

THE UNITED REPUBLIC OF TANZANIA



No. 21 OF 1970

I ASSENT,

Tulius K. Nyerere
President

29TH JUNE, 1970

An Act to repeal and re-enact the Entertainments Tax Act, 1963

[1ST JULY, 1970]

ENACTED by the Parliament of the United Republic of Tanzania.

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

Short title
and
commence-
ment

2.-(1) In this Act, unless the context otherwise requires-
"admission" means admission as a spectator or audience and includes an admission to a dance, exhibition, tombola meeting or any other scheduled entertainment;

Inter-
pretation

"Commissioner" means the Commissioner for entertainments tax;

"entertainment" includes any exhibition, performance, amusement, game or sport to which persons are admitted whether or not any payment is required to be made for admission;

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

"night club" means any premises or part of premises declared by the Minister by order in the *Gazette* to be a night club for the purposes of this Act, and the Minister may by the same or subsequent order designate the days of the week and the time of the day or night during which such premises or part of premises shall be deemed to be a night club;

"payment for admission" includes any payment by a person who having been admitted to one part of a place of entertainment is subsequently admitted to another part thereof whether or not any further payment is required for admission to such other part;

"proprietor" in relation to any entertainment, includes any person-

- (a) who is responsible for the management of the entertainment; or
- (b) who organizes the entertainment; or

- (c) at whose invitation persons are admitted to the entertainment; or
- (d) who is an employee or agent of the proprietor and who is responsible for admitting persons to the entertainment; or
- (e) on whose behalf payments for admission to entertainment are received;

scheduled entertainment" means-

- (a) any class of entertainment specified in Part A of the First Schedule to this Act, where any single person admitted to such entertainment has been required to make a payment for admission;
- (b) any class of entertainment specified in Part B of the First Schedule to this Act, regardless of the fact that all persons admitted to such entertainment are admitted without being required to make any payment for admission.

(2) Where any person is admitted to a scheduled entertainment-

- (a) by reason of his being a member or a guest of a member of any body of persons, whether corporate or unincorporated, and a payment is required to be made or some other consideration is required to be given for the membership of such body of persons; or
- (b) any donation is solicited from such person before, upon or after his admission to such scheduled entertainment; or
- (c) any article is offered for sale to the persons admitted to such entertainment whether immediately before, during or after the entertainment, at a price higher than the price at which such article is normally sold,

admission to the scheduled entertainment of such person shall, for the purposes of this Act, be deemed to be an admission for payment although no payment may be required to be made by such person for such admission.

imposition
of tax

3.-(1) Subject to the provisions of this Act, there shall be charged, levied and paid on the admission of every natural person to any scheduled entertainment, a tax (herein under referred to as the entertainments tax) at the rates specified in the Second Schedule to this Act:

Provided that no entertainments tax shall be charged, levied or paid, under this Act on the admission to a scheduled entertainment-

- (a) of a child who is under the apparent age of ten years unless a payment for admission was made by or on behalf of such child;
- (b) of the proprietor or any employee of the proprietor;
- (c) any person lawfully exercising the powers of entry conferred by section 9.

Act 1963
No. 10
Cap. 515

(2) Notwithstanding the provisions of section 4 of the Provisional Collection of Taxes and Duties Act, 1963, where any order made under section 2 of that Act by reason of which the rate of entertainments tax payable under this Act is increased or any new entertainments tax is imposed, expires or ceases to be of effect, no refund shall be made

of any entertainments tax paid in compliance with such order which is in excess of the entertainments tax payable immediately after such order expires or ceases to be of effect.

4.-(1) The Principal Secretary to the Treasury shall be the Commissioner of Entertainments Tax.

Appointment
of Com-
missioner

(2) The Commissioner may by writing, delegate any of his functions under this Act to any public officer.

5. Subject to the provisions of section 8, the proprietor of a scheduled entertainment shall not admit any person to the scheduled entertainment without first issuing him with a ticket which has been stamped with a revenue stamp (not before used) denoting that the proper entertainments tax has been paid:

Payment of
tax

Provided that this section shall not apply in respect of the admission of any person where by virtue of the proviso to subsection (1) of section 3, no tax is payable on in respect of the admission of such person to the scheduled entertainment.

6. Save in cases where the provisions of the proviso to section 5 apply, if any person is admitted to any scheduled entertainment and the provisions of section 5 are not complied with in respect of that admission, the proprietor of the scheduled entertainment 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.

Penalty for
admission
without
payment of
tax

7.-(1) Entertainments tax shall not be charged on admission to any scheduled entertainment if the Commissioner is satisfied-

Exemption

- (a) in the case of a scheduled entertainment of a class specified in Part A of the First Schedule to this Act, that the whole of the takings thereof, after deduction of any necessary expenses, will be utilized for any religious, philanthropic or charitable purposes; or
 - (b) that the scheduled entertainment is of a wholly educational character; or
 - (c) that the entertainment is provided by or on behalf of a school or other educational institution and-
 - (i) is provided solely for the purposes of promoting some object in connection with the school or institution; and
 - (ii) the persons taking part as performers in the entertainment are persons who are receiving or who have received instruction in the school or institution or who are members of the staff of the school or institution.
- (2) Any question as to whether-
- (a) the purpose for which the takings of any entertainment will be used is a religious, philanthropic or charitable purpose; or
 - (b) the entertainment is or is not of a wholly educational character; or

(c) the institution providing the entertainment is a school or educational institution, and the entertainment is provided solely for the purposes of promoting some object in, connection with the school or, as the case may be, educational institution,

shall be determined by the Commissioner and this determination shall be final and conclusive, and shall not be subject to review by any court.

(3) The Minister, on application being made to him in that behalf, may, by order under his hand, declare any scheduled entertainment to be an exempt entertainment, and where such order is made, entertainments tax shall not be charged on admissions to the entertainment specified in the order.

(4) In this section-

"education institution" includes any organization which the Commissioner is satisfied is established and conducted for the purpose of providing social or physical for children or young persons who are attending or have attended any recognized school, university or college;

"religious, philanthropic or charitable purposes" means local religious or philanthropic or charitable purposes and such other religious, philanthropic or charitable purposes as the Commissioner may approve for the purpose of this Act.

Minister may permit single tax on group admission

8.-(1) Notwithstanding the provisions of section 5, the Minister may, by order under his hand, provide that in the case of a scheduled entertainment specified in such order, two or more persons may be admitted to the entertainment on a single ticket.

(2) Where the Minister makes an order under subsection (1), he shall specify in such order or any subsequent order, the amount of the entertainments tax that shall be charged in respect of the admission of two or more persons on a single ticket:

Provided that in no case shall the entertainments tax payable on admission of two or more persons on a single ticket be less than five shillings.

Power of entry and inspection

9.-(1) The Commissioner, any police officer or any other person authorized in that behalf by the Commissioner may enter any place of scheduled entertainment while any entertainment is proceeding therein, and may enter any place ordinarily used, or reasonably believed to be ordinarily used, as a place of entertainment at any reasonable time for the purpose of ascertaining whether or not the provision of this Act or any regulations made hereunder are being complied with.

(2) Any person who prevents or obstructs the entry of the Commissioner or any police officer or any person duly authorized by the Commissioner as aforesaid, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding ten thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

- 10.-The Commissioner may in his discretion accept in respect of any scheduled entertainment a lump sum by way of composition for or lieu of entertainments tax in any case where, by reason of the smallness of the sum likely to be payable or for any other reason whatsoever, he deems it expedient so to do. Power to accept a Composition
11. Any proprietor of a scheduled entertainment, who, with intent to avoid payment of entertainments tax, does or permit or cause to be done any act or thing, shall be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment to a term of imprisonment not exceeding five years or to both such fine and imprisonment. Evasion of tax
- 12.-(1) Where any proprietor of a scheduled entertainment is convicted of an offence under this Act or under any regulations made hereunder, the Minister may, by order in the *Gazette*, order that such proprietor shall not, for such period as may be specified in such order manage, direct or assist in the direction or management of or permit in any premises under his control or management, any scheduled entertainment. Minister may prohibit-entertainment by any person convicted an offence under this Act
- (2) Any person in respect of whom an order under subsection (1) is made shall, if he contravenes any of the provisions of the order, be guilty of an offence and shall be liable on conviction to a fine not exceeding twenty thousand shillings or to imprisonment to a term not exceeding five years or to both such fine and imprisonment.
- (3) Where any order is made under subsection (1) pursuant to a conviction and such conviction is, on appeal or revision, set, aside and no conviction for any other offence under this Act or under any regulations made hereunder is substituted therefor, the order shall cease to have effect and shall be deemed never to have been made.
13. No person convicted of an offence under this Act or under any regulations made hereunder shall be sentenced to a fine of less than five hundred shillings or to imprisonment for a term of less than fourteen days. Minimum sentence
14. Where any person is convicted of an offence under this Act or under any regulations made hereunder 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. Jurisdiction of courts
15. In any proceedings under this Act or under any regulations made hereunder, the burden to prove that the entertainments tax has been paid or is not payable shall be on the person charged. Evidence
- 16.-(1) Where the Commissioner has reason to believe that persons have been Admitted to a scheduled entertainment without tickets having been issued to them in accordance with the provisions of section 5 the Commissioner shall have the power to demand from the proprietor such sum of money as the Commissioner may reasonably believe to be the amount of the entertainments, tax which would have been payable had the proprietor complied with the provisions of section 5. Assessment of tax and recovery of tax assessed

(2) Every demand under subsection (1) shall be made by notice in writing and upon such notice being served upon the proprietor the sum of money demanded shall be a debt due to the Government and shall be recoverable by a suit at the instance of the Commissioner.

(3) In any suit under this section the burden to prove-

- (a) that the, entertainments tax payable would have been less than the amount demanded by the Commissioner; or
- (b) that there has been no contravention of the provisions of section 5,

shall be on the defendant.

(4) The fact that a demand has been made under this section or that any payment has been made or recovered pursuant to such demand, shall not affect any criminal liability for any offence under this Act of the person from whom the demand is made or by or from whom such payment is made or recovered.

Liability of officers

17. 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.

Liability of employer or principal

18. 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.

Power to compound offences

19.-(1) The Commissioner or any person authorized in that behalf by the Commissioner in writing, may, if he is satisfied that a person has committed an offence under this Act or under regulations made hereunder, compound such offence by accepting from such person a sum of money:

Provided that-

- (a) such sum of money shall not be less than fifty shillings or more than, five hundred shillings; and
- (b) the power conferred by this section shall only be exercised where the person admits in writing that he has committed the offence and agrees in writing that the offence be dealt with under this section; and

(c) the person exercising the power conferred by this section 'shall give the person from whom he receives such sum of money receipt therefor and shall, where such power is exercised by a person other than the Commissioner, as soon as may be practicable, report the exercise of such power to the Commissioner.

(2) Where an offence under this Act or under any regulations made hereunder is compounded in accordance with the provisions of subsection (1) and proceedings are brought against the offender for the same offence, it shall be a good defence if such offender 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 criminal jurisdiction.

Cap. 20

20.-(1) The Minister may make regulations for the better carrying into effect of the purposes of this Act and, without prejudice to the generality of the foregoing, such regulations may provide for-

Regulation

- (a) securing the payment of entertainments tax;
- (b) the use of tickets covering the payment of two or more persons;
- (c) requiring proprietors of scheduled entertainments to submit returns;
- (d) prescribing the form, the manner and the intervals at which, and the officers to whom, such returns shall be submitted.

(2) The regulations made under subsection (1) may impose penalties for the breach thereof not exceeding a fine of five thousand shillings or imprisonment for a term of one year or both such fine and imprisonment.

21. No matter or thing done by the Commissioner or any other public officer shall, if done *bona fide* in the execution or purported execution of the provisions of this Act, subject the Principal Secretary to the Treasury or such other public officer to any action, liability, claim or demand whatsoever.

Protection of officers exercising powers under this Act

22.-(1) The Entertainments Tax Act, 1963 is repealed.

Repeal of transitional Cap. 528

(2) Notwithstanding the provisions of subsection (2) of section 10 of the Interpretation and General Clauses Ordinance, where, on or after the commencement of this Act, any person is convicted of an offence under the Entertainments Act, 1963 or under any regulations made under that Act, the provisions of section 13 shall apply to such conviction.

Cap. 1

FIRST SCHEDULE

PART A

- (i) Cinematographic exhibitions.
- (ii) Theatrical performances,
- (iii) Concerts and other musical performances.
- (iv) Balls and dances.
- (v) Fetes.

PART B

- (i) A scheduled entertainment taking place in a night club.
- (ii) Any dance, stage show, or musical or theatrical performance at any hotel or restaurant or in any premises forming part of a hotel or restaurant.
- (iii) Tombola meetings.

SECOND SCHEDULE

RATE OF TAX

- (a) Shs. 2/- for every admission to a cinematographic exhibition or a scheduled entertainment taking place in a night club.
- (b) Sh. 1/- for every admission to any other scheduled entertainment.

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


Msekwa
Clerk of the National Assembly