

**Kilifi County Revenue Administration Bill, 2014**

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**Kilifi County Revenue Administration Bill, 2014**

**A BILL** for

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

**TO BE ENACTED** by the Kilifi County Assembly as follows -

**PART 1 – PRELIMINARY MATTERS**

**1 Short title and commencement**

Short Title and commencement

This Act may be cited as the Kilifi County Revenue Administration Act, 2014 and shall come into operation at such date as the County Executive Member responsible for finance shall appoint.

**2 Interpretation**

Interpretation

In this Act, unless the context otherwise requires:

“county public officer” has the same meaning as in the County Government Act;

“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 Kilifi County Rating Act 2014;

“revenue law” means:

- (a) this Act; or
  - (b) the Kilifi County Rating Act 2014; or
  - (c) the Kilifi County Trade Licence Act 2014; or
  - (d) the Kilifi County Liquor Licensing Act 2014; or
  - (e) the Kilifi County Quarry Administration Act 2014; or
  - (f) the Act providing for annual county finances; or
  - (g) any other Act imposing an entertainment tax or any other tax that is payable to the county government; or
  - (h) any Act or other law providing for the payment to the county government of fees or charges for services provided;
- or

- (i) 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 2 – ADMINISTRATION OF REVENUE LAWS**

### **3 County Revenue Collector**

Office of the County Revenue Collector

(1) The office of the County Revenue Collector shall be established as an office in the county public service.

Qualifications

- (2) A person shall be qualified for appointment if such a person -
  - (a) is registered as an accountant under the Accountants Act; and
  - (b) is a member of the accounting professional body;
  - (c) if such a person has an advanced degree and professional experience in economics, public finance, public policy, management, or accounting;
  - (d) has at least five years post-qualification professional and relevant experience;
  - (e) satisfies the requirements of Chapter six of the Constitution

Functions and Powers of the County Revenue Collector

### **4 Functions and powers of the county revenue collector**

- (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 Powers and Functions

### **5 Delegation of functions and powers**

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 Agreement in relation to revenue collection**

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 Annual report**

(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 3 – RECORDS AND INFORMATION OF REVENUE PAYERS**

Keeping of books of accounts, records etc

### **8 Books, accounts and records to be made and kept**

(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.

Offences for Revenue Payers

(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.

County Revenue  
Collector requiring  
provision of information  
and evidence

**9 Providing information and evidence**

(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 Access, inspection and other powers**

(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);

the person is guilty of an offence punishable on conviction by a fine not exceeding 100,000 shillings.

Seizure of property as evidence

### **11 Seizure of property required as evidence**

(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 4 – MISCELLANEOUS**

Identification by county revenue collector

### **12 Identification**

(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.

Establishment of revenue register

### **13 Revenue register**

(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.

Use of approved forms

### **14 Approved forms**

General penalty for offences

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

**15 General penalty for offence**

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 Publication and service of documents**

(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:

(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 be deemed to have been received by thethat 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

**17 Guidelines**

Rules

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

**18 Rules**

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**

**KILIFI COUNTY REVENUE ADMINISTRATION BILL 2014**

The main purpose of the County Revenue Administration Bill is to confer 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 creates an office of the county collector of revenue and sets out other relevant administrative provisions relating to revenue.

The need to immediately execute taxation and other revenue raising measures so as to meet the revenue needs of the county means that measures are necessary to ensure the immediate commencement of collection of revenue by the County Government after a revenue Bill is published.

The process of enacting a Bill in the legislature is unpredictable in terms of the time that a Bill may take from publication to enactment. This makes it prudent to put measures in place that will ensure that revenue projections are not unduly impaired, hence the powers of the Executive to operationalize the proposals in a Bill already published but yet to be enacted through this Bill.

**PART 1 – PRELIMINARY MATTERS**

**Clause 1 Short title and commencement**

On enactment of the Bill, the short title of the Act will be the Kilifi County Revenue Administration Act, 2014.

**Clause 2 Interpretation**

This clause contains the definitions used in the Bill. Key definitions include:

“rate” means a rate imposed under the Kilifi County Rating Transition Act 2013;

“revenue law” means:

- (a) this Act; or
- (b) the Kilifi County Rating Act 2014; or
- (c) the Kilifi County Trade Licence Act 2014; or
- (d) the Kilifi County Liquor Licensing Act 2014; or
- (e) the Kilifi County Quarry Administration Act 2014; or
- (f) the Act providing for annual county finances; or
- (g) any other Act imposing an entertainment tax or any other tax that is payable to the county government; or



- (h) any Act or other law providing for the payment to the county government of fees or charges for services provided; or
- (i) 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.

The definition of revenue law is significant because it not only includes revenue raised by county laws but also revenue collected by county governments under national legislation. Revenue payer extends to taxpayers as well as those paying fees and charges for services.

## **PART 2 – ADMINISTRATION OF REVENUE LAWS**

### **Clause 3 County revenue collector**

This clause creates the office of the county revenue collector providing for qualifications as to appointment.

### **Clause 4 Functions and powers of county revenue collector**

Clause 4 sets out the functions of the county revenue collector. Main responsibilities are:

- 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
- to advise the county government on all matters relating to the administration and enforcement of revenue laws, and the assessment and collection of rates, taxes, fees and charges under those laws.

### **Clause 5 Delegation of functions and powers**

The county revenue collector is given power to delegate functions and powers under any revenue law to a county public officer.

### **Clause 6 Agreement in relation to revenue collection**

This clause empowers the county government to contract out the function to collect rates, taxes, fees and charges payable under revenue laws.

### **Clause 7 Annual report**

This clause requires the county revenue collector to prepare an annual report on the operation and administration of revenue laws. The county executive member responsible for finance must table the annual report in the county assembly.

## **PART 3 – RECORDS AND INFORMATION OF REVENUE PAYERS**

The powers provided for by this Part can only be exercised for the purposes of the Bill.

### **Clause 8 Books, accounts and records to be made and kept**

This clause requires a revenue payer to make and keep 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. They must be kept for a period of at least 7 years.

**Clause 9 Providing information and evidence**

This clause gives power to the county revenue collector to require a person to:

- provide the county revenue collector with such information as the county revenue collector requires; and
- attend and give evidence before the county revenue collector.

**Clause 10 Access, inspection and other powers**

This clause gives power to the county revenue collector to enter certain premises and inspect documents and other records held on the premises.

**Clause 11 Seizure of property required as evidence**

The county revenue collector is given the power 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. When the property is no longer required, it must be returned as soon as practical to the person entitled to it.

**PART 4 – MISCELLANEOUS**

**Clause 12 Identification**

This clause requires the county revenue collector to produce written identification establishing his or her position if requested.

**Clause 13 Revenue register**

The county revenue collector must establish a revenue register and keep it up to date.

**Clause 14 Approved forms**

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

**Clause 15 General penalty for offence**

This clause provides a general penalty for non-compliance with any provision of the Bill. The maximum penalty on conviction by a court is 10,000 shillings.

**Clause 16 Publication and service of documents**

This clause sets out the requirements for any document required to be published under a revenue law as well as providing rules on service of documents.

**Clause 17 Guidelines**

The county revenue collector may issue guidelines for the purposes of a revenue law. Guidelines are advisory and not mandatory.

**Clause 18 Rules**

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

Dated the.....day of....., 2014

**SUBMITTED TO THE COUNTY ASSEMBLY BY JOHN HAROLD KOMBE  
KILIFI COUNTY EXECUTIVE MEMBER FOR FINANCE & ECONOMIC  
PLANNING**