

SPECIAL ISSUE

Siaya County Gazette Supplement No. 13 (Acts No. 5)



REPUBLIC OF KENYA

**SIAYA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2014

NAIROBI, 23rd January, 2015

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**THE SIAYA COUNTY REVENUE
ADMINISTRATION ACT, 2015**

No. 5 of 2014

Date of Assent: 22nd December, 2014

Date of Commencement: 1st January, 2015

AN ACT of the County Assembly of Siaya to provide for the general administration of certain taxation laws and other Revenue raising laws, and for connected purposes

PART 1 –PRELIMINARY

1. (1) This Act may be cited as the Siaya County Revenue Administration Act 2014.

Short title and commencement

(2) This Act comes into operation on 1st January, 2015.

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

Interpretation

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

“premises” includes:

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

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

“rate” means a rate imposed under the Siaya County Rating Act 2014;

“Receiver of Revenue” has the meaning given by section 3;

“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 law” means:

- (a) this Act; or
- (b) the Siaya County Rating Act 2014; or
- (c) the Siaya County Trade Licence Act 2014 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;

“Revenue payer” means a person liable to pay a rate, tax, fee or charge to the County Government under a Revenue law.

PART 2 – ADMINISTRATION OF REVENUE LAWS

3. The Receiver of Revenue is:

Receiver of Revenue

- (a) in the case of taxation, the person who is the Receiver of Revenue for the County 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 for the county designated in respect of that other kind of Revenue under section 157 of that Act.

4. (1) The Receiver of Revenue:

Functions and powers of Receiver of Revenue

- (a) is responsible for the administration and enforcement of Revenue laws and for that purpose must ensure that the assessment, collection and accounting of rates, taxes, fees and charges is undertaken in accordance with the requirements of those laws; and
- (b) is to advise the County Government on all matters relating to the administration and

enforcement of Revenue laws, and the assessment and collection of rates, taxes, fees and charges under those laws; and

(c) must perform such other functions as The County Government directs.

(2) The Receiver of Revenue has such powers as are necessary to enable him or her to perform the functions under subsection (1).

(3) The Receiver of Revenue has such other powers and functions as are provided for by or under the Revenue laws.

(4) In performing any function or exercising any power under a Revenue law,, the Receiver of Revenue must produce written identification establishing his or her position if requested by any person.

(5) All monies collected by the Receiver shall be banked in the County Revenue Fund in the first instance and shall not be spent at source.

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

Delegation of functions and powers

(2) In performing any function or exercising any power, a delegate of the Receiver of Revenue must produce written identification establishing his or her position as the county Receiver of Revenue's delegate if requested by any person.

6. 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

7. (1) The Receiver of Revenue must prepare an annual report on the operation and administration of all Revenue laws.

Annual report

(2) The Receiver of Revenue must give the annual report to the County Executive Committee Member responsible for finance within 90 days after the end of the year to which the report relates.

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

PART 3—REVENUE PAYERS' OBLIGATIONS AND COMPLIANCE POWERS

8. (1) A Revenue payer must 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 –500,000 shillings; or
- (b) in any other case –2,500,000 shillings.

9. (1) For the purposes of determining the liability (if any) of a Revenue payer to pay a rate, tax, fee or charge under a Revenue law, the Receiver of Revenue may, by notice in writing, given to a 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;
- (b) attend and give evidence before the Receiver of Revenue, including on oath administered by 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 500,000 shillings.

10. (1) For the purpose 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 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:

Access, inspection and other 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 must give all reasonable assistance to the Receiver of Revenue so as to allow him or her to exercise all or any of his or her 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 Receiver of Revenue in the discharge of his or her duties under paragraph (1)(a),(b) or (c); the person is guilty of an offence punishable on conviction by a fine not exceeding 500,000 shillings.

11. (1) The Receiver 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

Seizure of property required as evidence

brought under this Act or any other Revenue law.

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

PART 4 – MISCELLANEOUS

12. (1) The County Executive Committee Member responsible for finance may on a recommendation made under subsection (3) waive or reduce a rate, tax, fee or charge that is imposed or payable under a Revenue law.

Waiver or reduction of taxes, fees and charges

(2) An application to waive or reduce a rate, tax, fee or charge that is imposed or payable under a Revenue law must be made in writing to the County Executive Committee Member responsible for that Revenue law.

(3) The County Executive Committee Member referred to in subsection (2) may recommend that the rate, tax, fee or charge the subject of the application be waived or reduced if he or she is satisfied that:

- (a) the applicant would suffer severe financial hardship if the rate, tax, fee or charge were not waived or reduced; or
- (b) it is not cost effective to take action to recover the rate, tax, fee or charge; or
- (c) the waiver or reduction is for the purpose of encouraging the applicant to pay amounts outstanding to the County Government; or
- (d) grounds of equity or other good cause exist that make it expedient to waive or reduce the rate, tax, fee or charge; or
- (e) an order of a court is in force that specifies the imposition or payment of a rate, tax, fee or charge at a lower rate or amount than is provided for in the Revenue law under which the rate, tax, fee or charge is imposed or payable; or
- (f) other compelling circumstances exist which make it expedient to waive or reduce the rate, tax, fee or charge.

(4) A recommendation under subsection (3) must be in writing and must:

- (a) specify the rate, tax, fee or charge that is waived or the amount of the reduction of the rate, tax, fee or charge; and
 - (b) specify the person or body to whom the waiver or reduction applies; and
 - (c) set out the reasons for the recommendation.
- (5) Within 14 days after making a decision under subsection (1), the County Executive Committee Member responsible for finance must cause a copy of the decision to be provided to the Governor and the applicant together with a statement of the reasons for the decision
- (6) A person or body granted a waiver or reduction of a rate, tax, fee or charge is not subject to any collection or enforcement procedure in respect of the rate, tax, fee or charge that is waived or the part of the rate, tax, fee or charge that is reduced.
- (7) The County Executive Committee Member responsible for finance must cause:
- (a) a public record of each waiver or reduction to be maintained together with the reason for the waiver or reduction; and
 - (b) within 90 days or such other prescribed period after the end of each year, the Auditor-General to be notified of any waiver or reduction made for that year.
- (8) A county public officer within the meaning of the County Governments Act 2012 or any other prescribed office holder may not be excluded from the payment of a rate, tax, fee or charge by reason of his or her office or the nature of his or her work.
- (9) All waivers shall be placed before the County Assembly for approval 14 days after recommendation.
- 13. (1)** The County Receiver of Revenue must establish and maintain a Revenue Register which is to be available for inspection by the public during government office hours. Revenue register
- (2) The register must contain the prescribed information and may be kept in such form as the Receiver of Revenue decides.

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

Approved forms

15. If a person contravenes or fails to comply with any provision of this Act, the person commits an offence against this Act and, unless another penalty is expressly provided by this Act for that offence, the person is liable on conviction to a fine not exceeding 50,000 shillings.

General penalty for offence

16. (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.

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:

- (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 residence 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 e-mailing it to the person; or
- (e) any other prescribed method.

(3) However, if the Receiver of Revenue has attempted to send or serve a document by one of the methods mentioned in subsection (2) and is satisfied that such document 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 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 Revenue payers.

(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.

17. The Receiver of Revenue may issue guidelines for the purposes of a Revenue law.

Guidelines

18. The County Executive Committee Member responsible for finance may make rules generally for the better carrying out of the provisions and purposes of this Act.

Rules

19. The County Executive Committee Member responsible for finance shall make regulations for the better carrying out the provisions and purposes of this Act and they shall come to operations immediately they are gazette.

Regulations

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