

THE TANZANIA CENTRAL FREIGHT BUREAU ACT, 1981

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No. 3 OF 1981

I ASSENT,

Julius Nyerere

 President

20TH FEBRUARY, 1981

An Act to establish the Tanzania Central Freight Bureau and for matters connected with, and incidental to the establishment of the Bureau

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

**PART I
 PRELIMINARY**

1. This Act may be cited as the Tanzania Central Freight Bureau Act, 1981, and shall come into operation on such date as the Minister may by notice in the *Gazette*, appoint.
2. In this Act, unless the context requires otherwise-
 - "agent" means a person or body of persons employed as agents by the Bureau whether locally or outside Tanzania;
 - "bill of lading" means a document which evidences a contract of carriage by sea and the taking over or loading of the goods by the carrier, by which a carrier undertakes to deliver the goods against the surrender of the document and the provision in the document that the goods are to be delivered to the order of the named person or to bearer, constitutes such undertaking;
 - "Board" means the Board of Directors of the Tanzania Central Freight Bureau established under section 5;
 - "the Bureau" means the Tanzania Central Freight Bureau established by section 3-;
 - "consignee" means a person entitled to take delivery of the goods;
 - "contract of carriage by sea" means any contract whereby the carrier undertakes against payment of freight to carry goods by sea from one port to other and includes carriage by sea in consideration of which such slipper agrees to ship goods exclusively in ship owned by such owner;

contract rate" means a lower freight rate agreed to between a shipper and a shipowner in respect of carriage of goods by sea in consideration of which such shipper agrees to ship goods exclusively in ships owned by such owner-

"Director-General" means the Director-General of the Tanzania Central Freight Bureau appointed under section 6,

"freight" means charge for transporting goods by ship;

"freight rates" include contract rates, general rates and promotional rates;

"goods" includes live animals and such article of transport or packaging if supplied by the shipper;

"loyalty agreement" means an agreement or arrangement between Liner Conferences and shippers or their agents whereby shippers in the United Republic confine the maritime transportation of all or part of their goods to a particular Liner Conference;

"Minister" means the Minister for the time being responsible for shipping matters;

"national vessels" include vessels owned either wholly by the Government of the United Republic of Tanzania, Government of Zanzibar, Tanzania Private persons or vessels owned jointly between the Government of the United Republic of Tanzania or the Government of Zanzibar and other persons whether local or foreign;

"promotional freight rate" means a rate for the carriage of non-traditional exports;

"shipper" means any person by whom or in whose name or on whose behalf a contract of carriage of goods by sea has been concluded with a carrier, or any person by whom or on whose behalf the goods are actually delivered to the carrier in relation to the contract of carriage by sea;

"Special Shipping Fund" means a fund established by the Board under section 11.

PART II

THE TANZANIA CENTRAL FREIGHT BUREAU

Establish-
men of the
Bureau

3.-(1) There is hereby established a body corporate to be known as the Tanzania Central Freight Bureau.

(2) The Bureau shall-

(a) have perpetual succession, and an official seal;

(b) in its corporate name, be capable of suing and being sued;

(c) subject to the provisions of this Act, be capable of holding, purchasing or acquiring in any other way, any movable or immovable property, and of disposing of any of its property.

Functions
and powers
of the
Bureau

4.-(1) The functions of the Bureau shall be-

(a) to allocate cargo space on any ocean going vessel in respect of goods shipped from or to any port in Tanzania;

- (b) to aggregate goods shipped or intended to be shipped to or from any port in Tanzania;
- (c) to rationalize shipping services and the availability of vessels for the carriage of goods,
- (d) to regulate activities of freight forwarders in accordance with national shipping policy;
- (c) to undertake research in matters relating to shipping services and freight rates;
- (f) to establish and maintain a system of consultation and co-operation with any person or body of persons established by or under any written law and having functions related or similar to those of the Bureau for the purposes of promoting or facilitating-
 - (i) the development of a national merchant fleet;
 - (ii) the improvement of the facilities and performance of ports;
 - (iii) the formulation and maintenance of economic freight rates which further the interests of both shippers and ship owners.
- (2) In particular, but without prejudice to the generality of subsection (1) the Bureau may-
 - (a) centralize the booking of freight or cargo space in respect of goods intend to be shipped from any port outside Tanzania to any destination in Tanzania or from any port in Tanzania to any destination outside Tanzania;
 - (b) negotiate with shipowners and shipping lines individually or collectively on matters relating to, freight rate surcharges, currency and bunker adjustment factors, adequacy, frequency and efficiency of shipping services and matters connected with shipping services;
 - (c) in consultation with the Tanzania Harbours Authority, established under the Tanzania Harbours Authority Act, 1977, construct, execute, carry out, equip, improve, work, develop, administer, manage or control in the ports of Tanzania, such works and conveniences as may be necessary to facilitate shipment of goods or the discharge and removal of goods from the ports:
 - (d) provide or arrange for transport and storage of goods;
 - (e) charter ships for the purposes of its functions;
 - (f) levy charges and commissions for any services rendered and facilities provided by the Bureau to shippers and shipowners;
 - (g) require any person or body of persons or institution carrying on the business of shipper, shipowner or shipping agent to furnish to it such information as it may specify relating to the shipment of goods to or from Tanzania;
 - (h) do any other act or thing which may be necessary expedient or desirable for the proper exercise and better carrying out of the functions of the Bureau.

PART III

ADMINISTRATION

The Board
of the
Bureau

5.-(1) There shall be established a Board of the Bureau which shall, subject to this Act, be responsible for the performance of. functions and management of the affairs of the Bureau.

(2) The provisions of the Schedule to this Act shall have effect in respect of the constitution of the Board, its proceedings and other matters related to it.

(3) Save in the case of matters relating to the office and appointment of the Chairman of the Board and the Director-General of Bureau, the minister may, by order published. in the Gazette, amend, add to, vary or replace any of the provisions of the Schedule to this Act.

(4) Subject to section 17, the Board may establish committees from among its members and delegate any functions of the Board to any of those committees.

(5) The Minister may give to the Board directions of a general or specific character regarding the performance by the Bureau of any of its functions under this Act, and the Board shall give effect to every such direction given to it.

Director-
General
of the
Bureau

6. The President shall, appoint, upon such terms and conditions as he may specify, a Director-General of the Bureau who shall be the chief executive officer of the Bureau.

Appoint-
ment of
employees

7. The Board may from time to time appoint such number of other employees of the Bureau as it may deem necessary for the proper and efficient conduct of the business and activities of the Bureau.

PART IV

FINANCIAL PROVISIONS

Fund and
resources
of the
Bureau

- 8.** The funds and resources of the Bureau shall consist of-
- (a) such sums which may derive from the operations of the Bureau;
 - (b) such funds or assets as may rest in or accrue to the Bureau from other sources by way of grants, gifts fees or in any other way;
 - (c) any such sums which the Board may, subject to the provisions of section 10, borrow for the purposes of the Bureau;
 - (d) such sums as may be provided for a specified purpose by Parliament, either by way of grant or loan.

investment
Act, 1967
No. 33

9. With the prior approval of the Minister the Board may, from time to time, invest any part of the moneys available in any fund in investments authorized by the Trustees Investments Act, 1967, for investment of any trust fund.

10. With prior approval of the Minister the Board may, from time to time, borrow moneys for the purposes of the Bureau by way of loan or overdraft, and upon such security and such terms and conditions relating to repayment of the principal and payment of interest subject to any direction by the Minister, as the Board may consider fit.

Power to borrow

11.-(1) There shall be established within the Bureau a Special Shipping Fund, hereinafter referred to as "the Fund" which shall be applied generally for the advancement of the maritime interests of Tanzania including the expansion of the national merchant fleet, development of ports warehousing facilities and training.

Special Shipping Fund

(2) The moneys credited to the Fund shall be held and disbursed separately from the moneys and other funds of the Bureau.

(3) The moneys of the Fund shall be derived from-

- (a) such percentum of the funds of the Bureau payable into the Fund as the Board may, with the approval of the Minister determine;
- (b) such other sources as may be determined by the Board with the approval of the Minister;
- (c) such sums or property as may in any other manner vest in the Bureau for the purposes of the Fund.

(4) The Minister shall, from time to time, and with the consent of the Minister for the time being responsible for Finance determine the projects or programmes in respect of which expenditure shall be incurred on the account of the Fund.

12.-(1) Subject to subsection (2), "financial year" in this Act means any period not exceeding twelve consecutive months designated by the Board as the accounting period of the Bureau.

Annual and Supplementary budget

(2) The first financial year of the Board shall commence on the date when this Act comes into operation and may be of a period longer or shorter than twelve months.

(3) Not less than two months before the beginning of any financial year the Board shall, at its first meeting especially convened for that purpose, pass a detailed budget (in this Act called the "annual budget") of the amounts respectively-

- (a) expected to be received; and
- (b) expected to be disbursed by the Board during the financial year.

(4) If in any financial year the Board requires to make any disbursement not provided for in the annual budget for the year the Board shall, at a meeting, pass a supplementary budget detailing the disbursement.

(5) Forthwith upon the passing of the annual budget or any supplementary budget the Board shall submit the budget to the Minister for his approval.

(6) The Minister shall, upon receipt of the annual budget or supplementary budget, approve or disapprove it or approve it subject to such amendment as he may consider fit.

(7) Where the Minister has approved any annual budget or supplementary budget the budget as approved by him, with which or without amendment shall be binding on the Board which, subject to the provisions of subsection (6), shall confine its disbursement within the items and amounts contained in the applicable estimates as approved by the Minister.

(8) The Board may —

- (a) with the sanction in writing of the Minister make disbursement notwithstanding that the disbursement is *not* provided for in any budget;
- (b) from the amount of expenditure provided for in any budget in respect of any item, transfer a sum not exceeding two hundred thousand shillings to any other item contained in the budget;
- (c) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of the alteration of expenditure limits becoming necessary.

Accounts
and Audit

13.- The Board shall cause to be provided and kept proper books of accounts and records with respect to-

(a) the receipt and expenditure of moneys by, and other financial transactions of, the Bureau;

(b) the assets and liabilities of the Bureau,
and shall cause to be made out for every financial year a balance sheet and a statement showing details of the income and expenditure of the Bureau and all its assets and liabilities.

(2) Not later than six months after the close of every financial year the accounts including the balance sheet of the Bureau in respect of that financial year, shall be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act, 1968.

Acts, 1968
No. I

(3) Every audited balance sheet shall be placed before a meeting of the Board and, if adopted by the Board, shall be endorsed with the certificate that it has been adopted.

(4) As soon as the accounts of the Bureau have been audited and adopted by the Board, and, in any case not later than six months after the audit, the Board shall submit to the Minister a copy of the audited statements made by the auditors.

Annual
statement of
accounts and
report to be
submitted to
the Minister

14. The Board shall, within six months after the close of the financial year, cause to be prepared and submitted to the Minister a report dealing generally with the activities and operations of the bureau during that year and accompanied by-

- (a) a copy of the audited accounts of the Bureau;
- (b) a copy of the auditors report on the accounts; and
- (c) such other information as the Minister may direct.

15. The Minister shall, as soon as practicable and, in any case not later than twelve months after the close of a financial year, lay before the National Assembly the following documents in relation to that financial year-

- (a) a copy of the audited statement of accounts of the Bureau;
- (b) a copy of the auditors report; and
- (c) a copy of the report by the Board.

Annual statement and report to be laid before the National Assembly

PART V

MISCELLANEOUS PROVISIONS

16.-(1) Subject to subsection (2) members of the Board shall be entitled to such remuneration, fees or allowances for expenses as the Minister may, upon the recommendation of the Board, prescribe from time to time.

Remuneration of members of the Board

(2) No remuneration fees or allowances, except such allowances for expenses as may be expressly authorized by the Minister, shall be paid to any member of the Board who, is a public officer.

17. (1) Subject to the provisions of subsection (6), the Board may from time to time, by writing under the official seal of the subject to such terms, conditions and restrictions as it may specify, delegate to any committee of the Board or to any employee of the Bureau, all or any of the functions, powers or duties conferred or imposed by or under this Act on the Board, and where any delegation is so made the delegated function, power or duty may be performed or exercised by the delegate subject to the terms, conditions and restrictions specified by the Board.

Delegation of powers by the Board

(2) The delegation under subsection (1) may be made to the holder of an office under the Bureau specifying the office but without naming the holder, and in every case where delegation is so made each successive holder of the office in question and any person who occupies or performs the duty of that office may, without any further authority, perform or exercise the delegated function, power or duty in accordance with the delegation made by the Board.

(3) The Board may revoke a delegation made by it under this section.

(4) No delegation made under this section shall prevent the Board from itself performing or exercising the function, power or duty delegated.

(5) A delegation made under this section may be published in the *gazette*, and upon its being so published shall be judicially noticed and shall be presumed to be in force unless the contrary is proved.

- (6) The Board shall not have power under this section to delegate —
 (a) its power of delegation; or
 (b) the power to approve the annual budget or any supplementary budget, the annual balance sheet or any statement of accounts.
- Liabilities of members of the Board etc., Cap. 16 Acts, 1970 No. 7 Acts, 1974 No. 37
- 18.** Without prejudice to the provisions of section 284A of the Penal Code or the Specified Officers (Recovery of Debts) Act, 1970 or of the Parastatal Employees (Recovery of Debts) Act, 1974, no act or thing done or omitted to be done by any person who is a member of the Board or employee or agent of the Bureau shall, if done or omitted *bona fide* in the execution or purported, execution of his duties as the member of the Board or employee or agent, of the Bureau, subject that person to any action, liability or demand of any kind.
- Restriction, etc., on loyalty agreements and Bureau's sole right to book cargo
- 19.**-(1) If in his opinion the public interest so requires, the Minister may, by order published in the *Gazette*, abolish any existing loyalty agreement or impose restrictions on the terms or scope of loyalty agreements which may be entered into by shippers in the United Republic.
 (2) Except for goods exempted, by the Minister under section 23 (1), the Bureau shall have the sole right to book all, cargo coming to or going from the United Republic along trade routes which are under the jurisdiction of the Bureau.
 (3) No person shall be entitled to any payment as compensation for loss of business arising or incurred as a result of an order restricting to the Bureau the right to book certain cargo, or vesting into the Bureau the sole right to book cargo, coming to or going from the United Republic along any trade route.
- Board to fix charges and commissions and the recovery of moneys owed by way of charges and commissions
- 20.**-(1) Charges and commissions may be made by the Bureau for any services rendered or facilities provided by the Bureau to shippers and shipping agents and shall be fixed by the Board with the approval of the Minister and may be revised from time to time.
 (2) Charges and commissions referred to in subsection (1) shall become payable within thirty days after demand by the Bureau.
 (3) Where a shipper, shipowner or shipping agent refuses to pay to the Bureau within thirty days after demand any sum which he is required to pay as a charge or commission under this section, such a sum may, on application made by the Bureau to a court having jurisdiction over the last known place of business or residence of such shipper, shipowner or shipping agent be recovered in like manner as a fine imposed by such court.
- Penalty for failure to utilize allocated cargo space
- 21.**-(1) Where, at the request of a shipper or his agent, and the Bureau books, reserves or allocates cargo space on any vessel, and the shipper or his agent fails or refuses to utilize the whole or part of the space so booked, reserved or allocated, the Bureau may impose a penalty, on the shipper or agent concerned, not exceeding thirty-thousand shillings, and may recover the amount as a civil debt.

(2) The Bureau may, notwithstanding the penalty imposed under subsection (1), recover from the shipper or agent in question, as a civil debt, an amount equivalent to the loss incurred by the Bureau as a result of the default by the shipper or agent.

(3) In any action for the recovery of any amount due to the Bureau under this section, a certificate under the hand of the Director-General that amount is due as a penalty or the amount of the loss incurred by the Bureau, and that the defendant is the person liable to pay the money shall, in the contrary be conclusive evidence of the amount and of its non payment, and that the defendant is the person liable for the payment of the money in question.

(4) Nothing in this section may be construed as precluding the court in any proceeding, from considering and reviewing the amount of the penalty imposed under subsection (1).

22. Any person who commits an offence against this Act, for which a penalty is not specifically provided elsewhere in this Act, shall be liable on conviction to a fine not exceeding thirty thousand shillings.

Offences for which a penalty is not specifically provide in the Act

23.-(1) The Minister may, from time to time, by order-

- (a) specify goods and trade routes which may fall under the jurisdiction of the Bureau;
- (b) exempt goods of any class or description as may be specified in the order, from the exclusive right of the Bureau to book or reserve freight or cargo space on any ocean going vessel for the carriage of such goods from any port in or outside Tanzania to any destination specified in the Order.

Orders and regulation

(2) The Minister may make regulation for the better carrying out of the purposes and provisions of this Act-

- (a) prescribing the conditions and terms upon which any specified facilities or services or categories of facilities or services within the scope of the functions of the Bureau shall be provided to public and other persons;
- (b) prescribing procedures relating to freight bookings;
- (c) prescribing fees, rates and other charges in connection with freight operations;
- (d) prescribing forms to be used for any purpose under this Act;
- (e) prescribing anything which may be prescribed under this Act;
- (f) providing for any matter which, in the opinion of the Board, is necessary to provide for the efficient performance of the functions of the Bureau.

(3) Regulations made or orders given under this section shall be published in the *Gazette*:

Provided that where regulations or orders are made which are not of general application, the Board may, in addition to or in lieu of publication in the *Gazette*, publish the regulations or orders in such a manner as will, in the opinion of the Board, ensure the contents of the regulations or orders coming to the notice of the persons or category of persons in respect of which they apply and of the members of the public who might be affected by such regulations or orders.

SCHEDULE

(Section 5(2))

- 1.**-(1) The Board shall consist of-
- (a) a Chairman who shall be appointed by the President;
 - (b) the Director-General;
 - (c) not less than nine other members who shall be appointed by the Minister from among persons who, in his opinion, are qualified or otherwise fit to be appointed as members of the Board.
 - (d) five other members who shall be appointed by the Minister from any crop authority or relevant institution.
- (2) The Board may appoint any employee of the Bureau to be the Secretary of the Board.
- Vice-Chairman** 2. Members of the Board shall elect one of their number to be the Vice-Chairman who shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election and shall be eligible for re-election.
- Minute of appointment** **3.**-(1) A member of the Board shall hold office for such period as the appointing authority may specify in his appointment or, if no period is so specified, shall hold office for a term not exceeding three years from the date of his appointment, and shall be eligible for re-appointment.
- (2) In the case of a member who is a member by virtue of his holding some of the office, he shall cease to be a member upon his ceasing to hold that office.
 - (3) The appointing authority may at any time revoke an appointment made by him under paragraph I and any member so appointed may at any time resign his office by notice in writing to the appointing authority.
- Absent member may be represented** **4.** If a member of the Board who is a member by virtue of his holding some other office is unable for any reason to attend any meeting of the Board, he may nominate in writing another person from his institution to attend the meeting in his place.
- Casual vacancies** **5.** If any vacancy occurs in the membership of the Board by reason of the death, resignation or permanent incapacity of any member thereof or otherwise, the appointing authority may appoint another person to fill that vacancy, and the person so appointed shall hold office for the unexpired residue of the period of office of the member in whose place he is appointed.
- Variation of the composition of the Board** **6.** The Minister may, on the advice of the Board, by order published in the *Gazette*, vary the composition of the Board.
- Meetings and procedure of the Board** **7.**-(1) The Board shall ordinarily meet for the transaction of its business at the time and places determined by it, but shall meet at least once in every three months.
- (2) The Secretary of the Board shall give each member adequate notice of the time and place of every meeting and shall keep a record of the proceedings of every meeting of the Board.
 - (3) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Board. In the absence of both the Chairman and the Vice-Chairman, members present shall appoint one of their number to preside over the meeting.
 - (4) The Chairman or with his consent, the Secretary, may invite any person who is not a member to participate in the deliberations at any meeting of the Board, but any person so invited shall not be entitled to vote.
- Quorum** **8.**-(1) The quorum at any meeting of the Board shall be one half of the total number of members of the Board and, where there is an uneven number of members, shall be the whole next number above half.

(2) Subject to the provisions of sub-paragraph (1) the Board may act notwithstanding any vacancy in its number.

9.-(1) Questions proposed at a meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the person presiding shall have a second vote in addition to his casting or deliberative vote.

Decision of the Board

(2) Notwithstanding sub-paragraph (1), a decision may be made by the Board without a meeting by circulation of the relevant papers among the members, and the expression in writing of the views of the majority of members.

10.-(1) The Board shall cause to be recorded and kept minutes of all business conducted on transacted at its meetings, and the minutes of each meeting of the Board shall be read and confirmed, or amended and confirmed, at the next meeting of the Board and signed by the person presiding at the meeting.

The Board to confirm minutes of its meetings

(2) Any minutes signed, or purporting to have been signed, by the person presiding at the meeting of the Board shall, in the absence of proof of error, be deemed to be a correct record of the meeting whose minutes they support.

11. No act or proceeding of the Board shall be invalid by reason only of any vacancy among its members or defect in the appointment of any of them.

Vacancies, etc., not to invalidate proceedings
Orders, directions, etc., by the Chairman of the Director-General

12. All orders, directions, notices or other documents made or issued on behalf of the Board shall be signed by-

- (a) the Chairman of the Board; or
- (b) the Director-General or any other officer of the Bureau appointed in writing in that behalf by the Director-General.

13. The Seal of the Bureau shall not be fixed on any instrument except in the presence of any of the following person-

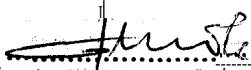
Seal of the Bureau

- (a) the Chairman;
- (b) the Vice-Chairman;
- (c) the Director-General;
- (d) any of the directors of the Bureau;
- (e) any other employee of the Bureau appointed in writing in that behalf by the Director-General.

14. Subject to the provisions of this Schedule, the Board may regulate its own proceedings.

The Board may regulate its proceeding

Passed in the National Assembly on the twenty first day of January, 1981.


Clerk of the National Assembly