

SPECIAL ISSUE

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REPUBLIC OF KENYA



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KERICHO COUNTY ACTS, 2019

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THE KERICHO COUNTY REVENUE ADMINISTRATION AND MANAGEMENT ACT, 2019

No. 6 of 2019

Date of Assent: 30th September, 2019

Date of Commencement: See Section 1

AN ACT of the County Assembly of Kericho to provide for effective administration of certain revenue raising and other taxation laws; the collection, receipt and management of County revenues, the responsibilities of certain public officers and entities in relation thereto; and for related and connected purposes

ENACTED by the County Assembly of Kericho as follows—

Short title

1. This Act may be cited as the Kericho County Revenue Administration and Management Act, 2019 and shall come into operation on the date that the Executive Member may appoint and publish in the *Gazette*.

Interpretation

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

“County” means Kericho County;

“County Assembly” means the Kericho County Assembly;

“County Government” means the County Government of the County;

“County public officer” has the same meaning as in the County Governments Act 2012;

“County Revenue Fund” means the county revenue fund as established under the Public Finance Management Act;

“Executive Member” means the County Executive Member responsible for matters relating to finance in the County;

“premises” include—

(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 by this Act;

“rate” means a rate imposed under the Kericho County Rating Act 2019;

“Receiver of revenue” has the meaning given by section 3;

“revenue law” means—

- (a) this Act; or
- (b) the Kericho County Rating Act, 2019
- (c) the Kericho County Alcoholic Drinks Control Act, 2014; or
- (d) any other Act imposing an entertainment tax or any other tax that is payable to the County Government; or
- (e) any Act or other law providing for the payment to the County Government of any fees or charges for services provided; or
- (f) any other prescribed law;

“Relevant person” means—

- (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, fee or charge to the county government under revenue law.

Object and Purpose

3. The objective and purpose of the Act is to establish a framework and mechanisms in the County to—

- (a) put into effect and implement the provisions of the Public Finance Management Act in relation to—
 - (i) the collection and receipt of County revenue by County public officers;
 - (ii) administration and management of the tax and revenue; and
- (b) collect, receive and remit County revenue to the Receiver of revenue in the County.

PART II — ADMINISTRATION OF REVENUE LAWS

Establishment of the Office of the Receiver of revenue

4. (1) There is hereby established the office of Receiver of revenue for the County.

(2) The Chief Officer in each department shall be the Receiver of revenue in the County in respect of both taxation and other revenue under section 157 of the Public Finance Management Act, 2012.

Duties and Responsibilities of Receiver of revenue

5. (1) The Receiver of revenue shall—

- (a) be responsible for the administration and enforcement of revenue laws and for that purpose shall ensure the assessment, collection and accounting for all rates, taxes, fees and charges payable by or under any law;
- (b) receive and account for all county Government revenue in accordance with this Act and the Public Finance Management Act;
- (c) except as may be provided otherwise in this Act or other written law, ensure that all monies raised or received by or on behalf of the County Government is paid into the County Revenue Fund;
- (d) prepare the County Government accounts and those of its entities and report thereon in accordance with the relevant law and procedures;
- (e) advise the County Government on all matters relating to the administration and enforcement of County revenue laws and assessment and collection of rates, taxes, fees and other charges under the laws; and
- (f) perform such other functions as the County Executive Member may direct.

(2) Without limiting the functions and powers of the receiver under the Public Finance Management Act, 2012, the Receiver of revenue shall have such other powers and functions as may be provided for by or under the revenue laws of the County.

Power to Delegate

6. (1) Save for the power to delegate under this Act, the Receiver of revenue may, by instrument in writing, delegate all or any of his or her functions or powers under any revenue law to and authorize a public officer or officers in the county or any of its entities to perform such functions or exercise such powers.

(2) Without prejudice to the generality of the subsection (1), the County Government may enter into an agreement authorizing the Kenya Revenue Authority or any other person to collect rates, taxes, fees and

charges payable under revenue laws on such terms and conditions as may be specified in the agreement.

(3) A person to whom a function or power has been delegated or who is otherwise authorized by the Receiver of revenue to collect and or receive any County revenue shall remit the revenue collected and or received as soon as practicable but not later than three days.

Annual Report

7. (1) The Receiver of revenue shall prepare an annual report on the operation and administration of all revenue laws and further provide to the Executive Committee Member quarterly statements on the County revenue or otherwise ensure that the statements are so provided.

(2) Notwithstanding subsection (1), the Receiver of revenue shall, within 60 days after the end of the year of the County, furnish Executive Member with the annual report for that year.

(3) The Executive Member shall table the annual report in the County Assembly as soon as practicable upon receipt thereof under subsection (2).

PART III—RECORDS AND INFORMATION OF REVENUE PAYERS

Books of Accounts and Records

8. (1) For a period of not less than seven years after the completion of a transaction to which rates, taxes, fees or charges under a revenue law relate, a revenue payer of a County tax or revenue in respect thereof shall make and keep such books, accounts and records as may be reasonably necessary to determine the revenue payer's liability to pay such rates, taxes, fees or charges.

(2) By notice in writing given to a revenue payer, the County Receiver of revenue may direct the revenue payer as to the books, accounts and records the revenue payer shall be required to make and keep.

(3) A revenue payer who fails to comply with the requirement in subsection (1) or the notice under subsection (2) commits an offence and, on conviction, shall be liable to a fine not exceeding Kenya shillings two Hundred Thousand or to imprisonment for a term not exceeding two years or to both such fine and term of imprisonment.

Powers to Access

9. (1) For the purpose of determining the liability (if any) by a revenue payer to pay a rate, tax, fee or charge payable under a revenue law, the Receiver of revenue—

- (a) shall have full and free access to any premises of or in custody or control of a relevant person and may at all reasonable times, exercise all or any of the following without infringing the rights of the revenue payer —
 - (i) enter and inspect those premises and any goods in or on those premises, including opening any packaging or containers that may contain goods
 - (ii) obtain, copy and print information or data from any computer system in or those premises and retain all information and data that is obtained, copied or printed;
 - (iii) 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;
- (b) may give notice in writing to the payer to provide the Receiver of revenue with such information as he or she may require or attend and give evidence before the Receiver of revenue either on oath or otherwise.

(2) Where the county Receiver of revenue considers that it shall be impractical to exercise any of the powers under subsection (1) the Receiver of revenue may remove all or any of the things referred to therein to the offices of the County Government for such time as may be reasonably necessary to determine a revenue payers liability.

(3) Every person required to do so shall give to the Receiver of revenue all reasonable assistance so as to allow him or her to exercise all or any of his or her powers under this section.

(4) Any person who—

(a) fails or refuses to—

- (i) comply with the notice under subsection (1);
- (ii) 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 subsection (1);

commits an offence and is, upon conviction, liable to a fine not exceeding Kenya Shillings fifty thousand or to imprisonment for a term not exceeding twelve months or to both such fine and term of imprisonment.

(5) If a person fails to comply with or otherwise contravenes any provision of this Act the punishment for which is not expressly provided by this Act that person shall be liable, on conviction, to a fine not exceeding Kenya Shillings Two Hundred Thousand or to a term of imprisonment not exceeding two years or to both such fine and term of imprisonment.

Confiscation of Property

10. (1) The 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 that may be brought under this Act or any other revenue law.

(2) Where property taken into the possession of the Receiver of revenue is no longer required under subsection (1), it shall be returned to the person entitled as soon as practical.

PART IV—MISCELLANEOUS

Written Identification of Position

11. (1) In performing or exercising any function or power under this Act, whenever required to do so by any person—

- (a) the Receiver of revenue; or
- (b) a person exercising powers or performing functions delegated by the Receiver of revenue shall produce written identification of position as the Receiver of revenue or a delegate of the Receiver of revenue, as the case may be.

Forms

12. (1) The Receiver of revenue may approve and prescribe forms for the purposes of this Act or any other revenue law.

(2) The Receiver of revenue shall open and maintain a revenue register or registers for the different sources of revenue which shall contain such information and be in such a form or forms as may be prescribed.

Publication of document and Instrument

13. (1) A document or other instrument required to be published under a revenue law may be published by advertisement in the Kenya or County Gazette and in one or more newspapers with wide circulation in the County.

(2) Any document required or authorized to be sent or served under or for the purposes of this Act or any revenue law in the County may be sent or served by—

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

(3) Despite subsection (2), where the Receiver of revenue has unsuccessfully made attempts to send or serve a document by one of the methods and is satisfied that such notice has not been received by the person to whom it was addressed, the county Receiver of revenue may publish an advertisement for the general claim of such thereof in the manner provided in subsection (1) upon which the document shall be 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) A document or instrument under a revenue law is required or authorized to be served on the owner or occupier of any premises it may be addressed to such owner or occupier by the description “owner” or “occupier” of the premises (naming the premises), without further name or description.

Regulations and Rules

14. (1) The Executive Member responsible may make rules generally for the better carrying out of the provisions and purposes of this Act.

(2) The Receiver of revenue may issue guidelines for the purposes of a revenue law.