

SPECIAL ISSUE

Kenya Gazette Supplement No. 7 (Mandera County Acts No. 5)



REPUBLIC OF KENYA

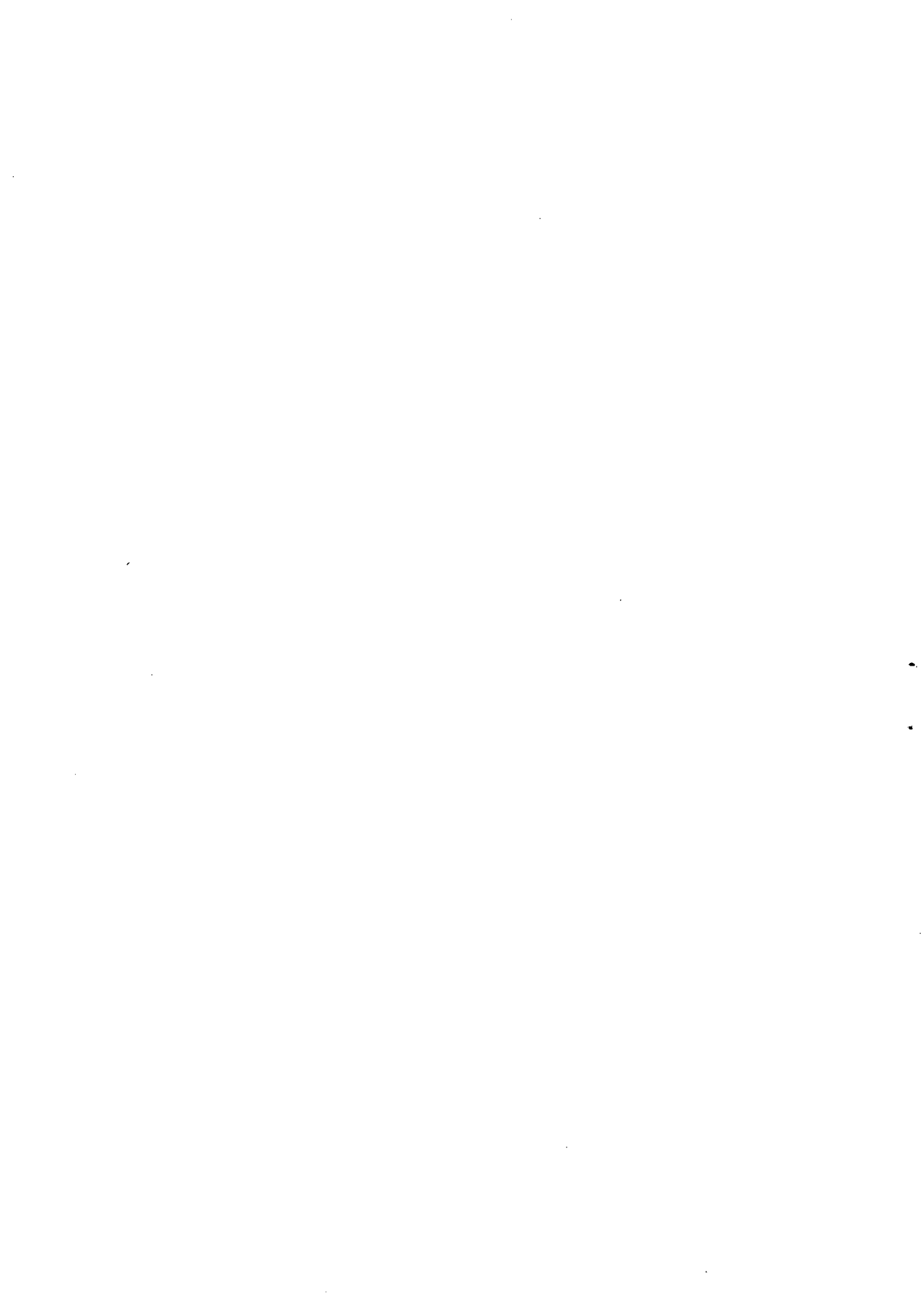
KENYA GAZETTE SUPPLEMENT

MANDERA COUNTY ACTS, 2017

NAIROBI, 2nd November, 2017

CONTENT

Act—	PAGE
The Mandera County Revenue Administration Act, 2016	1



**THE MANDERA COUNTY REVENUE ADMINISTRATION ACT,
2016**

No. 5 of 2016

Date of Assent: 8th December, 2016

Date of Commencement: See Section One

ARRANGEMENT OF SECTIONS

PART I—PRELIMINARY

Section

1—Short title and commencement.

2—Interpretation.

PART II—ADMINISTRATION OF REVENUE LAWS

3—County revenue officer.

4—Functions and powers of county revenue officer.

5—Delegation of functions and powers.

6—Agreement in relation to revenue collection.

7—Annual reports.

**PART III—RECORDS AND INFORMATION OF REVENUE
PAYERS**

8—Books, accounts and records to be made and kept.

9—providing information and evidence.

10—Access, inspection and other powers.

11—Seizure of property required as evidence.

PART IV—MISCELLANEOUS

12—Identification.

13—Revenue register.

14—Approved forms.

15—General penalty for offence.

16—Publication and service of notices and other documents.

17—Tax waivers and variation.

18—Rules.

**THE MANDERA COUNTY REVENUE ADMINISTRATION ACT,
2016**

**An ACT of the County Assembly of Madera to provide for the
general administration of certain taxation laws and other
revenue raising laws, and for related purposes**

ENACTED by the County Assembly of Madera

PART 1—PRELIMINARY MATTERS

Short title and commencement

1. (1) This Act may be cited as the Madera County Revenue Administration Act 2016.

(2) This Act shall come into operation assent upon by the Governor.

Interpretation

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

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

“county revenue officer” means the person holding or acting in the office of the county revenue collector established by section 3;

“premises” includes—

- (a) any part of a building or structure;
- (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 Madera County Rating Transition Act 2015; “revenue law” means—

- (a) this Act; or
- (b) the Madera County Rating Transition Act 2015; or
- (c) the Madera County Trade License Transition Act 2015; or
- (d) the Act providing for annual county finances; or
- (e) any other Act imposing an entertainment tax or any other 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; or
- (g) any other prescribed law;

“relevant person” means—

- (a) a revenue payer; or
- (b) an employee or agent of the revenue payer; or
- (c) any other person whom the County revenue Officer 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 a rate, tax, fee or charge to the county government under a revenue law.

PART II—ADMINISTRATION OF REVENUE LAWS

County revenue officer

3. (1) there is established a directorate in the County department responsible for finance to be known as the County Revenue Directorate.

(2) The Revenue Directorate shall be under the general direction of the Executive Member and responsible for—

- (a) collecting and receiving revenue on behalf of the county;
- (b) assessing the tax payable to the county government where applicable; and
- (c) advising the Executive Member on all matters related to collection and administration of revenue.

(3) Doing or performing all other acts or things for the proper performance of its functions under this Act.

(4) The Revenue Directorate shall account for revenue collected to the Executive Member.

(5) The Revenue Directorate shall serve under the general direction of the Executive Member.

(6) The Executive Member shall, in accordance with section 157 of the Public Finance Management Act, 2012 appoint such revenue officers to serve under the Revenue Unit, provided that such officers shall be county public officers appointed by the county public service Board.

Functions and powers of county revenue officer

4. (1) The Revenue Directorate shall carry out its functions in a manner that upholds the following values—

- (a) human dignity;
- (b) rule of law;

- (c) non- discrimination;
- (d) transparency;
- (e) fairness;
- (f) justice; and
- (g) equality and equity.

(2) revenue officer appointed under this Act shall have powers under the general direction of Director revenue to—

- (a) assess any tax payable to the county government by any person in accordance with the county laws or any written law;
- (b) receive or collect on behalf of the county government and tax payable by any person;
- (c) enter any premises for the purposes of implementing this Act or a law related to county revenue collection;
- (d) inspect any premises or information for the purposes of implementing this Act; and
- (e) do such other things as may be prescribed.

Delegation of functions and powers

5. (1) The Revenue Directorate or a receiver of revenue appointed under this Act may appoint such persons to collect county revenue on behalf of the Revenue Directorate or a revenue receiver.

(2) A person appointed to collect revenue under this section shall account for the revenue collected as may be specified by the Executive Member.

- (3) Notwithstanding subsection (2), a revenue Officer shall—
 - (a) issue an official receipt on all payments received;
 - (b) remitted to the county government; and

Bank all money received on the same day unless where it is not practicable in which case the money shall be banked on the following working day.

(4) A person shall not receive or collect any money on behalf of the County unless authorized under this Act or under any other written law.

(5) A person who contravenes the subsection (4) commits an offence and shall be liable to a fine not exceeding one hundred thousand shilling or to imprisonment term of not less than six months or both.

Agreement in relation to revenue collection

6. (1) Subject to the approval by the County Executive Committee, the county government may enter into a service level agreement with an agent for the collection of county revenue under this Act.

(2) A service level agreement entered into under this section shall be in accordance with the requirements of this Act, the Public Finance Management Act, 2012 and any other written law.

(3) The service level agreement shall stipulate the amount payable as agency commission, which shall be approved by the County Executive Committee—

Provided that—

- (a) no service level agreement shall provide for deduction of agency fee before the remittance of the fee collected; and
- (b) the agency commission shall not exceed five percent of the total amount collected.

(4) The Revenue Directorate shall pay an agent appointed under this section the commission stipulated in the service level agreement.

(5) The Revenue Unit, a receiver of revenue, a revenue collector or an agent appointed to collect revenue on behalf of the county government shall maintain such records related to revenue administration as may be prescribed.

(6) A person or an entity described under subsection (1) shall submit monthly reports to the Executive Member in relation to the revenue received or collected.

- (7) (a) The Revenue Directorate may make assessment of tax or interest owed by a taxpayer;
- (b) an assessment under subsection (1) shall not alter the due date of payment of the fees, charges or rate as determined under the relevant law;
- (c) the Revenue Directorate shall cause the notice of the assessment under sub section (1) to be served on the person assessed and it shall state the amount of fees, charges or rates payable and the date taxpayer is expected to pay.

Annual report

7. (1) The revenue Director shall prepare and submit to the Executive Member—

- (a) monthly and quarterly reports of the operations of the Revenue Directorate and the implementation of this Act which shall be transmitted to the County Executive Committee for consideration;
- (b) an annual report for each financial year which shall cover among others —
 - (i) all matters related to the Revenue Directorate and the implementation of this Act;
 - (ii) the operation and administration of all revenue laws;
 - (iii) the challenges faced in the implementation of this Act and proposed measures and interventions;
 - (iv) proposed policy and legislative measures to be adopted in order to enhance county revenue and revenue administration; and
 - (v) any other information as may be required by the Executive Member.
- (2) The revenue Director shall submit the annual report described under subsection (1) (b) to the Executive Member within three months after the end of each financial year to which the report relates.
- (3) The Executive Member shall submit the annual report received under subsection (2) to the County Executive Committee within fourteen days after receipt of the report.
- (4) The County Executive Committee shall Consider the report submitted under subsection 3 and shall transmit it to the County Assembly for consideration not later than thirty days after its consideration.

PART III—RECORDS AND INFORMATION OF REVENUE PAYERS

Books, accounts and records to be made and kept

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.

(2) The county revenue officer 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.

(1) 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 – 10,000 shillings; or
- (b) in any other case - 50,000 shillings.

Providing information and evidence

9. (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 County revenue officer may, by notice in writing, given to a relevant person require the relevant person to do either or both of the following—

- (a) provide the county revenue collector with such information as the county revenue collector requires;
- (b) attend and give evidence before the county revenue officer, including on oath administered by the county revenue officer.

(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 20,000 shillings.

Access, inspection and other powers

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 county revenue officer 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 county revenue officer is of the view that it is impractical

to exercise any of the powers under paragraph (1)(a),(b) or (c), the county revenue collector 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 county revenue collector 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 county revenue officer ; or
- (b) obstructs or hinders the county revenue officer 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 5,000 shillings.

Seizure of property required as evidence

11. (1) The county revenue officer 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 brought under this Act or any other revenue law.

(2) When property is no longer required under subsection (1), the property must be returned within 7 days.

PART IV—MISCELLANEOUS

Identification

12. (1) In performing any function or exercising any power under this Act, the county revenue officer must produce written identification establishing his or her position if requested by any person.

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

Revenue register

13. (1) The county revenue officer must establish a revenue register and keep it up to date.

(2) The register must contain the prescribed information and may be kept in such form as the county revenue officer decides.

(3) The Revenue Directorate shall, where appropriate registers all tax payers in the prescribed manner.

(4) A taxpayer registered under this section shall be assigned a tax identification number.

(5) The Revenue Directorate shall maintain a register of county taxpayers, which shall be available for inspection by any member of public during government office hours.

(6) The register prepared under subsection (3) shall be in the prescribed form.

Approved forms

14. (1) The county revenue officer may approve forms for the purposes of a revenue law. The Revenue Directorate shall—

- (a) institute measures to ensure compliance with this Act; and
- (b) promote and encourage voluntary compliance by tax payers.

(2) The revenue Directorate shall provide public education and awareness to all tax payers as well as members of the public.

(3) The revenue Directorate shall, where appropriate adopt such information technology as deemed necessary for the purposes of ensuring effective and efficient tax administration.

(4) The Executive Member shall ensure that any County department or an agent responsible for collecting revenue on behalf of the County Government adopts appropriate information technology measures.

General penalty for offence

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 10,000 shillings.

Publication and service of documents

16. (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.

(2) Any document required or authorized to be sent or served under or for the purposes of 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 abode 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 emailing it to the person; or
- (e) any method which may be prescribed.

(3) However, if the county revenue collector 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 county revenue officer may advertise, in the manner provided in subsection (1), the general purport of such document, and upon such advertising the document is be deemed to have been received by the that person.

(4) An advertisement referred to in subsection (3) may refer to one or more documents and to one or more dateable 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.

Tax waivers and variations.

17. (1) Subject to the approval by the County Executive Committee, the Executive Member may waive or vary a rate, tax, fee or charge that is imposed or payable to the county government under relevant written law.

(2) A person may apply to the Executive Member for a waiver or variation of a tax, rate, fee or charge payable to the county government.

(3) An application made under subsection (2) shall be in the prescribed form.

(4) An application made under subsection (2) shall be in writing and addressed through the Executive Member responsible for the respective law under which a waiver or variation the tax, rate, fee or charge is sought.

(5) Notwithstanding subsection (2), the County Executive Committee may, on its own motion grant a waiver or variation of a tax, rate, fee or charge payable to the county government.

(6) The County Executive Committee may approve waive or vary a tax, rate, fee or charge if it satisfied that—

- (a) the applicant would suffer severe financial hardship if the rate, tax, fee or charge were not waived or reduced;

- (b) it is not cost effective to take action to recover the rate, tax, fee or charge;
- (c) the waiver or reduction is for the purpose of encouraging the applicant to pay amounts outstanding to the county government;
- (d) grounds of equity or other good cause exist that make it expedient to waive or reduce the rate, tax, fee or charge;
- (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.

(7) The County Executive Committee may approve or reject an application made under subsection (2).

(8) Where the County Executive Committee rejects an application made under subsection (2), it shall give reasons for rejecting the application.

(9) The Executive Member shall, within fourteen days after making a decision under subsection (1) inform the applicant of the outcome of the decision related to the application.

(10) A person or body granted a waiver or variation 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 varied.

(11) The Executive Member shall maintain a public record of each waiver or variation of rate, tax, fee or charge granted under this Act and the reasons for the waiver or variation.

(12) A State Officer or 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 the office or the nature of work of the officer.

Rules

18. The county executive member responsible for finance may make rules generally for the better carrying out of the provisions and purposes of this Act.

