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NYERI COUNTY ACTS, 2015

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2015**

No. 2 of 2015

Date of Assent: 31st March, 2015

Date of Commencement: 30th April, 2015

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**THE NYERI COUNTY TAX WAIVERS ADMINISTRATION ACT,
2015**

AN ACT of the County Assembly of Nyeri to provide for the regulation and administration of tax waivers; to give further effect to Article 210 of the Constitution of Kenya and for connected purposes.

ENACTED by the County Assembly of Nyeri, as follows—

PART I—PRELIMINARY**Short title and commencement**

1. This Act may be cited as the Tax Waivers Administration Act, 2015.

2. In this Act, except where the context otherwise requires—

“Executive Committee Member” means the Executive Committee Member responsible for Finance;

“tax” includes any revenue or licensing fee payable by any person to the County Government, whether it has become due or not;

“tax waiver” the forbearance of tax collection, partial or full remission, spreading out a payment in respect of tax already accrued and any variation of the amount due or interest or penalty due on any amount owing to the County Government;

“Council” means the National Council for Persons with Disabilities established under Section 3 of the Persons with Disabilities Act, 2003;

“disability” means a physical, sensory, mental or other impairment, including any visual, hearing, learning or physical incapability, which impacts adversely on social, economic or environmental participation.

Objects of the Act

3. The objects of this Act are to—

- (a) give further effect to Article 210 of the Constitution as regards tax waivers and the administration thereof;
- (b) ensure transparency in the administration of taxes and other revenue, in particular in the waivers thereof; and
- (c) provide for the procedure applicable to and requirements for tax waivers.

PART II— AUTHORITY TO WAIVE TAX AND ADMINISTRATION OF TAX WAIVERS

4. No tax may be waived except in the manner provided in this Act, any applicable national legislation or any other Act of the Nyeri County Assembly.

5. (1) The Executive Committee Member responsible for Finance may, where he or she deems it appropriate, waive or vary, the payment of any tax, fees or other payment due to the County Government.

(2) The power of the Executive Committee Member to waive tax shall be exercisable, in respect of every transaction, but in any case, only in the following circumstances:

(a) where the waiver is for purposes of encouraging defaulting tax payer(s) to pay such amount as may enable the County Government recover part of the amount owing from the defaulting payer(s);

(b) where, in the opinion of the executive committee member, there exists such compelling circumstances that make it equitable, expedient and in the interest of the financial advantage to the County that the waiver be made;

(c) where, persons with disabilities are registered with their Council and seek for the waiver, the County Executive Committee Member, may if satisfied that the case is deserving, grant the waiver;

(d) (i) where, in the opinion of the Executive Committee Member, a patient treated within the County hospitals has financial hardship, may upon formal application by the patient grant such waiver.

The Executive Committee Member in determining the suitability of (d) (i) above and in promoting equity in access and in financing health services, shall formulate guidelines for use in evaluating each request.

(e) for any other public interest reason, in consultation with the Governor.

6. (1) Where the Executive Committee Member intends to give a general waiver of any tax, he or she shall publish such intention in a paper with wide circulation in the County, in the *gazette* and such other means as may be adequately deemed to reach the intended audience, not less than fourteen (14) days before the intended date of the waiver.

(2) The notice referred to in subsection (1) shall indicate the reasons for the intended waiver.

7. Every waiver shall be reported to the County Assembly not later than two months after the end of the Financial Year in conformity with Section 165(4) and (5) of the Public Financial Management Act, 2012.

8. Pursuant to Article 210 of the Constitution, the Executive Committee Member shall in respect of every waiver of tax or licensing fee—

(a) maintain a public record of each waiver together with the reason for the waiver; and

(b) report to the Auditor-General each waiver, and the reason for it.

9. The Executive Committee Member shall not waive tax or fees or authorise the exclusion of a State Officer or Public Officer from payment of tax or fees by reason of the office held by that State Officer or Public Officer or the nature of the work of the State Officer or Public Officer.

PART III—MISCELLANEOUS

10. (1) The Executive Committee Member may make Regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to provide for the procedures in accordance with subsection (1), the Regulations may provide for—

(a) the procedure of application for tax waivers;

(b) where any payment of tax is due the time within which waivers may be applied for; or

(c) the requirements with respect to documentation that may be required with the applications for tax waivers.