

GOVERNMENT NOTICE NO. 33 Published on 2009

THE LOCAL GOVERNMENT FINANCE ACT

[CAP 290]

BY – LAWS

Made under section 7 and 13 (1)

THE BIHARAMULO DISTRICT COUNCIL (SERVICE LEVY) BY – LAWS, 2008

- | | | |
|---------------------------|----|---|
| Citation and commencement | 1. | These By-laws may be cited as the Biharamulo District Council (Service Levy) By – laws 2008 and shall be deemed to have come into operation upon publication on the Government gazette. |
| Area of Application | 2. | These By – laws shall apply throughout the area of jurisdiction of Biharamulo District Council. |
| Interpretation | 3. | <p>In these By – laws unless the content otherwise requires:</p> <p>"Act" means The Local Government Finance Act [Cap 290 R.E 2002]</p> <p>"Accounting period" in relation to any person means the period for which such person makes up the accounts of his business;</p> <p>"Authorised Officer" means any Employee of the Council or Agent of the Council duly authorized to administer these By-laws;</p> <p>"Assessment" means any assessment or additional assessment of the Levy made under these By-laws.</p> <p>"Business" means any form of trade, profession or vocation but does not include Employment;</p> <p>"Business enterprise" means any corporate entity engaged on the Economic activities consisting of Industrial, agricultural production, distribution of goods or rendering of services and or commerce and includes importation of goods or services for sale.</p> <p>"Council" means the Biharamulo District Council;</p> <p>"Director" means the District Executive Director and shall include any employee of the Council acting in that capacity;</p> <p>"Financial Return of turnover" means any return of turnover to be furnished by any business enterprise or agency after the end of the accounting period under By- laws 8 of these By-laws together with any document or particular required to be furnished under these By-laws.</p> <p>"Levy" means the levy charged and collected by the Council;</p> <p>"Levy collector" means any person duly appointed by the Director as such under these By- laws;</p> <p>"Levy payer" means the resident business entity liable to pay the Levy under these By –Laws;</p> |

"Provisional return of turnover" means an interim return of turnover required to be submitted during the accounting period of any business enterprise or agency under By - law 5 of these By - Laws;

"Residential business entity" means any entity corporate or incorporate which ordinarily carries on business within the area of jurisdiction of the Council;

"Returns" means reports, records, accounts or any information or particulars regarding the quantity and gross financial values of goods or services produced, distributed, rendered and or sold for commercial purposes and includes both the provisional and final returns;

"Turnover" means gross sales or receipts inclusive of taxes and duties;

"Year of Income" means the calendar year.

PART II ADMINISTRATION OF LEVY

- | | | |
|--|----|---|
| Charge of Levy | 4. | There shall be levied and collected from every resident business enterprises or agency in each year of income a service levy equal to zero point 3 percentum (0.3%) of the turnover NET of the Value Added Tax (VAT) in respect of all activities including manufacturing, processing, agricultural production, distribution of goods, rendering of services, commerce, importation of goods or services within the area of jurisdiction of the Council. |
| Power of the Director to call for Returns. | 5. | For the purpose of ascertaining the turnover the Director may by notice in writing require any levy payer or levy collector to furnish him with returns containing full particulars of his business activities including units and monetary values of goods produced, rendered, imported distributed or sold for commercial purposes and financial statement thereof within a reasonable time not being less than thirty days from the date of such notice. |
| Power of the Director to call for information | 6. | The Director may by notice in writing require any person in possession of any information or particulars in respect of any business enterprises or agency liable to pay the levy under these By- laws to furnish such information within a reasonable time not being less than thirty days from the date of service of such notice. |
| Power to enter into the premises of a Levy payer | 7. | The Director or an authorized Officer may enter into any premises of Levy payer for the purposes of making inquires and Examination of business records, books of accounts and such other particulars as he deems fit and or conduct investigation for the purposes of ascertaining the true liability of any levy payer. |
| Submission of business records, books of accounts and financial statement to the | 8. | The Director or an authorized officer may by notice in writing require any levy payer or collector to submit business records, books of accounts, financial statements and any other particulars as he deems necessary with the view of obtaining information for assessment or collection of the levy. |

Director.

To appear before
the Director

9. For the purpose of obtaining information under the preceding By- Laws of these By – Laws, the Director or an authorized officer may require any person to attend before him at such time and place he may direct on the call notice.

Submission of
provisional return

10. Every levy payer or collector shall be required to furnish a provisional return and pay the levy due and payable by the business enterprise or agency at the time specified as follows: -
- (a) In the case of importers, within the time specified by the Commissioner of Customs but not later than the time of paying customs and Excise duty.
 - (b) In the case of manufacturers or processors within the time specified by the Commissioner or sales Tax or VAT but not later than the time of paying sales taxes and Excise duty or VAT.
 - (c) In any other case in four equal instalments with the first one starting within three months from the beginning of the accounting period.

Provided that where the provisional levy is payable under these By – laws any business enterprises or agency whose accounting date started earlier than the 1st day of July 2008 shall be required to pay the proportional provisional Levy from 1st July 2008 to the end of the accounting period.

Appointment
Levy collector

of 11(1)

For the purpose of assessment, collection and recovery of provisional levy the Director may appoint the Commissioner of Customs or the Commissioner for Income Tax to assess collect and pay the levy to the Council within the prescribed period under By- law 10 of these by –laws and shall be as follows: -

- a) In the case of the Commissioner for Customs the rate of Levy shall be zero point three percentum (0.3%) of the CIF value of the goods plus all import and Excise duties.
- b) In the case for the Commissioner of Sales Tax or VAT Zero point three Percent 0.3% of shall be the rate Ex - factory price of the goods plus sales tax and excise duty.
- c) In the case of the Commissioner for Income Tax the rate shall be zero 0.3% percentum of the turnover.

For the purpose of assessing the collection of final Levy the Director may appoint the Commissioner of Income Tax to assess and collect final levy thereon within the due date as specified under By – Law 1(i) of these By – laws.

(2)

Any Levy collector or payer who fails to remit the levy due from him or from a Levy payer shall be deemed to be the Levy payer and become liable as if it were a debt from him to the Council and all collection and recovery measures shall apply to him as if he was the levy payer.

(3)

Without prejudice to By – law 11(1) the Director may appoint any resident business enterprise or agency to be the levy collector and it shall be the duty of such resident business entity to: -

- (4) (a) Furnish any information or returns required under these By – laws.
- (b) Make a provisional or final assessment of the Levy and make payment within the due date in one or four installments as provided in By-law 10(c) or By – law 13 (1)

Duties of levy collector 12.

Every levy collector or any other person, body of persons or body corporate appointed to be levy collector shall prepare such returns and within such time as may be specified by the Council and shall: -

- (a) Submit the return to the Director or to an authorized officer.
- (b) Deposit with the Council the Levy collected within the specified period.

Time of payment of final levy 13(1)

Every levy payer or collector shall furnish a final return to the Council within four months from the end of the accounting period to which the levy relates showing the total turnover and pay levy thereon in one installment.

- (2) Where a levy payer or collector has submitted the returns the Authorized Officer may: -

- (a) Accept the return and assess the levy on the basis thereof, or
- (b) If he has reasonable cause to believe that such return is not true or correct determined according to the best of his judgment, the amount of turnover of such levy payer and assess him accordingly.

- (3) Where a levy payer has not delivered a return of turnover for any year of income whether or not he has been required by the Director to do so and the authorized officer considers that such levy payer is liable to pay the levy for that year of income, he may according to the best of his judgment determine the amount of the turnover of that levy payer, but the assessment shall not affect any liability otherwise incurred by such a levy payer under these By – laws in consequence of his failure to deliver such return.

The levy assessed under this By – law shall be due and payable within thirty days from the date the assessment notice was served.

(4)

Penalty for failure to furnish returns as requires by the By – laws 14(1)

Any person who in relation to any year of income fails to furnish a return required by these By – laws within the specified period shall be surcharge with an additional levy equal to one point five (1.5%) a month or Fifty thousand Shillings (50,000/=) whichever is greater of the levy payable by him.

- (2) Any person who in relation to any year of income omits from his return or makes any incorrect statement in relation to any matter affecting his

liability to the levy shall, where that omission or statement was due to any fraud or gross neglect, be charged with additional levy equal to fifty per centum of the deference, between the levy per the return so submitted and the amount of the levy as determined.

- Penalty on unpaid levy 15(1) When the levy remains unpaid after the due date specified in these By-laws, surcharge of one point five per centum (1.5%) a month or part thereof shall accrue and become payable together with the principal sum.
- (2) The surcharge leviable under these By-laws shall be deemed to be the levy due payable and all collection and recovery measures shall apply to it as if it were the levy payable by the levy payer.

PART III OFFENCES AND PENALTIES

- 16 Any person who without reasonable excuse: -
- (a) Fails to furnish a full and true return in accordance with these By-laws.
 - (b) Fail to furnish, return, document, information, or any particulars required to be furnished to the Council within the time prescribed as required by these By-laws.
 - (c) Fail to keep any records, books, or accounts in accordance with the requirement of these By-laws.
 - (d) Fail to produce any record or document for the examination in accordance with the requirement of any notice served on him under these By-laws.
 - (e) Not being an authorized auditor or an authorized accountant certifies a provisional or final return commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings (50,000/=) or imprisonment for six months or to both the fine and imprisonment.

- Incorrect or fraud lent return 17. Any person who:-
- (a) Makes false return by omitting or understating therein, any turnover which should have been stated therein;
 - (b) Make an incorrect statement in relation to his liability;
 - (c) Gives any false information in relation to any matter or thing affecting the liability to levy on himself or other person;
 - (d) Gives any false information in relation to any matter or thing affecting the liability to the levy, or that of any other person;
 - (e) Prepares, maintains, or authorizes the preparation or maintenance of, any false books of accounts or other records, or falsifies or authorizes the falsification of, such books of accounts or records, or
 - (f) Makes use of any fraud, or authorizes the use of any fraud,

commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings (50,000/=) or imprisonment for six months or to both that fine and imprisonment.


Obstruction and 18.
punishment


Any person who in any way obstructs or attempts to obstruct an officer of the Council in the performance of his duties or in the exercise of his duties or in the exercise of his powers under these By-laws commits an offence and is liable on conviction to a fine not exceeding fifty thousand shillings or imprisonment for six months or to both that of fine and imprisonment.

Power of the 19.
Director to
compound offence

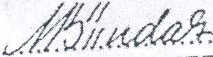
Where any person has committed an offence under these By-laws the Director may compound such offence and order that person to pay that sum of money as he thinks fit provided that the amount shall not be below Fifty thousand shillings for each such offence.

The Common Seal of the Biharamulo District Council was affixed to these By – laws in pursuance of a resolution of the Council passed at the meeting of the Council duly convened and held on the 28th day of March 2008, and the same was so affixed in the presence of: -


APORNARY MUGARULA
District Council Chairman
Biharamulo District Council


ZABRON BAKARI NJANGA
Acting District Council Director
Biharamulo District Council

I APPROVE


MIZENGO KAYANZA PETER PINDA (MP)
PRIME MINISTER

Dodoma
Date.....9/4/2009