

SPECIAL ISSUE

Kenya Gazette Supplement No. 5 (Nakuru County Acts No. 3)



REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NAKURU COUNTY ACTS, 2021

NAIROBI, 27th April, 2021

CONTENT

Act—	PAGE
The Nakuru County Revenue Authority Act, 2021	1

**THE NAKURU COUNTY REVENUE AUTHORITY ACT,
2021**

No. 3 of 2021

Date of Assent: 23rd March, 2021

Date of Commencement: See Section 1

ARRANGEMENT OF SECTIONS

Section

PART 1--PRELIMINARY

- 1--Short title.
- 2--Interpretation.
- 3--objective and Purpose.

PART II--NAKURU REVENUE AUTHORITY

- 4--Establishment of the Authority.
- 5--Functions of the Authority.
- 6--Composition of the Board of the Authority.
- 7--Conduct of business.
- 8--Remuneration of the Authority.
- 9--Chief executive officer.
- 10--Staff of the Authority
- 11--Access of services to Sub-counties
- 12--The common seal of the Authority.
- 13--Protection from personal liability.
- 14--Corporate governance.
- 15--Quarterly Reports.
- 16--Annual Reports.

PART III--FINANCIAL PROVISIONS

- 17--Revenue Fund.
- 18--Funds of the Authority.
- 19--Financial Year.
- 20--Annual Budget.

21--Accounts.

22--Financial reports and audit.

PART IV--REVENUE ADMINISTRATION

23--Values

24--Powers of the Authority

25--Revenue

26--Registration of revenue payers

27--Compliance

28 --Information technology

29--Complaints

30--Authorized officers

31--Powers of authorized officers

PART V--GENERAL PROVISIONS

32--Regulations.

Schedule --Provisions as to the conduct of business and affairs of the Authority

2021

Nakuru County Revenue Authority

No. 3

**THE NAKURU COUNTY REVENUE AUTHORITY
ACT, 2021**

AN ACT of the County Assembly of Nakuru to provide for the establishment of the Nakuru Revenue Authority as a body 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 Nakuru, as follows—

PART I – PRELIMINARY

1. This Act may be cited as the Nakuru County Revenue Authority Act, 2021 and shall come into operation by notice in the Kenya Gazette issued by the Governor of Nakuru County.

Short title and commencement.

2. In this Act unless the context otherwise requires—

Interpretation.

“Authority” means the Nakuru Revenue Authority established under section 4;

“County” means Nakuru County;

“Executive Committee” means the County Executive Committee as defined by Article 179 (2) of the Constitution of Kenya, 2010

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

“revenue” means taxes, fees and charges payable to the county government as local revenue under any written law;

“revenue payer” means a person who is obligated under any county or national law to pay to the county, any taxes, rates, fees, rents, royalties, levies or charges.

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—

Objects and Purpose.

(a) ensure effectiveness and efficiency in revenue mobilization, collection and receipt in order to;

- (i) facilitate transparency in revenue mobilization, collection and receipt; and
- (ii) enhance county revenue;

PART II--NAKURU REVENUE AUTHORITY

4. (1) There is established an Authority to be known as the Nakuru Revenue Authority.

Establishment of the Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) taking, purchasing or otherwise acquiring, holding, charging or disposing of movable and immovable property;
- (b) autonomous on matters relating to Revenue collection and administration;
- (c) entering into contracts; and
- (d) doing or performing all other acts or things for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

5. (1) The Authority shall, under the general supervision of the Executive Member for Finance and be responsible for-

Functions of the Authority.

- (a) assessing, collecting and accounting for all revenue in accordance with the county laws with appropriate incorporation of information technology”;
- (b) enforcing county laws related to revenue;
- (c) setting targets for various tax streams;
- (d) advising the County Executive Committee on all matters related to collection of revenue under county laws;
- (e) provide civic education and awareness to all revenue payers as well as members of the public on;
 - (i) the importance of paying revenues promptly;
 - (ii) the criteria of assessment and tabulation of

revenue due; and

(iii) ways of making the payments;

(f) carry out such other roles necessary for the implementation of the objects and purpose of this Act and perform such other functions as may, from time to time, be assigned by the Executive Member.

6. (1) The Authority shall have a board which will consist of: -

Composition of the Board

(a) a non-executive chairperson appointed by the Governor in consultation with Executive committee and 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) five other persons with knowledge and practical experience referred to under (2) appointed by the Executive Member through a competitive process.

(e) the county Receiver of revenue

(f) a Sub County Administrator as a quasi-member of the Board.

(g) While making the appointments referred to in paragraph (d) the executive member shall observe the principles of inclusiveness, equity, equality and protection of the marginalized as enshrined in the constitution.

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

(a) holds a degree from a recognized university;

(b) has knowledge and experience of at least five years in matters relating to, business, finance and accounts or law, public sector management, revenue mobilization or any other related field;

(c) meets the requirements of Chapter Six of the Constitution.

(3) The term of office for the chairperson or a member appointed under sub section (1) (d) shall be four years which may be renewed for one further term of three years

(4) The Authority shall nominate from amongst them, a Vice-chairperson, who shall preside over the meetings of the Board in the absence of the chairperson.’

7. (1) The conduct and regulation of the business and affairs of the Authority shall be as set out in the Schedule.

Conduct of business.

(2) Except as provided in the Schedule, the Authority may regulate its own procedure.

8. The remuneration of the members of the Authority shall be as determined by the Executive Member in consultation with the Salaries and Remuneration Commission.

Remuneration of the Authority.

9. (1) There shall be a Chief Executive Officer of the Authority.

Chief Executive Officer.

(2) The Chief Executive Officer shall be recruited through a competitive process and appointed by the Board.

(3) To qualify for appointment as a chief executive officer, a person must-

(a) be a holder of a degree and masters in finance, accounting, economics, business, law or related field from a recognized university;

(b) have had experience in senior management in the relevant field for a period of not less than five years;

(c) satisfies the conditions of chapter six of the Constitution.

(4) The Chief Executive Officer shall serve in the Authority for a period of three years, on such terms and conditions of employment as shall be stipulated in the performance contract from time to time.

(5) The Chief Executive Officer shall be an *ex-officio* member of the Board.

- (6) The Chief Executive Officer shall-
- (a) in consultation with the Board, be responsible for the day to day management and direction of the affairs and transactions of the Authority, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the Authority;
 - (b) carry out any other function as may from time to time be assigned by the Board.
- (7) The Chief Executive Officer may-
- (a) at any time resign from office by issuing three month's notice in writing to the chairperson of the Authority;
 - (b) be removed from office by the Board for-
 - (i) serious violation of the Constitution or any other written law;
 - (ii) gross misconduct, whether in the performance of the functions of the office or otherwise;
 - (iii) physical or mental incapacity to perform the functions of office;
 - (iv) incompetence;
 - (v) bankruptcy
 - (vi) serious violation of the provisions of the performance contract

10. (1) The County Public Service Board shall appoint such staff as the Authority 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.

Staff of the Authority.

- (2) The Board shall-
- (a) recruit staff through a competitive process;
 - (b) ensure that there is 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 Authority

No. 3*Nakuru County Revenue Authority***2021**

- (c) The current staff working in Revenue Directorate shall be deemed seconded to the Authority.

11. The Authority shall ensure reasonable access to its services in all sub-counties so far as it is appropriate to do so.

Access of Services to Sub-counties

12. (1) The common seal of the Authority shall be kept in the custody of the Chief Executive Officer or of such other person as the Authority may direct, and shall not be used except upon the order of the Authority.

The common seal of the Authority.

(2) The common seal of the Authority, when affixed to a document and duly authenticated, shall be judicially and officially noticed, and unless the contrary is proved, any necessary order or authorisation by the Authority under this section shall be presumed to have been duly given.

(3) The common seal of the Authority shall be authenticated by the signature of the chairperson of the Authority.

(4) The vice chairperson shall, in the absence of the chairperson authenticate the seal of the Authority on behalf of the chairperson provided that the matter shall be referred to the Authority in the subsequent meeting for ratification.

13. (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.

Protection from personal liability.

(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 Authority, unless such expenses are recovered by him or her in such suit or prosecution.

14. The Authority shall establish and implement corporate governance principles and practices applicable to similar entities.

Corporate governance.

2021

*Nakuru County Revenue Authority***No. 3**

15. The Board shall within fifteen days from the close of every quarter, submit to the Executive Member quarterly reports on the performance of the Authority which should be annexed to the County Quarterly Report.

Quarterly Report.

16. (1) The Board shall, within two months after the end of each financial year, prepare and submit to the Executive Member a report of the operations of the Authority for the immediate preceding year .

Annual Report

(2) The annual report shall provide information regarding the activities and plans of the Authority 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 Authority 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) challenges faced in implementing the Act and proposed mitigation measures;
- (d) such information and other material as the Authority may be required by this Act or regulations made there under to include in the annual report;
- (e) measures taken to implement corporate governance principles and practices;
- (f) the financial statements prepared under section 22;
- (g) such additional information or other material as the executive member may request in writing.

(3) The Executive Member shall, within fourteen days of receiving the annual report submit it to the County Executive Committee and thereafter within twenty one days transmit it to the Speaker of the County Assembly for Committal tabling before the relevant County Assembly Committee for consideration.

PART III—FINANCIAL PROVISIONS

17. (1) All revenue collected by or payable under this Act shall be collected by the Authority and paid into the County Revenue Fund.

Revenue Fund

(2) All revenue collected by the Authority in respect of any fund established under an Act of Parliament or County Assembly shall be paid into that fund after being first received in the County Revenue Fund.

18. (1) The funds and assets of the Authority shall consist of—

Funds of the Authority.

- (a) such monies not exceeding two per centum of the revenue estimated in the financial estimates for each financial year to be collected by the Authority under this Act as may be determined by the County Executive Committee and appropriated by the County Assembly in each financial year.
- (b) such other monies as may be appropriated by county assembly for the purposes of the Authority
- (c) such gifts, grants, loans or monies received from any lawful source by the Authority with the approval of the County Assembly;

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

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

Financial Year.

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

Annual Budget.

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

- (a) expenditure related to revenue administration and collection;
- (b) payment of the salaries, allowances and other charges in respect of the staff of the Authority;
- (c) payment of allowances and other charges in

respect of members of the Authority;

- (d) payment of pensions, gratuities and other charges in respect of members of the Authority and staff;
- (e) proper maintenance of the buildings and grounds of the Authority;
- (f) maintenance, repair and replacement of the equipment and other property of the Authority; and

(3) The annual estimates shall be approved by the Authority 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 County Executive Committee for final approval.

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

21. The Authority shall cause to be kept proper books and records of accounts and assets of the Authority.

Accounts.

22. (1) Within a period of two months after the end of each financial year, the Authority shall submit to the Executive Member, the accounts of the Authority together with—

Financial reports and audit.

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

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

No. 12 of 2003.

PART IV--REVENUE ADMINISTRATION

23. The Authority shall carry out its functions in a

Values.

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.

24. The Authority shall have powers to-

Powers of the Authority.

- (a) assess where applicable any tax payable or money 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 any tax or money payable by any person;
- (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; and
- (e) to do such other things as may be prescribed.

25. The County Executive Committee shall identify and prescribe the county laws applicable for the purposes of determining the revenue collectable under this Act.

Revenue.

26. (1) The Authority shall register all county revenue payers in accordance with the prescribed manner.

Registration of revenue payers.

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

27. The Authority shall-

Compliance.

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

28. The Authority shall ensure that its services are automated to facilitate effective and efficient revenue collection.

Information technology.

2021

*Nakuru County Revenue Authority***No. 3**

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

Complaints.

30. (1) The Authority shall appoint authorized officers in the prescribed manner for the purposes of implementing and enforcing this Act.

Authorised officers.

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

31 An authorised officer appointed under this Act shall be mandated to: -

Powers of authorized officers.

- (a) inspect any premises or information;
- (b) prosecute a matter related to enforcement of this Act or as may be provided under any county law related to county revenue;
- (c) discharge any duties as may be assigned by the Authority.

PART V--GENERAL PROVISIONS

32. (1) The Executive Member may, in consultation with the Authority make Regulations generally for the better carrying out of the objects of this Act.

Regulations.

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

- (a) prescribe the funds of the Authority;
- (b) prescribe the manner of registration of county taxpayers;
- (c) prescribe for appointment of authorized officers.

SCHEDULE I**REGIONS/SUB-COUNTIES**

1. NAIVASHA
2. BAHATI
3. NAKURU EAST
4. NAKURU WEST
5. MOLO
6. KURESOI NORTH
7. KURESOI SOUTH
8. SUBUKIA
9. RONGAI
10. GILGIL
11. NJORO

SCHEDULE 2**PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE AUTHORITY**

1. Any member of the Authority, other than the Chief Officer Finance shall, subject to the provisions of this Schedule, hold office for a term of four years, on such terms and conditions as may be specified in the instrument of appointment, and shall be eligible for re-appointment for a further and final term of three years.

Tenure of office.

2. A member of the Authority may—

Vacation of office.

- (a) at any time resign from office by notice in writing to the executive member;
- (b) be removed from office by the executive member if the member—
 - (i) has been absent from three consecutive meetings of the Authority without a written permission of the chairperson;
 - (ii) is convicted of a criminal offence and sentenced to imprisonment for a term exceeding six months or to a fine exceeding ten thousand shillings;

2021

Nakuru County Revenue Authority

No. 3

- (iii) is convicted of an offence involving dishonesty or fraud;
- (iv) is adjudged bankrupt or enters into a composition scheme of arrangement with his creditors;
- (v) is incapacitated by prolonged physical or mental illness or is deemed otherwise unfit to discharge his duties as a member of the Authority; or
- (vi) fails to comply with the provisions of this Act relating to disclosure.

3. (1) The Authority shall meet not less than four 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.

Meetings.

(2) Notwithstanding the provisions of subparagraph (1), the chairperson may, and upon requisition in writing by at least five members shall, convene a special meeting of the Authority at any time for the transaction of the business of the Authority.

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

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

(5) The chairperson or in his absence the vice chairperson shall, preside at every meeting of the Authority, but in the absence of both, 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 Authority 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

Authority shall be invalid by reason only of a vacancy among the members thereof.

4. (1) If a member is directly or indirectly interested in any contract, proposed contract or other matter before the Authority and is present at a meeting of the Authority 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:

Conflict of interest.

Provided that, if the majority of the members present are of the opinion that the experience or expertise of such member is vital to the deliberations of the meeting, the Authority may permit the member to participate in the deliberations subject to such restrictions as it may impose but such member shall not have the right to vote on the matter in question.

(2) A member of the Authority 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 Authority.

(3) Where the Authority becomes aware that a member has a conflict of interest in relation to any matter before the Authority, the Authority 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 in writing.

(5) Upon the Authority 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 of the Authority and the member with the conflict of interest shall not vote on this determination.

(6) Where the Authority determines that the conflict is

2021

Nakuru County Revenue Authority

No. 3

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 Authority within thirty days.

(7) The Authority shall report to the executive member any determination by the Authority 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 Authority.

(8) The annual report of the Authority 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 Authority 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.

5. (1) Within twelve months of the commencement of this ACT, the Authority shall adopt a code of conduct prescribing standards of behaviour to be observed by the members and staff of the Authority in the performance of their duties.

Code of conduct.

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

(3) The Authority 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 Authority and its staff.

6. 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

Execution of Interest.

No. 3

Nakuru County Revenue Authority

2021

behalf of the Authority by any person generally.

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

Minutes.