

BUITENGEWONE

OFFISIËLE KOERANT

VAN SUIDWES-AFRIKA

OFFICIAL GAZETTE

EXTRAORDINARY

OF SOUTH WEST AFRICA



UITGAWE OP GESAG

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INHOUD

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Goewermentskennisgewing

Government Notice

Die volgende Goewermentskennisgewing word vir algemene inligting gepubliseer.

The following Government Notice is published for general information.

H. P. F. GOUS,
Sekretaris van Suidwes-Afrika.

H. P. F. GOUS,
Secretary for South West Africa.

Kantoor van die Administrateur,
Windhoek.

Administrator's Office,
Windhoek.

No. 342] [12 November 1976

No. 342] [12 November 1976

ORDONNANSIE, 1976: UITVAARDIGING VAN

ORDINANCE, 1976: PROMULGATION OF

Dit behaag die Administrateur om sy goedkeuring te gee, ooreenkomstig artikel 27 van die Wet op die Konstitusie van Suidwes-Afrika, 1968 (Wet 39 van 1968), aan die volgende Ordonnansie wat hierby vir algemene inligting gepubliseer word ooreenkomstig artikel 29 van gemelde Wet:

The Administrator has been pleased to assent, in terms of section 27 of the South West Africa Constitution Act, 1968 (Act 39 of 1968), to the following Ordinance which is hereby published for general information in terms of section 29 of the said Act:

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No. 18 of 1976]

HOUSING LEVY ORDINANCE, 1976

(Assented to 8 November 1976)
(English text signed by the Administrator)
(Date of commencement to be promulgated)

ORDINANCE

To provide for the payment of levies to local authorities in respect of adult employees residing in declared housing areas; to regulate the utilisation of moneys paid to local authorities in respect of such levies; and to provide for matters incidental thereto.

BE IT ORDAINED by the Legislative Assembly for the Territory of South West Africa, with the consent of the State President, in so far as such consent is necessary, previously obtained and communicated to the Assembly by message from the Administrator, as follows:-

1. In this Ordinance, unless the context otherwise indicates —

Definitions.

- (i) "declared housing area" means any area which has been declared a declared housing area under section 2; (viii)
- (ii) "designated employee" means an employee who has reached the age of eighteen years and who resides in a declared housing area: Provided that for the purposes of this Ordinance a person shall be deemed to reside in a declared housing area on every day on which his ordinary place of residence is not elsewhere than in the said declared housing area; (i)
- (iii) "employee" means any person of any sex employed by, or working for, any other person or who in any manner whatsoever assists in the carrying on or conducting of the business of any other person, and includes any person who carries on any work —
 - (a) as a casual worker; or
 - (b) for his own account in any remunerative activity or as an independent contractor; (xi)
- (iv) "employer" means any person who employs one or more designated employees or allows any such employee or employees to work for him, and includes the Government of the Republic of South Africa, the South African Railways and Harbours Administration and the

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Administration of South West Africa, but excludes any person for whom work is done by a designated employee who carries on work —

- (a) as a casual worker; or
- (b) for his own account in any remunerative activity or as an independent contractor; (x)
- (v) "Executive Committee" means the Administrator-in-Executive-Committee referred to in section 6 of the South West Africa Constitution Act, 1968 (Act 39 of 1968); (vii)
- (vi) "inspector" means an inspector appointed under section 7; (iv)
- (vii) "levy" means the levy referred to in section 3; (ii)
- (viii) "local authority" means a municipality established or constituted or deemed to have been established or constituted under the Municipal Ordinance, 1963 (Ordinance 13 of 1963), or a village management board constituted or deemed to have been constituted under the Village Management Boards Ordinance, 1963 (Ordinance 14 of 1963), or the Peri-Urban Development Board established under the Peri-Urban Development Board Ordinance, 1970 (Ordinance 19 of 1970); (v)
- (ix) "prescribed" means prescribed by regulation; (ix)
- (x) "regulation" means a regulation made and in force under this Ordinance; (vi)
- (xi) "this Ordinance" includes the regulations. (iii)

2. (1) The Executive Committee may in its discretion declare the whole or any part of the area under the jurisdiction of a local authority to be a declared housing area and shall cause such declaration and a definition of the area so declared to be a declared housing area to be promulgated by notice in the *Official Gazette*.

Declared housing areas.

(2) Different parts of the area under the jurisdiction of the same local authority may, under subsection (1), be declared to be different declared housing areas.

(3) The Executive Committee may —

- (a) at any time withdraw any declaration under subsection (1);

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- (b) at any time amend any definition under subsection (1),

and shall cause any such withdrawal or amendment to be promulgated by notice in the *Official Gazette*.

3. (1) Subject to the provisions of subsections (3) and (5), the employer of every designated employee shall pay to the local authority concerned, for the benefit of a fund to be established by such local authority in terms of section 5, a levy calculated at a rate determined by the Executive Committee and promulgated by notice in the *Official Gazette*, for every day on which such employer employs the said designated employee or allows the said designated employee to work for him.

Payment of levies.

(2) The provisions of subsection (1) shall apply *mutatis mutandis* to any local authority which employs any designated employee or allows any designated employee to work for it.

(3) Subject to the provisions of subsection (5), every designated employee who carries on any work as a casual worker or who carries on any work for his own account in any remunerative activity or as an independent contractor, shall, for every day he resides in a declared housing area, pay the levy referred to in subsection (1) to the local authority concerned for the benefit of the fund referred to in the said subsection.

(4) Different rates may be determined under subsection (1) in respect of —

- (a) different declared housing areas;
- (b) different types of housing in any declared housing area.

(5) No levy shall be paid in terms of this section by or in respect of —

- (a) any designated employee whose employer provides him with accommodation approved by the local authority concerned, if no charge, apart from any amount permitted by a determination or agreement in terms of the Wage and Industrial Conciliation Ordinance, 1952 (Ordinance 35 of 1952), is made by such employer for such accommodation;
- (b) any other category of designated employees in respect of whom the Executive Committee has, under subsection (6), granted exemption from payment of the said levy.

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- (6) The Executive Committee may —
- (a) either generally or in relation to a specified declared housing area, on such conditions as may be determined by it grant exemption from payment of any levy payable in terms of this section to or in respect of any category of designated employees specified by it, and shall cause any such exemption to be promulgated by notice in the *Official Gazette*;
 - (b) at any time withdraw or amend any exemption granted under paragraph (a), and shall cause any such withdrawal or amendment to be promulgated by notice in the *Official Gazette*.
- (7) If in any legal proceedings in terms of this Ordinance it is proved that according to a record of employment kept in terms of any law, a designated employee is registered in the employment of an employer, such employer shall, until the contrary is proved, be deemed to have employed such designated employee on every day throughout the period such designated employee remained so registered in his employment.

4. No employer or local authority shall reduce, or deduct any amount from, the salary, wages or allowances of a designated employee, or terminate the employment of a designated employee by reason of the fact that such employer or local authority, as the case may be, is required in terms of this Ordinance to pay a levy in respect of such designated employee.

Prohibition of reduction of wages.

5. A local authority shall, as soon as levies become payable to it in terms of this Ordinance, establish a fund to be known as the Housing Levy Fund and shall pay all moneys paid to it in respect of such levies into the account of the Housing Levy Fund: Provided that if different parts of the area under the jurisdiction of a local authority are declared to be different declared housing areas under section 2, a separate Housing Levy Fund shall be established in respect of every such declared housing area.

Establishment of Housing Levy Fund.

6. (1) A local authority shall utilise the moneys in a Housing Levy Fund only for —

Utilisation of moneys in Housing Levy Fund.

- (a) the cost of administration of this Ordinance;
- (b) any expenditure approved by the Executive Committee —
 - (i) for the provision of housing in the declared housing area concerned;

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(ii) as a contribution to the redemption of capital and interest due in respect of loans taken up for the provision of housing in the declared housing area concerned;

(iii) any other purpose whatsoever which the Executive Committee may deem fit.

(2) Any moneys in a Housing Levy Fund which is not required for immediate use may be invested in those deposit receiving institutions approved by the Executive Committee on such conditions and for such periods as may be prescribed.

7. A local authority to which levies are payable in terms of this Ordinance may appoint one or more inspectors who shall exercise such powers and perform such functions and duties as may be prescribed.

Appointment of Inspectors.

8. The Executive Committee may make regulations in relation to —

Regulations.

(a) any matter which is required or permitted to be prescribed in terms of this Ordinance;

(b) the times at which and the manner in which levies payable to or by a local authority in terms of this Ordinance shall be paid, the particulars to be lodged with any such local authority by a person making such payment, when making payment of a levy so payable by him, and the manner in which such particulars shall be furnished;

(c) the records to be kept by employers (including local authorities) of designated employees in respect of whom levies are payable in terms of this Ordinance;

(d) the determination of the amount of the levy payable under this Ordinance where satisfactory records from which such amount can be determined are not available,

and generally in relation to any matter in connection with which the Executive Committee may deem it necessary or desirable to make regulations in order to achieve the aims and objects of this Ordinance and to ensure the effective execution of the provisions thereof.

9. (1) Any person who —

Offences and penalties.

(a) contravenes or fails to comply with any provision of this Ordinance;

(b) in terms of the regulations or in any return which he is in terms of the regulations required to

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submit, furnishes particulars or information which is false in any material respect knowing the same to be false or without his having had reason to believe it to be true;

- (c) falsely holds himself out to be an inspector; or
- (d) obstructs or interferes with an inspector in the exercise of his powers or the performance of his functions or duties in terms of any regulation, or refuses or fails to comply with any requirement made by an inspector in the exercise of the said powers or the performance of the said functions or duties,

shall be guilty of an offence and liable on conviction to a fine not exceeding five hundred rand or to imprisonment for a period not exceeding six months or to both such fine and such imprisonment.

(2) The court convicting any person of an offence on account of —

- (a) failure to pay an amount which was payable by him by way of a levy may, in addition to any penalty imposed in respect of that offence, order the person so convicted to pay to the local authority to which such amount was payable, an amount equal to the amount which was so payable, plus an additional amount not exceeding ten per cent thereof or one rand, whichever is the greater;
- (b) a contravention of any provision of section 4, may, in addition to any penalty imposed in respect of that offence, order the person so convicted to pay to any designated employee in respect of whom the offence was committed, an amount not exceeding one hundred rand by way of compensation for loss suffered by that designated employee in consequence of the said offence,

and any such order shall have the effect of a civil judgment of that court.

(3) A magistrate's court shall have jurisdiction to impose any penalty or make any order provided for in this section.

10. Whenever in any legal proceedings in terms of this Ordinance doubt arises as to whether —

Presumptions.

- (a) any person resides in a declared housing area, such person shall be deemed to reside in such declared housing area;
- (b) any employee has reached the age of eighteen years, such employee shall be deemed to have reached that age;

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(c) an employer employs or has employed any designated employee or has allowed any designated employee to work for him such employer shall be deemed to have employed such designated employee or to have allowed such designated employee to perform such work for him

until the contrary is proved.

11. The laws mentioned in the Schedule are hereby repealed. Repeal of laws.

12. This Ordinance shall be called the Housing Levy Ordinance, 1976, and shall come into operation on a date to be determined by the Executive Committee and promulgated by notice in the *Official Gazette*. Short title and commencement.

SCHEDULE

LAWS REPEALED.

| Number and year of Law | Title |
|------------------------|--|
| Ordinance 33 of 1961. | Native Housing Levy and Contributions Ordinance, 1961. |
| Ordinance 10 of 1966. | Native Housing Levy Amendment Ordinance, 1966. |
| Ordinance 24 of 1967. | Native Housing Levy Amendment Ordinance, 1967. |
| Ordinance 42 of 1967. | Native Housing Levy Further Amendment Ordinance, 1967. |
| Ordinance 17 of 1971. | Native Housing Levies and Contributions Amendment Ordinance, 1971. |
| Ordinance 10 of 1975. | Native Housing Levy and Contributions Amendment Ordinance, 1975. |
| Ordinance 7 of 1976. | Native Housing Levy and Contributions Amendment Ordinance, 1976. |