

BARINGOCOUNTY GOVERNMENT



THE BARINGO COUNTY AGRICULTURAL PRODUCES CESS BILL, 2022

21st November, 2022

THE BARINGO COUNTY AGRICULTURAL PRODUCE CESS BILL, 2021

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THE BARINGO COUNTY AGRICULTURAL PRODUCE CESS BILL, 2021

A Bill for

An ACT of the Baringo County Assembly to provide for the imposition of Cess tax on any kind of agricultural crop or animal produce within the County, and for connected purposes—

ENACTED by the County Assembly of Baringo County, as follows—

PART I—PRELIMINARY

Short title and commencement. **1.** This Act may be cited as the Baringo County Agricultural Produce Cess Bill, 2022.

Interpretation. **2.** In this Act –

“Agricultural producer” means a producer, a 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;

“Produce Cess” means all taxes and/or levies imposed on agricultural produce 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 executive committee member for the time being responsible for matters relating to Finance;

"Essential product" means crops declared as such under Section 5;

“Factory” means a building or groups of buildings where agricultural produce is 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, animal or product for the time being specified in the First Schedule;

Objects and purpose of the Act.

3. The object and purpose of this Act is to impose tax and/or levies on crop and animal produce sold in, and on transit within the county pursuant to the provisions of Article 209(3) of the Constitution of Kenya, 2010.

PART II— TAX CHARGEABLE FOR AGRICULTURAL PRODUCE

Imposition of Cess

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

(2) Agricultural Cess shall be levied on the category of crops or animal products as set out in the first schedule to this Act and on any such other crops or animal product declared as Scheduled product under 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 Member shall with the approval of the Assembly determine the Cess payable to that category of Scheduled products.

Cess not payable on essential crops or product

5. (1) Agricultural Produce Cess shall not be levied or imposed on a crop or animal product that is declared to be an essential crop or product under this Act

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

(3) In declaring a crop or product 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 the County policy on agricultural production

(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 the
County
Government
by Agricultural
Producers

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

(2) All payments not provided for under subsection 1 shall be collected by an authorized officer at County Exit 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 agricultural produce 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) (i) Any person who 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 50,000 Kenyan Shillings

(ii). 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 2,000,000 Kenyan Shillings

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

Collection of
Cess at Exit
points

7. (1) An authorized officer shall ensure that Cess on agricultural produce on transit out of the County is collected at barriers set up at county exit/entry points.

(2) All Cess collected at the County exit/entry 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 exit 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.
- (5) The County Executive Member shall determine and publish all County Exit points from which Cess shall be collected.

PART IV – OFFENCES AND PENALTIES

Offence by an agricultural producer.

8. (1) An agricultural producer who contravenes the provisions of this Act shall be guilty of an offence and is liable to a fine not exceeding one hundred 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 criminally liable

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 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 of

one year, or to both

PART V- MISCELLANEOUS

Waiver of Cess

- 10.** (1) The County Executive Member may waive the Cess payable under this Act to any agricultural producer, persons or group of persons to whom this Act apply.
- (2) A waiver of Cess under this Act shall be for a determinate period not exceeding one year.
- (2) 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
- (3) 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.

FIRST SCHEDULE

Section 4

Scheduled Produce

1. Banana

2. Beans

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3. Building Stones
4. Carrots
5. Cassava
6. Cereals
7. Charcoal
8. Chicken
9. Coffee
10. Cotton
11. Cows
12. Cucumber
13. Eggs
14. Fish
15. Fruits
16. Goats/Sheep
17. Ground nuts
18. Hides and Skins
19. Honey
20. Horticulture
21. Lemon
22. Log
23. Macadamia nuts
24. Maize
25. Mangoes
26. Meat
27. Millet
28. Milk
29. Onions
30. Oranges
31. Pawpaw
32. Peas
33. Potatoes
34. Processed fresh milk
35. Pyrethrum
36. Rice
37. Sand
38. Sisal
39. Sugar cane
40. Sweet potatoes
41. Tea
42. Timber
43. Tobacco
44. Tomatoes
45. Vegetables
46. Water Mellon
47. Hay and other grass
48. Firewood and branches
49. Pumpkins
50. Farm Yard manure
51. Ballast
52. Soil (for agriculture and for making jikos)
53. Pigs
54. Rabbits
55. Green maize
56. 56. Furniture
57. Bricks
58. Donkeys
59. Donkey meat
60. Salt lick
61. Soda ash
62. Avocados
63. Compost manure
64. Fruit and tree seedlings

SCHEDULE 1

3.5. Enterprise Section on Markets

Item Description	ChargesK SH.
Site & service, Tenant Purchase Scheme (TPS) administrative charges (Annual)	1,000
Screening films in County.	15,000
Transfer fees for stalls/slabs.	200
Penalty on illegal transfer	1000
Eviction fees	1,000
User Charges	
Fish(basket)-small size	20
Fish(basket)-medium size	30
Fish(basket)-large size	50
Fish(basket)- extra-large size	100
Flowers(bundle)	20
Eggs per tray	10
Guavas per box	20
Lemons per bag	20
Oranges per bag	50
Beetroot per bag	50
Beetroot per small box	30
Brinjal per small box	30
Brinjal per large box	50
Cabbages per bag	50
Cabbages per ton	200
Carrots per bag	50
Cucumber small box	20
Cucumber large box	30
Dhania per basket	30
Lettuce per basket	30
Lettuce per bundle	30
Melon per ton	300

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Onions per net	30
Redonions per bag(7nets)	150
Onions per bag	30
Pumpkin per bag	40
Pumpkin per extended bag	50
Pumpkin per ton	250
Spina chone bag	30
Sukuma wiki (kales) per bag	30
Sukuma wiki (kales) per ton	250
Tomatoes large box	40
Tomatoessmallbox	20
English potatoes per bag	40
Macadamia Nuts (Per Sack)	80
Pine apples per dozen	50
Sugar cane bundle	30
Sweet potatoes per bag	50
Sweet potatoes(100 Kg)	40
Sweet potatoes(50Kg)	20
Coconut per bag	50
Arrow roots per bag	50
Sukaringuruper ton	300
curios(cartons) large size	200
curios(cartons) medium size	150
curios(cartons) small size	100
Curios(retail traders) fee per day	100
Traditional basket	50
Live Chicken	10
Dressed chicken	15
Banana per bunch	30
Mangoes net	20
Mangoes per tone	200
Pawpaw per crate	50
Maize(90Kg)	30
Pawpaw per bag	100
Pawpaw per tone	200

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Green maize per bag	100
Green maize per pick-up	1200
Plums per carton	50
Tangerine per box	30
Tangerine per ton	500
French beans per crate	20
French beans per bag	50
Caspun(hoho) per bag	50
Leeks per bundle	70
Peas per bag	50
Avocado per bag	50
Madafu	30
Straw berry small box	30
Kunde per bag	40
Indigenous Vegetables per 50 Kg sack	20
Yams per bag	50
Cassava per bag	50
Passion per bag	70
Red cabbage per bag	50
Crew fruits per bag	50
White onion per net	70
White onion per bag(7nets)	300
Honey 1 Litres	10
Honey 5 Litres	20
Honey 20 Litres	40
Ginger BCT bag	70
Garlic per net	50
Garlic per bag(7nets)	300
Garlic per ton	500
Apples per box	50
Groundnuts per bag	250
Omena per bag	50
Dry cereals, ndengu, njahe, maize, rice etc. per bag	50
Unga per bag	50
Cotton Cess per sack	20
Scrap Metal Per Tonne	1000
Hawker Monthly	1500

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Coffee Cess Per Sack	50
Sisal Per Single Trailer/Lorry	200
Hay on Transport Per Bundle	5
Bricks per tone	100
Lorry admission	1000
Car/pick up admission	300
Handcart admission	30
Handcart parking admission	30
Personal cars	200
Penalty for failure to pay an invoice	
Lorry	500
Handcrafts	50
Cess for animals	
@ Camel/donkeys	300
@Cow	300
@ Goat/sheep	100
@ Pig	100
Cold dressed carcass	
@ Cow/Camel	200
@ Goat/sheep	100
@ Pig	100
Firewood Per ton	50
@Hawker per day	100
Charcoal @bag on transit	50
Maximum no of bag son private transit3 bags only	Free
Mushrooms @ carton	30
Used magazines @Kg	5

4.2. Other Fees and Charges.

	Item Description	Unit of Measure	Charges in KSH.	
	Clearance Certificate on Demand	Per Cert	1500	
	Penalties for R/D Cheque	A leaf	5000	
	Hire of Open Space at ward level	Per day	1,000	
	Hawkers(wares)	Per day	100	

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	Firewood Traders (Cess)	Per Ton	50	
	Transportation of Red soil & manure	Per Ton	50	
	Luggage Trolley	Per day	50	
	Offloading of Goods Below 7 tons	Per Trip	500	
	Over 7 tons	Per Trip	1,000	
	Building stones (Cess) – Transporter	Per Ton	100	
	Building stones (Cess) – Transporter (Lorries over 7 tonnes)	Per Ton	200	
	Building stones – Dealer	Per Year	2,000	
	Hardcore – Transporter	Per Ton	50	
	Hardcore – Dealer	Per Year	2,000	
	Sand and ballast (Transporter)	Per Ton	100	
	Sand and ballast (Dealer)	Per Year	1,000	

11.0 AGRICULTURE, LIVESTOCK AND FISHERIES.

11.1 Animal impounds.

		Urban Areas	Rural Areas
Impounding fee		KSH	KSH
cow/horse/donkey	Per head	1,000	500
dog/goat/Cat	Per head	500	200
Turkeys/hens (birds)	Per head	30	20

11.2. Meat Inspection Fees

Cattle & camel carcass		150
Goats and Sheep carcass		50
Poultry carcass		10
Certificate of Transport of Meat (COT) Per Carcass		20
Transport License For Containers Per annum		200
Slaughter House License Category A 10,000		10,000
Category B 3000		3,000
Category C 1000		1,000
Products	Measure of Unit	Charges
Application for meat/fish/poultry transportation	Per instance	2,000.00
Annual Meat transport license	Annual	2,000.00

11.3. Livestock Movement Permit

Species	KSH
Cattle/Camel per head	50
Sheep/Goat per head (All movements of animal is restricted to between 6AM and 6PM)	20
Registration of Hides and skins premises per annum	1,000
Hides and skins Dispatch Permit	200
Slaughterman's permit per annum	200
A.I Providers per annum	2,000
Hide Cess Per Hide	20
Skin Cess Per Skin	10

11.4 Fisheries License

Item Description	Charges in Kshs.
Fish movement permit per annum	1000
Fish Traders	500
Fish Trader License	1,500
Fisherman Licensing	500
Fisherman Licensing with Boat	1,400

11.5 AGRICULTURAL AND MECHANICAL SERVICES CHARGES

MACHINERY AND WORKSHOP SERVICES, TRANSPORT AND FARM PLANNING SERVICES

1. Agricultural machinery and workshop services

a) Tract or powered operations

- | | |
|-----------------------------|--|
| i. Ploughing | charges in Ksh/ha. |
| ii. Ploughing old land | This will be determined jointly by a |
| iii. Reploughing (new land) | team comprising of manager AMS, local |
| | district Agric |
| iv. Reploughing (old land) | Cultural officer, Sub County Admin and |
| | representative |
| v. Ridging | of the local branch of a farmer's |
| | Asssocation. |
| vi. Harrowing new land | |

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- vii. Harrowing old land
- viii. Tine cultivation
- ix. Chisel cultivation
- x. Planting – with seed drill
- xi. Planting – with planter
- xii. Inter-row cultivation
- xiii. Combine harvesting
- xiv. Maize selling per 90 kg bag

b) Testing of farm machinery and animal drawn equipment

Testing of unit drawn	6, 500
Testing of hand tool per unit	800
Testing of motorized agricultural machinery per unit	4,000

c) Workshop fabrication and repair services

These will be calculated on the basis of machine hours and man-hours estimated/spent on a job and the charges for each unit will be at market rates. These will be determined jointly by a team comprising of officers in charge RTDC, local District Agricultural Officer, District Commissioner and representative of local branch of Farmers Association.

d) Testing fee for agricultural farm Tippers

Charges are based on the Tipper horse power (HP). The fees range from Ksh 136,000 to 400,000 for Tippers of 10 to 110 horsepower respectively. For example charges for the most common range of Tippers shall be

10 horse power	136,000
40n horse power	215,000
60 horse power	268,000
80 horse power	370,000
100 horse power	373,000
110 horse power	400,000

Any agricultural land workshop services not included in the above list will be charged at the prevailing market rate determined by the team shown in section 1 © above

2. Heavy earth moving machinery		(mechanized soil conservation services)	
Description	Agricultural work	Non – Agricultural work	
	Charges per hour (ksh)		Charges per hour (ksh)
	Dry rate		wet dry rate
a) Cat d6, Honomag D600C, TD15			
And all other 150-17HP	3,020	4,615	7,000
b) Cat D7, Komatsu and all other 200HP to 240HP	3,772	5,200	7,500

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c) Cat D8 and Telex 14 and all other above 240HP	4,720	7,000	10,500
d) Aveling Marshall 140, Cat 12M/Grader Mf 500B and all other 120 -149HP	2,640	4,000	7,000
e) Cat D4,TD 11, Bucket Loaders and all other 110HP and below	1,960	3,000	5,450
f) Dragline 160HP	3,020	4,615	7,000
g) Excavator 140HP	2,640	4,000	7,000
h) Earth Movement in Cubic Meters (m3)	200	285	310
i) Compressor	1,000	1570	1,700

Terms and Conditions Applicable to Heavy Earth Moving Machinery under Part III, Section 2 Above

1. Dry Rate means that the clients supply the consumable inputs namely fuels and lubricants and pays operator allowance. The operator allowance is Ksh. 1200 or the respective Government per diem rates, whichever is greater per operational day.
2. Wet rate means the AMS station supplies the consumable inputs namely fuels and lubricants and if also pays daily staff allowance at the rate of Kshs. 1200 or the respective Government per diem rates whichever is greater per working days
3. Agricultural work refers to land development activities for enhancing agricultural production e.g bush cleaning and ripping, construction of water conservation structures (dam, terraces etc)
4. Non-Agricultural works refers to earth engaging activities outside the farm e.g classified roads excavation for town development projects etc
5. Non-agricultural works will be charged on Dry Rate only as there will be no provision for wet rates

3. Planning and Design:

Kshs.

- | | |
|---|--------|
| a) Dam Survey and Design (per) | 25,000 |
| b) Detail survey with contours (per ha) | 2,000 |
| c) Perimeter survey area determination (per Ha) | 600 |
| d) Farm survey and layout planning (per Ha) | 4,600 |

4. Transport Hire

- | | |
|---|--|
| a) Low loader (40 tons capacity) per km | 250 |
| b) Operator's allowance per working day | 1,000 or the respective Government per diem rate |

Lorries and transport (small vehicles) are not to be hired at all.

5. Personal Hire (Daily or part of the day thereof)

- | | |
|-----------------------|-------|
| a) Professional | 5,000 |
| b) Technicians | 3,500 |
| c) Artisans | 2,000 |

11.6 IRRIGATION AND DRAINAGE SERVICES

- 1. Problem identification/ assessment per visit6,000
- 2. Survey for design per hectare 3,500
- 3. Profile survey per km 4,000
- 4. Supervision of installation of portable sets systems on plot up
To 2 hectare per installation and testing 4,080
- 5. Fixing pump sets performance per test 5,850
- 6. Fixing pump sets and systems on plots over 2 hectare per
Installation and testing 12,360
- 7. Testing water application efficiency per testing 3,900

All other charges not shown above to be as per prevailing commercial rates. These will be determined jointly by a group comprising of officers in charge irrigation and drainage unit, local District Agricultural Officers, Sub County Administrator and Local representation of the branch of the Farmers’ Association.

REPUBLIC OF KENYA



BARINGO COUNTY GOVERNMENT

	<p>CHARGE SHEET ENFORCEMENT</p> <p style="text-align: right;">CASE No:</p> <p style="text-align: right;">DATE OF COURT:</p> <p style="text-align: right;">COURT No:</p>		
NAME OF ACCUSED	<p>.....</p>		
ID NUMBER	SEX	NATIONALITY	APPARENT AGE
.....
ADDRESS.....	<p>.....</p>		

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STATEMENT OF OFFENCE AND PARTICULARS OF OFFENCE	
IF ACCUSED ARRESTED	DATE OF ARREST BOND DATE AND AMOUNT
IF ACCUSED SUMMONED	DATE OF PLEA..... DATE OF HEARING
WITNESSES	
LEAVE DUE	
SENTENCE	DATE IF FINE PAID

MEMORANDUM OF OBJECTS AND REASONS

The purpose of this Bill is to facilitate collection of Cess on agricultural produce in the County. The Bill is meant to provide a legal framework for the collection of Cess on agricultural produce, waiver of Cess collection from specified category of produce, and provide for offences against the collection of Cess.

This Bill is in line with the Article 209 of the Constitution. Imposition of tax must be supported by a legal framework before such tax can be levied and collected and as such this Bill seeks to provide the legal basis and framework for the levying and collection of Cess tax on agricultural produce in the County.

The Bill seeks to among other things—

- (a) Contribute to increased revenue streams for the County through the Cess tax established herein;
- (b) Provide a legal framework for determination of category of crops to whom Cess shall be payable;
- (c) Promote a disciplined approach in the levying and collection of agricultural Cess tax within the County.

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- (d) Establish procedure to oversee law enforcement on issues regarding payment of Cess tax on agricultural produce.

The Bill proposes that authorized officers under the supervision of the executive committee member shall manage the collection and administration of Cess tax in the County.

The enactment of the Bill into law shall entail expenditure of public funds to be provided for in the county estimates.

HON. SOLOMON KURIA,
Chairman Finance and Economic Planning Committee.