

SPECIAL ISSUE

Vihiga County Gazette Supplement No. 7 (Acts No. 3)



REPUBLIC OF KENYA

**VIHIGA COUNTY GAZETTE
SUPPLEMENT**

ACTS, 2015

NAIROBI, 18th November, 2015

CONTENT

Act -	PAGE
The Vihiga County Revenue Administration Act, 2015	1

VIHIGA COUNTY REVENUE ADMINISTRATION ACT, 2015

No. 3 of 2015

Date of Assent: 10th November, 2015.

Date of Commencement: See Section 1

ARRANGEMENT OF SECTIONS

Sections

PART I—PRELIMINARY

- 1—Citation.
- 2—Interpretation.
- 3—Objective.

PART II—ADMINISTRATION

- 4—Establishment of a Directorate of Revenue Administration Services.
- 5—Resignation of the County Receiver of Revenue.
- 6—Qualification of a County Receiver of Revenue.
- 7—Functions of the County Receiver of Revenue.
- 8—Tenure of office.
- 9—Appointment of revenue collectors.
- 10—Remuneration.
- 11—Indemnity.
- 12—Secrecy.

PART III—PAYMENT

- 13—Revenue to be paid into County Revenue Fund.

PART IV—ENFORCEMENT

- 14—Keeping of registers.
- 15—Assessment.
- 16—Power to collect fee, charges etc through agency notice.
- 17—Seizure and forfeiture of goods.
- 18—Refund of fees, charges, rate etc paid in error.
- 19—Agent.
- 20—Revenue Management Committee.

21—Functions of the Revenue Management Committee.

PART V—OFFENCES

22—Failure to pay fees, charges, cess etc.

23—Obstruction of authorized revenue collector.

24—Aiding or abetting an offence.

25—Offences by authorized revenue collector.

PART VI—MISCELLANEOUS

26—Reports

27—Keeping of records

28—Application of Information Technology

29—Practice notes

30—Identification cards

31—Approved Forms

32—Protection of officers

33—General penalty

34—Regulations

35—Savings

36—Assistance

VIHIGA REVENUE ADMINISTRATION ACT, 2015

An ACT of the County Assembly of Vihiga to provide for general administration of revenue, establishment of the directorate of revenue administration services, appointment of the County Receiver of revenue Collector and for connected purposes

ENACTED by the County Assembly of Vihiga, as follows—

PRELIMINARY

1. This Act may be cited as the Vihiga County Revenue Administration Act, 2015 and shall come into operation on the date of publication in the *gazette*. Citation.

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

“agent” means a person other than a County public officer appointed to collect revenue on behalf of the County;

“assessment” means an estimate of fees, charges, rent or rates including interest owed by a taxpayer to the County under section 15 of this Act;

“Auditor-General” has the same meaning assigned in the Constitution;;

“authorized revenue collector” means the County Receiver of Revenue and any other officer appointed under section 8 of this Act;

“County public officer” has the same meaning assigned in the County Government Act;

“County Receiver of Revenue ” means the person appointed under section 4 of this Act;

“County” means the County Government of Vihiga;

“County Revenue Fund” means a Fund established in accordance with section 207 of the Constitution;

“executive committee member” means executive committee member responsible for finance;

“rate” means a charge imposed on an area of land in accordance with the Rating Act Cap.267 or any other law that may be enacted for that purpose;

“rent” means fees payable for use of a County house, stall or premises and includes hiring of a social hall or ground for social functions or any other activities;

“revenue” means any fee, charge, cess, rates, rent or any payment payable or due to the County;

“revenue law” means this act, and any other act relating to imposition and collection of revenue for the County; and

“Taxpayer” means a person required to a pay fee, charge, rate among others to the County.

3. The objective of this Act is to provide a legal framework for revenue administration in order to ensure there are efficient, transparency, accountability and fairness in revenue administration. Objective.

PART II—ADMINISTRATION

4. (1) There is hereby established a directorate of Revenue Administration Services. Establishment of a Directorate.

(2) The head of the directorate shall be the County Receiver of Revenue.

(3) The directorate shall have such divisions as may be necessary for revenue administration.

5. (1) There shall be a County Receiver of Revenue appointed as per section 157 of Public Finance Management Act, 2012 through a gazette notice, from the three persons submitted by the County Public Service Board and with the approval of the County Assembly. Appointment of the County Receiver of Revenue.

6. (1) The County Receiver of Revenue shall be responsible for the collection of, and accounting for the revenue and shall be subject to the control of the executive committee member, have the superintendence on all matters relating to revenue. Functions of the County Receiver of Revenue.

(2) Notwithstanding the generality of subsection (1), the County Receiver of Revenue shall be responsible for—

- (a) with the approval of the revenue management committee, appoint such heads of divisions as may be required for the efficient performance of the directorate.

- (b) With the approval of the revenue management committee, appoint Sub-County Receiver of Revenue;
- (c) Administration and enforcement of revenue laws;
- (d) planning, directing, supervising and coordinating Activities of revenue collection;
- (e) Implementing policies on revenue collection;
- (f) Designing and maintaining systems to promote and support voluntary payments of revenue and also compliance with revenue laws;
- (g) Ensuring accurate, efficient and lawful assessment of revenue;
- (h) Designing and implementing a plan to achieve revenue growth;
- (i) Designing and implementing effective, efficient and secure systems of collecting revenue;
- (j) Ensuring the revenue management committee is regularly updated on revenue matters;
- (k) With the approval of the executive committee member, transfer or merge the functions of a division of the directorate;
- (l) Transfer any revenue collector from one division to another or from one station to another;
- (m) Performing such other functions as may be assigned by the executive committee member; and
- (n) Reporting to the County assembly, Controller of Budget and National Treasury.

8. (1) The County Receiver of Revenue shall, authorize other officers to be revenue collectors as provided in section 158 of Public Finance Management Act, 2012.

Appointment of other revenue collectors.

9. For the purpose of carrying out the provision of this Act, every authorized revenue collector shall, in the performance of his duties, have all powers, rights, privileges and protection by the County Government (Indemnity).

Revenue collector to have indemnity.

10. (1) 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 confidential instructions in respect of the administration of this act and any other revenue law that may come into the officer's possession or knowledge in the course of the officer's duties as secret.

(2) Nothing in this section shall prevent an authorized officer from disclosing a document or information to the following persons —

- (a) another authorized revenue collector for the purposes of carrying out any duty arising under a revenue law;
- (b) the court, to the extent necessary for the purposes of any proceedings under a revenue law;
- (c) the Director-General of the Kenya National Bureau of Statistics but only when such disclosure is necessary for the performance of official duties;
- (d) the Auditor-General but only when such disclosure is necessary for the performance of official duties;
- (e) any other person with the written consent of the executive committee member.

(3) If an authorized revenue collector is permitted to disclose documents or information under subsection (2), the officer shall maintain secrecy to the extent necessary to achieve the object for which the disclosure is permitted.

(4) Subsections (1) shall apply to a person receiving documents or information under subsection (2) as if the person were an authorized revenue collector.

PART III—PAYMENT

11. (1) All money collected, or due and payable under any law to the County shall be paid into the County Revenue Fund

Revenue to be paid into revenue fund.

(2) A revenue collector shall issue an official receipt on all payments received on behalf of the County.

(3) All the revenue collected under sub section (1) shall be banked daily, by latest 4.00 p.m.

(4) Any money collected after 4.00 p.m. and over the weekend/ weekdays or on a public holiday shall be banked during the next working day before 10.00 a.m.

(5) (1) A person shall not receive or collect any money on behalf of the County unless authorized by the County.

(2) any person who contravenes the provision of this section commits an offence and on conviction shall be liable to a fine not exceeding one hundred thousand shilling or to imprisonment of six months or to both.

(3) The officer should be disciplined as per the term and condition of the employment.

(4) The public service and administration shall second adequate askaris to the revenue department for enforcement and security.

PART IV—ENFORCEMENT

12. (1) The County Receiver of Revenue shall ^{Keeping of registers} maintain a register of all taxpayers except those that pays on daily basis or one off such taxpayers of market fees, cess or approval fees for building plans.

(2) The County Receiver of Revenue shall keep records on each taxpayer where necessary including communications with the taxpayer.

(3) The register or the records shall be updated regularly.

13. (1) The County Receiver of Revenue based on ^{Assesment.} such evidence as may be available to him, may make assessment of fees, charges, cess, rent, or rates including interest owed by a taxpayer.

(2) An assessment under subsection (1) shall not alter the due date of payment of the fees, charges or rate as determined under the revenue law.

(3) The authorized revenue collector 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.

14. (1) Upon approval by the revenue management committee , the County Receiver of Revenue may— ^{Power to repossess plots, properties and evict a person.}

- (a) repossess a plot or property if the owner fails to pay the rate for more than three consecutive years.
- (b) evict a person occupying County house, stall or premises if the person fails to pay the rent for more than three consecutive months.

(2) The County Receiver of Revenue shall serve notice of eviction or repossession to a person occupying County house, premises, stall or the owner of the plot setting out conditions for restoration and the time limit within which the person occupying the County house, premises, and stall should comply.

15. (1) The County Receiver of Revenue may, in respect of the taxpayer and by notice in writing, require a person who —

Power to collect fee, charges etc through agency notice.

- (a) owes, or may subsequently owe, money to the taxpayer;
- (b) holds, or may subsequently hold money, for or on account of, the taxpayer;
- (c) holds, or may subsequently hold money on account of another person for payment to the taxpayer; or
- (d) has authority from another person to pay money to the taxpayer, to pay the amount specified in the notice to the County, being an amount that shall not exceed the amount of the unpaid fee, charges, rent, rate or any other monies owed to the County by the taxpayer .

(2) The person shall pay the amount specified in the notice under subsection (1) by the date specified therein, being a date that is not before the date that the amount owed by that person to the taxpayer becomes due to the taxpayer or held on the taxpayer's behalf.

(3) When a person with a notice under subsection (1) claims to be, or to have become, unable to comply with the notice by reason of lack of monies held by him on behalf of, or due to the taxpayer from another person, the person shall notify the County Receiver of Revenue, in writing within seven days after receipt of the notice, setting out the reasons for his inability to comply.

(4) When a notice is served on the County Receiver of Revenue under subsection (3), the County Receiver of Revenue shall, by notice in writing—

- (a) accept the notification and cancel or amend the notice issued under subsection (2); or
- (b) reject the notification.

(5) The County Receiver of Revenue shall, by notice in writing to the taxpayer, revoke or amend a notice served under subsection (2) when the taxpayer has paid the whole or part of the revenue or has made an arrangement satisfactory to the County Receiver of Revenue for payment of the revenue

(6) The County Receiver of Revenue shall serve the taxpayer with a copy of a notice served on the agent under this section.

(7) A payment made by an agent to the County Receiver of Revenue in accordance with a notice issued under this section is treated as having been made on behalf of the taxpayer and shall constitute a good and sufficient discharge of the liability of the taxpayer or any other person.

(8) The County Receiver of Revenue shall credit any amount paid by an agent under this section against the fee, charge or rates owing by the taxpayer.

(9) An agent who, without reasonable cause, fails to comply with a notice under this section shall be personally liable for the amount specified in the notice.

16. (1) An authorized revenue collector may seize goods if he has reasonable grounds to believe that revenue in respect of the goods has been paid. Seizure and for factor of goods.

(2) Goods seized under subsection (1) shall be stored in a place approved by the County Receiver of Revenue or authorized revenue collector in a manner to ensure the security of the goods.

(3) When the goods referred to in sub section (1), have been seized, the authorized revenue collector shall, having regard to the conditions of the goods, serve the owner of the goods or the person who has custody or control of the goods, a notice in writing—

- (a) identifying the goods;
- (b) stating that the goods have been seized under this section and the reasons for seizure;
- (c) setting out the terms for the release or disposal of the goods; and
- (d) stating that the goods shall be forfeited to the County, if not claimed in accordance with subsection (4).

(4) The County Receiver of Revenue or authorized revenue collector may authorize the goods to be released to whom the notice was served under subsection (3) when that person pays or has given security for the payment of revenue due and payable, in respect of the goods.

(5) If subsection (4) does not apply, the County Receiver of Revenue or the authorized revenue collector shall detain the goods seized under subsection (1).

- (a) In case of perishable goods, for a period that is reasonable, having regards to the conditions of the goods; or
- (b) In any other case, for thirty days after the seizure.

(6) When the retention period under subsection (5) has expired, the goods shall be treated as having been forfeited by the owner to the County Receiver of Revenue.

(7) The County Receiver of Revenue may sell the forfeited goods through a public auction or any other means approved by the revenue management committee.

17. If a taxpayer is dissatisfied with the decision of the County Receiver of Revenue he may within thirty days of being served with a notice of assessment by the County Receiver of Revenue appeal to the Revenue Management Committee.

Appeal to the Revenue Management Committee.

18. (1) The County Receiver of Revenue may either refund or offset against future payments of fees, charges or rates paid in error.

Refund of fees, charges, rate etc paid in error.

(2) The taxpayer shall apply for refund or offsetting of fees, charges or rate paid in error to the County Receiver of Revenue giving sufficient reasons for the error.

(3) The County Receiver of Revenue having been satisfied that in deed the payment of fees, charges or rate was made in error, either refund within thirty days from the date of application or offset against future payments.

19. (1) The executive committee member may, upon ^{Agent.} approval by the revenue management committee and through a written agreement, appoint a person, to collect any revenue on behalf of the County

(2) A person appointed under subsection (1) shall be paid a fee not exceeding five per cent of the revenue collected by that person.

20. (1) There is established a revenue administration ^{Revenue management Committee.} committee.

(2) The Committee shall comprise of the—

- (a) executive committee member who shall be the chairperson;
- (b) director responsible for finance; chief officer for lands, housing and physical development;
- (c) director in charge of Public Service and Administration;
- (d) director in charge of trade, industry and tourism;
- (e) director in charge of water, environment and natural resources;
- (f) director in charge of Budget and Expenditure;
- (g) director in charge of Budget Policy;
- (h) the County Receiver of Revenue or his Representative who shall be secretary to committee.

(3) The Committee shall meet at least once every month.

21. The functions of the Revenue Management ^{Functions of the Revenue Management Committee.} Committee shall be to—

- (a) review the revenue performance;
- (b) advise on the revenue policies;
- (c) approve eviction of person occupying a County house, a Stall or a County premises and

repossession of Plots or properties upon recommendation of the County Receiver of Revenue;

- (d) set targets for various divisions, sub-County and also the overall revenue target of the County;
- (e) approve the appointment or removal of a sub-County Receiver of Revenue;
- (f) approval waiver of Fees, charges, rates or penalties;
- (g) approval of appointment of revenue agent;
- (h) advise the County Receiver of Revenue on measures to enhance revenue collection; and
- (i) advice on any other matter necessary for the better carrying out the functions of this Act.

PART V—OFFENCES

22. A person who fails to pay revenue due to the County before or on the due date commits an offence. Failure to pay fees, charges, cess etc.

23. A person who hinders or obstructs an authorised revenue collector from the performance of his duties under a revenue law commits an offence. Obstruction of authorized officer.

24. A person who aids, abets, assists, incites, or induces another person to commit an offence under a revenue law commits an offence. Aiding or abetting an offence.

25. (1) An authorized revenue collector commits an offence when the officer — Offences by authorized revenue collector.

- (a) makes, in any record, return, or other document that they are required to keep or make, an entry that they know, or have reasonable cause to believe to be false, or do not believe to be true;
- (b) willfully refuses to do anything that they know, or have reasonable cause to believe, is required to be done by them under a revenue law;
- (c) interferes with any other person or process under a revenue law so as to defeat the provisions or requirements of the revenue law;

- (d) fails to do anything that the authorized officer is required to do to give effect to the provisions of a revenue law;
 - (e) fails to issues a receipt for the money received on behalf of the County or issues receipt for less amount of money than the amount received;
 - (f) without reasonable cause, acts or omits to act in breach of his duty under a revenue law;
 - (g) willfully contravenes the provision of a revenue law to give under advantage or favor to another person; or
 - (h) fails to prevent or report to the relevant authority the commission of an offence under a revenue law.
- (2) In this section, “authorized revenue collector” includes a person employed or engaged by the County in any capacity.

PART VI—MISCELLANEOUS

26. (1) Any notice, document or information required or authorized to be sent or served under a revenue law may be sent or served—

Serving of notices,
documents
etc

- (a) by delivering it personally to the person to 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 sending it through post office to the last known address or by registered mail; or
- (d) by emailing it to the person; or
- (e) Short text messages (SMS).

(2) If the County Receiver of Revenue having attempted to send information or serve a document by any of the method provided under subsection (1) and is satisfied that such notice, information or document has not been received by the person to whom it was addressed, the County Receiver of Revenue may publish in a newspaper with wide circulation in the County the general purport of the notice, document or the information which is deemed to have been received by the person.

(3) A publication referred to in subsection (2) may refer to one or more documents and to one or more ratable property owners.

(4) 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 without further name or description.

27. Any charge, rate, cess, rent or any revenue due and payable to County that is outstanding constitute a debt due to the County and may be recovered by action in any court of competent jurisdiction. Revenue due is debt.

28. (1). The County Receiver of Revenue shall prepare and submit monthly, quarterly and annual revenue reports to the executive committee member. Reports.

(2) Revenue report referred in subsection (1) shall be submitted not later than ten (10) days after the end of each period.

29. (1) The County Receiver of Revenue shall keep records of all revenue collected on behalf of the County in accordance with the international accounting standards. Keeping of records.

(2) The revenue records shall be audited by the Auditor-General.

30. Revenue due to the County may be paid to the County Receiver of Revenue through information technology. Application of Information Technology.

31. (1) In order to achieve consistency in revenue administration and to provide guidance to persons affected by the revenue laws, the County Receiver of Revenue may issue to the public practice notes setting out his interpretation of the Law. Practice notes.

(2) A practice note is binding on the County Receiver of Revenue and other revenue collectors until revoked.

32. An authorized revenue collector shall wear visibly a staff identification card issued by the County Receiver of Revenue. Identification Cards.

33. The County Receiver of Revenue may approve Forms for the purpose of revenue collection. Approved forms

34. No officer shall be personally liable for any act or omission done in the performance of his functions under Protection of officers

this Act unless having regard to the circumstances of the case, such act or omission is found to be—

- (a) done or omitted to be done willfully or dishonestly by such officer;
- (b) attributable to the negligence of such officer; or
- (c) done or omitted to be done by such officer in contravention of any provision of this Act, or regulations.

35. A person convicted of an offence under this Act for which no penalty is provided shall be liable to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding one, or to both. General penalty.

36. The executive committee member may make regulations for better carrying out the purpose of this Act. Regulations.

37. (1) On coming into effect of this Act, the County public officers collecting revenue for the County shall— Savings.

- (a) continue to collect or receive revenues on behalf of the County as if they were appointed under this Act.
- (b) become officer of the directorate established under this Act.

38. (1) When carrying out these function, the County Receiver of revenue should be provided with the following— Facilitation.

- (a) adequate finance regularly.
- (b) the revenue vehicle should be provided to each Sub-County and two at the head quarter.
- (c) the County receiver of revenue should be forwarded with adequate funds for data bundle for point of sale device and for air time communication.

39. The Revenue Collector during his/her performance of duty may call assistance from any enforcement officer. Assistance by enforcement.