

SPECIAL ISSUE

COUNTY ASSEMBLIES FORUM (CAF)
P. O. Box 73552 - 00200,
NAIROBI, KENYA

Kisumu County Gazette Supplement No. 5 (Bills No. 4)

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REPUBLIC OF KENYA

***KISUMU COUNTY GAZETTE
SUPPLEMENT***

COUNTY ASSEMBLY BILLS, 2013

NAIROBI, 27th September, 2013

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COUNTY ASSEMBLIES FORUM (CAF)
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**THE KISUMU COUNTY PROVISIONAL COLLECTION OF
REVENUE BILL, 2013**

ARRANGEMENT OF CLAUSE

Clause

PART I-PRELIMINARY

1-Short title and commencement.

PART II-PROVISIONAL COLLECTION ORDERS

2-Making of provisional collection orders.

3-Duration of orders.

4-Refund of Excess tax.

5-Power to amend orders and make subsidiary legislation.

THE KISUMU COUNTY PROVISIONAL COLLECTION OF REVENUE BILL, 2013

A Bill for

AN ACT of the Kisumu County Assembly to give statutory effect for limited periods to orders of the Executive Committee Member for Finance imposing any new tax or duty or rate of tax or duty, or creating any new allowance, or altering or removing any existing tax or duty, or any such rate or allowance and for connected purposes.

ENACTED by the County Assembly of Kisumu County as follows—

PART 1 - PRELIMINARY

This Act may be cited as the Kisumu County Provisional Collection of Revenue Act, 2013-08-12

Short title and
commencement.

PART II – PROVISIONAL COLLECTION ORDERS

If a Bill is published in the Gazette whereby, if such Bill were passed into law, any tax or duty, or any rate, allowance or administrative or general provision in respect thereof, would be imposed, created, altered or removed, the Executive Committee Member for Finance may, subject to this Act and notwithstanding the provisions of any other written law relating to taxes and duties, make an order that all or any specified provisions of the Bill relating to taxes or duties shall have effect as if the Bill were passed into law.

Making of
provisional
collection orders.

Every order made under this Act shall come into force on a day to be named therein, and, without prejudice to the power to cancel it at any time, shall ceased to have effect-

Duration of orders.

If the Bill in respect of which the order is made is not introduced into the Assembly within four months of the making of the order; or

On rejection by the Assembly of the Bill in respect of which the order was made, or on the

withdrawal of the Bill, or on the consideration of the Bill by the Assembly being adjourned sine dine; or

On the expiration of six months after the date on which the order is expressed to come into force; or

On such Bill, with or without modification becoming law.

Provided that the Executive Committee member for Finance may by order, with the approval of the Assembly signified by resolution, declare that the period referred to in paragraph 9(c) shall be extended for such period as may be specified in the order.

Without prejudice to any provision of any law for the time being in the force relating to the collection of any tax or duty, being a provision enabling a refund to be made of any tax or duty paid in compliance with such law and any order made under this Act in excess of any tax or duty payable immediately after such order has ceased to have effect, any such excess may, if it has not been so refunded, or to the extent to which it had not been so refunded, be refunded by being charged on and paid out of the county revenue fund.

Refund of excess tax
or duty.

Where any provision of a Bill are for the time being in effect by virtue of an order made under section 2, the Executive Committee Member for Finance may, by further order –

Power to amend
orders and make
subsidiary
legislation.

Amend such provisions;

make any subsidiary legislation that could have been made had such provision been passed into law, and any such further order shall be subject to the provision of section 3:

Provided that in the event of the first mentioned order ceasing to have effect pursuant to

paragraph (d) of section 3, any subsidiary legislation made under paragraph (b) of this section shall continue in force as if made under the Bill as enacted.

(3) for the purpose of article 94(6) of the Constitution-

- (a) the purpose and objective of the delegation under this section is to enable the Executive Committee Member for Finance to make regulations to bring into effect provisions relating to collection of revenue due to the County Government.
- (b) the regulations made under this section shall be of such nature, scope and within the limits as specified under this section.
- (c) the principles and standards applicable to the regulations made under this section are those set out in the Interpretation and General Provisions Act (Cap 2) and the Statutory Instrument Act, 2013.

MEMORANDUM OF OBJECTIVES AND REASONS

The need to immediately execute taxation and other revenue raising measures so as to meet the revenue needs of the county means that the measures are necessary to ensure the immediate commencement of the collection of revenue by the county government after the Bill is published.

The process of enacting a bill in legislature is unpredictable in terms of the time that a Bill may take from publication to enactment. This makes it prudent to put measures into place that will ensure that revenue projections are not unduly impaired, hence the powers of the executive to operationalize the proposals in a Bill already published but yet to be enacted.

Part I of the bill provides for the short title of the proposed law.

Part II at clause 2, empowers the Executive Committee Member for Finance to issue orders after the Finance Bill is published that allows any tax or duty, or any rate, allowance or administrative or general provision in respect thereof, to be imposed, created, altered or removed, to have effect as if the Bill were passed into law.

Clause 3 provides for the duration of such orders issued under clause 2.

Clause 4 provides for refund of any taxes if the proposed provision on which the order was premised is rejected by the Assembly.

Clause 5 provide for the power to amend the orders issued by the Executive Committee Member.

This law when enacted will confer on the Executive Committee Member for Finance authority to make provisions having the force of law in Kenya in terms of Article 94(6) of the Constitution of Kenya, 2010

Dated the 12th August, 2013.

WILSON OGONYO MINDEU,
Chairperson, County Budget and Appropriation Committee.

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