in the neighbourhood of the premises from which the business is conducted; or
- (b) The holder of the trade licence has breached a condition of the trade licence.

(2) If a County licensing officer cancels or suspends a trade licence (or revokes any such suspension), the authority must give the holder of the licence written notice of the cancellation or suspension, including the period of the suspension, or revocation, together with a statement of the reasons for the decision.

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

(4) If a person fails to comply with subsection (3), the person is guilty of an offence punishable on conviction by a fine not exceeding One hundred thousand shillings or a jail term not exceeding Six months or both.

(5) If the County licensing officer revokes the suspension of a trade licence, the holder of the licence may resume conducting the business.

**Surrender of licence**

**9.** The holder of a trade licence may surrender the licence by returning it to the County licensing officer, but no refund of the licence fee is payable.

**Transfer of licences**

**10.** A holder of a trade licence must give the County licensing officer written notice of any transfer or assignment of the licence.

**Appeal against the decision**

**11. (1) A person aggrieved by a decision of the County licensing officer may appeal to the county executive member responsible for Trade against the decision.**

**(2) The county executive member responsible for finance may confirm, reverse or modify the decision appealed against, and make such orders and give such directions to the County licensing officer as may be**

Licensing officers	<p>necessary to give effect to his or her decision.</p> <p><b>12. (1) The county executive committee member responsible for trade may appoint persons as authorised officers for the purposes of this Bill.</b></p> <p><b>(2) An authorised officer has the powers set out in Schedule 1.</b></p>
Register	<p><b>13. (1) The County licensing officer must establish and maintain a register of trade licences which is to be available for inspection by the public during usual government office hours.</b></p> <p><b>(2) The register must contain such information as is prescribed, but must not include information that is commercial-in-confidence information.</b></p>
Offence - false or misleading statements	<p><b>14. (1) A person must not make a statement which the person knows to be false or misleading:</b></p> <ul style="list-style-type: none"><li><b>(a) in or in connection with an application for a trade licence; or</b></li><li><b>(b) When furnishing information required under this Bill.</b></li></ul> <p><b>(2) If a person contravenes subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding fifty thousand shillings or jail term not exceeding three months or both.</b></p>
County assembly to approve licence fees and additional fees	<p><b>15. (1) The licence fees that are payable for the grant or renewal of trade licences, including any additional fees for the non-payment or late payment of such licence fees, are to be approved each year by the</b></p>
County Assembly in the County Finance Bill. Power to make rules	<p><b>16. (1) The county executive committee member responsible for trade may make rules generally for the better carrying out of the provisions and purposes of this Bill.</b></p> <p><b>(2) Without limiting subsection (1), rules may be made for the following purposes:</b></p> <ul style="list-style-type: none"><li><b>(a) the collecting of trade licence fees including additional fees;</b></li><li><b>(b) the exemption, waiver or reduction of trade licence fees;</b></li></ul>

- (c) prescribing fees for services;
- (d) prescribing forms;
- (e) Publication and service of notices and other documents.

**Savings**

**17. (1)** Despite the repeal of the Local Government Act [CAP 265] and the County Governments Public Finance Management Transition Act 2013, any single business permit issued by a local authority under section 163A of the Local Government Act [CAP 265] that was in force on 30 September 2013 is deemed to have continued in force after that date as if it were a trade licence granted under this Act and any fees or charges payable to a local authority in respect of the single business permit were payable to the county government.

(2) The single business permit referred to in subsection (1) continues in force:

- (a) for 3 months from the date of commencement of this Bill; or
- (b) if the holder of the single business permit applies for a trade licence under this Bill within that period, until the licence is granted or refused or the application is withdrawn.

**Schedule 1 – Powers of authorised officers**

**Section 12**

1. An authorised 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 licence, or this Bill or the rules made under this Bill; 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 Bill; 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 and materials as the authorised officer reasonably requires for the purpose of exercising any of the powers mentioned in paragraphs (a) to (e); and

(g) require the holder of the licence, or any person in or on the premises to give to the authorised officer reasonable assistance in relation to the exercise of the powers mentioned in paragraphs (a) to (f).

2. However, an authorised officer must not enter premises unless:

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- (a) the owner or occupier consents to the entry; or
- (b) the entry is made when the premises are open for the conduct of business or otherwise open for entry; or
- (c) the authorised officer suspects on reasonable grounds that an offence is being committed against this Bill in or on the premises.

Section 2

**Part A**

**COUNTY OF MIGORI TRADE LICENCE ACT NO. 3 OF 2016**

**APPLICATION FOR THE GRANT / RENEWAL OF A TRADE LICENCE**

**MIGORI COUNTY GOVERNMENT**

**BUSINESS REGISTRATION/RENEWAL FORM FORM NO**

Please revise the required information carefully before filling the registration form

**BUSINESS IDENTIFICATION AND ADDRESS**

Business Id No

Business Name

Certificate of Registration

PIN

VAT No.

No/ID No.

P. O. Box

Postal code.

Postal Town

Tel No.

Telephone Fax

Email Address

Business Physical Address

Plot No

**OWNER/CONTACT PERSON DETAILS**

Name

Designation

P. O. Box

Postal code.

Postal Town

Tel No.1

Telephone No 2

**BUSINESS DETAILS**

Business Activity Description

Business premise area (square meters)

No. of Employees

Other business classification Details ( e.g. No of students, fuel machines, beds, conference rooms etc.)

**DECLARATION**

I declare that the information provided in this form is true and correct concerning the business

.....  
Name Signature Date

**FOR OFFICIAL USE ONLY**

Business Activity code

Activity Descriptions

Business Zone code

Business zone Name

Trading Centre

Relative Size Small Medium: Large:

Officer's Name

Signature

Date

**Part B**

Permit No.

**REPUBLIC OF KENYA**

**MIGORI COUNTY GOVERNMENT**

**GRANTS THIS TRADE**

Business Name:

**LICENCE PERMIT TO:**

Business ID. No

Certificate of

Pin Number

VAT NO.

Application No.

Registration No./ID

No.

**MEMORANDUM OF OBJECTS AND REASONS**

Article 209(4) of the Constitution of Kenya 2010 together with Part 2 of the Fourth Schedule of the Constitution of Kenya gives counties the power to impose fees and charges for services provided and for regulatory purposes in respect of certain licensed activities. Examples include the power to licence undertakings that sell food (item 2(d)) and to issue trade and liquor licences (items 7(b) and 4(c)). These licensing powers are not taxing powers, but are a power to charge fees for services.

The Bill provides for the grant of trade licences by County Governments to conduct businesses in the county in accordance with the powers mentioned above in Part 2 of the Fourth Schedule of the Constitution.

HON. GEORGE OUMA OTIENO  
Chairperson, budget and Appropriation Committee.