SPECIAL ISSUE

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CONTENT

Bill for Introduction into the County Assembly of Trans Nzoia—

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THE TRANS NZOIA COUNTY REVENUE ADMINISTRATION BILL, 2016

ARRANGEMENT OF CLAUSES

Clause

PART 1—PRELIMINARY MATTERS

PART 2—ADMINISTRATION

PART 3—RECORDS AND INFORMATION OF REVENUE PAYERS

PART 4—MISCELLANEOUS

THE TRANS NZOIA COUNTY REVENUE ADMINISTRATION BILL, 2016

A Bill for;

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

ENACTED by the Trans Nzoia County Assembly as follows—

PART 1—PRELIMINARY MATTERS

Short title and commencement

1. (1) This Bill may be cited as the Trans Nzoia County Revenue Administration Bill, 2016.

(2) This Bill comes into operation one month after enactment.

Interpretation

2. In this Bill, unless the context otherwise requires:

"county assembly" means the county assembly of Trans Nzoia

"county government" means the county government of Trans Nzoia;

"county public officer" has the same meaning as in the County Governments Act 2012;

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

"executive committee member" means the county executive committee member for finance;

"person" includes a company, association or other bodies of person whether incorporated or unincorporated;

"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 Bill;

"rate" means a rate imposed under the Trans-Nzoia County Property Rates Bill, 2015.

"relevant person" means—

(a) a revenue payer; or

(b) an employee or agent of the revenue payer; or

(c) any other person whom the 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 law" means:

(a) this Bill; or

(b) the Trans-Nzoia County Property Rates Bill, 2015;or

(c) the Trans-Nzoia County Trade Licence Bill, 2015 or

(d) the Act providing for annual county finances; or

(e) any other Act imposing an entertainment charge or any other fee that is payable to the county government; or

(f) any Act or other law providing for the payment to the county government fees or charges for services provided; or

(g) any other prescribed law;

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

PART 2—ADMINISTRATION

Administration of the Act

3. The County Executive Member is charged with the administration of this Bill

County revenue collector

4. There is established the office of the county revenue collector for the purposes of this Bill, the revenue laws and any other enactment that confers functions upon the county revenue collector.

Delegation of functions and powers

5. (1) The county revenue collector shall act under the instructions of the executive committee member and have general supervision over all matters relating to the administration of this Bill and other revenue laws.

(2) The county revenue collector may, by instrument in writing, delegate any of his or her functions or powers under any revenue law to an authorised county public officer, except his or her power of delegation.

(3) In performing any function or exercising any power under the revenue laws, the county revenue collector must produce written identification establishing his or her

position if requested by any person.

Agreement in relation to revenue collection

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

Annual report

7. (1) The county revenue collector must prepare quarterly reports to be submitted to the county executive committee for the purposes of monitoring and 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 60 days after the end of the year to which the report relates.

(3) The executive committee member must table the annual report in the county assembly as soon as practicable.

PART 3—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, cess, 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 fifty thousand shillings; or

(b) in any other case one hundred thousand 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, cess, 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 an Advocate of the High Court.

(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 one hundred thousand 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, cess, 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 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 Bill 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.

Revenue Enforcement Unit

12. (1) There is established Revenue enforcement Unit.

(2) For purposes of sections 10 and 11, the county revenue collector may use the services of revenue enforcement Unit.

PART 4—MISCELLANEOUS

Waiver or reduction of rates, cess, fees and charges

13. (1) The executive committee member may on a recommendation made under subsection (3) waive or reduce a rate, tax, cess, fees and charge that is imposed or payable under a revenue law.

(2) An application to waive or reduce a rate, tax, cess, fees and charge that is imposed or payable under a revenue law must be made in writing to the executive committee member.

(3) The executive committee member may recommend that the rate, tax, cess, fees and charge the subject of the application be waived or reduced if he or she is satisfied that:

(a) the applicant would suffer severe financial hardship if the tax, fee or charge were not waived or reduced; or

(b) it is not cost effective to take action to recover the rate, cess, fees and charge; or

(c) the waiver or reduction is for the purpose of encouraging the applicant to pay amounts outstanding to the County Government; or

(d) Grounds of equity or other good cause exist that make it expedient to waive or reduce the rate, cess, fees and charge or

(e) An order of a court is in force that specifies the imposition or payment of a rate, tax, cess, fees and charge at a lower rate or amount than is provided for in the revenue law under which the rate, cess, fees and charge is imposed or payable; or

(f) Other compelling circumstances exist which make it expedient to waive or reduce the rate, cess, fees and charge

(4) A recommendation under subsection (3) must be in writing and must—

(a) specify the rate, cess, tax, fee and charge that is waived or the amount of the reduction of the rate, cess, fees and charge; and

(b) specify the person or body to whom the waiver or reduction applies; and

(c) set out the reasons for the recommendation.

(5) Within 14 days after making a decision under subsection (1), the executive committee member must cause a copy of the decision to be provided to the Governor and the applicant together with a statement of the reasons for the decision.

(6) A person or body granted a waiver or reduction of a rate, cess, fees and charge is not subject to any collection or enforcement procedure in respect of the rate, cess, fees and charge that is waived or the part of the rate, cess, fees and charge that is reduced.

(7) The executive committee member must cause—

(a) a public record of each waiver or reduction to be maintained together with the reason for the waiver or reduction; and

(b) within 90 days or such other prescribed period after the end of each year, the Auditor-General to be notified of any waiver or reduction made for that year.

(8) A county public officer within the meaning of the County Governments Act, 2012 or any other prescribed office holder may not be excluded from the payment of a rate, tax, cess, fees and charge by reason of his or her office or the nature of his or her work.

14. (1) The county revenue collector must establish a

Revenue register

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 receiver of revenue decides.

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 fifty thousand 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, in one or more newspapers circulating in the county or in the county website.

(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.

(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 purpose 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.

17. (1) The executive committee member may issue guidelines for the purposes of proper administration of the revenue laws. Guidelines

18. The executive committee member may make rules generally for the better carrying out of the provisions and purposes of this Bill. Rules

MEMORANDUM OF OBJECTS AND REASONS

The Bill confers a general power and responsibility for the administration of county revenue laws on the county revenue collector who is to be held accountable for that administration.

The enactment of this Bill into law does not occasion additional expenditure of public funds.

Dated the 24th February, 2016

DAVID KISAKA,
Chairperson,
Budget and Appropriation Committee.