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**THE KIRINYAGA COUNTY REVENUE ADMINISTRATION
ACT, 2015**

No. 3 of 2015

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**THE KIRINYAGA COUNTY REVENUE ADMINISTRATION
ACT, 2015**

**AN ACT of the County Assembly of Kirinyaga to provide for the
collection, receipt and administration of county revenue and for
connected purposes**

ENACTED by the County Assembly of Kirinyaga, as follows—

PART I—PRELIMINARY

Short Title

1. This Act may be cited as the Kirinyaga County Revenue Administration Act, 2015.

Interpretation

2. In this Act unless the context otherwise requires—

“appeals Committee” means the County Revenue Appeals Committee established under Section 17;

“authorised officer” means a person appointed under Section 25;

“executive Committee Member” means the County Executive Committee Member for the time being responsible for Finance;

“revenue” means rates charges, levies, fees, rents, royalties and any monies payable to the County government as revenue under any written law;

“revenue Unit” means the County Revenue Unit established under Section 4;

“tax payer” unless the context otherwise provides, means a person who is obligated under any county or national law to pay to the county any rates, fees, rents, royalties or levies or charges that are prescribed under any county law to be a tax.

Purpose of the Act

3. The purpose of this Act is to provide for the establishment of legal and institutional framework for revenue administration in order to ensure effectiveness, efficiency and transparency in revenue administration.

PART II—ADMINISTRATION

Establishment of the Revenue Unit

4. (1) There is established a unit in the County department responsible for finance to be known as the County Revenue Unit.

(2) The Revenue Unit shall be responsible for—

- (a) collecting and receiving revenue on behalf of the County;
- (b) preparing an annual work plan for County revenue collection specifying expected work volumes, service and enforcement initiatives;
- (c) designing and monitoring standardized processes and policies and producing related documentation for the collection and administration of revenue;
- (d) administer and enforce all county laws on revenue collection;
- (e) assessing the tax payable or interest owed by a tax payer—
 - (i) an assessment under subsection 2(f) shall not alter the due date of payment of the fees, charges, rates or taxes as determined under the relevant law.
 - (ii) the Revenue Unit shall cause the notice of the assessment under sub section (1) to be served on the person assessed and it shall state the amount of fees, charges, rates or taxes payable and the date taxpayers are expected to pay.
- (f) institute measures to ensure compliance with this Act;
- (g) promote and encourage voluntary compliance by tax payers;

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- (h) provide public education and awareness to all tax payers as well as members of the public;
- (i) advising the Executive Committee member on all matters related to collection and administration of revenue; and
- (j) doing or performing all other acts or things for the proper performance of its functions under this Act.

(3) The Revenue Unit shall account for revenue collected to the Executive Member.

(4) The Revenue Unit shall serve under the general direction of the Executive Member.

(5) The Executive Committee member shall, in accordance with Section 157 of the Public Finance Management Act, 2012, designate such revenue officer to serve under the Revenue Unit provided that such officers shall be County public officers appointed by the County public service Board.

Chief Revenue Officer

5. (1) There shall be the Chief Revenue Officer who shall be designated as such by the Executive Committee member in consultation with County Public Service Board who shall competitively recruit him / her on such terms and conditions as the County Public Service Board may determine.

(2) The Chief Revenue Officer shall be the head of the Revenue Unit established in Section 4 and shall be responsible to the Executive Committee Member.

(3) To qualify for appointment as a Chief Revenue Officer, a person shall—

- (a) possess a degree in finance, accounting, economics, business, or related field from a recognized university;
- (b) have had experience in management for a period of not less than three years;

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- (c) satisfies the conditions of Chapter six of the Kenya Constitution, 2010; and
 - (d) any other condition as the County Public Service Board may stipulate;
- (4) The Chief Revenue Officer shall be responsible for—
- (a) day to day operations of the Unit;
 - (b) administration, organization and control of the staff of the Revenue Unit; and
 - (c) any other responsibilities as may be assigned by the Executive Committee Member, this Act, the County Governments Act and any other written law.

PART III—REVENUE ADMINISTRATION

Values

6. The Revenue Unit shall carry out its functions in a manner that upholds the following values—

- (a) human dignity;
- (b) rule of law;
- (c) non- discrimination;
- (d) transparency;
- (e) fairness;
- (f) justice; and
- (g) equality and equity.

County Revenue

7. (1) The County Executive Committee shall identify and prescribe the county laws applicable for the purposes of determining the revenue receivable or collectable under this Act.

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(2) All revenue received or collected under this Act or under any law prescribed under subsection (1) shall be paid into the County Revenue Fund.

County Revenue Collection Centers

8. The Executive Committee Member shall in the performance of the provisions of this Act ensure that there shall be at least one County Revenue Collection Center in every sub-county.

Powers of Revenue Officers

9. A revenue officer designated under Section 4(5) shall under the general direction of the Chief Revenue Officer—

- (a) assess any tax payable to the county government by any person in accordance with the county laws or any written law;
- (b) receive or collect on behalf of the county government and tax payable by any person;
- (c) enter any premises for the purposes of implementing this Act or a law related to county revenue collection;
- (d) inspect any premises or information for the purposes of implementing this Act; and
- (e) do such things as may be prescribed by this or any other written law.

Revenue Collectors

10. (1) The Executive Committee Member may, in consultation with the Chief Revenue Officer, authorize such other public officers to be collectors of revenue on behalf of the County Government.

(2) For the purpose of this Section public officers to be collectors of revenue refers to employees of the County Government.

(3) Subject to the approval by the County Executive Committee, the Executive Committee Member may appoint such a person or an entity to be

an agent for the purposes of collecting revenue or part of the revenue payable to the County Government.

(4) An approval by the County Executive Committee referred to in Sub-Clause 10(3) shall be done with the authority of a resolution by the County Assembly.

(5) An appointment referred to in subsection 10(3) shall be made subject to the vetting and approval of such agent by the County Assembly.

(6) A person or an entity authorized or appointed to collect revenue under this section shall account for the revenue collected as may be specified by the Executive Committee Member.

Revenue Collection

11. (1) The Revenue Unit may appoint such revenue collectors to collect county revenue on behalf of the Revenue Unit or the Receiver of Revenue.

(2) A person designated to collect revenue under this Section shall account for the revenue collected as may be specified by the Executive Committee member.

(3) Notwithstanding Subsection (2) , a revenue collector shall—

- (a) issue an official receipt on all payments received;
- (b) remit to the County government; and
- (c) where cash is collected, bank all money received on the same day unless where it is not practicable in which case the money shall be banked on the following working day.

(4) A person shall not receive or collect any money on behalf of the County unless authorized under this Act or under any other written law.

(5) A person who contravenes the subsection (4) commits an offence and shall be liable to a fine not exceeding fifty thousand shilling or to imprisonment of three months or to both.

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(6) The County Government may institute legal proceedings for recovery of lost revenue by a person found guilty of the offence in Section 11(5).

Service Level Agreement

12. (1) Subject to the approval by the County Executive Committee, the County Government may enter into a service level agreement with an agent for the collection of County Revenue under this Act.

(2) The service level agreements referred to in Subsection 12 (1) shall be entered into with the approval of the County Assembly.

(3) The service level agreement shall stipulate the amount payable as agency commission, Provided that—

- (a) no service level agreement shall provide for deduction of agency fee before the remittance of the fee collected; and
- (b) the agency commission shall not exceed five percent of the total amount collected.

(4) A service Level agreement entered into under this section shall be in accordance with the requirements of this Act, the Public Finance Management Act, 2012, and any other written law.

Records of Revenue Administration

13. (1) The Revenue Unit, a receiver of revenue, a revenue collector or an agent appointed to collect revenue on behalf of the county government shall maintain such records related to revenue administration as may be prescribed.

(2) A person or an entity described under subsection (1) shall submit monthly reports to the Executive Member in relation to the revenue received or collected.

(3) Where records and equipment are in the possession of the agent as per Section 12, such records shall be the property of the County.

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Refund of Tax

14. (1) Where a person pays more tax than the amount required or pays a tax erroneously, the Revenue Unit may, with the approval of the Executive Member refund the amount paid in excess or erroneously paid or offset against future payments of tax.

(2) A person who has paid the tax as described under subsection (1) may apply for refund or offsetting of the tax giving sufficient reasons for making such a payment.

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

Registration of Taxpayers

15. (1) The Revenue Unit shall, where appropriate register all tax payers in the prescribed manner.

(2) A taxpayer registered under this section shall be assigned a tax identification number.

(3) The Revenue Unit shall maintain a register of county taxpayers, which shall be available for inspection by any member of public during government office hours.

(4) The register prepared under subsection (3) shall be in the prescribed form.

Information Technology

16. (1) The Revenue Unit shall, where appropriate adopt such information technology as deemed necessary for the purposes of ensuring effective and efficient tax administration.

(2) The Executive Member shall ensure that any county department or an agent responsible for collecting revenue on behalf of the county government adopts appropriate information technology measures.

Revenue Appeals Committee

17. (1) There is established a Committee to be known as County Revenue Appeals Committee.

(2) The Appeals Committee shall consist of—

- (a) the chairperson appointed by the Executive Member with the approval by the County Executive Committee;
- (b) one officer in the county treasury designated by the Chief Officer responsible for finance who shall be the secretary;
- (c) one representative of the business community from each region as provided in Schedule 1;
- (d) that representatives in subsection 17 (2) (c) shall be duly elected by the business community in the respective region and shall serve for a renewable term of three years;
- (e) one professional appointed by the Executive Member with the approval by the County Executive Committee.

(3) A person shall not be appointed as a chairperson or a member under subsection (2) (e) unless the person—

- (a) possess at least a degree from a recognized university;
- (b) is qualified and experienced in matters related to finance, taxation, accounting, economics or a related business field; and
- (c) is a resident in the County.

(4) A person shall not be appointed as a member under subsection (2) (c) unless the person—

- (a) possess at least a diploma from a recognized institution;
- (b) operates a business which is a going concern and which is compliant with requirements related to payment of county taxes; and

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(c) is a resident in the County.

(5) A member of the Appeals Committee may—

- (a) at any time resign from office by issuing notice in writing to the Executive Member;
- (b) be removed from office by the Executive Member, for—
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence; and
 - (v) bankruptcy.

Functions of the Appeals Committee

18. The Appeals Committee shall be responsible for receiving, hearing and making determination on complaints lodged by tax payers in relation to the collection and administration of any law related to revenue collection.

Rules of Procedure

19. The Executive Member shall prescribe the rules of procedure of the Appeals Committee.

Appeals

20. (1) A person aggrieved by the decision of any person or entity responsible for implementation or enforcement of any law related to revenue administration may appeal to the Revenue Appeals Committee.

(2) An appeal under this section shall be in the prescribed form.

(3) A person lodging an appeal with the Appeals Committee may appear in person or be represented by an Advocate of the High Court.

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(4) The Appeals Committee may make such determination as it may deem appropriate.

(5) An appeal of the decision of the Appeals Committee may be presented in the High Court of Kenya for determination.

Maintenance of Records by Taxpayer

21. (1) A tax payer shall maintain records as are reasonably necessary to determine the tax payer's liability to pay rates, taxes, fees or charges payable to the county for a period of not less than seven years after the completion of the transactions to which they relate.

(2) The Executive Member shall prescribe the records a taxpayer may be required to maintain.

Tax Waivers and Variations

22. (1) A person may apply to the Executive Committee Member for a waiver or variation of a tax, rate, fee or charge payable to the county government.

(2) An application made under subsection (2) shall be in the prescribed form.

(3) An application made under subsection (2) shall be in writing and addressed through the Executive Committee Member responsible for the respective law under which a waiver or variation the tax, rate, fee or charge is sought.

(4) Notwithstanding subsection (2), the County Executive Committee may, on its own motion grant a waiver or variation of a tax, rate, fee or charge payable to the county government.

(5) The County Executive Committee Member may, with the approval of the County Executive Committee waive or vary a tax, rate, fee or charge if it satisfied that—

- (a) the applicant would suffer severe financial hardship if the rate, tax, fee or charge were not waived or reduced;

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- (b) it is not cost effective to take action to recover the rate, tax, fee or charge;
 - (c) the waiver or reduction is for the purpose of encouraging the applicant to pay amounts outstanding to the county government;
 - (d) grounds of equity or other good cause exist that make it expedient to waive or reduce the rate, tax, fee or charge;
 - (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.
- (6) The County Executive Committee may approve or reject an application made under subsection (1).
- (7) Where the County Executive Committee rejects an application made under subsection (1), it shall give reasons for rejecting the application.
- (8) The County Executive Committee shall through the Executive Committee Member, inform the applicant within fourteen days after making a decision under subsection (1) of the outcome of the decision related to the application.
- (9) A person or body granted a waiver or variation 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 varied.
- (10) The Executive Member shall maintain a public record of each waiver or variation of rate, tax, fee or charge granted under this Act and the reasons for the waiver or variation.
- (11) A waiver or variation referred to in this Section shall be made with the approval of the County Assembly.

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(12) A State Officer or 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 the office or the nature of work of the officer.

(13) A waiver or variation referred to in this Section shall be made with the approval of the County Assembly.

Report on Waivers and Variations of Taxes

23. (1) The Executive Member shall, not later than two months after the end of each financial year submit a report to the County Assembly in respect to all waivers or variations of taxes, rates, fees and charges granted during that year.

(2) The report prepared under subsection (1) shall provide for—

- (a) names of the persons benefitting from the waiver or variation;
- (b) the amount of tax, fee or charge affected by a waiver or variation;
- (c) the year to which the waiver or variation relates;
- (d) justification for waiver or variation; and
- (e) the legislation under which the waiver is authorized.

(3) The County Assembly shall consider the report submitted under subsection (1) and may make such recommendations as it may deem appropriate.

Reporting

24. (1) The chief revenue officer shall prepare and submit to the Executive Member—

- (a) monthly and quarterly reports of the operations of the Revenue Unit and the implementation of this Act which shall be transmitted to the County Executive Committee for consideration;

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(b) an annual report for each financial year which shall cover among others—

- (i) all matters related to the Revenue Unit and the implementation of this Act;
- (ii) the operation and administration of all revenue laws;
- (iii) the challenges faced in the implementation of this Act and proposed measures and interventions;
- (iv) proposed policy and legislative measures to be adopted in order to enhance county revenue and revenue administration; and
- (v) any other information as may be required by the Executive Member.

(2) The chief revenue officer shall submit the annual report described under subsection (1) (b) to the Executive Member within three months after the end of each financial year to which the report relates.

(3) The Executive Member shall submit the annual report received under subsection (2) to the County Executive Committee within fourteen days after receipt of the report.

(4) The County Executive Committee shall consider the report submitted under subsection (3) and shall transmit it to the County Assembly for consideration not later than thirty days after its consideration.

PART IV—ENFORCEMENT

Authorized Officers

25. (1) The Executive Committee Member may appoint or designate such public officers authorized officers in the prescribed manner for the purposes of implementing and enforcing this Act.

(2) The Executive Committee Member shall issue a certificate of appointment to an authorized officer appointed under this Act.

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Powers of Authorized Officers

26. (1) An authorised officer appointed under this Act may—

- (a) inspect any premises or information;
- (b) prosecute a matter related to enforcement of this Act or as may be provided under any county law related to county revenue; and
- (c) discharge any duties as may be assigned by the Board.

(2) For an authorized officer to carry out prosecution powers provided under subsection (1) (b), the officer shall be an appointed prosecutor by the Director of Public Prosecutions.

Seizure of Goods

27. (1) An authorized officer shall not seize any goods, equipment or property unless where it is necessary for the officer to produce such goods, equipment or property as evidence in Court.

(2) Where an authorized officer deems it appropriate to seize any goods for the purposes of this section, the officer shall only seize a sample of the goods which shall be appropriate exhibit.

(3) Where any goods, equipment or property are seized under subsection (1), the authorized officer shall take inventory of the goods, equipment or property seized which shall be recorded in prescribed seizure form.

(4) The goods, equipment or property seized under this section shall be stored in safe custody accordance with the prescribed procedure.

(5) Any person from whom goods have been seized under this section may, within thirty days after the date of seizure, apply to the Court for an order of restoration.

Order of Restoration

28. The Court may order the goods seized under section 27 to be restored to the applicant if, on hearing the application, the Court is satisfied that—

- (a) the applicant is entitled to possession of the good seized; and

- (b) the goods seized are not and will not be required as evidence in any proceedings related to enforcement of this Act or a law governing county revenue administration.

Forfeiture

29. (1) Where goods seized under section 27 becomes collectable by the owner, the authorized officer shall issue a notice indicating the place and time where the goods may be collected and the period within which the goods must be collected.

(2) Where the goods become collectable under subsection (1), and the owner does not collect them within the stipulated period, the goods shall be forfeited to the county government.

(3) The goods forfeited under this section may be sold by way of auction or disposed as obsolete goods.

(4) An owner of goods forfeited shall not have any claim over the goods upon the expiry of the period stipulated under subsection (1).

PART V—MISCELLANEOUS

Regulations

30. (1) The Executive Member may, make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of Subsection (1) the Executive Committee member shall within 30 days after the coming into force of this Act publish Regulation that—

- (a) prescribe the manner of registration of county tax payers;
- (b) prescribe the process of appointment of authorized officers and related matters;
- (c) prescribe the procedure for the appeals committee and conduct of business;
- (d) prescribe the forms applicable under this Act;

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- (e) prescribing the records related to revenue administration to be maintained; and
- (f) prescribe the records to be maintained by a tax payer.

SCHEDULES**FIRST SCHEDULE****(s. 17)**

The following are the regions as referred to in Section 17—

1. Kirinyaga Central
2. Kirinyaga West
3. Kirinyaga East
4. Mwea East
5. Mwea West