

# THE TELECOMMUNICATIONS TAX ACT, 1980

No. 8 of 1980

*Date of Assent: 28th July, 1980*

*Date of Commencement: By Notice*

**An Act of Parliament to impose a tax on the provision of telecommunications apparatus and services, and for matters incidental thereto**

ENACTED by the Parliament of Kenya as follows:—

1. This Act may be cited as the Telecommunications Tax Act, 1980, and shall come into force on such day as the Minister may, by notice in the Gazette, appoint.

Short title and commencement.

2. (1) In this Act—

Interpretation.

“Corporation” means the Kenya Posts and Telecommunications Corporation established by the Telecommunications Act, or the Kenya External Telecommunications Company Ltd.;

“hire” includes charges made by the Corporation in connexion with the installation or maintenance of telecommunications apparatus, including the laying of cables and the provision of extension apparatus;

“Telecommunications Act” means the Kenya Posts and Telecommunications Corporation Act;

Cap. 411.

“telecommunications apparatus” means radio communication apparatus, telegraph apparatus and telephone apparatus as each of those expressions is defined in the Telecommunications Act;

“telecommunications services” has the meaning assigned to it in the Telecommunications Act, and where any words used in that meaning are themselves further defined in that Act they shall bear the same meanings in this Act;

“tax” means the telecommunications tax imposed by section 3 (1).

(2) Where any telecommunications apparatus is hired by a person, that person shall, for the purposes of this Act, be deemed also to be the user thereof.

Imposition  
of tax.

3. (1) Subject to this Act, there shall be charged and collected a tax, to be known as telecommunications tax, in respect of the hire of telecommunications apparatus from, the licensing of such apparatus by, and the use of such apparatus in the provision of telecommunications services by, the Corporation.

(2) Subsection (1) shall apply to the hire or licence of, but not the use of, telecommunications apparatus where that apparatus is not linked to, or in so far as its operation does not involve the use of, telecommunications services supplied by the Corporation.

(3) Subsection (1) shall not apply to the use of telephones which are not hired to any person but are provided by the Corporation directly for use by the public and which are operated by means of the insertion into the telephone apparatus of coins or tokens.

Rate of tax  
and liability  
to pay.

4. (1) The tax imposed by section 3 (1) shall be paid by the hirer, licensee or user of telecommunications apparatus or services at the rate of fifteen per centum of the charges for hire, licence or use, as the case may be.

(2) The Minister may, by order published in the Gazette, exempt any person or class of persons from the payment of tax under this Act.

(3) Any person who, unless exempted under subsection (2), fails to pay any tax due under this Act in the manner provided by section 5 or any regulations made under this Act shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding three months or to both such imprisonment and fine.

Collection  
of tax by  
Corporation.

5. (1) Tax shall be charged by the Corporation at the same time as it makes charges for the hire, licence or use of telecommunications apparatus or services and shall be collected by the Corporation on behalf of the Government.

(2) For the purposes of collection of tax by the Corporation, tax shall be deemed to be a debt due to the Corporation and be recoverable as such.

(3) Tax shall be paid by the Corporation to the Permanent Secretary to the Treasury in accordance with instructions

issued from time to time by or on behalf of the Permanent Secretary.

(4) Where the Corporation fails to charge any tax payable under this Act it shall be liable to pay that tax to the Government.

6. (1) Any person authorized in writing in that behalf by the Minister may, on production of his authority if so required, enter upon any premises owned or occupied by the Corporation and may require any proper officer of the Corporation to produce for his inspection all books, documents and records relating to the collection of tax and may take copies thereof or of extracts therefrom.

Power to enter premises of Corporation and inspect documents, etc.

(2) Any person who obstructs a person authorized under subsection (1) in the exercise of the powers conferred by that subsection or who fails to comply with any requirement made thereunder shall be guilty of an offence and liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding three months or to both such fine and imprisonment.

7. Without prejudice to any means of collection available to the Corporation, and notwithstanding any prosecution for an offence under this Act, any amount of tax payable shall, if not paid, be a civil debt recoverable summarily by the Government.

Recovery of tax.

8. The Minister may make regulations generally for the better carrying out of the purposes and provisions of this Act.

Regulations.