

**SPECIAL ISSUE**

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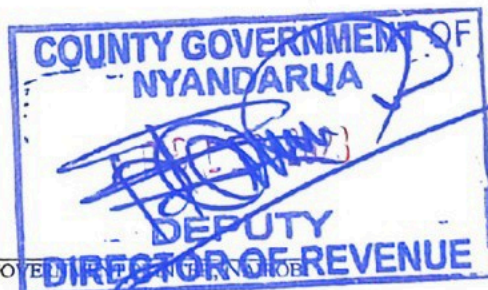
***KENYA GAZETTE SUPPLEMENT***

**NYANDARUA COUNTY ACTS, 2023**

**NAIROBI, 30th November, 2023**

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**THE NYANDARUA COUNTY REVENUE BOARD ACT, 2023**

**No. 4 of 2023**

*Date of Assent: 21st November, 2023*

*Date of Commencement: See Section 1*

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**SCHEDULE — PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD**

**THE NYANDARUA COUNTY REVENUE BOARD BILL, 2023**

**AN ACT of the County Assembly of Nyandarua to provide for the establishment of the Nyandarua County Revenue Board as a body corporate for the assessment and collection of revenue, for the administration and enforcement of laws relating to Revenue within the County and to provide for connected purposes**

**ENACTED** by the County Assembly of Nyandarua, as follows—

**PART I—PRELIMINARY**

**Short title and Commencement**

1. This Act may be cited as the Nyandarua County Revenue Board Act, 2023 and shall come into operation on publication in the *Kenya Gazette*.

**Interpretation**

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

“accounting officer” means the chief executive officer of the Nyandarua County Revenue Board.

“authorized officer” means a person appointed as such under section 34;

“board” means the Nyandarua County Revenue Board established under section 4;

“board Members” means the Board Members established under section 7;

“county” means County Government of Nyandarua;

“executive member” means the County Executive Committee Member for the time being responsible for Finance;

“revenue” means rates, charges, levies, fees, rents, royalties and any monies payable to the County Government as revenue under any written law; and

“tax payer” means a person who is obligated under any County or national law to pay to the County revenue.

**Objects**

3. The objects and purpose of this Act is to provide for the establishment of legal and institutional framework for revenue mobilization, collection and receipt in order to —

- (a) ensure effectiveness and efficiency in revenue mobilization, collection and receipt;
- (b) facilitate transparency in revenue mobilization, collection and receipt;
- (c) enhance county revenue; and
- (d) to provide for mechanism for imposition, waiver, variation and debt collection of revenue and penalties.

## **PART II—ESTABLISHMENT, POWERS AND FUNCTIONS OF THE BOARD**

### **Establishment of county Revenue Board**

4. (1) There is established a Board to be known as the Nyandarua County Revenue Board.

(2) The Board shall be a body corporate with perpetual succession and a common seal and shall, subject to this Act, be capable in its corporate name of—

- (a) suing and being sued:

Provided that any legal proceedings against the Board arising from the performance of the functions or the exercise of any of the powers of the Board under section 27 shall be deemed to be legal proceedings against the government within the meaning of the Government Proceedings Act (Cap. 40);

- (b) owning, acquiring, purchasing or otherwise, holding, charging or disposing of movable and immovable property;
- (c) borrowing or lending money with the approval of the County Assembly;
- (d) doing or performing all other things or acts for the furtherance of the provisions of this Act, which may be lawfully done or performed by a body corporate.

### **Seal of the Board**

5. (1) The seal of the Board shall be authenticated by the signature of the Chief Executive Officer.

(2) In the absence of the Chief Executive Officer an Officer duly designated for the purpose may authenticate the seal.

(3) Every document purporting to be an instrument issued by the Board and to be sealed with the seal of the Board authenticated in the

manner provided by subsection (1) or (2) shall be deemed to be such an instrument and shall be received in evidence without further proof.

### **Functions of the Board**

6. (1) The Board shall, under the general supervision of the Executive Member, be responsible for —

- (a) be the receiver of County revenue within the meaning of section 157 of the PFM Act, 2012;
- (b) administering and enforcing County laws related to revenue;
- (c) ensure the assessment and collection of and accounting for all rates, taxes, fees and other charges payable by or under any law in the County;
- (d) collect and account for all County revenues in accordance with this Act and PFM Act, 2012;
- (e) except as maybe provided under this Act or other written laws, ensure that all monies raised or collected by or on behalf of the County are paid in to the County Revenue Fund;
- (f) prepare reports on revenue collected and owing in accordance with the relevant laws and procedures;
- (g) advising the Executive Member on all matters related to imposition, administration and enforcement of County revenue laws, assessment and collection of rates, taxes, fees and other charges and penalties thereof in line with Article 209 of the Constitution;
- (h) perform such other functions as may be provided under any other county revenue law or as the Board may deem necessary for the proper discharge of its mandate under this Act.

(2) The receiver of revenue may in consultation with the relevant department and in writing delegate any power or assign any duty conferred on it under this Act or any other County revenue law.

(3) A delegation or assignment under this section shall not prevent the receiver of the revenue from exercising the power in question.

(4) A delegation under this section—

- (a) shall be subject to any conditions the receiver of revenue may impose;
- (b) shall not divest the receiver of revenue of the responsibility concerning the exercise of the powers or performance of the duties delegated; and

- (c) may be withdrawn and any decision by the person to whom the delegation is made withdrawn or amended by the receiver of revenue.

### **PART III— ESTABLISHMENT AND FUNCTIONS OF THE BOARD AND BOARD MEMBERS**

#### **Board**

7. There is established a Board to be known as the Nyandarua County Revenue Board.

#### **Composition**

8. (1) The Board Members shall consist of—

- (a) a non-executive Chairperson appointed by the Governor with the approval of the County Assembly;
- (b) the Chief Officer for the time being responsible for Finance;
- (c) the Chief Executive Officer who shall be an *ex-officio* member and secretary to the Board;
- (d) An advocate of the High Court of Kenya serving in the office of the County Attorney;
- (e) Four other persons with knowledge and practical experience referred to under (3) appointed by the Executive Member through a competitive process by the County Public Service Board, with at least one person representing persons living with disability within the County.

(2) While making the appointments referred to in paragraph (1) (e) the Executive Member shall observe the principles of inclusivity, equity, equality and protection of the marginalized as enshrined in the Constitution.

(3) A person shall be qualified for appointment as chairperson or member appointed under sub-section (1) (e) if the person —

- (a) holds at least a degree in finance, economics, business administration, or other relevant degree from a recognized university;
- (b) has knowledge and experience of at least ten years in matters relating to business, finance and accounts for the chairperson and at least five years in matters relating to business, finance and accounts for the members;
- (c) meets the requirements of Chapter Six of the Constitution; and
- (d) has had a distinguished career in the field.

(4) The term of office for the chairperson or a member appointed under sub-section (1) (d) (e) shall be three years, renewable ones.

(5) For the purpose of appointment, the County Public Service Board shall forward to the Executive Member eight (8) candidates for board members for consideration of appointment.

(6) The nominations under section 8 (1) (c) and (e) shall be done within a period of thirty days from the date of occurrence of vacancy.

#### **Termination of the Chairperson and members.**

9. The appointment of a member, other than an *ex officio* member, may be terminated, in the case of the Chairperson by the Governor, and in the case of any other member by the County Public Service Board on any of the following grounds—

- (a) for his inability to perform the functions of his office by reason of mental or physical infirmity;
- (b) if he is declared or becomes bankrupt or insolvent;
- (c) if he is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (d) if, without reasonable cause to the satisfaction of the Executive Member, he is absent from six meetings of the Board in any financial year;
- (e) if in any particular case, he fails to comply with the provisions of the schedule;
- (f) for such other sufficient cause as the County Public Service Board may, by notice in the *Gazette*, specify.

#### **Functions of the Executive Member**

10. (1) The Board shall, under the general supervision of the Executive Member who shall be responsible for —

- (a) the approval and review of the policy of the Board;
- (b) the monitoring of the performance of the Board in carrying out its functions; and
- (c) any other function in relation to the objects of this Act.

#### **Conduct of business**

11. (1) The conduct and regulation of the business and affairs of the Board members shall be as set out in the Schedule.

(2) Save as is provided in the Schedule, the Board of Members may regulate its own procedure.

### **Remuneration**

12. The remuneration of the Board members shall be as determined by the County Public Service Board in consultation with the Salaries and Remuneration Commission.

### **Chief Executive Officer**

13. (1) There shall be a Chief Executive Officer of the Board.

(2) The chief executive officer shall be recruited through a competitive process, approved by the County Assembly and appointed by the County Public Service Board.

(3) To qualify for appointment as a Chief Executive Officer, a person shall—

- (a) have a degree in finance, accounting, economics, business, or related field from a recognized university;
- (b) have had experience in senior management for a period of not less than five years.
- (c) satisfies the conditions of chapter six of the Constitution;
- (d) has a distinguished career in the field.

(4) The chief executive officer shall hold office for a period of four years, on such terms and conditions of employment as the County Public Service Board may determine, and shall be eligible for re-appointment for a further and final term of four years.

(5) The Chief Executive Officer shall be an *ex-officio* member of the Board members shall have no right to vote at any meeting of the Board members.

(6) The Chief Executive Officer shall—

- (a) subject to the direction of the Board, be responsible for day-to-day management of the affairs of the Board;
- (b) for the administration and organization of the staff of the Board;
- (c) in consultation with the Board members, be responsible for the direction of the affairs and transactions of the Board, the exercise, discharge and performance of its objectives, functions, duties and the general administration of the Board; and
- (d) carry out any other function as may from time to time be assigned by the Board Members.

- (7) The Chief Executive Officer may—
- (a) at any time resign from office by issuing notice of at least 30 days in writing to the chairperson of the Board;
  - (b) be removed from office by the County Public Service Board on recommendation of the Board through the Executive Member;
  - (c) the reasons for the removal referred to in paragraph (b) shall be—
    - (i) serious violation of the Constitution or any other written law;
    - (ii) gross misconduct;
    - (iii) abuse of office;
    - (iv) physical or mental incapacity to perform the functions of office;
    - (v) incompetence;
    - (vi) bankruptcy; or
    - (vii) conviction and imprisonment for a term exceeding six months.

### **Staff of the Board**

14. (1) The County Public Service Board shall re-designate such staff as the Board may recommend to be necessary for proper discharge of its functions under this Act, upon such terms and conditions of service as may be determined.

(2) The County Public Service Board shall —

- (a) recruit staff through a competitive process;
- (b) ensure that there are sufficient number of staff qualified in matters related to accounting, finance, business, law, information technology or any relevant field necessary for the better carrying out the objects and functions of the Board.

(3) In determining the terms and conditions of service, the County Public Service Board shall be guided by the recommendations of the Salaries and Remuneration Commission.

(4) The Executive Member shall, upon request by the Board, facilitate secondment to the Board of such officers from the County Public Service as may be appropriate and necessary for the proper management of the functions of the Board.

**Protection from personal liability**

15. (1) No matter or thing done by a member of the Board or by any officer, member of staff, or agent of the Board shall, if the matter or thing is done bona fide for executing the functions, powers or duties of the Board under this Act, render the member, officer, employee or agent or any person acting on their directions personally liable to any action, claim or demand whatsoever.

(2) Any expenses incurred by any person in any suit or prosecution brought against him or her in any court, in respect of any, act which is done or purported to be done by him or her under the direction of the Board, shall, if the court holds that such act was done bona fide be paid out of the funds of the Board, unless such expenses are recovered by him or her in such suit or prosecution.

**Liability from damage**

16. The provisions of section 15 shall not relieve the Board of the liability to pay compensation or damages to any person for any injury to him or her, his or her property or any of his or her interests caused by the exercise of any power conferred by this Act or any other written law or by the failure, wholly or partially, of any works.

**Corporate Governance**

17. The Board shall establish and implement corporate governance principles and practices applicable to similar entities.

**Quarterly Report**

18. (1) The Board shall prepare a report for each quarter of the financial year.

(2) In preparing a quarterly report, the accounting officer shall ensure that the report—

- (a) contains information on the financial and nonfinancial performance of the Board; and
- (b) is in a form determined by the Accounting Standards Board.

(3) Not later, than fifteen days after the end of each quarter, the Board shall submit the quarterly report to the County Treasury and County Assembly.

**Annual Report**

19. (1) The Board shall, within three months after the end of each financial year, prepare and submit to the Executive member a report of the operations of the Board for the immediately preceding year.

(2) The annual report shall provide information regarding the activities and plans of the Board during the year to which it relates sufficient to impart an accurate understanding of the nature and scope of its activities and its plans and priorities and, without limitation, shall include—

- (a) details of the performance of the Board against its key performance indicators;
- (b) report on the overall status of the County revenue collection including the Board's projections for the following year;
- (c) such information and other material as the Board may be required by this Act or regulations made thereunder to include in the annual report;
- (d) measures taken to implement corporate governance principles and practices;
- (e) the financial statements prepared under section 25;
- (f) such additional information or other material as the Executive Member may request in writing.

#### **PART IV — FINANCIAL PROVISIONS**

##### **Revenue Fund**

20. All revenues collected by or payable to the Board under this Act shall be paid into the County Revenue Fund.

##### **Fund of the Board**

21. (1) The funds and assets of the Board shall consist of—

- (a) monies appropriated and approved by the county assembly;
- (b) such gifts, grants, loans or monies received from any lawful source by the Board with the approval of the Executive Member;
- (c) such moneys as may be appropriated by County Assembly for the purposes of the Board.

(2) The Board shall apply the money provided under this section for the furtherance of the objects and performance of the functions of the Board and as may be prescribed under this Act.

##### **Financial Year**

22. The financial year of the Board shall be the period of twelve months ending on the thirtieth June in each year.

##### **Annual budget**

23. (1) At least three months before the commencement of each financial year, the Board shall cause to be prepared budget of the Board for that year.

(2) The annual budget shall make provision for all estimated expenditure of the Board for the financial year and in particular, the estimates shall provide for the —

- (a) expenditure related to revenue mobilization, receiving and collection;
- (b) payment of the salaries, allowances and other charges in respect of the members of the Board and staff of the Board;
- (c) payment of pensions, gratuities and other charges in respect of members of the Board and staff;
- (d) proper maintenance of the buildings and grounds of the Board;
- (e) maintenance, repair and replacement of the equipment and other property of the Board; and
- (f) creation of such reserve funds to meet future or contingent liabilities in respect of retirement benefits, insurance or replacement of buildings or equipment, or in respect of such other matter as the Board may deem appropriate.

(3) The annual estimates shall be approved by the Board before the commencement of the financial year to which they relate and, once approved, the sum provided in the estimates shall be submitted to the Executive Member for final approval.

(4) No expenditure shall be incurred for the purposes of the Board except in accordance with the annual estimates approved under subsection (3), or in pursuance of an authorisation of the Board given with prior written approval of the Executive Member.

### **Accounts**

24. The Board shall cause to be kept proper books and records of accounts and assets of the Board.

### **Financial Report and Audit**

25. (1) Within a period of three months after the end of each financial year, the Board Members shall submit to the Auditor-General, the accounts of the Board together with—

- (a) a statement of financial position as at the thirtieth day of June;
- (b) a statement of comprehensive revenue and expenditure;
- (c) a statement of cash flow for the year ended;
- (d) a summary of significant accounting policies and other explanatory information; and

(e) other financial statements applicable to similar institutions.

(2) The accounts of the Board shall be audited and reported upon in accordance with the provisions of the Public Audit Act.

#### **PART V—REVENUE ADMINISTRATION**

##### **Values**

26. The Board 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.

##### **Powers of the Board**

27. The Board shall have powers to—

- (a) assess any tax payable to the County Government by any person in accordance with the County laws or any written law;
- (b) collect on behalf of the County Government all taxes payable by any tax payer;
- (c) institute civil proceedings for the recovery of tax payable or owing to the County Government;
- (d) to inspect any premises or information for the purposes of implementing this Act;
- (e) such other powers as may be necessary for the Board to carry out its functions under this Act.

##### **Revenue**

28. The Executive Member, in consultation with the County Attorney, shall identify and prescribe the County laws applicable for the purposes of determining the revenues collectable under this Act.

##### **Registration of tax payers**

29. (1) The Board shall register all County tax payers in the prescribed manner.

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

### **Compliance**

**30.** The Board shall —

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

### **Public Education**

**31.** The Board shall provide public education and awareness to all tax payers as well as members of the public.

### **Information Technology**

**32.** The Board shall ensure that its services are automated as much as practicable to facilitate effective and efficient tax administration.

### **Complaints**

**33.** The Executive Member shall prescribe the mechanism for addressing complaints from tax payers or members of the public in relation to the implementation of this Act.

### **Authorized officers**

**34. (1)** The Executive Member upon the recommendation of the Board shall appoint authorized officers in the prescribed manner for the purposes of implementing and enforcing this Act.

(2) The Executive Member shall issue a certificate of appointment to an authorized officer appointed under this Act.

### **Powers of Authorized Officers**

**35.** An authorized officer appointed under this Act may—

- (a) inspect any premises;
- (b) verify information and relevant documents;
- (c) discharge any duties as may be assigned by the Board.

## **PART VI—MISCELLANEOUS**

### **Regulations**

**36. (1)** The Executive Member may, on recommendation of the Board make Regulations generally for the better carrying out of the objects of this Act.

(2) Without prejudice to the generality of subsection (1), the Regulations may—

- (a) prescribe the funds of the Board;
- (b) prescribe the manner of registration of county tax payers;
- (c) prescribe for appointment of authorized officers;
- (d) prescribe the mechanism for addressing complaints; and
- (e) prescribe the County laws applicable for the purposes of determining the revenues collectable under this Act.

**SCHEDULE (s.11)****PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD****Meetings of the Board**

1. (1) The Board shall meet not more than 12 times in every financial year and not more than four months shall elapse between the date of one meeting and the date of the next meeting.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least four members and with the approval of the Executive Member, convene a special meeting of the Board at any time for the transaction of the business of the Board.

(3) Unless three quarters of the total members of the Board otherwise agree, at least fourteen days' written notice of every meeting of the Board shall be given to every member of the Board.

(4) The quorum for the conduct of the business of the Board shall be four members including the chairperson or the person presiding.

(5) The chairperson shall preside at every meeting of the Board at which he or she is present but, in his or her absence, the members present shall elect one of their members to preside, who shall, with respect to that meeting and the business transacted thereat, have all the powers of the chairperson.

(6) Unless a unanimous decision is reached, a decision on any matter before the Board shall be by a majority of votes of the members present and voting and, in the case of an equality of votes, the chairperson or the person presiding shall have a casting vote.

(7) Subject to subparagraph (4), no proceedings of the Board shall be invalid by reason only of a vacancy among the members thereof.

**Conflict of Interest**

2. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Board and is present at a meeting of the Board at which the contract, proposed contract or other matter is the subject of consideration, that member shall, at the meeting and as soon as practicable after the commencement thereof, disclose the fact and shall not take part in the consideration or discussion of, or vote on, any questions with respect to the contract or other matter, or be counted in the quorum of the meeting during consideration of the matter.

(2) A member of the Board shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other

interest that could conflict with the proper performance of his duties as a member or employee of the Board.

(3) Where the Board becomes aware that a member has a conflict of interest in relation to any matter before the Board, the Board shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the chairperson has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict that exists to the Executive Member in writing.

(5) Upon the Board becoming aware of any conflict of interest, it shall make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Board and the member with the conflict of interest shall not vote on this determination.

(6) Where the Board determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in subparagraph (1), the member shall resign unless the member has eliminated the conflict to the satisfaction of the Board within thirty days.

(7) The Board shall report to the Executive Member any determination by the Board that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Board.

(8) The annual report of the Board shall disclose details of all conflicts of interest and determinations arising during the period covered by the report.

(9) A disclosure of interest made under this paragraph shall be recorded in the minutes of the meeting at which it is made.

(10) A member of the Board who contravenes subparagraph (1) commits an offence and is liable to imprisonment for a term not exceeding six months, or to a fine not exceeding one hundred thousand shillings, or both.

### **Code of Conduct**

3. (1) Within twelve months of the commencement of this Act, the Board shall adopt a code of conduct prescribing standards of behavior to be observed by the members and staff of the Board in the performance of their duties.

(2) Subject to sub-paragraph (1), before adopting any code of conduct or making any substantial amendments to an existing code of conduct, the Board shall publish the proposed code or amendments in the *Gazette* and in a newspaper circulating nationally, inviting public comments.

(3) The Board shall include in its annual report a report on compliance with the code during the period covered by the annual report.

(4) The code of conduct adopted or prescribed under this paragraph shall be binding on the Board and its staff.

#### **Execution of Interest**

4. Any contract or instrument which, if entered into or executed by a person not being a body corporate, would not require to be under seal, may be entered into or executed on behalf of the Board by any eligible person generally.

#### **Minutes**

5. The Board shall cause minutes of all resolutions and proceedings of meetings of the Board to be entered in books kept for that purpose.

