



ST CHRISTOPHER AND NEVIS

CHAPTER 20.21

HOUSING AND SOCIAL DEVELOPMENT LEVY ACT

Revised Edition

showing the law as at 31 December 2009

This is a revised edition of the law, prepared by the Law Revision Commissioner under the authority of the Law Revision Act, Cap. 1.03

This edition contains a consolidation of the following laws:

Housing and Social Development Levy Act

Act 7 of 1997 in force 1st September, 1996

Amended by Act 10 of 2001

Act 8 of 2005

Act 3C of 2006

Act 40 of 2008

CHAPTER 20.21

HOUSING AND SOCIAL DEVELOPMENT LEVY ACT

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CHAPTER 20.21

HOUSING AND SOCIAL DEVELOPMENT LEVY ACT

AN ACT to impose a levy on the wages of persons employed in Saint Christopher and Nevis for purposes of providing necessary housing and social development; and to provide for related or incidental matters.

1. **Short title.**

This Act may be cited as the Housing and Social Development Levy Act.

2. **Interpretation.**

In this Act, unless the context otherwise requires,

“Board” means the Social Security Board established under the Social Security Act, Cap. 22.10;

“Comptroller” means the Comptroller of Inland Revenue;

“employed person” means, subject to section 4, any person in an employment specified in the First Schedule to the Social Security Act, Cap. 22.10;

“employer” has the same meaning as in the Social Security Act, Cap. 22.10 and includes any person responsible for the payment of wages of an employee;

“Levy” means the Housing and Social Development Levy imposed and payable under the provisions of this Act;

“Minister” means the Minister for the time being charged with the responsibility of Finance;

“prescribed” means prescribed by Regulation under this Act;

“wages” included salary or any other pecuniary remuneration as may be prescribed.

3. **Imposition of Housing and Social Development Levy.**

[Amended by Acts 10/2001, 8/2005, 3C/2006, 40/2008, 12/2011 – Omitted due to cut-off date]

4. **Exemptions.**

There shall be exempted from the Levy

- (a) the official emoluments received by the Governor-General of Saint Christopher and Nevis;
- (b) the official emoluments received by the Deputy Governor-General;
- (c) the emoluments of a minister of religion derived from his or her vocation;

- (d) the emoluments payable to members of the diplomatic or consular services of any foreign country in respect of their offices or in respect of their services in Saint Christopher and Nevis;
- (e) the emoluments of any expert, adviser, technician or other official whose salary or principal emolument is not payable by the Government of Saint Christopher and Nevis and who is brought to Saint Christopher and Nevis under the auspices of any regional or international organisation as may be prescribed or a specialised agency of any such organisation as may be prescribed;
- (f) such other persons or categories of persons as may be prescribed.

5. Payment of Levy.

(1) Any Levy payable under this Act by any employee in respect of his or her wages shall be paid by the employer to the Comptroller at the end of every month, the first of such payments being in respect of such wages for the month of September, 1996.

(2) The employer shall deduct from the wages of an employed person the Levy contribution required under section 3 and shall pay it to the Comptroller together with the portion of the Levy to be paid by the employer in respect of such employed person within such period as may be prescribed.

(3) Any employer paying the Levy shall furnish to the Comptroller, at the time of such payment, a statement stating the wages of every employed person in his or her employment and the amount paid in respect of the Levy.

6. Social Security Board to administer and collect levy on behalf of Comptroller.

The Social Security Board is hereby vested with the responsibility of the administration and collection of the Levy on behalf of the Comptroller and such Levy shall be payable at the office of the Social Security Board.

7. Penalties.

Where the employer fails to pay the Levy required, the defaulting employer shall become liable to pay, in addition to such Levy,

- (a) a penalty of a sum equivalent to ten per centum of such levy; and
- (b) where such levy is not paid to the Comptroller after a period of thirty days after such Levy has been in arrears, a penalty of a sum equivalent to one per centum of the Levy in respect of each further period of thirty days:

Provided that a defaulting employer shall not be required to pay the penalty under this section if he or she

- (i) proves to the satisfaction of the Comptroller that the failure of payment was due to circumstances beyond his control; and
- (ii) furnishes to the Comptroller a correct return of the emoluments and pays the amount in default.

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8. Power of Comptroller to call for information.

The Comptroller shall have the power

- (a) by notice in writing to require any employer to furnish within the period specified in the notice, such information as the Comptroller may, by notice, require for the purposes of this Act;
- (b) to require any employer to produce for examination within a specified time any book, document, register or record which is under his or her control or in his or her possession and which, in the opinion of the Comptroller, contains information useful for the purposes of this Act.

9. Power of Comptroller to vary levy and make any decision or determination.

The Comptroller may, upon good cause adduced by the Social Security Board or of his or her own motion, vary the amount of levy payable by any employer under this Act or make any decision or determination in respect of the Levy payable by any employer.

10. Appeals.

(1) An employer, if he or she is dissatisfied with any decision or determination made in respect of him or her by the Comptroller under this Act, may appeal against the decision or determination to the Commissioners appointed under the Income Tax Act, Cap. 20.22 within the time prescribed for such appeal.

(2) Notwithstanding the provisions of subsection (1), until the determination of any appeal, the employer shall pay the Levy contribution amount required to be paid by him or her by reason of any variation, decision or determination by the Comptroller.

(3) The Commissioners shall, before making their decision or determination on any appeal made under subsection (1), give the employer or his or her authorised representative an opportunity to present his or her case to the Commissioners.

(4) Any employer who is aggrieved by the decision of the Commissioners in respect of any appeal made to them under subsection (1) may further appeal against that decision to the High Court.

11. Levy to be a deductible expense under the Income Tax Act.

For the purpose of ascertaining the assessable income of a company under section 9 of the Income Tax Act, Cap. 20.22, the amount of the Levy which a company is liable to pay in respect of contribution of employer only under section 3 on behalf of employed persons in its employment shall be deemed to be an expense incurred in the production of the income.

12. Refunds.

If it is proved to the satisfaction of the Comptroller, by claim made to him or her in writing, that any employer or employee has paid in respect of the Levy under this Act an amount in excess of the amount due from him or her, the employer or employee shall be entitled to a refund of the amount paid in excess.

13. **Forms.**

The Minister may, from time to time, prescribe the forms to be issued and used for the purposes of this Act and may vary and amend such forms from time to time.

14. **Payment into Consolidated Fund.**

(1) All sums paid to or recovered by the Comptroller by way of the Board shall be paid into the Consolidated Fund.

(2) All sums received by the Comptroller by way of penalties under this Act shall be paid by him into the Consolidated Fund.

15. **Expenses of the Board.**

There shall be paid to the Board at such times and at such rate as may be determined by the Minister after consultation with the Minister responsible for Social Security and the Board, such sums as may be estimated to be the amount of the expenses of the Board in the administration of this Act.

16. **Recovery of levy by sale of goods etc.**

(1) Subject to subsection (2) of this section, the provisions dealing with the recovery of income tax as provided in sections 70 to 75 in the Income Tax Act shall apply *mutatis mutandis* to the recovery of any contribution under this Act.

(2) Every reference to the word “collector” and the word “tax” in sections 70 to 75 of the Income Tax Act shall be read as a reference to the word “Comptroller” and the word “Levy” respectively, for the purposes of this Act.

17. **Offences.**

(1) Any person who

- (a) being an employer, contravenes the provisions of section 5;
- (b) being an employer, furnishes for the purposes of this Act, any information under section 7 which is to his or her knowledge false and incorrect; or
- (c) fails to comply with the directions given by the Comptroller under section 7;

commits an offence and is liable, on summary conviction, to a fine not exceeding two thousand dollars or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

(2) Where an offence is committed by a body of persons, then,

- (a) if that body of persons is a company, every Director of that company; and
- (b) if that body of persons is a partnership, every partner;

shall be deemed to have committed the offence:

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Provided that a Director of the company or a partner of the partnership shall not be deemed to have committed the offence if he or she proves that such offence was committed without his or her knowledge or that he or she used all diligence to prevent the commission of the offence.

18. Regulations.

The Minister may make Regulations to give effect to the provisions of this Act.