

THE TRAINING LEVY ACT, 1972

*Arrangements of Sections*

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## THE UNITED REPUBLIC OF TANZANIA



No. 26 OF 1972

I ASSENT,

*Julius K. Nyerere*  
 President

17<sup>TH</sup> AUGUST, 1972

**An Act to provide for payment of Levy for the Training of Local Personnel**

[1ST JULY, 1972]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Training Levy (Imposition) Act, 1972 and shall be deemed to have come into operation on the first day of July, 1972. Short title and commencement

2.—(1) In this Act unless the context otherwise requires— Interpretation

“Commissioner” means the Commissioner of Training Levy and includes an Assistant Commissioner;

“emoluments” means the salary, wages, and allowances (other than travel allowance) payable in respect of any employment and includes any amount which is deemed, by this Act, to be emoluments;

“employment” means employment under—

(a) a contract of service;

(b) a contract for services, where the person employed is precluded by any term in such contract to render services to a person other than the person or persons employing him, and the terms “employer”, “to employ” and “employee” shall be construed accordingly;

“levy” means the training levy imposed by this Act;

“Minister” means the Minister for the time being responsible for finance;

“non-citizen” means a person who is not a citizen of the United Republic;

“training” means the training of persons who are citizens of the United Republic in the efficient discharge of the duties and functions of any office held by a non-citizen employee.

(2) Where a non-citizen carries on in Tanganyika any business, profession or other activity for gain or profit in partnership with any other person (whether or not a citizen), such non-citizen shall, for the purposes of this Act, be deemed to be employed by the firm and in every such case the expressions "employment", "employ", "employer" and "employee" shall be construed accordingly.

Commissioner 3.—(1) The Principal Secretary to the Treasury shall be the Commissioner of Training Levy.

(2) The Commissioner may appoint such number of Assistant Commissioners as he may deem necessary.

Chargeable emoluments 4.—(1) For the purposes of this Act "chargeable emoluments" means—

(a) in any case in which subsection (2) of section 2 applies, the share in the profits of the partnership firm of the partner who is deemed to be an employee and includes, where such partner is also employed by the partnership (otherwise than by virtue of the application of the provisions of the said subsection (2) of section 2) his chargeable emoluments in respect of such employment:

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(b) in any other case, such sum of money as would be deemed to be the chargeable income of the employee in respect of the employment for the purposes of the East African Income Tax (Management) Act, 1958.

(2) Where the total chargeable emolument of a non-citizen partner in any year is less than twenty thousand shillings, his chargeable emoluments for the purposes of this Act shall be deemed to be twenty thousand shillings.

Application 5.—(1) The provisions of this Act shall not apply to the employment of any person employed—

- (a) by the Government of the United Republic;
- (b) by a local authority;
- (c) by the Community;
- (d) by any Corporation within the Community;
- (e) by an Embassy, High Commission, Consulate, mission or agency of any foreign government, or of the United Nations Organization, or of the Organization of the African Unity or of any organ of any of such organizations;
- (f) by such technical assistance agency as the Commissioner may, by notice in the *Gazette*, designate to be a technical assistance agency for the purposes of this Act;
- (g) by any religious organization;
- (h) in relation to any technical assistance project;
- (i) in any undertaking which is carried on by the Government in partnership with or in conjunction with, any foreign government;
- (j) by any person, or in respect of any project or undertaking, specified by the Minister for the purposes of this section by an order in the *Gazette*.

(2) For the purposes of this section "technical assistance project" means a project wholly or partly financed or materially aided from outside the United Republic and which the Principal Secretary to the Treasury has, by a certificate in writing, certified to be a technical assistance project for the purposes of this Act.

6.—(1) Subject to the provisions of this Act, there shall be charged, <sup>Training</sup> levied and collected in every month from every employer who employs <sup>levy</sup> a non-citizen, a levy, to be known as the training levy, of a sum of money equal to ten per centum of the monthly chargeable emoluments payable by such employer in respect of that month to every non-citizen employee employed by such employer, other than an employee whose employment is exempt from the provisions of this Act either by virtue of the application of section 5 to his such employment or by virtue of any order made under section 10.

(2) Subject to the provisions of section 7, the levy payable by any employer in respect of any month shall be paid by him on the last day of such month.

(3) Where in any case an employer pays any non-citizen employee his emoluments at intervals of less than a month or at intervals of greater than a month the provisions of this Act shall apply as if such employee was entitled to monthly payments and the monthly chargeable emoluments of such employee in respect of any month shall be deemed to be the chargeable emoluments that would have accrued to the employee had the emoluments been payable monthly.

(4) Where in any case the monthly chargeable emoluments in respect of any employee cannot be ascertained with any reasonable accuracy the Commissioner may, by order under his hand, require the employer to pay the levy in respect of such employee at intervals of two months or more and where such order is made in respect of any employee, the employer shall pay the levy for any period specified in the order on the last day of such period, and such levy shall be of a sum of money equal to ten per centum of the chargeable emoluments of such employee in respect of such period.

7. Notwithstanding the provisions of subsection (2) of section 6, the levy in respect of a non-citizen employee employed by any employer during the period commencing on 1st July, 1972 and expiring on 31st December, 1972, or any portion of such period, shall be paid by the employer on 31st December, 1972. <sup>Special provisions relating to levy for period July to December, 1972</sup>

8.—(1) Where any employer who is by this Act liable to pay levy, fails to pay the whole or any part of such levy within twenty-one days from the date on which such levy is required to be paid by him under section 6 or section 7 or under any order made by the Commissioner under subsection (4) of section 6— <sup>Penalty for late payment</sup>

(a) an additional levy equal to twenty-five per centum of the unpaid amount of the levy shall thereupon become and be payable by such employer by way of penalty;

(b) if such amount remains unpaid by the employer for more than thirty days after such date upon which it is required to be paid, the rate of the additional levy prescribed by paragraph (a) shall be increased by ten per centum of the amount of levy remaining unpaid in respect of each period of thirty days or part thereof after such date during which such amount remains unpaid, and such additional levy by way of penalty shall become and be payable by such employer accordingly.

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

(3) The Commissioner may, if in any case he thinks it just and equitable so to do, remit the whole or any part of penalty payable under this section.

Recovery of  
levy and  
penalty

9.—(1) Any levy or penalty payable by any employer under the provisions of this Act shall be a debt due to the Government and be recovered from such employer as a civil debt by a suit at the instance of the Commissioner or any person authorized by the Commissioner in that behalf.

(2) Without prejudice to the method of recovery of levy and penalties prescribed by subsection (1), where any amount of levy or penalty is due from any employer, the Commissioner may file in a court of a resident magistrate having jurisdiction over the area in which such employer resides or carries on business, a certificate stating—

(a) the name and address of the person from whom such amount is due; and

(b) the amount 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 ten per centum per month 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.

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

(4) Every certificate filed in a court of a resident magistrate pursuant to the provisions of subsection (2) shall be conclusive evidence of the truth of the statements contained in such certificate.

Exemption

10.—(1) Where the Minister is, upon production to him of such evidence as may be prescribed or as he may call for, satisfied that an employer is making *bona fide* efforts for the training and employment of citizens for officers held by non-citizen employees of such employer, the Minister may, by order under his hand, exempt the employer from levy in respect of the employment of such non-citizen employees.

(2) Where in respect of any case to which subsection (2) of section 2 applies, the Minister is satisfied that the non-citizen partner has made a significant contribution to the capital of the partnership and that it is in all respects a *bona fide* partnership, he may, by order under his hand, exempt the partnership from levy in respect of such non-citizen partner to the extent of his share in the profit of the firm.

11.—(1) The Minister may make regulations for the better carrying Regulations out of the purposes and provisions of this Act and, without prejudice to the generality of the foregoing, may make regulations—

- (a) requiring persons who employ non-citizen employees to submit such particulars and returns as may be prescribed;
- (b) requiring employers employing non-citizen employees to give, in such form and at such interval as may be prescribed, particulars of training programmes initiated by such employers;
- (c) providing for anything or matter which may be prescribed or provided for by regulations.

(2) The Minister may annex to the breach of any regulation made under subsection (1) a penalty of a fine not exceeding fifteen thousand shillings or of imprisonment for a term not exceeding two years or both such fine and such imprisonment.

12. Any person who—

Offences

- (a) fails to pay the levy due under this Act within thirty days from the date on which the same is required to be paid by section 6 or section 7;
- (b) with intent to evade payment of any levy or penalty due under this Act—
  - (i) makes any false statement to the Commissioner; or
  - (ii) fails or omits to give any information or submit any return required to be given or submitted by this Act or by regulations made hereunder, or gives any such information or submits any such return which is false in any material particular,

shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

13. Where any offence under this Act or under any regulations made under this Act is committed by a body of persons then, as well as such body of persons, any person who, at the time of the commission of the offence was concerned, as a director, a partner or an officer, with the management of the affairs of such body of persons, 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.

Where offence is committed by body of persons

Commissioner may compound offence

14.—(1) The Commissioner may, where he is satisfied that any person has committed an offence under any regulations made under this Act, by order, compound such offence by requiring such person to make payment of a sum of money:

Provided that—

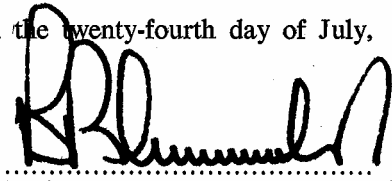
- (a) such sum of money shall not be less than one hundred shillings or more than the aggregate of one half of the maximum fine provided for such offence and the whole of the amount of any levy or penalty due from such person;
- (b) the power conferred by this section shall only be exercised where the person admits in writing that he has committed the offence;
- (c) the Commissioner shall give to the person from whom he receives such sum of money, a receipt therefor.

(2) Where an offence is compounded in accordance with the provisions of subsection (1) and any proceedings are brought against the offender for the same offence, it shall be a good defence for such offender if he proves to the satisfaction of the court that the offence with which he is charged has been compounded under subsection (1).

(3) Where any person is aggrieved by any order made under subsection (1), he may, within thirty days of such Order being made, appeal against such order to the High Court and the provisions of Part X of the Criminal Procedure Code shall apply *mutatis mutandis* to every such appeal as if it were an appeal against sentence passed by a district court in the exercise of its original jurisdiction.

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Passed in the National Assembly on the twenty-fourth day of July, 1972.

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Clerk of the National Assembly