

**THE NAIROBI CITY COUNTY PROVISIONAL COLLECTION OF
REVENUE BILL, 2013**

ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY

1—Short title and commencement.

PART II— PROVISIONAL COLLECTION ORDERS

2— Making of provisional collection orders.

3— Duration of orders.

4— Refund of excess tax .

5— Power to amend orders and make subsidiary legislation.

A BILL FOR

AN ACT of the Nairobi City County to give statutory effect for limited periods to orders of the Executive Committee Member for Finance imposing any new tax or duty or rate of tax or duty, or creating any new allowance, or altering or removing any existing tax or duty, or any such rate or allowance and for connected purposes

ENACTED by the County Assembly of the Nairobi City County, as follows—

PART I—PRELIMINARY

Short title and commencement.

1. This Act may be cited as the Nairobi City County Provisional Collection of Revenue Act, 2013.

PART II— PROVISIONAL COLLECTION ORDERS

Making of provisional collection orders.

2. If a Bill is published in the Gazette whereby, if such Bill were passed into law, any tax or duty, or any rate, allowance or administrative or general provision in respect thereof, would be imposed, created, altered or removed, the Executive Committee Member for Finance may, subject to this Act and notwithstanding the provisions of any other written law relating to taxes and duties, make an order that all or any specified provisions of the Bill relating to taxes or duties shall have effect as if the Bill were passed into law.

Duration of orders.

3. Every order made under this Act shall come into force on a day to be named therein, and, without prejudice to the power to cancel it at any time, shall cease to have effect—

- (a) if the Bill in respect of which the order is made is not introduced into the Assembly within four months of the making of the order; or
- (b) on the rejection by the Assembly of the Bill in respect of which the order was made, or on the withdrawal of the Bill, or on the consideration of the Bill by the Assembly being adjourned sine die; or
- (c) on the expiration of six months after the date on which the order is expressed to come into force; or
- (d) on such Bill, with or without modification, becoming law:

Provided that the Executive Committee Member for Finance may by order, with the approval of the Assembly signified by resolution, declare that the

period referred to in paragraph (c) shall be extended for such period as may be specified in the order.

Refund of excess tax or duty.

4. Without prejudice to any provision of any law for the time being in force relating to the collection of any tax or duty, being a provision enabling a refund to be made of any tax or duty paid in compliance with such law and any order made under this Act in excess of the tax or duty payable immediately after such order has ceased to have effect, any such excess may, if it has not been so refunded, or to the extent to which it had not been so refunded, be refunded by being charged on and paid out of the county revenue fund.

Power to amend orders and make subsidiary legislation.

5. Where any provisions of a Bill are for the time being in effect by virtue of an order made under section 2, the Executive Committee Member for Finance may, by further order—

- (a) amend such provisions;
- (b) make any subsidiary legislation that could have been made had such provisions been passed into law, and any such further order shall be subject to the provisions of section 3:

Provided that in the event of the first-mentioned order ceasing to have effect pursuant to paragraph (d) of section 3, any subsidiary legislation made under paragraph (b) of this section shall continue in force as if made under the Bill as enacted.

MEMORANDUM OF OBJECTS AND REASONS

The need to immediately execute taxation and other revenue raising measures so as to meet the revenue needs of the county means that measures are necessary to ensure the immediate commencement of collection of revenue by the County Government after a revenue Bill is published.

The process of enacting a Bill in the legislature is unpredictable in terms of the time that a bill may take from publication to enactment. This makes it prudent to put measures in place that will ensure that revenue projections are not unduly impaired, hence the powers of the Executive to operationalise the proposals in a Bill already published but yet to be enacted.

Part I of the Bill provides for the short title of the proposed law.

Part II, at clause 2, empowers the Executive Committee Member for Finance issue orders after the Finance Bill is published that allows any tax or duty, or any rate, allowance or administrative or general provision in respect thereof, to be imposed, created, altered or removed, to have effect as if the Bill were passed into law.

Clause 3 provides for the duration of such orders issued under clause 2.

Clause 4 provides for the refund of any taxes if the proposed provision on which the order was premised is rejected by the Assembly.

Clause 5 provides for the power to amend the orders issued by the Executive Committee member.