

MURANG'A COUNTY TEA ACT, 2015

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MURANG'A COUNTY TEA ACT, 2015

AN ACT of the County Assembly of Murang'a to provide for the growing of tea and the development and regulation of the tea industry and for other connected purposes

ENACTED by the County Assembly of Murang'a as follows-

PART I – PRELIMINARY

Short title **1.** This Act may be cited as the Murang'a County Tea Act, 2015.

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

“blending” means the process of mixing tea of different grades to affect the flavour and characteristics of the tea for the purposes of packing and for sale;

“buyer” means a person, a company or a firm engaged in acquiring manufactured tea for re-sale in the local or export market, including the export of imported tea;

“broker” means a person, company or firm established for the purpose of negotiating the purchase or sale of tea between producers and buyers;

“committee” means the Murang'a County Tea Advisory Committee under Section 3 of the Act;

The Murang'a County Tea Act, 2015

“County” means Murang’a County;

“directorate” means the Tea Directorate under Section 12 of the Act”

“Executive Member” means the Murang’a County Executive Committee Member for the time being responsible for agriculture;

“export” means to take tea out of Kenya to any place outside Kenya;

“exporter” means a person, a firm, or a corporate body engaged in the business of exporting tea;

“governor” means the governor of Murang’a County.

“green tea leaf” means leaf detached from tea plants but not dried or processed in any way;

“grower” means any person who is cultivating tea in any area or who intends to plant and cultivate tea in any area;

“importer” means a person, a firm, or a corporate body engaged in the business of importing tea;

“licensee” means a person who holds a manufacturing licence under section 17;

“management agent” means any person, co-operative society, marketing board or company established under any written law, that is appointed through a specific management contract or agreement by another person or company to perform or offer professional services in specific functions of production,

processing or marketing of tea but does not include a buyer, broker or packer of tea;

“manufacturing licence” means a manufacturing licence issued under section 16;

“ministry” means the national ministry incharge of tea;

“packer” means any person who packs tea into packets or containers holding not more than ten kilogrammes of tea intended for sale;

“person dealing in tea” includes a management agent, a broker, a buyer, an exporter, a packer, a blender, a warehouseman, an auction organizer or an importer;

“producer” means a processor of tea and includes a smallholder or a plantation tea producer or their representatives;

“registration” means registration of any person dealing in tea under this Act;

“service provider” means any organization, business or individual that offers service to others with regards to processing, packaging, or any other process of tea in exchange for payment;

“sun-drying” means the manufacture of green leaf into made tea by using direct heat of the sun;

“tea” means the plant known botanically as *Camellia Sinensis* and includes its seed, tea plants and the leaf, whether on the plant or detached there from, and, in the latter case, whether green tea or manufactured tea;

“tea factory” “Tea factories” means a factory to process green

tea leaf into made tea and for purposes of this Act includes Ngere, Njunu, Nduti, Makomboki, Ikumbi, Gacharage, Githambo, Gatunguru, Kiru and Kanyenya ini tea factories and any other that may be established.

“tea manufacture” means the mechanical or chemical processing and conversion of green tea leaf into made tea or other tea products;

PART II – ESTABLISHMENT OF THE MURANG'A TEA ADVISORY COMMITTEE AND TEA DIRECTORATE

Murang'a
County Tea
Advisory
Committee.

- 3.** (1) There is established a Committee to be known as the Murang'a County Tea Advisory Committee.
- (2) The Committee shall advise the Executive Member on –
- (a) marketing and distribution of tea ;
 - (b) strategies for ensuring growers attain the best prices for tea;
 - (c) adoption of alternative and green energy solutions for manufacture and processing of tea;
 - (d) refusal, revocation, cancellation, suspension or variation with without conditions of any licenses or registration issued under the *Crops Act* with respect to tea.
 - (e) receive and consider applications for licenses for production, manufacturing and marketing of tea;
 - (f) strategy for value addition of tea;
 - (g) recommend general industry agreements and certifications between tea farmers, managing agents, tea packers, brokers and manufactures;
 - (h) recommend special audits of licensees and manufactures of tea;
 - (i) arbitrating disputes between factories and farmers;
 - (j) incentives to be offered to tea growers;
 - (k) formation of the County Tea Development Plan; and
 - (l) advice on reports received from the industry.

Membership of
the Advisory
Committee

4. (1) The Committee shall comprise of –
- (a) eight members;
 - (b) a Chairperson; and
 - (c) the director of the Directorate of Tea Development established under Section 12 who shall be an *ex-official* member and shall serve as the secretary of the Committee;

appointed by the governor with the approval of the County Assembly through a competitive recruitment process.

(2) A person shall qualify for appointment as a member under this Section if the person -

- (a) is a holder of a Diploma from any institution recognized in Kenya;
- (b) is a Kenyan Citizen;
- (c) has the requisite knowledge and at least five years' experience in tea industry and -
 - i. economics;
 - ii. finance;
 - iii. administration;
 - iv. marketing;
 - v. management;
 - vi. tea industry; or
 - vii. agriculture.

(d) fulfills the requirements of Chapter Six of the Constitution of Kenya.

(3) A person shall not be qualified for appointment as a member of the Committee if such a person-

- (a) is a member of Parliament;
- (b) is a member of a County Assembly;
- (b) is an undischarged bankrupt; or

(c) has been removed from office for contravening the provisions of the Constitution or any other written law.

County Tea
Development
Plan.

5. (1) At the end of each financial year, the Committee shall develop and send to the Executive Member an annual County Tea Development Plan indicating the programs and activities planned for Tea and the plan shall be approved by the County Assembly.

(2) When developing the Plan under Section 5 (1), the Committee shall take views from the stakeholders.

(3) The Development Plan shall be submitted to the County Assembly for approval not later than 31st January each year.

(4) The Directorate shall submit to the County Executive Member the approved County Tea Development Plan for inclusion in the County Fiscal Strategy Paper financed by the Murang'a County Government.

Conduct of the
affairs of the
Committee.

6. (1) The business and affairs of the Committee shall be conducted in accordance with the Schedule.

(2) Except as provided for in the Schedule, the Committee may regulate its own procedure.

(3) The Committee may invite any person to attend its meetings but such person shall not be entitled to vote.

Tenure of office of
members.

7. (1) The Chairperson shall be appointed for a term of three years and but shall be eligible for only one further term of three years.

(2) Members of the Committee shall be appointed for a term of three years but shall be eligible for only one further term of three years.

Removal from and
vacation of office.

8. (1) The appointing authority may remove the chairperson or a member appointed under section 7 for –

- (a) inability to perform the functions of the office by reason of mental or physical infirmity;
- (b) failure to declare his or her interest in any matter being considered or to be considered by the Committee; or
- (c) any other sufficient reason as may be prescribed.

(2) The office of chairperson or member shall become vacant if the member -

- (a) ceases to represent the interests in respect of which he she is appointed;
- (b) is adjudged bankrupt;
- (c) is convicted of a criminal offence and sentenced to a term of imprisonment of not less than six months;
- (d) is absent from three consecutive meetings of the Committee without reasonable cause;
- (e) is incapacitated by physical or mental illness; or
- (f) resigns in writing addressed to the Governor.

Secretariat of the
Committee

9. The County Public Service Board shall appoint such other officers and employees as are necessary for the proper discharge of the functions of the Committee and the directorate upon terms and conditions of service as the Service Board may determine.

Bi-annual Report
of the Committee

10. The Committee shall, at the end of June and January each year, submit to the Executive Member and the County Assembly a report on-

- (1) tea development progress reports;

- (2) earnings per factory; and
- (3) any other report that may be necessary.

Stakeholders
Forum

11. The Committee and the Directorate shall, within two months of submitting the report under Section 10, have a stakeholder's forum with all the tea factories to discuss the report.

Directorate of
Tea
Development

12. There is established within the County Public Service a directorate to be known as the Directorate of Tea Development.

Director of the
Tea Directorate

13. (1) The Directorate shall have a Director who shall be appointed by the County Public Service Board with the approval of the County Assembly through a competitive recruitment process.

(2) A person shall not qualify for appointment as a Director under this section unless that person –

- (a) is a holder of a Degree from any university recognized in Kenya;
- (b) has the relevant experience that may be determined by the County Public Service Board;
- (c) fulfills the requirements of Chapter Six of the Constitution of Kenya.

(3) The Director shall be –

- (a) responsible for the day to day administration and management of the Directorate;
- (b) responsible for the direction of the affairs and discharge of the functions of the Directorate; and
- (c) the principal adviser and Secretary of the Committee.

Functions of the
Directorate

14. (1) The functions of the Directorate shall —

- (a) in consultation with the National Ministry responsible for Agriculture, facilitate implementation of general and specific policies for the development of the tea industry;

- (b) facilitate the marketing and distribution of tea through monitoring and dissemination of market information, including identification of the local markets, matching of domestic markets, tracing of tea products in the county, and promotion of tea activities;
- (c) establish, in accordance with the applicable regulations and in consultation with tea factories in the County, strategies for ensuring that growers attain the best prices for tea through effective cost-cutting measures;
- (d) assist in the establishment of energy-reducing strategies for the manufacture and processing of tea;
- (e) regulate all aspects of tea trade, including the licensing of tea factories and registration of all persons dealing in tea in the County;
- (f) regulate, control and improve the cultivation and processing of tea in liaison with the respective factories;
- (g) administer levies collected in the tea industry;
- (h) establish linkages with various government and private research institutions for the conduct of studies and researches designed to promote the production, marketing and processing of tea;
- (i) in consultation with the relevant government research institutions determine the research priorities on tea and provide advice on tea research and funding for the research programs generally.
- (j) conduct farmers training programs aimed at increasing their knowledge in tea production, technology, market potentials and prospects for various types of tea;
- (k) partner with research institutions in the development of tea varieties suitable to the agro climatic conditions of the tea growing areas and markets that will provide greatest value addition to tea;
- (l) develop and maintain a system for obtaining information on current and future production, prices and movement in

tea trade locally and internationally;

- (m) establish and enforce standards in grading, sampling and inspections, tests and analysis, specifications, units of measurements, code of practice and packaging, preservation, conservation and transportation of tea to ensure healthy and proper trading of tea;
- (n) promote and advise on strategies for value addition prior to the export of tea from the County;
- (o) recommend general industry agreements and certifications between tea farmers, managing agents, packers, brokers and manufacturers;
- (p) prescribe the minimum period within which tea farmers are to be paid for tea delivered and penalties for delayed payments;
- (q) perform any other relevant function, including the taking of measures to ensure compliance with the this Act, relevant national laws or any regulations that may be necessary; and
- (r) generally advice and recommend ways of maintaining, improving a sustainable environment practices in the tea industry.

(2) The Directorate may authorize any of its members, or the Director, officer or employee of the Directorate, to carry on any function or exercise any power on its behalf at any time when it is not meeting.

(3) Any function carried on or power exercise under subsection (2) shall, unless the otherwise requires, be reported without unreasonable delay to a meeting of the Directorate.

PART III-GROWING OF TEA

Registration of
Tea growers

15. (1) Any tea grower shall, within six months of starting to grow tea, register with the tea factory to which he or she delivers or intends to deliver green leaf.

(2) Every tea factory shall maintain a register of tea growers supplying green leaf to the factory and the register shall include particulars and information required to be supplied under section 16.

(3) The register referred to in subsection (2) shall be *prima facie* proof that a person is a registered tea grower and the factory shall submit a copy of the register to the Committee in such manner as the Committee may prescribe and the factory shall update its register every after six months and accordingly update the Committee through a resolution of the factory directors.

(4) the county directorate shall maintain a county tea register.

Register of
factories
registering
growers.

16. Subject to this Act, the Executive Member shall maintain a register of tea factories registering tea growers, and shall enter into the register –

- (a) the full names of the tea factory;
- (b) the date of issue of the licence;
- (c) the date of submission of annual returns of registered growers by the tea factory;
- (d) the particulars and number of registered growers including any updates which may be submitted from time to time;
- (e) any other particulars and information that the Committee may deem necessary.

PART IV – REGULATION OF TEA MANUFACTURING

Manufacturer,
packer and
blender to have

17. (1) No person shall –

- (a) manufacture tea for sale, whether by sun drying or otherwise;

license.

or

(b) carry on the business of packing and blending tea;

without a license issued by the County Executive Member.

- (2) The Executive Member may make regulations prescribing-
- (a) the requirements for applying for a license under this section;
 - (b) the procedure for processing applications for a license;
 - (c) the form of application for a license; and
 - (d) the form of a license.

(3) The Executive Member may, after ensuring that all the prescribed requirements are met by the applicant, issue a manufacturing license, in accordance with regulations made under this section.

(4) The Executive Member may, on advice of the Committee vary or suspend any license issued under this section if the factory or licensee is found to have contravened the conditions of a licence or regulations made under this Act for the operation of tea factories.

(5) A licence issued under this section may authorize the holder to carry on all or any of the businesses referred to under subsection (1).

18. (1) The Executive Member shall maintain a register of all tea manufacturers, packers and blenders licensed under section 17 in a form determined by the Executive Member.

- (2) A register maintained under subsection (1) shall include -
- (a) the full names of the manufacturer, packers or blenders;

- (b) the date of issue of the license;
- (c) particulars of any cancellation, suspension or variation of the license; and
- (d) any other information or particulars as the Executive Member may deem necessary.

(3) All the service providers registered with the Directorate shall furnish the Directorate with their business model and shall justify their fees and charges to the farmer.

(4) All the services provided by the said providers must demonstrate and prioritize the interest of the county tea farmer.

(5) For public interest, where a tea factory contracts an agent to manage it or any of its functions, the management agreement between the tea factory and the service providers shall be approved by the directorate and such approval shall include the business model by each service provider.

(6) The service providers shall open county officers and provide personnel for operation of management functions.

Offences and penalties for illegally dealing in tea.

19. (1) Any person who—

- (a) manufactures packs or blends tea for sale without a licence issued under section 17;
- (b) buys, sells, exposes for sale, transports or has in possession any tea which to his or her knowledge or belief—
 - (i) has been grown, manufactured, dried or dealt with contrary to this Act,
 - (ii) is from a tea grower who is not registered with any factory, or
 - (iii) is from a tea grower who is not contracted to supply green leaf to a factory;

commits an offence.

(2) Where a person has in possession or control any tea for

which he or she is unable to account for, to the satisfaction of a person authorized under section 17, such tea shall be deemed to have been grown, manufactured, dried or dealt with contrary to this Act until otherwise proved.

(3) Where a person is convicted of an offence under this section the court may, in addition to the punishment given under section 29, order that any tea and the vehicle, vessel or other conveyance in relation to the offence be forfeited to the County Government.

(4) This section shall not apply to buyers of tea in good faith.

Entry and
inspection

20. (1) Any person authorized in writing by the Committee may, at all reasonable times and upon giving sufficient notice, enter any land or buildings occupied by the holder of a manufacturing, packing or blending licence issued under section 17 or a person registered under this Act and make inspection and enquiries as he or she may think fit for ascertaining whether –

(a) the provisions of this Act, or any regulations made thereunder; or

(b) the terms and conditions of the respective registration or licence are being complied with;

and may require any person found thereon to give the information required.

(2) Any person who hinders or obstructs a person exercising or attempting to exercise the powers conferred upon him or her under subsection (1) or who fails to give any information reasonably required, to the best of his or her knowledge and ability commits an offence.

Powers of
search and

21. (1) An officer of the County Government or the Committee, authorized in writing by the Executive Member or the

seizure

Committee, upon issuing sufficient notice as the case may be, upon production of his or her authority on demand, and any police officer or administration police officer may—

- (a) enter and search any premises upon which he or she has reason to believe that there is tea in respect of which an offence under section 18 is being or has been committed;
- (b) stop, search and detain any vehicle, vessel or other conveyance which he or she has reason to believe is being or has been used for conveyance of tea in respect of which an offence under section 18 is being or has been committed.

(2) Any person who hinders or obstructs a person acting in the exercise of his or her powers under this section commits an offence.

PART V – DEALERS IN TEA

Registration of dealers

22. (1) A person shall not deal in tea unless that person is registered by the Executive Member.

(2) Any person who deals in tea in contravention of subsection (1) commits an offence.

PART VI – ESTABLISHMENT AND ADMINISTRATION OF THE TEA FUND AND AGRICULTURAL PRODUCE CESS

Establishment of Tea Fund.

23. (1) There is established a fund to be known as the Murang'a Tea Fund pursuant to Section 116 of the Public Finance Management Act.

(2) The Fund shall consist of-

- (a) monies appropriated by the County Assembly for the purpose;

- (b) licence and other fees payable under this Act;
- (c) legally received contributions, gifts, bequests or grants from any authority or person;
- (d) moneys earned or arising from any investment of the Fund;
- (e) any other sums which may in any manner become payable to or vested in the Fund; and
- (f) twenty (20) per centum of Agricultural Produce Tea Cess.

(3) The County Executive member in charge of Finance shall issue regulations for the management of the Fund with the approval of the County Assembly.

Application of
moneys of the
Fund.

24. There shall be paid from the Fund monies –

- (a) fees and other expenses relating to experiments, investigation and research in connection with the tea industry;
- (b) expenses relating to the collection and dissemination of statistics and other information relating to tea and its production, distribution and consumption;
- (c) the promotion of exhibitions for the display of tea and the processes for manufacture thereof, and matters incidental thereto;
- (d) costs for the establishment of libraries, laboratories, experimental stations, workshops and factories, research and the provisions of facilities ancillary thereto;
- (e) costs for advertising the merits of Murang'a County tea and increasing its sale; and
- (f) costs for developing the tea industry of Murang'a County in such manner as the Committee may think fit.

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Investment of funds and borrowing powers

25.The Committee may, with the approval of the Executive Member, invest any funds which may from time to time be standing to its credit and which are not immediately required for any of the purposes specified in section 25, in such investments as the Executive Members responsible for agriculture and finance may approve.

Agricultural Produce Tea Cess

26. (1) There is an Agricultural Produce Tea Cess which shall be one(1) per centum of the value of the tea produced by the tea factories.

(2) The Managing Agent appointed by the County Executive Member shall be the collecting agent for the Agricultural Produce Tea Cess.

(3) The collecting agent shall pay 80% of the Agricultural Produce Tea Cess to the factories and 20% of the Agricultural Produce Tea Cess into the Fund established under Section 23 on a monthly basis.

(4) The Executive Committee Member shall provide guidelines on how factories shall administer the Agriculture Produce Cess given to them.

Report and accounts to be submitted to Executive Member.

27. (1) The Directorate shall, within a period of three months after the end of each financial year or within such longer period as the Executive Member may approve, submit to the Executive Member a report of its operations during that year, the balance sheet and such other statements of account as the Executive Member may require together with the auditor's report and the Directorate shall, publish the report in such manner as the Executive Member may specify.

(2) The Executive Member shall lay the report and the auditor's report, together with the balance sheet and such other statements

of account received from the Directorate before the County Assembly within thirty days after receipt of the reports and statements, or, if the County Assembly is not sitting, within fourteen days after the commencement of the next sitting.

PART VII – GENERAL PROVISIONS

General offence
and penalty

28. A person convicted of an offence under this Act in respect of which no penalty is provided shall be liable to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding two years or to both.

Offences by
corporations,
societies, etc.

29. Where any offence under this Act or under any regulations made under this Act is committed by a company, body corporate, society, association or body of persons, every person charged with the control or management of the affairs or activities of that body shall be deemed to have committed offence and is liable on conviction to the relevant punishment accordingly, unless it is proved by such person that, through no act or omission on his or her part, he or she was not aware that the offence was being or was intended or about to be committed, or that he or she took all reasonable steps to prevent its commission.

Regulations

30. The Executive Member, may, after consultation with the Directorate and the Committee, and with the approval of the County Assembly, make regulations for carrying this Act into effect.

PART VIII -TRANSITIONAL PROVISIONS

Existing
Licences.

No. 16 of 2013

31. Every licence issued under the Crops Act, 2013 and in force immediately before the commencement of this Act shall, continue in full force and effect according to the terms and

conditions thereof, as if the same had been issued under this Act.

Period of registration.

32. Every person or entity required to be registered under this Act shall do so within six months of the coming into effect of this Act.

PART IX- MISCELLANUOUS PROVISIONS

Conflict of Interest

33. (1) A member of the Advisory Committee who has a direct or indirect personal interest in a matter being considered or to be considered by the Committee shall, as soon as reasonably practicable after the relevant facts concerning the matter have come to their knowledge, disclose the nature of the interest to the Committee.

(2) A disclosure of any such interest in a matter shall be recorded in the minutes of the meeting of the Advisory Committee and the member shall not be present when that matter is being dealt with by the Committee and shall not take part in any deliberations or vote relating to the matter.

(3) No member or staff of the Advisory Committee, including their family members shall transact any business or trade with the Committee.

Annual Reports

34. (1) The Committee shall prepare an annual report each financial year.

(2) The Committee shall submit the annual report to the Governor and the County Assembly within three months after the end of the year to which it relates.

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(3) The Annual report shall contain, in respect of the year to which it relates –

- (a) the financial statements of the Committee;
- (b) a description of the activities of the Committee;
- (c) such other statistical information as the committee considers appropriate relating to its mandate;
- (d) any other information relating to its functions that the Committee considers necessary; and
- (e) the annual County Tea Development Plan.

Protection from
personal liability

35. No action by a member of the advisory Committee shall, if done in good faith for executing the functions, powers or duties of the Committee, render the member personally liable to any action, claim or demand whatsoever.

SCHEDULE

PROCEEDINGS OF MEETINGS OF THE ADVISORY COMMITTEE

- (1) The Committee shall meet at such times and places as may be necessary or expedient for the transaction of business and such meetings shall be held at such place and time and on such days as the Committee may decide.
- (2) The chairperson may at any time call a special meeting of the Committee, and shall call a special meeting within seven days after a requisition therefor addressed to him by any three members of the Committee.
- (3) The chairperson, or in his absence the deputy chairperson, or in the absence of both a member elected by the Committee, shall preside at all meetings of the Committee, and the deputy chairperson or person presiding at any meeting shall with respect to such meeting or any business transacted thereat have all the powers of the chairperson under this Act.
- (4) The quorum for the conduct of the business of the Committee shall be one-half of the members.
- (5) The chairperson, deputy chairperson or other person presiding at any meeting shall have a casting vote as well as a deliberative vote, and subject thereto the decision of the majority of the members present and voting at any meeting of the Committee shall be deemed to be the decision of the Committee.
- (6) Minutes in proper form of each meeting shall be kept by the secretary and shall be confirmed by the chairperson, deputy chairperson or other person presiding at the next succeeding meeting.
- (7) Subject to this section, the Committee shall have power to regulate its own proceedings, and may delegate to any member, committee of members or officer employed by the Committee the power and authority to carry out on behalf of the Committee such duties as it may determine.