**SPECIAL ISSUE**

*Kenya Gazette Supplement No. 153 (National Assembly Bills No. 42)*

REPUBLIC OF KENYA

# *KENYA GAZETTE SUPPLEMENT*

## NATIONAL ASSEMBLY BILLS, 2026

**NAIROBI, 19th June, 2026**

CONTENT

Bill for Introduction into the National Assembly—

PAGE

The Trade Description (Amendment) Bill, 2026 ..... 1513

NATIONAL ASSEMBLY
RECEIVED
15 JUL 2026
DIRECTOR LEGAL SERVICES
P. O. Bo 41842-00100, NAIROBI

PRINTED AND PUBLISHED BY THE GOVERNMENT PRINTER, NAIROBI

# THE TRADE DESCRIPTIONS (AMENDMENT) BILL, 2026

**A Bill for**

**AN ACT of Parliament to amend the Trade Descriptions Act; and for connected purposes**

**ENACTED** by the Parliament of Kenya, as follows—

Short title.

**1.** This Act may be cited as the Trade Descriptions (Amendment) Act, 2026.

Amendment of section 2 of Cap. 505.

**2.** Section 2 of the Trade Descriptions Act (hereinafter referred to as the "principal Act"), is amended —

(a) in subsection (1)—

(i) by inserting the words "whether in digital format or not" immediately after the words "price list" in the definition of "advertisement";

(ii) by deleting the word "profession" in the definition of "trade" and substituting therefor the words "professional services whether for import or export";

(iii) by deleting the definition of the word "goods" and substituting therefor the following new definition—

"goods" means products that are bought and sold in business and includes ships and aircraft, things attached to land and growing crops;

(iv) by inserting the following new definition in its proper alphabetical sequence—

"digital platform" means a business model that uses online infrastructure to facilitate interactions between groups and it includes social media channels, online marketplaces, crowdsourcing websites and applications;

(b) in subsection (2), by inserting the words "or any other electronic media" immediately after the words "television broadcast" appearing in paragraph (b).

Amendment of section 4 of Cap. 505.

**3.** Section 4 of the principal Act is amended in subsection (3), by inserting the words "or importer" immediately after the word "producer" appearing in paragraph (b)(i).

Amendment of section 7 of Cap. 505.

**4.** Section 7 of the principal Act is amended in subsection (1), by deleting the words "manufactured or produced" appearing in paragraph (a) and substituting therefor the words "manufactured, produced, processed or reconditioned".

Amendment of section 8 of Cap. 505.

**5.** Section 8 of the principal Act is amended in subsection (1), by inserting the word "mileage," immediately after the word "quantity" appearing in paragraph (a).

Insertion of new section 14A in Cap. 505.

**6.** The principal Act is amended by inserting the following new section immediately after section 14—

Presumption concerning possession.

**14A.** Where any goods bearing a false trade description are found in the possession or control of any person carrying on trade or are found on any premises, whether open or enclosed, which are used for trade, that person or the person in charge of those premises shall be deemed for the purpose of this Act to have the goods in his possession for trade and the onus of proving the contrary shall be upon the person.

Amendment of section 15 of Cap. 505.

**7.** Section 15 of the principal Act is amended—

(a) by renumbering the existing provision as subsection (1);

(b) by inserting the following new subsections immediately after subsection (1)—

(2) Where any person has been convicted of an offence under this Act, the court may, in addition to any other penalty to which the convicted person may be liable, make an order directing that the convicted person shall not be permitted to deal with or in the same goods or articles in respect of which the offence was committed.

(3) Where any person, pursuant to subsection (2), has had two previous convictions for similar offences under this

Act, the court may make an order that, in addition to any other penalty to which the convicted person may be liable, the person shall be prohibited from continuing to deal with or in the same goods or business.

Insertion of new sections 16A and 16B of Cap. 505.

**8.** The principal Act is amended by inserting the following new sections immediately after section 16—

Employer answerable for acts of servant etc.

**16A.** Any person who employs in his shop, store or other place of business any agent, servant or other person, shall be answerable for the acts or omissions of the agent, servant or other person in so far as they concern the business of the employer, and if such agent, servant or other person commits any act or makes any omission which is an offence if committed or made by such employer, such employer and his agent, servant or other person commits an offence and shall be jointly and severally liable upon conviction to the penalties provided under this Act.

Liability of partners in a firm.

**16B.** A partner in a firm shall be answerable for the acts or omissions of any other partner in the same firm in so far as they concern that firm, and if any partner commits any act or makes any omission which is an offence under this Act, every partner in the firm shall be jointly and severally liable to the penalties provided by this Act.

Amendment of section 21 of Cap. 505.

**9.** Section 21 of the principal Act is amended—

(a) in subsection (1) by—

(i) inserting the following new paragraph immediately after paragraph (a)—

(aa) make random visits to traders' premises within his area of jurisdiction for the purpose of inspecting, examining, testing and analysing goods therein to ensure compliance with the provisions of this Act;

(ii) inserting the words "take photographs, whether digital or otherwise, or video or oral recordings that may be used as evidence in any proceedings" immediately after the words "any such book or document" appearing in paragraph (b);

(b) in subsection (2), by deleting the words "section shall so inform" and substitute therefor the following words "Act shall complete a seizure notice in the form set out in the Schedule and leave a copy with";

(c) by inserting the following new subsection immediately after subsection (2)—

(2A) In case of goods stored on premises used only as a dwelling, an inspector shall apply to the court for a search warrant for purposes of performance of the duties imposed by this Act.

(d) in subsection (3), by inserting the words "from an inspector" immediately after the words "sworn information".

Insertion of new section 21A and 21B of Cap. 505.

**10.** The principal Act is amended by inserting the following new sections immediately after section 21—

Power of arrest, search and seizure.

**21A.** In addition to any powers conferred by this Act, an inspector—

(a) may stop and detain any ship, aircraft or vehicle, or may arrest, without warrant, any person suspected of an offence under this Act or being in possession of any goods and or documents in respect of which the inspector has reason to believe that such offence has been committed and may search any ship, aircraft, vehicle and any person so stopped and detained or arrested;

(b) may seize and detain goods and or things or documents in respect of which the inspector has reason to

believe that an offence under this Act has been committed or which the inspector has reason to believe to be evidence of such an offence:

Provided that no person shall be arrested under this section unless —

(i) the person obstructs or hinders an inspector; or

(ii) it appears to the inspector that such a person is likely to fail to answer to a summons; or

(iii) such person gives a name and address which the inspector has reason to believe to be false; or

(iv) such a person refuses to give his name and address to the inspector and to produce to the inspector satisfactory evidence of his identity; and

(c) may require any person owning, managing, controlling or otherwise running any digital platform—

(i) to avail information regarding any trader or advertiser operating on the platform who has been found to have contravened the provisions of this Act;

(ii) to remove from the platform any trader or advertiser who has been found to have contravened the provisions of this Act; and

(iii) to pull down any advertisement or offer made on the platform by a person

who has been found to have contravened the provisions of this Act.

Power to make test purchase.

**21B.** (1) An inspector may make such test purchase of goods as may appear expedient for the purposes of determining whether or not the provisions of this Act are being complied with.

(2) An inspector may, in connection with the investigation of any alleged offence arising out of a test purchase involving payment with money, search any person for the money, or enter and search premises, or search any box or receptacle and the contents thereof at the place at which such test purchase has been made, and may seize the money so found and retain any change received for the purchase together with the goods as evidence of the transaction.

(3) Any goods purchased in pursuance of subsection (1) in respect of which no court proceedings are instituted shall be disposed of in such a manner as the Cabinet Secretary may, subject to the provisions of the Public Procurement and Asset Disposal Act, prescribe.

Cap. 412C.

(4) For the purpose of this section, the expenses incurred by an inspector in making any such purchase shall be met from public funds by way of standing imprest, which shall be accounted for at the conclusion of any proceedings arising from such purchase.

Insertion of new Schedule in Cap. 505.

**11.** The principal Act is amended by inserting the following new Schedule—

**SCHEDULE** *(s. 21(2))*

**SEIZURE NOTICE**

(Pursuant to Section 21(2) of the Trade Description Act (Cap 505) Laws of Kenya)

This is to certify that, I the undersigned inspector have today the ..... Day of ..... year ..... Visited the premises of (Name of Trader)

.....

located at (Town/Market).....in ..... Sub-County within .....County and have seized the following equipment/goods/documents:

.....

.....

The above items have been seized for the purpose of

.....

.....

The items have been tested/examined in the presence of the trader/attendant/agent/manager

Remarks/observation:

.....

.....

Seizing officer's name Name of trader/attendant/manager/agent

Designation..... Title & Address.....

Signature..... Signature.....

Time..... Time.....

Witnesses:-

| | **Name** | **Title** | **Address** | **Signature** |
|---|---|---|---|---|
| (i)..... | ..... | ..... | ..... | ..... |
| | **Name** | **Title** | **Address** | **Signature** |

(ii)..... ..... ..... .....

(iii)..... ..... ..... .....

*Notes: If the space/s provided above is not adequate, an attachment hereto shall be deemed to be part of this Seizure Notice.*

**TO BE COMPLETED IN TRIPLICATE**

**ORIGINAL** – To be retained by seizing officer as evidence of seizure

**DUPLICATE** – To be left with the person from whom the goods are seized

**TRIPLICATE** – To be filed

## MEMORANDUM OF OBJECTS AND REASONS

The principal object of this Bill is to amend the Trade Descriptions Act (Cap. 505) to enhance the procedures set out in the Act, to incorporate changes in the conduct of business that have occurred since commencement of the Act and address emerging market trends relating to false trade descriptions and misrepresentations.

**Clause 1 of the Bill** provides the short title of the Act.

**Clause 2 of the Bill** proposes the amendment of section 2 of the Act, to amend the definitions of the words "advertisement", "goods" and "trade" and insert the definition of the word "digital platform".

**Clause 3 of the Bill** proposes to amend section 4 of the principal Act to include importers in the list of people who may recommend the price of goods.

**Clause 4 of the Bill** provides for amendment of section 7 of the principal Act to include goods and products that have been processed or reconditioned.

**Clause 5 of the Bill** provides for the amendment of section 8 of the principal Act to provide for "mileage" as one of the parameters to be included in a trade description of a good.

**Clause 6 of the Bill** proposes to insert a new section 14A to the principal Act to provide for possession of goods bearing a false trade description.

**Clause 7 of the Bill** provides for the amendment of section 15 of the principal Act to provide for additional penalties in relation to offences under the Act.

**Clause 8 of the Bill** proposes to insert new sections to the principal Act to provide for liabilities of employers and partners in a firm.

**Clause 9 of the Bill** provides for the amendment of section 21 of the principal Act to provide for additional penalties in relation to offences under the Act.

**Clause 10 of the Bill** proposes to insert new sections 21A and 21B to the principal Act to enhance the enforcement of the provisions of the Act by providing for the powers of the inspectors to enter a premises, arrest, search, seizure and make a test purchase. It also creates an offence for any person who obstructs an inspector.

**Clause 11 of the Bill** proposes to insert a Schedule to the Principal Act to provide for the format of a seizure note under the Act.

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

The Bill does not delegate legislative powers and it does not limit fundamental rights and freedoms.

**Statement on whether the Bill concerns county governments**

The Bill concerns county governments as it contains provisions on trade development and regulation that affect the functions of the county governments pursuant to the Fourth Schedule to the Constitution.

**Statement on whether the Bill is a money Bill within the meaning of Article 114 of the Constitution**

The enactment of this Bill shall not occasion additional expenditure of public funds.

Dated the 4th June, 2026.

KIMANI ICHUNG'WAH,
*Leader of Majority Party.*

*Section 2 of Cap. 505 which it is intended to amend—*

**2. Interpretation**

(1) In this Act, unless the context otherwise requires—

"advertisement" includes a catalogue, a circular and a price list;

"Cabinet Secretary" means the Cabinet Secretary for the time being responsible for matters relating to commerce;

"goods" includes ships and aircraft, things attached to land and growing crops;

"inspector" means an inspector of weights and measures appointed under section 54 of the Weights and Measures Act (Cap. 513);

"premises" includes any place and any stall, vehicle, ship, or aircraft;

"ship" includes any boat and any other description of vessel used in navigation;

"trade" includes business and profession.

(2) For the purposes of this Act—

(a) a person exposing goods for supply, or having goods in his possession for supply, shall be deemed to offer to supply them;

(b) a trade description or statement published in any newspaper, book or periodical, or in any film or sound or television broadcast, shall not be deemed to be a trade description applied or statement made in the course of a trade unless it is or forms part of an advertisement;

(c) a description of goods in any customs entry shall be deemed to be a trade description.

*Section 4 of Cap. 505 which it is intended to amend—*

**3. False or misleading indications as to price**

(3) For the purpose of this section—

(a) an indication that goods were previously offered at a higher price or at a particular price—

(i) shall be treated as an indication that they were so offered by the person giving the indication, unless it is expressly stated that they were so offered by others and it is not expressed or implied that they were, or might have been, so offered also by that person; and

(ii) shall be treated, unless the contrary is expressed, as an indication that they were so offered within the preceding six months for a continuous period of not less than twenty-eight days and where, under this subparagraph, an indication is so treated, the burden of proving that the indication so treated was not false shall lie upon the person by whom the indication was given;

(b) an indication as to a recommended price—

(i) shall be treated, unless the contrary is expressed, as an indication that it is a price recommended by the manufacturer or producer; and

(ii) shall be treated, unless the contrary is expressed, as an indication that it is a price recommended generally for supply by retail in the area where the goods are offered;

(c) anything likely to be taken as an indication as to a recommended price or as to the price at which goods were previously offered shall be treated as such an indication;

(d) a person advertising goods as available for supply shall be taken as offering to supply them.

*Section 7 of Cap. 505 which it is intended to amend—*

**7. Prohibition of importation of goods bearing false indication of origin**

(1) Subject to section 27 of this Act, no person shall import into Kenya—

(a) any goods to which there is applied a trade description which contains a direct or indirect reference to any country, town or place other than the country, town or place in which the goods were manufactured or produced; or

(b) any goods which bear the name of any manufacturer, dealer or trader in Kenya, unless there is added to that name in a conspicuous manner, the name of the country in which such goods were made or produced and the name of the manufacturer of the goods in that country.

*Section 8 of Cap. 505 which it is intended to amend—*

**Trade description" defined**

(1) For the purposes of this Act, "trade description" means any indication, direct or indirect, and by whatever means given, of any of the following matters with respect to any goods or parts of goods—

(a) identity, quantity, size or gauge;

(b) method of manufacture, production, processing or reconditioning;

(c) composition;

(d) fitness for purpose, strength, performance, behaviour or accuracy;

(e) any physical characteristics not included in the preceding paragraphs;

(f) testing by any person and results thereof;

(g) approval by any person or conformity with a type approved by any person;

(h) place or date of manufacture, production, processing or reconditioning;

(i) person by whom manufactured, produced, processed or reconditioned;

(j) their being subject to an existing patent, trade mark licence or copyright licence;

(k) other history including previous ownership or use.

(2) The matters specified in subsection (1) shall be taken—

(a) in relation to any animal, to include sex, breed or cross, fertility and soundness;

(b) in relation to any semen, to include the identity and characteristics of the animal from which it was taken and measure of dilution

(3) In this section "quantity" includes length, width, height, area, volume, capacity, weight and number.

(4) Notwithstanding the previous provisions of this section, any description or mark applied in pursuance of the Seeds and Plant Varieties Act (Cap. 326), shall be deemed not to be a trade description for the purposes of this Act.

*Section 15 of Cap. 505 which it is intended to amend—*

**15. General penalty**

A person guilty of an offence under this Act shall be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding five years, or to both such fine and imprisonment.

*Section 21 of Cap 343 which it is intended to amend—*

**21. Powers of inspectors**

(1) An inspector, at all reasonable hours and on production, if required, of his credentials, may—

(a) for the purpose of ascertaining whether any offence under this Act has been committed, inspect any goods and enter any premises other than premises used only as a dwelling;

(b) if he has reasonable cause to suspect that an offence under this Act has been committed and for the purpose of ascertaining whether it has been committed, require any person carrying on a trade, or employed in connexion with a trade, to produce any books or documents relating to the trade and may take copies of, or of any entry in, any such book or document;

(c) if he has reasonable cause to believe that an offence under this Act has been committed, seize and detain any goods for the purpose of ascertaining, by testing or otherwise, whether the offence has been committed;

(d) seize and detain any goods or documents which he has reason to believe may be required as evidence in proceedings for an offence under this Act;

(e) for the purpose of exercising his powers under this subsection, but only if and to the extent that it is reasonably necessary in order to secure that the provisions of this Act and of any order made thereunder are duly observed, require any person having authority to do so to break open any container or open any vending machine and, if that person does not comply with the requirement, the inspector may do so himself.

(2) An inspector seizing any goods or documents under this section shall so inform the person from whom they are seized and, in the case of goods seized from a vending machine, the person whose name and address are stated on the machine as being those of the proprietor or, if no name and address are so stated, the occupier of the premises on which the machine stands or to which it is affixed.

(3) If a magistrate, on sworn information in writing—

(a) is satisfied that there is reasonable ground to believe either—

(i) that any goods, books or documents which an inspector has power under this section to inspect are on any premises and that their inspection is likely to disclose evidence of the commission of an offence under this Act; or

(ii) that any offence under this Act has been, is being, or is about to be committed on any premises; and

(b) is also satisfied either—

(i) that admission to the premises has been or is likely to be refused and that notice of intention to apply for a warrant under this section has been given to the occupier; or

(ii) that an application for admission, or the giving of such a notice, would defeat the object of the entry, or that the premises are unoccupied, or that the occupier is temporarily absent and it might defeat the object of the entry to await his return, the Magistrate may by warrant under his hand, which shall continue in force for a period of one month, authorize an inspector to enter the premises, if need be by force.

(4) An inspector entering any premises by virtue of this section may take with him such other persons and such equipment as may appear to him to be necessary; and on leaving any premises which he has so entered by virtue of a warrant he shall, if the premises are unoccupied or the occupier is temporarily absent, leave them as effectively secured against trespassers as he found them.

(5) If any person discloses to any other person—

(a) any information with respect to any manufacturing process or trade secret obtained by him in premises which he has entered by virtue of this section; or

(b) any information obtained by him in pursuance of this Act, he shall be guilty of an offence unless the disclosure was made in or for the purposes of the performance by him or any other person of functions under this Act.

(6) If any person who is not an inspector purports to act as such under this section he shall be guilty of a cognizable offence.

(7) Nothing in this section shall be taken to compel the production by an advocate of a document containing a privileged communication made by or to him in that capacity or to authorize the taking possession of any such document which is in his possession.