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TO CONSOLIDATE AND AMEND THE LAW RELATING TO THE TAXATION OF NATIVES AND TO PROVIDE ADDITIONAL FUNDS FOR THE DEVELOPMENT, EDUCATION AND LOCAL GOVERNMENT OF NATIVES.  
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BE IT ENACTED BY THE KING'S MOST EXCELLENT MAJESTY, THE SENATE AND THE HOUSE OF ASSEMBLY OF THE UNION OF SOUTH AFRICA, AS FOLLOWS :-

Taxes  
Levied.

1. From and after the first day of January, 1926, there shall be charged, levied and collected in respect of every calendar year for the benefit of the Consolidated Revenue Fund, except as hereinafter expressly provided, the general and local taxes payable by natives in accordance with section two of this Act.

Central  
and  
Local  
Taxes.

2(1). A tax (hereinafter called the general tax) of one pound sterling shall be paid by every adult male native who is domiciled in the Union or who has resided therein for a continuous period of twelve months immediately preceding the date on which the tax becomes due.

(2). A tax (hereinafter called the local tax) of ten shillings shall, in addition to the general tax be paid by every adult male native whose permanent home is in a native location within the Union. The local tax shall not be levied on any land held under quitrent if the holder thereof is his permanent home.

Due date  
of Taxes.

3. The general and local taxes shall be payable on the first day of January in each year at such times and places and in accordance with the provisions as may be prescribed by regulations.

Exemption 4 (1). There shall be exempted from payment of the general from tax and the local tax or of either the general tax or of the Taxes. local tax

- (a) any native who satisfied the receiver that he is indigent and is prevented from working by reason of age, chronic disease or other sufficient cause or that he is in necessitous circumstances and is prevented by causes not within his own control from earning sufficient to enable him to pay the tax;
- (b) any native whose permanent residence is outside the Union but who is residing within the Union to perform labour therein and produces proof that he has discharged his liability to pay the current taxes imposed under the law of the territory of his permanent residence;
- (c) any native who satisfies the receiver that in consequence of his regular attendance at an educational institution recognised by the Government he has been precluded from earning wages which would enable him to pay the tax;
- (d) any native who has paid income tax to the Government of the Union of South Africa for the year ending on the thirtieth day of June previous to the date on which the general tax becomes due

It shall be in the receivers discretion to determine what exemption shall be made under this sub-section.

(2) Every native who has satisfied the receiver that he is exempted under sub-section (1) shall be furnished by the receiver with a certificate to that effect in a form to be prescribed.

(3) Every certificate of exemption shall be valid only in respect of the tax or taxes for the year for which it is granted.

Extension-5. A receiver may in his discretion grant any native of time an extension of time in which to pay any tax under to pay and shall thereupon furnish such tax. of extension in the prescribed f

*approved by the  
Commissioner*

Returns  
by land-  
owners  
on which  
natives  
reside.

6. Every owner or occupier of land on which natives reside shall, on demand, furnish to the receiver within thirty days of the date of such demand, a return in the prescribed form giving such particulars as may be required for the purposes of this Act in regard to every native who resides on such land.

Produ-  
tion of  
certifi-  
cate.

7 (1). Any receiver or person authorised by him, any European member of the police, any native chief recognised by the Government or a Government headman may demand from any native whom he believes to be liable to any tax under this Act at any time after the expiry of three months from the date on which the tax becomes due, the production of -

- (a) such native's tax receipt for the current year or any duplicate thereof;
- (b) his certificate of exemption; or
- (c) his certificate of extension,

and after inspection shall return the document so produced to such native.

(2). Any native who fails on demand to produce one or other of the documents which he may be required to produce under sub-section (1) shall be guilty of an offence and may be arrested, without warrant, by any person authorised to make such demand.

(3). If it appears to the court before which any native who has been arrested under sub-section (2) is charged, that he has not in fact paid any tax for which he is liable under this Act, such native though charged with a contravention of that sub-section shall not be convicted thereof but may be convicted of a contravention of sub-section (1) of section nine, notwithstanding that he has been charged with the last mentioned contravention.

Misuse of receipts or certificates.

8. Every person shall be guilty of an offence, in respect of any receipt or certificate mentioned in sub-section

(1) of section seven -

- (1) if having obtained such a document under section seven he fails to return it to the native who produced it;
- (2) if, without being authorised under section seven to demand such a document, he unlawfully deprives a native of its possession;
- (3) if, such person, whether or not the lawful holder of any such document is in possession thereof, permits it to come into the possession of another person with intent that it shall be fraudulently used as evidence of the payment of tax, extension of time for payment of tax or exemption from the payment of tax;
- (4) if, being in possession of such a document belonging to another person he represents it to be his own;
- (5) if, with intent to defraud, he forges, imitates, alters, defaces, destroys or mutilates any such document;
- (6) if, not being authorised by the receiver he makes any entry, writing or mark of any such document.

Failure to pay tax.

9 (1). Every native who fails to pay any tax for which he is liable under this Act within three months of the date on which such tax becomes payable by him, shall be guilty of an offence.

(2). Subject to the provisions of sub-section (3) of this section a writ of attachment against the movable property of any such native as is described in sub-section (1) of this section may be issued by the magistrate of the district in which such native resides and shall be executed in like manner as if it had been issued after judgment obtained in the magistrate's court; Provided that if such native does not pay on demand to the officer executing the writ the amount of tax for which he is liable, together with the costs of service of such writ, or does not point out to such officer sufficient movable property to meet the amount of

~~the tax and the costs of the writ he may be forthwith~~ arrested without warrant and brought before the magistrate's court of the said district on a charge of contravening sub-section (1) of this section.

(3). In such areas as the Minister may prescribe, every such native as is described in sub-section (1) of this section may be arrested on a warrant issued by any person authorised by law to issue warrants of arrest, and forthwith brought to trial on a charge of contravening that sub-section.

(4). Every native convicted of a contravention of sub-section (1) of this section shall be ordered by the court before which he is tried to pay forthwith or within such time as may be specified in the order, the amount which is found to be due and may, in default of payment of that amount, be sentenced to imprisonment with or without hard labour for a period not exceeding three months: Provided that any person undergoing a sentence of imprisonment imposed under this section shall forthwith be released on the payment by him or on his behalf of the amount found by the Court to have been due: Provided further that no person shall be sentenced to a second term of imprisonment in respect of failure to pay the same debt.

(5). No imprisonment undergone in respect of a sentence imposed under sub-section (1) of this section shall have the effect of cancelling the liability; but an order made in accordance with that sub-section shall have the effect of a civil judgment in the magistrate's court and shall be executable in the same manner as if it had been given in a civil action instituted in that court.

(6). Any moneys recovered under this section shall be paid to the Consolidated Revenue Fund and allocated in the manner provided in sections eleven and twelve.

Penalties 10 (1). Any person who contravenes the provisions of section six, or sub-section (2) of section seven or sub-section (6) of section eight shall be liable on conviction to a fine not exceeding five pounds or in default of payment, to imprisonment for a period not exceeding one month. *Comm*

(2). Any person who contravenes the provisions of sub-sections (1), (2), (3), (4) or (5) of section eight shall be liable on conviction to a fine not exceeding fifty pounds or, in default of payment to imprisonment for a period not exceeding six months. *K.A. Com.*

Allocation of local tax.

11 (1). There shall be paid to -

(a) The Transkeian Territories General Council:

(b) The Western Pondoland General Council:

(c) The Glen Grey District Council:

(d) The Boards of Management established under Ordinance No. 6 of 1907, Orange Free State:

(e) any council established under Act No. 23 of 1920; provided that its estimates of expenditure in respect of the tax year have been approved by the Governor-General: *||*

(f) any native council approved by the Minister and established under any other law:

the amount of the local tax together with the amount of native quitrent collected in each year in respect of the areas under their several jurisdiction.

(2). The proviso to section nine of the Native Affairs Act, 1920, shall not apply to any tax levied under this Act.

(3). From and after the commencement of this Act no rate shall be levied by the Glen Grey District Council under the provisions of section forty-eight of the Glen Grey Act, 1894, of the Cape of Good Hope and no location tax shall be levied by any board of management under the provisions of sub-section (8) of section nine of the Native Reserves Management Ordinance, 1907, of the Orange Free State, unless

such...

such rate or location tax has been imposed by the Council or board concerned with the approval of the Minister and notwithstanding anything in any law contained, it shall not be deemed necessary for the Governor-General to impose an annual rate on behalf of the Transkeian Territories General Council or the Pondoland General Council.

Native Development Account.

12. There shall be established a special account to be styled "the native development account" and to be administered by the Minister and there shall be paid into that account -

- (a) one-fifth of the amount of the central tax;
- (b) any local tax or native quitrent collected in respect of any area not falling under the jurisdiction of the councils or boards mentioned in subsection (1) of section eleven.

Objects of Native Development Account.

13. The amounts standing to the credit of the native development account shall be applied, at the discretion of the Minister, in consultation with the native affairs commission, to any one or more of the following purposes:-

- (a) For the extension and improvement of educational facilities amongst natives as contemplated in subsection (2) of section nine of the Financial Relations Fourth Extension Act, 1922;
- (b) for the further development and the advancement of the welfare of natives;
- (c) for the payment, to divisional councils in the province of the Cape of Good Hope in areas for which no local council exists under the Native Affairs Act, 1920, of such sums as may be agreed, in lieu of the special hut tax payable to such divisional councils under section twenty-five of the Native Locations Amendment Act, 1899, (Cape of Good Hope): Provided that when and if such a local council is established, it shall become liable for the amount paid under this sub-section in respect of any area under the jurisdiction of such local council:

Provided further that any moneys paid into the native development account under paragraph (b) of section twelve shall be expended in such areas within the Province in respect of which they have been collected as may be prescribed.

Tax is debt due to Crown. 14. Any tax imposed under the provisions of this Act shall be a debt due to the Crown and may, when payable, be sued for and recovered by any receiver by action in any inferior court notwithstanding that the cause of action arose in the area of jurisdiction of some other inferior court;

Tribal Levy. 15. When a native tribe or community voluntarily makes application for the levy of a special rate for the benefit of such tribe or community and the Minister is satisfied that the majority of tax payers of such tribe or community desires such a levy and the Minister approves the purpose for which it is to be imposed, the Governor-General may levy such rate upon the whole tribe or community and such rate shall be recoverable as if it were a tax imposed under this Act.

Regulations. 16 (1). The Governor-General may make regulations, not inconsistent with this Act, as to all or any of the following matters :-

- (a) The manner and dates of collecting any tax payable under this Act and the surrender and disposal of receipts in respect of tax for other than current year;
- (b) the duties and responsibilities of recognised chiefs of tribes, indunas and headmen in relation to the collection of any tax under this Act;
- (c) the power and duties of receivers;
- (d) the identification of natives for the purpose of determining liability for taxation under this Act;
- (e) the issue of certificates of exemption and extension under section four;
- (f) the returns to be rendered under section six and the particulars required to be given therein;

the.....

- (g) the manner in which any writ of attachment mentioned in this Act may be issued and executed;
- (h) the manner in which the payments to councils and boards and the native development account referred to in sections eleven and twelve shall be made and the procedure to be adopted in administering the native development account and the proceeds of any levy referred to in section fifteen;

and generally for the better carrying out of the object and purposes of this Act.

(2) Differing regulations may be made in respect of different areas.

(3) Penalties may be imposed for the contravention of any regulation not exceeding in the case of a fine, five pounds or in default of payment of the fine imprisonment for a period not exceeding one month.

Responsibility for collection of tax. 17. The Commissioner for Inland Revenue shall be responsible for the collection of any tax levied under the Act and may prescribe that such forms as seem to him necessary or convenient shall be used in carrying out any provision of this Act or the Regulations thereunder.

Liability of natives exempted under other laws. 18. No native shall be exempted from liability to pay any tax under this Act which he would be otherwise liable to pay, solely by reason that he is by any other law exempted from the operation of native law or that he is a native exempted from the operation of any disqualifying laws or that he is a native who is relieved from the operation of any laws differentially affecting natives.

Definitions 19. In this Act unless inconsistent with the context -  
"adult" means a native who has reached the age of eighteen years or, in case of doubt, who appears to the officer concerned to have reached that age and who does not adduce evidence to the contrary to the satisfaction of the officer,  
"minister".....

"minister" means the Minister of Native Affairs or, in his absence, any Minister of State acting in that capacity;

"native" means any member of an aboriginal race or tribe of Africa and includes any person who in the opinion of the receiver is residing in a native location under the same conditions as a native: Where there is any reasonable doubt as to whether any person is a native as thus defined the burden of proving that he is not a native shall be upon him.

"native location" means -

- (a) any land granted or reserved by or on behalf of the Crown for the habitation or use of native communities;
- (b) Crown land occupied by natives under communal conditions, other than land for which rent is payable to the Government;

and includes also any area which the Governor-General may, by proclamation in the Gazette declare to be a native location for the purposes of this Act as he is hereby authorised to do, but does not include -

- (i) urban or municipal native locations under the control of a local authority;
- (ii) mission stations or reserves where rent or its equivalent is charged by the Government, by the Natal Native Trust or Zululand native Trust or where a rate is levied for local purposes;
- (iii) such other lands as may be approved by the Minister.

"prescribed" means prescribed by this Act or by Regulations framed under it.

"receiver" means a receiver or sub-receiver of revenue or any person authorised by the Commissioner for Inland Revenue to collect any tax imposed by this Act.

Repeal  
of laws.

20. The laws specified in the Schedule to this Act are hereby repealed to the extent set out in the fourth

column.....

~~column of that Schedule:~~ Provided that notwithstanding such repeal the amount of any tax that would have been leviable under any such law and which has not been collected at the commencement of this Act shall be collected in accordance with such repealed law: Provided further that the provisions of this Act may be applied to effect such recovery as well as the recovery of any native quit-rent which was due and payable at the commencement of this Act of may hereafter become due and payable.

Short  
Title. &  
commence-  
ment of  
Act.

21. This Act may be cited for all purposes as the Natives Taxation and Development Act, 1925, and shall commence and come into operation on the first day of January, 1926.

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SCHEDULE

Province or Union.	No. and Year of Law.	Long or Short Title or subject of law.	Extent of Repeal.
Cape of Good Hope.	Act No. 37 of 1884.	The Native Locations Act, 1884.	Section <u>eleven</u> and so much of the other provisions as relates to the rate and collection of hut tax other than huts on private locations.
	Act No. 30 of 1899.	To amend the law with regard to native locations.	Sections <u>twenty-four</u> and <u>twenty-five</u> .
Natal.	Law No. 13 of 1875.	To repeal and re-enact with amendments Laws No. 6 of 1857 and No. 1 of 1869.	Sections <u>two, three</u> and <u>six</u> .
Transvaal.	Act No. 9 of 1908.	The Native Tax Act, 1908.	The Whole.
Orange Free State.	Law No. 9 of 1898.	The Native Tribe at Witzieshoek.	Sections <u>eight</u> and <u>nine</u> .
	Ordinance No. 39 of 1903.	The Witzieshoek Hut Tax Amendment Ordinance 1903.	The Whole.
	Ordinance No. 2 of 1904.	The Poll Tax Consolidation Ordinance 1904.	The Whole as far as it relates to a Poll Tax levied on Natives but nothing that relates to the tax levied on coloured persons who are not natives.
Union.	Act No. 43 of 1919.	The Financial Adjustments Act, 1919.	Section <u>four</u> .
	Act No. 38 of 1921.	The Financial Adjustments Act, 1921.	Section <u>four</u> .

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