

SPECIAL ISSUE

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NAKURU COUNTY ACTS, 2021

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THE NAKURU COUNTY TEA CESS ACT, 2021

No. 2 of 2021

Date of Assent: 23rd March, 2021

Date of Commencement: See Section 1

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THE NAKURU COUNTY TEA CESS ACT, 2021

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

ENACTED by the county assembly of Nakuru as follows-

PART 1-PRELIMINARY

Short title and commencement

1. This Act may be cited as the Nakuru County Tea Cess Act, 2021 and shall come into force upon publication in the Kenya 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 any other project that may be legally developed /considered for which the Tea Cess would be used;

“County Executive Member “means County Executive Committee member in charge of finance in the county;

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

“county receiver of revenue “means the person appointed pursuant to section 2 of the Public Finance Management Act 2012;

“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 Nakuru;

“executive committee “means the Nakuru County Executive Committee;

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

“Tea Cess” means the Cess from agriculture produce known as green leaf from tea bush grown in the county;

“tea factory” means a company registered under the company act cap 486 laws of Kenya and which company owns the Tea Factory that process the tea leaves

“tea factory “means company registered under Companies Act No .17 Of 2015 and which company own the tea factory that process the tea leaves;

“Tea farmer” means a registered tea grower, registered to a tea factory under provision prescribed by written National Law 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 manufacture “means the mechanical or chemical processing and conversion of green tea leaf into made tea or other tea products;

“tea “means the plant known botanically as *cammellia sinensis* and includes its seed tea plant and the leaf, weather on plant or detached there from, and, in the latter case, whether green tea, other versions of tea or manufactured tea.

PART II –TEA CESS

Tea Cess

3. (1) The county shall levy a Cess known as the 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 the tea factory appointed agent(s), on behalf of the County Government.

(5) 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 one per cent of the green leaf payment.

Purpose of Tea 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 construction of collection centers and other public utilities within the tea growing areas 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 however be used for any other lawful purpose as would be decided by the committee set up herein with the approval of the county executive member provided that such other purpose would be for the benefit of the tea farmer in general and of the county government

using other resources would have addressed or managed the infrastructure mention in subsection (1) above.

(3) Notwithstanding the provisions of subsection (1), seventy five per centum of the Cess revenue collected under section 4 of this Act shall be used in maintaining roads and other related services, of tea growing areas in respect of which such monies are levied, and the remaining twenty five per centum shall be credited to the County Revenue Fund.

PART III-TEA CESS COMMITTEE

Establishment and composition of the Tea Cess Committee

5. (1) There is established a committee to be known as Nakuru County Tea Cess committee.

(2) The committee shall be composed of the following provided that the number shall not exceed fifteen (15)-

- (a) a person nominated by the association of factories who shall be the chairperson
- (b) One member each representing a tea factory in the County
- (c) A person nominated by the County Executive committee member who shall be an ex- official member.
- (d) The Sub County administrator as a quasi-member of the committee
- (e) A person representing factory managers who shall be the secretary.
- (f) Two persons representing tea growers in the County.
- (g) Such other members as may be co-opted by the committee with the approval of the County Executive Committee Member.

(3) The committee members shall appoint a Vice Chairperson from amongst their number and who will deputize the Chairperson in his absence, provided that the Chairperson and Vice Chairperson shall be elected from the factory board of directors.

(4) A member of the committee who through 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.

(5) in nominating or appointing persons as chairperson and members of the committee, the County Executive Committee Member shall ensure that the process is carried out in an open and transparent manner and that-

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- (a) Not more than two thirds of the members are of the same gender; and
- (b) The composition of the committee shall reflect the regional and ethnic diversity of the people of Nakuru county.

(6) The chairperson, vice chairperson and members shall hold office for a period not exceeding three years and shall be eligible for re-appointment for a further term not exceeding three years.

Functions of committee

6. The functions of the committee are-
- (a) to advise the county executive member on collection of the Tea Cess;
 - (b) to manage the collection of the Cess;
 - (c) the committee shall deliberate on the project to which the Tea Cess funds will be applied, as stipulated in this Act; and
 - (d) any other functions as may be assigned in relation to this Act by the County Executive Member.

Conduct of meetings

7. (1) The committee shall sit at least four times and not more than six times a year and shall cause minutes and record of deliberations to be maintained.

(2) Meeting of the committee shall be held within the boundaries of the tea factory catchment area.

(3) The committee shall be free to regulate its own procedure.

Quorum of meetings

8. The quorum of the committee shall be two thirds of the membership.

Sitting allowance

9. The members of the committee shall be entitled to a sitting allowance as shall be determined by the County Executive Member responsible for finance on the advice of the county public service board and based on Salaries and Remuneration Commission Guidelines.

Administrative costs

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

Annual report

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

(2) The report referred to in subsection (1) shall contain among others-

- (a) the Tea Cess collected by the committee during that financial year;
- (b) data itemizing the application of the Tea Cess;
- (c) the annual audited account of the Tea Cess;
- (d) challenges faced in implementation of the Act; and
- (e) any other matter relevant to the implementation of the Act.

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

(4) The County Executive Member shall within fourteen days transmit the report to the clerk of the County Assembly for purposes of Tabling and consideration by the County Assembly

PART IV –GENERAL PROVISIONS**Penalties**

12. Any 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 not exceeding six month or both.

Regulations

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