THE MERU COUNTY REVENUE BOARD ACT, 2014

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THE MERU COUNTY REVENUE BOARD ACT, 2014

AN ACT of County Assembly of Meru to provide for the establishment of the County Revenue Board 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 Meru, as follows –

PART I – PRELIMINARY

Short title.

1. This Act may be cited as the Meru County Revenue Board Act, 2014.

Interpretation.

2. In this act unless the context otherwise requires-

"Board" means the County Revenue Board established under section 4;

"Executive Member" means the County Executive Committee Member for the time being responsible for finance;

"revenue" means rates, taxes, charges, levies, fees, rents, royalties and any monies payable to the county government as revenue under any written law;

"tax 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.

Purpose.

3. The purpose of this Act is to provide for the establishment of legal and institutional framework for revenue administration in order to-

(a) ensure effectiveness and

efficiency in revenue administration;

(b) promote transparency in revenue collection;

PART II- COUNTY REVENUE BOARD

Establishment of the Board.

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

(2) The Board 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) borrowing money or making investments;

(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.

Functions of the Board.

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

(a) collecting and receiving county revenue;

(b) administering and enforcing county laws related to revenue;

(c) assessing, collecting and accounting for all revenue in accordance with the county laws

related to revenue;

(d) advising the County Executive Committee on all matters related to administration and collection or revenue under county laws;

(e) 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.

Composition of the Board.

6. (1) The Board 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) two professionals appointed by the Executive Member through a competitive process in consultation with the Governor.

(e) not more than two-thirds of the members shall be of the same gender.

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

(a) holds a masters degree in the case of the chairperson and a degree in the case of the member appointed under subsection (1) (d), 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 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 three years which may be renewed for one further term after which the person shall retire from the Board for at least two years before being eligible for reappointment to the Board.

(4) A Board shall nominate from amongst themselves, a vice-chairperson, who shall preside over the meetings of the Board in the absence of the chair.'

Conduct of business.

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

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

Remuneration of the Board.

8. The remuneration of the members of the Board shall be as determined by the County Treasury.

Chief executive officer.

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

(2) The chief executive officer shall be recruited through a competitive process and appointed by

the Executive Member in consultation with the Board and the Governor.

(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 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 Board, 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 Board, the exercise, discharge and performance of its objectives, functions and duties and the general administration of the Board;

(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 s one month notice in writing to the chairperson of the Board;

(b) be removed from office by the executive member on recommendation of 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

Staff of the Board.

10. (1) The Board shall appoint such staff as are necessary for proper discharge of its functions under this Act, upon such terms and conditions of service as it may determine.

(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 Board.

The common seal of the Board.

11. (1) The common seal of the Board shall be kept in the custody of the chief executive officer or of such other person as the Board may direct, and shall not be used except upon the order of the Board.

(2) The common seal of the Board, 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 Board under this section shall be presumed to have been duly given.

(3) The common seal of the Board shall be authenticated by the signature of the chairperson of the Board or the chief executive officer.

(4) The vice chairperson shall, in the absence of either the chairperson or the chief executive officer, in any particular matter, authenticate the seal of the Board on behalf of either the chairperson or the chief executive officer.

Protection from personal liability.

12. (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 tide* be paid out of the funds of the Board, unless such expenses are recovered by him or her in such suit or prosecution.

Liability for damages.

13. The provisions of section 12 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.

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

Quarterly Report.

15. The board shall within fifteen days from the close of every quarter, submit quarterly report on the performance of the board which should be annexed to the County Quarterly Report.

Annual report.

16. (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 immediate 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) challenges faced in implementing the Act and proposed mitigation measures;

(d) such information and other material as the Board may be required by this Act or regulations made thereunder to include in the annual report;

(e) measures taken to implement corporate governance principles and practices;

(f) the financial statements prepared under section 20;

(g) report of the Auditor-General prepared under section 21; and

(h) 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 Clerk of the County Assembly for tabling before the County Assembly for consideration.

PART III—FINANCIAL PROVISIONS

Revenue Fund

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

(2) All revenue collected by the Board in respect of any fund established under an Act of Parliament or County Assembly shall be paid into that fund after deducting the expenses incurred by the Board for collection of such revenue as provided under section 17 (1) (a).

Funds of the Board.

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

(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 Board under this Act as may be determined by the County

Executive Committee in each financial year.

(b) such moneys as may be appropriated by county assembly for the purposes of the Board

(c) such gifts, grants, loans or monies received from any lawful source by the Board with the approval of the County Assembly;

(d) all monies as may be made available by the executive member for the better performance of its functions.

(3) 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.

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

Annual Budget.

20. (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 administration and collection;

(b) payment of the salaries, allowances and other charges in respect of the staff of the Board;

(c) payment of allowances and other charges in respect of members of the Board;

(d) payment of pensions, gratuities and other charges in respect of members of the Board and staff;

(e) proper maintenance of the buildings and grounds of the Board;

(f) maintenance, repair and replacement of the equipment and other property of the Board; and

(g) 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 County Executive Committee 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.

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

Financial reports and audit.

22. (1) Within a period of three months after the end of each financial year, the Board 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;

(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.

No. 12 of 2003.

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

PART IV- REVENUE ADMINISTRATION

Values.

23. 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.

24. The Board shall have powers to-

(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;

(e) to do such other things as may be prescribed.

Revenue.

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

Registration of taxpayers.

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

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

Compliance.

27. The Board shall-

(a) institute measures to ensure compliance with this Act;

(b) promote and encourage voluntary compliance by tax payers.

Public education.

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

Information technology.

29. The Board shall ensure that its services are automated to facilitate effective and efficient tax administration.

Complaints.

30. 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 and forward the same to the County Assembly for approval and adoption.

Authorised officers.

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

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

Powers of authorized officers.

32. An authorised officer appointed under this Act may-

(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 Board.

PART V- GENERAL PROVISIONS

Regulations.

33. (1) The executive member may, in consultation with 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.

SCHEDULE (s. 7)

PROVISIONS AS TO THE CONDUCT OF BUSINESS AND AFFAIRS OF THE BOARD

Tenure of office.

1. Any member of the Board, other than the Chief Executive Officer and the Chief Officer shall, subject to the provisions of this Schedule, hold office for a term of three 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.

Vacation of office.

2. A member of the Board may—

(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 Board 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;

(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.

Meetings.

3. (1) The Board 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.

(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 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 five members including the chairperson or the person presiding.

(5) The chairperson or in his absence the vice chair- person shall, preside at every meeting of the Board, 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 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.

4. (l) 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:

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 Board 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 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 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 of 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.

5. (1) Within twelve months of the commencement of this Act, the Board shall adopt a code of conduct prescribing standards of behaviour 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.

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 behalf of the Board by any person generally.

Minutes.

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