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NYERI COUNTY ACTS, 2017

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THE NYERI COUNTY TEA CESS ACT , 2017

No. 4 of 2017

Date of Assent: 13th April, 2017

Date of Commencement: 20th April, 2017

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THE NYERI COUNTY TEA CESS ACT, 2016

AN ACT of the County Assembly for the introduction of the Tea Cess and the usage and management of the Cess and connected purposes.

ENACTED by the County Assembly of Nyeri County as follows—

PART I—PRELIMINARY

Short Title and Commencement

1. This Act may be cited as The Nyeri County Tea Cess Act 2017 and shall come into force upon publication in the gazette.

Interpretation.

2. In this Act, unless the context otherwise requires—

“Board of Directors” mean 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 developed/considered for which the Tea cess would be used;

“County” means the County Government of Nyeri.

“County Executive Member” means county executive member responsible for Agriculture, livestock, fisheries and cooperative development.

“County Public Officer” means a county public officer within the meaning of section 2 of the County Government Act, 2013;

“County Receiver of Revenue” means the persons appointed pursuant to Section 2 of the Public Finance Management Act, 2013;

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

“Factory Management” means the factory unit manager and the field services manager of a factory company.

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

“Tea Factory Company” means a Company registered under the Company’s Act CAP 486 Laws of Kenya and which Company owns the Tea Factory that processes the tea leaves;

“Tea farmer” means a registered tea grower, registered to a tea factory under provisions prescribed by written National Laws and cultivating the tea crop in the County;

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

PART II—TEA CESS

Tea Cess

3. (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 proceeds 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 tea factory’s appointed agents(s) on behalf of the County.

(5) The Tea Cess shall be determined by the County Executive Member and shall not exceed 1% of the green leaf proceeds.

Purpose of the Cess

4. (1) The primary purpose of the Tea Cess, shall 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 reparable condition for the tea produce to reach the tea factory and from the factory to the tea markets;

(2) Tea Cess may be used for any other lawful purpose as would be decided by the Committee;

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;

PART III— ESTABLISHMENT OF TEA CESS COMMITTEE

Establishment of the Tea Committee

5. (1) There is established a Tea Cess Committee.

(2) The Committee shall be composed of —

- a) A Chairperson from among the factory board of directors;
- b) The factory board of directors;
- c) A representative of the Nyeri County Executive appointed by the County Executive Member who shall be the secretary to the committee;
- d) The factory management who will be ex-official members.

(3) The Committee members shall appoint a Vice Chairperson from amongst their number who will deputize the Chairperson in his/her absence; Provided that the chairperson and Vice-Chairperson shall be appointed from the factory board of directors.

Functions of the Committee

6. The functions of the committee shall be—

- (a) to advise the County Executive Member on collection of the Tea Cess;
- (b) to manage the collection of the cess;
- (c) to deliberate on the projects to which the Tea Cess funds will be applied; and
- (d) any other functions as shall be assigned in relation to this Act by the County Executive Member.

Conduct of meetings of the committee

7. The Committee shall sit at least three times and not more than six times a year and shall cause minutes and record of deliberations to be maintained;

Quorum of meetings

8. The quorum of the Committee shall be a majority of the members.

Administrative Costs

9. The administrative costs shall be drawn from the Tea Cess Funds but the same shall not exceed 5% of the total tea cess funds.

Reports

10. The Committee shall cause to be published an annual report, itemizing the usage of the Tea Cess funds, and such report comprising the annual audited accounts of the tea cess and a technical report shall be tabled before the County Assembly within 3 months after the end of each financial year.

PART IV – GENERAL PROVISIONS**Penalties**

11. Any person who fails to comply with the provisions of this Act shall be guilty of an offence and shall be liable to a fine of not less than Kenya shillings fifty thousand but not exceeding Kenya Shillings one hundred thousand or a term of imprisonment not exceeding (6) six months or both.

Regulations

12. The County Executive Member may make regulations for the better utilization and management of this Act.

