



ISSN 0331-1044

Ondo State of Nigeria Official Gazette

Published by Authority

No. 5

AKURE - 24th April, 2014

Vol. 39

ONDO STATE NOTICE NO. 5

The following is published as Supplement to this Gazette:

Law No. 5 of 2014 - Ondo State Land Use Charge Law, 2014 A 51 -59

By the State Governor's Command,

Akure, 24th April, 2014

DR ROTIMI ADELOLA,
Secretary to the State Government.

Published and printed by the Government Printer, Akure, Ondo State of Nigeria 11/414/500
Present issue: N2,000.00 per copy

(9)

Assented to this 25th day of March, 2014.

DR OLUSEGUN MIMIKO,
Governor, Ondo State of Nigeria

(L. S.)

No. 5



2014

Ondo State of Nigeria

DR OLUSEGUN MIMIKO
Governor, Ondo State of Nigeria

A LAW TO PROVIDE FOR THE LEVYING AND COLLECTION OF LAND CHARGES
AND FOR THE CONSOLIDATION OF ALL PROPERTY AND LAND BASED RATES
INTO A NEW LAND USE CHARGE AND OTHER MATTERS INCIDENTAL THERE
TO OR CONNECTED THEREWITH

[March, 2014]

Commence-
ment

BE IT ENACTED by the Ondo State House of Assembly in this Legislative
Session convened as follows:

1. This Law may be cited as the Ondo State Land Use Charge Law 2014

Citation

2. In this Law unless the context otherwise requires.

Interpretation

"assessment appeal tribunal" means the Assessment Appeal Tribunal established
under section 14

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"building" includes anything constructed or placed on, in, over or under land but does not include a highway or road or a bridge that forms part of a highway or road.

"base value zone" This is a thickly populated zone mostly occupied by the low income earners. Most of the occupants are informal people such as traders, artisans or junior category of workers. Most of the properties in the heart of the town falls within this category.

"charge" means an assessed amount on property payable under this Law

"chargeable person" means a person liable to pay Land use charge on a chargeable property or his appointed successors-in-title, assigns, executors and administrators,

"chargeable property" means any property in respect of which land charge is payable,

"chairman" means the Chairman of the Board of Internal Revenue Ondo State.

"designated bank" means a company carrying out banking activities as provided for under the Law and listed as a bank that may collect on behalf of the Government any land use charge payable under this Law.

"exempt property" means any property of a class described under section 9

"financial year" means any period of twelve (12) months beginning from January 1st and ending on December 31st

"governor" means the Governor of Ondo State.

"high value zone" elitist settlement occupied mainly by men of means, top ranking Government functionaries (serving or retired) and businessmen. Population here is very tight because of the category of occupants which is mostly determined by social and financial standing in the Society.

"improvement to a property" means a building, structure, fixture or fence erected on or affixed to Land, or a movable structure that is designed to be occupied for residential or business purposes whether or not affixed to the land

"land use charge" includes all property and land based rates and charges payable under the Tenement Rates Law etc. ground rent inclusive

"masculine" includes the feminine gender.

"medium value zone" has medium-size population of middle level income bracket e.g. Residential Estate include the G.R.A.

Ondo State Land Use Law, 2014

"net land use charge" means the actual amount of Land use charge collected and deposited with respect to the properties in a Local Government Area, less the cost of collecting that charge and less the fees payable to the designated banks for the deposit or withdrawal of Land Use Charge payments.

"occupier" in relation to a property, shall include not only the person in actual occupation of the whole or part of such property but any person in beneficial occupation;

"owner" in relation to any property shall include the persons for the time being receiving rent on the property in connection with which the word is used, whether on his own account or as agent or trustee for any other person who would receive the sum if such property were let to a tenant; and the holder of a property direct from the State whether under lease licence or otherwise;

"receiver" any Person or Company appointed by the Chairman of the Board of Internal Revenue to recover outstanding taxes, penalties and administrative charges under this Law;

"real property" includes-

- (i) a parcel of Land;
- (ii) an improvement;
- (iii) a parcel of Land and improvement; or
- (iv) a wharf or pier;

"receivership" means the administration of property including collection of rents rates by the Board of Internal Revenue or Agent of the Board of Internal Revenue;

"state" means Ondo State Government;

"structure" means a building or other thing erected or placed in on, over or under Land whether or not it is affixed to the Land;

3. (1) Subject to the provisions of this Law, there is hereby imposed a Land based charge, to be called Land Use Charge (hereinafter called the "Charge") which shall be payable on all real properties situate in the State. The land based charge shall be as contained in the notice issued by the Commissioner in Charge of land matters.
- (2) For the purpose of this Law, each Local Government Area in the State delegates to the State, its functions with respect to the collection of rates and the assessment of privately and commercially owned Houses or tenement for the purpose of levying such rate as may be prescribed under this Law and published in Official Gazette.

4. The Charge shall be payable annually in respect of any property that is not exempted under section 9 of this Law.

(Pension
liable to pay
the charge

5. (1) The Chairman of the Board of Internal Revenue (BIR) shall undertake or cause to be undertaken an assessment of chargeable properties in such areas of the State subject to the directive of the Governor.

Property
assessment

Ondo State Land Use Law, 2014

(2) For the purpose of Sub-Section (1), the Chairman, Board of Internal Revenue shall act on matters based on values as prescribed by the Commissioner in charge of Lands as may be reviewed periodically.

(3) The collecting Officers or their authorized assistants may between Mondays and Saturdays at the hours of 7:00a.m and 5:00p.m enter into any property with a view to collecting rates or giving effect to the provisions of this Law.

liable to
pay the
charge

6. The owner of a property is liable to pay the Charge in respect of any chargeable property.

Value of
annual
charge rate

7 (1) The annual charge rate shall be set by the Commissioner in charge of Land matters subject to the approval of the Governor. The annual charge rate shall be published in the State Government Official Gazette and at the beginning of each year in one or more Newspapers circulating in the State.

(2) The formula for calculating the rate payable on each property shall be based on the value of prototype to be determined by the structure and the location or zone within which the property is situated.

8. A person liable to pay the Charge shall pay at any of the designated banks listed in the Land Use Charge Demand Notice.

9. (1) The following properties shall be exempted from the payment of the Charge:-

- (a) a property owned and occupied by a religious body and used exclusively for public worship or religious education.
- (b) public cemeteries and burial grounds;
- (c) a recognized and registered institution or educational institute certified by the Commissioner in charge of Finance to be non-profit making.
- (d) property used as public library
- (e) all Official palaces of recognized traditional rulers in the State.
- (f) all properties owned by the State Government.
- (g) any property specifically exempted by the Governor by notice published in the State Government Official Gazette.

(2) The Commissioner in charge of Finance may, by notice published in the State Government Official Gazette grant partial or total relief for a property that is-

- (a) occupied by a non-profit making Organization and used solely for community games, sports, athletics or recreation for the benefit of the general public.
- (b) used for a charitable or benevolent purpose for the benefit of the general public and owned by the State Government, Local Government, Federal Government or a non-profit making Organization.

Loss of
exemption

10. (1) An exempt property or part of an exempt property shall become liable if:

Ondo State Land Use Law, 2014

- (a) the use of the property changes to one that does not qualify for the exemption; or
- (b) the occupier of the property changes to one who does not qualify for the exemption.
- (2) if the Charge status of the property changes, the Charge imposed in respect of that property shall be pro-rated so that the Charge is payable only for that part of the year in which the property or part of it, is not exempted.
11. (1) The Chairman, Board of Internal Revenue shall cause to be issued in each Financial Year Land Use Charge Demand Notice (hereinafter referred to as the "Notice") with respect to every chargeable property that has been assessed in accordance with this Law. Land Use Charge Demand Notice
- (2) The Notice shall be delivered to the owner, occupier; or agent in charge on an assessed property.
- (3) If there is no owner or occupier or agent available to take delivery the Notice shall be posted on the property and such posting shall be deemed sufficient delivery of the Notice.
- (4) The person liable to pay the amount of the Charge on the Notice shall within thirty (30) calendar days after the date of delivery of the Notice pay that Assessment amount at one of the designated banks specified in the Notice.
12. The Board of Internal Revenue shall:
- (1) For the purpose of the implementation of this Law, be the sole collecting authority of the Charge due to Ondo State Government; and Power to appoint Agent
- (2) may by notice in writing appoint any person including any occupier of a chargeable property to be an agent of the owner and the person declared an agent of the owner for the purposes of this Law, may be required to pay the Charge which is or will be payable by the owner from any money(s) which may be held by him for or due by or to become due by him to the owner whose agent he has been declared to be and in default of such payment the Charges shall be recovered from the owner.
13. Every person liable under this Law for the payment of the Charge on behalf of an owner may retain out of any money coming into his hands on behalf of or becoming due from him or to the owner as may be sufficient to pay the Charge, and shall be indemnified against any person for all payments made under this Law. Payment of Agency
14. (1) The Chief Judge shall at the request of the Governor designate a serving Chief Magistrate to serve as Assessment Appeal Tribunal and the decision of the Appeal shall be final. Assessment Appeal Tribunal
- (2) The Assessment Appeal Tribunal shall have jurisdiction to determine if the land use charge imposed or demanded is in accordance with this Law. Removal of member

Ondo State Land Use Law, 2014

15. The presiding Magistrate of the Assessment Appeal Tribunal may be removed by the Chief Judge, for inability to perform his duties by reason of:

- (a) infirmity of mind or
- (b) official misdemeanor or
- (c) misconduct.

16. The Assessment Appeal Tribunal may:

- (a) by summons, require the attendance of any person examine him;
- (b) and may require answers to any question which it may deem fit to put concerning a matter before it;
- (c) require and enforce the production of all books, and documents which it may consider necessary;
- (d) award costs against appellants if the members of the Tribunal consider that the appeal before it is of a frivolous nature and such cost shall not exceed 25% of payable charge.

Appeal
against
assessment

17. (1) A person may appeal to the Assessment Appeal Tribunal if he is aggrieved by:

- (a) a decision that a property which he owns is a chargeable property under this Law; or
- (b) any calculation or an amount which he is liable to pay as the Charge under this Law is not chargeable
- (c) The Tribunal shall make such decision as it deems fit having regard to the evidence before it.

(2) The time allowed for an appeal to the Tribunal shall be thirty (30) days from the date of delivery of the demand Notice.

(3) The onus of proving an excessive assessment of a property shall lie on the owner.

(4) A person giving evidence before the Tribunal shall, in respect of any evidence given by him or any document he is required to produce, be entitled to all the privileges to which a witness in a trial before a Magistrate Court is entitled.

(5) In respect of compelling the attendance of witnesses, the Tribunal shall have same powers as that of a Magistrate Court.

(6) The Tribunal may confirm, reduce, increase, or annul the assessed value in line with this Law and notices issued under the Law.

(7) The Chief Judge of the State may make rules providing for practice and procedure on appeal before Assessment Appeal Tribunal.

Conditions
of Appeal

18. (1) An appeal shall not lie unless:

- (a) notice is given in the prescribed manner to the Commissioner in charge of Finance;
- (b) the prescribed fee is paid to the Assessment Appeal Tribunal;
- (c) in the case of a person aggrieved with his property assessment:
 - (i) 25% of the amount of the assessed Charge being disputed is deposited directly into the State Government Assessment Appeal Account which shall be maintained by the Commissioner for Finance at a designated bank;
 - (ii) The appellant has produced to the Magistrate Court the receipt for the payment of the amount from the bank;

Ondo State Land Use Law, 2014

provided that if the appeals succeed and if any refund is due to the successful party, such refund may be made from the sum deposited.

(2) The chief Judge shall set up a registry for the appeal Tribunal or designated magistrate Court registry as registry of the Assessment Appeal Tribunal.

19. (1) The Commissioner for Finance shall establish and maintain a Fund, to be known as the Land Use Charge Collection Fund, consisting of all the Charge payments deposited in designated banks in accordance with this Law.

Land use
charge
collection
fund

(2) At the beginning of each month, the Accountant-General of the State shall determine the total amount of the Charge payments on deposit in the designated bank and submit a report of collections to the Commissioner for Finance.

(3) The Commissioner for Finance shall, not later than fifteen (15) days after the beginning of each month, pay to each Local Government Council in the State and Ondo State Government a share of the Charge collected and standing on deposit in the designated bank.

(4) The share to be paid by the Commissioner for Finance to the Local Government Councils, on one hand, and Ondo State Government on the other, shall be such percentage of the Land Use Charge at the end of each month on agreed parameter to be set out by the Commissioner for Finance. The parameters unless changed by a notice under the hand of the Commissioner shall be for the Local Government 20% of the sum collected under the Land Use Charge Fund and paid into a joint pool to be distributed amongst the Local Government in the State on the basis of:

- (i) 10% on the basis of equality of Local Governments and
- (ii) 10% on the basis of derivation.

The balance of the sum shall be for Board of Internal Revenue to the State and administrative charges.

(5) The account of the Land use Charge Collection Fund shall be audited by the Auditor-General for the State who shall submit his reports to the House of Assembly of the State, and for that purpose the Auditor-General or any person authorized by him on that behalf shall have access to all the books, records, returns and other documents relating to those accounts.

20. The Chairman, Board of Internal Revenue may apply to a Court to-

- (a) recover sums payable under this Law;
- (b) recover any Charge or penalty incurred under this Law by a deceased person at any time before his death;
- (c) attach a person's earnings, and/or person's goods where a Court has made a liability order against that person.

Recovery of
charge owing

Ondo State Land Use Law, 2014

Offences 21. Any person who commits any of the following offences:

- (a) refuses or neglects to comply with any provision of this Law when required to do so by the property identification Officer or collector, or an assessor;
- (b) prevents, hinders or obstructs any property identification Officer or an assessor in the course of his lawful duty or
- (c) removes from or damages or destroys a property identification plaque on any property or building;

Shall be liable on summary conviction to a fine of not less than fifty thousand naira (N50,000.00) only in case of an individual and two hundred thousand Naira (N200,000.00) only in case of a corporate body or to a term of imprisonment for a period of three (3) months or both.

Penalty for incitement 22. (1) Any person who:

- (a) incites another person to refuse to pay any rate under this Law on or before the day on which it is payable or
- (b) incites or assists any person to misrepresent in any way his chargeable capacity;
- (c) removes or destroy a seal affixed on any property by any Officer of the Board of Internal Revenue Commits an Offence and shall be liable on conviction to a fine of not less than One Hundred Thousand Naira (N100,000.00) only or to a term of imprisonment for a period of three (3) months or both;

Failure to pay (2) A Magistrate Court shall have jurisdiction to try the offences prescribed under this Law;

23. (1) Where a person who has received a Notice fails to pay the amount within the period specified in the Notice; the Charge payable shall be increased by the following percentage-

- (a) between 45 calendar days and 75 calendar days - 25%
- (b) between 75 calendar days and 105 calendar days - 50%
- (c) between 105 calendar days and 135 calendar days - 100%

(2) Notwithstanding the provisions of this Law, the Board of Internal Revenue shall have power to seal up any property over which the applicable charge remain unpaid after 30 days of serving notice of demand.

(3) If payment is not made after 135 calendar days, the property on which the Charge is payable shall be liable to receivership by the State or its appointed agent until all outstanding taxes, penalties and all administrative charges are paid. Provided that the Receivership shall take effect only after an order is granted by Magistrate Court headed by a Chief Magistrate following an application on notice.

Ondo State Land Use Law, 2014

- (4) The owner is however entitled at anytime to apply to the Chairman of Board of Internal Revenue for a release of the property and other monies accruing to him upon payment of the outstanding taxes, penalties and all administrative charges provided that where rights and/or liabilities have been created under the Receivership directly related to generate income necessary to effect the payment of the outstanding taxes, penalties and administrative charges before re-payment by the owner, the owner shall assume all such rights and/or liabilities.
- (5) Whenever any property comes under Receivership as provided for in Sub-section (3) such property shall be advertised as being under Receivership in at least two newspapers. One of which shall be a Local Newspaper circulating in Ondo State.

24. Subject to the approval of the Governor, the Commissioner in charge of Finance may make regulations generally for carrying into effect the purposes of this Law. Regulations prescribing procedure
25. For the purpose of operation of this Law, the State shall be divided into Base Value Zone, Medium Value Zone and High Value Zone by a notice in writing duly signed by the Commissioner in charge of Land Matters and Gazetted. Classification of properties
26. On and from the date when the Land Use Charge becomes operational, the provisions of the Local Government Law on Rating and Tenement Rates and any amendments made pursuant thereto shall cease to apply to all properties affected by this Law. Application of other Laws
27. This Law may be cited as the Ondo State Land Use Charge Law 2014 and shall come into force on theday of.....2014 Citation and Commencement

This printed impression has been carefully compared by me with the Bill which has been passed by the Ondo State House of Assembly and found by me to be true copy of the said Bill

ADEYELU MICHAEL BODE
Clerk, Ondo State House of Assembly