

**THE WORKERS' AND FARMERS' HOUSING DEVELOPMENT
FUND (FINANCING AND MANAGEMENT) ACT, 1974**

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THE UNITED REPUBLIC OF TANZANIA-



No. 20 OF 1974

ASSENT,

Julius K. Nyerere
President

20TH AUGUST, 1974

An Act to establish a Workers' and Farmers' Housing Development Fund for provision of loans for construction of low cost houses for workers and farmers and to provide for the financing of the Fund by a levy from certain categories of employers

[1st JULY, 1974]

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

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| <p>1. This Act may be cited as the Workers' and Farmers' Housing Development Fund (Financing and Management) Act, 1974 and shall come into operation on the first day of July, 1974.</p> <p>2.-(1) In this Act, unless the context otherwise requires-</p> <p>"Commissioner" means the Commissioner for Income Tax appointed under the Income Tax Act, 19731;</p> <p>"employment" means employment under a contract of service and "employee" and "employer" shall be construed accordingly;</p> <p>"employment based housing society" means a housing society three fourths of the members of which are employed by the same employer;</p> <p>"the Fund" means the Workers' and Farmers' Housing Development Fund established by this Act;</p> <p>"the Housing Bank" means the Tanzania Housing Bank established by the Tanzania Housing Bank Act, 1972:</p> | <p>Short title and commencement</p> <p>Interpretation</p> <p>Acts, 1973 No. 33</p> <p>Acts, 1972 No. 34</p> |
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Acts, 1968
No. 17

"housing society" means a co-operative society registered under the Co-operative Societies Act, 1968 one of the principal objects of which is to make loans to its members for the construction or purchase of houses for their occupation and includes a savings and credit society within the meaning of that expression in the Co-operative Societies Act, 1968;

"levy" means the housing levy imposed by this Act;

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

"specified employer" in relation to any month means-

- (a) any employer who employs ten or more employees during the whole or any part of that month;
- (b) any employer, or an employer of any category, declared by the Minister, by an order in the *Gazette*, to be a specified employer.

(2) Where a body corporate (hereinafter referred to as "the parent company") owns more than fifty per centum of the issued share capital of any other body corporate (hereinafter referred to as "a subsidiary") or of two or more subsidiaries, and not less than three-fourths of the total number of the members of a housing society are employees either of the parent company or a subsidiary or of two or more subsidiaries, the society shall, for the purposes of this Act, be deemed to be an employment based society, and the obligations imposed by this Act on an employer in relation to an employment based housing society shall be required to be discharged by such of the employers as the Principal Secretary to the Treasury may designate in that behalf or, where no such designation has been made, by the parent company.

(3) For the purposes of this Act "employer" includes his legal representatives and any person who under any arrangement or by operation of law becomes liable to pay the emoluments of the employees of the employer.

(4) This Act shall bind the Government, the Community and the Corporations within the Community.

PART II

HOUSING LEVY

Imposition
of levy

3.-(1) Subject to the provisions of this Act, there shall be charged, levied and paid in every month by every specified employer a housing levy of two per centum of the gross emoluments paid in that month by such employer to all the employees employed by him during that month.

(2) For the purposes of this section "gross emoluments" in relation to any employee includes wages, salary, leave pay, sick pay, payment in lieu of leave, fee, commission, bonus, gratuity and any subsistence, travelling, entertainment or other allowance paid to him by the employer

in respect of his employment or services, and any amount so paid in respect of employment or services rendered by the employee in any month other than the month in which it is paid shall be deemed to be emoluments in respect of the month in which it is paid:

Provided that where the Commissioner is satisfied that any such subsistence, travelling, entertainment or other allowance represents solely the reimbursement to the employee of an amount expended by him wholly and exclusively in the production of his income from the employment, the Commissioner may, in assessing the gross emoluments of the employee for the purposes of this Act, exclude such allowance or expenditure.

(2) Where an employer provides housing for any employee the value of the housing, as ascertained for the purposes of the Income Tax Act, 1973 in accordance with the provisions of subsection (3) of section 5 of that Act, shall be deemed to be part of the emoluments paid to the employee.

(3) The Minister may, by order in the *Gazette*, provide either generally or in relation to any specified employer or category of specified employers, that in assessing the gross emoluments of all or any of the employees employed by the employer to whom the order applies, such portion of the gross emoluments as shall be specified in the order shall be excluded.

4.-(1) No specified employer shall, directly or indirectly, deduct from the emoluments of an employee the whole or any part of the levy.

Employer
not to
deduct
levy from
employee's
emoluments

(2) Any specified employer who contravenes the provisions of this section shall be guilty of an offence.

5. Every specified employer shall on or before the seventh day of every month pay to the Commissioner the levy due from such employer in respect of the preceding month.

Payment of
levy

6.-(1) Where any specified employer fails to pay the whole or any part of the levy due from him in respect of any month on or before the seventh day of following month-

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 employer;
- (b) if such amount remains unpaid by the employer for more than thirty days after the 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 the levy including penalty, if any, 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 levy and shall be collected and recoverable accordingly.

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

Recovery of
levy and
penalty

7.-(1) Any levy or penalty payable by any employer under the provisions of this Act shall be a debt due to the Government and may 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 specified employer, the Commissioner may file in a court of a resident magistrate having jurisdiction over the area in which the 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,

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and upon such certificate being lodged in such court such certificate shall be deemed to be a plaint duly lodged under Order XXXV of the Civil Procedure Code, 1966 and the court shall proceed in the matter in accordance with provisions of that Order, and in the event of a judgment being given in favour of the plaintiff the court shall pass a decree for payment by the defendant to the Government of the amount found due together with interest thereon at five per centum per month from the date on which the certificate was filed until payment.

(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 *prima facie* evidence of the truth of the statements contained in such certificate.

Exemption

8. The Minister may by order exempt any specified employer or any category of specified employers from all or any of the provisions of this Part.

Offences

9. Any specified employer who-

- (a) fails to pay the levy due under this Act within twenty-one days from the date by which it is required to be paid;
- (b) with intent to evade payment of any levy or penalty due under this Act-
 - (i) makes any false statement to the Commissioner or any other public officer connected with the administration of this Act; 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;

(iii) does or omits to do any act or thing,
shall be guilty of an offence.

10. The Minister may make regulations for the better carrying out of the purposes and provisions of this Part of the Act, and without prejudice to the generality of the foregoing may make regulations-

- (a) for submission of returns and particulars by employers;
- (b) for the refund of any levy paid or collected in error.

Regulations
relating to
levy

PART III

THE WORKERS' AND FARMERS' HOUSING DEVELOPMENT FUND

11. There is hereby established a fund known as the Workers' and Farmers' Housing Development Fund.

Establish-
ment of
Fund

12.-(1) The Housing Bank shall administer the Fund as a Special Fund and, subject to the provisions of this Act, section 9 of the Tanzania Housing Bank Act, 1972 and other provisions of that Act regulating Special Funds shall apply to the Workers' and Farmers' Housing Development Fund.

Housing
Bank to
administer
Fund

(2) The Housing Bank shall, as soon as may be practicable after the commencement of this Act, submit to the Minister for his approval by-laws regulating the administration of the Fund.

- (3) The by-laws referred to in subsection (2) shall-
 - (a) take into account the need to make low cost housing available to workers and peasants;
 - (b) have regard to the desirability of worker participation in the operation and financing of housing schemes;
 - (c) provide for relatively low charges for loans made out of the Fund;
 - (d) provide for prudent management of the Fund and for the avoidance of losses.

(4) By-laws made under this section and approved by the Minister shall be binding on the Housing Bank.

13.-(1) The Commissioner shall at such interval, in such manner and after deduction of such service charge as the Minister may direct pay into the Fund all the levies and penalties collected by him under Part II.

(2) In addition to the levy collected under this Act, the financial resources of the Fund shall consist of-

- (a) such sums of money as Parliament may, from time to time, provide for the purposes of the Fund;
- (b) such sums of money as the Housing Bank may, with the consent of the Minister, raise by way of loan or otherwise for the purposes of the Fund;

- (c) such sums of money as may become payable into the Fund either by any written law or incidental to the operations of the Fund.

Purposes for which Fund may be used

14.-(1) Such portion of the Fund as the Minister may, after consultation with the Minister for the time being responsible for economic affairs and development planning and the Minister for the time being responsible for capital development, determine shall be used for provision of loans to housing societies and the National Housing Corporation for construction by them of low cost housing (including site and service schemes) in Dodoma.

(2) The balance of the Fund shall be used, firstly, for the provision of loans to employment based housing societies and, secondly, for financing of low cost house improvement or construction schemes in rural areas with preference to such schemes undertaken by ujamaa villages and co-operative societies.

Duty of employer in relation to employment based societies

15. (1) Where there exists an employment based housing society the employer shall

- (a) provide for an arrangement whereby the amount of any monthly installment payable by an employee to the society in respect of any loan made by the society to the employee shall, for so long as the employee continues in the employment of the employer, be deducted by the employer from the employee's emoluments and remitted to the society within seven days of deduction being made;

- (b) provide accounting services to the society.

(2) The employer, shall not be entitled to charge any fee or other consideration for any of the services specified in subsection (1).

(3) Notwithstanding the provisions of any other written law, any deduction from the emoluments of an employee made pursuant to an arrangement referred to in paragraph (a) of subsection (1) shall be lawful and the employer shall not be liable for any penalty, damages or compensation for making such deduction.

(4) Any employer who contravenes any of the provisions of this section or who, having made a deduction pursuant to an arrangement referred to in paragraph (a) of subsection (1) fails to remit the same to the housing society to which it is required to be remitted, within seven days from the date of the deduction, shall be guilty of an offence.

Housing societies to meet certain requirements

16. The Housing Bank shall, not make a loan from the Fund to a housing society unless is satisfied that the housing society has formulated efficient and workable rules prescribing procedures for loan approval, disbursements; recovery of loans and other debts and general management, and that such rules include-

- (a) the requirement of relating the amount which an individual may draw against his account to his previous savings; and
- (b) provision of the maximum amount which the society may lend to a member and the maximum period for which a loan may be made.

17. The Minister may make regulations for the better carrying into effect of the provisions and purposes of this Part.

Regulations relating to Fund

PART IV

MISCELLANEOUS PROVISIONS

18. Any person convicted of an offence under this Act or any regulations made under this Act shall be liable to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and such imprisonment.

Penalty for offences

19. 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

20.-(1) The Principal Secretary to the Treasury may, where he is satisfied that any person has committed an offence under this Act or any the regulations made under this Act, by order, compound such offence by requiring such person to make payment of a sum of money:

Principal Secretary to the Treasury compound offences

Provided that-

- (a) such sum of money shall not be less than one hundred shillings or more than the aggregate of one-fourth 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 Principal Secretary to the Treasury 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).

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(3) Where any person is aggrieved by any order made under subsection (1), he may within thirty days of such order part made appeal there against 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.

Passed in the National Assembly on the twenty-fourth day of July, 1974.

MMwindadi

Acting Clerk of the National Assembly

