

SPECIAL ISSUE

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**WEST POKOT COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

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**THE WEST POKOT COUNTY REVENUE ADMINISTRATION
ACT, 2015**

No. 7 of 2015

Date of Assent: 12th October, 2015

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**THE WEST POKOT COUNTY REVENUE
ADMINISTRATION ACT, 2015**

AN ACT of the County Assembly of West Pokot to provide for the general administration of taxation laws and other revenue raising laws, and for related purposes.

ENACTED by the County Assembly of West Pokot, as follows—

PART I – PRELIMINARY MATTERS

1. (1) This Act may be cited as the West Pokot County Revenue Administration Act, 2015 and shall come into operation on the date of publication in the County and Kenya Gazette.

Short title

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

Interpretation

“collector of revenue” means a person authorized under Section 76 of the Public Finance Management Act, 2012 to be a collector of revenue for that county government

“county public officer” has the same meaning as in the County Governments Act, 2012;

“premises” includes—

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

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

“prescribed” means prescribed by the rules made under this Act;

“rate” means a rate imposed under the West Pokot County Valuation and Rating Act;

“Receiver of Revenue” means the person holding or acting in the office of the Receiver of County Government revenue established by section 157 of the public Finance Management Act, 2012;

“revenue law” means-

- (a) this Act; or
- (b) the West Pokot County Valuation and Rating Act; or
- (c) the West Pokot County Trade Licence Act; 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; or
- (g) the Act providing for annual county finances.

“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 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 rate, tax, fee or charge to the county government under a revenue law.

PART II — ADMINISTRATION

3. There is established an office of the Receiver of Revenue appointed by the Executive Committee Member who is-

- (a) in the case of taxation, the person who is the Receiver of Revenue 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 who is the Receiver of Revenue designated in respect of that other kind of revenue under Section 157 of the Public Finance

Receiver of
Revenue

Management Act.

4. (1) The Receiver of Revenue shall-

- (a) be responsible for the administration and enforcement of revenue laws and for that purpose to ensure the assessment, collection, recovery and accounting for all rates, taxes, fees and charges payable by or under any of those laws;
- (b) advise the county government on all matters relating to the administration and enforcement of county revenue laws, and the assessment and collection of rates, taxes, fees and charges under those laws; and
- (c) perform such other functions as the Executive committee member directs

Functions and powers of Receiver of Revenue

(2) Without limiting the functions and powers of the Receiver of Revenue under the Public Finance Management Act, 2012, the Receiver of Revenue has such powers and other functions as are provided for by or under the revenue laws.

5. The Receiver of Revenue may, by instrument in writing, delegate all or any of the functions or powers under any revenue law to a county public officer, except this power of delegation.

Delegation of functions and powers

6. (1) The receiver of revenue may from time to time determine, assess and reassess any tax payable under a revenue law.

(2) The receiver of revenue shall give a written notice to the tax payer of the notice of assessment.

(3) Any assessment made is subject to being varied or vacated on reconsideration, objection or appeal.

(4) any person who disputes the liability for the amount assessed may-

- (a) within sixty days of the date of service serve the Receiver of Revenue a notice of objection setting out reasons for objection.
- (b) deliver the notice of objection to the office of the Receiver of Revenue or send it through a registered mail.

(5) The Receiver of Revenue shall within sixty days after receipt of the notice of objection-

- (a) reconsider the assessment or estimate and vacate;
- (b) confirm or vary it; and
- (c) notify the objector of the decision made through written notice.

(6) Objection under subsection (4) applies to tax payable under the Land Registration Act, 2012.

7. The county government may enter into an agreement authorizing a person to collect rates, taxes, fees and charges payable under revenue laws on such terms and conditions as are specified in the agreement.

Agreement in relation to revenue collection

8. (1) The Receiver of Revenue shall prepare an annual report on the operation and administration of all revenue laws.

Annual report

(2) The Receiver of Revenue shall give an annual report to the county executive member responsible for finance within 90 days after the end of the year to which the report relates.

(3) The Executive Committee Member responsible for finance shall table the annual report in the County Assembly as soon as practicable.

9. (1) Every collector who collects any tax is deemed to hold the same in trust for the payment over the same in the manner prescribed under this Act.

(2) The amount of tax collected does not form part of the collector's estate.

(3) All taxes collected by the collector of revenue shall be remitted to the Receiver of County Government Revenue at such time and manner as may be prescribed by regulations.

(4) The collector shall be paid such allowance or commission as may be prescribed by regulations.

10. Any amount due under this Act or a revenue law, shall bear interest at the prescribed rate, not exceeding two percent per month, from the day that amount should have been remitted.

Interest on overdue tax

PART III—RECORDS AND INFORMATION OF REVENUE PAYERS

11. (1) A revenue payer shall 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.

Books, accounts
and records to be
made and kept

(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 – one hundred thousand shillings or to a term of imprisonment not exceeding six months or to both.
- (b) in any other case – five hundred thousand shillings or to a term of imprisonment not exceeding one year or to both.

12. (1) 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 Receiver of Revenue may, by notice in writing, given to the relevant person require the relevant person to do either or both of the following-

Providing
information and
evidence

- (a) provide the Receiver of Revenue with such information as the Receiver of Revenue requires ;
and
- (b) attend and give evidence before the Receiver of Revenue;

(2) If a person fails to comply with a notice under subsection (1), the person is guilty of an offence punishable on conviction by a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding six months or to both.

13. (1) For the purpose of determining the liability (if

Access, inspection
and other powers

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 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 shall give all reasonable assistance to the Receiver of Revenue so as to allow that person exercise all or any of the 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 county Receiver of Revenue while discharging the duties under paragraph (1)(a),(b) or (c); the person is guilty of an offence punishable on conviction by a fine not exceeding one hundred thousand shillings or to a term of imprisonment not exceeding six months or to both.

14. (1) The Receiver of Revenue may take into 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.

Seizure of
property required
as evidence

(2) When property is no longer required under subsection (1), the property shall be returned as soon as practical to the person entitled to it.

PARTIV – MISCELLANEOUS

15. (1) In performing any function or exercising any power under this Act, the Receiver of Revenue shall produce written identification establishing the position held if requested by any person.

Identification

(2) In performing any function or exercising any power under this Act, a delegate of the Receiver of Revenue shall produce written identification establishing the position being held as the Receiver of Revenue's delegate if requested by any person.

16. (1) The Receiver of Revenue shall establish a revenue register and keep it up to date.

Revenue register

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

17. The Receiver of Revenue may approve forms for the purposes of a revenue law.

Approved forms

18. If a person contravenes or fails to comply with any provision of this Act, the person commits an offence and, unless another penalty is expressly provided by this Act for that offence, the person is liable on conviction to a fine not exceeding ten thousand shillings or to a term of imprisonment not exceeding two months or to both.

General penalty for
offence

19. (1) Any document required to be published under a revenue law may be published by advertisement in the Gazette and in one or more newspapers circulating in the county.

Publication and service
of documents

(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 by—

(a) delivering it to the person to or on whom it is to

be sent or served; or

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

(3) However, if the Receiver 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 Receiver of Revenue may advertise, in the manner provided in subsection (1), the general purpose 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.

20. (1) The Receiver of Revenue may issue guidelines for the purposes of a revenue law.

Guidelines

21. The Executive Committee Member may make regulations—

Regulations

- (a) in respect to the forms and records to be used for the purpose of this Act or a revenue law;
- (b) prescribing the method of collection and remittance of the tax, and of the remittance of deposits and any other conditions or requirements affecting the collection and remittance;
- (c) prescribing interest rate;
- (d) prescribing the allowances and conditions thereof to be paid to collectors for collecting tax and deposits to the Receiver of County Government

Revenue;

- (e) authorizing a designated officer or class of officers to exercise any powers or to perform any duties of the receiver of county government revenue under this Act or a Revenue Law;
- (f) in respect to the release of returns and other tax-related information;
- (g) in respect to the suspension, cancellation and reinstatement of a certificate or permit issued by the executive committee member under this Act;
- (h) in respect to the relief, in circumstances prescribed by regulation, of interest;
- (i) on penalties assessed against tax payers;
- (j) in respect to any other matter or thing that is considered necessary to carry out effectively the intent and purposes of this Act.