

SPECIAL ISSUE

Kenya Gazette Supplement No 11 (Nyeri County Acts No 4)

COUNTY ASSEMBLY
OF NYERI
02 MAR 2020
P O Box 162 - 10100,
NYERI



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NYERI COUNTY ACTS, 2018

NAIROBI, 7th September, 2018

CONTENT

Act—

PAGE

The Nyeri County Revenue Administration (Amendment) Act 2018

1

NATIONAL COUNCIL FOR
LAW REPORTING
LIBRARY

**THE NYERI COUNTY REVENUE ADMINISTRATION
(AMENDMENT) ACT, 2018**

No 4 of 2018

Date of Assent 24th August, 2018

Commencement Date 7th September, 2018

AN ACT of the County Assembly to amend the Nyeri County Revenue Administration Act, 2014 and for connected purposes

ENACTED by the County Assembly of Nyeri, as follows—

Short Title and Commencement

1 This Act may be cited as the Nyeri County Revenue Administration (Amendment) Act, 2018

Interpretation

2 The Nyeri County Revenue Administration Act, 2014, in this Act referred to as “the principal Act”, is amended in Section 2 by—

deleting the term – County Executive Secretary and the definition thereof and substituting therefore with a new meaning as follows,

“County Executive Committee member” – means the County Executive Committee Member responsible for Finance

By introducing the following new definitions in their proper alphabetical sequence

“Premises” includes any part of a building or structure, and any part of a vehicle or vessel, and an area of land

“revenue law” means—

- (a) this Act, or
- (b) the Nyeri County Finance Act,
- (c) the Nyeri County Alcoholic Drinks Control and Management Act, or
- (d) the Nyeri County Tea Cess Act, or
- (e) any other Act imposing any other tax that is payable to the county government, or
- (f) any Act or other law providing for the payment to the county government of Nyeri of fees or charges for services provided, or any other prescribed law

“relevant person” means—

- (a) a revenue payer, or
- (b) an employee or agent of the revenue payer, or

No 4 *Nyeri County Revenue Administration (Amendment)* **2018**

- (c) any other person whom the County director 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, fee or charge to the county government under a revenue law

3 Section 4 of the principal Act is amended by inserting the following new sections immediately after section 4—

4A The Office of the County Director of Revenue shall be established as an office in the county public service

4B A person shall be qualified for appointment if such person—

- (a) is registered as an accountant under the Accountants Act,
- (b) is a member of an accounting professional body,
- (c) has a 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, and
- (e) satisfies the requirements of chapter six of the constitution

Functions of the County Director of Revenue

4 Section 5 of the principal Act is amended by deleting the words “County Executive Secretary” wherever it appears substituting therefore with the words “ County Executive Committee Member”

Delegation of Functions and powers

5 Section 6 of the principal Act is amended by deleting the word “County Executive Secretary” wherever it appears substituting therefore with the words “ County Executive Committee Member

Appointment of revenue collectors and receivers

6 Section 7 of the principal Act is amended by deleting the word “County Executive Secretary” wherever it appears substituting therefore with the words “ County Executive Committee Member”

Agreement in relation to revenue collection

7 Section 8 of the principal Act is amended by deleting the word “County Executive Secretary” wherever it appears substituting therefore with the words “ County Executive Committee Member

Annual reporting

8 Section 10 of the principal Act is amended by deleting the word “County Executive Secretary” wherever it appears substituting therefore with the words “ County Executive Committee Member

Books, accounts and records to be made and kept by revenue payer

9 The principal Act is amended by inserting the following new sections immediately after section 10—

10A The following shall apply in relation to books of account—

- (i) a revenue payer may be required to keep such 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
- (ii) the County Director of Revenue shall, by way of a 7 day notice in writing, given to a revenue payer direct the revenue payer as to the records the revenue payer is required to make and keep
- (iii) if a revenue payer fails to comply with subsection (i) or a notice under subsection (ii), the revenue payer is guilty of an offence punishable on conviction by a fine not exceeding Kenya shillings 50,000 in the case of an individual, or in any other case Kenya shillings 100,000
- (iv) the County Executive Committee Member may make guidelines on the various categories of revenue payers and their respective obligations

10B 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 Director of Revenue shall, by way of a 7 day notice in writing, given to a relevant person require the relevant person to do either or both of the following—

- (a) provide the County Director of Revenue with such information as the County Director of Revenue requires,
- (b) attend and give evidence before the County director of revenue, including on oath administered by the County director of revenue,

If a person fails to comply with a notice under section (10B), the person is guilty of an offence punishable on conviction by a fine not exceeding Kenya shillings 50,000

Waiver and Variation of taxes fees or charges

10 Section 11 of the principal Act is repealed

Access, Inspection and other powers

11 The principal Act is amended by inserting the following new sections immediately after section 11—

11A (1) The County Director of Revenue shall at all reasonable times have full and free access to any premises of, or in the custody or control of, a relevant person and may 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) take extracts from or copies of any records and other documents in or on those premises and retain all extracts or copies taken

(2) If the County Director of Revenue is of the view that it is impractical to exercise any of the powers under subsection (1)(a) or (b), the County Director of Revenue may remove all or any of the things referred to in that subsection to offices of the county government for such time as is reasonably necessary to determine a revenue payer's liability to pay but not for a period of more than 60 days

(3) The County Director of Revenue shall record in writing a brief description of all the items removed under subsection (2) and shall leave the relevant person a duplicate of the same record

(4) A relevant person must give all reasonable assistance to the county director of revenue so as to allow him or her to exercise all or any of his or her powers under this section

(5) If a person—

- (a) fails or refuses to provide access to premises required by the county director of revenue, or
- (b) obstructs or hinders the County Director of Revenue in the discharge of his or her duties under paragraph (1)(a) or (b), the person is guilty of an offence punishable on conviction by a fine not exceeding 100,000 shillings

Seizure of Property

11B (1) The County director 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 to be brought under this Act or any other revenue law

(2) When property is no longer required under subsection (1), the property shall be returned to the person entitled to it within 14 days

(3) The County executive member shall publish guidelines in the Kenya Gazette on disposal of property seized under this section

11C (1) No liability shall attach to the County Government in respect of—

2018*Nyeri County Revenue Administration (Amendment)***No 4**

- (a) Any damage caused or incurred to a vehicle while in due pursuit of a person contravening this Act or any damage to a vehicle when the vehicle is being towed to the police station or county yard,
- (b) Unclaimed goods whose ownership status is not known being released to another person or institution,
- (c) Any damage incurred by or caused to any goods by reason of them being taken into the County Government's custody

(2) The provisions of subsection (1) shall not relieve the County Government of the liability to pay compensation or damages to any person for an injury suffered by them, their property or any of their interests arising directly from the abuse of any powers conferred by this Act

Identification

12 Section 12 of the principal Act is amended by adding the phrase, "County Director of Revenue, and" between the comma and the word 'any'

Cess collection Points

13 The principal Act is amended by inserting the following new sections immediately after section 12—

12A (1) The County director of revenue may mount road pay points for purposes of collecting cess

(2) Every person transporting goods subjects to cess levy under any revenue law shall be required to stop and pay cess to the County director of revenue or any other authorized receiver of revenue

(3) Any person who fails to stop and or pay the applicable cess shall be guilty of an offence

Power to detain motor vehicles

12B (1) The County director of revenue may for purposes of carrying out his or her functions under this Act detain vehicles and confiscate goods therein

(2) The County director of revenue shall have the power to tow any such vehicle at the owner's cost and detain it at an area designated for such purpose by the County Executive Committee Member

(3) The impounded motor vehicle /shall not be released to the owner until the owner duly complies with the relevant law and pays the applicable towing charges

General penalty

14 The principal Act is amended at section 13 by deleting the section and substituting therefor with a new section as follows—

13 A person who contravenes or fails to comply with any provision of this Act for which no express penalty is provided shall be liable upon conviction to a fine not exceeding Kenya shillings 50,000

Publication and service of documents

15 The principal Act is amended by inserting the following new sections immediately after section 14—

15 (1) Any document required to be published under a revenue law may be published by advertisement in the Kenya 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 other method as may be prescribed

(3) However, if the County director of revenue 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 director of revenue may 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 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