

Mandera County Gazette Supplement No. 3 (Bills No. 3)



REPUBLIC OF KENYA

**MANDERA COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 20th, November, 2015

CONTENT

Bill for Introduction into the County Assembly of Mandera—	PAGE
The Mandera County Revenue Administration Bill, 2015	1

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

**THE MANDERA COUNTY REVENUE ADMINISTRATION BILL,
2015**

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY MATTERS

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

PART II—ADMINISTRATION OF REVENUE LAWS

- 3— County revenue collector.
- 4— Functions and powers of county revenue collector.
- 5— Delegation of functions and powers.
- 6— Agreement in relation to revenue collection.
- 7— Annual report.

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

- 8— Books, accounts and records to be made and kept.
- 9— Providing information and evidence.
- 10— Access, inspection and other powers.
- 11— Seizure of property required as evidence.

PART IV—MISCELLANEOUS

- 12— Identification.
- 13— Revenue register.
- 14— Approved forms.
- 15— General penalty for offence.
- 16— Publication and service of notices and other documents.
- 17— Guidelines.
- 18— Rules.

**THE MANDERA COUNTY REVENUE ADMINISTRATION BILL,
2015**

A Bill for

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

ENACTED by the County Assembly of Mandera as follows—

PART I—PRELIMINARY MATTERS

Short title and commencement

1. (1) This Act may be cited as the Mandera County Revenue Administration, 2013.

(2) This Act shall come into operation on assent of Mandera Governor.

Interpretation

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

“county public officer” has the same meaning as in the County Governments Act, 2013;

“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 Mandera County Rating Transition Act, 2013; “revenue law” means—

- (a) this Act; or
- (b) the Mandera County Rating Transition Act, 2015; or
- (c) the Mandera County Trade Licence Transition Act, 2015; or
- (d) the Act providing for annual county finances; or
- (e) any other Act imposing an entertainment tax or any other tax that is payable to the County Government; or
- (f) any Act or other law providing for the payment to the County Government of fees or charges for services provided; or

(g) any other prescribed 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;

“revenue payer” means a person liable to pay a rate, tax, fee or charge to the County Government 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 to act 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) is to advise 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) must 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 his or her 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 must prepare an annual report on the operation and administration of all revenue laws.

(2) The county revenue collector 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 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 must 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 is guilty 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 is guilty of 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 must 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);
- (c) the person is guilty of an offence punishable on conviction by a fine not exceeding 100,000 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 must be returned as soon as practical to the person entitled to it.

PART IV—MISCELLANEOUS

Identification

12. (1) In performing any function or exercising any power under this Act, the county revenue collector must produce written identification establishing his or her 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 must produce written identification establishing his or her position as the county revenue collector's delegate if requested by any person.

Revenue register

13. (1) The county revenue collector must establish a revenue register and 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.

Approved forms

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

General penalty for offence

15. 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 10,000 shillings.

Publication and service of documents

16. (1) Any document required to be published under a revenue law may be published by advertisement in the *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; or

(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; or

- (c) by ordinary or registered post; or
- (d) by emailing it to the person; or
- (e) any method which may be prescribed:

(2) 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 be deemed to have been received by the that person.

(3) An advertisement referred to in subsection (3) may refer to one or more documents and to one or more rateable owners.

(4) 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

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

Rules

18. The County Executive Member responsible for finance may make rules generally for the better carrying out of the provisions and purposes of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Bill 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 this purpose, the Bill sets out additional relevant administrative and enforcement provisions relating to revenue legislation. The Bill also aims at enhancing county revenue collection and administration through establishing a Revenue Unit and providing for enabling procedures. By establishing the unit, the Bill seeks to promote efficiency and effectiveness in county revenue administration.

The structure of the Bill is as follows—

PART I—(clauses 1-3) of the Bill contains preliminary provisions. These include the title of the Bill, the interpretation of words and expressions used in the Bill and Purpose of the Act.

PART II—(clauses 4-5) of the Bill establishes the County Revenue Unit to be responsible for collection of county revenue, assessment of tax payable to the county government where applicable among others. The part also provides for appointment of chief revenue officer who shall be appointed by Mandera County Public Service Board in consultation with the Executive Committee Member responsible for Finance.

PART III—(clauses 6-27) of the Bill provides for value to be adopted in the implementation of the Act, which include human dignity, rule of law, fairness, transparency and equity. The part also contain provisions on establishment and administration of Revenue Complaint Committee. The Revenue Unit is also charged with the responsibility of ensuring compliance with the requirements under the Act as well as providing education and awareness and registering taxpayers under the Act. The part also provide for establishment of a revenue complaints committee for handling compliant related to revenue administration.

PART IV—(clauses 28-32) of the Bill provides for the appointment of authorized officers for the purpose of enforcing the Act. The part also sets out provisions for power of authorized officers, seizure of goods, order of restoration and forfeiture.

PART V—(clause 33) of the Bill provides for miscellaneous provisions, which include the power of the Executive Member to make Regulations.

Dated the 14th August, 2015.

MOHAMED SHABURE,
*Chairperson,
Finance and Economic Planning Committee.*