

SPECIAL ISSUE

Kisumu County Gazette Supplement No. 25 (Acts No. 14)



REPUBLIC OF KENYA

***KISUMU COUNTY GAZETTE
SUPPLEMENT***

ACTS, 2015

NAIROBI, 31st December, 2015

CONTENT

Acts—

PAGE

The Kisumu County Revenue Administration Act, 20151

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

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

(No. 14 of 2015)

Date of Assent: 8th July, 2015

Date of Commencement: 31st December, 2015

ARRANGEMENT OF CLAUSES

Clauses

PART I—PRELIMINARY MATTERS

- 1—Short title and commencement.
- 2—Interpretation.

PART II—ADMINISTRATION OF REVENUE LAWS

- 3—Establishment of a Directorate of Revenue Administration.
- 4—Appointment of County Director of Revenue.
- 5—Functions and powers of County Director of Revenue.
- 6—Delegation of Functions and Powers.
- 7—Establishment of Revenue Management Committee.
- 8—Functions of the Revenue Management Committee.
- 9—Agreement in relation to Revenue Collection.
- 10—Annual Report.

PART III—PAYMENT

- 11—Revenue to be paid into the County Revenue Fund.

PART IV—ENFORCEMENT

- 12—Keeping of Records.
- 13—Assessment.
- 14—Powers to repossess plots, properties and evict persons.
- 15—Seizure of property required as evidence.
- 16—Appeal to the Revenue Management Committee.

PART V—GENERAL PROVISIONS

- 17—Identification.
- 18—Revenue Registers.

!

2

No. 14

Kisumu County Revenue Administration

2015

!

19— Approved Forms.

20 —General Penalty for Offence.

21— Publication and Service of Notices and other documents.

22—Penalties and Interests.

23—Annual Licenses and Fees.

24—Burden of Proof.

25—Regulations and Guidelines.

26—County Public Officers.

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

**AN ACT of the Kisumu County to provide for the general
administration of taxation laws, revenue raising laws, and for
related purposes**

ENACTED by the Kisumu County Assembly as follows—

PART 1—PRELIMINARY MATTERS

Short title and commencement

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

Interpretation

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

“Agent” means a person other than a County public officer appointed to collect revenue on behalf of the County;

“Assessment” means an estimate of fees, charges, rent or rates including interest owed by a taxpayer to the County under section 15 of this Act.

“Authorized revenue collector” means the County Revenue Collector and any other officer appointed under section 8 of this Act;

“County public officer” has the same meaning assigned in the County Government Act;

“County Director of Revenue” means the person appointed under section 4 of this Act;

“County” means the County Government of Kisumu;

“County Revenue Fund” means a Fund established in accordance with section 207 of the Constitution;

“Executive Committee Member” means Executive Committee Member responsible for Finance;

“Rate” means a charge imposed on an area of land in accordance with the Rating Act Cap.267 or any other law or regulations that may be enacted for that purpose;

“Rent” means fees payable for use of a County house, stall or premises and includes hiring of a social hall or ground for social functions or any other activities;

“Revenue” means any fee, charge, cess, rates, rent or any payment payable or due to the County;

“Revenue law” means this Act, and any other Act relating to imposition and collection of revenue for the County; and

“Taxpayer” means a person required to a pay fee, charge, rate among others to the County

‘him’, ‘his’ or ‘he’ in this citation includes female or male gender

PART II— ADMINISTRATION OF REVENUE LAWS

Establishment of a Directorate

3. (1) There is established a Directorate of Revenue Administration Services.

(2) The head of the directorate shall be the County Director of Revenue

(3) The directorate shall have such divisions as may be necessary for revenue administration.

Appointment of County Director of Revenue

4. There shall be a County Director of Revenue appointed by the County Public Service Board.

A person shall not be appointed as a County Director of Revenue unless—

- (i) holds at least a degree in public finance, economics, business administration from a university recognized in Kenya or equivalent;
- (ii) must be a registered certified public accountant or its equivalent.
- (iii) is of high moral character and integrity and fulfills the requirement of Chapter six of the Constitution;
- (iv) has not been adjudged bankrupt by a court of law of competent jurisdiction;
- (v) has met his tax obligations both at national and the County level;
- (vi) has at least ten years’ experience in matters related to finance; or accounting
- (vii) has clearance certificate or a letter of no objection from the Higher Education Loan Board

Functions and powers of County Director of Revenue

5. (1), the County Director of Revenue shall be the principal revenue collector and shall be responsible for—

- (i) with the approval of the County Executive in charge of Finance, appoint such heads of divisions as may be required for the efficient performance of the directorate.
- (ii) with the approval of the County Executive in charge of Finance, appoint Sub-County Revenue Collector;
- (iii) administration and enforcement of revenue laws;
- (iv) planning, directing, supervising and coordinating activities of revenue collection, implementation of policies on revenue collection;
- (vi) designing and maintaining systems to promote and support voluntary payments of revenue and also compliance with revenue laws;
- (vii) ensuring accurate, efficient and lawful assessment of revenue;
- (viii) designing and implementing a plan to achieve revenue growth;
- (ix) designing and implementing effective, efficient and secure systems of collecting revenue;
- (x) ensuring the revenue management committee is regularly updated on revenue matters;
- (xi) with the approval of the executive committee member, transfer or merge the functions of a division of the directorate;
- (xii) transfer any revenue collector from one division to another or from one station to another; and
- (xiii) performing such other functions as may be assigned by the executive committee member.

Delegation of functions and powers

6. The County Director of Revenue may, by instrument in writing, delegate all or any of their functions or powers under any revenue law to a county public officer to assist him/her in revenue collection.

Revenue Management Committee

7. (1) There is established a Revenue Management Committee.

(2) The Committee shall comprise of the—

- (i) Executive Committee Member of Finance who shall be the chairperson;
- (ii) Chief Officer responsible for Finance;
- (iii) Chief Officer/s responsible for Lands, Housing and Physical Development
- (iv) Chief Officer in charge of Administration;
- (v) Chief Officer/s in charge of Trade, Industry, Tourism and Cooperatives;
- (vi) Chief Officer in charge of Health
- (vii) Chief Officer/s in charge of Water, Environment and Natural Resources
- (viii) Technical Officer in charge of general enforcement in the county or his representative
- (ix) The County Director of Revenue or his representative who shall be the secretary to Committee.
- (x) County Attorney
- (xi) And any other person appointed by the Executive Committee Member for Finance

(3) The Committee shall meet at least once every month.

Functions of the Revenue Management Committee

8. The functions of the Revenue Management Committee shall be to—

- (i) review the revenue performance;
- (ii) advise on the revenue policies;
- (iii) approve eviction of person occupying a County house, a stall or a County premises and repossession of plots or properties upon recommendation of the County Director of Revenue;

- (iv) set targets for various revenue divisions, Sub-County and the overall revenue target for the County;
- (v) approve the appointment or removal of a Sub County Revenue Collector;
- (vi) consider and recommend waiver of fees, charges, rates or penalties;
- (vii) approve appointment of revenue agent;
- (viii) advise the County Director of Revenue on measures to enhance revenue collection, and
- (ix) Perform any other matter necessary for better carrying out the functions of this Act

Agreement in relation to revenue collection

9. The County Government may enter into an agreement authorizing any other 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

10. (1) The County Director of Revenue must prepare an annual report on the operation and administration of all revenue laws.

(2) The County Director of Revenue must give the annual report to the county executive member responsible for finance within 90 days after the end of the year to which the report relates.

(3) The County Executive Member responsible for Finance must table the annual report in the county assembly within two weeks after presentation to the Cabinet Office but not more than four weeks.

PART III—PAYMENT TO COUNTY REVENUE FUND ACCOUNT

11. (1) All money collected, or due and payable under any revenue law to the County shall be paid into the County Revenue Fund.

(2) A revenue collector shall issue an official receipt on all payment received on behalf of the County.

3) All the revenue collected under sub section (1) shall be banked daily by latest 4.00 pm.

(4) Any money collected after 4.00 pm over the weekend or on a public holiday shall be banked during the next working day before 10.00 am.

(5) A person shall not receive or collect any money on behalf of the County unless authorised by the County Director of Revenue or by another revenue law.

(6) Any person who contravenes the provisions of this section commits an offence and on conviction shall be liable to a fine not exceeding one hundred thousand shilling or to imprisonment of six months or to both

PART IV—ENFORCEMENT

Keeping of Records

12. (1) The County Director of Revenue shall maintain records of all tax payers to determine the revenue payer's liability to pay rates, taxes, fees or charges under the relevant revenue laws, regulations, and operation manuals.

Assessment

13. (1) The County Revenue Collector based on such evidence as may be available to him, may make assessment of fees, charges, cess, rent or rates including interest owed by a taxpayer.

(2) An assessment under subsection (1) shall not alter the due date of payment of the fees, charges or rate as determined under the revenue law.

(3) The authorized revenue collector 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 or rates payable and the date taxpayer is expected to pay.

(4) For the purposes of determining the liability (if any) of a revenue payer to pay a rate, tax, fee or charge payable under a revenue law, the county revenue collector may, by notice in writing, given to a relevant person require the relevant person to do either or both of the following—

(i) provide the County Director of Revenue with such information as the county revenue collector requires;

(ii) attend and give evidence before the county revenue collector, including on oath administered by the County Director of Revenue.

(5) If a person fails to comply with a notice under subsection (1), the person commits an offence punishable on conviction by a fine not exceeding 100,000 shillings.

Powers to repossess plots, properties and evict a person

14. (1) The County Director of Revenue may issue notices on matters incidental to—

- (i) repossession of a plot or property if the owner has failed to pay the rate for more than three consecutive years
- (ii) eviction of a person occupying County house, stall or premises if the person has failed to pay the rent for more than three consecutive months.

(2) Section 12 (1) does not apply to employees of the County Government of Kisumu who are in occupation of the County houses. The said employees who are not paying house rent directly to the revenue office, their rent payment shall be recovered from their salaries.

(3) The County Director of Revenue shall serve notice of eviction or repossession to a person occupying County house, premises, stall or the owner of the plot setting out conditions for restoration and the time limit within which the person occupying the County house, premises, an should comply

Seizure and forfeiture of goods

15. (1) An authorised revenue collector may seize goods if he has reasonable grounds to believe that revenue in respect of the goods has not been paid.

(2) Goods seized under subsection (1) shall be stored in a place approved by the County Director of Revenue or authorised revenue collector in a manner to ensure the security of the goods.

(3) When the goods referred to in sub section (1), have been seized, the authorised revenue collector shall, having regard to the conditions of the goods, serve the owner of the goods or the person who had custody or control of the goods, a notice in writing—

- (i) identifying the goods;
- (ii) stating that the goods have been seized under this section and the reasons for seizure;
- (iii) setting out the terms for the release or disposal of the goods; and
- (iv) stating that the goods shall be forfeited to the County, if not claimed in accordance with subsection (4).

(4) The County Director of Revenue or authorised revenue collector may authorize the goods to be released to whom the notice was served under subsection (3) when that person pays or has given security for the payment of revenue due and payable, in respect of the goods.

(5) If subsection (4) does not apply, the County Director of Revenue or the authorized revenue collector shall detain the goods—

(i) in case of perishable goods, for a period that is reasonable, having regard to the conditions of the goods; or

(ii) in any other case, for thirty days after the seizure.

(6) When the retention period under subsection (5) has expired, the goods shall be treated as having been forfeited by the owner to the office of the County Director of Revenue

(7) The County Director of Revenue may sell the forfeited goods through a public auction or any other means approved by the revenue management committee.

Appeal to the Revenue Management Committee

16. If a taxpayer is dissatisfied with the decision of the County Director of Revenue, he may within thirty days of being served with a notice of assessment by the County Director of Revenue appeal to the Revenue Management Committee. The Revenue Management Committee may within thirty days communicate their decision on the subject matter.

PART V—GENERAL PROVISIONS

Identification

17. An authorized revenue collector shall wear visibly a staff identification card issued by the County Director of Revenue

Revenue register

18. (1) The county revenue collector must establish a revenue register and always keep it up to date.

(2) The register must contain the prescribed information and may be kept in such form as the county revenue collector decides from time to time.

Approved format

19. The County Director of Revenue may approve format and procedures for the purposes of revenue collection.

!

General penalty for offence

20. 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 expressly provided by this Act for that offence, the person is liable on conviction to a fine not exceeding one hundred thousand shillings, or to imprisonment for a term not exceeding six months or to both.

Publication and service of documents

21. (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 under or for the purposes of a revenue law may be sent or served—

- (i) by delivering it to the person to or on whom it is to be sent or served;
- (ii) by 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;
- (iii) by ordinary or registered post;
- (iv) by emailing it to the person; or
- (v) any method which may be prescribed:

(3) However, if the county revenue collector having attempted to send or serve a document by one of the methods provided under subsection (2) and is satisfied that such notice has not been received by the person to whom it was addressed, the county revenue collector may advertise, in the manner provided in subsection (1), the general purport of such document, and upon such advertising 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 rateable owners.

(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.

Penalty and Interests

22. Any person who fails to pay rents, rates, tax or any other prescribed fees shall pay penalty and interest on the principal sum demanded by the Revenue collector. The rates of such interests and penalties as shall be prescribed by the Executive member in charge of finance.

Annual licenses and fees

23. All annual licenses, rates and related fees which are not paid as at the 31st of March shall attract penalty and interest as shall be prescribed by the Executive member in charge of finance.

Burden of proof

24. Once the revenue collector has determined the tax or fees payable by a tax payer to the county, the burden shall lie on the said taxpayer to prove that revenue collector has not accurately assessed his tax.

Regulations and Guidelines

25. The County Executive Committee Member for Finance may make regulations and guidelines for the better carrying out the provisions of this Act, and without prejudice to the foregoing, the regulations will take effect upon publication in the Kenya Gazette.

County Public Officers

26. (1) On coming into effect of this Act, the County Public Officers collecting revenue for the County shall—

- (i) Continue to collect or receive revenues on behalf of the County as if they were appointed under this Act.
- (ii) Become officers of the directorate established under this Act

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

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