

SPECIAL ISSUE

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**TANA RIVER COUNTY GAZETTE
SUPPLEMENT**

BILLS, 2015

NAIROBI, 1st December, 2015

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**THE TANA RIVER COUNTY REVENUE ADMINISTRATION
BILL, 2015**

A Bill for

**AN ACT of the County Assembly of Tana River 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 Tana River, as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Tana River County Revenue Administration Act 2015. Short title.

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

“County Executive Committee Member” means the County executive committee member responsible for finance;

“County public officer” has the same meaning as in the County Governments Act 2012; No. 18 of 2012.

“Receiver of Revenue” means a person designated to be a receiver of revenue under section 157 of the Public Finance Management Act, 2012 and includes the person holding or acting in the office of the County Receiver of Revenue established by section 4 of this Act;

“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 Tana River County Rating Act 2013;

“revenue law” means—

- (a) this Act; or
- (b) the Tana River County Rating Transition Act 2013;
- (c) the Tana River County Trade Licence Transition Act 2013;

- (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; or
- (g) any other written law;

“relevant person” means—

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

3. Any person charged with an obligation under this Act shall— Guiding principles.

- (a) observe the values and principles of public finance management and other values on transparency, accountability and prudent use of public funds under the Constitution;
- (b) comply with relevant national and county laws that regulate public funds.

PART II—ADMINISTRATION OF REVENUE LAWS

4. (1) There is established, in the County Public Service, an office of the Receiver of Revenue. County Receiver of Revenue.

(2) The county government may appoint a county public officer or any other person as the County Receiver of Revenue, or to act as the County Receiver of Revenue.

5. (1) The County Receiver of Revenue shall—

- (a) be responsible for the administration and enforcement of revenue laws;

Functions and powers of County Receiver of Revenue.

- (b) collection of County revenue;
- (c) account for all rates, taxes, fees and charges payable by or under any of revenue laws;
- (d) 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
- (e) perform such other functions as the county government may direct.

(2) The County Receiver of Revenue shall have such powers as are provided for under the revenue laws.

(3) Unless expressly provided for in an Act, the County Receiver of Revenue shall be responsible for the assessment of revenue in the County.

6. (1) The County Executive Committee Member or County Receiver of Revenue may, either generally or as otherwise provided by the instrument of delegation, in writing, delegate to—

Delegation of
functions and
powers.

- (a) any a person; or
- (b) an officer,

all or any of the powers and functions of the County Executive Committee Member or County Receiver of Revenue under this Act other than this power of delegation.

(2) A power or function so delegated, when exercised or performed by the delegate, shall, for the purposes of this Act, be deemed to have been exercised or performed by the County Executive Committee Member or County Receiver of Revenue.

(3) A delegation under this section does not prevent the exercise of a power or the performance of a function by the County Executive Committee Member or County Receiver of Revenue.

(4) The Executive Committee Member may make regulations in relation to the exercise of powers, and the performance of functions, of the Director under this Act by an officer of the County.

(5) The County Executive Committee Member or County Receiver of Revenue may revoke or amend a delegation under this Act.

(6) An arrangement, or the variation or revocation of an arrangement, shall be in writing and a copy of each instrument by which an arrangement has been made, varied or revoked shall be published in the County Gazette.

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

Agreement in relation to revenue collection.

(2) The County Executive Committee Member may make regulations to give full effect to subsection (1).

8. (1) The County Receiver of Revenue shall prepare an annual report on the operation and administration of all revenue laws.

Annual report

(2) The County Receiver of Revenue shall give the annual report to the County Executive Member within ninety days after the end of each financial year to which the report relates.

(3) The County Executive Committee Member shall table the annual report in the County Assembly as soon as practicable.

9. Pursuant to section 159 of the Public Finance Management Act, 2012, the County Executive Committee Member may waive a county tax, fee or charge imposed by the county government and its entities in accordance with criteria prescribed in regulations provided that—

Powers of County Executive Committee member to waive or vary tax, fees or charges..

(a) the County Treasury shall maintain a public record of each waiver together with the reason for the waiver and report on each waiver in accordance with Section 164 of the Public Finance Management Act;

(b) a State Officer may not be excluded from payment of a tax, fee or charge by reason of the office of the State Officer or the nature of work of the State Officer; and

(c) such waiver or variation has been authorized by an Act of Parliament or county legislation.

PART III—RECORDS AND INFORMATION OF REVENUE PAYERS

10. (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 ten years after the completion of the transactions to which they relate.

Books, accounts and records to be made and kept.

(2) The County Receiver of Revenue 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 an offence and shall on conviction be liable to a fine not exceeding in the case of an individual, one hundred thousand shillings or in any other cases, five hundred thousand shillings.

11. (1) For the purposes of determining the liability of a revenue payer to pay a rate, tax, fee or charge payable under a revenue law, the County Receiver of Revenue may, by notice in writing, given to a relevant person require the relevant person to—

Providing information and evidence.

(a) provide the County Receiver of Revenue with such information as the County Receiver of Revenue may require; or

(b) attend and give evidence before the County Receiver of Revenue.

(2) A person who fails to comply with a notice issued by the County Receiver of Revenue under subsection (1), commits an offence and shall on conviction be liable to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding three months.

12. (1) For the purpose of determining the liability of a revenue payer to pay a rate, tax, fee or charge payable under a revenue law, the County Receiver of Revenue shall have access to any premises of, or in the custody or control of, a relevant person and may, at all reasonable times—

Access, inspection and other 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 Receiver of Revenue is of the view that it is impractical to exercise any of the powers under subsection (1) (a), (b) or (c), the County Receiver of Revenue may remove all or any of the things referred to in that subsection 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 Receiver of Revenue 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 Receiver of Revenue; or
- (b) obstructs or hinders the County Receiver of Revenue in the discharge of his or her duties under paragraph (1) (a), (b) or (c);

that person commits an offence and shall be liable on conviction, to a fine not exceeding one hundred thousand shillings.

13. (1) The County Receiver of Revenue 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.

Seizure of property required as evidence.

(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

14. (1) In performing any function or exercising any power under this Act, the County Receiver of Revenue must produce written identification establishing his or her position if requested by any person.

Identification.

(2) In performing any function or exercising any power under this Part, a delegate of the County Receiver of Revenue must produce written identification establishing his or her position as the County Receiver of Revenue's delegate if requested by any person

15. (1) The County Receiver of Revenue must establish a revenue register and keep it up to date. Revenue Register.

(2) The register must contain the prescribed information and may be kept in such form as the County Receiver of Revenue decides.

16. The County Receiver of Revenue may approve forms for the purposes of a revenue law. Approved forms.

17. Any person who contravenes any provision of this Act, commits an offence and, unless another penalty is expressly provided by this Act, shall be liable, on conviction, to a fine not exceeding one hundred thousand shillings. General penalty for offence.

18. (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. Publication and service of documents.

(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 by—

- (a) delivering it to the person to or on whom it is to be sent or served;
- (b) 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) ordinary or registered post;
- (d) emailing it to the person; or
- (e) any method which may be prescribed.

(3) However, if the County Receiver of Revenue 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 Receiver of Revenue 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.

(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.

19. The County Receiver of Revenue may issue Guidelines. guidelines for the purposes of a revenue law.19.

20. The County executive member responsible for finance may make rules or regulations generally for the Rules and regulations. better carrying out of the provisions and purposes of this Act.

MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to establish a centralized revenue collection office for the county. The Bill establishes the office of the County Receiver of Revenue who is largely responsible for the assessment and collection of revenue of the County.

The Bill also assigns functions to the County Executive Committee Member responsible for Finance who is responsible for policy directions and oversight with regard to exercise of the functions under this Act.

The Bill recognizes that the County Receiver of Revenue may be assigned additional functions by any other Act.

The Bill provides for reporting, transparency and accountability mechanism. This is in line with the values and principles of public finance in the Constitution.

This Bill does not limit any fundamental rights and freedoms

This Bill concerns the county government.

The operationalization of certain provisions of the proposed law shall entail an additional expenditure of public funds. The funds will be provided for in the estimates.

Dated the 4th November, 2015.

MASHA BORU DELA,
Leader of Majority Party, County Assembly of Tana River.