

(Legislative Supplement No. 34)

LEGAL NOTICE No. 193

THE CONSTITUTION OF KENYA (AMENDMENT) ACT, 1965

(No. 14 of 1965)

IN EXERCISE of the powers conferred by section 6 of the Constitution of Kenya (Amendment) Act, 1965, the President hereby makes the following Order:—

THE CONSTITUTION (AMENDMENT OF LAWS)
(ENTERTAINMENTS TAX) ORDER, 1965

1. This Order may be cited as the Constitution (Amendment of Laws) (Entertainments Tax) Order, 1965, and shall be deemed to have come into operation on the 12th December 1964.

2. The Entertainment Tax Act is amended by substituting for sections 2 to 12, and the Schedule thereto the following new sections and Schedule—

Cap. 479.

Inter-
pretation
14 of 1957,
s. 2,
50 of 1958,
s. 2,
39 of 1959,
s. 2.

2. In this Act, except where the context otherwise requires—

“admission” means admission as a spectator or one of an audience;

“admission to an entertainment” includes admission to any place in which the entertainment is held;

“collector” means a District Commissioner, a Revenue Officer or any person appointed in writing by a District Commissioner to be a collector for the purposes of this Act;

“entertainment” includes any exhibition, performance or amusement to which persons are admitted for payment, but does not include any game, sport, ball or dance;

“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 for admission to which a payment involving tax or more tax is required;

“proprietor” in relation to any entertainment includes any person responsible for the management thereof and any person on whose behalf payments for admission to an entertainment are received.

Tax on
admission to
entertain-
ments.

3. Except as otherwise provided in this Act, there shall be charged, levied and paid on all payments for admission to any entertainment a tax (in this Act referred to as entertainments tax) at the rate specified in the Schedule to this Act.

Method of
payment of
tax.
50 of 1958,
s. 3.

4. No person shall be admitted for payment to any entertainment in respect of which the payment is subject to entertainments tax except—

- (a) with a ticket stamped with an entertainments tax stamp denoting that the appropriate entertainments tax has been paid; or
- (b) with a ticket purchased from a collector, denoting the appropriate entertainments tax payable thereon; or
- (c) in special cases with the approval of a collector, through a barrier which or by means of a mechanical contrivance which, automatically registers the number of persons admitted,

unless the proprietor of the entertainment has made arrangements approved by a collector for furnishing returns of the payments for admission to the entertainment and has given security up to an amount and in a manner approved by a collector for the payment of entertainments tax.

Penalty for
admission of
person
without
payment of
tax.

5. If any person is admitted for payment to any place of entertainment and the provisions of section 4 of this Act are not complied with the proprietor of the entertainment to which he is admitted shall be guilty of an offence and liable to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six months, and shall, in addition, be liable to pay any entertainments tax which should have been paid.

Tax charge-
able in
respect of
each person.
50 of 1958,
s. 4.

6. Entertainments tax shall be charged in respect of each person admitted for payment, and, in the case of admission by stamped ticket or by a ticket purchased from a collector, shall be paid by means of the stamp on the ticket or by the purchase of the ticket, as the case may be, and in the case of admission otherwise than by stamped ticket or ticket purchased as aforesaid shall be calculated and paid on the number of admissions.

Recovery of
tax.
50 of 1958,
s. 4.

7. Entertainments tax, in the case of admission otherwise than by stamped ticket purchased from the collector, shall be recoverable from the proprietor in any court of competent jurisdiction as a civil debt.

Tax on
admission
by subscrip-
tion.
50 of 1958,
s. 4.

8. Where the payment for admission is made by means of a lump sum paid as a subscription or contribution to any club, association or society, or is for a season ticket or for the right of admission to a series of entertainments or to any entertainment during a certain period of time, the entertainments tax shall be paid on the amount of the lump sum:

Provided that, where a collector is satisfied that the payment of a lump sum or any payment for a ticket represents payment for privileges, rights or purposes other than the admission to the entertainment, entertainments tax

shall be charged on such an amount as appears to a collector to represent the right of admission to entertainments in respect of which entertainments tax is payable.

Exemption
of certain
entertain-
ments.
50 of 1958,
s. 5.

9. (1) Entertainments tax shall not be charged on payment for admission to an entertainment in respect of which a District Commissioner is satisfied, on application made to him in writing before the date of the entertainment—

(a) that the net proceeds thereof will be applied to public purposes of a charitable, philanthropic, educational, medical, scientific or cultural nature; or

(b) that the entertainment is organized by a society which is not established or conducted for profit, and that the objects of the society are of a charitable, philanthropic, educational, medical, scientific or cultural nature, and that the entertainment is in furtherance of those objects.

(2) For the purposes of paragraph (a) of subsection (1) of this section, "net proceeds" means either the gross proceeds less the expenses of promoting the entertainment, or one-half of the gross proceeds, whichever is the greater.

(3) Every exemption under this section shall be certified in writing by a District Commissioner.

(4) In granting a certificate under this section, a District Commissioner may impose such conditions, to be specified in the certificate, as he may think proper, and a breach of any such condition shall render the certificate null and void.

Regulations.
28 of 1961,
Sch.

10. (1) The Minister may make regulations generally for carrying into effect the provisions of this Act.

(2) Regulations made under subsection (1) of this section may, without prejudice to the generality of the powers thereby conferred, for—

(a) securing the payment of entertainments tax;

(b) the supply and use of stamps, of stamped tickets and of tickets referred to in paragraph (b) of section 4 of this Act, or for the stamping of tickets sent to be stamped;

(c) securing the defacement of stamps, when used;

(d) the use of tickets covering the admission of more than one person and the calculation of the entertainments tax thereon;

(e) the payment of entertainments tax on the transfer from one part of a place of entertainment to another;

(f) controlling the use of barriers of mechanical contrivances (including the use of the same barrier of mechanical contrivance for payments of a different amount), and for securing proper records of admission by means of barriers or mechanical contrivances.

Power of entry and inspection. 50 of 1958, s. 6.

11. (1) Any police officer not below the rank of Sub-Inspector, any collector and any person authorized in writing for the purpose by a collector may enter any place of entertainment while any entertainment is proceeding, and may enter place ordinarily used as a place of entertainment at any reasonable time, for the purpose of ascertaining whether or not the provisions of this Act and of any regulations made under this Act are being complied with.

(2) Any person who prevents or obstructs the entry of any such police officer or other person duly authorized as aforesaid shall be guilty of an offence and liable to a fine not exceeding one thousand shillings or to imprisonment for a term not exceeding six months.

Power to waive tax. 50 of 1958, s. 7.

12. The Treasury may, if it thinks fit, waive the payment of entertainments tax on payment for admission to any entertainment to which the provisions of section 9 of the Act are not applicable.

Tax to form part of revenues of Government.

13. All entertainments tax collected or levied under this Act shall be and form part of revenues of the Government.

SCHEDULE

(s. 3)

Where the payment for admission, excluding the amount of the tax—

	<i>Sh. cts.</i>
(a) does not exceed Sh. 1/15	Nil
(b) exceeds Sh. 1/15 but does not exceed Sh. 2/25	0 15
(c) exceeds Sh. 2/25 but does not exceed Sh. 4/50	0 30
(d) exceeds Sh. 4/50	0 75

The Kenya Independence (Amendment of Laws) (Rift Valley Region) (Entertainments Tax) Order, 1964, is hereby revoked.

Made this 13th day of July 1965.

JOMO KENYATTA,
President.