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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

NATIONAL ASSEMBLY BILLS, 2024

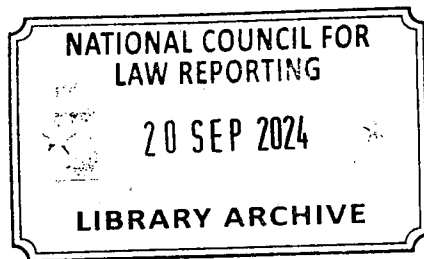
NAIROBI, 9th July, 2024

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**THE KENYA REVENUE AUTHORITY
(AMENDMENT) (No. 2) BILL, 2024**

A Bill for

AN ACT of Parliament to amend the Kenya Revenue Authority Act

ENACTED by the Parliament of Kenya as follows—

1. This Act may be cited as the Kenya Revenue Authority (Amendment) (No. 2) Act, 2024.

Short title.

2. Section 5 of the Kenya Revenue Authority Act is amended by inserting the following new subsection immediately after subsection (2A)—

Amendment of section 5 of Cap. 469.

(2B) The functions of the institution established under subsection (2A) shall include—

(a) offering directly or in collaboration with any other institution of higher learning, programs in revenue administration and any other programs as may be deemed fit;

(b) the development of curricula; and

(c) the assessment or examination of students and awarding of certificates.

3. Section 13 of the Kenya Revenue Authority Act is amended —

Amendment of section 13 of Cap. 469.

(a) in subsection (1) by deleting the expression “and Deputy Commissioners”;

(b) by inserting the following subsection immediately after subsection (1A)—

(1A) The Commissioner-General shall appoint such Deputy Commissioners as may be deemed necessary.

4. Section 15A of the Kenya Revenue Authority Act is amended by inserting the following new subsection immediately after subsection (4) —

Amendment of section 15A of Cap. 469.

(5) The Cabinet Secretary may waive part or the whole of the penalty due under subsection (3), where the person has transferred the funds to the Central Bank in full:

Provided that failure to transfer the funds is as a result

of —

- (a) system downtime that prevented the transfer of funds and the matter has been promptly reported to the Commissioner;
 - (b) noncompliance was not due to willful negligence by the person;
 - (c) notification to the person that he has been put under receivership or statutory management preventing transfer of funds and the matter has been promptly reported to the Commissioner;
 - (d) occurrence of a force majeure event that prevents the person from transferring the funds; or
- any other justifiable reason as the Cabinet Secretary may deem appropriate.

MEMORANDUM OF OBJECTS AND REASONS

This Bill proposes to amend section 5 of the Kenya Revenue Authority Act (Cap. 469) to provide for a legal framework for the Kenya School of Revenue Administration may collaborate with other institutions of higher learning to provide programs in revenue administration, develop curricula and assess or examine students and award qualifications.

Additionally, the Bill is amending the Kenya Revenue Authority Act to provide that the Deputy Commissioners shall be appointed by the Commissioner-General.

The Bill also amends section 15A to give the Cabinet Secretary power to waive the penalty payable by an appointed agent who fails to transfer funds collected, if the failure was inadvertent, or the person has been out under receivership or statutory management,

Dated the 8th July, 2024.

KIMANI ICHUNG'WAH,
Leader of Majority.

Section 5 of Cap. 469 it is proposed to amend—

5. Functions of the Authority

(1) The Authority shall, under the general supervision of the Cabinet Secretary, be an agency of the Government for the collection and receipt of all revenue.

(2) In the performance of its functions under subsection (1), the Authority shall—

(a) administer and enforce—

(i) all provisions of the written laws set out in Part I of the First Schedule and for that purpose, to assess, collect and account for all revenues in accordance with those laws;

(ii) the provisions of the written laws set out in Part II of the First Schedule relating to revenue and for that purpose to assess, collect and account for all revenues in accordance with those laws;

(b) advise the Government on all matters relating to the administration of, and the collection of revenue under the written laws or the specified provisions of the written laws set out in the First Schedule; and

(c) perform such other functions in relation to revenue as the Cabinet Secretary may direct.

(2A) The Authority may establish an institution to provide capacity building and training the staff of the Authority, general public and other jurisdictions.

(3) The Cabinet Secretary may, by notice in the Gazette, amend the First Schedule.

Section 13 of Cap. 469 it is proposed to amend—

13. Appointment of Commissioners and other officers

(1) The Board shall appoint, to the service of the Authority, such Commissioners and Deputy Commissioners as may be deemed necessary.

(2) Deleted by Act No. 4 of 2023, s. 80(b).

(3) The Commissioner-General shall appoint all other members of staff as may be required by the Authority for efficient performance of its functions.

(4) The terms and conditions of all persons employed by the Authority shall be determined by the Board.

(5) Except as may otherwise be determined by the Board in any particular case, an officer referred to in subsection (1), or in his absence the immediate deputy, shall be entitled to attend and participate in the deliberations of any meeting of the Board but shall have no right to vote.

Section 15A of Cap. 469 it is proposed to amend—

15A. Appointment of agents

(1) The Commissioner may appoint a person registered under the Banking Act to act as an agent for revenue banking services through an agreement.

(2) Any person appointed under this section shall be required to transfer the funds to the designated Central Bank accounts within two days following the date of collection.

(3) A person who fails to transfer the funds in accordance with the provisions of sub-section (2) shall be liable to a penalty equivalent to two per cent of the revenue collections not transferred and shall be compounded for every other day on the amount of revenue that is not transferred.

(4) The penalty under sub-section (3) shall be treated as a tax debt due to the government and the enforcement measures for collection and recovery of tax shall apply.

