SPECIAL ISSUE

Machakos County Gazette Supplement No. 17 (Acts No. 4)

REPUBLIC OF KENYA

MACHAKOS COUNTY GAZETTE SUPPLEMENT

ACTS, 2015

NAIROBI, 26th February, 2016

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PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

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THE MACHAKOS COUNTY E-WASTE MANAGEMENT ACT, 2015

No. 4 of 2015

Date of Assent: 3rd December, 2015

Date of Commencement: 26th February, 2016

AN ACT of the County Assembly of Machakos to give effect to Section 2 (g) of Part 2 of the Fourth Schedule to the Constitution; to establish the institutional framework for the management of e-waste; and for connected purposes

ENACTED by the County Assembly of Machakos as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Machakos County E-waste Management Act, 2015.

Interpretation

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

"director" means the county director in-charge of matters relating to environment;

"electrical and electronic equipment" means equipment which is dependent on electric currents or electromagnetic fields in order to operate and equipment for the generation, transfer and measurement of such currents and fields;

"executive committee member" means the County Executive Committee Member responsible for matters relating to waste management;

"e-waste" means discarded electrical and electronic equipment which is capable of being hazardous to the environment;

"e-waste management establishment" includes the collection, transportation, storage, trade in, processing, disposal or other dealing in e-waste;

"committee" means County E-waste Management committee established under Section 11;

"government" means the Machakos County Government;

"waste generator" means any person whose activities under his or her direction produces waste, or if that person is not known, the person who is in possession or control of that waste.

Object and Purpose of the Act

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

(a) establish the institutional framework necessary for purposes of ensuring an efficient e-waste management in the county;

(b) promote an environmentally friendly county that reduces health risks associated with e-waste;

(c) encourage citizens to take responsibility for their environment;

(d) to put in place a mechanism of effective public awareness on issues related to e-waste and its management;

(e) to create an enabling environment for promotion of public and private investments in e-waste management; and

(f) to establish appropriate strategies for End of Life (EOL) management of electrical and electronic equipment.

PART II—RIGHTS AND RESOPONSIBILITIES ON E-WASTE

Cap 387

4. This Act shall apply concurrently with the Environmental Management and Co-ordination Act No. 8 of 1999 and other National laws relating to e-waste.

Right to Clean environment

5. (1) Every person within the county is entitled to a clean and healthy which free from e-waste and has a duty to safeguard and enhance the quality of the environment.

(2) The public have a duty to ensure safe disposal of e-waste.

Government Responsibilities

6. (1) E-waste shall be a shared responsibilities amongst all actors including the county government, waste generators, owners and occupiers of premises and contracted service providers.

(2) The county government shall put in place measures to ensure save dumping of e-waste.

(3) The government shall implement programs to ensure public awareness on matters relating e-waste.

Co-operation

7. Every person has a duty to co-operate with government organs and other persons to protect the environment from e-waste.

Burning of E-waste

8. E-waste shall only be burned according to the conditions set in the license issued under this Act.

Designated dump sites and Land fields

9. (1) The government shall designate dump site and land fields for e-waste.

(2) E-waste shall only be disposed off in the designated land fields and dumpsite.

Collaboration

10. The government shall collaborate with institutions including the following to ensure safe disposal of e-waste—

(a) manufactures of electrical and electoral equipment;

(b) e-waste disposition companies and agencies;

(c) civil societies organization conducting advocacy on waste;

(d) national environment management authority; and

(e) national government institutions.

PART II—ESTABLISHMENT OF THE COUNTY E-WASTE MANAGEMENT COMMITTEE

Establishment of the County E-waste Management committee

11. (1) There is established the County E-waste Management Committee which shall comprises of—

(a) the county executive committee member in the department responsible for matters relating to solid waste who shall be the chairperson;

(b) the director in charge of matters relating to solid waste management who shall be the secretary;

(c) the chief officer in the department responsible for matters relating to commerce and industrialization;

(d) the chief officer in the department responsible for matters relating to solid waste;

(e) the chief officer in the department responsible for matters relating to health;

(f) the chief officer in the department responsible for matters relating to the environment;

(g) a person with expertise in environment matters appointed by the executive committee member; and

(h) three persons representing organizations working in environment related matters in the county.

(2) The committee shall be headed by the Director who shall be appointed by the County Public Service Board through a competitive process.

Functions of the Unit

12. The committee shall—

(a) develop county e-waste management policy framework;

(b) implement e-waste management plans;

(c) ensure that e-waste is collected, stored, transported, recycled, re-used or disposed of in an environmentally sound manner;

(d) promote safety standards in relation to e-waste;

(e) promote public awareness on the importance of efficient e-waste management;

(f) to ensure a co-ordinated, efficient, effective and consultative approach in the management of e-waste;

(g) foster understanding of the importance of efficient e-waste management to the conservation, protection and proper use of the environment; and

(h) perform any other functions as may be necessary for the implementation of this Act.

Secretariat

13. The secretariat of the Committee shall be under the directorate in the department responsible for matters relating to solid waste management.

Responsibilities of the Director

14. (1) The Director shall—

(a) be responsible for implementing the decisions of the Committee;

(b) the day to day administration, management and control of the staff working on matters relating to e-waste;

(c) be the accounting officer;

(d) head of the secretariat;

(e) responsible for keeping the records on behalf of the committee;

(f) custodian of all the records of the Committee;

(g) perform any other functions as may be necessary for the implementation of this Act.

Staff of the committee

15. The county public service board may, upon request by the executive committee member, second to the committee such staff as may be necessary for the proper implementation of this Act.

PART III—REGISTRATION AND LICENSING OF E-WASTE MANAGEMENT MATTERS

E-waste Management Licensing

16. (1) A person shall not maintain or operate an e-waste management establishment unless the person is registered and licensed in accordance with the provisions of this Act.

(2) A person who contravenes the provisions of Sub-section (1) commits an offence and is liable, on conviction, to a fine not exceeding two million shillings or to a term of imprisonment for a period not exceeding four years, or to both fine and imprisonment.

Application for a Licence

17. (1) An application for a licence under this part shall be made, in writing, to the Director in the prescribed form and shall be accompanied by the prescribed fee.

(2) The Director may—

(a) issue a licence, in accordance with this Act;

(b) refuse to issue the licence—

(i) where the applicant has not satisfied the conditions for issuance of the licence; or

(ii) on any ground which may appear to the Director to be sufficient and shall inform the applicant, in writing, the reasons for the refusal; or

(c) cancel, vary or suspend any licence, where the Director establishes that the licensee has contravened any of the provisions of this Act.

Issuance of Licences

18. (1) The Director shall issue licences to applicants subject to such lawful conditions as the Director may determine.

(2) Every licence shall specify the premises upon which the business specified in the licence may be carried on.

(3) The Director, after consultation with the executive committee member, shall prescribe the fees payable for the issue of licences under this Act.

(4) The Director shall, at least thirty days before granting a licence under this Act, give notice of the proposed grant in the Gazette and in such other manner as the Director may determine.

(5) The notice referred to in Sub-section (4) shall—

(a) specify the name or other particulars of the person or class of persons to whom the licence is to be granted;

(b) state the purpose for the proposed licence and indicate the date such licence is proposed to be issued to the successful applicant; and

(c) invite objections to the proposed grant of licence and direct that such objections be lodged with the Director, within fourteen days after the date of the notice.

(6) The Director may after considering the objections, if any, made under this section, grant the licence applied for, subject to such terms and conditions as may be specified in the licence.

(7) The Director shall not refuse to issue a licence to an applicant under this Act without a reasonable and justifiable cause.

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

Register of Licences

19. The Director shall ensure that there is kept an up to date register and maintain a licence issued pursuant to this part.

Application for renewal of a Licence

20. (1) An application for the renewal of a licence under this Act shall be made to the Director not later than the first day of the month of June in which the current licence is due to expire.

(2) Every licence issued shall remain in force for only one year.

(3) Despite sub-section (1), a late application may be made upon payment of a late application fee as may be prescribed by the Director.

Conditions of a Licence

21. (1) A licence issued under this Act shall be subject to such conditions as the Director may determine and as is specified in the licence.

(2) The director may, at any time, during the validity of a licence—

(a) vary the conditions of the licence; or

(b) impose conditions or further conditions on the licence.

Revocation, Alteration or Suspension of Licence

22. The Director may revoke, alter or suspend a licence issued under this Act, if—

(a) an offence under this Act or in respect of the licensed activity under any other written law, has been committed by the licence holder or any employee of the licence holder; or

(b) a condition of the licence has been contravened or not complied with.

Appeals

23. (1) An applicant for or the holder of a licence who is aggrieved by a decision of the Director on—

(a) the grant, refusal, renewal, variation or revocation; or

(b) the conditions imposed on the grant, renewal or variation, of a licence;

(c) may appeal to the executive committee member.

(2) The procedure for appeal shall be set out in Regulations made pursuant to this Act.

Offences

24. A person who—

(a) burns e-waste without a licence;

(b) interferes with a dumpsite or a landfill of an e-waste;

(c) interferes with a drainage system with an e-waste material; or

(d) passes e-waste matter in a public area;

Commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to a term of imprisonment for a period not exceeding one year or to both fine and imprisonment.

PART V—MISCELLANEOUS PROVISIONS

Annual Estimates

25. (1) At least three months before the commencement of each financial year, the Director shall prepare and forward the estimates of the committee budget for approval to the CEC for approval and inclusion in the county budget.

Annual Report

26. (1) The Director shall, at the end of each financial year prepare an annual report on matters relating to e-waste.

(2) The Director shall submit the annual report to the county executive committee member three months after the end of the year to which such report relates.

PART V—MISCELLANEOUS PROVISIONS

General Penalty

27. A person who contravenes any provision of this Act for which no other penalty is prescribed, commits an offence and is liable, on conviction, to a fine not exceeding one million shilling or to a term of imprisonment not exceeding two years or to both.

Regulations

28. (1) The executive committee member may, make Regulations generally for the better carrying out into effect of any provisions of this Act.

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

(a) forms of applications, notices, licences and other documents for use under this Act;

(b) fees payable under this Act; and

(c) such other matters as the committee considers necessary.