

NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014

REPUBLIC OF KENYA



THE COUNTY GOVERNMENT OF NANDI

NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014

NO. OF 2014

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

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ARRANGEMENT OF SECTIONS

**PART I – PRELIMINARY**

- 1— Short title and commencement
- 2— Interpretation

**PART II – ADMINISTRATION OF REVENUE LAWS**

- 3—Receiver of revenue
- 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 – MISCELLANEOUS**

- 14—Waiver, or reduction of rates, taxes, fees and charges
- 15—Revenue register
- 16—Approved forms
- 17—General penalty for offence
- 18—Publication and service of notices and other documents
- 19—Enforcement Provision
- 20—Guidelines
- 21—Rules

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014

**A Bill of the County Assembly of Nandi** to provide for the general administration of certain taxation laws and other revenue raising laws, and for connected purposes.

**ENACTED** by the Nandi County Assembly of as follows—

**PART I –PRELIMINARY**

**Short title and commencement** 1. This Act may be cited as the Nandi County Revenue Administration Act, 2014 and shall come into operation on the date of publication in the County Gazette or Kenya Gazette, whichever comes earlier.

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

“County Government” means the County Government of Nandi County.

“County Public Officer” has the same meaning as in 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;

“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 Nandi County Rating Act, 2014;

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

“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

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

be able to assist in determining the liability (if any) of a revenue payer to pay a rate, tax, fee or charge payable under a County Revenue Law;

“Revenue law” means;

- (a) This Act; or
- (b) The Nandi County Rating Act, 2014; or
- (c) The Nandi County Trade Licence 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 fees or charges for services provided; or
- (f) Any other prescribed law;

“Revenue payer” means a person liable to pay a rate, cess, tax, fee or charge to the county government under a revenue law.

**PART II –ADMINISTRATION OF REVENUE LAWS**

**Receiver of revenue**

3. (1) The Receiver of Revenue is a person or persons appointed, in writing, by the County Executive Committee member for finance to be responsible for collecting, receiving and accounting for such county government revenue as the County Executive Committee member for finance may specify in their letters of designation.

(2) A receiver of county government revenue is responsible to the County Executive Committee member for finance for ensuring that the revenue for which the receiver is responsible is collected or recovered, and is accounted for.

(3) The receiver of revenue is;

- (a) In the case of taxation, the person who is the receiver of revenue for the county designated in respect of taxation under section 157 of the Public Finance Management Act, 2012; or
- (b) In the case of any other kind of revenue, the person

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

who is the receiver of revenue for the county designated in respect of that other kind of revenue under Section 157 of the Public Finance Management Act, 2012.

**Functions and powers of receiver of revenue**

4. (1) The Receiver of Revenue;
- (a) Is responsible for the administration and enforcement of revenue laws and for that purpose must ensure that the assessment, collection and accounting of rates, taxes, fees and charges is undertaken in accordance with the requirements of those laws; and
  - (b) Is 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; and
  - (c) Shall provide statements of accounts and/or make periodic reports to the relevant authority as is required under this Bill and other related Laws.
  - (c) Must perform such other functions as the County Executive Committee member for finance directs.
- (2) The receiver of revenue has such powers as are necessary to enable him or her to perform the functions under subsection (1).
- (3) The receiver of revenue has such other powers and functions as are provided for by or under the revenue laws.
- (4) In performing any function or exercising any power under a revenue law, the receiver of revenue must produce written identification establishing his or her position if requested by any person.

**Delegation of functions and powers**

- 5.(1) 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 a county public officer employed by the County Government of Nandi, except the power of delegation.
- (2) A delegate of the Receiver of Revenue shall remit the revenue collected to the County Revenue account daily.
- (3) A delegate of the Receiver of Revenue shall make an account of the revenue collected to the Receiver of Revenue on a monthly basis or in the alternative, as and when required by the Receiver of Revenue.

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

(4) In performing any function or exercising any power, a delegate of the 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.

**Quarterly  
Statements by  
the Receiver of  
Revenue**

6. A Receiver of Revenue for shall provide quarterly statements to the County Treasury with copies to the National Treasury and the Commission on Revenue Allocation in accordance with Section 158 (3) of the Public Finance Management Act, 2012.

**Agreement in  
relation to  
revenue  
collection**

7. 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.

**Annual  
Reporting by  
the Receiver of  
Revenue**

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

***[Section 165 of  
the Public  
Finance  
Management  
Act, 2012]***

(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, the receiver of revenue- 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, a Receiver of Revenue 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 Receiver 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;

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

- (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 authorised.

**PART III – REVENUE PAYERS’ OBLIGATIONS AND COMPLIANCE POWERS**

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

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.

(2) The 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 is guilty of an offence punishable on conviction by a fine not exceeding:

- (a) In the case of an individual, KShs. 500, 000/=; or
- (b) In any other case, Kshs. 2, 500, 000/=.

**Providing information and evidence**

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 Receiver of Revenue 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 receiver of revenue with such information as the receiver of revenue requires;
- (b) Attend and give evidence before the receiver of revenue, including under oath.

**Access, inspection and other powers**

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

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

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 receiver of revenue 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 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 receiver 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 500,000 shillings or imprisonment or a period not exceeding one year or to both.

**Seizure of property required as evidence**

12. (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 of law 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.

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

**PART IV – OBLIGATIONS OF PUBLIC OFFICERS**

**Obligations of  
Public Officers**

**13.** (1) Every public officer employed in or by the county government 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 Bill.

(2) Every public officer shall—

(a) comply with the provisions of this Bill 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, 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 –MISCELLANEOUS**

**Waiver or  
reduction of  
taxes, fees and  
charges**

**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.

(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,

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

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

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

waived, deferred or the part of the rate, tax, fee or charge that is reduced.

**Revenue register**

15. (1) The county Receiver 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.

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

**Approved forms**

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

**General penalty**

17. If a person contravenes or fails to comply with any provision of this Bill, the person commits an offence and, unless another penalty is expressly provided by this Bill for that offence, the person is liable on conviction to a fine not exceeding 200,000 Kenyan shillings or imprisonment not exceeding one year.

**Publication and service of documents**

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.

(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 Receiver of Revenue 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

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

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.

**Enforcement  
Provision**

19. For the purposes of enforceability of this Bill, offences committed by authorized officers under this Bill shall be punishable, on conviction, as envisioned under Part VII of the Public Finance Management Act, 2012 of the Laws of Kenya.

**Guidelines**

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

**Regulations**

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 Bill.

**NANDI COUNTY REVENUE ADMINISTRATION BILL, 2014**

**MEMORANDUM OF OBJECTS AND REASONS**

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

To achieve this purpose, the Bill sets out additional administrative and enforcement provisions relating to revenue legislation.

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