

SAMBURU COUNTY LIVESTOCK SALE YARDS ACT, 2018

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SAMBURU COUNTY LIVESTOCK SALE YARDS ACT, 2018

An ACT of the County Assembly of Samburu to provide for the establishment and control of livestock sales yards and other connected purposes.

ENACTED by the County Assembly of Samburu as follows —

PART I – PRELIMINARY

Short title and
Commencement

1. This Act shall be cited as the Samburu County Livestock Sales Yard Act, 2018 and shall come into operation upon publication in the Kenya Gazette.

Interpretation

2. In this Act unless the context otherwise requires —
“animal health inspector” means a person appointed as an Animal Health Inspector pursuant to Section 15 of the Act;

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

“cess” means local levy chargeable in the day to day activities in a sale yard;

“county executive committee member” means a member in-charge of agriculture, livestock and veterinary services;

“livestock” means all domestic animals including cattle, camels, goats, sheep, donkeys, pigs, poultry and rabbits;

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

“unfit livestock” includes livestock that —

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

“livestock marketing group” means the group registered by the department of Gender, Culture and Social Services pursuant to Section 7 of the Act;

“stall” means any immovable or movable structure used for the purpose of trading;

“standard sale yard” includes perimeter fence, holding pens for each

category of livestock species, loading rumps, water troughs, sanitation blocks, auctioneer platform, office, stalls, quarantine area and incinerator;

Objects and Purpose 3. The purpose and objects of the Act shall be —
1) To establish livestock sale yards in the County;
2) To promote livestock marketing in the County;
3) To provide for the administration of the Livestock sale yards in the County;
4) To promote effective and efficient operation of livestock markets; and
5) To integrate livestock markets with other supportive business enterprises and services.

Application 4. This Act shall apply within the jurisdiction of Samburu County.

PART II—ESTABLISHMENT OF LIVESTOCK SALE YARDS

Establishment of Livestock Sale Yards 5. (1) The County shall establish at least one standard livestock sale yard in each ward.
(2) The County may facilitate the establishment of sales yards by private entities or individuals within the County.

Management of Sale Yards 6. (1) The Livestock Sales Yards shall be operated and managed by the County Government.
(2) The County may delegate the operation and management of the Livestock Sales Yard to a registered Livestock Marketing Group.
(3) Subject to subsection (2), the County in consultation with the Livestock Marketing Group shall determine the revenue sharing formula during the market days.

Registration of Livestock Marketing Groups 7. The Department of Social Services shall —
1) Register the Livestock Marketing Groups in each sub-county;
2) Cause to be kept a register of the Marketing Groups; and
3) Guide in membership and management.

Community participation in management 8. The Livestock Marketing Groups in consultation with the Department of Livestock shall ensure community participation in the management of the sales yard.

Functions of the Livestock Marketing Groups 9. The Livestock Marketing Groups shall —
1) Manage the sale yards on a day to day basis;
2) Ensure there are repairs and maintenance of the market infrastructure;
3) Safeguard the properties of the market;

- 4) Ensure transparency in revenue collection (fees and levies) during the market days and the management of such levies;
- 5) Manage livestock market information;
- 6) Settling grievances and arbitration between different actors in the market; and
- 7) Coordinate with the Animal Health Inspector on livestock disease surveillance and ensure a clean environment.

Livestock market monitor

10. The livestock marketing group shall keep and maintain a livestock market monitor, to provide livestock sales data to be submitted to the Department of Livestock and the County Livestock Marketing Council.

Construction of Stalls

11. (1) The County may construct stalls around livestock sale yards.
(2) Where the livestock sale yard is privately owned, the owner may construct the stalls.

PART III- ADMINISTRATION OF THE LIVESTOCK SALE YARDS

Establishment of the Livestock Sale Yards Management Committee

12. (1) There is established Samburu County Livestock Sale Yards Management Committee.
(2) The Committee shall be under the Department of Livestock.

Composition of the Committee

13. (1) The County Executive Committee Member in consultation with stakeholders shall appoint the following members to the Committee —
(a) The Director of Livestock;
(b) The Director of Veterinary services;
(c) Head of County Revenue;
(d) The Chairperson of the County Livestock Marketing Council; and
(e) Three representatives of the registered Livestock Marketing Groups.

Functions of the Committee

14. The Committee shall —
(1) Supervise the management of the Livestock market sale yards;
(2) Control the establishment of new markets;
(3) In consultation with the County Executive Committee Member, set livestock market days for each sale yard within the County;
(4) Ensure that only registered livestock marketing groups operate livestock sale yards;
(5) Advise the Department of Livestock and the Livestock Marketing Groups on the best practices;
(6) Monitor the performance of the Livestock Marketing Groups;
(7) Jointly with other partners, build the capacities of the Livestock Marketing Groups to better manage the sale yards;
(8) Ensure that only licensed Livestock Marketing Groups or

- individuals operate livestock sale yards;
- (9) Check and verify if the funds are properly utilized by the Livestock Marketing Groups for the benefit of the community;
- (10) Supervise the elections of the Livestock Marketing Groups; and
- (11) Receive reports from the Livestock Marketing Groups;

Powers of the Committee

15. The Committee shall have the powers necessary to perform their functions as provided under section 14.

Designation of Animal Health Inspectors

16. The Director of Veterinary Services may designate any qualified person to be an animal health inspector for the purposes of this Act.

Functions of the Animal Health Inspector

17. The Animal Health Inspector shall —
- (a) Ensure that livestock sale yards conform with the requirements under this Act;
 - (b) Enforce the rules to protect livestock during transportation;
 - (c) Ensure that the health and safety measures described in the Act are complied with; and
 - (d) Ensure that the livestock transported to the livestock sale yards meet the required market standards.

Powers of the Animal Health Inspector

18. The Animal health 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; and
 - d) Treat or quarantine any sick livestock as per the regulations.

Search and entry

19. (1) An Inspector may enter and search a livestock sales yard without a search warrant where he has reason to believe that the owner of the livestock sales yard is in contravention with the provision of this Act or regulation.
- (2) Subject to sub-section (1), the Inspector may seize and confiscate any records or sick, stolen or abandoned livestock found in the livestock sales yard.
- (3) The Inspector shall forward the records and livestock seized and confiscated as per sub-section (2) to the Livestock Marketing Groups of the sale yard for further action.

PART IV – TRANSPORTATION AND WELFARE OF LIVESTOCK

- Transportation of livestock 20. (1) Livestock shall be transported in a way that will not cause injury or suffering to them, taking the following factors into account —
- a) Ensure that animals are fit to travel;
 - b) Ensure that loading and offloading facilities are constructed and maintained;
 - c) Ensure that those handling livestock do not use violence or any methods likely to cause fear, injury or suffering;
 - d) Provide sufficient floor, space and height allowance; and
 - e) Facilitate the provision of water, feed and rest as needed.
- Movement permit 21. Livestock from the sale yards shall be moved out of the County upon issuance of the relevant permit.
- Unfit Livestock 22. No person shall permit an unfit animal to be exposed for sale in a livestock sale yard.
- Handling of livestock 23. No person shall handle a livestock in a livestock sale yard in a way to cause injury or suffering.
- Feeding and Watering of Livestock 24. It shall be the duty of the owner of a livestock which is kept in a livestock sales 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.
- Offence and Penalty 25. Any person who contravenes the provisions of this Part commits an offence and shall upon conviction be liable to a fine not exceeding Kenya Shillings Fifty Thousand or to imprisonment for a term not exceeding three months.

PART V – SALE AND AUCTION OF LIVESTOCK

- Sale of livestock 26. (1) All livestock shall be traded in the designated sale yard.
(2) Any person who contravenes the provisions of sub-section (1) commits an offence and shall on conviction be liable to a fine not exceeding Kenya Shillings twenty thousand or a term of 1 month imprisonment or both.
- 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.

(c) Live weight determined by a weighing scale.

Sale by auction

28. (1) 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 automatically be deemed to be the subject of a separate contract of sale;
 - (c) the particulars or conditions of any sale including the conditions whether the sale is subject to a 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 bid,

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 behalf to bid at such auction.

- (2) 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 behalf to give one bid for each such lot and no more.
- (3) if the seller or any person acting on his behalf bids at any sale contrary to any of the provisions of this section, any purchaser may refuse to fulfill his 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.
- (4) No auctioneer shall make a bid either on behalf of himself or as an agent of any person unless on making such bid, he announces that it is his bid.
- (5) A bidder may retract his bid at any time before the sale is complete
- (6) The inspector shall charge a fee from the sale of every animal, at a rate to be determined by the County Executive Committee member for agriculture and Livestock.
- (7) A person who, knowingly —
 - (a) receives or makes any bid contrary to the provisions of this section; or
 - (b) makes a bid which the person cannot honour or is fraudulent, or is intended to avoid a valid sale which is subject to the bid, commits an offence.
- (8) Where a person convicted of an offence under this section is a licensed auctioneer, the person shall, in addition to any other penalty imposed, be liable to having his license revoked.

PART VII – GENERAL PROVISIONS

General Penalty

29. Any 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 three months.

Regulations

30. The County Executive Committee Member may make regulations with the approval of County Assembly generally for the purpose of carrying out this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Act seeks to give effect to provide for establishment and control of livestock sales yards in the County.

It seeks to implement the functions of the County Government in relation to Agriculture and specifically the livestock sales yards.

STATEMENT ON CONSTITUTIONALITY AND CONFLICT OF LAWS

The Act does not contravene any of the provisions of the Constitution and is not ultra vires to any of the provisions of any national law relating to agriculture. In case of any conflict between the Act and any National laws, the provisions of Article 191 of the Constitution shall take effect.

Dated 4th January, 2018

**HON. ADAMSON LANYASUNYA,
CHAIRPERSON, COMMITTEE ON AGRICULTURE, LIVESTOCK AND FISHERIES**