

CHAPTER 63.

LOCAL TAX.

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CHAPTER 63.

LOCAL TAX.



An Ordinance to make provision for the substitution of a Local Tax for certain taxes at present payable in the Protectorate, to make provision for matters incidental thereto, including the abolition of settlers' fees in those parts of the Protectorate to which this Ordinance is applied.

23 of 1954.
26 of 1956.
2 of 1957.
6 of 1958.

[3RD JANUARY, 1955.]

PART I.—PRELIMINARY.

1. This Ordinance may be cited as the Local Tax Ordinance, and shall have force and effect within such areas of the Protectorate as the Governor may by Order declare.

Short title and application.*

2. This Ordinance shall come into force on such date as the Governor may by Order declare.

Commencement.†

3. In this Ordinance, unless the context otherwise requires—
“Chieftom Treasurer” means the Chieftom Clerk who, together with the Paramount Chief, has charge of the keys of the Chieftom Treasury;

Interpretation.

“local tax” means the tax imposed under section 4;

“Minister” means the Minister for Internal Affairs;

“official receipt” means a receipt in the prescribed form issued in the prescribed manner;

“ordinarily resident” means resident for a period of six months during the twelve months ending upon the date on which any local tax imposed under this Ordinance becomes due, a period of residence by a taxpayer being deemed to have been continuous notwithstanding the temporary absence of such person during a portion of such period;

“precept” means a precept declared by a District Council in terms of section 20;

“prescribed” means prescribed by rules made under this Ordinance;

* The Ordinance was applied by P.N.1 of 1955 on the 3rd of January, 1955, to every chieftom in the Protectorate, except the Langrama and Normo chieftoms in the Kenama District and the Toli Chieftom in the Kono District, and by P.N.70 of 1959 it was applied on the 1st of July, 1959, to the Langrama and Normo Chieftoms, provided that local tax should not become due in those chieftoms until the 1st of January, 1960. The Toli Chieftom is the only area in which the Ordinance does not have force and effect.

† 3rd January, 1955 (P.N.1 of 1955).

Cap. 61.

“ Tribal Authority ” means a Tribal Authority constituted under the provisions of the Tribal Authorities Ordinance.

PART II.—IMPOSITION OF LOCAL TAX AND METHOD OF COLLECTION.

Imposition.
26 of 1956.

4. (1) Every year—

(a) every male person of the apparent age of twenty-one years or over who carries on a trade or business or is ordinarily resident in the Protectorate; and

(b) every female person of the apparent age of twenty-one years or over who carries on a trade or business or is ordinarily resident in the Protectorate and who, for the purpose of obtaining registration as a voter in House of Representatives or Local Government elections, has elected to pay the hereinafter mentioned tax,

shall, unless he or she—

(i) is a Paramount Chief; or

(ii) is a member of Her Majesty's Armed Forces; or

(iii) is attending any educational institution as a full-time scholar,

pay a tax to be known as local tax, the amount of which shall be determined according to the provisions of Part IV.

(2) Every person liable to pay local tax shall pay it, in the manner provided in this Part, in the chiefdom in which he or she is ordinarily resident or carries on a trade or business:

Provided that if any such person has not been ordinarily resident or has not carried on a trade or business in any one chiefdom during any year, he or she shall pay local tax which falls due on the first day of January of the following year in the chiefdom in which he or she was last resident or carried on a trade or business before the first day of January of such following year:

Provided further, that no person shall be required to pay local tax in more than one chiefdom in any one year.

(3) The decision of any female person to pay local tax under the provisions of sub-section (1) shall be irrevocable, that is to say, after first paying local tax, such female person shall be liable to pay local tax as long as she carries on a trade or business or is ordinarily resident in the Protectorate, whether or not she exercises her right to vote.

5. (1) On or before the first day of September in each year, the Tribal Authority in each chiefdom shall appoint three or more persons, one of whom shall be a Chiefdom Clerk, to be a Tax Assessment Committee for the purpose of ascertaining the number of persons liable to pay local tax within such chiefdom:

Appoint-
ment of Tax
Assessment
Committee.

Provided that the Minister shall have power to fix, by Notice in the *Gazette*, a later date on or before which such appointment shall be made in any chiefdom or chiefdoms specified in such Notice.

(2) Persons appointed as members of a Tax Assessment Committee shall serve thereon until the Tax Assessment Committee for the next year has been appointed:

Provided that in every chiefdom the Tribal Authority shall have power, subject to the approval of the Minister, to revoke the appointment of any member of the Tax Assessment Committee and to fill any vacancy in such Committee.

(3) Every Chief or Headman shall, when required to do so by the Tribal Authority, declare to the Tax Assessment Committee the name of every person ordinarily resident in his area who is liable to pay local tax.

6. (1) In case of any dispute as to the apparent age of any person for the purposes of this Ordinance the decision of a Medical Officer shall be final.

Disputes as
to age and
residence.

(2) In case of any dispute as to whether any person is or was ordinarily resident in the Protectorate or in any chiefdom during any year, the decision of the District Commissioner shall be final.

26 of 1956.

7. Every native who is liable to pay local tax shall pay such tax either—

Payment by
natives.
2 of 1957.

(a) to the Chiefdom Treasury of the Tribal Authority in whose area of jurisdiction he is liable to pay local tax; or

(b) to such person as may be appointed by the Minister by Notice in the *Gazette*; or

(c) to the Chief or Headman in whose area of jurisdiction he is ordinarily resident or carries on a trade or business or was last resident or carried on a trade or business, as the case may be;

and the said appointed person or Chief or Headman, as the case may be, shall pay all local tax so received by him to the Chiefdom Treasury of the Tribal Authority in whose area of jurisdiction the local tax is payable:

Provided that where an employer of labour is appointed by the Minister by Notice in the *Gazette* to collect local tax from his employees, those of his employees who are liable to pay local tax but have not yet paid, shall pay such tax to their employer who shall in each case issue a receipt in the prescribed form and pay the tax so received by him to the Chiefdom Treasury of the chiefdom or chiefdoms in which such employees are liable to pay local tax.

Payment by
non-natives.

8. Every non-native who is liable to pay local tax shall pay such tax either to the Chiefdom Treasury of the Tribal Authority in whose area of jurisdiction he is liable to pay local tax or to the Chief or Headman in whose area of jurisdiction he is ordinarily resident, or carries on a trade or business or was last resident or carried on a trade or business as the case may be.

Promulgation
of rates, date
and place of
payment.

9. (1) In each chiefdom the local tax in respect of each year shall become due on the first day of January of that year and shall, subject to the provisions of section 16, be paid on or before such date and at such place if not paid to the Chiefdom Treasury as shall be determined according to the provisions of sub-section (2).

(2) Not later than the 15th day of January in each year the Tribal Authority in each chiefdom shall declare—

(a) the date on or before which and the place at which every native who is liable to pay local tax during the current year in the chiefdom over which it has jurisdiction shall pay such tax;

(b) the date on which Chiefs and Headmen and persons appointed by the Minister under the provisions of section 7 shall pay to the Chiefdom Treasury all amounts of local tax collected by them on the date fixed in paragraph (a);

(c) the date, not being later than the 30th day of June, on or before which every non-native who is liable to pay local tax during the current year in the chiefdom over which it has jurisdiction shall pay such tax to the Chiefdom Treasury or the Chief or Headman.

(3) The rates of local tax as determined according to the provisions of Part IV and the date and place of payment thereof shall be published in the *Gazette* and orally promulgated by each Tribal Authority throughout the area of its jurisdiction and each Tribal Authority shall cause a written notice thereof to be publicly displayed at the Chiefdom Treasury at least one month before the date fixed for payment of such tax.

(4) In the event of a Tribal Authority having failed to declare, in accordance with sub-section (2) of section 9, the date and place of payment of local tax, a person authorised in that behalf by the Minister shall have power to fix and declare the date and place of payment of such tax.

10. (1) Every person to whom local tax is paid in accordance with section 7, shall issue to each person who pays such tax to him an official receipt.

Issue of receipts by Chiefs and Headmen.

(2) Where the person to whom local tax is payable is not literate, the Tribal Authority shall appoint a fit and proper person to sign and issue receipts on behalf of such person to whom local tax is payable for all local tax paid to him.

(3) Any person to whom local tax is payable who fails to comply with the provisions of sub-section (1) shall be guilty of an offence.

11. (1) In each chieftom the person to whom local tax is payable or such other fit and proper persons as are appointed by the Tribal Authority for this purpose shall receive the local tax collected as provided in section 7.

Issue of receipts on behalf of Tribal Authorities.

(2) Every such person who receives local tax from any person to whom local tax is payable shall give to each such person to whom local tax is payable an official receipt.

(3) Every such person shall issue to each non-native who pays local tax to him an official receipt.

(4) Any such person who receives any local tax from any other person and fails to give such other person an official receipt therefor shall be guilty of an offence.

12. (1) Any authorised person may at any time require any person to whom he has reasonable grounds for believing to be liable for the local tax to produce his tax receipt in respect of the tax payable for the current year and each of the two preceding years, and every such authorised person may retain any receipt so produced for such time as he may consider necessary for the purpose of identifying the person named therein with the person producing the same and, pending the result of any investigation made under this sub-section, the person in respect of whom the investigation is made may be detained in custody by the authorised person unless he shall give security equal to the total amount of the local tax payable by him for the current year and each of the two preceding years, and the authorised person shall without unnecessary delay cause such person to be brought before any Court having jurisdiction to try an offence against

Power to demand production of receipt.

6 of 1958.

this section. Whilst so detained and until such time as he is brought before the appropriate Court, such person shall be deemed to be in lawful custody. The Court may either suffer such person to go at large or may order that he be detained in custody pending the result of any investigation.

(2) Where such person fails to produce such receipt or alleges that he is not liable for tax under this Ordinance and does not produce a certificate of exemption granted under this Ordinance the authorised person may require him to furnish such information as the authorised person may consider necessary for the purpose of ascertaining whether he is liable for or has paid the local tax:

Provided that pending the result of any investigation made under this sub-section, the person in respect of whom the investigation is made shall be detained in custody unless he shall give security equal to the total amount of the local tax payable by him for the current year and each of the two preceding years.

(3) Any person who fails to comply with any requests issued by an authorised person in accordance with this section shall be guilty of an offence and liable upon conviction to a fine of ten pounds or imprisonment with or without hard labour for one month.

6 of 1958.

(4) In this section the expression "authorised person" means any Administrative Officer, Paramount Chief, any other Chief, Headman, Chieftom clerk or Chieftom treasurer; and includes any other person who has been authorised in that behalf by or on behalf of the Minister and whose appointment, whether as an individual or as a member of a class of persons, has been notified both in the *Gazette* and by a notice publicly displayed at the Chieftom Treasury of any chieftom in which such person is to exercise the powers conferred, or the duties imposed, upon him as an authorised person, and has also been orally promulgated to an assembly of the Tribal Authorities and people duly assembled for that purpose in the Native Court Barri of such chieftom.

Duties of
Chiefs and
Headmen.

13. (1) In each chieftom, every Chief and every Headman and every person appointed by the Minister under the provisions of section 7 shall be a collector of local tax within the area over which he has jurisdiction.

Offences.

(2) Any such Chief or Headman or any person appointed by the Minister under the provisions of section 7 who—

(a) demands or receives from any taxpayer an amount in excess of the amount of local tax for which such taxpayer is liable in terms of this Ordinance; or

(b) wilfully or negligently fails to pay to the Chieftom Treasurer or to the persons appointed by the Tribal Authority in terms of section 11, the whole of the amount of local tax collected by him; or

(c) renders false returns orally or in writing of the amount of local tax collected by him; or

(d) fraudulently appropriates to his own use, embezzles or otherwise uses the whole or any portion of the local tax collected by him,

shall be guilty of an offence.

14. The Chieftom Treasurer or any person appointed by a Tribal Authority in terms of section 11 to receive local tax who wilfully fails to pay all local tax received by him into the treasury of the Chieftom or who fails to give, when so required by the District Commissioner or a person authorised thereto by him, a complete and true account of all local tax received by him, shall be guilty of an offence.

Offences by persons appointed under section 11.

15. In every chieftom, any Chief or Headman or person appointed by the Minister under the provisions of section 7 who fails, without reasonable cause, to attend on the day and at the place fixed under the provisions of section 9 for the payment of local tax, shall be guilty of an offence, and shall be liable on conviction to a fine not exceeding ten pounds.

Penalties for Chiefs and Headmen failing to attend.

16. (1) Any person who—

(a) refuses or wilfully neglects to pay local tax for which he is liable under this Ordinance; or

(b) being liable to pay local tax, by any means whatsoever evades or attempts to evade payment of the same;

shall be guilty of an offence and liable on conviction to a fine not exceeding three times the amount of the tax unpaid or to imprisonment with or without hard labour for a period not exceeding one month.

Penalties for failure to pay local tax. 26 of 1956.

(2) Proceedings for wilful neglect to pay local tax may be taken against any person within three years of the date fixed for him to pay such tax in terms of section 9, and in any such proceedings it shall be *prima facie* evidence of wilful neglect to pay the tax if it is proved that after a period of one month from the said date such person has not paid the tax and has failed to produce a certificate of exemption granted to him in respect thereof.

(3) The imposition of a fine or term of imprisonment under this Ordinance shall not relieve any person from liability to pay any tax for which he is or may be liable.

(4) In any prosecution instituted under this section, failure by an accused person to produce an official receipt for the amount of local tax which should have been paid by him shall be *prima facie* evidence that such tax has not been paid.

Arrest
without
warrant.
26 of 1956.

17. (1) Any authorised person may without warrant arrest any person liable to pay local tax whom he suspects on reasonable grounds of wilful neglect to pay local tax payable in respect of the year then current or either of the two preceding years.

(2) An authorised person making an arrest without warrant in pursuance of the provision of sub-section (1) shall without unnecessary delay cause such person to be brought before any Court having jurisdiction to try such an offence.

(3) Every person arrested under the provisions of this section shall until such time as he is brought before the appropriate Court be deemed to be in lawful custody.

6 of 1958.

(4) In this section the expression "authorised person" means any constable; and includes any other person who has been authorised in that behalf by or on behalf of the Minister and whose appointment, whether as an individual or as a member of a class of persons, has been notified both in the *Gazette* and by a notice publicly displayed at the Chieftom Treasury of any chieftom in which such person is to exercise the powers conferred, or the duties imposed, upon him as an authorised person, and has also been orally promulgated to an assembly of the Tribal Authorities and people duly assembled for that purpose in the native Court Barri of such chieftom.

Incitement.

18. Any person who directly or indirectly permits, encourages aids, abets or incites—

(a) any person liable to pay local tax, or

(b) any person whose duty it is to collect local tax, not to pay or collect such tax, as the case may be, shall be guilty of an offence.

Wrongful
collection.

19. (1) Any person, other than a person authorised under the provisions of this Ordinance to collect local tax, who collects such tax, or who collects moneys for other purposes on the pretext that he is collecting local tax, shall be guilty of an offence.

(2) Any person who imposes or receives any tax, tribute, customary levy, whether in cash, kind or labour, other than as is expressly provided for in this or any other Ordinance, shall be guilty of an offence.

(3) Nothing in this section shall be construed to exempt persons receiving special benefits or services from paying therefor such fees as may be prescribed by bye-laws made under the provisions of section 15 of the Tribal Authorities Ordinance, or by sub-section (2) of section 4 of the Public Health (Protectorate) Ordinance. Cap. 61.
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PART III.—DECLARATION OF PRECEPTS BY DISTRICT COUNCILS

20. Once in every year, each District Council shall, having regard to any additional revenues which it may receive from the sources listed in section 20 of the District Councils Ordinance, and to its estimated expenditure for the forthcoming year, declare by resolution the amount, to be called a precept, which each Tribal Authority within the area of its jurisdiction is to pay to it out of the local tax collected from each taxpayer in respect of the forthcoming year. The precept need not necessarily be the same for each chiefdom within the district. Precepts.
Cap. 79.

21. Every resolution made in terms of section 20 shall be submitted to the Minister on or before a date to be fixed by him and shall be subject to the approval of the Governor in Council. Submission
of resolution
to Minister.

22. On or before a date to be fixed by the Minister, each District Council shall notify each Tribal Authority within its jurisdiction of the approved precept for the forthcoming year. Notification
of Tribal
Authorities.

PART IV.—DETERMINATION OF RATES OF LOCAL TAX AND MATTERS ANCILLARY THERETO.

23. Every year, in each chiefdom, the Tribal Authority shall having regard to any precept notified to it by a District Council in terms of section 22 declare the amount of local tax to be paid during the forthcoming year by every person liable to pay such tax within that chiefdom. Tax payable
by natives
and non-
natives.

24. Every declaration made in terms of section 23 shall be submitted to the Governor in Council on or before a date to be fixed by him and shall be subject to his approval. Submission of
resolution to
Governor in
Council.

* The Public Health (Protectorate) Ordinance was Chapter 191 of the 1946 edition. It is still in force, but has been omitted from this edition because it is to be repealed and replaced.

Power of Governor in Council to vary amount of local tax.

25. The Governor in Council shall have power—

(a) to vary the amount of local tax as declared by the Tribal Authority under section 23 either by increasing or reducing such amount; and

(b) in the event of a Tribal Authority having failed to declare, within a period of two months after having been directed to do so by a person authorised in that behalf by the Minister, the amount of local tax which is to be paid, to fix and declare the amount himself;

2 of 1957.

(c) in any town where a Town Council is established by law to declare the amount of local tax which is to be paid by ratepayers in such town.

Apportionment of local tax paid by natives or non-natives.

26. Within three months of the receipt by a Tribal Authority of local tax paid by any native or non-native, such Tribal Authority shall pay to the District Council having jurisdiction, such portion of the tax so paid which represents any precept fixed by such District Council for that year.

PART V.—JURISDICTION OF COURTS, PENALTIES AND EXEMPTIONS.

Jurisdiction of courts.

27. Whether the accused be a native or a non-native, a Magistrate shall have jurisdiction, and when the accused is a native, the Native Court of each chiefdom shall have concurrent jurisdiction to hear and determine all complaints of breaches of the provisions of sections 12, 15 or 16.

Penalties.

28. Any person who commits an offence against sections 10, 11, 13, 14, 17, 18 or 19 shall be liable—

(a) on summary conviction before a Magistrate to a fine not exceeding fifty pounds, or to imprisonment, with or without hard labour for a period not exceeding six months;

(b) on conviction before the Supreme Court to a fine not exceeding one hundred pounds or to imprisonment with or without hard labour for a period not exceeding two years.

Exemptions.

29. (1) The District Commissioner may, by certificate under his hand, exempt any person in the area of his jurisdiction from the liability to pay local tax in whole or in part and either generally, or in respect of any particular year:

Provided that no exemption shall be granted hereunder unless the District Commissioner is satisfied that the person, by reason of infirmity, poverty or loss of his house by fire would suffer undue hardship if the exemption were not granted.

(2) The Minister with the approval of the Governor in Council may on his own initiative exempt any person or class of persons from liability to pay local tax in whole or in part, either generally or in respect of a particular year.

PART VI.—MISCELLANEOUS.

30. Whenever a Tribal Authority refuses or fails to carry out any function or duty assigned to it under this Ordinance, the Minister may authorise any person nominated by him to carry out such function or duty.

Failure of
Tribal
Authorities
to function.

31. (1) The Governor in Council may make rules for the better carrying into effect the purposes of this Ordinance.

Rules.

(2) In particular, and without prejudice to the generality of the powers conferred by sub-section (1) the Governor in Council may make rules governing all or any of the following matters—

(a) the prescribing of matters which require to be prescribed;
(b) the manner in which local tax is to be assessed and collected;

(c) the manner in which notification of precepts is to be conveyed to Tribal Authorities;

(d) the appointment by District Councils and Tribal Authorities of persons to carry out any of the duties imposed on them by this Ordinance and the method of making such appointments known to the public;

(e) the forms to be used and the books of account to be kept by persons responsible for the custody of moneys paid as local tax;

(f) the form, manner of printing, binding, numbering and issuing of receipts for local tax;

(g) the custody of receipt books and counterfoils of receipt books issued for the collection of local tax;

(h) the inspection and the production for inspection of receipt book counterfoils and other forms and records prescribed for recording the receipt or transfer of moneys paid as local tax;

(i) the custody and use of rubber stamps on receipts issued for local tax paid;

(j) the penalties, not exceeding a fine of twenty pounds, which may be imposed for the contravention of any rule made under this section;

(k) the jurisdiction of courts to try cases arising out of allegations of infringements of any of the rules made under this section.

Abolition of
Settlers' fees
payable
under
Cap. 122.

32. Section 13 of the Protectorate Land Ordinance shall cease to apply in all areas, districts, and chiefdoms in the Protectorate to which this Ordinance applies, but without prejudice to anything done or suffered thereunder, or any right, privilege, obligation or liability acquired, accrued, or incurred thereunder.

Repeal and
saving.
*

33. The Chiefdom Tax Ordinance and Part IV of the Protectorate Ordinance are hereby repealed:

†

Provided that the Chiefdom Tax Ordinance and Part IV of the Protectorate Ordinance shall remain in force in every area, district and chiefdom in the Protectorate until such time as the provisions of this Ordinance have been applied to such area, district or chiefdom by Order of the Governor.

* Part IV of the Protectorate Ordinance has hitherto been Part V. In this edition it has been renumbered as Part IV (owing to the repeal of the former Part IV about District Councils and the Protectorate Assembly).

† This proviso results in the saving of the Chiefdom Tax Ordinance and Part IV of the Protectorate Ordinance in the Toli Chiefdom of the Kono District, until such time as this Local Tax Ordinance shall be applied to that chiefdom. The Chiefdom Tax Ordinance is not in effective operation in the Toli Chiefdom, because no chiefdom Treasury has yet been established there under the provisions of the Chiefdom Treasuries Ordinance, Cap. 62.