

SPECIAL ISSUE

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REPUBLIC OF KENYA

KENYA GAZETTE SUPPLEMENT

BUSIA COUNTY ACTS, 2017

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THE BUSIA COUNTY CESS ACT, 2017

No. 4 of 2017

Date of Assent: 6th April, 2017

Date of Commencement: See Section 1

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THE BUSIA COUNTY CESS ACT, 2017

AN ACT of the County Assembly of Busia to provide for the imposition of charges, levies or fees on any certain kind of products produced and/or transported within the County, and for related connected purposes

ENACTED by the County Assembly of Busia as follows—

PART I— PRELIMINARY

1. This Act may be cited as the Busia County Cess Act, 2017 and shall come into operation in accordance to Article 199 of the Constitution. Short title and commencement

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

“Authorized Officer” means any person prescribed and/or authorized in writing by Gazette, to act in a certain capacity as envisaged under this Act;

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

“County Government” means the County Government of Busia County;

“County Receiver of Revenue” means the person designated as the county receiver of revenue pursuant to and in accordance with Section 157 of the Public Finance Management Act in the County Government Busia;

“Producer” includes a primary manufacturer or processor, maker, farmer and excavator of the products or any of the products in the schedule of products;

“Scheduled products” means any product for the time being specified in the Schedule.

3. The object and purpose of this Act is, pursuant to and in accordance with provisions of Article 209 (3) of the Constitution of Kenya, 2010, to impose a charge levy or fee on scheduled products grown, harvested, produced or transported within the county. Object and purpose of the Act

PART II— CHARGES, FEES AND LEVIES ON SCHEDULED PRODUCTS

4. (1) The County executive committee shall from time to time determine and publish in the gazette a schedule of products on which the county government may impose a cess, levy , charge or fees in accordance with this act.

Charges, levies and fees for scheduled products

(2) No, fee, charge or levy may be imposed on any product transported within the county unless such product is listed in the schedule.

5. (1) No cess fees, charges or levies may be imposed, waived or varied except as specified in the second schedule to this Act.

Cess to be determined in the Annual County Finance Act.

(2) The County Executive Committee Member may propose amendments to the cess fees, charges or levies specified in the Second Schedule through the annual Finance Bill in line with section 132 of the Public Finance Management Act.

PART III— PAYMENT

6. (1) The levy, charge or fees imposed as cess in accordance with Section 5 shall be paid to and collected by an authorized officer of the County Government—

Payment of cess to be made in designated places

- (a) in the case of products produced within the county, at the place of production, delivery within the county or at any other place as may be designated by the Executive Committee Member by regulations made under this Act;
- (b) in the case of products brought into the county from outside, at the place of delivery of the product or as may be designated by the Executive Committee Member by regulations made under this Act, and;
- (c) in the case of goods on transit at such other place as may be designated by the Executive Committee Member by regulations made under this Act.

(2) All payments due and payable to the county government in respect of cess under this Act shall be remitted to County Receiver of Revenue within a period of Fourteen days from the date such payments become due.

(3) Any money due and payable which is not remitted to the County Receiver of Revenue within the time specified in subsection 2 shall attract a penalty of Three percent per day until it is fully paid.

(4) Any person, who, without a lawful excuse fails to remit monies payable to the County Receiver of Revenue within the time stated under this Act commits an offence and, on conviction shall be liable to imprisonment for a term not exceeding five years or to a fine not exceeding five times the amount due.

Provided that such term of imprisonment or fine shall not discharge the person from liability to pay the amount due in accordance with subsection 5.

7. (1) For the purposes of this Act, a producer, transporter and/or receiver of products in the schedule shall keep and maintain a proper and accurate record of all products in the schedule produced, transported, delivered and/or received by them.

Records of products

(2) The producer, transporter and/or receiver of the products in the schedule shall avail such record for inspection by an authorized officer whenever required to do so.

(3) Any person as stated in subsection (1) who—

(a) fails to keep the records as stated in subsection (1) or

(b) refuses or fails to avail such records to an authorized officer when required to do so, commits an offence.

8. (1) The money collected as cess charges under this Act shall be used for the maintenance of County Roads.

Uses to which cess collections shall be put

(2) The County Receiver of revenue shall keep proper and accurate records for the collection of cess charges under this Act.

(3) Not later than 1st of April in each year, the County Receiver of Revenue shall prepare and submit to the County Treasury a report on cess collections under this Act.

(4) The County Treasury shall incorporate the report

referred to under subsection (3) of this section into the annual budget estimates before their submission to the County Assembly.

PART IV— OFFENCES AND PENALTIES

9. Except as provided for in this Act, a person who contravenes any of the provisions of this Act shall be guilty of an offence and is liable to a fine not exceeding three hundred thousand Kenya shillings or imprisonment for a term not exceeding two years. General offences

10. An Authorized Officer of the County Government having a duty to perform under this Act who— Offences by authorized officer

- (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) willfully contravenes the provisions of this Act to give undue advantage or favour 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 two hundred thousand shillings or to imprisonment for a term not exceeding one year, or to both.

PART V — MISCELLANEOUS

11. (1) Without prejudice to Section 5, the County Executive Committee Member may, after a prior resolution of the County Executive Committee and the County Assembly, vary a charge, levy or fee payable as cess under this Act. Variation of cess

(2) Where the Executive Committee Member exercises the power to vary any cess charge, levy or fee

imposed under this Act or under any other Act, the member shall, in accordance with Article 210 (2) of the Constitution—

- (a) keep or cause to be kept a public record of each waiver shall be maintained together with the reason for the waiver, and
- (b) report or cause to be reported to the Auditor-General, in accordance with section 164 of the Public Finance Management Act, the reasons for each waiver.

(3) The said variation of charge, levy or fee shall be in writing and published in the Gazette and shall, as soon as possible not later than thirty days be presented to the County Assembly for approval or otherwise.

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

(2) The regulations referred to at subsection (1) of this section may provide for—

- (a) the designation of places or additional places at which cess shall be collected pursuant to section 6 of this Act;
- (b) the specific records to be kept pursuant to section 7 of this Act;
- (c) the nature and content of records of waiver or variation of cess charges to be kept pursuant to section 10 of the Act;
- (d) the timelines within which cess charges shall fall due or become payable under this Act;
- (e) the establishment and functions of a committee or other mechanisms for effective implementation of the provisions of this Act; and
- (f) any other matter reasonably incidental to or necessary for proper implementation of the provisions of this Act.

(3) Regulations made under this Act shall not come into force unless first approved by the County Assembly.

SCHEDULES
FIRST SCHEDULE

(Section 2)

SCHEDULE OF PRODUCTS

1. Banana
2. Carrots
3. Cassava
4. Cereals and their products
5. Charcoal
6. Coffee
7. Cucumber
8. Eggs
9. Fruits
10. Ground nuts
11. Logs
12. Timber
13. Maize
14. Mangoes
15. Milk
16. Onions
17. Pawpaw
18. Passion Fruits
19. Peas
20. Potatoes
21. Processed milk
22. Sugar cane
23. Sweet potatoes
24. Tea
25. Tobacco
26. Tomatoes

27. Vegetables
28. Sand
29. Quarry stone
30. Murram
31. Fish
32. Livestock and livestock products
33. Watermelons
34. Pulses
35. Pineapples
36. Mats
37. Khat (Miraa)

SECOND SCHEDULE

(Section 5)

<i>Item Description</i>	<i>Unit of measure</i>	<i>Charges</i>
Charges and Fees		
One full 7 ton lorry of fish	Per instance	2,000
One full 4 to 5 ton canter of fish	Per instance	1,500
One full canter 2 to 3 tons of fish	Per instance	1,000
Timber on transit per ton	Per instance	500
Cotton seed cake per 90kg	Per instance	50
Cotton seed cake per 4-5 ton canter	Per instance	1,000
Cotton seed cake per 6-14 ton lorry	Per instance	1,500
Cotton seed cake per trailer	Per instance	2,000
Sugar per 4-5 ton canter	Per instance	1000
Sugar per 6-14 ton lorry	Per instance	1500
Sugar per trailer	Per instance	2000
Scrapes per 4-5 tons canter	Per instance	1,000
Scrapes per 6-14 tons lorry	Per instance	2,000
Scrapes per trailer	Per instance	3,000
Scrapes per mkokoteni	Per instance	100
Scrapes per bicycle	Per instance	30
Plastics per 4-5 tons canter	Per instance	500
Plastics per 6-14 tons lorry	Per instance	1,000
Plastics per trailer	Per instance	1,500
One lorry of produce across the border 6-14 tons	Per instance	2,000
4-5 tons of produce across the border	Per instance	1,500
Trailer of produce	Per instance	2,500
Bales of cotton 4-5 tons canter	Per instance	1,000
Bales of cotton 6-14 tons of lorry	Per instance	1,500
Bales of cotton per trailer	Per instance	2,000
Cartons of shoes 4-5 tons canter	Per instance	1,000
Cartons of shoes 6-14 ton lorry	Per instance	1,500
Cartons of shoes per trailer	Per instance	2,000
Empty bottles per 4-5 tons canter	Per instance	500
Empty bottles per 6-14 ton lorry	Per instance	1,000
Empty bottles per trailer	Per instance	1,500
Coffee per 4-5 ton canter	Per instance	1,000
Coffee per 6-14 ton lorry	Per instance	1,500
Coffee per trailer	Per instance	2,000
Raw or ripe bananas 4-5 tons canter	Per instance	1,000
Raw or ripe bananas 6-14 tons lorry	Per instance	1,500
Raw or ripe bananas trailer	Per instance	2,000
Wheat bran per 4-5 tons canter	Per instance	1,000
Wheat bran per 6-14 ton lorry	Per instance	1,500
Wheat bran per trailer	Per instance	2,000
Hides and skins per 4-5 tons canter	Per instance	500

Hides and skins per 6-14 ton lorry	Per instance	1,000
Hides and skins per trailer	Per instance	1,500
Rice brand per 4-5 tons canter	Per instance	1,000
Rice bran per 6-14 tons lorry	Per instance	1,500
Rice bran per trailer	Per instance	2,000
Rice bran per 90kg	Per instance	50
Sunflower per 90kg	Per instance	50
Sunflower or seed cake per 4-5 tons canter	Per instance	1,000
Sunflower or seed cake per 6-14 tons lorry	Per instance	1,500
Sunflower or seed cake per trailer	Per instance	2,000
Milk per pick-up	Per instance	500
Milk per 4-5 tons canter	Per instance	1,000
Milk per 6-14 tons lorry	Per instance	1,500
Milk per trailer	Per instance	2,000
Ginger (Tangawizi) per 4-5 tons canter	Per instance	2,000
Broken bottles per 4 -5 tons canter	Per instance	1,000
Broken bottles per 6-14 tons lorry	Per instance	1,500
Broken bottles per trailer	Per instance	2,000
Tobacco per 4-5 tons canter	Per instance	1,000
Tobacco per 6-14 tons lorry	Per instance	1,500
Tobacco per trailer	Per instance	2,000
Rice germ 4-5 tons canter	Per instance	1,000
Rice germ 6-14 tons lorry	Per instance	1,500
Rice germ per trailer	Per instance	2,000
Empty sacks per 4-5 tons canter	Per instance	1,000
Empty sacks per 6-14 tons lorry	Per instance	1,500
Empty sacks per trailer	Per instance	2,000
Empty crates of beer per 4-5 tons canter	Per instance	500
Empty crates of beer 6-14 tons lorry	Per instance	1,000
Empty crates of beer per trailer	Per instance	1,500
Sim sim per 4-5 tons canter	Per instance	1,000
Sim sim per 5-6 tons lorry	Per instance	1,500
Sim sim per trailer	Per instance	2,000
Maize germ per 4-5 tons canter	Per instance	1,000
Maize germ per 6-14 tons lorry	Per instance	1,500
Maize germ per trailer	Per instance	2,000
Pineapples 4-5 tons canter	Per instance	1,000
Pineapples 6-14 tons lorry	Per instance	1,500
Pineapples per trailer	Per instance	2,000
Water melons 4-5 tons canter	Per instance	1,000
Water melons 6-14 tons lorry	Per instance	1,500
Water melons per trailer	Per instance	2,000
<i>Other Cess Charges Account Code Charges</i>		
French beans per bag	Per instance	70
French beans per bag	Per instance	100

Capsicum (hoho) per bag	Per instance	70
Leeks per bundle	Per instance	100
Marrow or gogeti per carton	Per instance	50
Peas per bag	Per instance	70
Avocado per bag	Per instance	70
Avocado per bag	Per instance	100
Madafu	Per instance	50
Strawberry small box	Per instance	50
Radishes per basket	Per instance	50
Perleymints per basket	Per instance	50
Kunde per bag	Per instance	60
Binda per small carton	Per instance	30
Binda per large carton	Per instance	50
Yams per bag	Per instance	70
Cassava per bag	Per instance	70
Passion per bag	Per instance	100
Red cabbage per bag	Per instance	70
Crew fruits per bag	Per instance	70
Kalela caston	Per instance	70
Custard apple per bag	Per instance	70
Sokisoki per basket	Per instance	70
White onion per net	Per instance	100
White onion per bag (7 nets)	Per instance	700
Honey per tin	Per instance	50
Ginger BCT bag	Per instance	100
Garlic per net	Per instance	70
Garlic per bag (7 nets)	Per instance	500
Garlic per ton	Per instance	1,200
Apples per box	Per instance	70
Groundnuts per bag	Per instance	150
Omena per bag	Per instance	100
Dry cereals - ndengu, njahe, maize, rice etc. per bag	Per instance	50
Unga per bag	Per instance	50
Lorry admission	Per instance	700
Car or pickup admission	Per instance	500
Handcart admission	Per instance	50
Handcart parking admission	Per instance	50
Personal cars	Per instance	100
Penalty for failure to pay an invoice		
Lorry	Per instance	1,000
Handcarts	Per instance	300
Landing fees for animals		
Per Cow	Per instance	150
Per goat or sheep	Per instance	50
Landing fees for fish per basket		
Bumala Town	Per instance	50

Busia Town	Per instance	100
Port Victoria Town	Per instance	50
Nambale Town	Per instance	50
Per pig	Per instance	100
Cold dressed carcass		
Per cow	Per instance	200
Per goat or sheep	Per instance	50
Per pig	Per instance	100
Firewood		
Per Pick up	Per instance	500
Per lorry	Per instance	1,000
Charcoal per bag	Per instance	50
Intestines (matumbo) per bag	Per instance	50
Mushrooms per carton	Per instance	100
Used magazines or Newspapers		
Per Pick Up	Per instance	500
Per lorry	Per instance	1,000
Shoe Gums or soles		
Per Pick up	Per instance	500
Per lorry	Per instance	1,000
Murram	Per tone or par thereof	100
Sand	Per tone or par thereof	100
Quarry stone	Per tone or par thereof	100
Stock Sale		
Per cow	Per instance	150
Per Goat, Pig or Sheep	Per instance	70
Other Main Gate Cess Charges:		
Canter		500
Fighter		600
Lorry		1,000
Trailer		1,500
Pick up		300
Motorbike		50
Milk Tanker		2,000
Bicycle		20