

REPUBLIC OF ZAMBIA

THE TOBACCO LEVY ACT

CHAPTER 238 OF THE LAWS OF ZAMBIA

CHAPTER 238 THE TOBACCO LEVY ACT

THE TOBACCO LEVY ACT

ARRANGEMENT OF SECTIONS

Section

1. Short title
2. Interpretation
3. Leviable tobacco
4. Imposition of levy
5. Payment of levy
6. Collection and remittance of levy
7. Establishment of levy funds
8. Objects of levy
9. Assistance to prescribed bodies
10. Audit of accounts of prescribed bodies
11. Prohibition against use of grant for other than stated purpose
12. Prohibition against non-payment of levy
13. Recovery and proceedings
14. Prohibition against failure to comply with Act or regulations
15. Penalty
16. Regulations
17. Exemption

CHAPTER 238

TOBACCO LEVY

65 of 1967
20 of 1968
13 of 1994

An Act to provide for the imposition and control of a levy on tobacco grown in the Republic of Zambia; and to provide for incidental matters.

[26th April, 1968]

1. This Act may be cited as the Tobacco Levy Act. Short title

2. In this Act, unless the context otherwise requires- Interpretation
 - "Association" means the Tobacco Association of Zambia established pursuant to the Tobacco Act; Cap. 237

 - "auctionable tobacco" means tobacco which, pursuant to the provisions of the Tobacco Act, or any regulation or order made thereunder, is required to be sold by auction on an auction floor; Cap. 237

 - "buyer" means any person who is a buyer of tobacco under the provisions of Part VII of the Tobacco Act, and who is licensed as such pursuant to that Act; Cap. 237

 - "export on consignment" means the consignment of leviable tobacco by the grower or producer thereof to an agent, factor or commission agent for purposes of sale outside the Republic on behalf of the said grower or producer;

 - "grower" means any person who is or who is deemed to be a grower of tobacco under the provisions of Part V of the Tobacco Act, and who is registered as such pursuant to that Act; Cap. 237

 - "leviable tobacco" means tobacco prescribed as leviable tobacco pursuant to section *three*;

 - "levy" means the levy imposed under and in pursuance of this Act;

 - "levy funds" means the special funds established pursuant to section *seven*;

The Laws of Zambia

"non-auctionable tobacco" means tobacco which, under the provisions of the Tobacco Act, or of any regulation or order made thereunder, is not required to be sold by auction on an auction floor; Cap. 237

"Permanent Secretary" means the Permanent Secretary, responsible for agricultural activities;

"prescribed co-operative society" means any co-operative society prescribed by the Minister pursuant to section *nine*;

"prescribed growers' association" means any association of growers or producers of tobacco prescribed by the Minister pursuant to section *nine*;

"prescribed statutory body" means any statutory body prescribed by the Minister pursuant to section *nine*;

"producer" means any person, other than a grower, who grows tobacco in the Republic;

"tobacco" means unmanufactured tobacco (including tobacco stems) of a class prescribed pursuant to section *eighty-three* of the Tobacco Act, and includes tobacco grown outside and imported into the Republic which, had it been grown within the Republic, would have been tobacco as herein defined; Cap. 237

"weight" means the weight which is known in the usage of the trade as wet weight.

3. The Minister may from time to time prescribe any class of tobacco as leviable tobacco for the purposes of this Act. Leviable tobacco

4. (1) Subject to the provisions of this Act, a levy shall be imposed on all leviable tobacco grown and sold in the Republic, which levy shall be at the rate specified in the Schedule. Imposition of levy

(2) Such levy shall be calculated on the weight of such leviable tobacco, and the Minister may prescribe different bases of calculation of such levy on such weight for different classes of such tobacco for the purposes of this Act.

5. (1) Subject to the provisions of subsection (2), and to the provisions of section *seventeen*, the levy imposed under this Act shall be payable to the Minister by every grower on all leviable tobacco sold by him or on his behalf. Payment of levy

(2) The levy imposed under this Act shall not be payable on leviable tobacco-

The Laws of Zambia

- (a) upon which the levy has already been paid upon a previous sale thereof; or
- (b) which is exported on consignment.

6. (1) The Minister may prescribe-

Collection and remittance of levy

- (a) the persons who shall be responsible for the provision of data, information and returns on sales of leviable tobacco and on the collection and remittance of the levy; and
- (b) the date upon which such levy is due and payable; and
- (c) the method and time of calculation, payment, collection and remittance of the levy.

(2) The levy shall be remitted to the Permanent Secretary.

7. On a date fixed by the Minister, the Minister shall establish-

Establishment of levy funds

- (a) a fund to be known as the Flue-Cured Tobacco Levy Fund into which the Permanent Secretary shall pay the proceeds of the levy on flue-cured Virginia tobacco, if imposed; and
- (b) a fund to be known as the Oriental Tobacco Levy Fund into which the Permanent Secretary shall pay the proceeds of the levy on Oriental tobacco, if imposed; and
- (c) a fund to be known as the Burley Tobacco Levy Fund into which the Permanent Secretary shall pay the proceeds of the levy on Burley tobacco, if imposed; and
- (d) a fund to be known as the General Levy Fund into which the Permanent Secretary shall pay the proceeds of the levy on all classes of tobacco, other than flue-cured Virginia, Oriental or Burley tobacco, if imposed.

8. (1) The moneys in the various levy funds established pursuant to section *seven* shall, in the discretion of the Minister, be used for the purpose of assisting in financing the objects and functions of the Board and in promoting generally the development of the tobacco industry, having regard to the interest of the growers and producers of that class of leviable tobacco in respect of which each levy fund is established.

Objects of levy

(2) The moneys in any levy fund may, until such time as they are used pursuant to this Act, be invested by the Minister in such manner as the Minister, in consultation with the Minister responsible for finance, may determine.

(3) Sums accruing by way of interest on, or by way of the realisation of, investments made pursuant to subsection (2), shall be credited, and losses incurred on any realisation of such investments shall be debited, to the particular levy fund or funds to the credit of which the moneys invested were standing immediately before they were invested.

9. (1) The Minister may from time to time prescribe for the purposes of this Act-

Assistance to
prescribed bodies

- (a) any growers' association which represents growers or producers of leviable tobacco;
- (b) any co-operative society whose objects and functions include the rendering of assistance to growers or producers of leviable tobacco in the marketing of such tobacco;
- (c) any statutory body, other than the Board, whose objects and functions include the rendering of assistance to growers or producers of leviable tobacco in the marketing of such tobacco.

(2) Subject to the provisions of section *eight*, the Minister may, upon application to him in writing therefor, from time to time, in his absolute discretion, grant or lend to any prescribed growers' association which represents growers or producers of a class of leviable tobacco in respect of which a levy fund has been established under section *seven*, or to any prescribed co-operative society or statutory body whose objects and functions include the rendering of assistance to such growers or producers in the marketing of such leviable tobacco, so much of the moneys standing to the credit of that particular levy fund at the time of such grant or loan as in the opinion of the Minister may be conducive towards the furtherance of any stated purpose which is within the express objects of any such growers' association or which comprises part of the assistance in the marketing of such leviable tobacco rendered to such growers or producers by any such co-operative society or statutory body.

(3) For the purposes of this section and section *eleven*, "stated purpose" means the purpose expressly stated in writing in any application for a grant under subsection (2), to be that to which any moneys granted under that subsection, by virtue of that application, will be applied.

10. (1) Any association, co-operative society or statutory body prescribed pursuant to section *nine* shall keep proper accounts showing the manner in which moneys paid to it in pursuance of that section have been spent.

Audit of accounts of
prescribed bodies

(2) The accounts referred to in subsection (1) shall be subject to annual audit by an auditor appointed by the association, co-operative society or statutory body, as the case may be, with the approval of the Minister.

(3) The auditor shall report to the Minister upon the application of any moneys granted or lent pursuant to section *nine* to such association, co-operative society or statutory body, as the case may be, over the period covered by such annual audit.

11. (1) Any prescribed co-operative society or prescribed statutory body, having obtained a grant pursuant to subsection (2) of section *nine*, which (without the consent of the Minister previously obtained in writing) expends or uses the moneys so granted, or any other part thereof, otherwise than for the stated purpose, shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding fifteen thousand penalty units.

Prohibition against use of grant for other than stated purpose

(2) Any individual, being the person responsible for the expenditure or use of any moneys granted, pursuant to subsection (2) of section *nine*, to any prescribed growers' association, prescribed co-operative society or prescribed statutory body, as the case may be, who (without the consent of the Minister previously obtained in writing) causes or permits the said moneys, or any part thereof, to be expended or used otherwise than for the stated purpose shall be guilty of an offence and upon conviction shall be liable to a fine not exceeding seven thousand five hundred penalty units or to imprisonment for a term not exceeding two years, or to both.

(3) Upon conviction of any person of an offence under this section, the Court shall, at the request of the prosecution, decree a penalty or further penalty against the person so convicted equal to the amount of such moneys proved to have been so expended or used in contravention of this section, and such penalty shall be a civil debt payable to the Government and recoverable by the Minister in any court of competent jurisdiction.

(As amended by Act No. 13 of 1994)

12. (1) Any person, being a person liable to pay any levy imposed pursuant to this Act, who fails or refuses to pay the said levy or any part thereof, when the said levy is due and payable as provided by or under this Act, shall be guilty of an offence.

Prohibition against non-payment of levy

(2) Any person, being a person responsible pursuant to section *six* for the collection and remittance of any levy imposed by or under this Act, who fails or refuses to collect or to remit the said levy or any part thereof as provided by or under this Act, shall be guilty of an offence.

13. (1) Any levy imposed pursuant to this Act is a debt due to the Government and may be sued for and recovered in any court of competent jurisdiction by the Minister from the grower or from any other person liable for the collection and remittance thereof under and pursuant to this Act.

Recovery and proceedings

(2) Any grower and any other person liable for the collection and remittance of any levy imposed pursuant to this Act may be joined as defendants in any proceedings instituted pursuant to subsection (1), and judgment in any such proceedings may be given against such parties jointly and severally.

The Laws of Zambia

14. Any person who contravenes or fails to comply with any of the provisions of this Act or with any regulation, requirement or condition lawfully prescribed thereunder shall be guilty of an offence. Prohibition against failure to comply with Act or regulations

15. Save where otherwise expressly provided, any person who is convicted of an offence under this Act shall, in the case of a first offence, be liable to a fine not exceeding three thousand penalty units or to imprisonment for a term not exceeding twelve months, or to both and, in the case of a second or any subsequent offence, to a fine not exceeding four thousand five hundred penalty units or to imprisonment for a term not exceeding eighteen months, or to both. Penalty

(As amended by Act No. 13 of 1994)

16. The Minister may, by statutory instrument, make regulations prescribing anything which under any provision of this Act is to be or may be prescribed. Regulations

17. The Minister may by regulation exempt any class of persons or any class of leviable tobacco from any or all of the provisions of this Act. Exemption

The Laws of Zambia

SCHEDULE

(Section 4)

RATE OF LEVY

				<i>Rate per kg</i>
On all leviable tobacco	15 fee units

(As amended by No. 20 of 1968 and Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

TOBACCO LEVY

**SECTIONS 3, 4, 5, 6, 9, 16 AND 17-THE TOBACCO
LEVY REGULATIONS**

Statutory Instrument
161 of 1968

Regulations by the Minister

1. These Regulations may be cited as the Tobacco Levy Regulations. Title

2. For the purposes of the Act, the following classes of tobacco shall be leviable tobacco: Leviable tobacco

All classes of tobacco prescribed pursuant to section *fifty-nine* of the Tobacco Act as auctionable or non-auctionable tobacco. Cap. 237

3. (1) The amount of levy payable shall be calculated to the nearest whole ngwee at the rate specified in the Schedule to the Act, on the weight of the tobacco sold. Payment, calculation, collection and remittance of levy

- (2) The levy shall be due and payable by the grower on the weight of all leviable tobacco sold by him or on his behalf, on the day of the sale.

- (3) The levy shall be collected by the deduction of the appropriate amount from the proceeds of the sale-
 - (a) in the case of auctionable tobacco, by the holder of the auction floor licence;
 - (b) in the case of non-auctionable tobacco purchased by the Board or its agent, by the Board;
 - (c) in the case of all other non-auctionable tobacco, by the buyer.

- (4) The levy shall be remitted to the Permanent Secretary-

- (a) separately in respect of each class of tobacco as prescribed pursuant to section *fifty-nine* of the Tobacco Act; Cap. 237
- (b) by the person who collects it pursuant to sub-regulation (3);
- (c) within a period of four weeks following the week in which it becomes payable pursuant to sub-regulation (2).

(5) (a) Each remittance shall be supported by a statement, duly signed and dated by the person making the remittance, in Form TLA.1 as set out in the First Schedule.

(b) The Permanent Secretary shall issue a receipt on account of the levy in respect of the remittance. If the Permanent Secretary, at any time after receipt of such remittance, is not satisfied that the return in respect of such payment is correct, he may call upon the person making the remittance to produce evidence of all relevant transactions in leviable tobacco for the purpose of determining the amount of levy for which such person is actually liable.

(c) Within one month of the final remittance of levy for each season, every person who has made a remittance pursuant to sub-regulation (4) shall render to the Permanent Secretary a return as set out in Form TLA.2 of the First Schedule, which return shall summarise all remittances of levy made during the season by the said person in respect of each class of leviable tobacco.

4. For the purpose of section *nine* of the Act, the prescribed bodies to which assistance may be given from the proceeds of the levy shall be those bodies set out in the Second Schedule. Prescribed bodies

FIRST SCHEDULE

(Regulation 3)

PRESCRIBED FORMS

Permanent Secretary,
Ministry of Agriculture,
Lusaka.

REMITTANCE OF TOBACCO LEVY:H SEASON 19

Name and address of person making this remittance

Class of tobacco:

.....
.....

Date of sale

Weight: kg.

.....

Total weight of this class:

kg.

Total of this remittance:

K

Date

(Signed)

Permanent Secretary,
Ministry of Agriculture,
Lusaka.

SUMMARY OF LEVY REMITTANCES: SEASON 19...

Name of person making this return Class of tobacco:

<i>Date of Remittance</i>	<i>Amount</i>	<i>General Receipt No.</i>
.....

Grand total of this remittance: K _____

Date (Signed)

The Laws of Zambia
SECOND SCHEDULE

(Regulation 4)

NAMES AND ADDRESS OF PRESCRIBED BODIES

1. The Tobacco Association of Zambia, P.O. Box 32617, Lusaka, Zambia.
2. The Eastern Province Burley Tobacco Association of Zambia, P.O. Box 510667, Chipata, Zambia.