

THE UNITED REPUBLIC OF TANZANIA



No. 17 OF 1969

I ASSENT,

Julius K. Nyerere
President

26TH MARCH, 1969

An Act to empower the President to establish Public Corporations and to provide for matters incidental thereto and connected therewith

[26TH MARCH, 1969]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Public Corporations Act, 1969. Short title
2. In this Act, unless the context otherwise requires—
“public corporation” means any public corporation established by an order made under this Act; Interpretation
“statutory corporation” means any body corporate established by or under any written law other than an Act of the Community, but does not include a company incorporated under the Companies Ordinance. Cap. 212
- 3.—(1) The President may, by order published in the *Gazette*, establish a public corporation for such functions as may be specified in such order. President may establish public corporations
(2) Every public corporation established by an order made under this section shall—
 - (a) have perpetual succession and a common seal;
 - (b) in its corporate name be capable of suing and being sued; and
 - (c) subject to the provisions of this Act and of any order made in that behalf by the President, be capable of purchasing and otherwise acquiring, and of alienating, any property, movable or immovable.
4. Every order made under section 3 establishing a public corporation shall specify the functions of such corporation. Functions of public corporations

Management
of public
corporation

5.—(1) The President shall, by order published in the *Gazette*, provide for the management of every public corporation established under the provisions of this Act.

(2) The President shall, by order published in the *Gazette*, provide for the execution of instruments and the mode of entering into contracts by or on behalf of the public corporation, and the proof of documents purporting to be executed, issued or signed by or on behalf of the public corporation, or a Director, officer or servant of the public corporation and, where the management of any public corporation is vested in any Board of Directors, the President shall, by order published in the *Gazette*, provide for—

- (a) the composition of such Board of Directors;
- (b) the appointment of and the tenure and vacation of office by the members of such Board;
- (c) the quorum, proceedings and meetings of the Board and determinations of the Board.

Powers of the
President in
relation to
public
corporations

6. The President may give to the Board of Directors of any public corporation, or to any other person entrusted with the management of the corporation, directions of a general or specific character as to the exercise and performance by such Board or such person of their or his functions, and such Board or person shall give effect to any such directions.

Accounts
and audit

7.—(1) Where the President establishes any public corporation the President shall provide for proper accounts of the public corporation and other records in relation thereto to be kept by the public corporation, and shall further provide for statements of account in such form as the President may direct to be prepared in respect of each financial year of the public corporation in such manner and in such form as the President may direct.

(2) Subject to any written law, the accounts of every public corporation shall be audited by the Tanzania Audit Corporation or by such other person as the President may direct.

(3) As soon as the accounts of a public corporation have been audited the Board of Directors or the person entrusted with the management of the corporation shall send a copy of the statement of accounts together with a copy of any report made by the auditors to a Minister designated by the President, and such Minister shall lay a copy of every such statement of accounts and auditors' report before the National Assembly.

Power to
reorganize
public and
statutory
corporations

8.—(1) Where the President has established or establishes a public corporation, or any statutory corporation has been established, for the performance of any functions and the President is satisfied that there exists any other public corporation or statutory corporation (hereinafter referred to as "the existing corporation") for the performance of all or any of the functions for which such public corporation or statutory corporation is or has been established, the President may—

- (a) by order in the *Gazette* provide that the existing corporation shall cease to exist or shall cease to perform all or any of the functions which are conferred upon the public corporation or the statutory corporation, as the case may be;
- (b) by order transfer any asset or liability of the existing corporation to the public corporation or the statutory corporation, as the case may be;
- (c) by order transfer any person who is an employee of the existing corporation to the service of the public corporation or the statutory corporation, as the case may be.

(2) Where the President makes an order under subsection (1) which provides that any existing corporation shall cease to exist he may, by such order, repeal or amend, as he may deem necessary, the written law by which such corporation has been established, and every such order repealing or amending such written law shall have the same effect as if such repeal or amendment, as the case may be, were effected by this Act.

(3) Where the President provides that an existing corporation shall cease to perform any function, it shall be unlawful for such corporation to perform such function.

(4) Where, by an order made under this section, the President vests any asset or liability of an existing corporation in any public corporation or statutory corporation, the asset or liability to which such order relates shall by virtue of such order and without further assurance, vest in the public corporation or statutory corporation specified in the order.

(5) Where, by an order made under this section, the President transfers any employee of a corporation to the service of any other corporation—

- (a) such employee shall, as from the date of such transfer, be deemed to be an employee of the corporation to which he is transferred;
- (b) the terms and conditions of service applicable to such employee after such transfer shall be not less favourable than those which were applicable to him immediately before the transfer, and for the purposes of determining any right to gratuity or any other superannuation benefit the service of such employee with the corporation to which he is transferred shall be regarded as continuous with his service immediately preceding such transfer; and
- (c) the employment of such employee immediately prior to his transfer, and his employment by the corporation to which he is transferred, 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 the said section 8A.

(6) Where the assets of any corporation transferred to any other corporation under the provisions of this section include shares in any company, and such corporation was the sole shareholder of such company, every provision in any law or in any Articles of Association or any other charter or instrument of such company providing for any consequence to follow, or requiring any act or thing to be done, or entitling any person to do any act or thing or to take any action whatsoever by reason of the fact that the corporation to which such shares are transferred is a sole shareholder, shall be of no effect in relation to such company and the President may, by order in the *Gazette*, modify in their application to any such company any of the provisions of the Companies Ordinance or of any subsidiary legislation made thereunder or of the Articles of Association or any charter or instrument of the company.

(7) Where, by an order made under this section, the President vests any asset or liability of a corporation in any other corporation, he may make provision in respect of the transfer of the rights and liabilities of the corporation to the other 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 whatsoever, and may provide for the substitution of the other corporation as the party thereto.

(8) The President may, in any order under this section, make such supplementary, transitional or consequential provisions as he may deem necessary or expedient to give effect to such order.

Powers of
a public
corporation

9.—(1) Every public corporation established under this Act shall have power to do all such acts and things as may be necessary or expedient for the performance by it of its functions.

(2) Every public corporation shall have such power to borrow money as the President may confer upon it by order in the *Gazette*.

(3) Where any moneys are paid to a public corporation as part of its funds out of moneys provided by Parliament for the purpose, the President may require the corporation to pay interest thereon to the Government and, where the President so requires, the public corporation shall pay interest thereon at such times and at such rates as the President may determine:

Provided that the President may waive the payment of interest under this subsection for any period which he thinks fit.

(4) The Government may, with the approval signified by resolution of the National Assembly raise moneys, either within or outside the United Republic, specifically for the purposes of a public corporation, and all moneys so raised shall be charged and issued out of the Consolidated Fund, and when paid to the public corporation shall form part of its funds.

(5) All sums received by the Government from a public corporation in repayment of any loan made to it by the Government or of any moneys raised by the Government under subsection (4), or in payment of any interest on any such loan or money, shall be paid into the Consolidated Fund.

(6) The Government may guarantee in such manner and on such conditions as it may think fit the repayment of the principal of and the payment of interest and other charges on any borrowings of a public corporation under and in accordance with an order made under subsection (2), and any sums required for the fulfilling of any such guarantee shall be charged on and issued out of the Consolidated Fund.

(7) In addition to the powers conferred upon a public corporation by this section the public corporation shall have such additional powers as may be conferred upon it by the President by an order published in the *Gazette*.

10. The power of the President to make an order under any provision of this Act shall include power to make such one or more orders, and either at the same time or from time to time, as the President may deem necessary or expedient. ^{Orders}

11.—(1) The President shall not delegate any of his powers under this Act to any person save in accordance with the provisions of this section. ^{Delegation of powers}

(2) The President may, by an order in the *Gazette*, delegate all or any of his powers under this Act, other than his power under section 3 to establish a public corporation, to a Minister and may empower the Minister to make regulations regulating any matter in relation to any public corporation.

Passed in the National Assembly on the twenty-sixth day of March, 1969.


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Clerk of the National Assembly