

CHAPTER 76

THE PUBLIC OFFICERS (RECOVERY OF DEBTS) ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

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CHAPTER 76

THE PUBLIC OFFICERS (RECOVERY OF DEBTS) ACT

An Act to make provision for the recovery from certain officers of debts due by them to the Government and certain corporations.

[1st May, 1970]¹

[1st January, 1975]

Acts Nos.

7 of 1970

37 of 1974

1 of 1993

30 of 1994

GN.No.

151 of 1972

Short title

1. This Act may be cited as the Public Officers (Recovery of Debts) Act.

Interpretation

Acts Nos.

1 of 1993 Sch.

30 of 1994 s. 4

2. In this Act, unless the context otherwise requires-

“court” means a court of a resident magistrate;

“debt” means any sum of money due from a public officer to the Government, or to any local authority, any scheduled corporation to his employing parastatal or any other parastatal in respect of-

(a) any tax or rate, or any penalty accruing thereto, imposed by or under any written law;

(b) any contribution to any provident fund or pension fund or other scheme established and maintained in accordance with any written law;

(c) any loss caused to the Government, the local authority, or the scheduled corporation the employing parastatal or any other parastatal as the case may be, as a result of his negligence, failure by him to take reasonable care

¹ Note: This Act is a consolidation of the Specified Officers (Recovery of Debts) Act, 1970 (Act No. 7 of 1970) and the Parastatal Employees (Recovery of Debts) Act, 1974 (Act No. 37 of 1974) which came into operation on 1st May, 1970 and 1st January, 1975, respectively.

or failure by him to discharge his duties in a reasonable manner;

- (d) any rental for any quarters provided by the Government the local government authority, the employing parastatal or any other previous employing parastatal to the public officer;
- (e) any loan or other payment made to the public officer by the Government, local government authority, employing parastatal or any other previous employing parastatal which the public officer is under a duty to repay or refund;
- (f) goods supplied, services rendered or any other consideration whatsoever given by the Government, the local authority, the employing parastatal or any other previous employing parastatal or the schedule corporation, as the case may be, to the public officer or some other person for which the public officer has rendered himself liable;
- (g) any payment made to a public officer by way of salary or allowances in excess of the salary or allowances to which he is entitled, together with such interest thereon as may be agreed upon by the parties concerned or, where no such interest has been agreed upon interest at such rate as may be prescribed; and
- (h) any amount determined by the proper authority as being due from him by reason of any loss caused to the Government, a local government authority or scheduled corporation, as a result of failure by him to obtain legal representation in a suit instituted against the Government, Ministry Department or officers;

“department” means a department of the Government which is not part of any Ministry, and includes the Judiciary;

“division” means a division of a Ministry;

“Minister” means the Minister responsible for finance;

“public officer” or “public department” extends to and includes every officer or department invested with or performing

duties of a public nature, whether under the immediate control of the President or not, and includes an officer or department under the control of a local authority or a public corporation;

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“public corporation” means a body corporate established by or under any written law, other than the Companies Act, and includes a corporation sole so established;

“proper authority” means-

- (a) in the case of-
 - (i) the Speaker;
 - (ii) the Chairman of the Permanent Commission of Enquiry;
 - (iii) a Minister;
 - (iv) a Deputy Minister;
 - (v) the Attorney General;
 - (vi) the head of any Department;
 - (vii) a Regional Commissioner;
 - (viii) a Permanent Secretary; or
 - (ix) District Commissioner,

the President;

- (b) in the case of a member of the National Assembly, the Speaker;
- (c) in the case of any public officer employed in any Department, the head of that Department;
- (d) in the case of any public officer employed in any Ministry other than a public officer employed in a Division, the Permanent Secretary to the Ministry;
- (e) in the case of any public officer employed in any Division, the head of that Division;
- (f) in the case of a specified officer incurring a debt arising in the manner specified in paragraph (h) of the definition “debt”, the Attorney General;

“salary” includes wages, allowances and any other remuneration or emoluments payable to a public officer in respect of the officer held by him; and

“scheduled corporation” means a body corporate specified in the Schedule to this Act.

Proper authority may direct deductions

3. Where any public officer is liable for a debt, the proper authority may, without prejudice to any other means that may be available for the recovery of such debt, authorise the recovery of the debt by deductions from the public officer's salary by monthly instalments not exceeding one-fourth of his monthly salary and the remittance of the sums deducted to the authority or corporation entitled to the payment of the debt:

Provided that, where a public officer is liable for payment of two or more debts the total amount authorised to be deducted from his salary in any month shall not exceed one-third of the salary payable in that month.

Act not to apply to certain debts

4. This Act shall not apply to any debt which-

- (a) the public officer from whom the debt is due has agreed in writing to pay by instalments to be deducted from his salary; or
- (b) may under the provisions of any other written law be recovered by deductions from the salary of the public officer from whom the debt is due.

Deductions to operate as discharge

5. Where any deduction has been made from the salary of a public officer in respect of any debt, such deduction shall operate as a complete discharge of the public officer from his liability in respect of that debt to the extent of the deduction made.

Notice of deduction

6.-(1) A deduction shall not be made from the salary of any public officer under the provisions of this Act unless a notice in writing has first been given to the public officer by or on behalf of the proper authority.

(2) Every notice under subsection (1) shall state the amount of the debt due, the circumstances giving rise to the debt and the amount of the proposed deductions from the salary.

(3) A notice under subsection (1) shall, save for the purpose of an appeal under section 7 or for any further appeal, be conclusive proof of the liability of the public officer to whom it is addressed in respect of the debt specified therein.

(4) A copy of every notice under subsection (1) shall be sent to the officer responsible for paying the salary of the public officer and it shall be the duty of such officer to make deductions from the salary of the public officer in accordance with the terms of the notice unless such notice or any term thereof is set aside or varied on any appeal made under section 7 or on any further appeal, in which case such officer shall comply with the order of the court deciding the appeal.

Appeals

7.-(1) Where a public officer to whom a notice under section 6 has been given is aggrieved by any of the terms of the notice he may, within thirty days of the receipt of the notice, appeal to the court.

(2) On an appeal under subsection (1) the court may confirm, set aside or vary the notice.

(3) An order of the court on an appeal under this section may be appealed from in the same manner and to the same extent in all respects as a decree of that court in a civil suit.

(4) The Chief Justice may make rules regulating the procedure for appeals under this section.

When attachment on salary ordered

8. Where any deduction is made under the provisions of this Act from the salary of any public officer and an attachment of the salary is ordered by any court under any law for the time being in force regulating attachments, the salary of the public officer shall, for the purpose of the attachment, be deemed to be the difference between his salary and the deductions made under this Act.

Amendment of the Schedule

9. The Minister may, by order published in the *Gazette* add to, delete from, amend or replace the Schedule to this Act.

Regulations

10. The Minister may make regulations for the better carrying out of the purposes of this Act and, without prejudice to the generality of the foregoing, may make regulations-

- (a) providing for payment of interest at a rate not exceeding seven *per centum per annum* on unpaid debts in respect of which no interest has been agreed upon by the parties; and
- (b) prescribing anything which under this Act may be prescribed.

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151 of 1972

SCHEDULE
(*Made under section 2*)

SCHEDULED CORPORATION

- 1.** Tanzania Electric Supply Company Limited.
- 2.** The National Housing Corporations.

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