

SPECIAL ISSUE

Kakamega County Gazette Supplement No. 12 (Bills No.10)



REPUBLIC OF KENYA

**KAKAMEGA COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2017

NAIROBI, 13th March, 2017

CONTENT

Bill for Introduction into the Kakamega County Assembly—

PAGE

The Kakamega County Revenue Administration and Management Bill, 2017..... 1

**KAKAMEGA COUNTY REVENUE ADMINISTRATION AND
MANAGEMENT**

BILL, 2017

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

- 1—Short title
- 2—Interpretation
- 3—Objective and Purpose

PART II—ADMINISTRATION

- 4—Establishment of Kakamega County Revenue Agency
- 5—Functions of the Agency
- 6—Composition of the Agency
- 7—Qualifications
- 8—Vacation of office of Board members
- 9—Power to issue directions and to remove the Board
- 10—Chief Revenue Administrator
- 11—Qualifications of Chief Revenue Administrator
- 12—Deputy Chief Revenue Administrator
- 13—Other members of staff
- 14—Common Seal of the Agency
- 15—Protection from personal liability
- 16—Liability for damages
- 17—Partnerships

**PART III—FINANCIAL PROVISIONS RELATING TO THE
AGENCY**

- 18—Funds to the Agency
- 19—Financial year of the Agency
- 20—Annual estimates
- 21—Accounts and Audit
- 22—Annual Reports

**PART IV—RECORDS AND INFORMATION OF REVENUE
PAYERS**

- 23—Preservation of accounts
- 24—Providing information and evidence
- 25—Refund of Revenue
- 26—Access, inspection and other powers of Receiver of Revenue
- 27—Possession of property for purposes of proceedings

PART V—WAIVER OR REDUCTIONS

- 28—Waiver or reduction of penalties on taxes, fees and charges
- 29—Waiver or reduction of taxes, fees and charges

PART V—THE APPEALS TRIBUNAL

- 30—Establishment of the Tribunal
- 31—Jurisdiction of the Tribunal
- 32—Appeals from tribunal

PART VI—MISCELLANEOUS

- 33—Receiver of revenue to produce identification
- 34—Forms
- 35—Publication and service of documents
- 36—Offences by an authorized officer
- 37—General offences
- 38—Regulations
- 34—Repeal, savings and transition clauses

SCHEDULE

**First Schedule — Provisions as To the Conduct of the Business and
Affairs of the Board**

**KAKAMEGA COUNTY REVENUE ADMINISTRATION AND
MANAGEMENT BILL, 2017.**

A Bill for

AN ACT of the County Assembly of Kakamega County to provide for effective administration of revenue collected by the County Government; the collection, receipt and management of the revenue; provide responsibilities for the County receiver of revenue, other public offices and entities involved in revenue collection and for connected purposes

Enacted by the County Assembly of Kakamega County as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Kakamega County Revenue Administration and Management Act, 2016 and shall come into force upon publication.

Interpretation

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

“Agency” means the Agency established under section 4 of this Act;

“Authorised officer” includes officers appointed by the Agency, public health officers, county enforcement officers and police officers appointed under the National Police Service Commission;

“Charge” means any levy which the County Government is authorized to impose for services rendered under this Act, or any other Act of the County Assembly;

“County” means Kakamega County;

“County Assembly” “Executive Committee Member” means the Executive Committee Member responsible for County Treasury;

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

means the county revenue fund as established under Section 109 of the Public Finance Management Act, 2012;

“Gazette” “Premises”—

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

“Rate” means a rate imposed under the Kakamega County Revenue Act, 2016

“Revenue law” includes any written law enacted by the County Assembly dealing with matters related to revenue.

“Relevant person” means—

- (a) revenue payer;
- (b) an employee or agent of the revenue payer; or
- (c) any other person whom the Agency 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 payer” means a person liable to pay a rate, fee, tax or charge to the county government under any revenue law.

“Tax” means property rates, entertainment tax, fees or any other tax that the County is authorized to impose through an Act of the County Assembly, and includes all penalties and interest that may, or have accrued pursuant to this Act or any other revenue law.

Object and Purpose

3. The object and purpose of this Act is to establish a legal framework and mechanism in the County to—

- (a) put into effect and implement the provisions of the Public Finance Management Act, 2012 in relation to the-
 - (i) collection and receipt of charges, rates, taxes and fees by the receiver of revenue and other public officers and entities; and
 - (ii) administration and management of charges, rates, taxes and fees levied by the county government;
- (b) collect, receive and remit charges, rates, taxes and fees to the County receiver of revenue in accordance with this Act and the Public Finance Management Act, 2012;
- (c) to provide mechanisms for waiver or variation of taxes, rates, fees, charges and other revenue collected by the county government; and
- (d) to provide mechanisms for imposition, waiver or variation of penalties.

PART II—ADMINISTRATION

Establishment of Kakamega County Revenue Agency

4. (1) There is established a Revenue Agency, for the Kakamega County known as Kakamega County Revenue Agency.

(2) The Agency shall be a body corporate with perpetual succession and a common seal and shall in its corporate name be capable of—

- (a) suing and being sued;
- (b) subject to the provisions of the Public Finance Management Act, 2012 purchase or otherwise acquire, hold, charge or dispose of movable and immovable property; subject; and
- (c) doing or performing all such other things or acts as may be necessary for the proper performance of its functions under this Act, which may lawfully be done by a body corporate.

Functions of the Agency

5. (1) The Agency shall—

- (a) be the receiver of County Revenue within the meaning of section 157 of the Public Finance Management Act, 2012;
- (b) be responsible for the administration and enforcement of revenue laws in the County;
- (c) ensure the assessment and collection of and accounting for all rates, taxes, fees, and other charges payable by or under any law in the County;
- (d) collect and account for all County revenues in accordance with this Act and the Public Finance Management Act, 2012;
- (e) except as may be provided under this Act or other written law, ensure that all monies raised or collected by or on behalf of the County are paid into the County Revenue Fund;
- (f) prepare reports on revenue collected and owing in accordance with the relevant laws and procedures;
- (g) appoint a suitably qualified person under the Certified Public Secretaries of Kenya Act, CAP 534 to be the secretary of the Board;
- (h) advise the County Government on all matters relating to the imposition, administration and enforcement of County revenue laws, assessment and collection of rates, taxes, fees, and other charges and penalties thereof in line with Article 209 of the Constitution; and

- (i) perform such other functions as may be provided for under any other county revenue law or as the Agency may deem necessary for the proper discharge of its mandate under this Act.
- (2) The receiver of revenue may in consultation with the relevant department and in writing delegate any power or assign any duty conferred on it under this Act or any other county revenue law.
- (3) A delegation or assignment under this section shall not prevent the receiver of revenue from exercising the power in question in person.
- (4) A delegation under this section—
 - a) shall be subject to any conditions the receiver of revenue may impose;
 - b) shall not divest the receiver of revenue of the responsibility concerning the exercise of the powers or performance of the duty delegated; and
 - c) may be withdrawn and any decision by the person to whom the delegation is made withdrawn or amended by the receiver of revenue.

Composition of the Agency

- 6. (1) The Agency shall have a Board of management composed of—
 - (a) a non-executive chairperson appointed by the Governor;
 - (b) the Chief Officer County treasury;
 - (c) the County Attorney;
 - (d) the Chief Revenue Administrator who shall be an ex officio member; and
 - (e) four members appointed by the Executive Committee Member.
- (2) The chairperson and the members of the Board under subsection (1) (e) shall be appointed from a list consisting of—
 - (a) in the case of chairperson three names; and
 - (b) in the case of members eight names, Submitted by a selection panel appointed by the Executive Committee Member in accordance with subsection (3)
- (3) The selection panel referred to in sub section (2) shall comprise of a chairperson and four other members appointed as follows—
 - (a) one person to represent the County Public Service Board;
 - (b) one person representing the county executive; and
 - (c) three eminent persons from the County.

- (4) The selection panel shall have power to regulate its own procedure.
- (5) The selection panel shall advertise the vacancies in at least one reputable daily newspaper with national circulation.
- (6) In determining the nomination criteria for the chairperson and members of the Board, the selection panel shall have regard to the objectives of the development of county revenue system, ensuring that there are balanced competencies and gender equity.
- (7) In nominating members of the Board, the selection panel shall ensure that those nominated shall not have any conflict of interest in serving as members of the Board.
- (8) If the Governor or Executive Committee Member as the case may be, rejects the names submitted under subsection (2), the Governor or Executive Committee Member shall inform the selection panel and request for a replacement.
- (9) In rejecting the names submitted under subsection (2), the Governor or the Executive Committee Member, as the case maybe, shall attach a memorandum giving reasons for the rejection of the candidates.
- (10) The selection panel shall stand dissolved after the appointment of the Board.

Qualifications

7. (1) A person shall be qualified for appointment as a chairperson or member of the Board if the person—
 - (a) in the case of the chairperson, holds at least a degree in finance, management, leadership or any other relevant qualifications from a university recognized in Kenya and at least seven years' experience in leadership and management of public or private institution;
 - (b) In the case of a member of the Board holds at least a degree from a university recognized in Kenya, and at least five years' experience in leadership, management, finance or any other relevant qualifications. Provided that at least one member shall have qualifications and expertise in financial management or accounting and a member of a professional body regulating the accountancy profession in good standing.

(2) In addition to the qualifications specified under subsection (1), the chairperson and members of the Board shall be persons of integrity in accordance with Chapter Six of the Constitution and capable of contributing to the management of revenue system in the County.

(3) Subject to the provisions of this Act, the chairperson and members of the Board shall hold office for a term of three years and shall be eligible for reappointment for one further term.

(4) Notwithstanding the provisions of subsection (3) the Executive Committee Member shall before appointment of the members of the Board in section 6(1)(e) determine by lot which one of their number shall vacate office after a period of two years to ensure continuity in the activities of the Board.

(5) All appointments under this section shall be by notice in the gazette.

Vacation of Office of Board Members

8. (1) Subject to the provisions of this Act, the office of the chairperson or member of the Board shall become vacant if the chairperson or member of the Board—

- (a) resigns by notice in writing addressed to the appointing authority;
- (b) is unable to perform the functions of office by reason of prolonged physical or mental incapacity;
- (c) is adjudged bankrupt by a court of competent jurisdiction or enters into a composition or scheme of arrangement for the benefit of creditors;
- (d) is guilty of gross misconduct;
- (e) if a member is absent without the permission of the chairperson of the Board, for three consecutive meetings or if chairperson is absent without the permission of the appointing authority for three consecutive meetings;
- (f) fails to meet the requirements of Chapter six of the Constitution;
- (g) is convicted of an offence and sentenced to imprisonment for a period of six months or more; or
- (h) dies.

(2) Where the office of chairperson or a member of the Board becomes vacant, the appointing authority shall subject to the provisions of

this Act, appoint another person to fill the vacancy for the remainder of the term.

(3) Notwithstanding the generality of the foregoing, the chairperson or any member of the Board suspected of having contravened Chapters 6 or 13 of the Constitution shall vacate office to pave way for investigations provided that where the chairperson vacates office under this subsection the Governor shall appoint an acting chairperson from among the members.

(4) Where a person who has vacated office under subsection (3) is not found culpable of any unlawful act by a competent legal authority, the person shall be reinstated to his or her position.

(5) The First Schedule shall apply with respect to the conduct of the business and affairs of the Board.

(6) The members of the Board of Management shall be paid such allowances as the Executive Committee Member shall determine in line with the Salaries and Remuneration Commission guidelines.

Power to issue directions and to remove the Board

9. (1) The Governor may give directions of a general or specific nature to the Board with regard to the better exercise and performance of the functions of the Board and the Board shall give effect to those directions.

(2) Notwithstanding subsection (1), directions under this section may require that any rules or regulations made be amended to conform with any requirement of this Act where the same are inconsistent therewith.

(3) Notwithstanding the provisions of this Act or any other written law, the Governor may, if at any time it appears to him or her that the Board has failed to carry out its functions in the interest of the county, revoke the appointments of chairperson and members of the Board and dissolve the Board and shall in consultation with the Executive Committee constitute a new Board for a period not exceeding six months.

10. (1) There shall be a Chief Revenue Administrator appointed by the Governor from among three names recommended by the Board following a competitive recruitment process and who shall serve for a period of four years, which term may be renewed once.

(2) The Chief Revenue Administrator shall be the chief executive officer and shall be responsible for the day to day management of the affairs of the Agency on such terms and conditions of service as the Board

shall determine in consultation the Executive Committee Member in line with the Salaries and Remuneration Commission guidelines.

Qualifications of Chief Revenue Administrator

11. (1) A person shall be qualified for appointment as the Chief Revenue Administrator if the person—

- (a) holds at least a first degree from a university recognized in Kenya;
- (b) has training and experience in matters relating to law, finance, business administration, management or any other related field;
- (c) has at least seven years' experience in senior management of a large organization; and
- (d) is a member of a relevant professional body.

(2) In addition to the qualifications specified under subsection (1) a person appointed in this position shall meet the requirements of Chapter Six of the Constitution.

Deputy Chief Revenue Administrator

12. (1) The Board shall appoint one or more Deputy Chief Revenue Administrators who shall, under the general authority of the Chief Revenue Administrator, exercise such powers and perform such duties as may be determined by the Board.

(2) A Deputy Chief Revenue Administrator shall hold office on such terms and conditions as may be specified in the instrument of appointment.

Other members of staff

13. (1) The Agency may employ such other officers and staff as it may deem necessary for the performance of its functions under this Act.

(2) The Agency shall, in line with the Salaries and Remuneration Commission guidelines, determine the remuneration of the employees of the Agency.

(3) All appointments under this section shall take into account gender equity, and regional balance.

Common Seal of the Agency

14. (1) The common seal of the Agency shall be kept in custody of the chief revenue administrator or such other person as the Board may direct and shall not be used except upon the order of the Board.

(2) The common seal of the Agency, when affixed to a document and duly authenticated, shall be judicially and officially noticed and unless the

contrary is proved any necessary order or authorisation by the Board under this section shall be presumed to have been duly given.

(3) The common seal of the Agency shall be authenticated by the signature of the chairperson of the Board and the Chief Revenue Administrator.

(4) The Board shall, in the absence of either the chairperson or the Chief Revenue Administrator, in any particular matter, nominate one member of the Board to authenticate the seal of the Agency on behalf of either the chairperson or the Chief Revenue Administrator.

Protection from personal liability

15. Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Agency shall, if the court holds that such act was done *bona fide* be paid out of the funds of the Agency, unless such expenses are recovered by him or her in such suit or prosecution.

Liability for damages

16. The provisions of Section 15 shall not relieve the Agency of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law.

Partnerships

17. The Agency may enter into partnerships in order to effectively carry out its functions in accordance with the applicable law subject to approval by the Executive Committee.

PART III—FINANCIAL PROVISIONS RELATING TO THE AGENCY

Funds to the Agency

18. (1) The funds of the Agency shall consist of—

- (a) monies appropriated by the County Assembly for the purposes of the Agency; and
- (b) monies granted, donated or other monies which the Board may receive on behalf of the Agency that shall be paid to the Agency by way of grants.

(2) The Agency shall ensure that it makes full disclosure to the Treasury of any monies granted, donated or otherwise received by the Agency.

Financial year of the Agency

19. The financial year of the Agency shall be the period of twelve months ending on the thirtieth June of each year.

Annual estimates

20. (1) The Agency shall cause to be prepared estimates of the revenue and expenditure of the Agency for that year.

(2) The annual estimates shall make provision for all the estimated expenditure of the Agency for the financial year concerned and in particular, shall provide for—

- (a) the operations of the Agency;
- (b) the payment of the salaries, allowances and other charges in respect of the staff of the Agency;
- (c) the payment of pensions, gratuities and other charges, and in respect of benefits which are payable out of the funds of the Agency;
- (d) the maintenance of the assets of the Agency;
- (e) the funding of operations, training, research and development of the Agency;
- (f) provision for refunds; and
- (g) the creation of such reserves to meet future or contingent liabilities in respect of benefits, insurance or replacement of buildings or installations, equipment and in respect of such other matters as the Agency, may think fit.

(3) The annual estimates shall be approved by the Agency, before the commencement of the financial year to which they relate and shall be submitted to the Executive Committee Member for approval and after the Executive Committee Member has given approval, the Agency shall not increase any sum provided in the estimates without the consent of the Executive Committee Member.

(4) No expenditure shall be incurred for the purposes of the Agency except in accordance with funds voted or appropriated by the County Assembly.

Accounts and Audit

21. (1) The Agency shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Agency.

(2) Within a period of three months after the end of each financial year, the Agency shall submit to the Auditor-General and all other relevant offices, in accordance with section 165 of the Public Finance and Management Act, 2012 the accounts of the Agency in respect of that year together with—

- (a) a statement of the income and expenditure of the Agency during that year; and
- (b) a statement of the assets and liabilities of the Agency on the last day of that financial year.

(3) The annual accounts of the Agency shall be prepared, audited and reported upon in accordance with the provisions of the Public Audit Act, 2015.

22. (1) The Agency shall prepare quarterly reports on the operation and administration of revenue laws in the County and provide to the County Treasury quarterly statements.

(2) Notwithstanding sub-section (1) the Agency shall prepare monthly reports and financial statements on the operations and administration of the agency and submit the same to the County Treasury.

(3) Within ninety days after the end of the financial year, the Agency shall furnish the Executive Committee Member, with an annual report of the operations and administration of the revenue laws in the County for that year.

(4) Upon receipt of the annual report under subsection (3), the Executive Committee Member shall, in line with the budget cycle, transmit the same to the County Assembly for tabling and debate.

PART IV—RECORDS AND INFORMATION OF REVENUE PAYERS

Preservation of accounts

23. (1) For a period of not less than seven years after the completion of a transaction to which rates, taxes, fees or charges under a revenue law relate, a revenue payer shall make and keep such books, accounts and records as may be reasonably necessary to determine the revenue payer's liability to pay such rates, taxes, fees or charges.

(2) By notice in writing given to a revenue payer, the Agency may direct the revenue payer as to the books, accounts and records the revenue payer shall be required to make and keep.

(3) A revenue payer who fails to comply with the requirements of subsection (1) or the notice under subsection (2) commits an offence and shall be liable on conviction to a fine not exceeding fifty thousand

shillings or to imprisonment for a term not exceeding six months or to both such fine and term of imprisonment.

Providing information and evidence

24. (1) For the purpose of determining the liability of a revenue payer to pay a rate, fee, tax or charge payable under a revenue law, the Agency may, by notice in writing, request the revenue payer to-

- (a) provide the Agency with such information as the Agency requires;
- (b) attend and give evidence before the Agency, including on oath administered by a commissioner for oaths.

(2) A person who fails to comply with a notice under subsection (1), commits an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment to a term not exceeding six months.

Refund of Revenue

25. (1) Where a person pays more revenue than the amount required or pays revenue erroneously, the Agency may, refund the amount paid in excess or erroneously paid or offset against future payments of revenue.

(2) A person who has paid the revenue specified in subsection (1) may apply for refund or offsetting of the revenue giving sufficient reasons for making such a payment.

(3) The Agency shall, where satisfied that the application meets the requirements of this section, refund the amount due or offset the amount against future payments.

Access, inspection and other powers of Receiver of Revenue

26. (1) For the purpose of determining the liability of a revenue payer to pay a rate, tax, fee or charge payable under a revenue law, the Agency and all county public officers authorized by it-

- (a) shall have full and free access to any premises of or in custody or control of a relevant person and may at all working hours of the business-
 - (i) enter and inspect those premises and any goods in or on those premises;
 - (ii) obtain, copy and print information or data from any computer system in those premises and retain all information and data that is obtained, copied or printed; and
 - (iii) 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.

- (b) may give notice in writing to the revenue payer to provide the Agency or public officers authorized under it with such information as it may require or attend and give evidence before the Agency either on oath or otherwise.
- (2) Every revenue payer required to comply with the foregoing shall give to the Agency or other authorized officer all reasonable assistance so as to allow him or her to exercise his or her powers under this section.
- (3) Any person who—
 - (a) fails or refuses to—
 - (i) comply with the notice under subsection (1);
 - (ii) provide access to premises required by the Agency; or
 - (c) obstructs or hinders the Agency or authorised public officer in the discharge of his or her duties under subsection (1), commits an offence and shall be liable on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding one year or to both such fine and term of imprisonment.

Possession of property for purposes of proceedings

27. (1) The Agency or its authorized public officer may take into its possession any property, other than land, that may be required as evidence before the Appeals Tribunal or in a court for proceedings that may be brought under this Act or any other revenue law.

(2) Where property taken into the possession of the Agency is no longer required under subsection (1), it shall be returned to the person entitled or disposed of in accordance with the Public Procurement and Asset Disposal Act, 2015 as soon as practical.

PART V—WAIVER OR REDUCTION

Waiver or reduction of taxes, fees and charges

28. (1) The Governor may on a recommendation made under subsection (3) waive or reduce penalties on rates, tax, fees or charges that are imposed or payable under a revenue law.

(2) An application to waive or reduce such penalties that are imposed or payable under a revenue law must be made in writing to the Governor.

(3) The Agency may recommend to the Governor that the penalties the subject of the application be waived or reduced if it is satisfied that:

- (a) the applicant would suffer severe financial hardship if the penalties were not waived or reduced;

- (b) it is not cost effective to take action to recover the penalties;
 - (c) the waiver or reduction is for the purpose of encouraging the applicant to pay amounts outstanding to the County Government;
 - (d) it is in the interest of justice or other good cause exists that make it expedient to waive or reduce the penalties; or
 - (e) other compelling circumstances exist which make it expedient to waive or reduce the penalties.
- (4) A recommendation under subsection (3) shall —
- (a) specify the penalties to be waived or the amount of the reduction of the penalties;
 - (b) specify the person or body to whom the waiver or reduction applies;
 - (c) set out the reasons for the recommendation; and
 - (d) specify the time within which the waiver will remain effective.
- (5) A person or body granted a waiver or reduction of penalties is not subject to any collection or enforcement procedure in respect of the penalties that are waived or reduced.
- (6) The Executive Committee Member 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 ninety 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.
- (7) A county public officer or any other prescribed officer may not be excluded from the payment of a penalty by reason of his or her office or the nature of his or her work.

Waiver or reduction of taxes, fees and charges

29. (1) The Executive Committee Member may on a recommendation made under subsection (3) waive or reduce rates, tax, fees or charges in line with section 159 of the Public Finance and Management Act, 2012 that are imposed or payable under a revenue law.

(2) An application to waive or reduce such penalties that are imposed or payable under a revenue law must be made in writing to the Executive Committee Member.

(3) The Agency may recommend to the Executive Committee Member that the rates, tax, fees or charges the subject of the application be waived or reduced if it is satisfied that:

- (a) the beneficiary would suffer severe financial hardship if the rates, tax, fees or charges were not waived or reduced;
 - (b) it is not cost effective to take action to recover the rates, tax, fees or charges;
 - (c) it is in the interest of justice or other good cause exists that make it expedient to waive or reduce the rates, tax, fees or charges; or
 - (d) other compelling circumstances exist which make it expedient to waive or reduce the rates, tax, fees or charges.
- (4) A recommendation under subsection (3) shall—
- (a) specify the rates, tax, fees or charges to be waived or the amount of the reduction thereof;
 - (b) specify the category of beneficiaries to whom the waiver or reduction applies;
 - (c) set out the reasons for the recommendation; and
 - (d) specify the time within which the waiver will remain effective.

(5) The beneficiaries granted a waiver or reduction of rates, tax, fees or charges are not subject to any collection or enforcement procedure in respect of the rates, tax, fees or charges that are waived or reduced.

PART VI—THE APPEALS TRIBUNAL

Establishment of the Tribunal

30. (1) There is established the Kakamega County Revenue Appeals Tribunal to exercise the functions conferred upon it by this Act.

(2) The Tribunal shall consist of a chairperson and two other members appointed by the Executive Committee Member from among persons who—

- (a) in the case of chairperson shall have the qualifications of a Judge of the High Court; and
- (b) in the case of members, shall have training and experience in matters relating to law, accounting, economics, taxation, finance, business administration, management or any other relevant field;

(3) A member of the Tribunal shall hold office for a period, on three years, specified in his or her appointment unless, prior to the expiration of that period—

- (a) he or she resigns his or her office by written notification under his or her hand addressed to the Executive Committee Member;
- (b) the Executive Committee Member being satisfied that the member is unfit by reason of mental or physical infirmity to perform the duties of his or her office revokes his or her appointment;
- (c) that the member has failed to attend at least three consecutive meetings of the Tribunal, revokes his or her appointment; or
- (d) he or she dies.

(4) The chairperson of the Tribunal shall have the casting vote.

(5) The members of the Tribunal shall be entitled to receive such allowances as the Executive Committee Member may determine in line with the Salaries and Remuneration Commission guidelines.

(6) The members of the Tribunal shall not be personally liable for any act or default done or committed in good faith in the course of exercising the powers conferred by this Act.

(7) The Executive Committee Member may make rules—

- (a) prescribing the manner in which an appeal shall be made to the Tribunal and the fees to be paid in respect of an appeal;
- (b) prescribing the procedure to be adopted by the Tribunal in hearing an appeal and the records to be kept by the Tribunal;
- (c) prescribing the manner in which the Tribunal shall be convened and the places where and the time at which sittings shall be held;
- (d) prescribing a scale of costs which may be awarded by the Tribunal; and
- (e) generally for the better carrying out of the provisions of this Act or any other revenue law relating to the Tribunal and appeals thereto.

(8) All appointments under this section shall be by notice in the gazette.

Jurisdiction of the Tribunal

31. (1) A person aggrieved by—

- (a) a decision of the Agency to levy a tax, charge, fee, rate, under this Act or any other revenue law;

- (b) refusal by the Agency to make a refund or offset an overpayment; or
- (c) a decision by the Agency or the Executive Committee Member to reject an application made under this Act or any other revenue law.

may appeal to the Tribunal.

Appeals from Tribunal

32. A party to an appeal lodged under this Act who is dissatisfied with the decision of the Tribunal may, upon giving notice of appeal to the other party or parties within fifteen days after the date on which a notice of that decision has been served upon him, appeal to the High Court from the order made by the Tribunal.

PART VII—MISCELLANEOUS

Receiver of revenue to produce identification

33. The officers of the Agency or any person authorized by the Agency when exercising the powers, under section 26 of this Act, shall produce his or her identification and proof of authorization as the case may be.

34. (1) The Agency may approve and prescribe forms for the purposes of this Act or any other revenue law.

(2) The Agency shall open and maintain a revenue register or registers for the different sources of revenue, which shall contain such information and be in such a form or forms as may be prescribed.

Publication and service of documents

35. (1) Any document required or authorized to be sent or served under or for the purpose of this Act or any other revenue law in the County may be sent or served by—

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

(2) A document or instrument under a revenue law which is required or authorized to be served on the owner or occupier of any premises may be addressed to such owner or occupier by the description “owner” or “occupier” of the premises, naming the premises, without need for further details.

Offences by an authorized officer.

36. An authorized officer having a duty to perform under this Act and who—

- (a) interferes with any process or person under this Act, so as to defeat the provisions, requirements or purposes of this Act;
- (b) where required under this Act to do anything, or to give effect to the provisions of this Act, fails to do such thing;
- (c) without reasonable cause omits to do something in breach of his or her duty under this Act;
- (d) willfully contravenes the provisions of this Act to give undue advantage or favor to another person;
- (e) fails to prevent or report to the County Government or any other relevant authority, the commission of an offence committed under this Act;
- (f) commits an offence and shall be liable on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one year, or both.

General Offences

37. If a person contravenes or fails to comply with any provision of this Act, unless another penalty is expressly provided for in this Act, commits an offence and is liable on conviction to a fine not exceeding Kenya shillings one hundred thousand or imprisonment for a term not exceeding six months or to both such fine and term of imprisonment.

Regulations

38. (1) The Executive Committee Member may make regulations generally for the better carrying out of the provisions and purposes of this Act.

(2) The Agency may issue guidelines for the purposes of a revenue law.

Repeal, saving and transition clauses

39. (1) The Kakamega County Revenue Administration and Collection Act, 2014 is hereby repealed.

(2) Notwithstanding the provisions of subsection (1)—

- (a) anything done under the provisions of the repealed law shall be deemed to have been done under this Act;
- (b) permits, licenses and all statutory instruments issued under the repealed Act shall be deemed to have been issued under this Act;

- (c) revocation of a license, permit or registration under this Act shall not indemnify the licensee from any liabilities to which the person may have become liable under the repealed law;
- (d) taxes, fees, levies and all other charges imposed under the repealed law shall be deemed to have been charged under this Act until new taxes, fees, levies and all other charges are imposed under this Act;
- (e) Subsidiary legislation issued under the repealed law shall continue to apply until new subsidiary legislation is enacted under this Act.
- (f) Any person who, at the commencement of this Act, is a member of staff of any institution or office established under the repealed Act, shall, on the appointed day, become a member of staff of the Agency on the same or improved terms and conditions of service as may be specified by the Executive Committee Member:

Provided that—

- (i) a member of staff of any of such former institution or office may retire on the basis of abolition of office in accordance with the existing regulations;
 - (ii) a member of staff of any of such former institution or office may be deployed in the county civil service with mutual consent of any such member and the county government.
- (3) The Agency shall be the successor of the Kakamega Tax Agency Limited in respect of all rights, functions, duties, obligations, assets and liabilities concerning the company existing at the date of commencement of this Act.
- (4) All such rights, functions, duties, obligations, assets and liabilities shall be automatically and fully transferred to the Agency and any reference to the County government, the executive committee member, the chief officer, the county treasury or Board of directors in connection with the Company in any written law or in any contract or document shall for all purposes be deemed to make reference to the Agency established under this Act.

FIRST SCHEDULE (S.8(5))

PROVISIONS AS TO THE CONDUCT OF THE BUSINESS AND AFFAIRS OF THE BOARD

1. The Board shall meet not more than eight times in a year but at least once in every quarter for the transaction of business.
2. Subject to paragraph (1) the chairperson may at any time upon written approval of the Executive Committee Member call a special meeting of the Board.
3. The chairperson shall preside at every meeting of the Board at which he or she is present, but in the absence of the chairperson the members present may elect one from among their number to preside.
4. The quorum for a meeting of the Board shall be five members, who shall include two appointed members.
5. Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of the members present, and in the case of an equality of votes the chairperson or person presiding shall have a casting vote.
6. A member who has a direct or indirect interest in a matter being considered or to be considered by the Board shall, as soon as the relevant facts regarding the matter come to the knowledge of the member, disclose the nature of such interest, and shall not be present during any deliberations on the matter.
7. The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and shall be signed by the chairperson or the person presiding at the meeting.
8. The chief revenue administrator or an officer instructed by him in that behalf, present at a meeting of the Board thereof, shall have the right to require his or her opinion to be recorded in the minutes if the Board, passes a resolution, which in the chief revenue administrator or officer's opinion, is contrary to his or her advice or contrary to law.
9. Save as provided in this Schedule the Board may regulate its own procedure.

MEMORANDUM OF OBJECTS AND REASONS

One of the principal objects of devolution under Article 174 of the Constitution is to promote social and economic development. Sustainable development is a national value under Article 10 of the Constitution which binds all persons in Kenya.

Article 175 of the Constitution requires county governments established there-under to reflect the principles of devolved government that include the principle that they shall have reliable sources of revenue to enable them to govern and deliver services effectively. A major and principle source of government revenue is taxation and levying of fees and charges for the services delivered.

Article 209 (2) of the Constitution reserves to county governments the power to impose the taxes stated in Article 209 (3).

Further, Article 209 (4) of the Constitution, read together with Part 2 of the Fourth Schedule thereto, gives counties the power to impose fees and charges for services provided and for regulatory purposes in respect of certain licensed activities.

The taxes, fees and charges imposed and levied ought to be prudently used for service delivery through a transparent and accountable process.

This Bill provides a system for collecting, receiving and accounting for taxes, fees and charges in the County. It confers a general power and responsibility for the administration of county revenue laws on a public official who is to be held accountable for that administration.

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

The enactment of this Bill will occasion additional expenditure of public funds.

SULEIMAN ODANGA,
Chairperson Finance and Economic Planning Committee.