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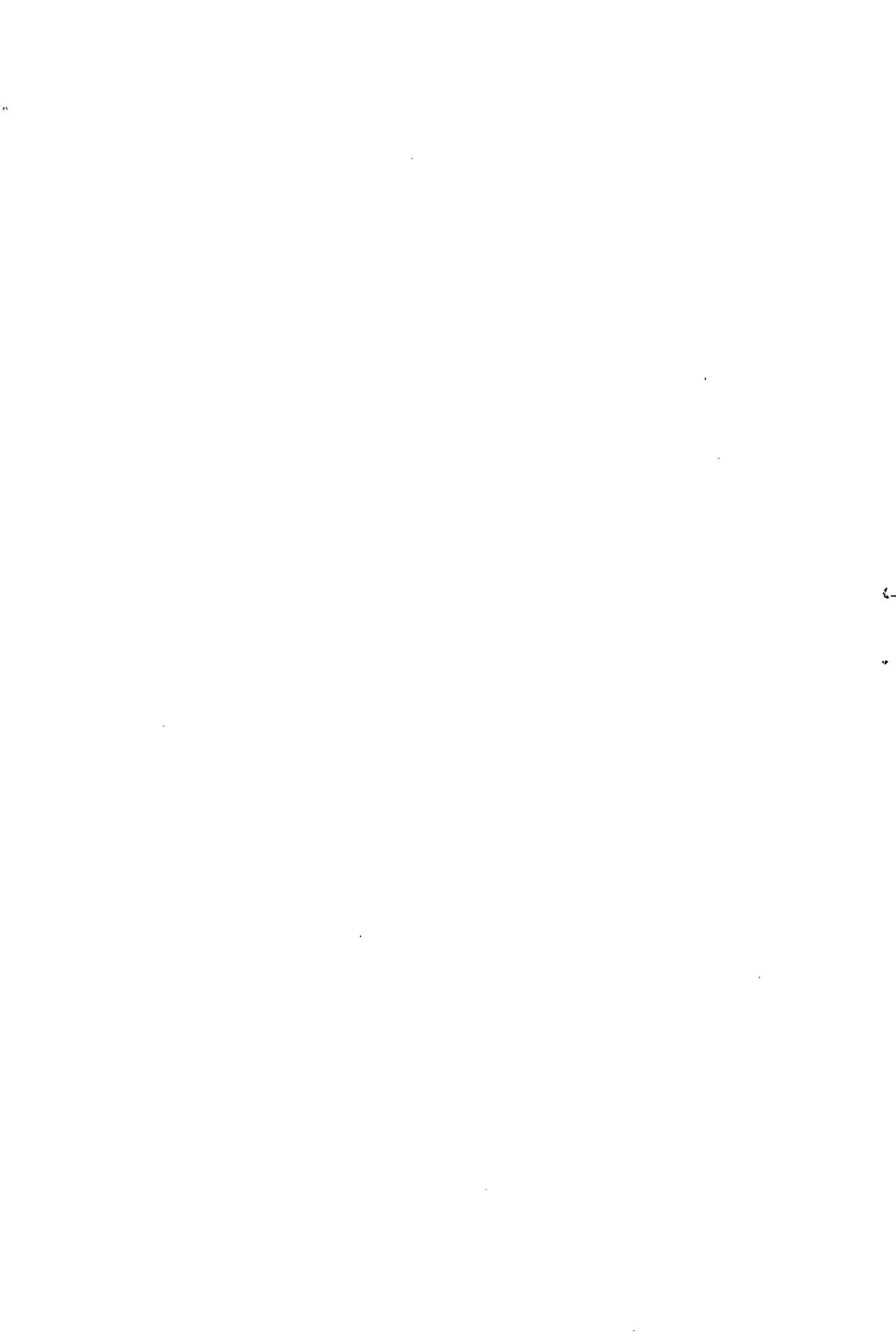
NAIROBI, 30th December, 2016

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

No. 12 of 2016

Date of Assent: 17th December, 2016

Commencement date: 30th December, 2016

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

**AN ACT of the County Assembly of Marsabit to provide for general
administration of revenue and for connected purposes**

ENACTED by the County Assembly of Marsabit as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Marsabit County Revenue Administration Act, 2016.

Interpretation

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

“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 revenue payer to the county under section 15 of this Act;

“auditor General” has the same meaning assigned in the Constitution of Kenya, 2010;

“authorised person” means an officer of revenue collection office or any other person authorised by the revenue collection committee and any person acting in aid of such officer or person;

“authorised revenue collector” means a person employed or engaged by the county in any capacity to give effect to the provisions or requirements of the revenue law;

“county public officer” has the same meaning assigned in the County Government Act, 2012;

“county revenue receiver” means the person holding or acting in the office of the County Revenue Receiver;

“county” means the County Government of Marsabit;

“county revenue fund” means a Fund established in accordance with Article 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 an amount of money 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 enactment relating to collection of revenue for the county; and

“revenue payer” means a person who is obliged to pay fees, charge, cess, rates, rent or any payment payable or due to the county.

Objects of the Act

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

PART II—ADMINISTRATION

County Revenue Collection Office

4. (1) There is an established County Revenue Collection Office.
- (2) The County Revenue Collection Office is an office in the public service that shall—
- (a) maintain systems to assist revenue payers with respect to their obligations under the relevant laws relating to revenue collection;
 - (b) establish and maintain legal services in relation to revenue collection matters;
 - (c) design, co-ordinate and conduct training programmes for employees of revenue collection offices;
 - (d) establish and maintain public relations services;
 - (e) promote voluntary compliance with the relevant laws relating to revenue collection.

Appointment of County Revenue Receiver

5. (1) There shall be a County Revenue Receiver appointed by the Executive Committee Member in accordance with section 157 of the Public Finance Management Act.

(2) The County Revenue Receiver shall be an authorized collector and receiver of county revenue.

(3) The County Revenue Receiver shall be a Public Officer and shall be in charge of the County Revenue Collection Office.

Qualifications for a County Revenue Receiver

6. (1) A person shall not be appointed as a County Revenue Receiver unless the person—

- (a) holds at least a degree in finance, economics, law or business administration from a university recognised in Kenya;
- (b) is of high moral character and integrity and fulfils the requirement of Chapter 6 of the Constitution;
- (c) has not been adjudged bankrupt by a court of law of competent jurisdiction;
- (d) has met tax obligations both at national and the county level;
- (e) has at least five years' experience in matters related to finance; and
- (f) has clearance certificate or a letter of no objection from the Higher Education Loan Board.

Functions and Powers of the County Revenue Receiver

7. (1) The County Revenue Receiver shall be responsible for the collection of, and accounting for the revenue and shall have such other functions as may be assigned to him under this Act.

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

- (a) with the approval of the Revenue Administration Committee, appoint such heads of divisions as may be required for the efficient performance of the functions;
- (b) administration and enforcement of revenue laws and serving as principal adviser to the Executive Committee Member in making recommendation concerning proposals for legislation relating to revenue collection;

- (c) planning, directing, supervising and co-ordinating activities of revenue collection;
- (d) implementing policies on revenue collection;
- (e) designing and maintaining systems to promote and support voluntary payments of revenue and also compliance with revenue laws;
- (f) ensuring accurate, efficient and lawful assessment of revenue;
- (g) designing and implementing a plan to achieve revenue growth;
- (h) designing and implementing effective, efficient and secure systems of collecting revenue;
- (i) ensuring the Revenue Management Committee is regularly updated on revenue matters;
- (j) prepare or cause to be prepared plans for the development of human resources in the revenue collection offices;
- (k) supervise and allocate duties to the revenue collection officers; and
- (l) performing such other functions as may be assigned by the Executive Committee Member.

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

(4) The Receiver of Revenue has such other powers and functions as are provided for under this Act or any other revenue laws.

(5) 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 required by any person.

Revenue Collectors

8. (1) The County Revenue Receiver shall appoint such other officers to be revenue collectors as may be necessary for the collection of revenue and the efficient operation of the County Revenue Collection Office.

(2) The County Revenue Receiver may authorise any officer appointed under this section to perform any of his functions under this Act other than the power to appoint a revenue collector.

Powers of Revenue Collectors

9. For the purpose of carrying out the provisions of this Act, every authorised Revenue Receiver and Collector shall, in the performance of their duties, have all powers, rights, privileges and protection of a police officer.

Secrecy

10. (1) An authorised 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.

Nothing in this section shall prevent an authorised officer from disclosing a document or information to the following persons—

- (a) another authorised 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 authorised 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 authorised revenue collector.

PART III—PAYMENTS RECEIVED

County Revenue Fund

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

(2) A revenue receiver 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, latest by 4.00 p.m.

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

(5) A person shall not receive or collect any money on behalf of the County unless authorised by the County Revenue Receiver or by any other revenue law.

(6) Any person who contravenes the provisions 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.

PART IV—ENFORCEMENT

Keeping of Registers

12. (1) The County Revenue Collector shall maintain a register of all revenue payers except those that pay on daily basis or one off payment of such revenue payers of market fees, cess or approval fees for building plans.

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

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

Assessment

13. (1) The County Revenue Collector based on such evidence as may be available to him, may make assessment of fees, charges, cess, rent, or rates including interest owed by a revenue payer.

(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 authorised 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 revenue payer is expected to pay.

Power to Repossess Plots, Properties and Evict a Person

14. (1) Upon approval by the revenue administration committee, the County Revenue Receiver may—

- (a) serve a notice of legal action undertaking 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 Revenue Collector 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.

Power to Collect Fee, Charges Through Agency Notice

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

- (a) owes, or may subsequently owe, money to the revenue payer;
- (b) holds, or may subsequently hold money, for or on account of, the revenue payer;
- (c) holds, or may subsequently hold money on account of another person for payment to the revenue payer; or
- (d) has authority from another person to pay money to the revenue payer, 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 revenue payer.

(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 revenue payer becomes due to the revenue payer or held on the revenue payer'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 revenue payer from another person, the person shall notify the County Revenue Receiver, 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 Revenue Collector under subsection (3), the County Revenue Receiver 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 Revenue Collector shall, by notice in writing to the revenue payer, revoke or amend a notice served under subsection (2) when the revenue payer has paid the whole or part of the revenue or has made an arrangement satisfactory to the County Revenue Receiver for payment of the revenue.

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

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

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

(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.

Seizure and Forfeiture of Goods

16. (1) An authorised revenue receiver may seize goods if he has reasonable grounds to believe that revenue in respect of the goods has not been paid.

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

(3) When the goods referred to in subsection (1), have been seized, the authorised revenue receiver shall, having regard to the conditions of the goods, serve the owner of the goods or the person who had 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 Revenue Receiver or authorised revenue collector may authorise 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 Revenue Receiver or the authorised revenue collector shall detain the goods seized under subsection (1)—

- (a) in case of perishable goods, for a period that is reasonable, having regard 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 Revenue Receiver.

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

Appeal to the Revenue Administration Committee

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

Refund of Fees, Charges, Rates Paid in Error

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

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

(3) The County Revenue Receiver having been satisfied that indeed 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.

Agent

19. The County Revenue Receiver may through a written agreement appoint a person, to collect any revenue on behalf of the county.

Revenue Administration Committee

- 20.** (1) There is established a Revenue Administration Committee—
- (a) the Executive Committee Member who shall be the Chairperson;
 - (b) chief officer responsible for finance and economic planning;
 - (c) chief officer in charge of trade, and enterprise development;
 - (d) chief officer responsible for lands, urban development, physical planning;
 - (e) chief officer in charge of Agriculture, Livestock and fisheries;
 - (f) chief officer in charge of administration;
 - (g) chief officer in charge of health;
 - (h) chief officer in charge of water, environment and natural resources;
 - (i) officer in charge of enforcement officers or his representative in the county;
 - (j) the County Revenue Receiver or his representative who shall be the secretary
- (3) The committee shall meet at least once every month.

Functions of the Revenue Administration Committee

- 21.** (1) The functions of the Revenue Administration 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 Revenue Receiver;
 - (d) enhances co-ordination between various departments involved in the collections of revenue;
 - (e) approve waiver of fees, charges, rates or penalties;
 - (f) advise the County Revenue Receiver on measures to enhance revenue collection, and
 - (g) advise on any other matter necessary for better carrying out the functions of this Act.

PART V—OFFENCES**Failure to Pay Fees, Charges, Cess etc**

22. A person who fails to pay revenue due to the county before or on the due date commits an offence.

Obstruction of Authorized Officer

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

Aiding or Abetting an Offence

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

Offence by Authorized Revenue Collector

25. (1) An authorised revenue collector commits an offence when the officer—

- (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) wilfully 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 authorised 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) wilfully contravenes the provision of a revenue law to give undue advantage or favour 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, “authorised revenue collector” includes a person employed or engaged by the county in any capacity.

PART VI—MISCELLANEOUS

Serving of Notices, Documents

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

- (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;
- (e) short text messages (SMS)

(2) If the County Revenue Receiver 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 Revenue Receiver 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 rateable 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.

Revenue due is Debt

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.

Report

28. (1) The County Revenue Receiver shall prepare and submit monthly, quarterly and annual revenue reports to the Executive Committee Member.

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

(3) The Executive Committee Member responsible for Finance shall within thirty days submit quarterly, and annual reports referred to in subsection (1) to the County Assembly.

Keeping of Records

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

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

Practice Notes

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

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

Identification Cards

31. An authorized revenue collector shall wear visibly a staff identification card issued by the County Revenue Receiver.

Approved Forms

32. The County Revenue Receiver may approve Forms for the purpose of revenue collection.

Protection of Officers

33. (1) No officer shall be personally liable for any act or omission done in the performance of his functions under 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 wilfully 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.

General Penalty

34. 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 year, or to both.

Regulations

35. The Executive Committee Member may make Regulations for better carrying out the purpose of this Act.

Savings

36. On coming into effect of this Act, the county public officers collecting revenue for the county shall be deemed to have been appointed under this Act.