

SIGNED this 10th day of November, 1972.

SIAKA STEVENS,  
President.

LS

No. 23



Sierra Leone

1972

**The Income Tax (Amendment) Act, 1972**

Short title.

[10th November, 1972.]

Date of commencement.

BE IT ENACTED by the President and Members of Parliament in this present Parliament assembled, as follows:—

1. The Income Tax Act hereinafter referred to as the principal Act shall apply to income tax charged and chargeable with effect from the year of assessment commencing on the 1st day of April, 1973. Application.

Amendment  
of Section 2  
of Cap. 273.

2. Section 2 of the principal Act is hereby amended —
- (a) by the deletion of the words "married women" from the definition of the term "incapacitated person";
  - (b) by the insertion in its proper alphabetical place of the following new definition—  
"Minister" means the Minister for the time being charged with responsibility for matters relating to finance.
  - (c) (i) by the deletion of the bracket immediately after the word "lending" in the twelfth line of the definition of "turnover" and  
(ii) by the addition immediately after the comma thereof of the following words "and rent accruing to a company in a trade or business wholly or mainly restricted by its Memorandum of Association to the holding or letting of property".

Amendment  
of Section 9  
of Cap. 273.

3. Section 9 of the principal Act is hereby amended by the repeal and replacement of sub-paragraph (1) of paragraph (a) of subsection (1) and paragraph (x) of subsection (1) by the following sub-paragraph and paragraph—

- (a) "(a) (i) the income of the person holding for the time being the office of President of the State of Sierra Leone";
- (b) "(x) half the official salary of the person holding for the time being the office of the Vice-President and Prime Minister".

Amendment  
of Section 10  
of Cap. 273.

4. Section 10 of the principal Act is hereby amended by the insertion immediately after sub-paragraph (ii) of paragraph (b) of subsection (1) of the following new sub-paragraph—

- (iii) the Commissioner shall in no circumstances approve any such society or fund unless a substantial part of the funds of the society or fund representing in any case not less than the whole of the contributions in respect of persons who are citizens of Sierra Leone, is invested in Sierra Leone".

Amendment  
of Section 12  
of Cap. 273.

5. The opening paragraph of section 12 of the principal Act is hereby repealed and replaced by the following new paragraph—

"Subject to any other provisions contained in this Act".

Amendment  
of Section 23  
of Cap. 273.

6. Section 23 of the principal Act is hereby amended—

- (a) by re-numbering the existing sub-section (2) as subsection (3) and

(b) by the addition immediately after paragraph (b) of the proviso to subsection (1) of the following new subsection (2)—

“(2) For the purposes of paragraph (a) of subsection (1) the term ‘proper books of account’ shall not be deemed to be kept if there are not kept such books of account, full description of which shall be furnished by the tax-payer as are necessary to give a true and fair view of the state of affairs of the trade, business, profession or vocation and to explain its transactions”.

7. Section 29 of the principal Act is hereby amended as follows—

Amendment  
of Section 29  
of Cap. 273.

(a) by the substitution for the words ‘income assessed’ in the second line in subsection (3) thereof of the words ‘assessable income as ascertained under Part V to this Act’:

(b) by the addition immediately after subsection (4) thereof of the following new subsection—

“(5) No relief shall be granted under the provisions of subsections (1), (2) and (3) to any company if—

(i) more than one half of the share-holders or members are persons who are not citizens of Sierra Leone;

(ii) by any means it is controlled whether directly or indirectly by such persons; or

(iii) having a share capital in which more than one half of the share capital is held beneficially by or on behalf of or in trust for such persons.

8. Section 48 of the principal Act is hereby repealed and replaced by the following new section—

Amendment  
of Section 48  
of Cap. 273.

“Company in Receivership or in liquidation. 23 of 1972. 48 (1) Where a company—

(a) is in receivership the Receiver shall pay all taxes due and payable by the company in accordance with Part XIII of this Act;

(b) is being wound up the liquidator of the company shall not distribute any of the assets of the company to the share-holders thereof unless he has made an account for the payment in full for any tax which might be found payable by the company.

9. The principal Act is hereby amended by the addition immediately after section 58 of the following section—

Amendment  
of Section 58  
of Cap. 273.

‘Fixing of Standard assessment.

58A. (1) Without prejudice to the provisions of section 58 or any other provisions to the contrary contained in this Act or any other enactment the Minister may by Order in the *Gazette*—

- (a) specify the class or description of persons other than a company or body or persons to whom the provisions of this subsection shall apply;
- (b) fix the standard assessment of the minimum income tax chargeable and payable by the persons to whom the provisions of this subsection have been made applicable under paragraph (a);
- (c) provide that this tax as so assessed shall be paid by the persons referred to in paragraphs (a) and (b) in such instalments commencing on such date and thereafter at such intervals or paid in any other manner as may be specified therein.

(2) Every person who comes—

- (a) under a class or description specified in an Order under paragraph (a) of subsection (1) shall inform the Commissioner in writing within twenty-one days after the publication of such Order in the *Gazette* that he comes under a class or description so specified and of his personal address and business or official address and such other matters as may be prescribed;
- (b) under paragraph (b) of sub-section (1) shall pay the instalments of tax specified therein to the Accountant-General or any authorised agent of the Government on behalf of the Commissioner of Income Tax commencing from the appropriate date so specified and thereafter at such intervals as may be mentioned in the Order.

(3) Where under any enactment a person or authority is empowered to issue a licence, a permit, a registration certificate or any other similar document in the performance of his duty and the Commissioner requests such person or authority in writing not to issue such a document, that person or authority shall not issue such a document until the taxpayer has produced to him a valid Tax clearance certificate issued by the Commissioner or any other person duly authorised by him”.

Amendment  
of subsection  
65 of Cap.  
273.

10. Section 65 of the principal Act is hereby amended as follows—

(a) “by the substitution for the words “one hundred pounds” in the third line in subsection (1) thereof of the words “one thousand leones”;

(b) by the substitution of the words “ten pounds” in the second line of subsection (7) thereof of the words “two hundred leones”.

Amendment  
of subsection  
(3) of Section  
67(A) of Cap.  
273.

11. Subsection (3) of section 67 (A) of the principal Act is hereby repealed and replaced by the following new sub-section—

“(3) Upon receipt of an application in writing from the company the Commissioner in his discretion may subject to the provisions of section 70 extend the time within

which the payment of the instalments are to be made and may vary the dates of the payment of the quarterly instalments.”.

12. Paragraph (b) of the proviso to section 68 is hereby repealed and replaced by the following new paragraph—

Amendment  
of paragraph  
(b) of the  
proviso to  
Section 68.

“(b) Upon the receipt of an application from the taxpayer the Commissioner in his discretion may subject to the provisions of section 70, extend the time within which the payments are to be made”.

13. Section 70 of the principal Act is hereby repealed and replaced by the following new section—

Amendment  
of Section 70  
of Cap. 273.

“Penalty for non-payment of tax and enforcement of payment.

70. (1) Subject to the provisions of subsection (9)—

(a) if any tax is not paid within the period prescribed in sections 67A and 68 an additional sum of an amount equal to fifteen per centum of the tax payable shall thereupon become payable by way of penalty and shall be deemed to have been incurred and recoverable as herein provided in this Act irrespective of any further notice;

(b) where the time within which payment of tax is required to be made is extended by the Commissioner on application made by the taxpayer under subsection (3) of section 67A and proviso (b) of section 68 penalty of a sum equal to five per centum of the full amount of tax payable in respect of any quarterly instalment or otherwise shall be imposed thereon.

(2) No penalty for non-payment or otherwise shall be imposed on any tax payable as provided under subsection (1) unless—

(a) the total tax charged and payable by any assessment for any year of assessment exceeds the sum of twenty-five Leones; and

(b) the total amount of the penalty for non-payment or otherwise on the aggregate amount of the tax payable exceeds five Leones.

(3) The Commissioner may serve or cause to be served a demand note in respect of the tax and penalty personally upon the person assessed or any other person duly authorised by him or by registered post and payment of the full amount of the tax and penalty shall be made within fifteen days from the date of the service of such demand note.

(4) A penalty imposed under this section shall not be deemed to be part of the tax paid for the purpose of claiming relief under any of the provisions of this Act.

(5) The provisions of this Act relating to the collection and recovery of tax shall apply to the collection and recovery of such penalty imposed under subsection (1).

*the section.*

23/1972

(6) Notwithstanding anything to the contrary contained in section 4 or any other provisions of this Act it shall be lawful for the Commissioner for the purpose of enforcing payment of any tax due and payable to publish or cause to be published from time to time by notice in the *Gazette* or otherwise as may seem necessary the whole or part thereof of the Arrears of Tax List giving such details of the tax and/or penalty in respect of any year of assessment which is due and payable.

(7) Such notice or otherwise published in accordance with the provisions of the immediately preceding subsection shall be sufficient evidence of the amount of tax and penalty so due and payable and shall be sufficient authority for the Court to give judgement for the said amount or for the enforcement of payment of the said amount or for the issue of a warrant as provided under subsection (4) of section 72.

(8) Any person who without lawful justification or excuse the proof whereof shall lie on the person charged, fails to pay the tax and penalty within the period of fifteen days prescribed in subsection (3) shall be guilty of an offence, against this Act.

(9) The Commissioner may for any good cause shown remit the whole or any part of the penalty imposed under subsection (1) *of this section.*

Amendment  
of sub-section  
(4) of  
section 72 of  
Cap. 273.

14. Subsection (4) of section 72 of the principal Act is hereby repealed and replaced by the following new subsection—

*23 of 1972*  
*of this section*  
“(4) Notwithstanding the provisions of subsections (1), (2) and (3) thirty days after the date upon which notice of assessment has been served or posted in accordance with the provisions of subsection (1) of section 62, or after the period stated in the demand note under subsection (3) of section 70, the Commissioner or a public officer authorised by him in writing in that behalf may issue a warrant in the form set out in the Fourth Schedule under his hand to the Sheriff or the Under Sheriff or Deputy Sheriff requiring him to levy the amount of any such assessment together with the amount of any penalties payable under the provisions of this Act upon the lands, goods, chattels and any possessions but excluding such items as the Commissioner may direct of the person from whom such tax is recoverable:

“Fourth  
Schedule.”

Provided that—

(a) the lands, goods, chattels and any other possessions so seized shall be kept for a period of not less than ten days except in the case of lands, either at the premises at which such warrant was executed or at such other place as the person authorised under the warrant may consider appropriate at the cost of the person from whom such tax is recoverable;

- (b) if the amount of the tax due and payable together with any penalties added thereto under the provisions of this Act and the cost of executing the warrant is not paid within such period of ten days the lands, goods and chattels so seized shall be sold by public auction or otherwise for payment of the total amount of tax due and all costs incurred; and
- (c) where the full amount of the tax due is not recovered by such warrant any deficiency may be recovered forthwith in the manner provided under subsection (1) *of this section.*

15. Section 72 of the principal Act is hereby amended—

Amendment  
of Section 72  
of Cap. 273.

(a) by re-numbering subsection (5), (6), (7), (8), and (9), as (6), (7), (8), (9), and (10), respectively;

(b) by the insertion immediately after subsection (4) of the following new subsection—

*23 of 1972.* “(5) Notwithstanding the provisions of section 55 or any other provisions to the contrary contained in this Act or in any other enactment the Minister may issue an Order in writing to any bank or other financial intermediary authorising the suspension of operation of any bank account (current, fixed deposit or otherwise) that is to say, that no payment be made out of a tax defaulters bank account if the Minister is satisfied that the beneficial owner of such account is a person who has failed to pay his tax without lawful justification or excuse.”

16. The Third Schedule to the principal Act is hereby amended as follows—

Amendment  
of the Third  
Schedule of  
Cap. 273

(a) by the deletion of sub-paragraph (3) of paragraph 3, thereof and the substitution therefor of the following new sub-paragraph—

“(3) The appropriate rate per centum shall be those set opposite the following items—

- (a) qualifying plant expenditure; 20 per cent  
(b) qualifying building expenditure; 10 per cent  
(c) qualifying plantation expenditure; 10 per cent

(b) by the substitution for the words “ten per centum” appearing in sub-paragraphs (b) and (c) of paragraph (2) thereof and “twenty per centum” appearing in sub-paragraph (d) of paragraph (2) thereof in respect of annual allowances the words “five per centum” and “ten per centum” respectively.

Saving of  
proceedings.

17. For the purposes of this Amendment Act no assessment, warrant or other proceedings purporting to be made in accordance with the provisions of the principal Act shall be quashed, or deemed, to be void or voidable, unless prior to this Act a valid notice of objection or appeal had been given or filed against an assessment.

Passed in Parliament this 5th day of *September*, in the year of our Lord one thousand nine hundred and seventy-two.

A. M. DUMBUYA,  
*Acting Clerk of Parliament.*

THIS PRINTED IMPRESSION has been carefully compared by me with the Bill which has passed Parliament and found by me to be a true and correctly printed copy of the said Bill.

A. M. DUMBUYA,  
*Acting Clerk of Parliament.*