

SPECIAL ISSUE

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***MACHAKOS COUNTY GAZETTE
SUPPLEMENT***

BILLS, 2015

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THE MACHAKOS REVENUE ADMINISTRATION BILL, 2015

A Bill for

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

ENACTED by Machakos County Assembly as follows—

PART I—PRELIMINARY MATTERS

Short Title

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

Interpretation

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

“county public officer” has the same meaning as in the County Governments Act No. 17 of 2012;

“county revenue collector” means the person holding or acting in the office of the county revenue collector established by section 3;

“premises” includes;

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

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

“rate” means a rate imposed under the Machakos County Rating Act 2014;

“revenue law” means—

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

“revenue payer” means a person liable to pay a rate, tax, fee or charge to the county government under a revenue law.

“relevant person” means—

- (a) a revenue payer; or
- (b) an employee or agent of the revenue payer; or
- (c) any other person whom the County revenue collector 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.

PART II— ADMINISTRATION OF REVENUE LAWS

County revenue collector

3. (1) There is established an office of the County Revenue Collector.

(2) The county government may appoint a county public officer or any other person as the county revenue collector, including acting as the county revenue collector.

Functions and Powers of County Revenue Collector

4. (1) The county revenue collector—

- (a) is responsible for the administration and enforcement of revenue laws and for that purpose to assess, collect and account for all rates, taxes, fees and charges payable by or under any of those laws; and
- (b) advises the county government on all matters relating to the administration and enforcement of county revenue laws, and the assessment and collection of rates, taxes, fees and charges under those laws; and
- (c) shall perform such other functions as the County Government directs.

(2) The county revenue collector has such powers as are provided for under the revenue laws.

Delegation of Functions and Powers

5. The county revenue collector may, by instrument in writing, delegate all or any of their functions or powers under any revenue law to a county public officer, except this power of delegation.

Agreement in relation to Revenue Collection

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

Annual Report

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

(2) The county revenue collector shall 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 shall table the annual report in the county assembly as soon as practicable.

PART III—RECORDS AND INFORMATION OF REVENUE PAYERS

Books Accounts and Records to be made and kept

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

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

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

- (a) in the case of an individual – 100,000 shillings; or
- (b) in any other case - 500,000 shillings.

Providing Information and Evidence

9. (1) 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:

- (a) provide the county revenue collector with such information as the county revenue collector requires;
- (b) attend and give evidence before the county revenue collector, including on oath administered by the county revenue collector.

(2) 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.

Access Inspection and other Powers

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

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

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

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

(4) If a person—

- (a) fails or refuses to provide access to premises required by the county revenue collector; or
- (b) obstructs or hinders the county revenue collector in the discharge of his or her duties under paragraph (1)(a),(b); or
- (c) the person commits an offence punishable on conviction by a fine not exceeding one hundred thousand shillings.

Seizure of Property required as Evidence

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

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

PART IV—GENERAL PROVISIONS

Identification

12. (1) In performing any function or exercising any power under this Act, the county revenue collector shall produce written identification establishing their position if requested by any person.

(2) In performing any function or exercising any power under this Part, a delegate of the county revenue collector shall produce written identification establishing their position as the county revenue collector's delegate if requested by any person.

Revenue Register

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

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

Approved Forms

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

Offences

15. Any person required to deduct or collect any revenue pursuant to this Act shall collect or deduct such revenue and remit it to the County Government on or before the twentieth day of the month next following the month in which the revenue falls due.

(2) If any person fails to remit any revenue in accordance with subsection (1) on or before the due date, a penalty of twenty percent of the amount due shall become due and payable, and thereafter an interest of two percent per month or part thereof until the amounts are remitted in full.

(3) A person who contravenes subsections (1) or (2) commits an offence.

General Penalty for Offence

16. 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.

Publication and Service of Documents

17. (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 –

- (a) by delivering it to the person to or on whom it is to be sent or served;
- (b) 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;
- (c) by ordinary or registered post;
- (d) by emailing it to the person; or
- (e) 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 the 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.

Guidelines

18. The county revenue collector may issue guidelines for the purposes of a revenue law.

Regulations

19. The county executive member responsible for finance may make Regulations generally for the better carrying out of the provisions and purposes of this Act.

MEMORANDUM OF OBJECTS AND REASONS

This Bill provides for the general administration of taxation and other revenue raising laws, establishes the office the county revenue collector and makes provision for related purposes.

Part 1 provides for preliminary matters and includes the short title, commencement and interpretation.

Part II provides for the following; county revenue collector, functions and powers of county revenue collector; delegation of functions and powers; agreement in relation to revenue collection and annual report.

Part III is on records and information of revenue payers and contains books, accounts and records to be made and kept; providing information and evidence; access, inspection and other powers and seizure of property required as evidence.

Part IV is on general provisions. It provides for: identification; revenue register; approved forms; general penalty for offence; publication and service of notices and other documents; guidelines and regulations.

The enactment of this Bill shall occasion additional expenditure of public funds which shall be provided through the estimates.

Dated the 23rd February, 2015.

HON. OLIVER NZEKI,
Member of the County Assembly.