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**SCHEDULE — CRITERIA FOR THE FORMULATION OF
THE COUNTY VENDING PLAN**

THE STREET VENDORS (PROTECTION OF LIVELIHOOD) BILL, 2023

A Bill for

AN ACT of Parliament to provide a legal framework for the recognition, protection and regulation of street vending in Kenya, the identification of minimum standards for street vending; and for connected purposes

ENACTED by the Parliament of Kenya, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Street Vendors (Protection of Livelihood) Bill, 2023.

Short title.

2. In this Act —

Interpretation.

“Cabinet Secretary” means the Cabinet Secretary for the time being responsible for matters related to trade;

“committee” means a committee of the County Assembly mandated to consider matters related to trade within the County;

“county executive committee member” means the county executive committee member responsible for matters relating to trade in the respective county;

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

“market” means an area designated by the county government under the respective county legislation for the sale and purchase of goods and services;

“Ministry” means the Ministry responsible for matters related to trade;

“mobile vendor” means a street vendor who carries out vending activities in a vending area by moving from one place to another place vending their goods, services or a combination thereof;

“register of street vendors” means the register established under section 15;

“stationary vendor” means a street vendor who carries out street vending activities on a regular basis at a specific location;

“vendor” means a person engaged in vending of articles, goods, wares, food items or merchandise of everyday use or offering services to the general public in a street, lane, sidewalk, footpath, pavement, public park or any other public place or private area, from a temporary built-up structure, and includes a hawker, peddler and all synonymous terms of the word;

“vending zone” means an area, place or location designated as such by the relevant county government on the recommendation of the committee for the specific use by street vendors for street vending and includes a footpath, sidewalk, pavement, embankment, portions of a street, or any such place considered suitable for vending activities and providing services to the general public.

3. The objects of this Act are to provide a standard framework— Object.

- (a) to entrench the right to informal trading;
- (b) for the designation and use of public space for informal trading; and
- (c) for the effective organization and regulation of informal trading.

PART II – REGULATION OF STREET VENDORS

- 4.** (1) The Cabinet Secretary shall — Street Vending Unit.
- (a) keep and maintain a data base, in collaboration with county governments, a national registry of street vendors in Kenya;
 - (b) prescribe, in consultation with county governments and relevant stakeholders, the minimum standards for the conduct of street vending and regulation of street vendors in Kenya;
 - (c) utilize data collected by county governments relating to street vending and street vendors in Kenya for planning and efficient management of vending and trade in counties;

- (d) prescribe standards for the imposition of fees and other charges payable for the registration and licensing of street vendors;
 - (e) prescribe, in consultation with the relevant entities responsible for planning and infrastructure, standards and guidelines for the proper planning and design of street vending zones; and
 - (f) carry out any other activity incidental or conducive to the carrying out of its functions under the Act or regulations made under the Act.
- (2) The Cabinet Secretary may, for the effective carrying out of the functions under subsection (1) —
- (a) designate a unit within the Ministry to perform such functions as the Cabinet Secretary may delegate to the unit;
 - (b) designate or deploy such public officers to serve in the unit; and
 - (c) designate a public officer within the Department as the registrar.

PART III –VENDING ZONES

5. (1) Each county executive committee member shall, by notice in the county *Gazette*, demarcate and designate the county into—

Designation of vending zones.

- (a) restriction-free vending zones;
- (b) restricted vending zones; or
- (c) no-vending zones.

(2) For purposes of subsection (1), the county executive committee member shall take into consideration the commercial viability of an area proposed to be designated as a street vending zone.

6. (1) The respective county executive committee member shall not impose restrictions on the nature of vending business that may be carried out in a restriction-free vending zone.

Restriction-free vending zone.

(2) Notwithstanding subsection (1), a licensed vendor shall not carry out the business of a vendor where such business—

- (a) consists of acts that are unlawful;
- (b) is contrary to public interest;
- (c) is contrary to national security; and
- (d) inhibits the implementation of national or county policies with respect to the regulation of vending business.

7. (1) The respective county executive committee member may impose, through county legislation, such conditions as may be necessary, restricting the vending business that may be conducted in a restricted vending zone.

Restricted vending zone.

(2) The county executive committee member shall publish and publicise the conditions imposed under subsection (1) in the county gazette and through such platforms as the committee member may consider appropriate.

(3) A person shall not carry out the business of a vendor in a restricted vending zone unless such person applied for, and obtained a special permit in accordance with this Act and the respective county legislation.

8. (1) A no-vending zones shall be a zone in which vending activities are prohibited.

No vending zone.

(2) The county executive committee member shall not designate a market as a no-vending zone.

9. A person who conducts vending activities in a restricted vending zone without a special permit or in a no-vending zone commits an offence and is be liable, on conviction, to a term of imprisonment not exceeding six months and a fine not exceeding ten thousand shillings, or to such fine and imprisonment.

Offence of unauthorised.

10. (1) The county executive committee member shall be responsible for the effective management of vending activities within the respective county.

Vending zones plan.

(2) For purposes of subsection (1), the county executive committee member shall —

- (a) conduct a survey of all existing street vendors and potential vending zones within the area under its jurisdiction; and

(b) develop a county vending zone plan in the manner prescribed in the Schedule and taking into account the results of the survey carried out under paragraph (a).

(3) The county executive committee member shall conduct the survey under subsection (2)(a), within twelve months of the commencement of this Act, and subsequent surveys shall be carried out at least once in every three years.

(4) The county executive committee member shall, within nine months of the conduct of the survey under subsection (2)(a), submit the results analysis and recommendations and the proposed vending zone plan to the county assembly for approval.

(5) In considering the vending zone plan under subsection (4), the county assembly shall conduct public participation.

(6) Upon approval of the plan the county executive committee member shall publish the details of the county vending zone plan in the county *Gazette* and at least one newspaper of wide circulation within the county.

11. (1) Each county government shall progressively provide for the construction and maintenance of vending centres to enable the efficient carrying out of street vending activities in a fair, transparent and safe manner.

Vending centres.

(2) In constructing and maintaining a vending centre, the county executive committee member shall take into account —

- (a) the recommended location in the county vending plan;
- (b) the number of street vendors within the respective locality;
- (c) the need to ensure that the existing businesses are not adversely affected by the construction and maintenance; and
- (d) the existing county physical plans with respect to that county.

12. (1) A county executive committee member may designate a specific street, building or zone as a vending zone for a specified period not exceeding five days.

Periodic markets.

(2) A county executive committee member shall not designate an area as a vending zone under subsection (1) unless the committee member has put in place essential facilities including but not limited to security, solid waste disposal, water, lighting and parking facilities where necessary.

13. (1) A county executive committee member may declare a zone or part of a zone to be a no-vending zone for any public purpose and relocate any street vendors vending in that area.

Relocation or eviction of street vendors.

(2) A county executive committee member may, in accordance with county legislation —

- (a) evict a street vendor whose vending licence has been revoked or who carries out vending activities contrary to this Act or the respective county legislation; or
- (b) relocate street vendors.

(3) A county executive committee member shall not evict or relocate a licensed street vendor unless a notice has been issued and the vendor is heard on the proposed eviction or relocation in accordance with the respective county legislation.

(4) A street vendor shall be relocated or evicted by the county executive committee member in such manner as may be prescribed by county legislation.

(5) Relocation under this section shall not take place unless the county government has installed or provided essential facilities including water, lighting, security and waste disposal facilities in the area to which the vendor is to be relocated.

(6) A street vendor who, after the expiry of the specified notice period, fails to relocate or vacate the place specified in the vending licence, shall be liable to pay for every day of default, a fine not exceeding ten thousand shillings, as may be determined by the county government,

but shall not be more than the value of the goods seized from the street vendor provided that such confiscation is conducted in accordance with this Act.

14. The county executive committee member shall within twelve months of the commencement of this Act —

Obligations of county executive committee member.

- (a) enact such county legislation as may be necessary for the implementation of this Act and the effective regulation of street vendors in the county;
- (b) monitor the implementation of this Act and any relevant county legislation on county vending;
- (c) periodically survey and assess the street vending activities in the county for policy-making purposes;
- (d) formulate and implement the county vending plan; and
- (e) designate vending zones and periodic markets within the county, subject to the provisions of this Act, the regulations hereunder and any applicable county legislation.

PART IV – REGISTRATION AND LICENSING OF STREET VENDORS

15. (1) The county executive committee member shall be responsible for the registration of vendors within the respective county.

Register of street vendors.

(2) For purposes of subsection (1) the county executive committee member shall-

- (a) provide for physical and online submission of applications for registration by street vendors;
- (b) maintain an up to date online register of all validly licenced street vendors in the county;
- (c) make available to the public the database of registered street vendors in an accessible manner including online platforms; and
- (d) enable street vendors to receive notifications on registration and matters of compliance under this Act through their mobile phones.

(3) The Director shall collate the lists received under subsection (1)(b) into a national register of licenced street vendors.

(4) The Cabinet Secretary may make regulations to prescribe conditions for the registration of vendors from the East African Community and registration of foreigners to regulate inter-county mobility trade.

16. (1) A person shall not conduct the business of a street vendor unless such person is registered as a street vendor with the respective county executive committee member.

Registration of street vendors.

(2) A certificate of registration signed by the county executive committee member shall be conclusive evidence of registration as a street vendor.

17. (1) A person shall not conduct the business of a street vendor unless such person has applied for, and obtained a street vending licence from the respective county by submitting to the county executive committee member —

Licencing of street vendors.

- (a) an application for a licence in the prescribed form;
- (b) such information as may be prescribed; and
- (c) the prescribed fees.

(2) A county executive committee member shall consider an application within such period as may be prescribed in the respective county legislation and may grant the application subject to conditions specified in the respective county licensing legislation.

(3) A county executive committee member shall inform the applicant of its decision under subsection (2) within fourteen days of the decision.

(4) A vending licence under this Act shall classify a street vendor as —

- (a) a stationary vendor;
- (b) a mobile vendor; or
- (c) any other category as may be specified by the county executive committee member.

(5) A vending licence issued under this section shall include the following particulars —

- (a) name of applicant;
- (b) type of licence;
- (c) vending location;
- (d) contact details of the applicant;
- (e) type of goods or services to be sold;
- (f) time and date of vending activities, where applicable;
- (g) type and registration number of vehicle, where applicable; and
- (h) any other details as prescribed by the county government.

18. (1) The county executive member may refuse to grant a licence where the applicant does not comply with the requirements imposed under this Act or prescribed under the specific county legislation.

Refusal to grant a licence.

(2) Where the county executive committee member refuses to grant an application, the county executive committee member shall inform the applicant of its decision under subsection (1) within fourteen days of the decision.

(3) The county executive committee member in its notification under subsection (2) shall specify the reasons for the refusal.

19. (1) A stationary street vendor shall not sub-let, transfer, assign or otherwise alienate any vending space, stall or property allocated to them for the purpose of carrying out vending activities under this Act.

Terms and conditions of licence.

(2) A county government may levy an annual vending licence fee in processing the licence.

(3) A vending licence issued under this Act shall be valid from the date it is issued and shall expire on such a date as may be specified in the licence.

(4) A licenced street vendor shall not transfer or assign any rights accruing to them in a valid licence issued

under this Act unless the vendor has applied for, and obtained the approval of the county executive committee member.

(5) A street vendor may, when applying for a vending licence under this Act, designate such number of persons as the county legislation may specify to enjoy rights enjoyed by the licensed street vendor under the issued licence.

20. (1) Upon expiry, a vending licence may be renewed for such further period not exceeding one year.

Renewal of a licence.

(2) A registered street vendor issued with a vending licence may apply for renewal of the licence in the prescribed manner at least thirty days before the date of expiry of the licence.

(3) The county government may extend the period within which an application for the renewal of a licence may be made, whether or not the period has ended or the licence has expired.

21. (1) The county government shall have the power to renew any vending licence and may decline to renew, revoke or suspend a licence for a period not exceeding twelve months if it is satisfied that the street vendor is in breach of any provisions of this Act or any other written law.

Revocation of a licence.

(2) Before declining to renew, revoke or suspend a licence under subsection (1), the county government shall notify the holder of the licence to show cause, within fourteen days, why such licence should not be revoked, suspended or denied renewal.

(3) The county government shall consider the application under subsection (2) within seven days and inform the holder of the licence of the county government's decision in writing and shall give reasons for the revocation or suspension.

(4) A street vendor aggrieved by the decision of the county government in the exercise of its powers under subsection (1) may appeal to the relevant county tribunal against the decision within thirty days of receipt of the decision.

22. (1) All food sold by a street vendor shall be handled in accordance with the provisions of the Public Health Act and the Food Drugs and Chemical Substances Act and any other applicable law on the handling of food.

Handling of food.
Act No. 12 of
2011 and CAP
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(2) The county executive committee member may from time to time, prescribe regulations relating to the proper handling of food by hawkers and street vendors.

PART V – RIGHTS AND OBLIGATIONS OF STREET VENDORS

23. (1) Every registered and licenced street vendor has the right to carry on the business of street vending in accordance with the terms and conditions specified in their vending licence.

Right to carry on
business of street
vending.

(2) Despite the provisions of subsection (1), a street vendor shall not carry on any vending activities in an area designated as a no-vending zone.

24. (1) Every street vendor has the right, within a vending zone and adjacent areas as may be determined by the county executive member, to access essential facilities of reasonable quality including but not limited to security, lighting, sanitation services and parking facilities where necessary.

Right to adequate
facilities.

(2) Each county government shall provide essential facilities for the carrying out of vending activities taking into consideration —

- (a) the vending activity being conducted in a specific vending zone;
- (b) applicable health and safety standards;
- (c) the public interest; and
- (d) any applicable county legislation.

25. (1) Every registered and licensed street vendor has the right to quiet possession of their goods, subject to the provisions of this Act and the terms and conditions of their vending licence.

Right to quiet
possession of
goods.

(2) Where a street vendor's goods or assets utilised for their street vending activities are confiscated under this Act, the officer confiscating the goods shall issue the street vendor with a receipt detailing —

- (a) the specific goods confiscated;
- (b) the approximate value of the goods;
- (c) the reasons for confiscation;
- (d) the location from which the goods may be recovered;
- (e) the time within which the confiscated goods must be recovered; and
- (f) such other information as may be prescribed by county legislation.

(3) Notwithstanding the provisions of subsection (1), an authorized officer may confiscate goods where —

- (a) one carries out street vending without a licence;
- (b) breaches a condition of a licence issued under this Act or county legislation;
- (c) carries out vending activities in a no-vending zone; or
- (d) carries out vending activities in a manner contrary to any conditions imposed for vending in a restricted vending zone.

(4) A county shall prescribe regulations under this section on the handling of confiscated perishable goods.

(5) A person who contravenes the provisions of this section commits an offence and is liable, on conviction, to a term of imprisonment not exceeding one year and a fine not exceeding two hundred thousand shillings, or to such fine and imprisonment.

26. (1) An officer of the national or respective county government shall not conduct themselves in a manner or take action directed at a street vendor in the course of conducting their vending activities, causing alarm, substantial emotional distress, results in physical injury and damages goods or property without a legitimate purpose under this Act.

Protection from harassment.

(2) A person who contravenes the provisions of subsection (1) commits an offence and is liable on conviction, to a term of imprisonment not exceeding one

year and a fine not exceeding two hundred thousand shillings, or to such fine and imprisonment.

27.(1) Every street vendor has the right to be a member of an association of street vendors in the respective county in which the street vendor is licensed to conduct the business of street vending business.

Right to association.

(2) It shall not be mandatory for a street vendor to be a member of any vendors association under this Act.

28.(1) Every street vendor shall maintain the cleanliness and public hygiene of vending zones and adjoining areas.

Public hygiene.

(2) An individual stationary street vendor shall continue to maintain their allocated space in a clean and hygienic condition as a condition of their vending licence.

(3) All mobile street vendors shall be required to dispose of their waste responsibly.

(4) Each street vendors' association shall, in collaboration with the county authorities be responsible for the maintenance of the general cleanliness and public hygiene of their respective vending zones.

(5) A person who contravenes the provisions of this section, shall be liable, upon conviction, to such fine as shall be prescribed by the county government.

29.(1) A street vendor shall conduct vending activities in a manner that does not unreasonably impede the public's right of way.

Access to public utilities.

(2) Notwithstanding the generality of subsection (1), a street vendor shall not conduct street vending activities in a manner that is likely to impede access to fire hydrants, building entrances, bus stops, roads or other public amenities is prohibited.

PART VI — MISCELLANEOUS PROVISIONS

30.(1) A county government may enact county specific legislation generally for the better carrying out of the purposes and provisions of this Act.

County legislation.

(2) The legislation enacted by a county assembly under subsection (1) shall set out —

- (a) the terms and conditions for the issuance of vending licences;
- (b) the conditions for the maintenance of the register of street vendors in the county;
- (c) process of determination of an application for a street vending licence;
- (d) the conditions for the issuance or renewal of a licence under this Act;
- (e) process of application for the renewal of licences, de-registration and revocation of a licence issued to an applicant under this Act; and
- (f) such other matters that may be necessary for the effective management of street vending activities in the county.

(3) Legislation enacted pursuant to the provisions of subsection (1) shall conform to the provisions of this Act.

31. A person who contravenes the provisions of this Act for which no specific penalty is provided shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding one year or to such fine and imprisonment.

General penalty

32. The Cabinet Secretary may make regulations for the better carrying out of the provisions of this Act.

Regulations.

SCHEDULE

(s.10(2))

**CRITERIA FOR THE FORMULATION OF THE COUNTY
VENDING PLAN**

1. The vending zones plan shall —

- (a) ensure that any public right of way is not impeded;
- (b) ensure that the provisions of space or area for street vending is reasonable and consistent with existing natural markets;
- (c) take into account the civic facilities for the appropriate use of identified spaces or areas as vending zones;
- (d) promote convenient, efficient and cost-effective distribution of goods and provision of services;
- (e) ensure a balance between the interests of formal retailers and other stakeholders in the private sector to promote coexistence of hawkers and street vendors; and
- (f) such other matters as may be specified in county legislation to give effect to the street vending plan.

2. The vending plan shall contain —

- (a) determination of spatial planning norms for street vending;
- (b) designation of space or areas as vending zones;
- (c) classification of vending zones as non-vending, restricted and restriction-free vending zones;
- (d) making of spatial plans adequately conducive for the number of hawkers and street vendors in the county and accounting for future population growth or other norms as may be necessary;
- (e) consequential changes needed in the physical planning of the urban area or city to accommodate hawkers and street vendors in the designated vending zones.

3. Declaration of a no-vending zone shall be designated in the vending plan, subject to the following principles —

- (a) any existing market or a natural market as identified in the survey shall not be declared as a no-vending zone;
- (b) declaration of a no-vending zone shall be done in a manner which displaces the minimum percentage of hawkers and street vendors;

- (c) overcrowding of any place shall not be a basis for declaring any area as a no-vending zone provided that restrictions may be placed on the issuance of vending licences in such areas;
- (d) sanitary concerns shall not be the basis for declaring any area as a no-vending zone unless such concerns can solely be attributed to street vendors and cannot be resolved through appropriate action by the county government;
- (e) until such time as the results of the survey have been derived, and the county vending plan formulated, no zone shall be declared as a no-vending zone.

MEMORANDUM OF OBJECTS AND REASONS

Statement of the Objects and Reasons for the Bill

The principal object of this Bill is to provide a framework to regulate the business of street vending in the country. Small scale trade contributes significantly to the growth of trade in the country. Currently, there is no legal framework governing the business of street vending thus the challenges being experienced by both the street vendors and the county governments in the undertaking of the business.

The regulation of the trade will therefore ensure that street vendors are able to transact business in favourable conditions.

Statement on the delegation of legislative powers and limitation of fundamental rights and freedoms

Clause 29 of the Bill delegates legislative powers to the Cabinet Secretary for the purpose of giving effect to the provisions of the Act. The Bill does not limit fundamental rights and freedoms.

Statement on how the Bill concerns county governments

Part 2 of the Fourth Schedule to the Constitution designates trade development and regulation as one of the functional areas of the county government. The Bill affects the powers and functions of the county government and it is therefore a Bill that concerns counties in terms of Article 110(1)(a) of the Constitution.

Statement that the Bill is not a money Bill, within the meaning of Article 114 of the Constitution

This Bill is not a money Bill within the meaning of Article 114 of the Constitution.

Dated the 30th August, 2023.

ESTHER ANYIENI OKENYURI,
*Vice Chairperson, Standing Committee
on Tourism, Trade and Industrialization.*