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Laws

Act

2010

The Finance Act,2010

Tanzania, United Republic

Ministry of Finance and Planning

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THE FINANCE ACT, 2010**ARRANGEMENT OF PARTS**

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THE UNITED REPUBLIC OF TANZANIA



NO. 15 OF 2010

I ASSENT,

Jawahar Mwaheki
.....
President

23rd June, 2010
.....

An Act to impose and alter certain taxes, duties, levies, fees and to amend certain written laws relating to the collection and management of public revenues.

ENACTED by Parliament of the United Republic of Tanzania.

**PART I
PRELIMINARY PROVISIONS**

- Short title 1. This Act may be cited as the Finance Act, 2010.
- Commence- 2. The provisions of the various Parts of this Act shall be
ment deemed to have come into operation on the 1st day of July, 2010.

**PART II
AMENDMENT OF THE CASHEWNUT INDUSTRY ACT, (CAP.203)**

- Construct- 3. This Part shall be read as one with the Cashewnut
ion Industry Act, hereinafter referred to as the "principal Act".
Cap.203

Addition
of section
17A

4. The principal Act is amended by adding immediately after section 17 the following new section:

“Payment
of export
levy

17A.-(1) A person who exports raw cashewnuts shall pay an export levy to be computed and collected by the Tanzania Revenue Authority at the rate of 15 percentum of the FOB value or the amount equivalent to US dollars one hundred sixty per metric tone, whichever is higher.

(2) The total amount of export levy collected under subsection (1) shall be distributed in such a manner that:

- (a) 65% would be remitted to the Cashewnuts Industry Development Trust Fund; and
- (b) 35% would be remitted to the Consolidated Fund.

(3) The Minister shall, in consultation with stakeholders, make regulations prescribing a mechanism for distribution and use of the levy collected in terms of subparagraph (a) amongst cashewnuts stakeholders.”

PART III

AMENDMENT OF THE EXCISE (MANAGEMENT AND TARIFF) ACT, (CAP. 147)

Construct-
ion Cap.
147

5. This Part shall be read as one with the Excise (Management and Tariff) Act, hereinafter referred to as the “principal Act”.

Amend-
ment of
section 2

6. The principal Act is amended in section 2, by inserting in its appropriate alphabetical order the following new definition:
“Minister” means the Minister responsible for finance;”

Amend-
ment of
section
122

7. The principal Act is amended in section 122(1), by deleting the word “authority” and substituting for it the word “Minister”.

Amendment of section 124

8. The principal Act is amended in section 124(3), by deleting the phrase "mobile phone services" and substituting for it the word "airtime".

Amendment of the Fourth Schedule

9. The Fourth Schedule to the principal Act is amended by deleting the rates of excise duty specified in the Fifth Column which are currently imposed on items specified in the Third Column and substituting for them the rates specified in the Sixth Column:

"FOURTH SCHEDULE"

Heading	H.S. Code No.	Description	Unit	Old Excise Rates	New Excise Rates
22.02		Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured, and other non-alcoholic beverages, not including fruit or vegetable juices of heading 20.09			
	2202.10.00	- Waters, including mineral waters and aerated waters, containing added sugar or other sweetening matter or flavoured	L	Tshs. 58 per litre	Tshs. 63 per litre
	2202.90.00	-Other	L	Tsh 58.00 per litre	Tshs. 63 per litre
22.03		Beer made from malt	L		
	2203.00.10	--- Stout and porter		Tshs. 354 per litre	Tshs. 382 per litre
	2203.00.90	--- Other	L	Tshs. 354.00 per litre	Tshs. 382 per litre
22.04		Wine of fresh grapes, including fortified wines; grape must other than that of heading 20.09.	L		
		- Sparkling wine			
	2204.10.90	--other		Tshs. 1,132.00 per litre	Tshs. 1,223 per litre

		- Other wine; grape must with fermentation prevented or arrested by the addition of alcohol:	L	Tshs. 1,132.00 per litre	Tshs. 1,223 per litre
		-- In containers holding 2 l or less			
	2204.21.90	--- Other	L	Tshs. 1,132.00 per litre	Tshs. 1,223 per litre
	2204.29.90	--- Other		Tshs. 1,132.00 per litre	Tshs. 1,223 per litre
		- Other grape must			
	2204.30.90	--other		Tshs. 1,132.00 per litre	Tshs. 1,223 per litre
22.05		Vermouth and other wine of fresh grapes flavoured with plants or aromatic substances.	L		
		- In containers holding 2 l or less			
	2205.10.90	--- Other		Tshs. 1,132.00 per litre	Tshs. 1,223 per litre
	2205.90.90	--- Other	L	Tshs. 1,132.00 per litre	Tshs. 1,223 per litre
22.06		Other fermented beverages (for example, cider, perry, mead); mixtures of fermented beverages and mixtures of fermented beverages and non-alcoholic beverages, not elsewhere specified or included.			
	2206.00.30	---Beer made from 100% local unmalted cereals	L	Tshs. 209.00 per litre	Tshs. 226 per litre
22.08		Undenatured ethyl alcohol of an alcoholic strength by volume of less than 80% vol; spirits, liqueurs and other spirituous beverages.	l		
	2208.20.00	- Spirits obtained by distilling grape wine or grape marc	L	Tshs. 1,678 per litre	Tshs. 1,812 per litre
	2208.30.00	- Whiskies	l	Tshs. 1,678 per litre	Tshs. 1,812 per litre

	2208.40.00	- Rum and other spirits obtained by distilling fermented sugar-cane products	l	Tshs. 1,678 per litre	Tshs. 1,812 per litre
	2208.50.00	- Gin and Geneva	l	Tshs. 1,678 per litre	Tshs. 1,812 per litre
	2208.60.00	- Vodka	l	Tshs. 1,678 per litre	Tshs. 1,812 per litre
	2208.70.00	- Liqueurs and cordials	l	Tshs. 1,678 per litre	Tshs. 1,812 per litre
		- Other:	l		
	2208.90.10	--- Distilled Spirits (e.g., Konyagi, Uganda Waragi)		Tshs. 1,678 per litre	Tshs. 1,812 per litre
	2208.90.90	--- Other	l	Tshs. 1,678 per litre	Tshs. 1,812 per litre
24.02		Cigars, cheroots, cigarillos and cigarettes, of tobacco or of tobacco substitutes.	l		
		- Cigarettes containing tobacco:			
	2402.20.10	---without filter tip and containing domestic tobacco exceeding 75%	mil	Tshs. 5,749.00 per mil	Tshs. 6,209 per mil
		---with filter tip and containing domestic tobacco exceeding 75%	mil.	Tshs. 13,564 per litre	Tshs. 14,649 per mil
	2402.20.90	--- Other	mil.	Tshs. 24,633 per mil	Tshs. 26,604 per mil
24.03		Other manufactured tobacco and manufactured tobacco substitutes; "homogenised" or "reconstituted" tobacco; tobacco extracts and essences.	mil.		
		-- Smoking tobacco, whether or not containing tobacco substitutes in any proportion			
	2403.10.10	---cut rag/filler		Tshs. 12,444.00 per kg	Tshs. 13,436 per mil

27.10		Petroleum oils and oils obtained from bituminous minerals, other than crude; preparations not elsewhere specified or included, containing by weight 70% or more of petroleum oils or of oils obtained from bituminous minerals, these oils being the basic constituents of the preparation; waste oils.			
	2710.19.41	--- Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 125 centistrokes	1	Tshs. 97 per litre	Tshs. 80 per litre
	2710.19.42	--- Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 180 centistrokes	1	Tshs. 97 per litre	Tshs. 80 per litre
	2710.19.43	--- Residual fuel oils (marine, furnace and similar fuel oils) of a Kinematic viscosity of 280 centistrokes	1	Tshs. 97 per litre	Tshs. 80 per litre"

PART IV

AMENDMENT OF THE GAMING ACT, (CAP. 41)

Construction
Cap. 41

10. This Part shall be read as one with the Gaming Act, hereinafter referred to as the "principal Act".

Amendment of
the
Second
Schedule

11. The principal Act is amended in the Second Schedule, by -
(a) deleting figure "16000/= " appearing in column 2 of item 1 and substituting for it figure "32,000/= "; and
(b) adding immediately after item 2 the following new item:

"3. Forty Thirteen percent of gross gaming revenue."
machines
site

PART V

AMENDMENT OF THE INCOME TAX ACT, (CAP. 332)

Construction
Cap. 332

12. This Part shall be read as one with the Income Tax Act, hereinafter referred to as the "principal Act".

Amendment of section 11

- 13. The principal Act is amended in section 11, by-
 - (a) inserting immediately after subsection (3) the following new subsection:

“(4) In the case of mining operation, where separate and distinct mining operations are carried on by the same person in different mining licence areas, the mines shall be treated as separate mining operations.”;

- (b) renumbering subsection (4) as subsection (5);
- (c) deleting the word “or” appearing at the end of sub-paragraph (d);
- (d) deleting a “full stop” appearing at the end of sub-paragraph (e) and substituting for it a word “,or”;
- and
- (e) adding immediately after sub-paragraph (e) of subsection (5) as renumbered the following new subparagraph:

“(f) “mining operation” shall not include exploration activities conducted outside the mining licence area which shall be accumulated and allowed when the commercial operations commence.”

Amendment of section 12

- 14. The principal Act is amended in section 12 by deleting subsections (2) and (3) and substituting for them the following new subsection-

“(2) The total amount of interest that an exempt-controlled resident entity may deduct in accordance with section 11(2) for a year of income shall not exceed the sum of interest equivalent to debt-to-equity ratio of 70 to 30.”

Addition of section 80A

- 15. The principal Act is amended by adding immediately after section 80 the following new section:

“Obligation to issue receipt

80A.-(1) A person who receives any payment of an amount of five thousand shillings or more in respect of goods sold or services rendered by him in the ordinary course of his business shall, notwithstanding any custom in any trade or any provision to the contrary in this Act or any other written law or an agreement between the parties to a sale or a contract of services, as the case may be, issue a receipt to the person making the payment.

(2) A person issuing the receipt shall be required to enter or cause to be entered in the receipt and its duplicate copy the following particulars:

- (a) the date on which the payment is made;
- (b) full name and address of the person who sold the goods or rendered the services, as the case may be;
- (c) full description of the goods sold or the services rendered and a statement of the quantity and value of the goods or, in the case of services, the amount charged in respect of the services rendered;
- (d) full name and address of the person to whom the goods were sold or to whom the services were rendered, as the case may be;
- (e) a Tax Identification Number (TIN); and
- (f) such other particulars as the Commissioner may, by notice in writing, specify from time to time for the purposes of this section”.

(3) Every person who issues a receipt in accordance with preceding provisions of this section shall be required to retain in his records the duplicate copy of every receipt issued by him and shall, unless the Commissioner directs otherwise, preserve that copy for a period of not less than five years after the year of income to which the receipt relates.”

Amend-
ment of
section
83A

16. The principal Act is amended in section 83A, by deleting the word “Government” wherever it appear in that section and substituting for it the word “Corporation”.

Amend-
ment of
section
98

17. The principal Act is amended in section 98, by adding immediately after subsection (2) the following new subsection:

“(3) Any person who receives any payment and fails to issue a receipt in accordance with the requirement of section 80A, commits an offence and shall, upon conviction, be liable to a fine not exceeding two million shillings or to imprisonment for a term not exceeding twelve months or to both.”

Amend-
ment of
section
100

18. The principal Act is amended in section 100(1), by adding immediately after the phrase “statutory rate”, the phrase “plus 5% per annum” appearing the third line.”

Amendment of section 134

19. The principal Act is amended by adding immediately after section 134 the following new subsection:

“(3) An approved Tax Consultant who knowingly or recklessly aids, abets, conceals or induces a taxpayer to file a misleading or fraudulent statement commits an offence under this Act”.

Amendment of Section 145

20. The principal Act is amended in section 145, by inserting the phrase “Subject to the provisions of section 11(4), (5) (f) and section 12(2)” between the figure “145(1)” and the word “Part III.”

Amendment of the First Schedule

21. The First Schedule to the principal Act is amended in paragraph 1(1) by deleting the table to that paragraph and substituting for it the following table -

Annual Taxable Income	Tax rate
Where income does not exceed Sh. 1,620,000/=	NIL
Where total income exceeds Sh. 1,620,000/= but does not exceed Sh. 4,320,000/=	14% of the amount in excess of Sh. 1,620,000/=
Where total income exceeds Sh. 4,320,000/= but does not exceed Sh. 6,480,000/=	Sh. 378,000/= plus 20% of the amount in excess of Sh. 4,320,000/=
Where total income exceeds Sh. 6,480,000/= but does not exceed Sh. 8,640,000/=	Sh. 810,000/= plus 25% of the amount in excess of Sh. 6,480,000/=
Where total income exceeds Sh. 8,640,000/=	Sh. 1,350,000/= plus 30% of the amount in excess of Sh. 8,640,000/=

PART VI

AMENDMENT OF THE LOCAL GOVERNMENT FINANCES ACT, (CAP. 290)

Construction Cap. 290

22. This Part shall be read as one with the Local Government Finances Act hereinafter referred to as the “principal Act”.

Amendment of the Schedule

23. The Schedule to the principal Act is amended by deleting the contents of item 1 and substituting for them the following-

“1. Produce Cess on buyers

- | | |
|---|---|
| (a) Crop cess ranging from 3% to 5% of farm gate price; | • a cess in excess of 5% |
| (b) Forest produce cess-cap 5% of farm gate price or b volume at source on sales of timber, charcoal, logs, mirunda, firewood, poles and thieses (fito).” | • Cess sellers
• Cess on timber products e.g. furniture and the like |

PART VII

AMENDMENT OF THE MOTOR VEHICLES (TAX ON REGISTRATION AND TRANSFER) ACT, (CAP.124)

Construction
Cap. 124

24. This Part shall be read as one with the Motor Vehicles (Tax on Registration and Transfer) Act hereinafter referred to as the “principal Act”.

Amendment
of the First
Schedule

25 The First Schedule to the principal Act is amended in paragraph 1, by deleting-

- (a) the phrase “one hundred twenty thousand shillings (Shs.120,000/=)” appearing in subparagraph (3), and substituting for it the phrase “one hundred fifty thousand shillings (150,000/=); and
- (b) the phrase “thirty five thousand shillings (35,000/=)” appearing in subparagraph (4), and substituting for it the phrase “forty five thousand shillings (45,000/=).

PART VIII

AMENDMENT OF THE PUBLIC FINANCE ACT, (CAP.348)

Construction
Cap.348

26. The principal Act is amended by-

- (a) inserting the phrase “Local Government Authority” between the words “Government” and “and” appearing in section 7(2);
- (b) inserting the phrase “and officers appointed

under section 36 of the Local Government Finances Act” between the words “General” and “and” appearing in section 4 in relation to the definition of the term “accounting officer.”

Amendment
of section 7

27. The principal Act is amended in section 7(2) by inserting the phrase “Local Government Authority” between the words “Government” and “and” appearing in the fourth line.

Addition of
new Part V

28 .-(1) The principal Act is amended by -
(a) inserting immediately after Part IV the following new Part:

“PART V

OFFICE OF INTERNAL AUDITOR GENERAL

Internal
Auditor
General

37.-(1) There shall be an Internal Auditor General under the Ministry responsible for finance.

(2) The Internal Auditor General shall be appointed by the President from amongst qualified persons in accountancy, auditing or financial matters on such terms and conditions to be specified in the letter of appointment.

Functions
of Internal
Auditor
General

38.-(1) The Internal Auditor General shall be responsible to the Paymaster General for-

(a) developing internal audit policies, rules, standards, manuals, circulars and guidelines;

(b) reviewing and appraising compliance to laid down laws,

regulations, standards, systems and procedures in Ministries, Departments, Government Institutions, Regions, Local Government Authorities, executive agencies and donor funded projects; and

- (c) ensuring control and proper accountability of public monies and property.

(2) For the purposes of subsection (1), the Internal Auditor General shall-

- (a) scrutinize and compile audit reports from Ministries, Department, Government Institutions, Regions, Local Government Authorities, executive agencies and donor funded projects and shall prepare a summary of major audit observations and recommendations and submit the same to the Paymaster General for further action;
- (b) undertake continuous Audit Risk Management;
- (c) develop and supervise the implementation of Internal Audit Strategy;
- (d) develop, implement and review Annual Audit Programme;

- (e) liaise with the Controller and Auditor General, Accountant General, Accounting Officers, and Professional Standards Settings Authorities on audit matters;
- (f) manage and control the quality of operations of the audit cadre and enhance capacity of Audit Committees;
- (g) evaluate the effectiveness of Audit Committees in Ministries, Departments, Government Institutions, Regions, Local Government Authorities and executive agencies;
- (h) facilitate the development of internal audit cadre;
- (i) review and appraise-
 - (i) budget planning and implementation with a view to promoting compliance with national goals and objectives;

- (ii) technical reports on development initiatives;
- (iii) works, goods offered and services supplied to the Government from development and recurrent budgets and determine their value for money;
- (j) prepare audit reports and advise the Government on intervention measures towards ensuring values for money on public expenditure;
- (k) make follow up on the agreed audit recommendations and required corrective actions;
- (l) undertake special and investigative audits;
- (m) review, monitor, evaluate and recommend on systems of Government revenue collections for proper accountability; and
- (n) participate in the hearings and render advice to the relevant Parliamentary Oversight Committees.

Officers
of
Internal
Auditor
General
Division

39. There shall be internal audit officers of academic qualifications and experience in their fields of study of such number and titles as may be necessary for effective performance of the functions of the Internal Auditor General Division."

- (b) renumbering Parts V, VI and VII as Parts VI, VII and VIII, respectively; and
- (c) renumbering sections 37 to 45 as sections 40 to 48, respectively.

PART IX

AMENDMENT OF THE PUBLIC AUDIT ACT, (CAP. 418)

Construction
Cap. 418

29. This Part shall be read as one with the Public Audit Act, hereinafter referred to as the "principal Act".

Amendment
of section 27

30. The principal Act is amended by repealing section 27 and substituting for it the following new section:

"Fore-
nsic
audit

27.-(1) Where, in the course of forensic audit or any other audit, the officer of the National Audit Office suspects commission of fraud or any related offences, he shall immediately report the matter to the Controller and Auditor General for determination of the audit.

(2) The Controller and Auditor General shall, after studying the matter, report the fraud or any related offences to an appropriate investigative organ and serve a notice to the Director of Public Prosecutions.

(3) The investigative organ that has received the report from the Controller and Auditor General shall investigate the matter within sixty days and forward the file of the case to the Director of Public Prosecutions.

(4) In case where the investigative organ is unable to finish investigation within the required time, it shall be the duty of that investigative organ to seek extension of time from the Director of Public Prosecutions.

Amendment
of section 28

“principal Act”.

34. The principal Act is amended in section 23 by -

(a) adding immediately after subsection (2) the following-

“(3) A person of, or above sixty years and a person living with disabilities who has no source of income shall be exempted from payment of property tax for one living residential rateable property.

(4) The local government authorities shall establish a mechanism for better implementation of subsection (3).”

(b) renumbering subsections (3), (4) and (5) as subsections (5), (6) and (7) respectively.

PART XII

AMENDMENT OF THE VALUE ADDED TAX ACT, (CAP. 148)

Construction
Cap.148

35. This Part shall be read as one with the Value Added Tax Act hereinafter referred to as the “principal Act”.

Amendment
of section 2

36. The principal Act is amended in section 2 by inserting in its appropriate alphabetical order the following definition:

“fiscal receipt” means a fiscal document printed by electronic fiscal device for the customer of goods or services supplied to him bearing the contents specified under the Value Added Tax (Electronic Fiscal Devices) Regulations, 2010;”

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Amendment
of section 5

37. The principal Act is amended in section 5(2) by deleting the word “goods” appearing at the end of that subsection and substituting for it the word “services”.

Amendment
of section 11

38. The principal Act is amended in section 11 by adding immediately after subsection (2) the following new subsections-

“(3) The relief granted under subsection (1) shall not apply to motor vehicles manufactured ten years or more before importation.

(4) Subsection (3) shall not apply to religious organizations.”

Amendment
of section 13

39. The principal Act is amended in section 13(4) by-

(a) adding immediately after the word “thereon” appearing at the end of that subsection the phrase “excluding VAT”;

(b) adding a new subsection (5) as follows:

“(5) The word “premium” as used in subsection (4), means the value of airtime topped on to a subscriber over the actual value of airtime paid for.”; and

(c) renumbering subsections (5) and (6) as subsections (6) and (7).

Amendment
of section 16

40. The principal Act is amended in section 16, by -

(a) adding the words “ or fiscal receipts” immediately after the words “tax invoice” wherever they appear in the section the phrase “or fiscal receipts” ; and

(b) adding immediately after subsection (4) the following new subsection:

“(5) Any cost incurred by a taxable person during initial purchase of an EFD from an Approved Supplier shall be deemed to be an input tax.”

Amendment
of section 29

41. The principal Act is amended in section 29, by-

(a) adding the words “ fiscal receipt” immediately after the words “tax invoice” appearing in subsection (1);

- (b) deleting the word "receipt" appearing in subsection (2) and substituting for it the words "fiscal receipts";
- (c) deleting the phrase "five hundred thousand" and substituting for it the words "One million"; and
- (d) inserting immediately after subsection (3) the following new subsection:

"(4) Every person who purchase any goods or services shall be require to demand a fiscal receipt from the person who receives the payment."

Amendment
of section 47

42. The principal Act is amended in section 47(1) by deleting that subsection and substituting for it the following:

"(1) Any person who willfully or fraudulently commits or omits to do any action which has the effect of evading tax or recovering tax, commits an offence and upon conviction shall be liable to a fine of twice the amount of tax involved in the commission of the offence or to pay five million shillings, whichever amount is higher, or to imprisonment for a term of two years or to both."

Amendment
of the First
Schedule

43. The First Schedule to the principal Act is amended by adding immediately after item 13 the following new items:

"14. The supply of edible oil by a local processor of edible oil using local oil seeds.

15. The supply of layers mash, broilers mash and hay by a local manufacturer of animal or poultry feeds."

Amendment
of the
Second
Schedule

44. The Second Schedule to the principal Act is amended –

- (a) in item 5, by deleting sub-item (3);
- (b) in item 13, by:
 - (i) deleting a "full stop" at the end of the item and inserting a "comma";

- (ii) adding immediately after a "comma", the following phrase "mowers and hay making machine.";
- (c) in item 27, by designating its contents as subparagraph (1);
- (d) by adding immediately after sub-item (1) the following new sub-items:
 - "(2) The supply of intra-transport service from the farm to the processing plant of sugar cane, sisal or tea.
 - (3) The supply of breeding services."
- (e) in item 28, by-
 - (a) deleting the word "and" appearing immediately after the word "tanks" and inserting thereafter a "comma"; and
 - (b) deleting a "full-stop" appearing at the end and inserting immediately after the word "cans" the following phrase "milk pumps, milk hoses, milk pasteurizers, butter churns, cream separators, homogenizers, cheese vat and cheese pressers, compressor used in refrigerating equipment, storage tanks, tankers fitted with a cooling device, air condition machines incorporating a refrigerating unit and a valve for reversal of the cooling cycle."
- (f) by deleting item 30 and substituting for it the following new items:
 - "30. Livestock farming
Oil cakes (mashudu), layers mash, broilers mash and hay.
 - 31. Packaging material
Packaging material for fruit juice and dairy products."

(a) by deleting item 8 and substituting for it the following item:

“8. The importation by or supply to a registered licensed exploration, prospecting, mineral assaying, drilling or mining company having a mining development agreement with the Government which provided for relief from taxation of goods or services for exclusive use in exploration, prospecting, drilling or mining activities executed before 1st July, 2009.

8A. The importation by or supply to a registered licensed exploration or prospecting company, of goods which if imported or supplied would be eligible for relief from duty under the customs laws and services for exclusive use in exploration or prospecting of petroleum or gas.”

(b) by adding immediately after item 19 the following new item:

“19A. The supply of building materials and construction services by the developer licensed under the Export Processing Zones Act.”; and

(c) by adding immediately after item 30 the following new items:

“31. The importation or supply of greenhouse to horticulture grower.

32(1). Supply of goods and services to the organized farming for the purposes of building irrigation canals, construction of road networks, godowns and similar storages in the farms.

(2) The relief provided in sub-item (1) shall only apply to goods and services approved by the Minister responsible for agriculture after inspection of the area has been done by the agriculture officer.”

Passed in the National Assembly on the 15th June, 2010.



.....
Clerk of the National Assembly