

SPECIAL ISSUE

Kajiado County Gazette Supplement No. 11 (Bills No.11)

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REPUBLIC OF KENYA

**KAJIADO COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 2nd October, 2015

CONTENT

Bill for Introduction into the Kajiado County Assembly—

PAGE

The Kajiado County Revenue Administration Bill, 2015.....1

**THE KAJIADO COUNTY REVENUE ADMINISTRATION BILL,
2015**

ARRANGEMENT OF SECTIONS

PART 1—PRELIMINARY MATTERS

- 1— Short Title and Commencement
- 2— Interpretation

PART 2—ADMINISTRATION OF REVENUE LAWS

- 3— Receiver of Revenue
- 4— Functions and Powers of Receiver of Revenue
- 5— Delegation of Functions and Powers
- 6— Agreement in Relation to Revenue Collection
- 7— Annual Report

**PART 3— REVENUE PAYERS' OBLIGATIONS AND
COMPLIANCE POWERS**

- 8— Books, Accounts and Records to be made and kept
- 9— Providing Information and Evidence
- 10— Access, Inspection and other Powers
- 11— Seizure of Property Required as Evidence

PART 4—MISCELLANEOUS

- 12— Waiver or Reduction of Rates, Taxes, Fees and Charges

- 13— Revenue Register
- 14— Approved Forms
- 15— General Penalty for Offence
- 16— Publication and Service of Notices and other Documents
- 17— Guidelines
- 18— Rules

**THE KAJIADO COUNTY REVENUE ADMINISTRATION BILL,
2015**

A Bill for

**AN ACT of the County Assembly of Kajiado to provide for the general
administration of certain taxation laws and other revenue raising
laws, and for connected purposes.**

ENACTED by the Kajiado County Assembly.

PART 1—PRELIMINARY MATTERS

Short Title and Commencement

1. (1) This Act may be cited as the Kajiado County Revenue Administration Act, 2015.

(2) This Act comes into operation on (Date to be inserted).

Interpretation

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

“county public officer” has the same meaning as in the County Governments Act 2012;

“premises” include—

- (a) any part of a building or structure;
- (b) any part of a vehicle or a vessel; and
- (c) an area of land.

“prescribed” means prescribed by the rules made under this Act;

“rate” means a rate imposed under the Kajiado County Rating Act 2015;

“receiver of revenue” has the meaning given by section 3;

“relevant person” means—

- (a) a revenue payer; or

- (b) an employee or agent of the revenue payer; or
- (c) any other person who the receiver of revenue believes on reasonable grounds may be able to assist in determining the liability if any) of the revenue payer to pay a rate, tax, fee or charge payable under a revenue law;

“revenue law” means—

- (a) this Act; or
- (b) the Kajiado County Rating Act 2015; or
- (c) the Kajiado County Trade License Act 2015; or
- (d) any other Act imposing an entertainment tax or any other tax that is payable to the County government; or
- (e) any Act or other law providing for the payment to the county government of fees or charges for services provided; or
- (f) any other prescribed law;

“revenue payer” means a person liable to pay a rate, tax, and fee or charge payable under a revenue law.

PART 2—ADMINISTRATION OF REVENUE LAWS

Receiver of Revenue

3. The receiver of revenue is—

- (a) in the case of taxation, the person who is the receiver of revenue for the county designated in respect of taxation under section 157 of the Public Finance Management Act 2012; or
- (b) in the case of any other kind of revenue, the person who is the receiver of revenue for the county designated in respect of that other kind of revenue under section 157 of that Act.

Functions and Powers of Receiver of Revenue

4. (1) The receiver of revenue—

- (a) is responsible for the administration and enforcement of revenue laws and for that purpose must ensure that the assessment, collection and accounting of rates, taxes, fees and charges is undertaken in accordance with the requirements of those laws; and
- (b) is to advise the county government on all matters relating to the administration and enforcement of revenue laws, and the assessment and collection of rates, taxes, fees and charges under those laws; and
- (c) shall perform such other functions as the county government directs.

(2) The receiver of revenue has such powers as are necessary to enable him or her perform the functions under subsection (1).

(3) The receiver of revenue has such other powers and functions as are provided for by any or under the revenue laws.

(4) In performing any function or exercising any power under a revenue law, the receiver of revenue must produce written identification establishing his or her position if requested by any person.

Delegation of Functions and Powers

5. (1) The receiver of revenue may, by instrument in writing, delegate all or any of his or her functions or powers under any revenue law to a county public officer, except this power of delegation.

(2) In performing any function or exercising any power, a delegate of the receiver of revenue must produce written identification establishing his or her position as the county receiver of revenue's delegate if requested by any person.

Agreement in Relation to Revenue Collection

6. The County Government may enter into an agreement authorizing a person to collect rates, taxes, fees and charges payable under revenue laws on such terms and conditions as are specified in the agreement.

Annual Report

7. (1) The receiver of revenue shall prepare an annual report on the operation and administration of all revenue laws.

(2) The receiver of revenue shall give the annual report to the county executive committee member responsible for finance within 90 days after the end of the year to which the report relates.

(3) The county executive committee member responsible for finance must table the annual report in the county assembly as soon as practicable.

PART 3—REVENUE PAYERS' OBLIGATIONS AND COMPLIANCE POWERS**Books, Accounts and Records to be Made and Kept**

8. (1) A revenue payer shall make and keep such books, accounts and records as are reasonably necessary to determine the revenue payer's liability to pay collect rates, taxes, fees or charges under a revenue law for a period of at least 7 years after the completion of the transactions to which they relate.

(2) The receiver of revenue may, by notice in writing, give to a revenue payer direct the revenue payer as to the books, accounts and records the revenue payer is required to make and keep.

(3) If a revenue payer fails to comply with subsection (1) or a notice under subsection (2), the revenue payer is guilty of an offence punishable on conviction by a fine not exceeding—

- (a) in the case of an individual—Five Hundred Thousand (500,000) shillings; or

- (b) in any other case—Two Million Five Hundred Thousand (2,500,000) shillings.

Providing Information and Evidence

9. (1) For the purpose of determining the liability (if any) of a revenue payer to pay a rate, tax, fee or charge under a revenue law, the receiver of revenue may, by notice in writing, given to the relevant person require the relevant person to do either or both of the following—

- (a) provide the receiver of revenue with such information as the receiver of revenue may require;
- (b) attend and give evidence before the receiver of revenue, including an oath administered by the receiver of revenue.

(2) If a person fails to comply with a notice under subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding Five Hundred Thousand (500,000) shillings.

Access, Inspection and other Powers

10. (1) For the purpose of determining the liability (if any) of a revenue payer to pay a rate, tax, fee or charge under a revenue law, the receiver of revenue has full and free access to any premises of, or in the custody or control of, a relevant person and may, at all reasonable times, exercise all or any of the following powers—

- (a) enter and inspect those premises and any goods in or on those premises, including opening any packaging or containers that may contain goods;
- (b) obtain copy and print information or data from any computer system in or on those premises and retain all information and data that is obtained, copied or printed;
- (c) take extracts from or copies of any books, accounts, records and other documents in or on those premises and retain all extracts or copies taken.

(2) If the receiver of revenue is of the view that it is impractical to exercise any of the powers under paragraph (1) (a), (b) or (c), the receiver of revenue may remove all or any of the things referred to in that paragraph to offices of the county government for such time as is reasonably necessary to determine a revenue payer's liability to pay.

(3) A relevant person must give all reasonable assistance to the receiver of revenue so as to allow him or her exercise all or any of his or her powers under this section.

(4) If the relevant person—

- (a) fails or refuses to provide access to premises required by the receiver of revenue; or
- (b) obstructs or hinders the receiver of revenue in the discharge of his or her duties under paragraph (1) (a), (b), or (c);

the person is guilty of an offence punishable on conviction by a fine not exceeding Five Hundred Thousand (500,000) shillings.

Seizure of Property Required as Evidence

11. (1) The receiver of revenue may seize his or her any property, other than land, that may be required as evidence in a court for proceedings to be brought under this Act or any other revenue law.

(2) When property is no longer required under subsection (1), the property must be returned as soon as practical to the person entitled to it.

PART 4 — MISCELLANEOUS

Waiver or Reduction of Taxes, Fees and Charges

12. (1) The county executive committee member responsible for finance may on a recommendation made under subsection (3) waive or reduce a rate, tax, fee or charge that is imposed or payable under a revenue law.

(2) An application to waive or reduce a rate, tax, fee or charge that is imposed or payable under a revenue law must be made in writing to the county executive committee member responsible for that revenue law.

(3) The county executive committee member referred to in subsection (2) may recommend that the rate, tax, fee or charge the subject of the application be waived or reduced if he or she is satisfied that—

- (a) the applicant would suffer severe financial hardship if the rate, tax, fee or charge were not waived or reduced; or
- (b) it is not cost effective to take action to recover the rate, tax, fee or charge; or
- (c) the waiver or reduction is for the purpose of encouraging the applicant to pay amounts outstanding to the county government; or
- (d) grounds of equity or other good cause exist that make it expedient to waive or reduce the rate, tax, fee or charge; or
- (e) an order of a court is in force that specifies the imposition or payment of a rate, tax, fee or charge at a lower rate or amount than is provided for in the revenue law under which the rate, tax, fee or charge is imposed or payable; or
- (f) other compelling circumstances exist which make it expedient to waive or reduce the rate, tax, fee or charge.

(4) A recommendation under subsection (3) must be in writing and must—

- (a) specify the rate, tax, fee or charge that is waived or the amount of the reduction of the rate, tax, fee or charge; and
- (b) specify the person or body to whom the waiver or reduction applies; and
- (c) set out the reasons for the recommendation.

(5) Within 14 days after making a decision under subsection (1) the county executive committee member responsible for finance must cause a copy of the decision to be provided for the governor and the applicant together with a statement of the reasons for the decision.

(6) A person or body granted a waiver or reduction of a rate, tax, fee or charge is not subject to any collection or enforcement procedure in respect of the rate, tax, fee or charge that is waived or the part of the rate, tax, fee or charge that is reduced.

(7) The county executive committee member responsible for finance must cause:

- (a) a public record of each waiver or reduction to be maintained together with the reason for the waiver or reduction; and
- (b) within 90 days or such other prescribed period after the end of each year, the Auditor-General to be notified of any waiver or reduction made for that year.

(8) A county public officer within the meaning of the County Governments Act 2012 or any other prescribed office holder may not be excluded from the payment of a rate, tax, fee or charge by reason of his or her office or the nature of his or her work.

Revenue Register

13. (1) The county receiver of revenue shall establish and maintain a revenue register which is to be available for inspection by the public during government office hours.

(2) The register must contain the prescribed information and may be kept in such form as the receiver of revenue decides.

Approved Forms

14. The receiver of revenue may approve forms for the purposes of a revenue law.

General Penalty for Offence

15. If a person contravenes or fails to comply with any provision of this Act, the person commits an offence against this Act and, unless another penalty is provided by this Act for that offence, the person is liable on conviction to a fine not exceeding Fifty Thousand (50,000) shillings.

Publication and Service of Documents

16. (1) Any document required to be published under a revenue law may be published by advertisement in the county Gazette and in one or more newspapers circulating in the county.

(2) Any document required or authorized to be sent or served pursuant to a revenue law may be sent or served—

- (a) by delivering it to the person to or on whom it is to be sent or served; or
- (b) by leaving it at the usual or last known place of residence or business place of that person, or, in the case of a company, at its registered office; or
- (c) by ordinary or registered post; or
- (d) by emailing it to the person; or
- (e) any other prescribed method.

(3) However, if the receiver of revenue has attempted to send or serve a document by one of the methods mentioned in subsection (2) and is satisfied that such document has not been received by the person to whom it was addressed, the receiver of revenue may advertise, in the manner provided in subsection (1), the general purpose of such document, and upon such advertisement the document is deemed to have been received by that person.

(4) An advertisement referred to in subsection (3) may refer to one or more documents and to one or more revenue payers.

(5) Any document under a revenue law required or authorized to be served on the owner or occupier of any premises may be addressed by the description “owner” or “occupier” of the premises (naming them), without further name or description.

Guidelines

17. The receiver of revenue may issue guidelines for the purposes of a revenue law.

Rules

18. The County Executive Committee member responsible for finance may make rules generally aimed at giving effect to the provisions and purposes of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Bill confers a general power and responsibility for the administration of county revenue laws on the receiver of revenue who is to be held accountable for that administration.

To achieve this purpose, the Bill sets out additional administrative and enforcement provisions relating to revenue legislation.

The enactment of this Bill into law does not occasion addition expenditure of public funds.

HON. SAYIANKA KOSEI,
Chairman, Sectoral Committee on Finance and Economic Planning.