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THE TANZANIA COMMISSION FOR AIDS (AMENDMENT) ACT, 2014

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NOTICE

This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dar es Salaam,
30th October, 2014

OMBENI Y. SEFUE
Secretary to the Cabinet

A BILL

for

An Act to amend the Tanzania Commission for AIDS Act, (Cap 379).

ENACTED by Parliament of the United Republic of Tanzania.

PART I PRELIMINARY PROVISIONS

Short title
Cap. 379

1. This Act may be cited as the Tanzania Commission for AIDS (Amendment) Act, 2014, and shall be read as one with the Tanzania Commission for AIDS Act, hereinafter referred to as “the principal Act”.

PART II GENERAL AMENDMENTS

Amendment of
the principal
Act

2. The principal Act is amended by deleting the word “Commission” wherever it appear and substituting for it acronym “TACAIDS.”

Amendments
of section 3

3. The principal Act is amended in section 3, by-
(a) inserting in their alphabetical order the following definitions:
“Anti Retroviral Drugs (ARVs)” means drugs used by an HIV infected person to reduce or limit the multiplication of HIV;

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Cap. 287
and 288

“Chairman” means a person appointed as Chairman of the Commission under this Act;

“Executive Director” means “the Chief Executive Officer of TACAIDS;

“HIV and AIDS Focal Person” means a person who performs such duties as prescribed under this Act”;

“local authority” means local government authorities as established under the Local Government (Urban Authority) Act and the Local Government (District Authorities) Act;

“recipient” means a person or group of persons, organisation or body corporate which receives funds from the Trust Fund;

“thematic area” means intervention areas for implementing National Multi-Sectoral Framework for HIV and AIDS national response.”

(b) deleting the definition of the term “HIV” and substituting for it the following:

“Human Immuno Deficiency Virus (HIV)” means the virus causing AIDS;

(c) deleting the phrase “policy of HIV and AIDS prevention and control” appearing after the word “coordination” in the definition of the word “Minister”;

(d) deleting the definition of the term “AIDS” and substituting for it with the following:

“Acquired Immuno Deficiency Syndrome (AIDS)” means a condition characterized by a combination of signs and symptoms caused by HIV which attack and weaken the body’s immune system, making any infected person susceptible to other life threatening infections.

Amendment of
section 6

4. The principal Act is amended in section 6, by-

(a) deleting subsection (1) and substituting for it the following:

“(1) The TACAIDS shall consist of not more than eleven members, being:

(a) a Chairman who shall be appointed by the President; and

(b) such other members who shall be appointed

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by the Minister.”;

(b) deleting subsection (2) and substituting for it the following:

“(2) In appointing members, the Minister shall have regard to experience, interest and commitment of candidates in the prevention and control of HIV and AIDS, the relevant academic qualifications and the capacity to appreciate the HIV and AIDS multidimensional issues.”;

(c) inserting immediately after subsection (3), the following subsection (4).

“(4) Names of members appointed to TACAIDS shall be published in the *Gazette*.”;

(b) renaming subsection (4) as subsection (5).

Amendment of
section 7

5. The principal Act is amended in section 7,

(a) by inserting the words “for one more term”; immediately after the word “reappointment” appearing in subsection (1);

(b) in subsection (2)-

(i) inserting immediately after paragraph (a) the following paragraph (b):

“(b) if he dies”;

(ii) renaming paragraphs (b) (c) (d) and (e) as paragraphs (c), (d),(e) and (f);

(iii) adding the following paragraph after a renamed paragraph (f):

“(g) if he is removed from office by the President or Minister, as the case may be-

(i) on grounds of inability to perform the functions of his office by reason of infirmity of body or mind;

(ii) on good reason or cause, relieve the Commissioner from duty.”;

(c) in subsection (3), adding immediately after the word “Commission” the phrase “ in accordance with the procedure provided for in this Act”

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- Addition of new section
- 6.** The principal Act is amended by adding the following new section after section 7:
“Disciplinary authority 7A. The President or the Minister shall be the disciplinary authority in relation to the Chairman or other members of TACAIDS respectively.”
- Amendment of section 8
- 7.** The principal Act is amended in section 8 (1), by deleting the word “Executive” appearing before the word “Chairman”
- Amendment of section 9**
- 8.** The principal Act is amended in section 9, by adding new subsection (4) as follows:
“(4) The TACAIDS shall, subject to the law governing public service, be the disciplinary authority in relation to employees and other staff.”
- Amendment of section 10
- 9.** The principal Act is amended in section 10, by inserting the words “and committees” immediately after the word “departments”.
- Amendment of title under Part III
- 10.** The principal Act is amended in Part III, by deleting the title “SECRETARIAT” and substituting for it the following title:
“MANAGEMENT OF THE TACAIDS”
- Insertion of new section 11
- 11.** The principal Act is amended, by inserting new section before section 11 as follows:
“Appointment of the Executive Director
- 11.-(1)** There shall be an Executive Director of TACAIDS who shall be appointed by the President on such terms and conditions as shall be specified in the letter of appointment.
- (2) Where the position of the Executive Director falls vacant, the Chairman shall within thirty days notify the Minister who shall take appropriate measures towards appointment of an Executive Director.
- (3) The Executive Director shall be a chief executive officer and accounting officer of TACAIDS and shall be responsible for its day to day operations.
- (4) Tenure of office of the Executive

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Director shall be five years and shall be eligible for reappointment for further one term of five years.

Duties of the
Executive
Director

11A.-(1) The Executive Director may engage such other officers and employees as he may consider necessary for the efficient and exercise of powers and performance of the functions of TACAIDS.

(2) The Executive Director may in writing, designate on temporary terms, additional persons to the staff of TACAIDS for the purposes of carrying out specific HIV and AIDS activities.

(3) The Executive Director shall be the Secretary to TACAIDS and shall be responsible for implementation of the decisions, policies and directions of TACAIDS.

Amendment of
section 11

12. The principal Act is amended, by-

- (a) designating section 11 as section “11B”;
- (b) deleting the designation “Executive Chairman” wherever it appear in Part III and substituting for it with the designation “Executive Director”;
- (c) deleting subsection (3);
- (d) re-numbering subsection (4) as subsection (3).

Amendment of
section 13

13. The principal Act is amended in section 13, by-

- (a) deleting the words “guideline issued by the Commission” and substituting for them the phrase “ regulations issued by the Minister” appearing in subsection (2);
- (b) adding the following subsections:

“(3) Each Ministry, Department and Agency and every private institution shall establish an HIV and AIDS committee under this Act, and shall designate one senior officer to be an HIV and AIDS Focal Person.

(4) The duty of the head of respective institutions referred to in subsection (3) shall be to co-ordinate the implementation of the institution’s HIV and AIDS committees plans and interventions which shall be

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internally funded.”

Addition of
new Part

- 14.** The principal Act is amended, by-
(a) adding after Part III the following new Part:

“PART IV TRUST FUND

Establishment
of Trust Fund

12A.-(1) There is established a fund to be known as AIDS Trust Fund, also known as the “Trust Fund”.

(2) The Trust Fund shall be administered by the Executive Director.

(3) In administering the functions of the Trust Fund, the Executive Director shall undertake the following:

- (a) advise the government on new sources of revenue for the purposes of ensuring adequate and sustainable flow of monies into the fund;
- (b) promote prevention of new infections according to the agreed priorities in the HIV and AIDS national response;
- (c) monitor the use of the funds disbursed and ensure adherence to the objective of the Trust Fund.
- (d) develop policies and procedures for the use of the Trust Fund;
- (e) allocate grants to applicants for funds in accordance with such procedures and such criteria as may be prescribed;
- (f) ensure that the operations of the Trust Fund are exercised in an economical and efficient manner; and
- (g) take all such other action which shall advance the objectives and purposes of the Trust Fund.

Board of

12B.-(1) There shall be a Board of Trustee

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Trustee of the
Trust Fund

of the Trust Fund.

(2) The Board of Trustee of Trust Fund shall be compose of-

- (a) two members from TACAIDS,
- (b) other three members from major donors to the Trust Fund;
- (c) one representative from Non-Government Organisation.

(3) The Minister shall appoint one of members to be a Charman.

(4) In appointing members of the Board of Trustee, the Minister shall have regard to proven experience, commitment and contribution of a person, organisation or institution in the promotion of activities related to prevention of HIV/AIDS.

(5) The Executive Director of TACAIDS shall undertake duties of a Secretary to the Board of Trustee.

(6) The Board of Trustee shall perform the following functions:

- (a) ensure availability of funds and resources for the implementation of HIV and AIDS activities;
- (b) solicit funds and other resources for the purposes of ensuring adequate and sustainable flow of monies into the Trust Fund; and
- (c) disburse funds or sponsor programmes which meets the criteria set by TACAIDS.

(7) The provisions of the Schedule shall apply in respect to proceedings of the Board of Trustee and other related matters.

Fund of the
Trust Fund

12C. The funds and resources of the Trust Fund shall consists of-

- (a) such sums of moneys as may be appropriated by Parliament;

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- (b) revenues collected by or payable to the TACAIDS under this Act;
- (c) moneys raised by way of loans, donations, grants or bequeaths;
- (d) other income generated by way of investment financed by the Trust Fund, due allowance being made to necessary expense which is to be met by such investment; and
- (e) any such moneys or properties lawfully acquired from various sources.

Disbursement
of funds

12D.-(1) Moneys deposited in the fund shall be used for the purposes of funding HIV and AIDS national response.

(2) At least one percent of the funds collected for the Trust Fund shall be used for co-ordination of HIV and AIDS national response.

Accounts and
record of Trust
Fund

12E.-(1) The Board of Trustee shall-

- (a) keep accounts and records of all its activities;
- (b) ensure that all monies received are properly accounted for and payments are correctly made by authorized personnel;
- (c) establish one or more separate accounts in a bank into which all moneys received by the Trust Fund shall be paid;
- (d) keep books of accounts and maintain proper records of its operations in accordance with commercial accounting standards;
- (e) prepare annual estimates of income and expenditure and adhere to any such estimates;
- (f) prepare and publish an Annual Report which shall include the financial statement in relation to each financial

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- year ended; and
(g) manage the resources of the Fund in a prudent and businesslike manner.

Annual report

12F.-(1) The Board of Trustee shall at any time and at each financial year have the accounts of the Trust Fund audited by the Controller and Auditor-General.

(2) The audited annual report shall provide detailed information regarding activities of the Trust Fund during the year ending on 30th June and any additional information as may be requested by the Minister.

Exemption

12G. The Trust Fund shall be exempted from payment of any import duty, excise duty, taxes and levies in respect of its operations, capital property or documents or any other transaction, deed, agreement, fees or promissory note to which it is a party.”

- (b) re-designating Parts IV,V and VI as Parts V,VI and VII respectively.

Insertion of the Schedule

15. The principal Act is amended by adding the following Schedule:

“ SCHEDULE

(Made under section 12B(7))

PROCEEDINGS OF THE BOARD OF TRUSTEE AND OTHER RELATED MATTERS

“Meeting and quorum

1.-(1) The Board of Trustee shall hold four regular meetings every year and may hold more meetings if the business of the Trust Fund so requires.

(2) The Chairman or, in his absence the Vice-

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Chairman, shall preside at all meetings of the Board which he attends; and in the absence of both the Chairman and the Vice-Chairman, members present may appoint a member from among themselves to preside at that meeting.

(3) The Chairman, or in his absence, a member appointed by the Board of Trustee to act in his place may at any time, call a special meeting upon written request by a majority of the members.

(4) Notice of a meeting of the Board of Trustee shall be given in writing to each member at least fourteen days before the day of the meeting.

(5) One half of the total number of members shall form a quorum for a meeting of the Board.

Voting

2.- (1) At any meeting of the Board of Trustee, a decision of the majority of the members present and voting shall be deemed to be a decision of the Board of Trustee.

(2) In the event of equality of votes the Chairman of that meeting shall have a casting vote in addition to his deliberative vote.

Minutes

3. The Board of Trustee shall cause the minutes of all proceedings of its meetings, to be recorded and kept and the minutes of each meeting shall be confirmed by the Board of Trustee at the next meeting and signed by the Chairman of the meeting.

Vacancy

4. The Board of Trustee may act notwithstanding any vacancy in its membership.

Validity of proceedings

5. The validity of any proceedings of the Board of Trustee shall not be affected by any defect in the status of any member.

Orders and directions

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

- (a) the Chairman; or
- (b) the Secretary or any officer authorised in writing in that behalf by the Secretary.

Regulation
of
proceedings

7. Subject to the provisions of this Schedule, the Board of Trustee shall regulate its own proceedings.”

OBJECTS AND REASONS

This Bill is intending to amend the Tanzania Aids Commission Act, Cap. 349. The amendments are designed, inter alia, to separate the “executive function” out of the position of the Chairman. The intention is to allow efficient discharge of duties by the Chairman and the introduction of a position of an Executive Director. The Bill also establish Aids Trust Fund with the aim of ensuring availability of funds and other resources for smooth implementation of HIV and AIDS related activities.

Part I contains a short title and construction of the amending enactment.

Part II proposes amendment on various sections of the Act.

Clauses 2 and 3 propose amendment relating to various definitions of the Commission, HIV and AIDS related terms.

Clauses 4 to 7 intends to amend sections 6, 7 and 8 of the Act. The proposed amendments provide for composition of the Commission, appointment and qualification of the Commissioners. Further, the amendments separate the “executive function” from the position of the Chairman. In addition to that, the amendments empower the Commission to establish various committees for smooth operation of, and implementation of the objectives of the Commission.

Clauses 8 to 13 propose amendments in section 9 to 13. The amendments aim at introducing a new title for Part III which will read as “MANAGEMENT OF THE

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COMMISSION.” Further, the amendments introduce the position of an Executive Director of the TACAIDS, provides for his appointment and duties, and disciplinary authority. Thereafter, propose establishment of HIV and AIDS committees in work places.

Clause 14 introduces a new Part IV to the Act. The amendments are aimed at establishing a fund to be known as the AIDS Trust Fund. The new Part further provide for sources of funds, disbursement of its funds, governance and other financial matters related to the Fund.

Clause 15 introduces a Schedule to the Act. The Amendments introduces a Board of the TACAIDS and set out its procedural matters.

MADHUMUNI NA SABABU

Muswada huu unakusudia kufanya marekebisho katika Sheria ya Tume ya Kudhibiti Ukimwi Tanzania (Sura Na. 379). Marekebisho haya yanalenga, pamoja na mambo mengine, kutenganisha “jukumu la utendaji” toka kwa Mwenyekiti wa Tume. Dhamira ya marekebisho hayo ni kuleta ufanisi katika utekelezaji wa majukumu ya Mwenyekiti na kuingiza nafasi ya Mkurugenzi Mtendaji katika muundo wa Tume. Muswada huu pia unakusudia kuanzisha Mfuko wa Udhamini wa Ukimwi kwa lengo la kuhakikisha upatikanaji wa fedha na rasilimali nyingine katika utekelezaji wa shughuli zinazohusiana na VVU na UKIMWI.

Muswada huu umegawanyuika katika Sehemu Mbili.

Sehemu ya Kwanza inahusu jina la Sheria inayopendekezwa.

Sehemu ya Pili ina masharti yanayopendekeza marekebisho katika vifungu mbalimbali vya Sheria hiyo.

Ibara ya 2 na 3 inapendekeza marekebisho ya misamiati na tafsiri ya maneno mbalimbali yanayohusiana na Tume, VVU na UKIMWI.

Ibara ya 4 hadi ya 7 inakusudia kurekebisha vifungu vya 6,7 na 8 vya Sheria. Marekebisho yanayopendekezwa yanaainisha masharti yanayohusu muundo wa Tume, uteuzi na sifa za Makamishna wa Tume. Halikadhalika, marekebisho hayo yanaondoa jukumu la utendaji toka kwa Mwenyekiti. Pamoja na hayo, marekebisho yanaipa mamlaka Tume kuunda kamati mbalimbali kwa azma ya kuleta namna bora ya kufikia madhumuni ya kuundwa kwa Tume.

Ibara ya 8 hadi ya 13 inapendekeza marekebisho katika kifungu cha 9 hadi 13. Marekebisho hayo yana lengo la kuingiza kichwa cha habari kipya cha Sehemu ya Tatu ambacho kitasomeka “USIMAMIZI WA SHUGHULI ZA TUME”. Hali kadhalika, marekebisho haya yanaingiza nafasi ya Mkurugenzi Mtendaji wa TACAIDS, uteuzi na majukumu yake, na mamlaka ya nidhamu. Pamoja na hayo, yanapendekeza kuanzishwa kwa kamati za VVU NA UKIMWI katika sehemu za kazi.

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Ibara ya 14 inaingiza Sehemu mpya ya Nne. Marekebisho hayo yanalenga kuanzishwa kwa mfuko utakaojulikana kama Mfuko wa Udhadini wa Ukimwi. sehemu hiyo inaainisha vyanzo vyake vya fedha, mgawanyo wa fedha zake, usimamizi wake na masuala meingine ya fedha za Mfuko huo.

Ibara ya 15 inaingiza Jedwali kwenye Sheria. Marekebisho hayo yanaingiza Bodi ya TACAIDS katika Sheria na kuainisha masuala mengine ya kiutendaji ya Bodi.

Dar es Salaam,
27 Oktoba, 2014

MIZENGO P. PINDA
Waziri Mkuu