

THE UNITED REPUBLIC OF TANZANIA



No. 14 OF 1970

I ASSENT,

Julius K. Nyerere
President

18TH JUNE, 1970

An Act to prevent Price Increases by wholesalers and retailers consequent upon imposition of duties or taxes on goods or increase in the duties and taxes payable on goods

[17TH JUNE, 1970]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Duties and Taxes (Prevention of Price Increases) Act, 1970 and shall be deemed to have come into operation on 17th June, 1970. Short title

2. In this Act unless the context otherwise requires—
"customs duties" means the fiscal entries, suspended fiscal entries and import duties payable under the Customs Tariff Act, 1969; Inter-pretation
"effective date" in relation to any taxable article means the date on which- Acts 1969 No. 54

- (a) the Bill seeking to impose a tax on such article or to increase the rate of the tax payable in respect of such article is published in the *Gazette*;
- (b) the Act of Parliament or the subsidiary legislation imposing the tax or increasing the rate of tax payable in respect of the article is published in the *Gazette*;
- (c) the Minister, in a statement made to the National Assembly, declares his intention to impose a tax on such article or to increase the rate of tax payable in respect of such article,

whichever date first occurs;

"Minister" means the Minister for the time being responsible for finance; Acts 1969 No.54

"new tax" in relation to any taxable article means the amount of the tax or additional tax which is payable in respect of that article or which will become payable in respect of that article-

- (a) if the Bill seeking to impose the tax or to increase the rate of tax payable in respect of that article is passed by the National Assembly and assented to by the President; or
- (b) upon the coming into operation of the Act of Parliament or subsidiary legislation imposing the tax or increasing the rate of tax payable in respect of such article; or
- (c) if the intention to impose such tax disclosed by the Minister to the National Assembly is implemented by necessary legislation;

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

"tax" means-

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- (a) customs duties;
- (b) excise duties payable under the Excise Tariff Ordinance;
- (c) sales tax payable under the Sales Tax Act, 1969;
- (d) any levy, duty or tax which the Minister may, by order published in the *Gazette*, declare to be a tax for the purposes of this Act;

"taxable article" means an article in respect of which a tax is payable or in respect of which a tax will become payable—

- (a) if the Bill seeking to impose the tax is passed by the National Assembly and assented to by the President; or
- (b) upon the coming into operation of the Act of Parliament or subsidiary legislation imposing the tax; or
- (c) if the intention to impose such tax disclosed by the Minister to the National Assembly is implemented by the necessary legislation.

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

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

(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 taxable article in respect of which new tax is not payable, and any other article (whether a taxable 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 effective date, then for the purposes of subsection (1) of section 3 the excess shall be deemed to be an increase in the price of the taxable article in respect of which new tax is not payable.

(2) For the purposes of subsection (1), a condition of a sale or an offer for sale of taxable 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 taxable 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 effective date, be deemed, for the purposes of subsection (1) of section 3, 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.

5. In any prosecution for an offence under this Act proof that the taxable 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 taxable 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 effective date shall be evidence that the price thereof has been increased by reason of the imposition of the new 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 the new tax and that the new tax has been paid or is payable in respect thereof; or
- (b) that the increase in the price was not connected with the imposition of the new 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 the new tax on the taxable article in respect of which the new tax is not payable but resulted by reason that the new tax was payable in respect of the other article sold or offered for sale together with it, and did not exceed the amount of 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 effective date; or
- (e) where he commenced, on or after the effective date, 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 effective date.

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

(2) For the purposes of this section-

- (a) "person who, carries on the business of selling taxable 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

Evidence

Refusal to
sell taxable
articles

paragraphs (a), (b), (c) and (d) of subsection (2) shall apply as they apply where the person charged is the employer or principal and those provisions shall be construed accordingly;

any taxable article where at any time within three months prior to the effective date or at any time after the effective date 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 taxable article in stock-
 - (i) if he has any such article in any premises under his control of 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 taxable 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.

1(3) 1 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.

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 the 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

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.

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

Proceedings
with consent
of Director
of Public
Prosecutions
Repeal and
transitional

11.-(1) The Sales Tax (Prevention of Price Increases) Act, 1969 is repealed.

(2) For the purposes of the sales tax imposed on the various articles by or under the Sales Tax Act, 1969 this Act shall be deemed to have come into operation on the 19th June, 1969.

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(3) For the avoidance of doubts it is hereby declared that notwithstanding the provision of subsection (2) the provisions of subsection (2) of section 10 of the Interpretation and General Clauses Ordinance shall apply and have effect in relation to the repeal of the Sales Tax (Prevention of Price Increases) Act, 1969 by this Act.

Passed in the National Assembly on eighteenth day of June, 1970.


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Clerk of the National Assembly