

THE UNITED REPUBLIC OF TANZANIA



No. 27 OF 1969

I ASSENT,

Julius K. Nyerere
President

21ST JUNE, 1969

An Act to prevent price increases by wholesalers and retailers consequent upon the imposition of Sales Tax

[19TH JUNE, 1969]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Sales Tax (Prevention of Price Increases) Act, 1969 and shall be deemed to have come into on the 19th June, 1969.

Short title
operation and
commence-
ment

2. In this Act-

16 scheduled article" means any article specified in the First Schedule to the Sales Tax Act, 1969;

"sale" includes any transaction whereunder the ownership in the article in question may pass to the purchaser at any date in the future;

"sales tax" means the sales tax payable under the Sales Tax Act, 1969 or, until such time as the Sales Tax Act, 1969 is enacted, the sales tax payable by virtue of the Provisional Collection of Taxes (Sales Tax) Order, 1969.

Interpretation

G.N. 1969
No. 150

3.-(1) A scheduled article in respect of which sales tax is not payable shall not be sold or offered for sale either by wholesale or retail at a price which has been increased by reason of the imposition of sales tax.

Sellers not to
take account
of sales tax
unless such
tax payable

(2) Any person who contravenes the provisions of subsection (1) 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 five years, or to both such fine and imprisonment.

Construction 4,(1) Where a scheduled article in respect of which sales tax is not payable, and any other article (whether a scheduled article or not), are sold or offered for sale together at a price in excess of the price or aggregate of the prices at which like articles were sold, together or separately, immediately prior to the commencement of this Act, then for the purposes of this Act the excess shall be deemed to be an increase in the price of the scheduled article in respect of which sales tax is not payable.

(2) For the purposes of subsection (1), a condition of a sale or an offer for sale of a scheduled article that the buyer or acceptor shall purchase another article shall be a sale or an, offer for sale of those articles together, and it shall be immaterial that separate sales were made or, in relation to the offer, stipulated.

(3) Any consideration in money or money's worth additional to the price payable or, in the case of an offer for sale, stipulated, in connection with the sale or an offer for sale of a scheduled article, shall, where the value of such consideration together with the price exceeds the price at which the like article was sold or offered for sale immediately prior to the commencement of this Act, be deemed, for the purposes of this Act, to be an increase in the price of that article, and it shall be immaterial that such consideration was payable or, in the case of an offer for sale, stipulated to be payable to a person other than the seller or offeror.

Evidence 5. In any prosecution for an offence under this Act proof that the scheduled article was sold or offered for sale by wholesale, or, as the case may be, retail, at a price in excess (whether the excess is, or is deemed by section 4 to be, an increase in the price of the scheduled article) of the price at which like sales or offers for sale were made (whether by the person charged or any other person) immediately prior to the commencement of this Act shall be evidence that the price thereof has been increased by reason of the imposition of sales tax and shall be conclusive such evidence unless the person charged proves to the satisfaction of the court-

- (a) that the article in question is legally subject to sales tax; or
- (b) that the increase in the price was not connected with the imposition of sales tax but resulted from an addition to the cost to him of the article in question, and did not exceed that addition; or
- (c) where subsection (1) of section 4 applies, that the increase was not connected with the imposition of sales tax on the scheduled article in respect of which sales tax is not payable but resulted by reason that sales tax was payable in respect of the other article sold or offered for sale together with it, and did not exceed the tax so payable; or
- (d) that the price at which he made the sale or offer for sale was the same as the price at which he ordinarily sold the like article immediately prior to the commencement of this Act-, or

- (e) where he commenced, on or after the commencement of this Act, to carry on the business of selling like articles in the locality in which he made the sale or offer for sale, that the price at which he made the sale or offer for sale was the same as the price at which another person carrying on business in that locality ordinarily sold like articles immediately prior to the commencement of this Act.

6.(1) Where a person who carries on the business of selling a scheduled article, either wholesale or retail, and has such scheduled article in stock, refuses to sell such article to any person offering to purchase the same he shall be guilty of an offence.

Refusal
to sell
scheduled
articles

(2) For the purposes of this section —

- (a) "scheduled article" means any article specified in the First Schedule to the Sales Tax Act, 1969 and in respect of which sales tax is imposed by the said Act;

"person who carries on the business of selling scheduled articles" includes any employee or agent of such person, and where such employee or agent is charged with an offence under this section the provisions of paragraphs (b) and (c) of this subsection, and of paragraphs (a), (b), (c) and (d) of subsection (3) shall apply as they apply where the person charged is the employer or principal and those provisions shall be construed accordingly;

- (b) a person shall be deemed to be carrying on the business of selling any scheduled article where at any time within three months prior to the commencement of this Act or at any time after the commencement of this Act he has sold or offered for sale like article, or has held himself out as being a person carrying on the business of selling like articles;
- (c) a person shall be deemed to have a scheduled article in stock-
- (i) if he has any such article in any premises under his control or management; or
 - (ii) if he is the owner of such article or has a right to dispose of such article by sale;
- (d) a person shall be deemed not to have refused to sell a scheduled article where he offers the article for sale at a price or on terms which the person offering to purchase the same refuses to accept:

Provided that this paragraph shall not apply in the case of an offer to sell on terms which are, in the opinion of the court, unreasonable.

(3) Where a person is charged with an offence under this section it shall be a good defence if he satisfies the court-

- (a) that the article found in any premises under his control or management did not belong to him and that he had no right to dispose of such article by way of sale; or
- (b) that the article owned by him or which he has a right to dispose of by way of sale had, at the time when such offer to purchase was made, been sold to another person; or

(c) that by reason of his having given another person an option to purchase such article, it would not have been proper for him to sell such article or offer it for sale to the person offering to purchase the same; or

(d) that the article in stock was for his own use or was being used in connection with his business.

(4) Any person guilty of an offence under this section shall be liable on conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years, or to both such fine and imprisonment.

Liability of
employer or
principal

7. Where any offence 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 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

8. Where any offence 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 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.

Jurisdiction
of courts

Cap. 20

9. Where a person is convicted of an offence 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 by this Act.

Sales Tax
Act, 1969

10. References to the Sales Tax Act, 1969 shall, during the period prior to the enactment of that Act, be construed as references to the Bill for an Act having the short title "The Sales Tax Act, 1969" and published in the Bill Supplement to the *Gazette* dated 19th June, 1969.

Proceedings
with consent
of Director
of Public
Prosecutions

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

Passed in the National Assembly on the twentieth day of June, 1969.


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Clerk of the National Assembly