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CONTENT

A Bill for introduction into the Bomet County Assembly—	Page
The Bomet County Revenue Collection Bill, 2014.....	3

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BOMET COUNTY REVENUE COLLECTION BILL, 2014
ARRANGEMENT OF CLAUSES

Clause

PART I — PRELIMINARY

1. — Short title and commencement
2. — Interpretation

**PART II — OFFICE OF THE COUNTY REVENUE
COLLECTOR**

3. — Establishment of the office of the County Revenue Collector
4. — Functions and powers of the County Revenue Collector
5. — Delegation of functions and powers
6. — Agreement in relation to revenue collection
7. — Annual report

**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 PROVISIONS

12. — Identification
13. — Revenue register
14. — Approved forms
15. — General penalty
16. — Publication and service of notices and other documents
17. — Guidelines
18. — Rules and regulations

BOMET COUNTY REVENUE COLLECTION BILL, 2014

A Bill for

AN ACT of the County Assembly of Bomet to provide for the administration and collection of revenue; and for related purposes.

ENACTED by the County Assembly of Bomet as follows—

PART I — PRELIMINARY

Short title and
commencement.

1. This Act may be cited as the Bomet County Revenue Collection Act, 2014 and shall come into operation on the upon assent.

Interpretation

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

“Gazette” means the County Gazette;

“premises” includes—

(a) any part of a building or structure;

(b) any part of a vehicle or vessel;

(c) an area of land;

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

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

“rate” means a rate imposed under any legislation of the county and the National Government enforced at the County;

“relevant person” means:

(a) a revenue payer; or

(b) an employee or agent of the revenue payer; or

No. 17 of 2012

- (c) any other person whom the County Revenue Collector 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” means any amount or tax due and payable to the County under any County legislation and includes such rates, fees, charges and levies;

“revenue collector” means the person holding or acting in the office of the County Revenue Collector established by section 3;

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

“shillings” means the Kenya Shillings.

PART II — OFFICE OF THE COUNTY REVENUE COLLECTOR

Establishment of the office of the County Revenue Collector.

3. (1) There is established an office of the County Revenue Collector which shall be an office in the County public service.

(2) The County Government may appoint a County public officer or any other person as the County Revenue Collector, including acting as the County Revenue Collector.

Functions and powers of the County Revenue Collector.

4. (1) The functions of the County Revenue Collector are to—

- (a) administer and enforce revenue laws and for that purpose shall assess, collect and account 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 County Executive Committee member for finance may direct from time to time.

(2) The County Revenue Collector has such powers as are provided for under the revenue laws.

Delegation of functions and powers.

5. The County Revenue Collector 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.

Agreement in relation to revenue collection.

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 may be specified in the agreement.

Annual report.

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

(2) The County Revenue Collector shall, within ninety days after the end of the year to which the report relates, submit the annual report to the county executive member responsible for finance.

(3) The County Executive Member responsible for finance shall table the report before the Executive Committee meeting within fifteen days after receipt of the report.

(4) Upon approval by the Executive Committee, the County Executive member for finance shall table the annual report in the county assembly within one week.

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 seven years after the completion of the transactions to which they relate.

(2) The County Revenue Collector 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 commits an offence and shall, on conviction be liable for a fine of not less than one hundred thousand shillings in the case of an individual or five hundred thousand shillings in any other case.

Providing information
and evidence.

9. (1) For 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 Collector 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 may require; or
- (b) attend and give evidence before the County Revenue Collector, including on oath administered by the county revenue collector.

(2) A person who fails to comply with a notice under subsection (1), commits an offence and shall, on conviction, be liable to a fine of not less than one hundred thousand shillings.

Access, inspection and other powers.

10. (1) For 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 Collector 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 collector is of the opinion that it is impractical to exercise any of the powers under paragraph (10)(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 Collector; or

(b) obstructs or hinders the County Revenue Collector in the discharge of his or her duties under paragraph (10)(a),(b) or (c);

that person commits an offence and shall, on conviction, be liable to a fine not less than one hundred thousand shillings.

Seizure of property
required as evidence.

11. (1) The County Revenue Collector 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 as soon as practicable to the person entitled to it.

PART IV — MISCELLANEOUS PROVISIONS

Identification.

12. In performing any function or exercising any power under this Act, the County Revenue Collector or a person under delegation in accordance with this Act, must produce written identification establishing his or her position if requested by any person.

Revenue register.

13. (1) The County Revenue Collector 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 Collector decides.

Approved forms.

14. The County Revenue Collector may approve forms for the purposes of a revenue law.

General penalty.

15. 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 for by this Act, the person shall, on conviction, be liable to a fine not less than ten thousand shillings.

Publication and service
of notices and other
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 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) e-mailing it to the person; or
- (e) any method which may be prescribed.

(3) If the County Revenue Collector, after attempting to send or serve a document by one of the methods provided under subsection (2) is satisfied that such notice has not been received by the person to whom it was addressed, he or she may advertise, in the manner provided in subsection (1) and upon such advertisement the document is be 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) A 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 County Revenue Collector may issue guidelines for the purposes of a revenue law.

Guidelines.

MEMORANDUM OF OBJECTS AND REASONS

The main purpose of the County Revenue Collection Bill is to confer a general power and responsibility for the administration of County revenue laws on a public official who is to be held accountable for that collection. To achieve this purpose, the Bill creates an office of the County Collector of Revenue and sets out other relevant administrative provisions relating to revenue.

PART I deals with preliminary matters and interpretations containing the definitions of words used in the Bill.

PART II deals with administration of revenue laws. Clause 3 provides for the creation of the office of the County Revenue Collector appointed in accordance with section 157 of the Public Finance Management Act, No. 18 of 2012.

Clause 4 provides for the functions and powers of County Revenue Collector.

Clause 5 provides for the delegation of functions and powers of the County Revenue Collector.

Clause 6 empowers the County Government to contract out the function to collect rates, taxes, fees and charges payable under revenue laws.

Clause 7 requires the County Revenue Collector to prepare and submit reports and accounts on the operation and administration of revenue laws.

PART III deals with records and information of revenue payers. The powers provided for under this Part can only be exercised for the purposes of the Bill.

Clause 8 requires a revenue payer to make and keep 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. The records are required to be kept for a period of at least 7 years.

Clause 9 gives power to the County Revenue Collector to require a person to provide such information as the County Revenue Collector requires and attend and give evidence before the County Revenue Collector.

Clause 10 gives power to the County Revenue Collector to enter certain premises and inspect documents and other records held on the premises.

Clause 11 gives the County Revenue Collector power to 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. When the property is no longer required, the revenue collector must return the property as soon as practical to the person entitled to it.

PART IV deals with miscellaneous provisions.

Clause 12 requires the County Revenue Collector to produce written identification establishing his or her position if requested when on official visits to rate payers premises.

Clause 13 requires the County Revenue Collector to establish a revenue register and keep it up to date.

Clause 14 provides that the County Revenue Collector may approve forms for the purposes of a revenue law.

Clause 15 provides for a general penalty for non-compliance with any provision of the Act.

Clause 16 sets out the requirements for any document required to be published under a revenue law as well as providing rules on service of documents.

Clause 17 provides that the County Revenue Collector may issue guidelines for the purposes of a revenue law. These guidelines are advisory and not mandatory.

Clause 18 provides for the making of Rules and regulations for the better carrying out of the provisions and purposes of this Act.

Dated the 26th day of September, 2014.

Aurelia Chepkirui,
Chairperson, Budget and Appropriation Committee