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SPECIAL ISSUE

Kenya Gazette Supplement No. 14 (Nyamira County

Bills No. 11)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NYAMIRA COUNTY BILLS, 2023

NAIROBI, 15th November, 2023

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NUMBER 1818 November, 2023

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MEMORANDUM OF OBJECTS AND REASONS

The Bill seeks to amend the Nyamira County Revenue Administration Act, 2028.

Part I provides for preliminary sections.

Part II seeks to establish the Nyamira County Revenue Authority and its functions.

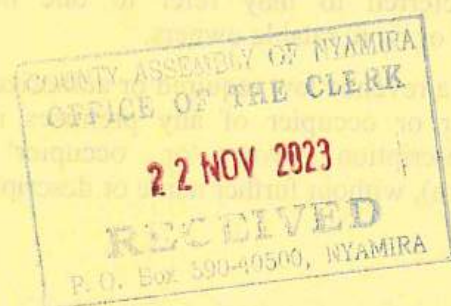
Part III provides for funding to the persons living with Disabilities among other provisions.

Part IV provides for the Nyamira County Revenue Records and Information Management.

Dated the 14th November, 2023.

CHARLES N. KEGANDA,

Chairperson, Finance, ICT and Economic Planning Committee.



**THE NYAMIRA COUNTY REVENUE ADMINISTRATION
(AMENDMENT) BILL, 2023**

A Bill for

AN ACT of the County Assembly of Nyamira to amend the Nyamira County Revenue Administration Act, 2018, and for connected purposes

ENACTED by the Nyamira County Assembly of as follows—

Short Title

1. This Act may be cited as the Nyamira County Revenue Administration (Amendment) Act, 2023.

Amendment of Section 2 of No. 5 of 2018

2. The Nyamira County Revenue Administration Act, 2018, in this Act referred to as “the Principal Act” is amended in section 2 by inserting the following new definitions in proper alphabetical sequence—

“The Authority” means the Authority established under Section 3A (1);

“The Board” means the Board established under Section 3A (4); and

“The County Public Service Board” means the Board established under Section 57 of the County Governments Act

Amendment of Part II of No. 5 of 2018

3. The Principal Act is amended by deleting Part II and substituting therefor the following new Part—

PART II — NYAMIRA COUNTY REVENUE AUTHORITY

3A. Establishment of the Authority

- (a) There is established an Authority to be known as the ‘Nyamira County Revenue Authority’.
- (b) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of—
 - (i) Entering into contract acts; and
 - (ii) Can sue and be sued

Functions of the Authority

3B. The Authority shall, under the general direction of the Executive Committee Member, be responsible for the following—

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- (a) Administering and enforcing revenue laws to ensure that monies raised or collected by or on behalf of the County are paid into the County Revenue Fund except those exempted by other laws and legislations;
- (b) Assessing revenue payable to the County Government where applicable;
- (c) Advising the Executive Committee Member on all matters relating to the imposition, administration and enforcement of revenue laws, assessment and collection of revenue and penalties thereof in line with Article 209 of the Constitution;
- (d) Preparing an annual work plan for County revenue collection specifying expected work volumes, service and enforcement initiatives;
- (e) Institute measures to ensure compliance with the Principal Act
- (f) Implementing effective, efficient and secure systems of assessing, collecting and remitting revenue;
- (g) Designing and implementing a plan to achieve revenue growth;
- (h) Promote and encourage voluntary compliance by revenue payers;
- (i) Provide public education and awareness to all revenue payers as well as members of the public on the importance of paying the revenues promptly, the criteria of assessment and tabulation of revenue due and ways of making the payments;
- (j) Advising the County Executive Committee Member on all matters related to collection and administration of revenue;
- (k) Liaising and providing linkages with National Government entities dealing with Revenue collection in both the National and County Governments; and
- (l) Doing or performing all other acts or things for the proper performance of its functions under this Act.

Board of Directors

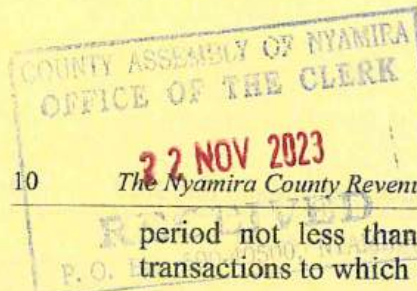
3C. (a) There shall be a Board of Directors which shall be the governing body of the Authority and shall consist of the following —

- (i) A Non-Executive Chairperson appointed by the Executive Committee Member

- (i) By delivering it to the person to or on whom it is to be sent or served;
 - (ii) 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;
 - (iii) By ordinary or registered post;
 - (iv) By emailing it to the person; or
 - (v) By any method which may be prescribed
- (c) Despite the provisions of the County Revenue Administrator having attempted to send or serve a document by any prescribed method is satisfied that such notice has not been received by the person to whom it was addressed, the County Revenue Administrator may advertise, in the manner provided in the general purport of such document, and upon such advertising, the document shall be deemed to have been received by the person.
- (d) An advertisement referred to may refer to one or more documents and to one or more ratable owners.
- (e) 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.

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period not less than five years after the completion of the transactions to which they relate

- (b) The Authority shall, by way of seven day notice in writing, issued to the revenue payer may be required to make and keep.
- (c) The Executive Committee Member may make guidelines on the various categories of revenue payers and their respective obligations.

5C. Information Technology

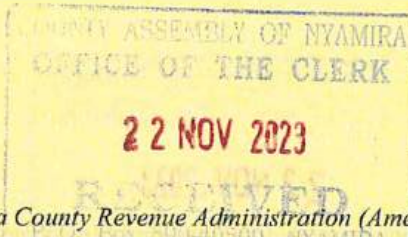
- (a) The Authority shall adopt an integrated revenue collection system for the purposes of ensuring effective and efficient revenue administration
- (b) The County Executive Member shall ensure that the Authority and authorized officer adopts appropriate information technology measures to improve efficiency
- (c) The Authority shall institute mechanism of the audit that the revenue automation system may undergo to prevent and detect various forms of fraud and other accounting irregularities

5D. Providing information and evidence

- (a) For the purposes of determining the liability, if any, of a revenue payer to pay revenue, the Authority shall by way of a seven-day notice in writing, require the relevant person to do either or both of the following:
 - (b) Provide the Authority with such information as the Authority requires; and
 - (c) Attend and give evidence before the Authority including on oath.
- (d) A person who fails to comply with a notice under this section commits an offence and is liable on conviction to a fine not exceeding one hundred thousand shillings or imprisonment for a term not exceeding three months, or to both.

Publication and service of documents

- 5E** (a) Any document required to be published under a revenue law may be published in the County Gazette and County websites and may where necessary, be published in one or more newspapers circulating in the County.
- (b) Any document required or authorized to be sent or served under or for purposes of a revenue law may be sent or served by any method prescribed below:



- (ii) The County Chief Officer for the time being responsible for Resource Mobilization
- (iii) Four members competitively sourced and appointed by the Executive Committee Member
- (iv) The County Revenue Administrator who shall be an ex officio member.

- (b) Not more than two-thirds of the members shall be of the same gender.

3D. Qualifications of the Board Members and Term of the Board

- (a) To qualify for appointment as a Member of the Board, a person must—
 - (i) Be a holder of a Bachelors Degree in Finance, Accounting, Economics, Business or related field from a university recognized in Kenya.
 - (ii) Have knowledge and experience of at least ten years in matters relating to, business, finance, accounts and related fields or law, public sector management or any other related field in Kenya
 - (iii) Satisfy the conditions of Chapter Six of the Constitution
- (b) The term of office for the Board of Directors shall be Three years' renewable once subject to satisfactory performance.

Functions of the Board

3E. The Board shall be responsible for the following—

- (a) The approval and review of the policies of the Authority;
- (b) The monitoring of the performance of the Authority in carrying out its functions;
- (c) The discipline and control of all members of staff of the Authority appointed under this Act; and
- (d) Approve any alteration in the organization or establishment of the Authority;

Vice chairperson

3F. The Board shall nominate from amongst themselves, a vicechairperson, who shall preside over the business of the Board meetings in the absence of the chair person.

Conduct of business

3G. The conduct and regulation of the business and affairs of the Board shall be as set out in the Schedule and except as provided in the Schedule, the Board may regulate its own procedure through its own charter.

Co-opting

3H. The board may co-opt any other member for expert opinion as need may arise.

Remuneration of the Board

3I. The remuneration of the Board of Directors shall be set out as per the SRC advice guidelines.

3J. County Revenue Administrator

- (a) There shall be a County Revenue Administrator of the Authority who shall be designated by the County Executive Committee Member in receiving of Revenue within the meaning of Section 157 of the Public Finance Management Act, 2012.
- (b) The County Revenue Administrator shall be recruited through a competitive process by the County Public Service Board and forwarded to the County Executive Member for Finance for designation as per section 157 of the PFM Act 2012.

Qualifications of the County Revenue Administrator

3K. To qualify for appointment as a County Revenue Administrator, a person must—

- (a) Be a holder of a Bachelor's Degree in Finance, Accounting, Economics, Business or related field from a recognized University.
- (b) Have had experience in management in the relevant field for a period of not less than ten years;
- (c) Satisfy the conditions of chapter six of the Constitution

Term of the County Revenue Administrator

3L. The County Revenue Administrator shall serve in the Authority on such terms and conditions of employment as shall be stipulated in the performance contract or letter of appointment.

(e) Such other monies as may be payable or vested.

Utilization of Financial Resources

4B. The Authority may use the monies to—

- (a) Buy assistive devices for persons with disabilities;
- (b) Issue grants to associations of/for persons with disabilities;
- (c) Capacity building and awareness creation;
- (d) Education support programs to persons with disabilities;
- (e) Establishment of rehabilitation and rescue centers for persons with disabilities;
- (f) Spearheading activities related to agriculture, health, housing, children affairs and innovations;
- (g) Sports, culture and talent management;
- (h) Support research on emerging disability issues;
- (i) Provide for financial annual estimates for budgeting;
- (j) Provide for auditing of the monies appropriated; and
- (k) Any other things in furtherance of the objectives of this Act.

PART IV— NYAMIRA COUNTY REVENUE RECORDS AND INFORMATION MANAGEMENT**Amendment of Part III of No. 5 of 2018**

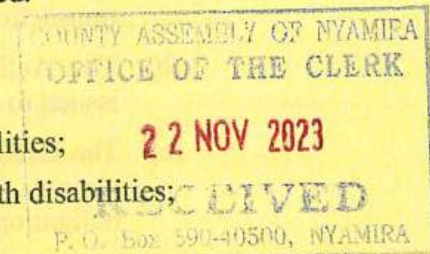
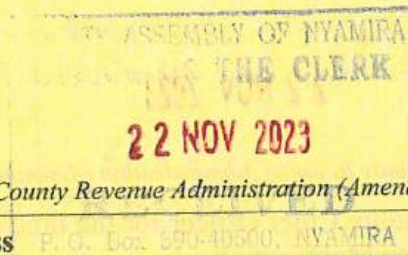
1. The Principal Act is amended by deleting Part III and substituting therefor the following new Part—

5A. Registration of Revenue payers

- (a) The Authority shall register all revenue payers in the prescribed manner
- (b) A revenue payer registered under this section shall be assigned a revenue identification number
- (c) The authority shall maintain the register of County revenue payers
- (d) The register prepared shall be in the prescribed form

5B. Maintenance of revenue records by revenue payers

- (a) A revenue may keep such records as may be reasonably necessary to determine the revenue payers to the County for a



collect rates, taxes, fees and charges payable under revenue laws on such terms and conditions as are specified in the agreement

Compliance

3U. Any authorized Revenue collector appointed under this Act shall have the powers to enforce compliance on all revenue available to the County Government.

3V. Secrecy

- (a) An authorized revenue collector shall in carrying out the provisions of this Act, regard and deal with all documents and information relating to revenue and all documents and information relating to revenue and all confidential instructions in respect of the administration of this Act and any other revenue law that may come into the offices Possession or knowledge in the course of the officer's duties as secret.
- (b) Nothing in this section shall prevent an authorized Officer from disclosing a document or information to the following persons—
 - (i) Another authorized revenue collector for the purposes of carrying out any duty arising under a revenue law;
 - (ii) The court, to the extent necessary for the purposes of any proceedings under a revenue law;
 - (iii) The Director - General of the Kenya National Bureau Statistics but only when such disclosure is necessary for the performance of official duties;
 - (iv) The Auditor General by only when such disclosure is necessary for the performance of official duties;
 - (v) Any other person with the written consent of the Executive committee member for finance

PART III— PEOPLE LIVING WITH DISABILITIES IN NYAMIRA COUNTY

4A. Sources of Funding

The funding shall consist of—

- (a) Monies appropriated by the County Assembly for that purpose;
- (b) Sums received as contributions, donations, gifts or grants;
- (c) Refunds and capitations from any institution duly paid;
- (d) Monies earned or realized from any investment; or

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3M. Resignation and removal from office

- (a) The County Revenue Administrator may at any time resign from office by giving a notice in writing of at least 30 days to the chairperson of the Board;
- (b) The County Revenue Administrator shall be removed from office by the Executive Committee Member for Finance upon recommendation of the Board on grounds of—
 - (i) Violation of the Constitution or any other law;
 - (ii) Gross misconduct in the performance of the functions of the office;
 - (iii) Physical or mental incapacity to perform the functions of the office; or Gross incompetence.

Functions of the County Revenue Administrator

3N. The County Revenue Administrator shall be the Chief Executive Officer of the Authority and, subject to the general supervision and control of the Revenue Authority Board and shall be responsible for—

- (a) The day to day operations of the Authority;
- (b) Collecting, receiving and accounting for all revenue received on behalf of the County in accordance with the Public Finance Management Act;
- (c) The administration, organization and control of the staff of the
- (d) Authority;
- (e) The management of funds, property and affairs of the Authority;
- (f) Implementation of resolutions of the Authority under this Act; and
- (g) Carrying out any other function as may be provided for in this Act or as the Authority may from time to time determine.

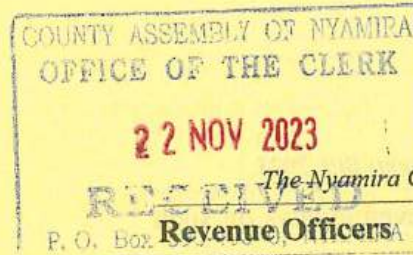
3O. Reports on the Operations of the Authority

- (a) The County Revenue Administrator shall prepare and submit to the Board, County Treasury and the Executive Committee Member—
 - (i) Quarterly reports on the operations of the Authority and the implementation of this Act;
 - (ii) Quarterly statements with copies to the National treasury and the Commission for Revenue Allocation;

- (iii) An annual report for each financial year which shall cover among others—
- All matters related to the Authority and the implementation of this Act;
 - The operation and administration of all revenue laws;
 - The collection of revenue;
 - The challenges faced in the implementation of this Act and proposed measures and interventions;
 - Proposed policy and legislative measures to be adopted in order to enhance county revenue and revenue administration; and ✓ Any other information as may be required by the Board.
- (b) The Executive Committee Member shall submit the report received under subsection (18) to the County Executive Committee Member within fourteen days after receipt of the report.
- (c) The County Executive Committee Member shall consider the report submitted under subsection (19) and shall transmit it to the County Assembly for consideration not later than thirty days after its consideration.

Staff of the Authority

- 3P.** (a) The County Public Service Board shall in consultations with the Revenue Authority Board appoint such staff as are necessary for proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine.
- (b) The County Public Service Board shall;
- Recruit staff through a competitive process;
 - Ensure that there is sufficient number of staff qualified in matters related to accounting, finance, business, law, information technology or any relevant field necessary for
 - The better carrying out the objects and functions of the Board
 - The Board may, by instrument in writing, delegate any of its functions under any revenue laws to a County Public Officer.



3Q. The Executive Committee Member may, in accordance with section 158(1) of the Public Finance Management Act, 2012 and in consultation with the Revenue Authority Board, designate such persons to be revenue officers and to work as staff of the Authority, for the purposes of collecting revenue on behalf of the County Government, provided that such officers shall be County public officers appointed by the County Public Service Board.

3R. Common Seal

- The common seal of the Authority shall be kept in the custody of the County Revenue Administrator or of such other person as the Board may direct, and shall not be used except upon the order of the Board
- The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorization by the Board under this section shall be presumed to have been duly given.
- The common seal of the Board shall be authenticated by the Chief Executive Officer

3S. Protection from liability

- No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Board shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Board under this Bill, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

Liability for Damages

- Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done bona fide be paid out of the Funds of the Board, unless such expenses are recovered by him or her in such suit or prosecution.

Agreement in relation to revenue collection

3T. The Board may through the County Executive Committee Member for Finance enter into an agreement authorizing an agent to