

ASCENSION
REVISED EDITION OF THE LAWS, 2017
LAND OWNERSHIP AND USE
PROPERTY TAX ORDINANCE, 2010¹

Ordinance A4 of 2010
In force 1 April 2010

No amendments to 1 November 2017

No subsidiary legislation to 1 November 2017

PROPERTY TAX ORDINANCE, 2010

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PROPERTY TAX ORDINANCE, 2010

AN ORDINANCE to make fresh provision for the levying of a tax upon the occupiers of property in Ascension; and for connected or incidental purposes.

**PART I
PRELIMINARY**

Short title and commencement

1. This Ordinance may be cited as the Property Tax Ordinance, 2010 and comes into force on 1st April, 2010.

Interpretation

2. (1) In this Ordinance, except where the context requires otherwise—
“**Assessment Notice**” means a notice of the kind contemplated by section 12(2);
“**Collector**” means the Collector of Property Tax appointed, or deemed to have been appointed, under section 3;
“**exempt property**” means property of a kind mentioned in section 4(2);
“**financial year**” has the same meaning as in the Constitution;
“**occupier**” has the meaning given in section 7;
“**officer**”, in relation to a body of persons, means a person who (either alone or jointly with one or more other persons) has the control or directions of the activities of that body in Ascension;
“**person**” includes a body of persons, whether incorporated or not; and, if the context so permits, it includes the Crown;
“**prescribed rate**” means the rate prescribed by the Governor in a notice issued under section 16;

“**property**” has the meaning given in section 4(1);

“**rateable property**” means all property on Ascension other than exempt property;

“**Valuation Officer**” means the person appointed as such by the Governor, and in the absence of any other person currently appointed and able to act as such, means the Director of Operations;

“**Valuation Notice**” means a notice issued under section 8.

(2) Every officer of every body of persons is answerable for doing all such acts, matters and things as are required to be done by virtue of this Ordinance for the assessment of that body and payment of the tax

Collector of Property Tax

3. (1) The Governor may appoint a person to be the Collector of Property Tax.

(2) Whenever there is no subsisting appointment of a Collector, the Director of Resources is deemed to have been appointed to be the Collector.

PART II PROPERTY AND ITS VALUATION

Property

4. (1) For the purposes of this Ordinance, subject to subsection (2), “**property**” means any building, structure, or other improvement on land (including, without prejudice to the generality, pipes, cables, masts, towers, satellite dishes and bulk fuel storage tanks), and includes also any other fixtures thereupon or therein.

(2) The following property is excluded from the definition of “property” in subsection (1), namely—

- (a) sites made available exclusively for use by the Government of the United States of America pursuant to the provisions of the Bahamas Long Range Proving Ground Agreement dated 25 June 1956;
- (b) property used or occupied by the Crown in right of Her Majesty’s Government of Ascension;
- (c) property occupied by a church, a charity, or any similar organization approved by the Administrator;
- (d) any other property or class of property prescribed.

Valuation Roll

5. (1) The Valuation Officer must maintain a Valuation Roll in which must be recorded, in respect of each rateable property—

- (a) a description sufficient to identify the property;
- (b) the name or names of the occupier or occupiers of that property; and
- (c) the value of that property, as assessed under section 6.

(2) The Valuation Officer may include in the Valuation Roll particulars of exempt property.

(3) The Valuation Officer must from time to time, as occasion demands, amend the valuation roll by—

- (a) adding property, or deleting property no longer in existence;
- (b) showing new and amended valuations;
- (c) recording changes in the occupiers;
- (d) showing new descriptions of property; and
- (e) correcting any error or mistake of measurement, survey, or classification, or any clerical error,

and must prepare a new Valuation Roll, and cause it to be published in the *Gazette*, after every general revaluation under section 8(2).

(4) Every new Valuation Roll prepared after a general revaluation takes effect on the date on which that Roll is published in the *Gazette*.

(5) Any person may inspect the Valuation Roll at any time during the normal office hours of the Valuation Officer.

(6) Every occupier of any property must notify the Collector in writing, within 21 days of the change, of every change affecting the property concerning any of the details recorded in the Valuation Roll.

(7) A person who fails to comply with subsection (6) commits an offence.
Penalty: A fine of £5,000.

Valuation of Property

6. (1) The Valuation Officer must assess the value of all rateable property in Ascension.

(2) For the purposes of this Ordinance, the value of any property is its depreciated replacement cost; that is to say, the gross replacement cost of the buildings, structures, and other improvements on the land, together with fixtures, from which appropriate deductions may then be made to allow for the age, condition, economic or functional obsolescence, environmental and other factors which together may result in the existing property being worth less than would a new replacement.

(3) Depreciation is to be calculated according to the accounting method known as the ‘straight line basis’.

Occupier of Property

7. (1) For the purposes of this Ordinance, a person is the occupier of any property if—

- (a) the use of the property is wholly or mainly for the purposes of a business or other activity carried on by that person on Ascension, including (subject to subsection (2)) use for the housing of that person or of any person employed or otherwise engaged in the business or activity; or
- (b) that person has—
 - (i) the exclusive right to occupy that property; or

(ii) actual occupation of that property.

(2) If property is available for use as living accommodation for a person employed on Ascension in connection with some business or other activity, that property is deemed to be occupied by the employer of that person and not by the employee.

(3) In this section, “**activity**” includes activities undertaken by or on behalf of—
 (a) the Crown (whether or not in right of the Government of Ascension, and including the activities of Her Majesty’s Armed Forces); and
 (b) any international organisation (such as, but without limiting the term) the European Space Agency),

and a reference to the use of property as living accommodation for an employee includes the use of property as living accommodation for a dependant of an employee.

Valuation Notices

8. (1) The Valuation Officer must issue a Valuation Notice as soon as possible—

- (a) to every occupier of property listed in the new Valuation Roll, after a General Revaluation has taken place under subsection (2); and
- (b) to the occupier or occupiers of every property affected by any amendment to the Valuation Roll pursuant to section 5(3).

(2) A General Revaluation, comprising revaluation of all rateable property in Ascension, must be carried out at times the Governor directs.

(3) Every Valuation Notice must state, in relation to the property, the particulars required to be recorded under section 5(1); and must be in a form the Administrator from time to time approves.

Objections to Valuation Notices

9. (1) An occupier may lodge an objection against a Valuation Notice by delivering a written objection to the Valuation Officer within 3 months after the date of issue of the Valuation Notice.

(2) An objection under subsection (1) must contain particulars of the objection; and, if the objection relates to the valuation of the property, must include an alternative valuation with reasons in support of the alternative valuation.

(3) The Valuation Officer must consider any objections under subsection (1) and, within 42 days of receiving the objection either—

- (a) notify the occupier that the Valuation Notice is confirmed; or
- (b) amend the Valuation Roll and issue an amended Valuation Notice.

(4) If the Valuation Officer does not comply with subsection (3) within the period of 42 days mentioned in it, he or she is deemed to have confirmed the Valuation Notice.

(5) No objection may be taken to any Valuation Notice made or purporting to be made in accordance with this Ordinance for want of form or by reason of any mistake, defect

or omission in it, if the notice is in substance and effect in conformity with or according to the intent and meaning of this Ordinance, and if the person assessed or intended to be assessed or affected by it is designated in it according to common intent and understanding.

(6) Without limiting subsection (5), a Valuation Notice is not to be impeached or affected by reason of any mistake in it as to—

- (a) the name or surname of any person; or
- (b) the description of any property.

Appeals

10. (1) Any occupier who is not satisfied with the decision of the Valuation Officer under section 9(3) may, within one month of being notified of that decision, or of being issued with an amended Valuation Notice, or of the Valuation Notice being deemed to have been confirmed, appeal to the Supreme Court by way of an application for judicial review.

(2) Unless the Supreme Court otherwise directs, a Valuation Notice which is the subject of an appeal under this section remains in full force and effect until the appeal is determined.

PART III PROPERTY TAX

Liability to pay property tax

11. (1) Every person who is an occupier of any property in any year of assessment is liable to pay property tax in relation to that property.

(2) If more than one person is named as the occupier of any property, then such persons are jointly and severally liable for the payment of the property tax in respect of such property.

(3) If the identity of the occupier of any property changes during any financial year, the liability of each occupier is to be calculated by—

- (a) calculating the property tax for the whole financial year; then
- (b) dividing that amount by 365; then
- (c) multiplying the result by the number of days during which each occupier was the occupier of the property.

Assessment and payment of property tax

12. (1) The amount of property tax payable in respect of each property in each financial year is to be calculated by multiplying the value of that property (as shown in the most recent Valuation Notice issued in respect of it) by the prescribed rate applicable to that property in that financial year.

(2) The Collector must issue an Assessment Notice to every person who is liable to pay property tax. Every such notice must specify—

- (a) the property to which it relates;

- (b) the value of the property;
- (c) the name of the occupier;
- (d) the rate or rates of tax applicable to the property; and
- (e) the amount of property tax payable in the Financial Year to which the notice relates,

and may be issued at any time (including a time before the commencement of the financial year to which it relates) not later than 6 years after the end of the tax year to which it relates.

- (3) Property tax is payable on whichever is the later of—
 - (a) 1st April in the financial year for which it is payable; and
 - (b) one month after the date of the Assessment Notice.

(3A) If at least one half of the amount due is paid on or before whichever of the dates in subsection (3) is applicable, no penalty will be due under subsection (4) if the balance is paid within 6 months of that date.

(4) Subject to subsection (3A), if any tax remains unpaid 14 days after the date on which it was due to be paid, the person liable to pay that tax is liable to pay a penalty of an amount equal to 1% of the amount unpaid, and an additional penalty of the like amount for each successive period of 14 days (or part thereof) during which the tax remains unpaid.

(5) Penalties under subsection (4) are due and payable without formal assessment or demand; but no proceedings may be commenced in any court in respect of the alleged failure to pay such a penalty unless the Collector has first made a written demand for payment and allowed a period of at least 21 days for the payment to be made.

Assessment Notices – further provisions

- 13.** (1) An Assessment Notice may be—
- (a) a Standard Assessment, being one intended (subject to paragraph (b)) to assess the full liability of the occupier in relation to the relevant property for the relevant financial year; or
 - (b) an Amended Assessment, which may be issued where it appears to the Collector that any person is liable to pay tax of an amount different from that assessed in a Standard Assessment;

and, without limiting paragraph (b), an Amended Assessment may be issued whenever tax liability is affected by a general revaluation, an amendment of the Valuation Roll, or a change in the prescribed rate.

(2) No objection may be taken to any Assessment Notice made or purporting to be made in accordance with this Ordinance for want of form or by reason of any mistake, defect or omission in it, if the notice is in substance and effect in conformity with or according to the intent and meaning of this Ordinance, and if the person assessed or intended to be assessed or affected by it is designated in it according to common intent and understanding; and, without limiting this subsection, no Assessment Notice is to be impeached or affected by reason of any mistake in it as to—

- (a) the name or surname of any person; or
- (b) the description of any property.

(3) An occupier named in a property tax assessment notice is liable to pay the property tax specified in the notice, on or before the dates on which payments are due, notwithstanding any objection or appeal relating to the valuation notice or the assessment notice.

Objections to Assessment Notices

14. (1) Subject to section 13(2), a person aggrieved by an Assessment Notice may deliver a written objection to the Collector within 28 days of the date of issue of the Assessment Notice.

(2) An objection under subsection (1) must contain particulars of the objection.

(3) The Collector must consider any objections under subsection (1) and, within 14 days of receiving the objection either—

- (a) advise the objector that the Assessment Notice is confirmed; or
- (b) amend the assessment and issue an amended Assessment Notice.

(4) If the Collector does not comply with subsection (3) within the period of 14 days mentioned in it, he or she is deemed to have confirmed the Assessment Notice.

Appeals

15. (1) A person who is not satisfied with the decision of the Collector under section 14(3) may, within 14 days of being advised of that decision, or of being issued with an amended Assessment Notice, or of the Assessment Notice being deemed to have been confirmed, appeal to the Magistrates' Court by notice in writing delivered to the Clerk of the Peace.

(2) Unless the Magistrates' Court (for special reason) otherwise directs, an Assessment Notice which is the subject of an appeal under this section remains in full force and effect until the appeal is determined.

(3) A person (including the Collector) who is not satisfied with the decision of the Magistrates' Court may, within 14 days of being advised of that decision, appeal to the Supreme Court by way of an application for judicial review

Rates of property tax

16. (1)² The Governor may, by notice in the *Gazette*, prescribe the rate or rates of property tax payable under this Ordinance and may prescribe different rates for use in relation to different types of property.

(2) A notice under subsection (1) must specify the date from which the rate or rates prescribed is to take effect.

² Rate of property tax fixed at 2.5% with effect from 1 April 2014 (*G.N. 90 of 30 July 2014*). [Previous rate fixed at 3% with effect from 1 April 2012 (*G.N. 21 of 29 February 2012*)]

- (3) If the rate of property tax is changed during any financial year, the total amount of tax payable during that year in respect of any property is the sum of—
- (a) the tax payable in relation to the part of the year preceding the change, calculated thus:
 - (i) calculate the property tax for a whole financial year, using the rate applicable before the change; then
 - (ii) divide that amount by 365; then
 - (iii) multiply the result by the number of days between the commencement of the tax year and the date of the change; and
 - (b) the tax payable in relation to the part of the year following the change, calculated thus:
 - (i) calculate the property tax for a whole financial year, using the rate applicable after the change; then
 - (ii) divide that amount by 365; then
 - (iii) multiply the result by the number of days between the date of the change and the end of the financial year.

Special rates of tax

17. (1) A property which, in the opinion of the Collector, is not put to active and purposeful use for a period longer than 6 months, attracts a liability to property tax, from the date it became unused until the date it is again used, at 200% of the amount which would have been payable if the property were in use.

(2) Any newly constructed property attracts a liability to property tax, for a period of 10 years from the date of its first occupation, at 50% of the amount which would otherwise be payable under this Ordinance, provided that the property remains throughout that time in active and purposeful use.

(3) Every occupier of any property must notify the Collector in writing, within 21 days of the change, of every change of circumstances affecting the property which would affect the applicability to that property of either subsection (1) or subsection (2).

(4) A person who fails to comply with subsection (3) commits an offence.
Penalty: A fine of £5,000.

PART IV ENFORCEMENT OF PAYMENT

Enforcement of payment as a civil debt

18. (1) Tax may be recovered, as a civil debt due to the Government of Ascension, by suit taken before the Magistrates' Court in the name of the Collector.

(2) Notwithstanding any limitations on the jurisdiction of the Magistrates' Court, any suit for the recovery of property tax (including any penalty claimed to be due as the result of non-payment of such tax) may be heard and determined by the Magistrates' Court irrespective of the amount of tax and penalty for which the suit is brought.

(3) Nothing in subsection (2) affects the jurisdiction of the Supreme Court.

Enforcement of payment by distress

19. (1) Without affecting section 18, payment may be enforced by distress in accordance with the following provisions of this Part.

(2) Subject to subsection (3), if any person fails to pay any sum legally demanded from the person in respect of tax within 28 days of the last date for payment of it, the payment of that sum may be enforced by distress and sale of the person's goods and chattels under warrant issued by the Magistrates' Court.

(3) If the tax payable by any person in respect of any property is payable by instalments, that tax is recoverable only to the extent of each respectively of those instalments as and when it falls due.

(4) Proceedings for the issue of a warrant of distress may be instituted by the Collector making complaint before a Justice of the Peace and applying for a summons requiring the person named in the complaint to appear before the Magistrates' Court to show why the person has not paid the tax specified in the complaint.

(5) If a person summoned fails to appear in answer to the summons, and it is proved by evidence on oath that the summons was duly served upon the person a reasonable time before the time appointed for the hearing, the Magistrates' Court may either—

- (a)* proceed to hear the complaint in the person's absence; or
- (b)* issue a warrant for the person's arrest.

(6) A warrant for the arrest of a person under subsection (5) must require the person, when arrested, to be brought as soon as possible before a Justice of the Peace, who may either bind the person over to appear before the court at a future time, or commit the person to custody until the complaint can be heard

Distress warrants

20. (1) A warrant of distress may be directed to the Collector and to such other persons, if any, as the Magistrates' Court issuing the warrant may think fit, and the warrant must authorise the person or persons to whom it is directed to levy the amount which the person against whom the warrant is issued is liable to pay by distress and sale of the person's goods and chattels.

(2) The Magistrates' Court issuing a warrant of distress must include in the warrant an order that such sum as the court considers reasonable for the costs incurred in obtaining the warrant, together with the costs and charges attending the distress, are to be levied under the warrant.

Insufficiency of distress

21. (1) If the person charged with the execution of a warrant of distress makes a return to the Magistrates' Court to the effect that he or she could find no goods or chattels (or no sufficient goods or chattels) on which to levy the sums directed to be levied under the

warrant, the Magistrates' Court may, subject to this section, issue a warrant of commitment against the person against whose goods the warrant of distress was issued.

(2) The order in a warrant of commitment under this section must be that the said person be imprisoned for a time specified in it, not exceeding 6 months, unless the sums mentioned in the warrant are sooner paid.

(3) On considering a return under subsection (1), the Court must not issue a warrant of commitment unless—

- (a) the person against whom the warrant might be made has had an opportunity to show cause why such warrant should not be issued (for which purpose, the court may issue a summons or warrant of arrest to secure the person's attendance);
- (b) the court has made inquiry in the person's presence as to whether the failure to pay the sum in respect of which the warrant of distress was issued was due either to the person's wilful refusal or to the person's culpable neglect; and
- (c) the Court is satisfied that the failure of the person to pay the said sum was due to such wilful refusal or culpable neglect.

(4) If no warrant of commitment is issued, a further application for such a warrant may be made on the ground that the circumstances of the person to whom the application relates have changed.

(5) A statement in writing to the effect that wages or salary of any specified amount have been paid to a person during any specified period, purporting to be signed by or on behalf of the person's employer, is evidence of the facts stated in it in any proceeding before a Magistrate's Court under this Part against that person.

Presumption of due assessment

22. In any proceedings under this Part, it is to be presumed that the tax assessed in any Assessment Notice was duly assessed and payable.

Enforcement against bodies of persons

23. (1) Without limiting section 7(4), but subject to this section, in any proceedings under this Part in relation to the nonpayment of tax by a body of persons, the court may issue summonses or warrants of arrest to secure the attendance before the court of any officer of the body.

(2) If the person charged with the execution of a warrant of distress issued against a body of persons makes a return to the Magistrates' Court to the effect that he or she could find no goods or chattels (or no sufficient goods or chattels) on which to levy the sums directed to be levied under the warrant, the Magistrates' Court may issue a summons or a warrant of arrest to secure the attendance before the court of any officer of the body of persons for the purpose of enquiring into the cause of the failure of the body of persons to pay the tax.

(3) If, upon an enquiry under subsection (2), it appears to the court that the failure of the body of persons to pay the tax was due to the wilful refusal or culpable neglect of any officer of the body of persons, the court may—

- (a) if that person is not already before the court - issue a summons or a warrant of arrest to secure his or her attendance to show cause why he or she should not be committed to prison or have distress levied upon his or her own goods to the value of the unpaid tax;
- (b) having given him or her an opportunity to show cause as aforesaid, issue either a warrant of commitment or a warrant of distress to be levied upon the goods and chattels of that person.

(4) When a court issues a warrant of distress under subsection (3)(b), section 21 applies in the event that the person charged with the execution of a warrant of distress makes a return to the Magistrates' Court to the effect that he or she could find no goods or chattels (or no sufficient goods or chattels) on which to levy the sums directed to be levied under the warrant.

(5) When a court is considering issuing a warrant of commitment under subsection (3)(b), section 21 applies, with necessary changes, as if the court had received a return of insufficiency of distress in respect of a warrant of distress issued against the person concerned.

PART V SUPPLEMENTAL PROVISIONS

Special provisions for MOD

24. (1) In this section, “**MOD**” means the Ministry of Defence of Her Majesty’s Government of the United Kingdom.

- (2) The Governor may, by order published in the *Gazette*, vary the amount of tax to be paid in any financial year in respect of any rateable property occupied by the MOD, and—
- (a) the amount of tax so varied is the amount of property tax payable as if it had been the amount specified in an Assessment Notice relating to such property; and
 - (b) the tax is payable as if an Assessment Notice in respect of it had been issued on the date of the notice in the *Gazette*.

Regulations and exemptions

25. The Governor may—
- (a) make regulations generally for the further and better execution of this Ordinance; and
 - (b) exempt the occupier of any specified property³ from liability for the whole or part of the property tax relating to that property, for a period and upon terms the Governor specifies.

Repeal and transitional provisions

³ Exemption granted by Governor to properties specified in Gazette Notice No. 65 of 8 April 2020

- 26. (1)** The Property Tax Ordinance, 2002 (“**the old Ordinance**”) is repealed.
- (2)** Tax due under the old Ordinance in respect of any period of time prior to its repeal (“**old tax**”), in so far as it remains unpaid on commencement of this Ordinance, is deemed to be tax payable under this Ordinance.
- (3)** For the purposes of the application of section 12(4) to old tax, that tax is to be treated as due to be paid on whichever is the later of—
- (a)** 1st April, 2010; or
 - (b)** one month after the Collector gives written warning (to the person responsible for paying the tax) that the provisions of section 12(4) apply to that old tax.
- (4)** The Valuation Roll in use under the old Ordinance immediately prior to its repeal is (until amended or replaced in accordance with subsection (7) or section 5(3)) the Valuation Roll for the purposes of this Ordinance.
- (5)** Property Tax Assessment Notices issued under the old Ordinance in relation to tax due in the financial year commencing on 1st April, 2010, have effect as Standard Assessment Notices issued in accordance with sections 12(2) and 13(1)(a) of this Ordinance.
- (6)** Until different provision is made by Notice under section 16, the prescribed rate is 3.75% for all properties.
- (7)** The Valuation Officer may publish a new Valuation Roll on commencement of this Ordinance and any such Roll is deemed to be a new Valuation Roll published following a general revaluation in accordance with sections 5(4) and 8(2).
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