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THE GARISSA COUNTY CHARCOAL PRODUCTION BILL, 2015

A Bill for

AN ACT of the Garissa County Assembly to make provisions for the regulation and licensing of production and transportation of charcoal in Garissa County and for connected purposes

ENACTED by the Garissa County Assembly as follows—

PART I—PRELIMINARY

Short title.

1. This Act may be cited as the Garissa County Charcoal Production Act, 2015.

Application.

2. This Act shall apply in addition to any other written law; both national and county legislation, relating to forestry and sustainable charcoal production, transportation and marketing for the time being in force in Kenya.

Interpretation.

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

"act" means the Forest Act, 2015;

"charcoal" means wood fuel product derived from carbonization of wood or other plant materials;

"competent authority" refers to the County Forestry Department established under Section 4 of this Act;

"county assembly" means the County Assembly of Garissa;

"county executive committee member" means the County Executive Members for the time being responsible for matters relating to the environment;

"service" means the Kenya Forest Service established under the Forest Act;

Competent Authority.

4. (1) The County Forestry Department shall be responsible for the issuance of licenses for the production, transportation and commercial trading of charcoal within the county.

(2) No licensing Authority established under any other written law, shall issue a trading permit or licence for the undertaking of any activity relating to production,

commercial trading or transportation of charcoal in the county other than the competent Authority under subsection (1).

Establishment of charcoal producer associations.

5. (1) All commercial charcoal producers shall organize themselves and form charcoal producers associations.

(2) Charcoal producer associations must be registered by the competent authority and issued with a registration certificate in accordance with this Act

(3) An association registered under subsection (1) shall—

(a) facilitate sustainable production of charcoal by its Members in the county;

(b) ensure that its Members implement the reforestation conservation plans in the county;

(c) develop and implement a Code of Practice for the purposes of self regulation in the county;

(d) assist the service in enforcing the provisions relating to sustainable charcoal production, transportation and marketing; and

(e) undertake any other activities that are necessary for sustainable charcoal production and transportation in the county.

Establishment of County Environment Committee.

6. There is established a County Environment Committee, which shall comprise of the following Members:

(a) County Executive Committee Member in-charge of environment;

(b) County Executive Committee Member in-charge of finance;

(c) County Director of forestry; and

(d) Three other persons to be appointed by the County Executive Committee member in-charge of environment.

Mandate of the County Environment Committee.

7. The County Environment Committee is mandated to—

(a) designate the areas where charcoal is to be produced;

(b) designated charcoal collection points;

(c) in consultation with the service, identify tree species, number of trees and estimated volume to be used for charcoal production;

(d) designate type of technology to be used as may be prescribed under these Regulations or any other written law, in particular, the Energy Act;

(e) formulate reforestation or conservation policies and plan for the areas where the trees will be managed for charcoal production.

Licences.

8. (1) No person shall undertake or engage in any activity relating to commercial charcoal production and transportation in the county without a valid licence, issued by the service as provided for under this Act.

(2) A person or association that wishes to obtain a licence to undertake or engage in any activity relating to commercial charcoal production shall—

(a) make an application to the Forestry Department

(b) pay the prescribed fee; and

(c) provide such other information that the Forestry Department may require.

(3) Upon receipt of an application, the licensing department may—

(a) consider the application;

(b) reject; or

(c) require the applicant to submit a declaration or provide such additional information as it may consider necessary for the determination of the application.

Validity of licence.

9. (1) A licence issued under this Act shall unless, earlier revoked—

(a) be valid for the period specified in the licence; and

(b) where no such period is specified, the licence shall expire on the 31st December of the year which it is issued.

(2) A licence issued under this Act is not transferable.

Exemption.

10. (1) Notwithstanding the provisions of this Act, a person who wishes to produce charcoal on his own land for his own consumption shall not require a licence.

(2) Notwithstanding paragraph (1), a person who wishes to produce charcoal for commercial purposes on his own land, shall be required to obtain a licence.

Renewal of licence.

11. An application for the renewal of a licence shall be made at least one month before the expiry date of the existing licence.

Revocation, suspension or cancellation of licence.

12. (1) The department may suspend or revoke a licence issued under these Regulations where the holder of the licence contravenes the conditions of the licence.

(2) The department shall, upon its intention to suspend or revoke the licence under the subsection (1), notify the concerned party accordingly and give a fourteen days notice of revocation or cancellation thereof if the concerned party fails to fulfill such conditions as may be specified in the notice.

(3) The department may suspend or cancel a licence for charcoal production upon expiry of the notice period prescribed under subsection (2).

(4) Whenever a licence issued is suspended or revoked, the licensee shall cease operations of the charcoal production that is the subject of the licence until the suspension is lifted or a new licence is issued by the department.

Restrictions on use of licence.

13. (1)A person having a licence and operating authorized charcoal business in the county shall not—

(a) unlawfully alter or endorse, a licence issued to him for the use of any other person;

(b) engage in commercial charcoal production on the basis of a licence issued to another person; or

(c) Having been disqualified from holding a licence under this Act, apply for a licence without disclosing to the licensing sub-committee the disqualification.

(2) Any person who contravenes the provisions of this regulation commits an offence.

Request to provide information.

14. A licencee shall, upon receiving a written request from the County Executive Committee, provide such data relating to charcoal production as the County Executive Committee may specify in the request.

Charcoal movement permit.

15. No person shall, move charcoal products from one place to another unless that person—

(a) is in possession of a valid charcoal movement permit issued under this Act and is operating in conformity with the terms and conditions of such permit; and

(b) has a certificate for origin for the charcoal, the subject of the charcoal movement permit duly signed by the relevant association or persons from whom charcoal is to be obtained; or

(c) has an original receipt from the vendor.

Record keeping.

16. (1) A person engaged in wholesale or retail trade in charcoal shall keep a record of the sources of charcoal, and copies of the certificates of origin and the movement permits.

(2) No person or association shall engage in trade in charcoal with unlicensed charcoal producers.

(3) A forest officer in the county may at any time enter the premises in which wholesale or retail trade in charcoal is being undertaken to inspect the records.

(4) Any person who contravenes the provisions of this Act commits an offence.

Protection of endangered tree species.

17. (1) No person shall produce charcoal from endangered, threatened and protected plant species.

(2) The County Government shall publish, in the gazzette, a list of endangered, threatened and protected plant species.

(3) Any person who contravenes paragraph (1) commits an offence.

Inspection.

18. (1) A county forest officer may carry out inspections at the premises or vessels used for charcoal production, transportation and trade—

(a) regularly;

(b) when non-compliance is suspected; and

(c) when it is required for the purpose of issuing a licence or permit.

(2) A licensee shall produce a licence or permit issued under these Regulations to a forest officer, on demand.

General penalty.

19. Any person who contravenes the provisions of this Act for which no specific penalty is provided commits an offence and is liable to a fine not less than 100,000 Kenya Shillings or six months imprisonment or both.

Regulations.

20. The County Environment Committee may make Regulations for the better carrying out of the Provisions of the Act from time to time as it deems fit.

MEMORANDUM OF OBJECTS AND REASONS

The principle objective is to make provisions for the regulation and licensing of production and transportation of charcoal in Garissa County and for connected purposes.

PART ONE—deals with preliminary matters including the interpretation of the terms of the Bill

PART TWO—Describes the Establishment of charcoal producer associations, of which The County Forestry Department shall be responsible for the issuance of licenses for the production, transportation and commercial trading of charcoal within the county.

PART THREE—Deals with the licensing of the charcoal, it states that nobody shall undertake or engage in any activity to commercial charcoal production and transportation in the county without a valid license.

Dated the 7th May, 2015.

ABDI DEKOW OSMAN,
Chair, Agriculture, Livestock and Fishery.