

SPECIAL ISSUE

Machakos County Gazette Supplement No. 20 (Acts No. 7)



REPUBLIC OF KENYA

**MACHAKOS COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

NAIROBI, 20th April, 2016

CONTENT

Acts—

PAGE

The Machakos County Revenue Administration Act, 2015 1

**THE MACHAKOS COUNTY REVENUE ADMINISTRATION ACT
2015**

No. 7 of 2015

Date of Assent: 3rd December, 2015

Date of Commencement: 20th April, 2016

ARRANGEMENT OF SECTIONS

Sections

PART I—PRELIMINARY MATTERS

1— Short Title.

2— Interpretation.

PART II—ADMINISTRATION OF REVENUE LAWS

3— Director Revenue Administration.

4— Functions and powers of Director.

5— Officers and staff.

6— Delegation of functions and powers.

7— Agreement in relation to revenue collection.

8— Revenue to be paid in the County Revenue Fund.

9— Annual reporting by Director.

10— Duty to provide information to the Director.

11— Access inspection and other powers.

12— Seizure of property required as evidence.

PART IV—GENERAL PROVISIONS

13— Identification.

14— Revenue register.

15— Refund of excess revenue.

16— Limitation from liability.

17— Publication and service of notices and other documents.

18— General penalty for offence.

19— Regulations.

AN ACT of Machakos County Assembly to provide for the general administration of revenue raising laws and other taxation laws; and for connected purposes

ENACTED by Machakos County Assembly as follows—

PART I—PRELIMINARY MATTERS

Short title

1. This Act may be cited as the Machakos County Revenue Administration Act, 2015.

Interpretation

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

“County Executive Committee Member” means the County Executive Committee Member responsible for finance;

“county public officer” has the same meaning assigned to it under the County Governments Act No. 17 of 2012;

“Director” means Director Revenue Administration established under section 3 and includes a person acting in that capacity;

“Directorate” means the office of the Director;

“premises” includes—

- (a) any part of a building or structure;
- (b) any part of a vehicle or vessel; or
- (c) an area of land;

“rate” means a rate imposed under the Machakos County Rating Act 2014 or other county legislation;

“receiver of revenue” means a receiver of County revenue designated to be a receiver of revenue under Section 157 of the Public Finance Management Act, No. 18 of 2012

“revenue law” includes—

- (a) this Act;
- (b) the Machakos County Rating Act;
- (c) the Machakos County Trade License Act;
- (d) the Finance Act;

- (e) any other Act imposing tax that is payable to the county government; or
- (f) any Act or other law providing for the payment to the county government of fees or charges for services provided.

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

“relevant person” means—

- (a) a revenue payer;
- (b) an employee or agent of the revenue payer; or
- (c) any other person whom the Director Revenue Administration reasonably deems to be in a position to assist in determining any liability of the revenue payer to pay a rate, tax, fee or charge payable under a revenue law.

PART II— ADMINISTRATION OF REVENUE LAWS

Director Revenue Administration

3. (1) There is established an office of the Director Revenue Administration whose office shall be an office within the county public service.

(2) A person is qualified for appointment as director revenue administration if that person—

- (a) possess a minimum of bachelors degree in public finance or a related field from a recognized university;
- (b) has a working experience of not less than five years; and
- (c) is a member of professional body in the related field

Functions and powers of Director

4. (1) The Director is responsible for the administration and enforcement of revenue laws including the assessment, collection and accounting for all revenue payable under the revenue laws.

(2) The Director shall advise the county government on all matters relating to the administration and enforcement of county revenue laws.

(3) The Director shall have all the powers necessary for the proper performance of the functions under this Act or other revenue law.

Officers and staff

5. There shall be appointed in the office of the Director such other officers and staff as are necessary for the discharge of the functions under this Act.

Delegation of functions and powers

6. The Director revenue administration may subject to such conditions impose in writing, delegate any power and assign any duty to an officer of the directorate,

Agreement in relation to revenue collection

7. The Director may, with the approval of the County Executive Committee Member, appoint an agent to be a collector of county government revenue on such terms and conditions as may be agreed in writing in accordance with this Act.

Revenue to be paid in the County Revenue Fund

8. All revenue collected, raised or received by or on behalf of the county government shall be paid into the County Revenue Fund.

Annual reporting by Director

9. (1) For each financial year, the Director shall prepare and keep proper books of accounts in accordance with section 165 of the Public Finance Management Act.

(2) The Director shall prepare an annual revenue collection report indicating total collections in the different categories of revenue and an assessment of the operation and administration of all revenue laws.

(3) The Director shall submit the annual report to the County Executive Member responsible for finance within sixty days after the end of the year to which the report relates.

(4) The County Executive Member shall, not later than thirty days after the receipt of the report from the Director, submit it to the county assembly.

Duty to provide information to the Director

10. (1) For purposes of determining the liability of a revenue payer to pay a rate, tax, fee or charge payable under a revenue law, the Director may, by notice in writing, given to the relevant person require that person to provide any specified information.

(2) A person who knowingly fails to comply with a notice given under subsection (1) commits an offence and is liable upon conviction to a fine not exceeding one hundred thousand shillings or to imprisonment to a term not exceeding one year or both.

Access inspection and other powers

11. (1) For purposes of determining the liability of a revenue payer under any revenue law, the Director may enter any premises at all reasonable times and exercise any of the following powers—

- (a) inspect the 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; and
- (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 Director is of the opinion that it is impractical to exercise any of the powers under paragraph (1), the Director 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) Whenever required to do so, a relevant person shall give all reasonable assistance to the Director in exercise of the functions under this Act.

(4) A person commits an offence if the person, being a relevant person—

- (a) fails or refuses to provide access to premises as required by the Director revenue administration; or
- (b) obstructs or hinders the Director revenue administration in the discharge of duties under sub section (1).

Seizure of property required as evidence

12. (1) The Director may take into possession any movable property, that may be required as evidence in a court for proceedings to be brought under this Act or any other revenue law.

(2) If the property is no longer required, the property shall be returned as soon as practical to the relevant person.

PART IV—GENERAL PROVISIONS

Identification

13. In the performance of the function under this Act, any officer of the directorate shall, whenever so required, produce written identification establishing their position if requested by any person.

Revenue register

14. (1) The Director shall establish and maintain an up-to-date revenue register.

(2) The register shall contain the prescribed information and may be kept in such form as the county executive committee member may decide from time to time.

Refund of excess revenue

15. (1) A person who pays more than the required revenue may apply to the Director for a refund of the excess amount paid.

(2) The Director shall upon receiving an application made under subsection (1) consider and inquire into the accuracy of the application.

(3) Upon being satisfied that the revenue payer has paid an excess of the due revenue, the Director shall direct that the excess amount be refunded.

Limitation from liability

16. The Director, staff of the directorate or agent shall not be liable for loss or damage incurred as a result of any act or omission done or made in good faith and without negligence in the performance or exercise of any function or power imposed by or conferred under this Act.

Publication and service of documents

17. (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;

- (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;
- (c) by ordinary or registered post;
- (d) by emailing it to the person; or
- (e) any method which may be prescribed.

(3) If the Director 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 Director 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” in addition to the name of the premises.

General penalty for offence

18. A person who commits an offence for which no other penalty has been provided shall on conviction be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or both.

Regulations

19. (1) The County Executive Committee Member shall with the approval of the County Assembly make Regulations generally for the better carrying out of the provisions and purposes of this Act.

(2) Without limiting the generality of subsection (1), the County Executive Committee Member may in consultation with the Director—

- (a) prescribe forms to be used under this or other revenue law; and
- (b) issues guidelines for giving effect the provisions of this Act.