KENYA GAZETTE SUPPLEMENT

VIHIGA COUNTY BILLS, 2019

NAIROBI, 1st April, 2019

CONTENT

Bill for Introduction into the County Assembly of Vihiga—

The Vihiga County Tea Cess Bill, 2019

PAGE

1
THE VIHIGA COUNTY TEA CESS BILL, 2019
ARRANGEMENT OF CLAUSES

Clause

PART I—PRELIMINARY
1— Short Title and Commencement
2— Interpretation

PART II— TEA CESS
3— Tea Cess
4— Purpose of Tea Cess
5— Tea Cess Development Fund

PART III— TEA CESS COMMITTEE
6— Establishment and Composition of the Committee
7— Functions of Committee
8— Conduct of Meetings
9— Quorum of Meetings
10— Sitting Allowance
11— Records

PART IV— GENERAL PROVISIONS
12— Penalties
13— Regulations
THE VIHIGA COUNTY TEA CESS BILL, 2019

A Bill for

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 1 – 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—

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

"Tea" means the plant known botanically as Camellia 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 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 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 and which Company owns the Tea Factory that process the Tea leaves,

"Board of Directors" means the directors of the Tea Factory Company,

"Tea manufacture" means the mechanical or chemical processing and conversion of green tea leaf into made tea or other tea products,

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

“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 County Government ACT, 2013,

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

“County” means the County Government of Vihiga,

“Government cabinet Executive Member” means County Executive Committee Member

PART II—TEA CESS

County Tea Cess

3 (1) The County shall levy a cess known as a County Tea Cess, replacing the Agricultural Produce Cess established in the repealed National Agricultural Act, Cap 343, Laws of Kenya

(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

(5) Utilization of the Tea Cess in any manner other than would be prescribed or permitted under this Act or other written Laws, shall constitute an offence

(6) The Tea Cess which shall be determined by the County Executive Member for Finance in Consultation with the County Executive Member for Agriculture and approved by the County Executive, and shall not exceed 1% of the 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 or Nation
Object and Purpose

4 (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.

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 CECM 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) a representative of the County Assembly Committee member on Agriculture,
(d) the ward administrator for the ward where the Factory is located to be a member of the committee as ex-officio Member,
(e) Chief Officer of the Department of Agriculture shall be an Ex-official Member,
(f) the factory manager will be the secretary to the committee,
(g) the Committee members shall appoint a Vice-Chairperson from amongst their members and who will deputize the Chairperson in his absence,
(h) provided that the Chairperson and Vice-Chairperson shall be appointed from the factory board of directors,
(i) the Tea Cess Committee shall be responsible to, and will send representation of two members to, the County Agricultural Board,
a member of the Committee who through a legally acceptable process loses his/her position in his/her nominating institution, shall lose his/her position on the Committee and the Committee shall nominate another person, to complete the unconcluded term of the departed member,

(k) affirmative action in line with the Constitution of Kenya, shall be considered in the setup of the Committee

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

Functions of the Committee

7 The functions of the committee are—

(a) to advice 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 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 2/3 of the membership

Remuneration of the Committee

10 The members of the committee shall be entitled to a sitting allowance as shall be determined by the Executive member responsible for Finance

Annual Reports

11 The Committee shall cause to be published an audited annual report itemizing the usage of the Tea Cess funds and such report will be tabled before the County Assembly Committee for Agriculture
PART IV—GENERAL PROVISIONS

Offences and Penalty

12 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 nor exceeding Kenya Shillings one hundred thousand (KSh 100,000) or to imprisonment not six months or both

Regulations

13 (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
MEMORANDUM OF OBJECTS AND REASONS

The Bill provides for Introduction of the Tea Cess and the usage and Management of the Cess in Vihiga County with the purpose of replacing the Agricultural Produce Cess established in the repealed National Agricultural Act, Cap 343, Laws of Kenya

The Bill is divided into 4 parts

PART I of the Bill provides for the Preliminary matters including the short title, and the interpretation of words and expressions used in the Bill

PART II of the Bill provides for the introduction of the Tea cess, its purpose and the development fund. The part also stipulates the Tea Cess collection procedures and utilization framework

PART III of the Bill establishes tea cess committee, its functions as well as its meetings and Remuneration

PART IV contains general provisions that include Offences and penalties and the power to make regulations

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