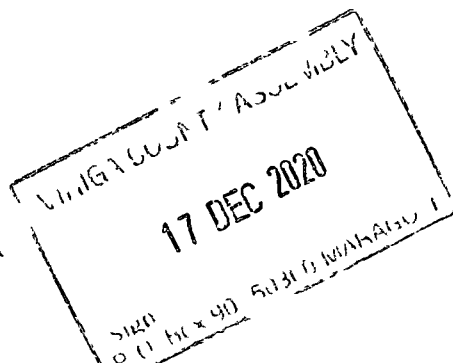


SPECIAL ISSUE

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REPUBLIC OF KENYA



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VIHIGA COUNTY ACTS, 2019

NAIROBI, 5th July, 2019

CONTENT

Act—

PAGE

The Vihiga County Tea Cess Act 2019

1

THE VIHIGA COUNTY TEA CESS ACT, 2019

No 6 of 2019

Date of Assent 27th June, 2019

Date of Commencement See Section 1

ARRANGEMENT OF SECTIONS

Section

PART I—PRELIMINARY

1—Short Title and Commencement

2—Interpretation

PART II—TEA CESS

3—Object and Purpose

4—County Tea Cess

5—Tea Cess Development Fund

PART III —TEA CESS COMMITTEE

6—Establishment and Composition of the Committee

7—Functions of the Committee

8—Meetings of the Committee

9—Remuneration of the Committee

10—Annual Reports

PART IV—GENERAL PROVISIONS

11—Offences and Penalty

12—Regulations

No 6

Vihiga County Tea Cess

2019

THE VIHIGA COUNTY TEA CESS ACT, 2019

AN ACT of the County Assembly of Vihiga for the Introduction of the Tea Cess and the usage and Management of the Cess and connected purposes

ENACTED by the County Assembly of Vihiga as follows—

PART I—PRELIMINARY

Short title and Commencement

1 This Act may be cited as the Vihiga County Tea Cess Act, 2019 and shall come into force upon publication in the *Kenya Gazette*

Interpretation

2 In this Act, unless the context otherwise requires—

“Board of Directors” means the directors of the Tea Factory Company,

“Committee” means the committee established under this Act, to manage the tea feeder road infrastructure repairs and any other project that may be legally develop/considered for which the Tea Cess would be used,

“County” means the County Government of Vihiga,

“County Public Officer” means a county public officer within the meaning of section 2 of the County Governments Act, 2012,

“County receiver of revenue” means the persons appointed pursuant to section 2 of the County Government Act 2012

“County revenue collector” means the county public officer appointed pursuant to section 158 of the Public Finance Management Act, 2012,

“Government cabinet ‘Executive Member’ means County Executive Committee Member

“Tea” means the plant known botanically as *Cammellia Sinensis* and includes its seed, tea plants and the leaf, whether on plant or detached there from, and, in the latter case, whether green tea, other versions of tea or manufactured tea,

“Tea cess” means the Cess from the Agricultural Produce known as green leaf from the tea bush grown in the County

“Tea Cess agent” means the agent appointed by the County by written instrument to be the collection agent for Tea Cess

“Tea factory” means a factory to process green tea leaf into made tea and licensed by the relevant authority under the laws of the land to carry out that business,

“Tea Factory Company” means a Company registered Under the Company’s Act (Cap 486) laws of Kenya (now repealed) and the Companies Act, 2015 and which Company owns the Tea Factory that process the Tea leaves,

“Tea farmer” means a registered tea grower, registered to a tea factory under provisions prescribed by written laws and cultivating the tea crop or who intends to plant and cultivate tea in the County,

“Tea grower” has the same meaning and description as Tea Farmer,

“Tea manufacturer” means the mechanical or chemical processing and conversion of green tea leaf into made tea or other tea products

PART II—TEA CESS

Object and Purpose

3 (1) The primary purpose of the Tea Cess, would be to ensure that the infrastructure of the tea growing areas, including but not limited to access roads, bridges and other public utilities are in good condition for the tea produce to reach the tea factory and from the factory to the Tea markets

(2) Tea Cess may, however, be used for any other lawful purpose as would be decided by the Committee setup herein or the Executive member responsible for Finance, provided that such other purpose would be for the benefit of the tea farmer in general and if the County Government using other resources would have addressed or managed the infrastructure mentioned in Sub-section (1) above

County Tea Cess

4 (1) The County shall levy a cess known as a County Tea Cess

(2) The County Tea Cess shall be deducted from the green leaf of each grower Registered to a Tea Factory

(3) The Tea Cess shall be utilized as for purposes provided under this Act

(4) The Tea Cess shall be collected by the Tea Factory (or the Tea factory’s appointed agent(s) which a tea farmer/grower is registered to on behalf of the County Government

No 6

Vihiga County Tea Cess

2019

(5) Utilization of the tea cess in any manner other than the prescribed or permitted under this Act or other written laws, shall constitute an offence

(6) The Tea Cess shall be determined by the County Executive Member for Finance in Consultation with the County Executive Member for Agriculture and approved by the County Assembly, and shall not exceed 1% of the gross total green leaf payment

(7) Tea Cess is public funds collected under this Act and its utilization would be subject to audit and scrutiny as any other public funds of the County

Tea Cess Development Fund

5 There shall be established a Tea Cess Development Fund for every tea factory to be administered by the Committee, charged at 1% of gross weight value of green leaf delivered at the factory

PART III —TEA CESS COMMITTEE

Establishment of Tea Cess Committee

6 (1) There is established a Vihiga County Tea Cess Committee, appointed by the County Executive Committee Member for the time being responsible for Agriculture

(2) The Committee shall be composed of the following—

- (a) a Chairperson from among the Factory Board of Directors,
- (b) the factory board of directors to be members of the Committee,
- (c) Chief Officer of the Department of Agriculture who shall be an *ex-officio* Member
- (d) The factory manager who will be the secretary to the committee

(3) The Committee members shall appoint a Vice-Chairperson from amongst their members and who will deputize the Chairperson in his absence

Provided that the Chairperson and Vice-Chairperson shall be appointed from the factory board of directors

(4) The Tea Cess Committee shall be responsible to, and will send representation of two members to the County Agricultural Board

(5) The lifespan of the committee shall be 3 years

Functions of the Committee

7 The functions of the committee are—

- (a) to advise the County Executive Committee member on collection of the Tea Cess,
- (b) manage the collection of the Cess,
- (c) to deliberate on the projects to which the Tea Cess funds will be applied, as stipulated in this Act,
- (d) any other functions as shall be assigned in relation to this Act by the County Executive Committee Member in charge of Agriculture

Meetings of the Committee

8 (1) The Committee shall sit at least four times and not more than twelve times a year and shall cause to be kept minutes and record of deliberations

(2) Meetings of the Committee shall be held within the boundaries of to the tea factory catchment area

(3) The quorum of the committee shall be two thirds of the membership

Remuneration of the Committee -

9 The members of the committee shall be entitled to a sitting allowance as shall be determined in accordance with the Salaries and Remuneration Commission

Annual Reports

10 (1) The Committee shall within three months after the end of the financial year prepare and submit to the County Executive Member a report on the operations of the committee for the immediate preceding year

(2) The report in subsection (1) above shall contain among others—

- (a) the Tea Cess collected by the Committee during the financial year,
- (b) data itemization the application of the Tea Cess,
- (c) the annual audited accounts of the Tea Cess,
- (d) challenges faced in the implementation of the Act, and
- (e) any other matter relevant to the implementation of the Act

(3) The County Executive Member shall within 21 days of receiving the annual reports, consolidate the reports into one report and submit to the County Executive Committee

(4) The County Executive Committee Member shall submit the report to the County Assembly for consideration

PART IV—GENERAL PROVISIONS

Offences and Penalty

11 Every person who fails to comply with the provisions of this Act would be guilty of an offence and shall be liable to a fine not exceeding one hundred thousand shillings or to imprisonment of not more than six months or both

Regulations

12 (1) The County Executive Committee Member responsible for Finance in consultation with the Tea Cess Committee and after tabling the same before the executive Committee may make regulations in respect to the Tea Cess and for better utilization and management of the same

(2) Any regulations recommended pursuant to this Act, shall require the approval of the County Assembly

(3) The County Executive Committee Member responsible for Finance shall cause the Regulations to be placed in the *Kenya Gazette*

(4) The funds collected shall be remitted on monthly basis to the Vihiga County Tea Cess Development Fund account