

SPECIAL ISSUE

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KERICHO COUNTY ACTS, 2021

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THE KERICHO COUNTY CESS ACT, 2021

No. 7 of 2021

Date of Assent: 12th May, 2021

Date of Commencement: 11th June, 2021

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THE KERICHO COUNTY CESS ACT, 2021

AN ACT of the County Assembly of Kericho to provide for the imposition of Cess on any products originating from the County, and for connected purposes

ENACTED by the County Assembly of Kericho, as follows—

PART I—PRELIMINARY

Short title

1. This Act may be cited as the Kericho County Cess Act, 2021.

Interpretation

2. In this Act—

“Agricultural producer” means a producer or processor, of agricultural crop or animal product and includes any marketing organization acting on behalf of producers;

“Authorized Officer” means any person prescribed and/or authorized in writing by County Executive Committee Member for Finance, to act in a certain capacity as envisaged under this Act;

“Cess” means all fees and/or levies imposed under this Act and payable to the County Treasury;

“Company” means the body corporate registered under the Companies Act, Cap. 486, of the Laws of Kenya owning an agricultural produce farm, factory, plant or industrial unit;

“county executive committee member” means the County Executive Committee Member for the time being responsible for matters relating to Finance;

“County Treasury” means the County Treasury of Kericho;

“Designated points” means a place identified by the County Receiver of Revenue of Kericho for the purpose of collection of revenue;

“Factory” means a building or groups of buildings where products are processed chiefly by machines within the County and owned by a registered company whether or not registered under the Companies Act, (Cap. 486), Laws of Kenya;

“Scheduled product” means any crop or product for the time being specified in the First Schedule;

“Payer” means any person or persons, their representative and agents conducting business mentioned in the first Schedule;

“Essential crops” means crops and products that have been gazetted by the County Executive Committee Member.

SCHEDULE

SCHEDULED PRODUCTS (INCLUDE FEES AND MEASUREMENT)

Code	Item description	Unit of measure	Rates (Ksh.)
1.	Industrial Crops		
	(c) Bixa	Per kg	5
	(d) Cotton	Per 50Kg	50
	(f) Sugarcane	Gross market price	1%
2.	Pulses and legumes		
	(a) Beans	Per Kg	5
	(b) Cowpeas	Per Kg	5
	(c) Green grams	Per Kg	5
3.	Roots and Tubers		
	(a) Cassava	Per tonne	100
	(b) Sweet potatoes	Per tonne	100
	(c) Arrow roots	Per tonne	100
4.	Fruits and Vegetables		
	(a) Citrus	Per crate	50
	(b) Water melon	Per piece	5
	(c) Mangoes	Per crate	50
	(d) Banana	Per bunch	50
	(e) Pawpaw	Per crate	50
	(f) Tomatoes	Per crate	50
	(g) Amaranthus (mchicha)	Per 50 kg bag	50
	(j) Chillies	Per 50kg bag	50
	l) Capsicum	Per crate	50
S.	Cereals		
	(a) Dry Maize	Per 90 kg bag	100
	(b) Green Maize	Per 90 kg bag	50
	(c) Rice	Per 50kg bag	50
	(d) Sorghum	Per 90Kg bag	100
6.	Animal Products		
	(a) Milk	Per 50 litres	5
	(b) Eggs	Per Tray	5
	(c) Fish	Per Kg	5
7.	Other products		
	(a) Charcoal	Per 90 kg bag	100
	(b) Molasses	Per 20 litres	50
	(c) Makuti	Per bunch	5
	(d) Manure	Per Tonne	100
	(f) Timber(Commercial):		
	Hard wood	Per Tonne	1000
	Soft wood	Per Tonne	300
	(h) Scrap Metal	Per Tonne	500

(2) A waiver of Cess under this Act shall be for a determinate period not exceeding one year.

(3) Where such waiver is made, the County Executive Member shall give reasons for such waiver and table before the Assembly the list of persons to whom payment of Cess is waived and the reasons thereof.

(4) The Assembly may overturn any such waiver if it is of view that no sufficient grounds exist for the waiver of Cess as made by the County Executive Member.

Regulations

11. The County Executive Committee Member may make Regulations for the better carrying out of the purposes and provisions of this Act.

Objects and Purpose of the Act

3. The object and purpose of this Act is to impose fees and/or levies on products that originate from Kericho County, and on transit to any market pursuant to the provisions of Article 209(3) of the Constitution of Kenya, 2010.

PART II—FEES CHARGEABLE ON PRODUCTS

Imposition of Cess

4. (1) The County Executive Member shall with the approval of the County Assembly determine the Cess chargeable on Scheduled Products within the County.

(2) Product Cess shall be levied on the category of products as set out in the first schedule to this Act

(3) The County Executive Member for Finance may extend the application of this Act to such other category of crops or animal product not included in the First Schedule as he/ she deems necessary.

(4) Where the County Executive Committee Member extends the application of this Act to such other agricultural product not included in the First Schedule, the Executive Member shall with the approval of the Assembly determine the Cess payable to that category of Scheduled products.

(5) The County Government shall ensure that sufficient resources generated from Cess collected is dedicated towards the provision of services to sectors contributing Cess.

Cess not payable on essential Crops or Products

5. (1) Cess shall not be levied or imposed on any product that is declared to be an essential product under this Act.

(2) The County Executive Committee Member may, in every five years, review, declare and publish essential products that in his/ her opinion are necessary for purposes of this Act.

(3) In declaring an essential crop or product under the provisions of this Act, the County Executive Committee Member shall take into account the best interests of the County, the immediate needs of the people of the County, prevailing food security situation of the County and any other County policy.

(4) In making a declaration under subsection (1) the County Executive Member may declare a particular variety only of a scheduled product to be an essential product.

PART III—PAYMENT**Payment to County Government**

6. (1) All payments to the County Government made under this Act shall be deducted and paid by the company, factory, association or any such entity concerned where the product is supplied to be processed.

(2) All payments not provided for under subsection (1) shall be collected by an authorized officer at County designated points as determined by the County Executive Committee Member.

(3) The company or factory referred to in subsection (1) shall ensure that all the amounts deducted are remitted to the County Treasury within a period of 30 days from the date of deduction.

(4) An authorized Officer referred to in subsection (2) shall ensure that all the Cess collected are accounted for and remitted to the County Revenue account on a daily basis.

(5) The company, factory, association or any such entity referred to in Subsection (1) shall keep an up to date record of products supplied to it and cess deductions thereof.

(6) An authorized officer shall be allowed unlimited access to the records kept by the company or factory for purposes of determining Cess payable and collected by the entity.

(7) Any company, factory, association or entity which fails to comply with the requirements of this section shall be guilty of an offence under this Act and will be liable to a fine not exceeding Kenyan Shillings Two million, Five Hundred Thousand (KSh. 2,500,000).

(8) The principal officers of any such company, factory, association or entity shall be liable to imprisonment to a term not exceeding two years or a fine of 2,500,000 or both.

Designated points

7. (1) An authorized officer shall ensure that Collection of Cess on products originating from the County is collected at designated points.

(2) All Cess collected at the County designated points shall be accounted for and remitted to the County Revenue account on a daily basis.

(3) An authorized officer shall maintain and keep records of all Cess collected at his or her County designated points.

(4) This section shall not apply to crops not produced in the County that are on transit through the County on national trunk roads and to which Cess has already been paid in another County in accordance with Article 209 (5) of the Constitution of Kenya, 2010.

(5) Notwithstanding sub-regulation 4 above, any goods destined for market within Kericho County shall be subjected to offloading fees as prescribed from time to time by the Finance Act.

(6) The County Executive Member shall determine and publish all County designated points from which Cess shall be collected.

PART IV—OFFENCES AND PENALTIES**Offences**

8. (1) A person who contravenes the provisions of this Act shall be guilty of an offence and is liable to a fine not exceeding two hundred fifty thousand Kenya shillings or imprisonment of six months or both.

(2) Where the offence is committed by a non-natural person including a body corporate, organization or any such entity, the principal officers of such body, organization or entity shall be liable to a fine not exceeding Kenya Shillings Two Million Five Hundred Thousand (KSh. 2, 500,000) or imprisonment of two years or both.

Offences by an Authorized Officer

9. An Authorized Officer of the County Government having a duty to perform under this Act who—

- (a) interferes with any other process or person under this Act, so as to defeat the provisions, requirements or purposes of this Act;
- (b) where required under this Act to do anything, or to give effect to the provisions of this Act, fails to do such thing;
- (c) without reasonable cause omits to do something in breach of his or her duty under this Act;
- (d) wilfully contravenes the provisions of this Act to give undue advantage or favor to another person;
- (e) fails to prevent or report to the County Government or any other relevant authority, the commission of an offence committed under this Act,

shall be guilty of an offence and is liable on conviction, to a fine not exceeding Kenya Shillings Two Hundred Thousand (KSh. 200,000) or to imprisonment for a term of six months, or both.

PART V—MISCELLANEOUS PROVISIONS**Waiver of Cess**

10. (1) The County Executive Member may waive the Cess payable under this Act to any products, persons or group of persons to whom this Act apply.