

THE UNITED REPUBLIC OF TANZANIA



No. 19 OF 1970

I ASSENT,


President

29TH JUNE, 1970

An Act to impose Tax on rent received by Landlords

[1ST JULY, 1970]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Rent Tax Act, 1970 and shall come into operation on 1st July, 1970.

2.(I) In this Act, unless the context otherwise requires-
"annual rental value" in respect of any premises means the amount arrived at by multiplying by 4 the rental income in relation to a taxable period, and where during the period of twelve months immediately preceding the date on which the annual rental value of any premises is to be determined for the purposes of any of the provisions of this Act rental incomes for the taxable periods during such period of twelve months were of different amounts, the annual rental value shall be the amount arrived at by multiplying by 4 the maximum of such rental incomes;

"Commissioner" means the Commissioner for rent tax includes an Assistant Commissioner;

"commercial premises" means a building or part of a building let for business, trade or professional purposes where such letting does not include land other than the site and cartilage of such building or part of a building and comprised in the letting, but does not include a building or part of a building let to a tenant for use as an hotel and which is used as an hotel by the tenant;

"due date" means the thirty-first day of March, the thirtieth day of June, the thirtieth day of September or the thirty-first day of December in any year;

"dwelling house" includes any house or part of a house or a room let as a separate dwelling (whether or not such house, part of a house or room is occupied by one or more tenants and whether or not the terms of the letting include the use of other accommodation in common with the landlord or other persons or the landlord and

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other persons) where such letting does not include any land other than the site of the dwelling house and garden or other premises within the cartilage of the dwelling house;

Cap. 475 "hotel" means any establishment which is a "specified hotel" within the meaning of that term as defined in the Hotel Accommodation (imposition of Levy) Act, 1962;

Cap. 479 "landlord" includes in relation to any premises any person other than the tenant who is or would, but for the provisions of the Rent Restriction Act, 1962, be entitled to possession, of the premises, and any person from time to time deriving title under the original landlord, and any person deemed to be a landlord under any of the provisions of this Act or under section 3A of the Rent Restriction Act, 1962;

"let" includes sub-let and any arrangement deemed to be a letting under any of the provisions of this Act or under section 3A of the Rent Restriction Act, 1962;

"Minister" means the Minister for the time being responsible for finance;

"premises" means any dwelling house or commercial premises as herein defined;

"rent" includes any sum paid as valuable consideration for the occupation of any premises and any sum paid as rent or hire for the use of furniture or as a service charge where premises are let furnished or where premises are let and furniture therein is hired by the landlord to the tenant or where premises, furnished or unfurnished, are let with services, and includes, in the case of any arrangement deemed to be a letting under any of the provisions of this Act or under section 3A of the Rent Restriction Act, 1962, the amount which is deemed to be the rent in respect of such letting;

"rental income" shall have the meaning assigned to that term by section 4;

"service" means in respect of any premises the use of water, light or power, conservancy, sewerage facilities, sweeper, watchman, telephone or other amenity or facility available to any premises save except the supplying of meals;

"service charge" means a charge for any service rendered;

"standard rent" in relation to any premises shall have the meaning assigned to it by section 4 of the Rent Restriction Act, 1962, whether or not that Act applies to such premises;

"taxable period" means a period commencing on the date immediately following a due date and expiring on the next following due date;

"tenant" includes any person deemed to be a tenant under any of the provisions of this Act or under section 3A of the Rent Restriction Act, 1962 and a sub-tenant or any other person from time to time deriving title under the original tenant, and includes the legal representative of a deceased tenant or other person entitled under any written law to continue in occupation of the premises as tenant or to continue in occupation of the premises in order to carry on or wind up the business of a deceased tenant, but does not include a mortgagee who is in occupation of the premises mortgaged to him where he has entered into the occupation of the premises pursuant to a right reserved to him under the mortgage.

(2) Where, pursuant to the permission of the owner of any land given in that behalf for valuable consideration, any person (hereinafter referred to in this section as the licensee) enters on such land and builds thereon and occupies a house or lets the house to another person as his tenant, then for the purposes of this Act, the licensee shall be deemed to be the tenant of such house and the owner of such land shall be deemed to be the landlord thereof and the said consideration shall be deemed to be the rent, and the provisions of this Act, shall, in all respects, apply as if such house were let by such owner as landlord to the licensee as tenant.

(3) For the purposes of subsection (2)-

(a) "owner" includes any person other than the licensee, who is or would be, but for the provisions of the Rent Restriction Act, 1962, entitled to possession of the land, and any person from time to time deriving title under the original owner; and

(b) it shall be immaterial whether the permission given by the owner is expressed or implied, oral or in writing.

(4) Where a dwelling house is provided by an employer for occupation by his employee, then for the purposes of this Act-

(a) the employer shall be deemed to be the landlord and the employee shall be deemed to be the tenant;

(b) the standard rent of the premises or where the standard rent has not been determined, an amount equal to twenty per centum of the monthly income of the employee from the employment or such amount, not exceeding an amount equal to twenty per centum of the monthly income of the employee as, the Commissioner may determine, shall be deemed to be the monthly rent of the premises:

Provided that nothing in this subsection shall apply in the case of an employee who is in receipt, of an income in respect of his employment of less than three hundred shillings per month.

(5) The Minister may, by order in the Gazette, declare that the provisions of subsection (4) shall not apply to any employer or class of employers specified in such order.

(6) Where the landlord of any premises has given permission to any person to occupy the premises without payment of any rent or for any consideration other than rent then, for the purposes of this Act-

(a) the person in occupation of the premises shall be deemed to be the tenant of the landlord; or

(b) where no standard rent of such premises has been determined, such amount as the Commissioner may, in his absolute discretion, assess to be the monthly rent of the premises, shall be deemed to be the rent of the premises,

Provided that nothing in this subsection shall apply where the landlord himself is also in occupation of the premises and such other person occupying the premises is occupying the premises as a guest, a dependant, a relative or a domestic servant of the landlord.

(7) Where the landlord of any premises is a body corporate and the premises are occupied by a shareholder of such body corporate, then, for the purposes of this Act, the body corporate shall be deemed to be the landlord, the shareholder occupying the premises shall be deemed

to be the tenant and the rent shall be deemed to be the standard rent of the premises, or where the standard rent has not been determined, such amount as the Commissioner may, in his absolute discretion, determine to be the monthly rent of the premises:

Provided that nothing in this subsection shall apply to any commercial premises owned by a body corporate and occupied by the body corporate for its commercial use.

(8) Where the landlord of any premises has let the premises to a tenant at a rent which in the opinion of the Commissioner is less than the standard rent, then, for the purposes of this Act, the standard rent of such premises or, if the standard rent has not been determined, such amount as the Commissioner may, in his absolute discretion determine, shall be deemed to be the rent of such premises.

(9) Where under the provisions of this section an amount is deemed to be the rent of any premises for the purposes of this Act, the landlord shall be deemed to have received such amount from the person who is the tenant or who is deemed under this section to be the tenant.

Imposition
of rent tax

3.-(1) There shall be charged, levied and paid, by every landlord in respect of any premises let or deemed by any of the provisions of this Act to have been let by him for any period during a taxable period, a tax, to be known as the rent tax.

(2) The rent tax shall be payable by the landlord on every due date and shall be of an amount equal to five per centum of the rental come in relation to such premises for the taxable period expiring on such due date and shall be paid to the Commissioner or to such person as the Commissioner may direct.

(3) Notwithstanding the provisions of this section where a landlord is a natural person and-

- (a) he receives or is deemed to have received, in relation to any taxable period a total rental income, in respect of all the premises let or deemed to have been let by him, of an amount which does not exceed five hundred and ten shillings, he shall not be liable to pay any tax under this Act;
- (b) he receives or is deemed to have received in relation to, any taxable period a total rental income, in respect of all the premises let or deemed to have been let by him, of an amount which exceeds five hundred and ten shillings, he shall be liable to pay tax of an amount equal to the difference between the amount equal to five per centum of his aggregate rental income and twenty-five shillings and fifty cents.

(4) Notwithstanding the provisions of subsection (2) the rent tax for the taxable periods expiring on 30th September, 1970 and 31st December, 1970, respectively, shall be payable on 31st December, 1970.

Rental
income

4.-(1) Rent income in relation to any premises means the rent for such premises which the landlord has received or is deemed, under the provisions of subsection (9) of section 1 or subsection (2) of this section, to have received in respect of any taxable period.

(2) For the purposes of this Act the landlord shall be deemed to have received rent for the whole of a taxable period notwithstanding-

- (a) that the rent for such period has not been actually received by him; or

(b) that the premises were let to a tenant only during a portion of such period.

(3) Where a landlord has let premises under any agreement which provides for payment of rent at intervals of more than a month, the rental income for a taxable period shall be the amount arrived at by dividing the amount of the rent payable by the number of whole months in respect of which it is payable and by multiplying the result by 3.

(4) For the purposes of subsection (3), "whole month" means a period of thirty days, and where the period in respect of which the rent is payable is expressed in such manner that it cannot be converted into a whole month or whole month without having a remainder of a number of days, the remainder of the number of days shall be ignored.

(5) Where a landlord has let premises under any agreement which provides for the payment of rent at daily, weekly or fortnightly intervals, or at intervals expressed in a number of days, then the rental income for such premises for a taxable period shall be-

- (a) where the rent is payable daily, the amount arrived at by multiplying the amount of the daily rent by 90;
- (b) where the rent is payable weekly, the amount arrived at by multiplying the amount of the weekly rent by 13;
- (c) where the rent is payable fortnightly, the amount arrived at by multiplying the amount of the fortnightly rent by 6-1;
- (d) where the rent is payable at intervals expressed in number of days the amount arrived at by multiplying the amount of such rent by 90 and dividing the result by the number of days in respect of which the rent is payable.

(6) Where during any taxable period any premises have been let at different rates of rent, the rental income in relation to such premises for such taxable period shall be assessed as if the premises had been let during the whole of the taxable period at the maximum rate of rent at which it was let for any period during that taxable period.

(7) Subject to the provisions of section 8, where any premises in respect of which rent tax is payable was not let for any period or periods during any taxable period, the premises shall be deemed to have been let during such period or periods at the maximum rate rent at which such premises were let at any time during that taxable period.

(8) Notwithstanding the provisions of paragraph (b) of subsection (2) and the provisions of subsection (7), where a landlord satisfies the Commissioner that any premises for which he is required to pay rent tax was not let for any single period of thirty days or more during any taxable period, the Commissioner shall not, in assessing the rental income of such premises for such taxable period, take into account the amount of rent which the landlord, but for the provisions of this subsection, would be deemed to have received for such single period of thirty days or more.

5.-(1) The Principal Secretary to the Treasury shall be the Commissioner for rent tax.

(2) The Commissioner may appoint such number of Assistant Commissioners as he may consider necessary:

Commissioner
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Provided that no person who is not a public officer shall be appointed as an Assistant Commissioner for rent tax.

Penalty for non payment of rent tax

6.-(1) Where a landlord fails to pay the whole or any part of rent tax in respect of any premises within twenty days of the due date, additional tax at the rates specified in subsection (2) shall forthwith become and be payable by way of penalty.

(2) The additional tax payable by way of penalty under subsection (1) shall be-

- (a) where the annual rental value of the premises in question does not exceed one thousand shillings, an amount equal to three times the annual rental value;
- (b) where the annual rental value of the premises in question exceeds one thousand shillings but does not exceed five thousand shillings, an amount equal to five times the annual rental value;
- (c) where the annual rental value of the premises in question exceeds five thousand shillings, an amount equal to ten times the annual rental value.

(3) Any sum payable by way of a penalty under this section shall, for the purposes of this Act, be deemed to be rent tax and shall be collected and recoverable accordingly.

(4) The Commissioner may in his absolute discretion remit the whole or part of any penalty payable under this section.

Commissioner may require tenants to pay rent tax

7.-(1) Where, in the opinion of the Commissioner, it is expedient so to do, he may, by order under his hand, direct that in relation to the premises specified in the order the tenant of the premises shall pay the rent tax payable under this Act.

(2) Where an order is made under subsection (1) in respect of any premises, the tenant shall, for so long as such order remains in force, be liable to pay the rent tax on every due date.

(3) Where a tenant has paid a rent tax pursuant to an order made under this section he shall, notwithstanding any provision to the contrary in any written law, be entitled to deduct from the rent payable by him to the landlord, an amount equal to the rent tax paid by him.

(4) Where an order is made under this section in relation to any premises, the tenant shall, if he fails to pay the whole or any part of the rent tax within one month of the due date, be liable to pay an additional tax equal to fifty per centum of the unpaid amount by way of penalty, and if such amount remains unpaid for more than one month after the due date, the rate of such additional tax shall be increased by fifty per centum for the second and every succeeding period of a month after the due date, or any part of such second or succeeding period, during which such amount remains unpaid.

(5) Where an order is made under this section in respect of any premises and the Commissioner is satisfied that-

- (a) the tenant has failed to pay the rent tax or any part thereof within thirty days of the due date; and
- (b) the tenant has vacated the premises or that for any reason whatsoever it will not be possible to recover the amount of the rent tax remaining due from the tenant without undue delay or expense,

the Commissioner may, by notice in writing served upon the landlord, revoke the order made under subsection (1) and call upon the landlord to pay the rent tax or, as the case may be, the unpaid amount thereof, and upon receipt of such notice the landlord shall be liable to pay the rent tax or the amount of rent tax remaining unpaid on the date on which the notice is served upon him and shall, in the event of non payment, be liable to the penalties prescribed by section 6 as if references in that section to the due date were references to the date upon which the notice is served upon such landlord.

(6) Where a notice has been served upon a landlord in accordance with the provisions of subsection (5) the tenant shall cease to be liable for the rent tax which the landlord has, by such notice, been called upon to pay but shall continue to be liable for any penalty for which he may have become liable under subsection (4) prior to the service of the notice upon the landlord.

(7) Where an order under subsection (1) has been made in relation to any premises and the tenant vacates the premises before the expiry of any taxable period, the notice shall cease to have effect in relation to such premises and the landlord shall be liable for the rent tax in respect of that taxable period:

Provided that, subject to the provisions of subsection (5), nothing in this subsection shall affect the liability of the tenant for any amount of rent tax or penalty remaining unpaid in respect of the period preceding the taxable period during, and before the expiry of which, he vacates the premises.

8. The Minister may by order published in the *Gazette* exempt from all or any of the provisions of this Act any body corporate established by or under any written law other than the Companies Ordinance and which, in the opinion of the Minister, has been established solely or mainly for the purpose of providing housing for the people of the United Republic.

Exemptions

9. The rent tax and the penalties payable under this Act shall be debts due to the Government and may be recovered by a suit at the instance of the Commissioner.

Rent tax to be debt due to Government

10.-(1) Where any tax or penalty, payable under this Act, is due from any person and such person has failed to pay the amount of such tax or penalty within seven days of the due date, the Commissioner may lodge in a court of a resident magistrate having jurisdiction over the area in which the person from whom such tax or penalty is due ordinarily resides or carries on business or works for gain, a certificate signed by him and stating-

Summary recovery

- (i) the name and address of the person from whom the tax or penalty is due;
- (ii) the amount of the tax or penalty due;

and upon such certificate being lodged in such court, such certificate shall be deemed to be a decree passed by such court against the person named in the certificate for payment by such person to the Government of the amount stated in the certificate together with interest thereon at 12 per centum per annum from the date on which such certificate is filed until the date of payment, and every such decree may be executed in the same manner as a decree passed by a court of a resident magistrate in a civil suit.

(2) The provisions of subsection (1) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a court of a resident magistrate.

(3) Every certificate filed in a court of a resident magistrate pursuant to the provisions of subsection (1) shall be conclusive evidence of the truth of the statements contained in such certificate.

(4) The method for recovery of any tax or penalty prescribed by this section shall be without prejudice to any other method for recovery of such tax or penalty.

Landlords not to increase rents by reason of rent tax

11.-(1) Notwithstanding any provision to the contrary in any written law, the rent tax payable by a landlord under this Act in respect of any premises shall not be taken into account for the purposes of the determination of the standard rent of such premises.

(2) A landlord shall not demand from a tenant to pay an increased rent by reason of the imposition of the rent tax.

(3) Where a landlord requires a tenant to pay or receive from a tenant an increased rent in contravention of the provisions of subsection (2) he shall be guilty of an offence and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to a term of imprisonment not exceeding five years or to both such fine and imprisonment.

(4) No person convicted of an offence under subsection (3) shall be sentenced to a fine of less than ten thousand shillings or to imprisonment for a term less than six months.

Evidence in prosecutions for offences under section 11

12. In any prosecution for an offence under section 11 proof that the landlord has received or demanded from a tenant a rent in respect of any premises of an amount higher than the amount payable in respect of such premises by way of rent immediately before the commencement of this Act shall be evidence that the rent of the premises has been increased by reason of the imposition of the rent tax and shall be conclusive such evidence unless the person charged proves to the satisfaction of the court-

- (a), that the rent charged by him is the standard rent of the premises which was determined without taking into consideration the rent tax payable under this Act;

- (b) that the increase in the rent was not connected with the imposition of the rent tax but resulted from the provision by the landlord of any service not provided in respect of such premises before the commencement of this Act and did not exceed the reasonable charges for such service or in any case where the premises are not subject to the Rent Restriction Act, 1962 that the increase of the rent was not connected with the imposition of the rent tax but was the result of any structural alteration or repairs to the buildings and did not exceed the amount of the additional rent he would have been entitled to charge in respect of such alterations or repairs under the Rent Restriction Act, 1962 if that Act had applied to such premises; or
- (d) that the increase in rent was not connected with the imposition of tax but was related to any additional charge which he was entitled to collect from the tenant under the provisions of the Rent Restriction Act, 1962, or would have been entitled to collect had that Act applied to such premises; or
- (e) that the increase has been approved by the Commissioner in writing or that the rent charged by him is the rent which the Commissioner has approved in writing in relation to such premises.

13. No proceedings shall be instituted against any person for an offence under section 11 without the prior consent of the Director of Public Prosecutions.

Proceedings
with consent
of Director
of Public
Prosecutions

14. Where any offence under this Act or under any regulations under this Act is committed by a body corporate, then, as well as the body corporate, any person who, at the time of the commission of the offence, was concerned, as a director or an officer, with the management of the affairs of such body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly, unless he proves to the satisfaction of the court that he had no knowledge, and could not by the exercise of reasonable diligence have had knowledge, of the commission of the offence.

Liability
of officers

15.-(1) Where any person is convicted of an offence under section 11 by any court other than the High Court such court shall have, notwithstanding the provisions of any written law to the contrary, jurisdiction to impose the minimum sentence prescribed for such offence by subsection (4) of that section.

Jurisdiction
of courts

(2) Where a person is convicted of an offence under this Act or under any regulations made under this Act by a court presided over by a resident magistrate, such court may, notwithstanding the provisions of section 7 of the Criminal Procedure Code, impose the maximum fine prescribed for such offence.

Cap. 20

Service

16. Where by or under this Act any notice or other document is required to be served on any person, such notice or document may be served-

- (a) by delivering or tendering a copy thereof to such person; or
- (b) by leaving a copy thereof at the premises in which such person ordinarily resides or carries on business or personally works for gain; or
- (c) by sending it by post to the last known postal address of such person; or
- (d) by publishing the notice in such newspaper or newspapers as the Commissioner may direct.

Rent Tribunal to have jurisdiction to determine standard rent of all premises to which this Act applies

17.-(1) The Rent Tribunal shall have jurisdiction to determine the standard rent of any premises to which this Act applies even if such premises are not situate within a rent restriction area.

(2) Where, under the provisions of subsection (1), the Rent Tribunal proceeds to determine the standard rent of any premises which is not situate within a rent restriction area, the provisions of the Rent Restriction Act, 1962 which relate to the determination of standard rent and the procedure for such determination, shall apply as if such premises were situate within a rent restriction area.

(3) Notwithstanding any provision to the contrary in the Rent Restriction Act, 1962, application for the determination of standard rent of any premises not situate within a rent restriction area may be made by the landlord, the tenant or the Commissioner.

(4) In this section-

"rent restriction area" shall have the meaning assigned to that term by the Rent Restriction Act, 1962;

"Rent Tribunal" means the Rent Tribunal established by section 5 of the Rent Restriction Act, 1962.

Protection of officers exercising powers under this Act

18. No matter or thing done by the Commissioner or any other public officer or any person to whom the Commissioner has delegated his powers shall, if done *bona fide* in the execution or purported execution of the provisions of this Act or any regulations made hereunder, subject the Commissioner or such public officer or such other person to any action, liability, claim or demand whatsoever.

Power to prosecute Cap., 20

19. Notwithstanding any provision to the contrary in the Criminal Procedure Code the Commissioner or any person authorized by him in writing in that behalf may prosecute any person for an offence under this Act or under regulations made hereunder (other than an offence under section I 1).

Regulations

20.-(1) The Minister may make regulations for the better carrying out or giving effect to the purposes and provisions of this Act and without prejudice to the generality of the foregoing-

- (a) requiring landlords to submit to the Commissioner returns at such intervals and giving such particulars as may be prescribed;
- (b) providing for the keeping of accounts, registers and other records by persons liable to pay rent tax;

- (c) prescribing forms of returns and registers required to be submitted or maintained by such regulations;
- (b) providing for the prevention and detection of offences under this Act or under any regulations.
- (2) The Minister may annex to the breach of any regulation made under subsection (1) such penalty not exceeding ten thousand shillings or such term of imprisonment not exceeding two years, or both, as he may think fit.

Passed in the National Assembly on the twenty-fourth day of June, 1970.


Msekwa
Clerk of the National Assembly

