

THE HOTEL LEVY ACT, 1972

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THE UNITED REPUBLIC OF TANZANIA



No. 23 OF 1972

I ASSENT,

Tulius K. Nyerere
 President

17th AUGUST, 1972

An Act to repeal and re-enact the Hotel Accommodation (Imposition of Levy) Act, 1962

[1ST AUGUST, 1972]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Hotel Levy Act, 1972 and shall come into operation on the 1st day of August, 1972. Short title and commencement
2. In this Act unless the context otherwise requires— Interpretation
- “the Commissioner” means the Principal Secretary to the Treasury and includes any person to whom the Principal Secretary to the Treasury has, by writing under his hand, delegated all or any of his functions under this Act;
- “day” means a period of twenty-four hours commencing immediately after midnight on any day and expiring at midnight on the following day;
- “guest” means any person who, in return for a payment of a sum of money (whether such payment is made by such person or any other person), occupies or reserves for occupation hotel accommodation in an hotel for a day or part of a day;
- “hotel” means any establishment intended for the reception of travellers or visitors who may choose to stay therein, and carried on with a view to profit or gain, but does not include—
- (a) any such establishment which has accommodation for less than six guests; or
 - (b) any such establishment which provides sleeping accommodation only in dormitories; or
 - (c) any Government rest house:
- “hotel levy” or “levy” means the hotel levy payable under section 4 or section 6;
- “Minister” means the Minister for the time being responsible for finance;

“owner” means the owner of an hotel and includes any person in charge of the management of the hotel and any employee or other person responsible for the collection from the guests of the charges due from them in respect of their stay in the hotel.

Exemption

3. The Minister may, by order in the *Gazette* exempt—
- (a) any hotel or class of hotels from the provisions of this Act;
 - (b) any hotel owner or class of hotel owners from payment of hotel levy in respect of any guest or class of guests.

Imposition of levy

4.—(1) Every owner of an hotel shall pay, in respect of every guest, a levy of twelve and half per centum of the hotel charges:

Provided that in no case shall such levy be less than two shillings.

(2) The levy imposed by subsection (1) shall be paid by the owner in such manner and at such intervals as may be prescribed.

Determination of hotel charges

5.—(1) For the purposes of this Act “hotel charges” means the payment received, or deemed by subsection (2) to have been received, by the owner in consideration of the hotel accommodation occupied, or reserved for occupation, by any guest and breakfast, if any, served to such guest.

(2) Where in any case the owner accepts from any guest in return of the hotel accommodation actually occupied by the guest during any period of any day a payment of a sum of money less than the normal charges, the owner shall be deemed to have received from the guest the normal charges and such normal charges shall be deemed to be the hotel charges in respect of such guest.

(3) For the purposes of this section “normal charges” means—

(a) in relation to any hotel which serves food to the guests or to any of the guests who may require to be served with food, the sum of money which the owner would normally require to be paid for—

- (i) the occupation of hotel accommodation for a day or part of a day by any guest; and
- (ii) breakfast served to the guest;

(b) in relation to any hotel which serves no food to any of its guests, the sum of money which the owner would normally require to be paid for the occupation of hotel accommodation for a day or part of a day by any guest:

Provided that where in relation to any guest the owner satisfies the Commissioner that the payment received by him in respect of the hotel accommodation occupied by a guest for any day or part of a day was less than the normal charges because of any special circumstances, the Commissioner may accept levy paid on such payment actually received by such owner in lieu of levy on normal charges.

6.—(1) Where the Commissioner is satisfied—

- (a) that the owner of any hotel has charged or charges a guest a single payment for hotel accommodation, breakfast and any additional meal or meals or other facilities provided by the hotel; or
- (b) that any guest at an hotel was normally supplied with meals (other than breakfast) by the hotel,

Levy where
owner sup-
plies at
least two
meals

the Commissioner may, by notice, in writing addressed to the owner of such hotel, require him to pay in respect of such guest, hotel levy equal to ten per centum of the total payment made by such guest to the owner in respect of the hotel accommodation, meals and other facilities, if any, in lieu of the levy prescribed by section 4, and where an owner is served with a notice under this section he shall be liable to pay in respect of the guest or guests described (either by name or generally) in the notice, hotel levy calculated in accordance with the provisions of this section in lieu of levy calculated in accordance with the provisions of section 4.

(2) Any requirement made by the Commissioner under this section shall be final and shall not be subject to review by any court or other authority:

Provided that an owner aggrieved by any such requirement may appeal thereagainst to the Minister whose decision on any such appeal shall be final and conclusive.

(3) Where the Commissioner is satisfied that the normal practice in the hotels or a large number of hotels in any area is to provide hotel accommodation and two or more meals a day for a single payment, the Commissioner may, by order in the *Gazette*, require all the hotels in such area, or such of them as may be described in the order to pay hotel levy calculated in accordance with the provisions of this section, and where such order is made, the owner of any hotel to which such order applies, shall be liable to pay hotel levy so calculated in lieu of the levy prescribed by section 4.

7. The Commissioner may, for the purposes of ensuring that the provisions of this Act and of the regulations made hereunder have been complied with, at any reasonable hour enter any hotel and inspect the register of guests maintained therein and any of the books of accounts and documents relating to the number of guests accommodated at the hotel during any period, the number of days each such guest was so accommodated and the hotel charges paid by each such guest, and may seize any such register, book or document and retain the same until produced as evidence in any court or if not so produced, for a period not exceeding sixty days.

Inspection
by Commi-
ssioner

8.—(1) Where any owner of an hotel who is, under this Act, liable to pay levy, fails to pay the whole or any part of such levy within such time and in such manner as may be prescribed by regulations made hereunder—

Penalties

- (a) an additional levy equal to twenty-five per centum of the unpaid amount of the levy shall thereupon become and be payable by way of penalty by such owner;
- (b) if such amount remains unpaid by the owner for more than thirty days after the date upon which it is, by regulations made under this Act, 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 owner accordingly.

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

(3) The Commissioner may remit in whole or in part any penalty payable under this section.

(4) For the purposes of this section, payment of levy shall be deemed to have been made by the person liable to make such payment only when such payment is received by the Commissioner.

Recovery
of levy
and
penalty

9.—(1) Any levy or penalty payable by any owner under the provisions of this Act shall be a debt due to the Government and may be recovered from such owner 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 owner of an hotel, the Commissioner may file in a court of a resident magistrate having jurisdiction over the area in which the hotel is situated, 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.

10. Where any offence under any regulations made 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.

Where
offence
committed
by body
corporate

11. Where any offence under any regulations made under this Act is committed by a person as an agent or employee then, as well as the agent or employee, the principal or employer 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
employer or
Principal

12.—(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:

Commis-
sioner
may
compound
offence

Provided that—

- (a) such sum of money shall not be less than one hundred shillings or more than an 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.

Regulations

13.—(1) The Minister may make regulations—

- (a) for the better carrying out of the purposes of this Act;
- (b) for regulating the procedure and the rules of evidence and of jurisdiction of courts in relation to proceedings for offences under the regulations;

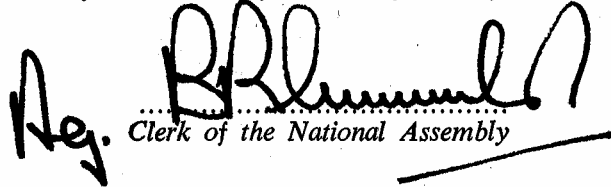
- (c) for regulating procedure on appeals under section 6 (2);
- (d) for the refund of any levy or penalty paid or collected in error;
- (e) for prescribing anything which may be prescribed.

(2) Regulations made under subsection (1) may contain penalties for the breach thereof of a fine not exceeding twenty thousand shillings or of imprisonment for a term not exceeding three years or of both such fine and imprisonment.

Repeal
Cap. 475

14. The Hotel Accommodation (Imposition of Levy) Act, 1962, is hereby repealed.

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


Clerk of the National Assembly