



LAWS OF KENYA



## **KENYA REVENUE AUTHORITY ACT**

CHAPTER 469

Revised Edition 2012 [1995]

Published by the National Council for Law Reporting  
with the Authority of the Attorney-General

[www.kenyalaw.org](http://www.kenyalaw.org)



**CHAPTER 469**

**KENYA REVENUE AUTHORITY ACT**

ARRANGEMENT OF SECTIONS

PART I – PRELIMINARY

*Section*

1. Short title.
2. Interpretation.

PART II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE AUTHORITY

3. Establishment of Authority.
4. Seal of the Authority.
5. Functions of the Authority.
- 5A. Rewards.

PART III – ESTABLISHMENT AND FUNCTIONS OF THE BOARD OF DIRECTORS

6. Board of Directors.
7. Tenure of Office of Chairman and members.
8. Termination of appointment of Chairman and members.
9. Disclosure of interest by Chairman and members.
10. Meetings of the Board.

PART IV – COMMISSIONER-GENERAL, OFFICERS AND STAFF

11. Commissioner-General.
12. Secretary to the Board.
13. Appointment of Commissioners and other officers.
- 13A. Transfer of functions and merger of departments.
14. Employees to be personally liable for wrongful acts or omissions.

PART V – FINANCIAL PROVISIONS

15. Revenue to be paid into Consolidated Fund.
16. Funds of the Authority.
17. Estimates of income and expenditure of the Authority.
18. Accounts, audit and annual reports.
19. Internal audit and quarterly audit reports.

PART VI – MISCELLANEOUS PROVISIONS

20. Exemption.
21. Regulations.
22. Vesting of assets, liabilities, subsisting contracts, pending proceedings.
23. Construction and modification of other written laws.
24. Penalty for failure to remit taxes.
25. Set-off tax.

SCHEDULES

FIRST SCHEDULE – WRITTEN LAWS RELATING TO REVENUE

SECOND SCHEDULE

---

## CHAPTER 469

## KENYA REVENUE AUTHORITY ACT

[Date of assent: 31st May, 1995.]

[Date of commencement: 1st July, 1995.]

**An Act of Parliament to establish the Kenya Revenue Authority as a central body for the assessment and collection of revenue, for the administration and enforcement of the laws relating to revenue and to provide for connected purposes**

[L.N. 220/1995; L.N. 119/1996; Act No. 8 of 1996, Act No. 8 of 1997, L.N. 143/1997, Act No. 5 of 1998, L.N. 56 of 1998, Act No. 4 of 1999, Act No. 9 of 2000, Act No. 6 of 2001, Act No. 15 of 2003, Act No. 4 of 2004, L.N. 56/2004, Act No. 10 of 2006, Act No. 9 of 2007, Act No. 8 of 2008.]

## PART I – PRELIMINARY

**1. Short title**

This Act may be cited as the Kenya Revenue Authority Act, 1995.

**2. Interpretation**

In this Act, unless the context otherwise requires—

“**Authority**” means the Kenya Revenue Authority established by section 3;

“**Board**” means the Board of Directors established by section 6;

“**Chairman**” means the Chairman of the Board;

“**Commissioner**” means a Commissioner appointed under section 13 (1);

“**financial year**” means the period from 1st July of any year to 30th June of the following year;

“**functional head**” *deleted by No. 4 of 2004, s. 65;*

“**member**” means a member of the Board of Directors and includes the Chairman;

“**Minister**” means the Minister for the time being responsible for Finance;

“**revenue**” means taxes, duties, fees, levies, charges, penalties, fines or other monies collected or imposed under the written laws set out in the First Schedule.

[Act No. 5 of 1998, s. 67, Act No. 4 of 2004, s. 65.]

PART II – ESTABLISHMENT, POWERS AND FUNCTIONS OF THE  
AUTHORITY**3. Establishment of Authority**

(1) There is established an Authority to be known as the Kenya Revenue Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, subject to this Act, be capable in its corporate name of—

(a) suing and being sued:

Provided that any legal proceedings against the Authority arising from the performance of the functions or the exercise of any of the powers of the Authority under section 5 shall be deemed to be legal proceedings against the Government within the meaning of the Government Proceedings Act (Cap. 40);

(b) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;

(c) borrowing or lending money;

(d) doing or performing all other things or acts for the furtherance of the provisions of this Act, which may be lawfully done or performed by a body corporate.

(3) Deleted by No. 5 of 1998, s. 68(b).

[Act No. 5 of 1998, s. 68.]

#### **4. Seal of the Authority**

(1) The seal of the Authority shall be authenticated by the signature of the Commissioner-General and the Secretary to the Board.

(2) In the absence of the Commissioner-General a Commissioner designated by him for the purpose may authenticate the seal in his place, and in the absence of the Secretary to the Board, the person for the time being performing the functions of the Secretary may authenticate the seal in his place.

(3) Every document purporting to be an instrument issued by the Authority and to be sealed with the seal of the Authority authenticated in the manner provided by subsection (1) or (2) shall be deemed to be such an instrument and shall be received in evidence without further proof.

#### **5. Functions of the Authority**

(1) The Authority shall, under the general supervision of the Minister, be an agency of the Government for the collection and receipt of all revenue.

(2) In the performance of its functions under subsection (1), the Authority shall—

(a) administer and enforce—

(i) all provisions of the written laws set out in Part I of the First Schedule and for that purpose, to assess, collect and account for all revenues in accordance with those laws;

(ii) the provisions of the written laws set out in Part II of the First Schedule relating to revenue and for that purpose to assess, collect and account for all revenues in accordance with those laws;

(b) to advise the Government on all matters relating to the administration of, and the collection of revenue under the written laws or the specified provisions of the written laws set out in the First Schedule; and

- (c) to perform such other functions in relation to revenue as the Minister may direct.

(3) The Minister may, by notice in the *Gazette*, amend the First Schedule.

[Act No. 5 of 1998, s. 69.]

#### 5A. Rewards

(1) The Commissioner-General may, upon the recommendation of a Commissioner reward any person for information leading to the identification or recovery of unassessed taxes or duties:

Provided that this section shall not apply to any officer of the Authority.

(2) The reward payable under subsection (1) shall be—

- (a) in the case of information leading to the identification of unassessed duties or taxes, one *per centum* of the duties or taxes so identified or one hundred thousand shillings, whichever is the less; and
- (b) in the case of information leading to the recovery of unassessed duties or taxes, five *per centum* of the taxes or duties so recovered or two million shillings, whichever is the less.

[Act No. 8 of 1997, s. 71, Act No. 4 of 2004, s. 66, Act No. 8 of 2008, s. 45.]

### PART III – ESTABLISHMENT AND FUNCTIONS OF THE BOARD OF DIRECTORS

#### 6. Board of Directors

(1) There is established a Board of Directors which shall be the governing body of the Authority.

(2) The Board shall comprise the following members—

- (a) a Chairman to be appointed by the President;
- (b) the Commissioner-General;
- (c) the Permanent Secretary, Ministry of Finance or his representative;
- (d) the Attorney-General or his representative;
- (e) six other persons appointed by the Minister by virtue of their knowledge and experience in accountancy, commerce, law, taxation, business administration or public administration.

(3) No person shall be appointed as the Chairman of the Board or as a member of the Board under paragraph (e) of subsection (2) if such person is a public officer or has been a public officer within the immediately preceding twelve months.

(4) Representatives of the members of the Board under paragraphs (c) and (d) of subsection (2) shall be persons with knowledge or experience in matters relating to tax policy or legislation.

(5) The members of the Board under paragraphs (b), (c) and (d) of subsection (2) shall be *ex officio* members and shall have no right to vote at any meeting of the Board.

(6) The Board shall be responsible for—

- (a) the approval and review of the policy of the Authority;
- (b) the monitoring of the performance of the Authority in carrying out its functions; and
- (c) the discipline and control of all members of staff of the Authority appointed under this Act.

[Act No. 5 of 1998, s. 70, Act No. 4 of 1999, s. 104.]

#### **7. Tenure of office of Chairman and members**

(1) A member of the Board, other than an *ex officio* member—

- (a) shall hold office on such terms and conditions including remuneration as are specified in his instrument of appointment, and for a period not exceeding three years; and
- (b) shall be eligible for re-appointment for one further term of three years.

(2) A member of the Board, other than an *ex officio* member, may resign his office by written notification under his hand addressed to the Minister.

#### **8. Termination of appointment of Chairman and members**

The appointment of a member, other than an *ex officio* member, may be terminated, in the case of the Chairman by the President, and in the case of any other member by the Minister, on any of the following grounds—

- (a) for his inability to perform the functions of his office by reason of mental or physical infirmity;
- (b) if he is declared or becomes bankrupt or insolvent;
- (c) if he is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (d) if, without reasonable cause to the satisfaction of the Minister, he is absent from six meetings of the Board in any financial year;
- (e) if in any particular case, he fails to comply with the provisions of section 9;
- (f) for such other sufficient cause as the Minister may, by notice in the *Gazette*, specify.

[Act No. 5 of 1998, s. 71.]

#### **9. Disclosure of interest by Chairman and members**

(1) A member of the Board who has a direct or indirect personal interest in a matter being considered or to be considered by the Board shall as soon as possible after the relevant facts concerning the matter have come to his knowledge disclose the nature of his interest to the Board.

(2) A disclosure of interest made by a member of the Board under subsection (1) shall be recorded in the minutes of the meeting of the Board and the member shall not unless the Board otherwise determines in respect of that matter—

- (a) be present during any deliberations on the matter by the Board; or
- (b) take part in the decision of the Board on the matter.

(3) For the purpose of the Board making a determination under subsection (2) in relation to a member who has made a disclosure under subsection (1), such member shall not—

- (a) be present during the deliberations of the Board nor take part in the making of such determination by the Board; or
- (b) influence any other member to take part in the making of such determination by the Board.

#### **10. Meetings of the Board**

(1) The provisions of the Second Schedule shall apply to the meetings of the Board and other matters provided for in that Schedule.

(2) The Board may co-opt any person to participate in its deliberations, but a person so co-opted shall have no right to vote.

(3) The Minister may, by notice in the *Gazette*, amend the Second Schedule.

#### **PART IV – COMMISSIONER-GENERAL, OFFICERS AND STAFF**

#### **11. Commissioner-General**

(1) There shall be a Commissioner-General of the Authority who shall be appointed by the Minister upon the recommendation of the Board on such terms and conditions as are specified in his instrument of appointment.

(2) The Commissioner-General shall be the Chief Executive of the Authority and, subject to the general supervision and control of the Board, shall be responsible—

- (a) for the day to day operations of the Authority;
- (b) for the management of funds, property and affairs of the Authority; and
- (c) for the administration, organization and control of the staff of the Authority.

(3) The Minister may, after consultation with the Board, terminate the appointment of the Commissioner-General for—

- (a) misbehaviour in terms of the code of conduct and discipline prescribed under section 21;
- (b) the Commissioner-General's inability to perform the functions of his office by reason of mental or physical infirmity; or
- (c) any other sufficient cause.

(4) The Commissioner-General may, with the approval of the Board, by notice in the *Gazette*, delegate any of his powers or functions under this Act or any other written law to a Commissioner.

[Act No. 4 of 2004, s. 67.]

#### **12. Secretary to the Board**

(1) There shall be a Secretary to the Board who shall be appointed by the Board.

(2) The Secretary shall be responsible for arranging the business of the Board's meetings, keeping records of the Board's meetings, keeping records of the proceedings of the Board, and shall perform such other duties as the Board may direct.

### **13. Appointment of Commissioners and other officers**

(1) The Board shall appoint to the service of the Authority, such Commissioners as may be deemed necessary.

(2) The Commissioner-General shall, with the approval of the Board, appoint such heads of departments as may be required for the efficient performance of the functions of the Authority.

(3) The Commissioner-General shall appoint all other members of staff as may be required by the Authority for efficient performance of its functions.

(4) The terms and conditions of all persons employed by the Authority shall be determined by the Board.

(5) Except as may otherwise be determined by the Board in any particular case, an officer referred to in subsection (1), or in his absence the immediate deputy, shall be entitled to attend and participate in the deliberations of any meeting of the Board but shall have no right to vote.

[Act No. 4 of 2004, s. 68.]

### **13A. Transfer of functions and merger of departments**

The Commissioner-General may, with the approval of the Minister, transfer the functions of departments of the Authority or merge departments of the Authority.

[Act No. 4 of 2004, s. 69.]

### **14. Employees to be personally liable for wrongful acts or omissions**

Any person employed by the Authority shall be personally liable for any act or omission done or committed in the performance of his functions under this Act, if having regard to the circumstances of the case such act or omission—

- (a) is done or committed wilfully or dishonestly by such person;
- (b) is attributable to the negligence of such person; or
- (c) is done or committed by such person in contravention of any provision of this Act or regulations made thereunder or any other written law.

## **PART V – FINANCIAL PROVISIONS**

### **15. Revenue to be paid into Consolidated Fund**

All revenues collected by, or due and payable to, the Authority under this Act shall be paid into the Consolidated Fund:

Provided that all revenues collected by the Authority in respect of any fund established under an Act of Parliament shall be paid into that fund after deducting the expenses incurred by the Authority for the collection of such revenue.

[Act No. 8 of 1996, s. 60.]

**16. Funds of the Authority**

(1) The funds of the Authority shall consist of—

- (a) one and such amount, not exceeding two percent of the revenue estimated in the financial estimates for each financial year to be collected by the Authority under this Act as may be determined by the Minister in each financial year;
- (b) three percent of the revenue actually collected in each successive three-month period in the financial year in excess of the amount estimated to be collected in respect of that period;
- (c) loans and grants received by the Authority with the approval of the Minister; and
- (d) any other monies as may, with the approval of the Minister, be received by or made available to the Authority for the purpose of performing its functions.

(2) The funds of the Authority—

- (a) specified in subsection (1) (a) shall be payable to the Authority in equal monthly instalments on or before the beginning of each month;
- (b) specified in subsection (1) (b) shall be payable to the Authority within one month after the end of that three month period.

(3) Any funds received by the Authority in respect of a financial year which are not expended by the end of that financial year shall be placed in a reserve fund to be expended subject to the budget of the Authority for the ensuing financial year approved by the Board.

[Act No. 10 of 2006, s. 36.]

**17. Estimates of income and expenditure of the Authority**

(1) The Commissioner-General shall, not later than three months before the end of each financial year, prepare and submit to the Board for its approval, estimates of the income and expenditure of the Authority for the next ensuing financial year and may at any time before the end of each financial year, prepare and submit to the Board for approval any estimates supplementary to the estimates for that financial year.

(2) No expenditure shall be made out of the funds of the Authority unless that expenditure is part of the expenditure approved by the Board according to the estimates for the financial year in which the expenditure is to be incurred or in the supplementary estimates for that year.

**18. Accounts, audit and annual reports**

(1) The Authority shall keep accounts and records of its transactions and affairs and shall ensure that all moneys received are properly brought to account, all payments out of its funds are correctly made and properly authorized and that adequate control is maintained over its property and liabilities the Authority may incur under this Act.

(2) The annual accounts of the Authority shall be audited by the Controller and Auditor-General.

(3) The Commissioner-General shall, within three months after the end of each financial year submit—

- (a) to the Minister and the Board an annual report in respect of that year, containing—
  - (i) financial statements of the Authority;
  - (ii) the Authority's performance indicators and any other related information;
  - (iii) a report on the operations of the Authority; and
  - (iv) such other information as the Board may deem fit; and
- (b) to the Controller and Auditor-General, the accounts of the Authority for the financial year; and the annual report referred to in paragraph (a).

(4) The Controller and Auditor-General shall audit the accounts of the Authority within two months after he has received them and submit his report thereon to the Minister and to the Board.

(5) The Minister shall cause copies of the annual report together with copies of the Controller and Auditor-General's report to be laid before the National Assembly within two months or at the next sitting of the National Assembly after he has received them, whichever is the earlier.

(6) The Commissioner-General shall, within six months after the end of each financial year, cause the audited accounts of the Authority to be published in the *Gazette* and in such other manner as the Board may determine and may avail copies thereof to members of the public at such minimal fee for expenses as the Board may determine.

[Act No. 9 of 2000, s. 86.]

## **19. Internal audit and quarterly audit reports**

(1) In addition to any other functions assigned to him by the Board or the Commissioner-General, the head of internal audit shall be responsible for the internal audit of the Authority's accounts and shall submit to the Commissioner-General a report on the accounts in respect of every three months of a financial year.

(2) The Commissioner-General shall submit every report referred to in subsection (1) to the Board for its consideration at the next meeting of the Board after he has received the report and shall also submit copies of the report to the Minister and the Controller and Auditor-General.

## **PART VI – MISCELLANEOUS PROVISIONS**

### **20. Exemption**

The Authority shall be exempted from the State Corporations Act (Cap. 446).

### **21. Regulations**

The Board may make regulations for the carrying into effect the provisions of this Act, and in particular but without prejudice to the foregoing make regulations—

- (a) respecting the terms and conditions of service, including pensions, gratuities and other retirement benefits, of all members of staff of the Authority;

- (b) prescribing the procedure for the appointment of all members of the staff of the Authority;
- (c) prescribing the code of conduct and discipline;
- (d) respecting the administration and management of the funds of the Authority;
- (e) respecting the performance targets of the Authority.

## **22. Vesting of assets, liabilities, subsisting contracts, pending proceedings**

(1) All property, except any such property as the Minister may determine, which immediately before the commencement of this Act was vested in the Government for the use of the Departments of Customs and Excise, Income Tax and Value Added Tax for purposes of the written laws set out in the First Schedule, shall on the commencement of this Act, and without further assurance, vest in the Authority subject to all interests, liabilities, charges, obligations and trusts affecting such property.

(2) Except as otherwise provided in subsection (1) in relation to property, all contracts, debts, obligations and liabilities of the Government attributable to the Departments of Customs and Excise, Income Tax and Value Added Tax before the commencement of this Act shall remain vested in the Government and may be enforced by or against the Government.

(3) Subject to section 2, all legal proceedings and claims which before the commencement of this Act are pending in respect of revenue to which the written laws set out in the First Schedule apply shall be continued or enforced by or against the Authority in the same manner as they would have been continued or enforced if this Act had not been enacted.

(4) Unless the Board otherwise determines, all persons being public officers, who before the commencement of this Act are employed by the Government for the purposes of the written laws specified in the First Schedule shall, on the commencement of this Act, be deemed to be on secondment to the Authority until they are employed in the service of the Authority in accordance with this Act or their secondment with the Authority otherwise ceases in accordance with the terms of the secondment.

[Act No. 5 of 1998, s. 71.]

## **23. Construction and modification of other written laws**

On and after the coming into force of this Act—

- (a) all references to the Commissioner of Customs and Excise, Commissioner of Income Tax or the Commissioner of Value Added Tax in any written law shall be construed as references to the Commissioner-General of the Authority;
- (b) *deleted by No. 4 of 2004, s. 70;*
- (c) any reference to Customs and Excise Department, Income Tax Department or Value Added Tax Department in any written law shall be deemed to be reference to the Authority;

- (d) except as provided in paragraph (a) any reference to an officer of the Customs and Excise Department, Income Tax Department or Value Added Tax Department howsoever designated in any written law shall be deemed to be reference to such officer of the Authority.

[Act No. 8 of 1997, s. 72, Act No. 4 of 2004, s. 70.]

#### **24. Penalty for failure to remit taxes**

(1) Any person required to deduct or collect any revenue pursuant to the provisions of any of the written laws specified in Part II of the First Schedule shall collect or deduct such revenue and remit it to the Authority on or before the twentieth day of the month next following the month in which the revenue falls due:

Provided that in the case of any revenue to be deducted or collected pursuant to the provisions of the Civil Aviation Act (Cap. 394), such revenue shall be deemed to fall due on or before the twentieth day after the billing date.

(2) If any person fails to remit any revenue in accordance with subsection (1) on or before the due date, a penalty of twenty percent of the amount due shall become due and payable, and thereafter an interest of two percent per month or part thereof until the amounts are remitted in full:

Provided that this subsection shall apply subject to the provisions of the written laws referred to in subsection (1).

[Act No. 4 of 1999, s. 104A, Act No. 9 of 2000, s. 87, Act No. 6 of 2001, s. 57.]

#### **25. Set-off tax**

(1) Where—

- (a) under the provisions of any of the written laws specified in Part III of the First Schedule, any amount of tax or duty is due and payable by any person; and
- (b) a refund of tax or duty under any of the said written laws is confirmed to be due and payable to that person,

the person may, in writing, request the Authority to set-off the amount of the outstanding tax or duty against the amount of such refund:

Provided that in the case of the Customs and Excise Act (Cap. 472), this section shall apply only in respect of locally manufactured goods and in the case of Value Added Tax Act (Cap. 476), this section shall apply only in respect of the local supply of goods and services.

(2) The Authority shall, upon receipt of a request under subsection (1), set-off the amount of the outstanding tax or duty against the amount of the refund confirmed to be due and payable to the person and such set-off shall, with effect from the date of receipt of the request, be deemed to be a payment by the person of the outstanding tax or duty.

[Act No. 6 of 2001, s. 58.]

---

SCHEDULES

[Sections 2, 22 and 5.]

FIRST SCHEDULE

[L.N. 119/1996, L.N. 143/1997, L.N. 56/1998, Act No. 5 of 1998, Act No. 4 of 1999, Act No. 9 of 2000, Act No. 6 of 2001, Act No. 15 of 2003, L.N. 56/2004, Act No. 10 of 2006, Act No. 9 of 2007.]

WRITTEN LAWS RELATING TO REVENUE

PART I

1. The Income Tax Act (Cap. 470).
2. The Customs and Excise Act (Cap. 472).
3. The Value Added Tax Act (Cap. 476).
4. Road Maintenance Levy Fund Act, 1993 (No. 9 of 1993).
5. Air Passenger Service Charge Act (Cap. 475).
6. Entertainment Tax Act (Cap. 479).
7. East African Community Customs Management Act, 2004.
8. The Annexes to the Protocol on the Establishment of the East African Community Customs Union.

[Act No. 9 of 2007.]

PART II

1. Traffic Act (Cap. 403).
2. Transport Licensing Act (Cap. 404).
3. Second - Hand Motor Vehicles Purchase Tax Act (Cap. 484).
4. The Civil Aviation Act (Cap. 394).
5. The Widows' and Children's Pensions Act (Cap. 195).
6. The Parliamentary Pensions Act (Cap. 196).
7. The Betting, Lotteries and Gaming Act (Cap. 131).
8. The Stamp Duty Act (Cap. 480).
9. The Horticultural Crops Development Authority (Imposition of Fees and Charges) Order, 1995 (L.N. 228 of 1995).
10. The Standards Levy Order, 1990 (L.N. 267 of 1990).
11. The Government Lands Act (Cap. 280)
12. The Sugar Act (No. 10 of 2001).

[Act No. 15 of 2003, L.N. 56/2004, Act No. 9 of 2007.]

PART III

[Section 25.]

1. The Income Tax Act (Cap. 470).
2. The Customs and Excise Act (Cap. 472).
3. The Value Added Tax Act (Cap. 476).
4. The Entertainment Tax Act (Cap. 479).

5. The East African Community Customs Management Act, 2004.
6. The Annexes to the Protocol on the Establishment of the East African Community Customs Union.  
[Act No. 9 of 2007, s. 75 (c) w.e.f. 15 June 2007, Act No. 6 of 2001, Act No. 9 of 2007.]
11. *Deleted by Act No. 9 of 2007, s. 75.*
12. The Sugar (Imposition of Levy) Order, 2002 (L.N. 385/2002).

---

## SECOND SCHEDULE

[Section 10, Act No. 5 of 1998.]

### 1. Meetings of the Board

(1) The first meeting of the Board shall be convened by the Chairman and, subsequently, the Board shall meet as often as necessary for the transaction of business at such places and at such times as may be decided upon by the Board but it shall meet at least once every month.

(2) The Chairman shall preside at every meeting of the Board and in his absence the members present may appoint a member from among themselves to preside at that meeting.

(3) The Chairman or, in his absence a member appointed by the Board to act in his place, may at any time call a special meeting upon a written request by a majority of the members.

(4) Notice of every meeting of the Board shall be given in writing to each member at least five days before the day of the meeting.

### 2. Quorum

(1) Subject to subparagraph (2), five members, excluding the *ex officio* members, shall constitute a quorum for the conduct of business at any meeting of the Board.

(2) When there is no quorum at, or for the continuation of, a meeting of the Board only because of the exclusion of a member under section 9 of the Act from the deliberations on a matter in which he has disclosed a personal interest, the other members present may if they deem it expedient so to do—

- (a) postpone the consideration of that matter until there is a quorum without that member; or
- (b) proceed to consider and decide the matter as if there was a quorum.

[Act No. 5 of 1998.]

### 3. Decisions of the Board

(1) All questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and voting, and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his deliberative vote.

(2) A decision may be made by the Board without a meeting by circulation of the relevant papers among the members of the Board and by the expression of the views of the majority of the members in writing but any member shall be entitled to require that the decision be deferred and the matter on which a decision is sought be considered at a meeting of the Board.

**4. Minutes of proceedings**

(1) The Board shall cause the minutes of all proceedings of its meetings to be recorded and kept, and the minutes of each meeting shall be confirmed by the Board at the next meeting of the Board and signed by the chairman or the person presiding at the meeting.

(2) The Chairman of the Board shall submit to the Minister a copy of the minutes of each meeting of the Board as soon as the minutes have been confirmed.

**5. Board to regulate its procedure**

Subject to the provisions of the Act, the Board may regulate its own procedure.

---



**CHAPTER 469**

**KENYA REVENUE AUTHORITY ACT**

SUBSIDIARY LEGISLATION

---

*List of Subsidiary Legislation*

	<i>Page</i>
1. The Kenya Revenue Authority (Tax Agents) Regulations, 2012 .....	21



**KENYA REVENUE AUTHORITY (TAX AGENTS) REGULATIONS, 2012**

ARRANGEMENT OF REGULATIONS

*Regulation*

1. Citation.
  2. Interpretation.
  3. Registration of tax agent.
  4. Validity of registration.
  5. Functions of tax agents.
  6. Register to be maintained by the Commissioner.
  7. Conduct of tax agent.
  8. Establishment of the Tax Agents Committee.
  9. Vacancy.
  10. Investigation of allegations of misconduct.
  11. Offences.
-



**KENYA REVENUE AUTHORITY (TAX AGENTS) REGULATIONS, 2012**

[L.N. 60/2012.]

**1. Citation**

These Regulations may be cited as the Kenya Revenue Authority (Tax Agents) Regulations, 2012.

**2. Interpretation**

In these Regulations, unless the context otherwise requires—

“**misconduct**” includes, making false tax declarations, aiding and abetting tax evasion and any other conduct expressly prohibited by any other law relating to the collection of tax;

“**practising certificate**” means a certificate issued to a person by a recognized professional association which permits that person to practice that profession;

“**tax agent**” means a person registered by the Commissioner as a tax agent under regulation 3;

“**Tax Agents Committee**” means the committee established under regulation 8;

“**registration certificate**” means certificate issued by the Commissioner to a person authorising that person to be a tax agent.

**3. Registration of tax agent**

(1) A person shall not operate as a tax agent unless the person has been registered by the Commissioner as a tax agent.

(2) A person who wishes to operate as a tax agent shall apply in writing to the Commissioner for registration as a tax agent.

(3) A person is qualified for registration as a tax agent if that person is—

- (a) registered as an accountant in accordance with the Accountants Act No. 15 of 2008, and a member of the Institute of Certified Public Accountants of Kenya; or
- (b) an advocate of the High Court of Kenya and holds a current practising certificate; or
- (c) a former tax administrator with at least ten years' experience in tax administration, or
- (d) a holder of any other relevant qualifications and experience recognized by the Commissioner as sufficient for a tax agent; and
- (e) tax compliant.

(4) Where the Commissioner is satisfied that a person is qualified for registration as a tax agent, the Commissioner shall issue a certificate of registration in the prescribed form.

(5) These Regulations shall not apply to a non-resident who is temporarily in Kenya for the sole purpose of representing a client on tax matters.

(6) A person who operates as a tax agent without registration commits an offence and is liable, on conviction, to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

---

[Subsidiary]

#### 4. Validity of registration

A person shall cease to be a tax agent if that person—

- (a) is suspended or struck off from the register of his professional association;
- (b) is suspended or deregistered by the Commissioner in accordance with regulation 10; or
- (c) is declared bankrupt by a court of competent jurisdiction.

#### 5. Functions of tax agents

The functions of a tax agent shall be to—

- (a) prepare and submit tax returns on behalf of a taxpayer;
- (b) liaise with the Kenya Revenue Authority on behalf of a taxpayer on all matters relating to tax;
- (c) advise and represent a taxpayer in matters pertaining to tax before the Commissioner, a tribunal or a local committee established under any of the laws set out in the First Schedule to the Act; or
- (d) deal with any other matters that relate to tax on behalf of a tax payer.

#### 6. Register to be maintained by the Commissioner

(1) The Commissioner shall maintain a register of tax agents which shall contain—

- (a) the names of all the tax agents;
- (b) the qualifications of the tax agents;
- (c) the address of the principal place and any other place where the tax agents operate, from; and
- (d) such other information as the Commissioner may consider necessary.

(2) A tax agent shall notify the Commissioner, of any change in the information in the register within fourteen days of such change.

#### 7. Conduct of tax agent

(1) A tax agent shall conduct himself in a professional manner and provide quality service to his clients in order to enable the clients to comply with the requirements of any of the laws set out in the First Schedule to the Act.

(2) Without prejudice to the foregoing, a tax agent shall—

- (a) comply with any notice served on the tax agent by the Commissioner within the time specified in the notice;
- (b) maintain a register containing the following details—
  - (i) the names of all the clients;
  - (ii) the date of engagement by each client;
  - (iii) the full physical addresses, postal address and any other contact details of each client; and
  - (iv) information relating to the nature of business that each client is engaged in;
- (c) maintain proper records indicating—
  - (i) the date when the last income tax return or specified notice was submitted to the Commissioner;

- (ii) the tax payable or paid; and
- (iii) such other particulars as the Commissioner may from time to time direct.

## 8. Establishment of the Tax Agents Committee

(1) The Minister shall, for the purpose of these Regulation establish a tax agent Committee which shall consider applications for registration of tax agents and investigate any allegations of misconduct made against tax agents.

(2) The Committee shall comprise of—

- (a) a chairperson, who shall be from the private sector with at least ten years' experience and holds a degree in taxation, finance, accounting, or law from a university recognized in Kenya;
- (b) a representative of the institute of Certified Public Accountant of Kenya;
- (c) a representative of the Law Society of Kenya;
- (d) three other persons who have at least five years experience and hold a degree in taxation, finance, accounting or law from a university recognized in Kenya;
- (e) a representative of the Commissioner, who shall be the secretary to the Committee.

(3) The members of the Committee shall be appointed by the Commissioner in writing, and shall serve for a term of three years and shall be eligible for re-appointment for one further term of three years.

(4) The quorum for a meeting of the Committee shall be the chairperson and two members.

(5) The Chairperson shall preside at every meeting of the Committee, at which the chairperson is present, and in the absence of the Chairperson, the members present shall appoint one of their number to preside over the meeting.

(6) The members of the Committee shall be paid such remuneration as the Minister may determine from time to time.

## 9. Vacancy

The office of the chairperson or a member of the Committee shall become vacant if the holder—

- (a) resigns by notice in writing, to the Commissioner;
- (b) is convicted of any offence;
- (c) is declared bankrupt by a court of competent jurisdiction;
- (d) fails to meet his tax obligations; or
- (e) fails to attend three consecutive meetings without notice to the chairperson.

## 10. Investigation of allegations of misconduct

(1) The Commissioner shall upon receiving any allegation of misconduct against a tax agent, refer the matter to the Committee to investigate the allegations and make the appropriate recommendations.

(2) Where the complaint is against a member of a recognized professional association, the Committee may refer the matter to the association for investigation and determination in accordance with the code of conduct of that association.

**[Subsidiary]**

(3) The Committee may recommend that such action as it may consider necessary be taken on the tax agent in addition to the action taken by the association.

(4) Where the complaint is against a person who is not a member of a recognized professional association, the Committee shall give the tax agent an opportunity to be heard and permit the tax agent to inspect any relevant documents at least seven days before the date of the hearing.

(5) The Committee may in the course of the investigations hear such witnesses and receive such documentary evidence as may, in its opinion, assist in the investigations.

(6) The Committee shall, expeditiously, but not later than seven days after termination of the hearing, submit a report, to the Commissioner recommending that the Commissioner—

- (a) clears the tax agent of the allegations;
- (b) cautions, warns or reprimands the tax agent;
- (c) suspends the registration of the tax agent,
- (d) deregisters the tax agent, or;
- (e) takes such other action that it considers appropriate.

(2) The Commissioner shall, within fourteen days of receiving the report of the Committee, take such action as may be appropriate.

**11. Offences**

Any person who—

- (a) fraudulently makes, or causes or permits to be made, any false or incorrect entry into the register maintained for the purposes of these Regulations, or any copy thereof;
  - (b) fraudulently procures or attempts to procure, registration as a “tax agent”; or
  - (c) knowingly and wilfully makes any statement which is false or which is misleading, with a view to gaining any advantage, concession or privilege under these Regulations; or
  - (d) not being a registered tax agent falsely presents himself as such, commits an offence and shall be liable, on conviction, to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or both.
-