

THE UNITED REPUBLIC OF TANZANIA



No. 18 OF 1978

ASSENT,

Julius K. Nyerere
President

13TH SEPTEMBER, 1978

An Act to amend the District Corporations Act, 1973

[1ST JULY, 1978]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the District corporation (Amendment) Act, 1978, shall be read as one with the District Corporations Act, 1973. and shall be deemed to have come into operation on the first day of July, 1978.

Short
title
construction
and
commence-
ment
Acts 1973
No. 16

2. Section 2 of the District Corporations Act, 1973 is amended-

Section 2
of Acts
1973
No. 16
amendment

(a) by deleting the definition of "district" and substituting for it the following definition:-

" "district" means all the area which is wholly within the jurisdiction of a local authority;"

(b) by inserting in the appropriate alphabetical positions the following new definitions: -

" "local authority" means a City Council, a Municipal Council or a Town Council established or deemed to have been established under the Urban Councils (Interim Provisions) Act, 1978, or a District Development Council established under the Decentralization of Government Administration (Interim Provisions) Act, 1972;

Acts 1978
No 11

"Regional Development Corporation" means any public corporation established for any Region by an order made under section 13A."

Acts 1972
No 27

Section 4 of Acts, 1973 No. 16 repealed and replaced

3. Section 4 of the District Corporations Act, 1973, is repealed and replaced by the following section:-

"Share-holding in District Corporations 4. Where the Minister establishes a District Corporation the local authority of -the district, or, as the case may be, the local authorities of the districts, for which the Corporation is established shall subscribe for all the shares of the Corporation."

4. Section 6 of the District Corporation Act, 1973 is repealed and replaced by the following sections: -

"Management of a District Corporation 6,(I) The management and functions of every District Corporation shall vest in a Board of Directors, (2) The provisions of the Schedule to this Act shall have effect as to the constitution, proceedings and other matters relating to the Board of Directors of every District Corporation as set out in the Schedule to this Act.

(3) The Minister may, by order in the *Gazette*, amend, sub or replace all or any of the provisions ; of the schedule to this Act.

Appointment of General Manager and other employees of a district Corporation

6A-(41) The Minister shall appoint for each, District Corporation a suitable person to be the general Manager of the Corporation.

(2) The Minister may delegate his functions under subsection (1) of this Section to a Regional Commissioner in accordance with the provisions of section 14 of this, Act.

(3) The General Manager of every District corporation shall be the chief executive officer of the Corporation and shall be responsible to the Board of Directors of the Corporation in the management of the affairs of the Corporation.

(4) The terms and conditions of service of the General Manager shall be as the Minister may specify in relation to His office.

(5) Subject to the provisions of sections 8 and 9 of this Act, the Board of Directors of every District Corporation may from time lo time, appoint such other employees of the Corporation as it may consider necessary for the carrying out of the functions, of the Corporation.

Salaries etc to be paid out of a District corporation's funds

6B.-(1) Every District Corporation shall apply its funds for the following Purpose-

(a) the payment of all the salaries, fees and other allowances payable to employees of the Corporation and members of the Board of Directors -.

Provided that no remuneration, fees or other allowances, except such allowances for expenses as may be expressly authorized by the Minister, shall be paid to any member of the Board of Directors who is a public officer;

(b) the payment of the expenses and other charges duly incurred by the Corporation or for which the Corporation becomes liable in the Pursue of the performance of its functions;

(c) such other purposes as the Board of Directors may approve.

(2) The Board of Directors of every District Corporation may invest all or any portion of any moneys which are for the time Wag surplus to its requirements in, such securities as may be approved by the Minister.

Annual
Report

6c. -(1) Board of Directors of every District Corporation shall, within six months after the close of each financial-year cause to be prepared a report on the activities and operations of the Corporation during that year.

(2) Every report prepared pursuant to the provisions of subsection (1) of this section "I be submitted to the Minister together with a copy of the audited statement of accounts and the auditor's report, if any, referred to in subsection (3) of section 10 of this Act."

5. The District Corporations Act, 1973, as amended by adding immediately after Part 111 the following new Part: -

"PART IIIA

REGIONAL DEVELOPMENT CORPORATIONS AND REORGANIZATION OF
DISTRICT CORPORATIONS

Minister
may
establish
Regional
Development
corpo-
nation

13A.-(1) If in regard to any Region it appears that it is necessary or expedient in the public interest that a public corporation should be established for the Region in addition to, or in lieu of any District Corporation or District Corporations existing in that Region, the Minister may, either on his own initiative and after consultation with the local authorities of the districts in that Region or at the request of those authorities or of the Regional Development Committee (if the Region, by order in the *Gazette*, establish for that Region a Regional Development Corporation for the carrying on of such commercial or industry activity or enterprise as may be specified in the order.

(2) Every Regional Development Corporation established by an order made under this section shall-

Part 111A
added to
Acts 1973
No 16

- (a) be known as the Regional Development Corporation of the Region for which it is established or by such other name as the Minister shall specify, and shall 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 in any other way acquiring, and disposing of, any property, movable or immovable, for the purposes of carrying out the functions conferred upon it by or under this Act, or any other written law.

(3) Every order made under this section establishing a Regional Development Corporation shall specify the Region for which it is established and the functions of the Corporation.

Share-
holding
in
Regional
Develop-
ment
Corpo-
rations

13B. Where the Minister establishes a Regional Development Corporation the local authorities of the districts in the Region for which the Corporation is established shall subscribe for all the shares of the Corporation.

Application
of the other
provisions
of this Act
to
Reginal
Develop-
ment
corpo-
rations

13c. All the other provisions of this Act relating to District Corporations shall apply, with necessary modifications and Act to the extent that they are applicable, in relation to every Regional Development Corporation established under this Act.

Power to
reorganize
District
Corpo-
rations

13D. (1) Where the Minister has established or establishes a Regional Development Corporation for the performance of any functions and the Minister is satisfied that there exist within the Region a District Corporation for the performance of all or any of the functions for which the Regional Development Corporation is or has been established, the Minister may, either on his own initiative and after consultation with the local authority of the district for which the District Corporation has been established or at the request of that local authority or of the Regional Development Committee, by order in the Gazette-

- (a) provide that the District Corporation shall cease to exist or shall cease to perform all or any of the functions which are conferred upon the Regional Development Corporation-

- (b) transfer any asset or liability of the District Corporation to the Regional Development Corporation;
- (q) transfer any person who is an employee of the District Corporation to the service of the Regional Development Corporation.

(2) Where, by an order made under this section the Minister vests any asset or liability of a District Corporation in any Regional Development Corporation, the asset or liability to which the order relates shall by virtue of that order and without further assurance, vest in the Regional Development Corporation.

(3) Where, by an order made under this section, the Minister transfers any employee of a District Corporation to the service of a Regional Development Corporation-

- (a) the employee shall, from the date of the transfer, be deemed to be an employee of the Regional Development Corporation;
- (b) the terms and conditions of service applicable to the employee after the transfer shall not be less favourable than those which were applicable to him immediately before the transfer, and for the purpose of determining any right to gratuity or any other superannuation benefit the service of the employee with the Regional Development Corporation shall be regarded as continuous with his service immediately preceding the transfer; and
- (c) the employment of the employee by the District Corporation immediately prior to the transfer and his employment by the Regional Development Corporation shall be deemed to be continuous employment by one employer within the meaning of section 8A of the Severance Allowance Act, 1962, and that Act shall apply to the parties in the same manner as it applies to the cases set out in subsection (1) of section 8A.

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(4) Where, by an order made under this section, the Minister vests any asset or liability of a District Corporation in a Regional Development Corporation, he may make provision in respect of the transfer of the rights and liabilities of the District Corporation to the Regional Development Corporation under any contract, guarantee, agreement, bond, authority, mortgage charge, bill of exchange, promissory note, bank draft, bank cheque, letter of credit or any other security or instrument, and may provide for the substitution of the Regional Development Corporation as the party to the security or instrument.

(5) The Minister may, in any order made under this section, make such supplementary, transitional or consequential provisions as he may deem necessary to give effect to the order."

6. Subsection (1) of section 15 of the District Corporations Act, 1973 is repealed and replaced by the following subsection: -

"(1) The Minister may make regulations generally for the better carrying out of the provisions of this Act and, without prejudice to this generally may also make specific regulations in respect of anything which is permitted, or required by this Act to be prescribed.-

Section 11 added to Acts, 1973 No. 16

7. The District Corporation Act,, 1973 is amended by adding immediately after section 16 the following new section: -

"Consequential and transitional provisions and vesting of shares

17. AU the shares of the Government of the United Republic, in every District Corporation established under this Act subsisting upon the commencement of this Act shall by virtue of the provisions of this section and without further assurance, vest in the local authority or local authorities of the district or, as the case may be, districts for which the Corporation was established."

8. The District Corporations Act, 1973 is amended by adding immediately at the end of Part IV the following Schedule--

"SCHEDULE (Section 6(2))

Composition of Board of Directors

1. The Board of Directors shall consist of-

- (a) a Chairman appointed by the President from among the names of two or three persons recommended by the local authority which for this purpose shall recommend not less than two and not more than three persons;
- (b) two members representing employees of the District Corporation appointed or elected by the employees from among themselves in any manner approved by the Minister;
- (c) not less than five and not more than seven other members appointed by the local authority.

Vice-Chairman

2. The members of the Board of Directors may elect a vice-chairman of the Board from among their number and any member elected as Vice-Chairman 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.

Secretary

3. The General Manager of the District Corporation shall be the Secretary of the Board of Directors of the Corporation.

Tenure of office of members of Boards of Direction

4.-(1) A number of Board of Directors shall, unless his appointment is sooner terminated by the appointing authority or he ceases in any other way to be a member, hold office for the period specified in relation to his appointment or, if no period is so specified, for a period of three years from the date of his appointment and shall be eligible for re-appointment.

(2) Any member of the Board of Directors may at any time resign his office by giving notice in writing addressed to the appointing authority, and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the appointing authority, he shall cease to be a member.

5. When any member of the Board of Directors is by reason of absence from the United Republic or illness or other sufficient cause unable to perform his duties as a member of the Board, the appointing authority may appoint a temporary member in his place, and the temporary member shall hold office until the resumption of duty of the substantive member or until the term of office of the substantive member, expires, whichever occurs first. Appointment of temporary member of Boards of Directors
- 6.-(1) The Board of Directors shall ordinarily meet for the transaction of business at the times and places decided upon by the Board, but shall meet at least once every three months. Meetings of Board of Directors
- (2) The Chairman, or in his absence the Vice-Chairman, may at any time call a special meeting of the Board of Directors, and shall call a special meeting upon a written request by a majority of the members of the Board in office.
- (3) The Chairman, or in his absence the Vice-Chairman, shall preside at every meeting of the Board of Directors. In the absence of both the Chairman and the Vice-Chairman from any meeting, the members present shall appoint a member from among themselves to preside over that meeting.
- (4) The Chairman, the Vice-Chairman or the temporary Chairman elected in accordance with the provisions of sub-paragraph (3) of this paragraph presiding at any meeting of the Board of Directors may invite any person who is not a member of the Board to participate in the deliberations of the Board, but any person so invited shall not be entitled to vote.
- 7.-(1) A majority of the total number of the members of the Board of Directors in office shall form a quorum for a meeting of the Board. Quorum and procedure at meetings of Board of Directors
- (2) Questions proposed at a meeting of the Board of Directors 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 or casting vote.
8. The Board of Directors shall cause to be recorded and kept minutes of all proceedings of its meetings, and the minutes of each meeting of the Board shall be confirmed by the Board at the next meeting and signed by the person presiding over that meeting. Minutes of meeting of Board of Directors
9. The validity of any act or proceeding or of the Board of Directors shall not be affected by any vacancy among the members of the Board or by any defect in the appointment of any of the members of the Board. Vacancies, etc., not to invalidate proceedings of Board of Directors
- 10.-(1) The application of the official seal of a District Corporation to any document shall be authenticated by two signatures, namely- The seal of a District Corporation and execution of documents
- (a) the signature of the Chairman of the Board of Directors or of some other member of the Board authorized by the Board for that purpose; and
- (b) the signature of the General Manager of the Corporation or of some other employee of the Corporation authorized by the Board to act for that purpose in place of the General Manager.
- (2) Any contract or other instrument which, if executed by a person other than a body corporate would not be required to be under seal, may be executed on behalf of a District Corporation by the General Manager of the Corporation or by any member of the Board of Directors of that member has previously been authorized, either specifically or generally by resolution of the Board, to execute that particular contract or instrument or that class of contract or instrument.
- (3) Every document purporting to be a document executed or issued by or on behalf of a District Corporation and to be-

- (a) sealed with the official seal of the Corporation authenticated in the manner provided by the provisions of sub-paragraph (1) of this paragraph; or
- (b) signed by the General Manager of the Corporation or by a member of the Board of Directors authorized in accordance with the provisions of sub-paragraph (2) of this paragraph to act for that purpose,
- shall be deemed to be executed or issued until the contrary is proved.

Power of Board of Directors to delegate

11.-(1) Subject to the provisions of sub-paragraph (4) of this paragraph, the Board of Directors may, from time to time, by instrument in writing under the seal of the District Corporation, delegate to any committee of the Board or to any employee of the Corporation any of its functions or powers and where a delegation has been made the delegated function or power may be exercised by the delegate in accordance with the terms of the instrument of delegation.

(2) A delegation under this paragraph may be made to the holder of an office under the District Corporation specifying the office but without naming the holder, and in that case each successive holder of the office in question and each person who performs the duties of that office may, without further authority, exercise the delegated function or power in accordance with the delegation made.

(3) The Board of Directors may at any time revoke a delegation made under this paragraph and no delegation made under this paragraph shall prevent the Board from itself exercising the function or power delegated.

(4) The Board of Directors shall not 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 account.

General power of Board of Directors to regulate its own proceedings.

12. Subject to the provisions of this Schedule, the Board of Directors may regulate its own proceedings."

Passed in the National Assembly on the twenty-fifth day of July, 1978.


Clerk of the National Assembly