

SPECIAL ISSUE

Turkana County Gazette Supplement No. 19 (Acts No. 13)



REPUBLIC OF KENYA

**TURKANA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2016

NAIROBI, 15th November, 2016

CONTENT

Act—

PAGE

The Turkana County Revenue Administration Act, 2016 1

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**THE TURKANA COUNTY REVENUE
ADMINISTRATION ACT, 2016
No. 13 of 2016**

Date of Assent: 8th November, 2016

Date of Commencement: 29th November, 2016

ARRANGEMENT OF SECTIONS

Section

1—Short title and Commencement.

2—Interpretation.

PART II—ADMINISTRATION OF REVENUE LAWS

3—County Revenue Collector.

4—Functions and Powers of Receiver of Revenue.

5—Delegation of functions and powers.

6—Quarterly Statements by the Receiver of Revenue.

7—Agreement in relation to revenue collection.

8—Annual reporting by the Receiver of Revenue.

**PART III—REVENUE PAYERS' OBLIGATIONS AND
COMPLIANCE POWERS**

9—Books, accounts and records to be made and kept.

10—Providing information and evidence.

11—Access, Inspection and other powers.

12—Seizure of property required as evidence.

PART IV—OBLIGATIONS OF PUBLIC OFFICERS

13—Obligations of Public Officers

PART V—GENERAL PROVISIONS AND MISCELENOUS

14—Waiver, or reduction of rates, taxes, fees and charges.

15—Revenue register.

16—Approved forms.

17—General Penalty.

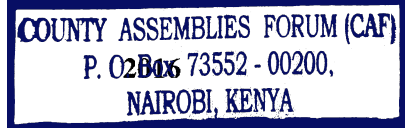
18—Publication and Service of notices and other documents.

19—Enforcement Provision.

No. 13*Turkana County Revenue Administration*

20—Guidelines.

21—Regulations.



**THE TURKANA COUNTY REVENUE
ADMINISTRATION ACT, 2016**

AN ACT of County Assembly of Turkana 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 Turkana as follows—

PART I—PRELIMINARY

1. This Act may be cited as the Turkana County Revenue Administration Act, 2016

Short title and
Commencement.

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

Interpretation.

“County Government” means the County Government of Turkana;

“County Assembly” means; the County Assembly of Turkana;

“County Public Officer” has the same meaning as in the County Governments Act No.17 of 2012 and Article 260 of the Constitution of Kenya and for avoidance of doubt, public officers are responsible for managing the finances of the County Government and are accountable to the public for the management of those finances through the County Assembly;

“County Revenue Collector” means the person holding or acting in the Office of the County revenue Collector established under section 3;

“premises”—

- (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 this Act;

“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 payer” means; a person liable to pay a rate, tax, Cess, fee or charge to the County Government under a revenue law;

“revenue law” means—

- (a) this Act; or
- (b) the Act providing for annual County Finances;
- (c) any other Act imposing an entertainment tax or any other tax that is payable to the County Government;
- (d) any Act or other law providing for the payment to the County Government of fees or charges for services provided; or any other prescribed law.

PART II—ADMINISTRATION OF REVENUE LAWS

3. (1) there is established an Office of the County Revenue Collector.

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.

4. (1) The County Revenue Collector —

Functions and
Powers of 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, cess, fees and charges payable by or under any of those laws; and
- (b) advises the County Government on all matters relating to administration and enforcement of County revenue laws, and the assessment and collection of rates, taxes, cess, fees and charges under those laws; and
- (c) shall provide statements of accounts and/or make

2016

Turkana County Revenue Administration

periodic reports to the relevant authority as is required under this bill and other related laws.

(d) must perform such other functions as the County Government directs;

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

(3) In performing any function or exercising any power under a revenue law, the county revenue collector must produce written identification establishing his or her position if requested by any person.

5. (1) 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.

Delegation of functions and powers.

(2) a delegate of the County Revenue Collector, shall remit the revenue collected to the County Revenue account daily.

(3) a delegate of the County Revenue Collector shall make an account of the revenue collected to the County revenue Collector on a monthly basis or in the alternative, as and when required by the County revenue Collector

(4) in performing any function or exercising any power under a revenue law, the county revenue collector must produce written identification establishing his or her position if requested by any person.

6. (1) The County Government may enter into an agreement authorizing a person to collect rates, cess, taxes, fees and charges payable under the substantive revenue laws on such terms and conditions as are specified in the agreement approved by the County Assembly.

Agreement in Relation to Revenue Collection.

(2) in exercising functions of revenue collection , No any other department of county government shall be allowed to collect revenue and use at the source as provided in article 207(1) of the Constitution of Kenya unless a legislation passed by County assembly authorizes or in exception of section 6(1) above.

7. A County Revenue Collector shall provide quarterly statements to the County Treasury with copies to the National Treasury and the Commission on Revenue

Quarterly Statements and Annual Reporting.

Allocation in accordance with Section 158 (3) of the Public Finance Management Act no. 18 of 2012.

8. (1) At the end of each financial year, a County revenue collector for a county government shall prepare an account in respect of the revenue collected, received and recovered by the collector during that financial year.

(2) The accounts under subsection (1) shall include—

(a) A statement of receipts and disbursement in a form prescribed by the Accounting Standards Board from time to time; and

(b) A statement of arrears of revenue.

(3) Not later than three months after the end of the financial year, County Revenue Collector - for the county government shall—

(a) Submit the accounts to the Auditor-General; and

(b) Deliver a copy to the National Treasury, the Controller of Budget, County Treasury, and the Commission on Revenue Allocation.

(4) Not later than two months after the end of each financial year, County Revenue Collector shall submit to the county assembly a report with respect to all waivers and variations of taxes, fees or charges granted by the Receiver during that year.

(5) The County Revenue Collector shall include in the report the following details in respect of each waiver or variation—

(a) The full name of each person benefiting from the waiver or variation;

(b) The amount of tax, fee or charge affected by the waiver or variation;

(c) The year to which the waiver or variation relates

(d) The reasons for waiver or variation; and

(e) The legislation in terms of which the waiver was authorized.

(6) The County revenue collector must give the annual report to the County Executive Member responsible for

finance within 90 days after the end of a financial year to which the report relates.

(7) County Executive Member responsible for finance must table the revenue quarterly and annual report in the County Assembly as soon as practicable.

PART III—REVENUE PAYERS' OBLIGATIONS AND COMPLIANCE POWERS

9. (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.

Books Accounts and Records to be made and kept.

(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, KSh. 150, 000; or

(b) In any other case, KSh. 250, 000.

10. For the purposes of determining the liability (if any) of a revenue payer to pay a rate, tax, fee or charge 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—

Providing Information and Evidence.

(a) Provide the county revenue collector with such information as required;

(b) Attend and give evidence before the county revenue collector including under oath.

11. (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 receiver of revenue 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—

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 Revenue Collector is of the view that it is impractical to exercise any of the powers under paragraph (1) (a), (b) or (c), the receiver of revenue 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 of revenue; or
- (b) Obstructs or hinders the receiver of revenue in the discharge of his or her duties under paragraph (1) (a), (b) or ;
- (c) The person is guilty of an offence punishable on conviction by a fine not exceeding 250,000 shillings or imprisonment or a period not exceeding one year or both.

12. (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 of law for proceedings to be brought under this Bill 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—OBLIGATIONS OF PUBLIC OFFICER

13. (1) Every public officer employed in or by the County Government of Turkana shall comply with the Constitution and all laws relating to conduct of public officers when carrying out a responsibility imposed, or exercising a power conferred, by this Act.

(2) Every public officer shall—

- (a) comply with the provisions of this Act so far as they are applicable to the officer;
- (b) ensure that the resources within the officer's area of responsibility are used in a way that—
 - (i) is lawful and authorized; and
 - (ii) effective, efficient, economical and transparent; and
- (c) within the officer's area of responsibility—
 - (i) ensure that adequate arrangements are made for the proper use, custody, safeguarding and maintenance of public property; and
 - (ii) use the officer's best efforts to prevent any damage from being done to the financial interests of the county government.

(3) A county public officer within the meaning of the County Governments Act No.17 of 2012 or any other prescribed office holder may not be excluded from the payment of a rate, tax, fee or charge by reason of his or her office or the nature of his or her work.

PART V—GENERAL PROVISIONS AND MISCELLANEOUS

14. (1) The County Executive Committee Member responsible for Finance may on a recommendation made under subsection (3) waive interest or reduce a rate, tax, fee or charge that is imposed or payable under a revenue law.

Waiver or reduction of taxes, fees and charges.

(2) An application to waive interest or reduce a rate, tax, fee or charge that is imposed or payable under a

revenue law must be made in writing to the County Executive Committee Member responsible for that revenue law.

(3) The County Executive Committee Member referred to in subsection (2) may recommend that the interest on the rate, tax, fee or charge or the rate, tax, fee or charge which was 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 rate, tax, fee or charge were not waived, deferred or reduced; or
- (b) It is not cost effective to take action to recover the rate, tax, fee or 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, defer or reduce the rate, tax, fee or charge; or
- (e) An order of a court is in force that specifies the imposition or payment of a rate, tax, fee or charge at a lower rate or amount than is provided for in the revenue law under which the rate, tax, fee or charge is imposed or payable; or
- (f) Other compelling circumstances exist which make it expedient to waive, defer or reduce the rate, tax, fee or charge.

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

- (a) Specify the rate, tax, fee, charge or interest that is waived, deferred or the amount of the reduction of the rate, tax, fee or 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 County Executive Committee Member responsible for Finance 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, tax, fee or charge is not subject to any collection or enforcement procedure in respect of the rate, tax, fee or charge that is waived, deferred or the part of the rate, tax, fee or charge that is reduced.

15. (1) The county collector of revenue must establish and maintain a revenue register which is to be available for inspection by the public during government office hours containing details of the revenue received.

Revenue Register.

16. The County revenue collector may approve forms for the purposes of a revenue law.

Approved forms.

17. If a person contravenes or fails to comply with any provision of this Act, the person commits an offence and, unless another penalty is expressly provided by this Act for that offence, the person is liable on conviction to a fine not exceeding Kenyan shillings 150,000 or imprisonment not exceeding one year.

General Penalty.

18. (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.

Publication and service of Law 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—

- (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 residence 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 other prescribed method.

(3) However, if the County Revenue collector has attempted to send or serve a document by one of the methods mentioned in subsection (2) and is satisfied that such document has not been received by the person to

whom it was addressed, the Receiver of Revenue may apply to Court to 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 revenue payers.

(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. For the purposes of enforceability of this Act, offence committed by authorized officers under this Act shall be Punishable, on conviction, as envisioned under Part VII of the Public Finance Management Act No. 18 of 2012 Laws of Kenya.

Enforcement
provision.

20. The County revenue Collector may issue guidelines for the purposes of a revenue law.

Guidelines.

21. The County Executive Committee Member responsible for Finance may make regulations generally for the better carrying out of the provisions and purposes of this Act.

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