

THE TANZANIA COMMUNICATIONS REGULATORY
AUTHORITY ACT, 2003

ARRANGEMENT OF SECTIONS

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FIRST SCHEDULE

THE BOARD OF DIRECTORS OF THE AUTHORITY

SECOND SCHEDULE

THE NOMINATION COMMITTEE

THE UNITED REPUBLIC OF TANZANIA



No. 12 OF 2003

ASSENT,

.....
*President*23rd May, 2003
.....

An Act to establish the Tanzania Communications Regulatory Authority for the purpose of regulation of telecommunications, broadcasting, postal services; to provide for allocation and management of radio spectrum, covering electronic technologies and other Information and Communication Technologies (ICT) applications and to provide for its operation in place of former authorities and for related matters.

[.....]

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title 1. This Act may be cited as the Tanzania Communications Regulatory Authority Act, 2003.

Com- 2. - (1) This Act shall come into operation on such date as the Minister
mence- may, by notice published in the *Gazette*, appoint.

ment and (2) The Minister may appoint different dates for the commencement
Applica- of different parts or provisions of this Act.
tion

(3) This Act shall apply to Mainland Tanzania as well as Tanzania Zanzibar.

(4) With respect to broadcasting and content matters, this Act shall not apply to Tanzania Zanzibar.

3. In this Act unless the context requires otherwise -

Interpre-
tation

"annual report" means the annual report of the Authority referred to in section 53;

"Authority" means the Tanzania Communications Regulatory Authority established by section 4;

"Board" means the Board of Directors of the Authority referred to in section 7.

"Chairman" means the Chairman of the Board referred to in section 7(1)(a), and includes the Vice Chairman and any other person performing the functions of the Chairman;

"code of conduct" means a code of conduct adopted by the Authority in accordance with section 10(1);

"Committee" means a committee of the Authority established under section 20;

"Commission" means the Fair Competition Commission established under section 62 of the Fair Competition Act, 2003;

"Council" means the TCRA Consumer Consultative Council established by section 37;

"Consultation" means "notify or seek views of the other party or person";¹⁹⁶

"Director-General" means the Director-General of the Authority appointed under section 13;

"Divisional Director" means a Divisional Director appointed under section 14;

"exclusivity of licence" means any licence condition granted to a licensee or operator to provide certain services thereby provided in the licence in exclusion of other operators for a number of years specified in the licence;

"Internal Review Committee" means the Committee appointed by the Authority pursuant to section 34;

"inquiry" means an inquiry instituted by the Authority pursuant to section 18;

"Licence" means a licence issued under the provisions of this Act and sector legislation;

"member" means any member of the Board and includes the Chairman and the Director-General;

- "Minister" means the Minister responsible for Communications except in relation to content regulation and broadcasting services;
- "officer" means any member or employee of the Authority;
- "Permanent Secretary, means the Permanent Secretary of the Ministry for the time being responsible for the Authority;
- "Public Register" means the Public Register of the Authority, kept by the Authority pursuant to section 23;
- "regulated goods" means any equipment produced, supplied or offered for supply or for use in a regulated sector and includes any goods the Authority declares under section 46;
- "regulated sector" means telecommunications, broadcasting, postal services, allocation and management of radio spectrum and converging electronic technologies including the internet and other Information Communication and Technologies (ICT) applications.;
- "regulated services" means any services supplied or offered for supply in a regulated sector and includes services which the Authority declares to be such services under section 46;
- "regulated supplier" mean any person engaging in activities in or in connection with a regulated sector and includes service provider, operator licence or any other any person whom the Authority declares under section 46 to be such supplier;
- "Review panel" means the review panel established under section 33;
- "Secretary" means a Secretary to the Authority appointed under section 14(8);
- "sector legislation" means any legislation related to the regulated sector or services;
- "sector Minister" means the Minister for the time being responsible for a regulated sector;
- " Internal Review Committee" means the Committee appointed by the Authority pursuant to section 34;
- "standards" includes technical and safety standards relating to the context of telecommunications, broadcasting, postal and information communications sectors;
- "Tribunal" means the Fair Competition Tribunal established by section 83 of the Fair Competition Act, 2003;

PART 11

THE AUTHORITY

Estab-
lishment
of the
Authority

4. - (1) There is established a body to be known as the Tanzania Communications Regulatory Authority also known by its acronym "*TCRA*"⁵

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

- (a) suing and being sued;
- (b) acquiring, holding and disposing of real and personal property;
- (c) exercising the powers and performing the functions conferred upon it by or under this Act;
- (d) entering into any contract or other transaction, and doing or suffering to do all such other acts and things which a body corporate may lawfully perform, do or suffer to be done.

(3) The common seal of the Authority shall be duly affixed if witnessed under hand by the Director-General or the Secretary of the Authority and any other person duly authorized on that behalf.

(4) A document in writing recording acts or decisions of the Authority may be executed or authenticated on behalf of the Authority under the hand of the Chairman, the Director-General or the Secretary of the Authority

(5) Judicial notices shall be taken of the common seal of the Authority and any document executed or authenticated in accordance with this section.

(6) Notwithstanding the preceding provisions of this section, and the Authority having the status of a body corporate, the Attorney-General shall have the right to intervene in any suit or matter instituted by or against the Authority.

(7) Where the Attorney-General intervenes in any matter in pursuance of subsection (6), the provisions of the Government Proceedings Act, 1967, shall apply in relation to the proceedings of that suit or matter as if it had been instituted by or against the Government.

Act
No. 16 of
1967

5. It shall be the duty of the Authority that in carrying out its functions it shall strive to enhance the welfare of Tanzania society by-

Duty of
the
Authority

- (a) promoting effective competition and economic efficiency;
- (b) protecting the interest of consumers;
- (c) protecting the financial viability of efficient suppliers;
- (d) promoting the availability of regulated services to all consumers including low income, rural and disadvantaged consumers;
- (e) enhancing public knowledge, awareness and understanding of the regulated sectors including -
 - (i) the rights and obligations of consumers and regulated suppliers;
 - (ii) the ways in which complaints and disputes may be initiated and resolved;
 - (iii) the duties, functions and activities of the Authority.

- (f) taking into account the need to protect and preserve the environment.

Functions
of the Au-
thority

6. - (1) The functions of the Authority shall be -

- (a) to perform the functions conferred on the Authority by sector legislation;
- (b) subject to sector legislation -
 - (i) to issue, renew and cancel licences;
 - (ii) to establish standards for regulated goods and regulated services;
 - (iii) to establish standards for the terms and conditions of supply of the regulated goods and services;
 - (iv) to regulate rates and charges;
 - (v) to make rules for carrying out the purposes and provisions of this Act and the sector legislation;
- (c) to monitor the performance of the regulated sectors including in relation to -
 - (i) levels of investment;
 - (ii) availability, quality and standards of services;
 - (iii) the cost of services;
 - (iv) the efficiency of production and distribution of services, and
 - (v) other matters relevant to the Authority;
- (d) to facilitate the resolution of complaints and disputes;
- (e) to take over and continue carrying out the functions formerly of the Tanzania Communications Commission and Tanzania Broadcasting Commission;
- (f) to disseminate information about matters relevant to the functions of the Authority;
- (g) to consult with other regulatory authorities or bodies or institutions discharging functions similar to those of the Authority in the United Republic of Tanzania and elsewhere;
- (h) to administer this Act;
- (i) to **perform such** other functions as may be conferred on the Authority by this Act or any other law.

(2) The Authority shall not perform its functions in contravention of any international agreement to which the United Republic is a party.

(3) In the performance of its functions, the Authority shall not award or cancel a licence with an exclusivity period or universal service obligations or having a term of five or more years without prior consultation with the Minister and the relevant sector Minister.

(4) In addition to the preceding provisions of this section, the Minister may from time to time as occasion necessitates it, give to the Authority directions of a specific or general character on specific issues, other than in relation to the discharge of the regulatory function, arising in relation to any sector, for the purpose of securing the effective performance by the Authority of its policy, functions and compliance with the code of conduct.

(5) Any direction given by the Minister in accordance with subsection (4) shall be in writing and published in the *Government Gazette*.

7.- (1) There is hereby established a Board which shall be the governing body of the Authority and shall consist of seven members as follows -

Estab-
lishment
of the
Board

- (a) a Chairman and Vice-Chairman who shall be non-executive;
- (b) four non-executive members;
- (c) the Director-General appointed under section 13.

(2) The Chairman and the Vice-Chairman shall be appointed by the President on basis of the principle that where the Chairman hails from one part of the Union, the Vice-Chairman shall be a person who hails from the other part of the Union.

(3) The four non-executive members shall be appointed by the Minister after consultation with the sector Ministers.

(4) The appointment will be made from the respective lists of short listed candidates submitted by Nomination Committee.

(5) In order to maintain impartiality of the Authority and for the purpose of avoiding conflict of interest, a person shall not be qualified for appointment as a member of the Authority if owing to the nature of the office he holds is likely to exert influence on the Authority.

(6) The members of the Board shall be paid such fees and allowances as may be determined by the Minister on the advice of the Authority.

(7) The provisions of the First Schedule to this Act shall have effects as to the composition of the Board, the tenure of office of its members, terminations of their appointment, the proceedings of the Board and other matters in relation to the Board and its members.

Nomina-
tion
Commit-
tee and
Nomina-
tion

8. (1) There is established a Nomination Committee which shall be comprised of -

- (a) the Permanent Secretary of the Ministry for the time being responsible for the Authority, who shall be the Chairman of the Committee;
- (b) the Permanent Secretary for the time being responsible for public broadcasting and content matters;
- (c) two other persons representing the private sector nominated in accordance with subsection (2);
- (d) one other person representing the public sector nominated by the Minister.

(2) One of the two persons referred to in subsection (1)(c) shall be nominated from a legally recognized body representative of the private sector, and the other person shall be nominated by the Council.

(3) The Council and the body representing the private sector shall both consult as widely as possible with industry organization before nominating any person under subsection (2).

(4) The Authority shall pay all such allowances, fees and any other expenses incurred by the Nomination Committee, consultants or any other person in the course of his duties to the Authority, as it may be approved by the Minister from time to time.

(5) The proceedings and other matters in relation to the Nomination Committee shall be as provided for in the First Schedule to this Act.

Functions
of
Nomina-
tion
Commit-
tee

9. - (1) The functions of the Nomination Committee shall be to invite application scrutiny and shortlisting persons who apply for appointment as members of the Board of Directors and Director-General of the Authority.

(2) The Nomination Committee may take such actions as are reasonable necessary to identify and attract the best candidates by advertising.

(3) The Authority shall pay from its funds expenses incurred by the Nomination Committee in the course of the discharge of its duties.

(4) The Nomination Committee shall submit to:

- (a) the Minister, five names of persons to be forwarded to the President by the Minister to be considered for appointment as Chairman and Vice-Chairman;
- (b) the Minister, eight names of persons to be considered for appointment as members of the Authority;
- (c) the Minister, three names of persons to be considered for appointment as the Director-General of the Authority.

(5) The Minister, before submitting the names to the President for consideration for appointment of a Chairman and Vice Chairman or before he considers names for appointment of Members or Director General of the Authority shall, first consult with the Minister responsible for public broadcasting and content matters.

I O.-(1) Within the first twelve months from the commencement of Code of this Act, the Authority shall adopt a code of conduct prescribing conduct standards of behavior to be observed by the members and employees of the Authority in the performance of their duties.

(2) Subject to subsection (1) before finally adopting a code of conduct the Authority shall -

- (a) publish a draft of the code in the *Gazette* and in the Public Register;
and
- (b) hold an inquiry.

(3) The Authority shall place on the Public Register a copy of its code of conduct, and shall include in it an annual report on compliance with the code.

(4) The code of conduct adopted or prescribed under this section shall be binding to the Board Members and employees of the Authority, and may be amended from time to time.

(5) A member or employee of the Authority who is subject to this Act shall be considered to have breached the code if-

- (a) he fails without reasonable cause to make declarations of his interests as required; or
- (b) he knowingly makes a declaration false or misleading in material particulars thereby affecting the decision.

Conflict
of
interest

11. -(I) A member or employee of the Authority shall be considered to have a conflict of interest for the purposes of this Act if he acquires any pecuniary or other interest that could conflict with the proper performance of his duties as a member or employee of the Authority.

(2) Where at any time a member of the Authority has a conflict of interest in relation to -

- (a) any matter before the Authority for consideration or determination;
or
- (b) any matter the Authority could reasonably expect might come before it for consideration or determination.

the member shall immediately disclose the conflict of interest to the other members of the Authority and refrain from taking part, or any further part, in the consideration or determination of the matter.

(3) Where the Authority becomes aware that a member has a conflict of interest in relation to any matter which is before the Authority, the Authority shall direct the member to refrain from taking part, or taking any further part, in the consideration or determination of the matter.

(4) If the Chairman has a conflict of interest he shall, in addition to complying with the other provisions of this section, disclose the conflict to the Minister by written notice.

(5) Upon the Authority becoming aware of any conflict of interest it must make a determination as to whether in future the conflict is likely to interfere significantly with the proper and effective performance of the functions and duties of the member or the Authority and the member with the conflict of interest shall not vote on this determination.

(6) Where the Authority determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in subsection (5), the member shall resign, except if within the next thirty days the member eliminates the conflict to the satisfaction of the Authority within thirty days.

(7) The Authority shall report to the Minister any determination by the Authority that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Authority.

(8) The annual report of the Authority shall disclose details of all conflicts of interest and the determinations arising during the period covered by the report.

12.- (1) The President may, acting upon any advice given by the Minister after consultation with the relevant sector Minister, remove a member from office at any time if -

Removal
of
members
from
office

- (a) the member is declared bankrupt;
- (b) the member is convicted of a criminal offence;
- (c) the member is in conflict of interest;
- (d) the member is incapable of carrying out the member's duties because of ill health or physical or mental impairment;
- (e) he fails to attend at least two thirds of all meetings of the Authority in a period of consecutive twelve months.

(2) A member of the Board, including the Chairman and the Director-General, as well as an employee of the Authority, shall not, during a period of eighteen months after the expiration or termination of the term of office or service within the Authority -

- (a) enter into any contract of employment with, or contract for the supply of services to, any person or organization under the jurisdiction of the Authority during the member's term of office or employee's service with the Authority.
- (b) acquire or hold any financial interest, whether as any employee, partner, shareholder, officer or joint venture, in any business or organization supplying services to any person or organization under the jurisdiction of the Authority during the member's term of office or employee's service with the Authority.

(6) Where the Authority determines that the conflict is likely to interfere significantly with the member's proper and effective performance as provided for in subsection (5), the member shall resign, except if within the next thirty days the member eliminates the conflict to the satisfaction of the Authority within thirty days.

(7) The Authority shall report to the Minister any determination by the Authority that a conflict is likely to interfere significantly with performance as above and whether or not the conflict has been eliminated to the satisfaction of the Authority.

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(2) A member of the Board, including the Chairman and the Director-General, as well as an employee of the Authority, shall not, during a period of eighteen months after the expiration or termination of the term of office or service within the Authority -

- (a) enter into any contract of employment with, or contract for the supply of services to, any person or organization under the jurisdiction of the Authority during the member's term of office or employee's service with the Authority.
- (b) acquire or hold any financial interest, whether as any employee, partner, shareholder, officer or joint venture, in any business or organization supplying services to any person or organization under the jurisdiction of the Authority during the member's term of office or employee's service with the Authority.

The
Director
General

13.- (1) There shall be a Director-General of the Authority who shall be appointed by the Minister from amongst a list of names submitted by the Nomination Committee.

(2) A person shall not be qualified for appointment as Director-General unless he -

- (a) is a graduate of a recognized university;
- (b) possesses at least ten years experience in one or more of the fields of management, law, economics, finance or engineering;
- (c) has knowledge and experience of the communications sectors;
- (d) is willing to serve as the Director-General.

(3) The Director-General shall be appointed to serve on such terms and conditions as shall be set out in the letter of his appointment or as may from time to time be determined by the Board of Directors with the approval of the Minister.

(4) The Director-General shall also be the chief executive officer of the Authority and shall not engage in any other paid employment.

(5) The Director-General shall not participate in any deliberations or decisions of the Board relating to his terms and conditions of employment.

(6) The Director-General shall be responsible for the day-to-day operations of the Authority, subject to the directions of the Board.

Directors,
consult-
ants and
other
staff

14. - (1) There shall be employed by the Authority, Divisional Directors each with responsibilities for a particular sector.

(2) The Authority shall appoint a person as Divisional Director only if he shall have provable knowledge and appropriate experience in relation to the relevant sector.

(3) A Divisional Director appointed under subsection (2) shall serve the Authority for a term of five years and may be re-appointed for such term or terms as the Authority deems fit.

(4) There shall be employed by the Authority such other officers, staff and employees of the Authority of such number and titles as may be necessary for the efficient discharge of the functions of the Authority, and on such terms and conditions as may be determined by the Board.

(5) The Authority shall appoint consultants and experts of the Authority in various disciplines on such terms and conditions as the Authority may from time to time determine.

(6) The Authority shall establish a competitive selection procedure for the appointment of all employees, consultants and experts.

(7) The Authority shall comply with the competitive selection procedure established under subsection (6) whenever it appoints employees, consultants or experts.

(8) The Authority shall appoint a Secretary on such terms and conditions as it deems fit.

PART III

POWERS AND PROCEEDINGS OF THE AUTHORITY

15.- (1) Subject to the provisions of this Act, the Authority shall have power to do all things which are necessary for or in connection with the performance of its functions or to enable it to discharge its duties.

General
powers

(2) Without limiting the powers conferred under subsection (1), the Authority shall also have the following powers -

- (a) such powers as may be conferred on it by sector legislation;
- (b) the power to appoint an administrator to manage the business of a regulated supplier whose licence to operate has been cancelled as may be provided under sector legislation.

16.- (1) Subject to the provisions of sector legislation and licences granted under the legislation, the Authority shall carry out reviews of rates and charges.

Powers to
regulate
rates and
charges

(2) In making any determination with regards to regulating rates and charges, the Authority shall take into consideration-

- (a) the costs of making, producing and supplying the goods or services;
- (b) the desire to promote competitive rates and attract the market;
- (c) any relevant benchmarks including international benchmarks for prices, costs and return on assets in comparable industries;
- (d) the financial implications of the determination;
- (e) the consumer and investor interest;
- (f) the return on assets in the regulated sector;
- (g) any other factor specified in relevant sector legislation;
- (h) any other factors the Authority considers relevant.

(3) The Authority shall publish in the Government *Gazette* all the rates tariffs and charges regulated by the Authority.

Power to
obtain
inforina-
tion,
docu-
ments
and
evidence

17. - (1) Where the Authority has reasons to believe that a person is capable of supplying information, producing a document or giving evidence that may assist in the performance of any of its functions, any officer of the Authority may, by summons signed by the a Director-General or Secretary of the Authority served on that person, require that person -

- (a) to furnish the information in writing, signed by him, in the case of a body corporate, signed by a competent officer of the body corporate;
- (b) to produce the document to the Authority;
- (c) to appear before the Authority to give evidence

(2) A summons under this section shall specify the required time and manner of compliance.

(3) The Authority may require that any evidence referred to under this section be given on oath or affirmation, and in that case, the Director General, the Secretary or any officer of the Authority may administer the oath or affirmation.

(4) Any person shall not be excused from complying with summons under this section on the grounds that compliance may tend to incriminate the person or make the person liable to a penalty, save that information, documents and evidence provided in answer to a summons will not be admissible in any proceedings against the person other than proceedings under this Act, sector legislation, the Fair Competition Act, 2003 or any environment protection legislation.

(5) Any person who without lawful excuse, refuses or fails to comply with a summons under this section, commits an offence and is liable on conviction to a fine of not less than the equivalent in Tanzanian shillings of United States dollars five hundred or to imprisonment for a term not less six months or both such fine and imprisonment.

(6) Where the Authority has reason to believe that a person is in possession or control of any information or document which may assist in the performance of its functions and that person has refused or failed to supply such information or document, the Director-General, Secretary or any officer of the Authority may apply to the Fair Competition Tribunal or a competent court for issuance of a warrant authorizing a police officer to enter into any premises believed to contain or into which a document is kept or hidden and conduct search and make copies or take extracts of documents therein.

(7) On application under subsection (6), the Chairman of the Tribunal or any authorized person, may, on application issue a warrant authorizing any police officer to forcibly enter the premises to conduct the search and make copies or take extracts of documents there in.

(8) Any person, who knowingly gives false or misleading information or evidence in purported compliance with a summons under this section, commits an offence.

18.- (1) The Authority may conduct an inquiry where it considers it necessary or desirable for the purpose of carrying out its functions.

Power to
hold
inquiries

(2) The Authority shall conduct an inquiry before exercising power to -

- (a) grant, renew or cancel a licence with an exclusivity period or universal service obligation;
- (b) regulate any rates or charges;
- (c) adopt a code of conduct.

(3) Where the Minister directs by notice in writing that an inquiry be conducted, on any specified subject matter of the inquiry, the Authority shall conduct the inquiry.

(4) The Minister may specify in a direction under section (3) a time within which the Authority shall submit its report following the inquiry and if so the Authority shall submit its report to the Minister within that time.

(5) The Authority shall give notice of an inquiry by -

- (a) publishing a notice in the Gazette and in a daily newspaper circulating generally in Tanzania specifying the purpose of the inquiry, the time within which submissions may be made to the Authority, the form in which submissions should be made, the matters the Authority would like the submissions to deal with and, in the case of an inquiry conducted at the direction of the Minister, the Minister's terms of reference;
- (b) sending written notice of the inquiry, including the information in paragraph (a), to -
 - (i) service providers known to the Authority whose interests the Authority considers are likely to be affected by the outcome of the inquiry;
 - (ii) the Consumer Consultative Council;
 - (iii) industry and consumer organizations which the Authority considers may have an interest in the matter.
 - (iv) the Minister and other Ministers having interest in the matter.

(6) The Minister shall, by order published in the Gazette, make rules for conducting inquiries under this section.

Competi-
tion
policy
and
contra-
ventions
of law on
competi-
tion

19. - (1) In carrying out its functions and exercising its powers under this Act, and under sector legislation in relation to particular markets for regulated services, the Authority shall take into account -

- (a) whether the conditions for effective competition exist in the market;
- (b) whether any exercise by the Authority is likely to cause any lessening of competition or additional costs in the market and is likely to be detrimental to the public;
- (c) whether any such detriments to the public are likely to outweigh any benefits to the public resulting from the exercise of the powers.

(2) The Authority shall deal with all competition issues which may arise in the course of the discharge of the functions, and may investigate and report on those issues, making appropriate recommendations to the Commission or any other relevant authority in relation to -

- (a) any contravention of the Fair Competition Act, 2003 the Tanzania Bureau of Standards Act, 1975, or any other written law;
- (b) actual or potential competition in any market for regulated services competition or additional costs in the market and is likely to be detrimental to the public;
- (c) any determinants likely to result to the members of the public.

Act No.
3 of 1975

(3) Subject to the provisions of subsections (1) and (2), the Authority shall place on the Public Register a copy of any recommendation.

20. - (1) There may be established in relation to a matter or matters of a particular kind, a Committee of the Authority composed of not less than two members of the Board.

Authority
may sit in
Commit-
tee

(2) The Authority may direct that some of its powers in relation to a matter or matters of a particular kind, other than powers the Authority may not delegate under section 21, be exercised by a Committee of the Authority.

(3) Subject to the provisions of subsection (1), if the Chairman is not a member of a Committee, the Committee shall appoint a member to preside at the meetings of the Committee.

(4) A quorum at the meeting of a Committee shall be two members.

(5) Except as provided in this section, meetings of a Committee will be subject to the same rules as the meeting of the Authority

21. - (1) The Authority may delegate to a member or an employee Of the Authority, either generally or otherwise as provided by the instrument of delegation, any of its powers other than the power of delegation, its powers to revoke or vary a delegation and the powers referred to in subsection (2).

Delega-
tion

(2) Notwithstanding the powers conferred to the Authority to delegate, the Authority shall not delegate any of the following powers, namely, power to -

- (a) grant, renew or cancel a licence with exclusivity and universal obligations;
- (b) make any rule or declaration;
- (c) fix the method of calculating and reviewing of rates and charges;
- (d) make a decision to hold an inquiry;
- (e) adopt a report on the results of an inquiry;
- (f) adopt a code of conduct;
- (g) such other matters as the Minister may by notice in the Gazette determine.

Consulta-
tion with
consum-
ers,
industry
and
govern-
ment

22. - (1) The Authority shall, before the beginning of each year, establish an annual programme for consultation with such persons and organizations as the Authority may consider necessary or desirable to consult for the purpose of effectively carrying out its functions.

(2) Subject to provisions of subsection (1), the Authority shall supply a copy of its consultation programme to the Minister and place a copy on the Public Register.

(3) The Authority shall include in its Annual Report a report on the implementation of its consultation programme during the year covered by the Report.

(4) For the purpose of this section, it shall be the duty of the Authority to establish and identify the persons, organizations and institutions to be consulted.

Public
Register

23. - (1) There shall be a Public Register kept by the Authority at its principal office, which shall be available for public inspection at all times during business hours.

(2) There shall be kept at the sub-office of the Authority copies of the Public Register which shall be accessible for inspection by members of the public.

(3) The Authority shall from time to time determine the categories of decisions and information which would be placed on the Public Register and will notify the Minister accordingly.

(4) The Authority shall cause to be published in the Gazette as soon as may be practicable -

- (a) any code of conduct to be adopted;
- (b) any Rules or Regulations;
- (c) a summary of any decision by the Authority regulating rates or charges for the regulated goods or services;
- (d) any other decision or information the Authority may decide to publish in the Gazette.

(5) The Authority shall exclude from the Public Register any document or part of a document which is confidential within the provisions of section 24.

(6) The Authority shall ensure that where possible the Register shall be accessible to the public by internet.

24. - (1) For the purposes of this Act, any person who gives or discloses any material to the Authority, whether under compulsion of law or otherwise, that person may claim confidentiality in respect of the whole or any part of the material. Confidentiality

(2) The Authority shall set out procedures and publish in the Gazette on how it will disclose its confidential materials or information.

(3) Any person who discloses confidential information otherwise than as authorized by the Authority, commits an offence.

PART IV

CONTENT COMMITTEE AND ITS FUNCTIONS

25. In this Part -

"Charter" means an agreement entered between the Government and the Tanzania Broadcasting Services with regard to the provision of public service broadcasting in the country;

"Content Committee" or "Committee" means a Committee established under section 26 which shall be responsible for regulation of broadcast content transmitted by any broadcasting station or any electronic communication media as a broadcasting service;

Defini-
tions

"electronic communication media" means radiocommunication system used or intended to be used for radiocommunications;

"Minister" as used under this Part and Part V means the Minister responsible for Public Broadcasting and Content Committee matters;

"radiocommunication" means any telecommunication by means of Hertzian or radio waves.

Estab-
lishment
of the
Content
Commit-
tee

26.-(I) There shall be established by the Minister a Content Committee, herein this Part referred to as the Committee.

(2) The Committee shall consist of not more than five members -

- (a) the Vice Chairman of the Authority who shall be the Chairman of the Committee;
- (b) four members appointed by the Minister upon consultation with the Chairman of the Board;
- (c) the Committee shall co-opt an expert or any person as it considers necessary.

(3) In appointing members of the committee under section (2), the Minister shall have regard to appoint persons who -

- (a) are graduates of a recognized university;
- (b) have at least ten years experience in one or more of management, law, economics, finance, engineering, information communication technology, broadcasting, communication or culture;
- (c) have knowledge of broadcasting industry;
- (d) have satisfied the Minister that they are unlikely to have a conflict of interest under section I 1 and will not have any financial or other interest which will be likely prejudicially affect the carrying out of any functions under this Part;
- (e) are willing to serve as members;
- (f) have regard to the desirability of ensuring that the person appointed is able to represent the interest and opinions of persons living in all the different parts of the country; and
- (g) are in the opinion of the Minister, otherwise suitable to perform the functions and duties of a member competently and honestly.

Powers
and
functions
of the
Content
Commit-
tee

27.-(I) The Committee shall have such powers and functions as the Authority may determine in the exercise of the powers conferred under sections 5 and 6 of the Act and in particular shall -

- (a) advise the Sector Minister on broadcasting policy;
- (b) monitor and regulate broadcast content;
- (c) handle complaints from operators and consumers; and
- (d) monitor broadcasting ethics compliance.

(2) The Committee shall have such functions as the Authority, in the exercise of the powers under this Part may confer to the Committee.

(3) The Authority may determine the functions of the Committee which shall include the carrying out of functions in relation to -

- (a) matters that concern the content of anything which is or may be broadcast or otherwise transmitted by means of electronic Communications networks; and
- (b) the promotion of public understanding of awareness of matters relating to the publication of matter by means of the electronic media.

(4) In determining what functions to confer on the Committee, the Authority shall have in particular regard to the desirability of securing that the Committee have at least a significant influence on decisions which -

- (a) relate to the matters mentioned in subsection (3); and
- (b) involve the consideration of different interests and other factors with respect to different parts of the Mainland Tanzania.

(5) It shall be the duty of the Committee to ensure, in relation to-

- (a) the carrying out of Authority's functions under this Part;
- (b) the matters with respect to which functions are conferred on the Authority; and
- (c) such other matters mentioned in the Act, as the Authority may determine;

that the Authority is aware of the different interests and other factors, which in the Committee's opinion, need to be taken into account in respect to the different parts of the Mainland Tanzania in relation to the carrying out of the Authority's functions.

(6) The Minister may by writing under his hand give the Committee directions of a general or specific nature and the Committee shall comply with every such direction.

Powers
of the
Minister

28.-(1) The Minister under this Part, shall exercise his powers in respect to matters of national security, public safety and crisis or emergency.

(2) It shall be the duty of the Minister when appointing members of the Content Committee to appoint members who are not employees of the Authority or broadcasting organizations.

Meetings
and Pro-
cedures of
the Corn-
mittee

29.-(1) An Ordinary meeting of the Committee shall be four times yearly convened by the Chairman and the notice will issue specifying the date, place and time of the meeting which shall be sent to each member at his usual place of business or residence not less than ten days before the date of the meeting and where the Chairman is unable to act or is absent, the Vice Chairman elected by the members amongst themselves shall preside at the meeting.

(2) The Committee shall conduct its extraordinary meeting as often as necessary for the Committee to transact its business.

(3) The members of the Committee shall be paid such allowances and fees as may be determined by the Minister, on the advice of the Authority.

(4) No act or proceeding of the Committee shall be invalid by reason of any defect or irregularity in the appointment of any member or by reason that any person who purported bona fide to act as a member at the time of the act or proceedings was in fact disqualified or not entitled to act as a member.

(5) Where any member absents himself from three consecutive meetings of the Committee without sufficient cause, the committee shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.

(6) Subject to this Part, the Committee shall have power to regulate its own procedure in relation to its meetings and the transaction of its business.

(7) The duration of the Committee members shall be three years from the date of their appointment but, may be eligible for reappointment for another one term.

30.-(1) The powers of the Authority to determine the Committee's functions includes power to authorize the Committee to establish sub-committees and panels to advise the Committee on the carrying out of some or all of the Committee's functions.

Powers
of the
Authority
in
relation
to the
Commit-
tee

(2) The power of the Authority to authorize the establishment of a sub-Committee or panel by the Committee includes power to authorize the establishment of a sub-Committee or panel that includes persons who are not members of the Committee.

PART V

THE TANZANIA BROADCASTING SERVICES (TUT)

31.-(1) There is established under section 4 of the Public Corporation Act, a Tanzania Broadcasting Services in Kiswahili known as Taasisi ya Utangazaji Tanzania known in its acronym TUT.

Estab-
lishment
of
Tanzania
Broad-
casting
Services
G.N. No.
239 of
2002

(2) The functions of Tanzania Broadcasting Services shall be as provided for under the Public Corporation (The Tanzania Broadcasting Services) (Establishment) Order, 2002.

32.-(1) It shall be the functions of the Authority to -

- (a) ensure that, there is a provision for a charter made between the Tanzania Broadcasting Services and the Minister responsible for broadcasting;
- (b) to ensure that, the charter entered between the Tanzania Broadcasting Services and the Minister responsible for broadcasting empowers the Tanzania Broadcasting Services to become a public service broadcaster;
- (c) to ensure that the charter empowers the Tanzania Broadcasting Services to have universal service obligations.

Functions
of the
Authority
in
relation
to the
Tanzania
Broad-
casting
Services

(2) Subject to the provisions of this Act, the charter shall prescribe categories of services to be provided by the Tanzania Broadcasting Services such as -

- (a) public broadcasting services,
- (b) commercial broadcasting services;
- (c) community broadcasting services; and
- (d) such other broadcasting activities as the Minister responsible for Broadcasting may determine.

(3) The powers conferred on the Tanzania Broadcasting Services by a charter may include power to impose penalties by the Authority on Tanzania Broadcasting Services in respect of any contraventions of the charter or of the provisions of this Part.

(4) The Tanzania Broadcasting Services shall upon conviction be liable to a fine of not less than five million shillings.

PART VI

REVIEW AND APPEALS PROCEDURES

Review
Panel

33. - (1) The Authority shall establish a Review Panel which shall at all times consist of -

- (a) two persons who have experience in law for at least ten years;
- (b) two persons who are graduates of a recognized university, each having at least ten years of experience in one or more of the fields of economics, finance, engineering, management, broadcasting or information and communications technologies.

(2) The Authority shall appoint the members of the Review Panel for a term not exceeding five years on such terms and conditions as the Authority shall deem fit, and shall fill any vacancy on the Panel as soon as is reasonably practical after the vacancy occurs.

(3) The Review Panel shall be the source of persons who may from time to time be drawn to form the Internal Review Committee whose functions are as provided for under section 34 of the Act.

34. - (1) Any person aggrieved by any decision made on behalf of the Authority under delegated power by -

Decision
made
under
delegated
power

- (a) a Committee of the Authority; or
- (b) one or more members or employees of the Authority, may, within fourteen days after receipt of the record of the decision apply to the Authority for it to review the decision in question.

(2) Upon receipt of an application under subsection (1), the Authority shall appoint an Internal Review Committee which shall consist of -

- (a) two members of the Review Panel, one of whom shall be a lawyer and another shall be qualified in the field of the subject of the application;
- (b) one member of the Board who did not participate in the decision which is the subject of the application.

(3) The Internal Review Committee shall deliver or send by registered post a copy of the application for review and a written invitation to make submissions on the application to the following persons -

- (a) the Minister;
- (b) the relevant sector Minister;
- (c) all persons who make submissions to the Authority in relation to the decision under review or who have otherwise indicated to the Authority an interest in the decision;
- (d) the Consumer Consultative Council;
- (e) any other persons whom the Committee considers should receive notice of the application.

(4) The Internal Review Committee shall allow not less than twenty-one days for submissions to be made in relation to the application for review.

(5) Subject to this section, the internal Review Committee shall determine its own procedure and shall not be bound by the rules of evidence.

(6) The Internal Review Committee -

- (a) shall comply with section 34 and may exercise the powers of the Authority under that section;
- (b) may take such steps, including exercising the powers of the Authority to obtain information, documents and evidence under section 17, as it deems necessary to inform itself of matters relevant to the applications for review.

(7) Within three weeks after receipt of the submission under subsection (4), the Internal Review Committee shall consider the application together with any submissions received, prepare a recommendation and submit to the Authority for its decision.

(8) The Internal Review Committee may recommend to the Authority to -

- (a) dismiss the application;
- (b) sets aside the original decision and make a different decision;
- (c) vary the decision; or
- (d) set aside the decision and delegate the matter to a Committee or one or more members or officers of the Authority for a fresh decision without directions as to ways in which that decision will be made.

(9) The Authority shall make a determination on the recommendation by the Internal Review Committee by a vote of the majority of its members and may either confirm, vary or dismiss the decision subject of review.

Decision
be placed
on the
Public
Register

35.- (1) A decision by a Committee of the Authority, member or employees of the Authority shall, if there is no application for its review in pursuance of section 34, be placed on the Public Register.

(2) Where there is an application for review of a decision of the Committee of the Authority or of a member or employees of the Authority, that decision shall not be placed on the Public Register until the application for review or the appeal to the Fair Competition Tribunal, as the case may be, is determined.

Appeals
to the
Competi-
tion
Tribunal
against
decisions
of the
Authority

36. - (1) Any person aggrieved by the decision of the Authority or any other decision made in connection to the purposes of this Act may appeal to the Fair Competition Tribunal.

(2) Subject to the provisions of the subsection (1), the grounds of appeal shall be on the following, that -

- (a) the decision made was not based on evidence produced;
- (b) there was an error in law;
- (c) the procedures and other statutory requirements applicable to the Authority were not complied with and the non-compliance materially affected the determination;
- (d) the Authority did not have power to make the determination.

(3) Notwithstanding the provisions of sections 3 5, the decision of the Fair Competition Tribunal shall be final.

PART V11 THE COUNCIL

37. - (1) There is hereby established a Council to be known as the TCRA Consumer Consultative Council.

Estab-
lishment
of the
Council

(2) The Council shall consist of not less than seven members and not more than ten members appointed by the Minister from amongst a list of names provided by members of the business community or by an organization or organizations legally recognized as being representative of private sector interest.

(3) Tenure of office of the members of the Council shall be three years with effect from the date of appointment.

(4) Before making the appointments of members pursuant to subsection (2), the Minister shall by notice published in the *Gazette* and in any newspaper or newspapers circulating widely in the country invite nominations for appointments and having received them, publish the names and call for comments, objections or representations from the public concerned.

(5) In nominating and appointing persons for the Council, the members of the private sector and the Minister shall have regard to the desirability of the Council as a group having knowledge and understanding of the interests of consumers and that of the regulated services, including the interest of -

- (a) low income, rural and disadvantaged persons;
- (b) industrial and business users;
- (c) government and community organizations.

(6) The Council shall make its own rules for regulating its procedures and other matters relating to its functions.

(7) The Minister shall appoint the Chairman and the members shall elect the Vice Chairman from amongst their number.

Powers
and
functions
of the
Council

38.- (1) The Council shall have powers and perform the following functions, namely:

- (a) to represent the interest of consumers by making submissions to, providing views and information to and consulting with the Authority, Minister and sector Ministers;
- (b) to receive and disseminate information and views on matters of interest to consumers of regulated goods and services;
- (c) to establish local, regional and sector consumer committees and consult with them;
- (d) to consult with industry, government and other consumer groups on matters of interest to consumers of regulated goods and services.

(2) The Authority shall in the first three years of the existence of the Council provide for the secretariat, and thereafter the Council shall have its own Secretariat.

(3) The functions of the Secretariat shall be as may be directed by the Council.

(4) The Council shall have power to regulate its own procedure in relation to the performance of its business.

(5) Subject to subsections (1), (2) and (3), the Chairman in consultation with the members may convene meetings at least four times a year.

(6) The Chairman shall preside at meetings of the Council and in his absence members present may appoint one of their number to preside at the meeting.

(7) A quorum at a meeting of the Council shall be four members.

39.-- (1) The funds and resources of the council shall consist of -

Funds of
the
Council
and
annual
report

- (a) such sums as may be appropriated by parliament for the purposes of the Council during the first three years of the existence of the Council;
- (b) such sums as may be appropriated from the funds of the Authority for the purposes of the Council;
- (c) grants, donations, bequests or other contributions.

(2) The Council shall prescribe procedure for enabling members of the business community and organizations representative of the private sector to contribute to and budget for all the meetings and transactions of the Council.

(3) The Council shall keep books of account and maintain proper records of its operations in accordance with public accounting standards -

(4) The Council shall at any time, and at the end of each financial year have the accounts of the Council audited by a person registered under the Auditors and Accountants (Registration) Act, 1972 appointed by the Council on such terms and conditions as the Council May determine.

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33 of
1972

(5) The Council shall prepare an annual report in relation to each year ended 30 th June and submit it to the Minister before 30th September in that year.

(6) The annual report shall provide detailed information regarding the activities of the Council during the previous year ended 30th June and any additional information requested by the Minister within twenty eight days of its receipt or on the first available sitting day thereafter, the Minister shall table in the National Assembly the annual report of the Council.

(7) subject to subsection (5), the annual report of the Council shall include the financial statements of the Council for the immediately preceding financial year and the auditor's report based On the aforementioned financial statements.

(8) The Council shall prepare a budget and submit to the Minister for approval before the end of each financial year for the following financial year showing estimates of its receipts and expenditures for the following financial year.

(9) At the Authority's request the Council shall commission any person to assess and report on the extent to which the budget represents a fair and reasonable projection of the income and expenditure of the Council for the relevant year and shall submit that report to the Minister.

PART V111

COMPLAINTS AND DISPUTE RESOLUTION

COM-
plaints

40. - (1) This section shall apply to any complaint against a supplier of regulated goods or services in relation to any matter connected with the supply, possible supply or purported supply of the goods or services.

(2) Where a complaint is referred to or otherwise comes to the attention of the Authority and it appears to the Authority that-

- (a) the complainant has an interest in the matter to which the complaint relates, and
- (b) the complaint is not frivolous or vexatious, the Authority shall investigate the matter-

(3) Where it appears to the Authority at any time during or after its investigation that the supplier has not considered the complaint, or has not considered it adequately, the Authority may refer the complaint to the supplier with a request that the supplier should consider or re-consider the complaint.

(4) The Authority may make representations to the supplier on behalf of the complainant or to the complainant on behalf of the supplier as the Authority sees fit.

(5) Subject to the provisions of this Act, if a complaint is not resolved to the satisfaction of a complainant within sixty days after the Authority first became obliged to investigate it, the complainant may by writing signed by him request the Authority to refer the complaint to a Committee of the Authority for decision.

(6) After the complaint is referred to a Committee for decision as provided under subsection (5), the complainant and the supplier shall be parties to the reference.

(7) For the purposes of dealing with consumer complaints, the Authority shall establish a dedicated unit which shall receive and follow up on complaints from consumers.

(8) The units referred to in subsection (7) shall investigate all complaints and attempt to resolve the complaints amicably, and in the event they cannot be resolved within thirty to sixty days, the Committee concerned shall present its findings and recommendations to the Authority for action.

(9) Subject to the provisions of this section, the Authority shall in each case make a ruling to be carried out by the Division concerned.

41.- The Authority may make an order -

- (a) requiring a party to supply goods or services for specified periods;
- (b) requiring a party to supply goods or services or specified terms and conditions;
- (c) requiring a party to pay the costs of another party or of a person appearing at the hearing or producing documents;
- (d) dismissing a complaint;
- (e) imposing fines;
- (f) for specific performance;
- (g) for refunds;
- (h) appointing trustees;
- (i) setting up of escrow accounts; and
- 6) for such other relief as may be deemed necessary or reasonable.

Proce-
dure and
power of
the
Authority

42. - (1) This section shall apply to any award of the Authority under which a party has been ordered -

- (a) to pay money in excess of an amount specified in regulations under this Act;

Appeals
to the
Fair
Competi-
tion
Tribunal

- (b) to supply goods or services having a market value in excess of an amount specified in regulations under this Act;
- (c) to pay money and supply goods and services where the total amount of the money and the value of the goods or services exceeds an amount, or have market value in excess of an amount specified in regulations under this Act.

(2) Where a party is not satisfied with an award to which this section applies he may appeal to the Fair Competition Tribunal within twenty-one days, thereafter the award shall be placed on the Public Register.

(3) Subject to the provisions of this Act, the grounds of appeal to the Tribunal shall be as follows that -

- (a) the award was not reasonably open to the Authority based on the evidence;
- (b) there was an error in law;
- (c) the procedures or other statutory requirements applicable to the Authority were not complied with and the non-compliance materially affected the award;
- (d) the Authority did not have power to make the award.

(4) The Tribunal shall, after hearing an appeal, do any one or more of the following -

- (a) dismiss the appeal in whole or in part;
- (b) set aside the award in whole or in part and refer outstanding matters to the Authority for re-determination with or without directions as to the matters to be taken into account in the re-determination.

Inconsistency with sector legislation

43. - (1) Subject to sub-section (2), where there is any inconsistency between the provisions of this Act and the provisions of a sector Act, this Act shall prevail and the sector legislation will be read down to the extent of the inconsistency.

(2) Where a sector Act has been passed and that Act expressly provided that the provision of that Act will supercede or prevail over the provision of this Act the provision of sector legislation shall prevail and this Act shall be read down to the extent of the inconsistency.

44. 41) A person shall not contravene a provision of the Fair Competition Act, 2003, or the Bureau of Standards Act, 1975 by reason only of engaging in a conduct or refraining from engaging in a conduct permitted under this Act, sector legislation or any subordinate legislation or instrument under any of the aforementioned Acts -

Inconsistency with other law Act, No. 3 of 1975

- (a) requires the persons to engage or refrain from engaging in the conduct or conduct of that kind; or
- (b) authorizes or approves the person engaging or refraining from engaging in conduct of that kind.

(2) Where the Commission is of the opinion that any conduct required, authorized or approved by the Authority -

- (a) would be in breach of the Fair Competition Act, 2003 if sub-section (1) did not apply to the conduct; and
- (b) the conduct is against the public interest, the Commission shall report the matter to the Minister.

(3) Where the Minister receives a report from the Commission under sub-section (2), he may direct the Authority to take necessary steps to ensure that the conduct described by the Commission is not required, authorized or approved by the Authority.

PART IX

ENFORCEMENT AND COMPLIANCE

45.- (1) Where the Authority is satisfied that a person has committed or is likely to commit an offence against this Act or a sector legislation, it may make a compliance order under this section.

Compliance

(2) Any person against whom a compliance order is made shall comply with the order.

(3) A compliance order may require a person to refrain from conduct which is in contravention of the provisions Of this Act or a sector legislation to take actions required to be taken in order to comply with this Act or a sector legislation.

(4) A compliance order shall be made in writing specifying the grounds for its making and shall be enforceable as an order of the High Court.

(5) A copy of a compliance order shall be placed on the Public Register and a copy shall be served on the person against whom it is made.

(6) Notwithstanding the provisions of any law to the contrary, where an order or a certified certificate is produced or submitted to High Court, the order or certificate shall be conclusive proof of its making by the High Court and of the facts to which it relates.

Declara-
tions

46.- (1) Apart from other functions upon which the Authority is empowered to perform, it can also make declarations on -

- (a) particular goods or services, or particular classes of goods or services on and regulated goods or services for purposes of this Act;
- (b) particular persons or classes of persons and regulated suppliers for the purposes of this Act;
- (c) particular activities are in or in connection with a regulated sector; or
- (d) varying, amending, reviewing or revoking previous declarations made under this section.

(2) Subject to reviews or appeals under Part IV, declarations by the Authority made under this section shall be conclusive for the purpose of this Act.

(3) Declarations made by the Authority shall not be inconsistent with this Act, a sector legislation or subsidiary legislation made under this Act.

(4) Before making any declaration under this section, the Authority shall furnish the Minister with a draft or the proposed declaration, and shall afford the Minister the opportunity to consult with the Authority and with any sector Minister about the draft declaration within twenty days after the draft is supplied to the Minister and, if requested to do so by the Minister within that twenty days period.

(5) A copy of the declaration made under this section shall be placed on the Public Register.

47-- (1) The Minister may make regulations and rules which are not inconsistent with this Act or a sector legislation as he considers necessary or desirable to give effect to the provisions of this Act.

Regula-
tions and
Rules

(2) The Authority may, in consultation with the Minister make rules with respect to -

- (a) code of conduct;
- (b) records to be kept, including the form and content of accounting and business records, and information and documents to be supplied to the Authority by regulated suppliers;
- (c) standards of regulated goods and services;
- (d) terms and conditions of supply of regulated goods and services;
- (e) conduct in connection with the production, distribution and supply of regulated goods and services;
- (f) complaint handling procedures;
- (g) rates and charges for regulated goods and services;
- (h) levies and fees payable to the Authority;
- (i) the circumstances in which, and the terms and conditions on which, a supplier or intending supplier of regulated goods or services shall be able to gain access to facilities owned or controlled by another person;
- (j) such other matters as the Authority considers necessary or desirable to give effect to this Act.

(3) Rules made under subsection (1) shall not be inconsistent with this Act, a sector legislation or regulations made under this Act.

(4) Any person who contravenes or fails to comply with rules made under this section, commits an offence and is liable on conviction to a fine of not less than the equivalent in Tanzanian shillings of United States dollars five hundred.

48 - (1) Any person who contravenes or fails to comply with a provision of this Act, commits an offence against this Act and is liable on conviction to a fine of not less than the equivalent in Tanzanian shillings of United States dollars three thousand or imprisonment for a term not less than twelve months or to both such fine and imprisonment.

Offences

(2) A person shall commit an offence against this Act if he-

- (a) aids, abets, counsels or procures;
 - (b) conspires with others;
- to commit an offence against this Act.

(3) Any person, who suffers loss or damage as a result of an offence against this Act, may recover by compensation for such loss or damage from the person who committed that offence whether or not that person has been convicted of an offence.

(4) Any person, making a claim under sub-section (3) within four years after the loss or damage is suffered or within four years after the person becomes aware of the offence, whichever is the later, a claim shall be made by way of a complaint provided for under section 40 of this Act.

(5) Where a person charged with an offence under this Act is a body corporate, every person who, at the time of the commission of the offence was a director, manager or officer of the body corporate may be charged jointly in the same proceedings with such body corporate and where the body corporate is convicted of the offence, every such director, manager or officer of the body corporate shall be deemed to be guilty of that offence unless he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of the offence.

(6) For the purposes of this section, any partner of a firm shall be jointly and severally liable for the acts or omissions of any other partner of the same firm done or omitted to be done in the course of the firm's business.

(7) For the purposes of the provisions of this section, a penalty for non-compliance of an order of the Authority shall be a fine which shall be equal to a civil debt.

PART X

FINANCIAL PROVISIONS

49.- (1) The funds and sources of the Authority shall consist of -

Funds of
the
Authority

- (a) fees collected by the Authority including fees payable for the grant and renewal of licences;
- (b) levies collected from regulated suppliers;
- (c) all the payments or property due to the Authority in respect of any matter incidental to its functions; and
- (d) any grants, donations, bequests or other contributions made to the Authority.

(2) The Authority shall by rules made under section 47 require regulated suppliers to pay annual levies to the Authority calculated as a percentage of the revenues of regulated suppliers from the supply of regulated goods and services.

(3) An annual levy payable under subsection (2) shall not exceed 1.5 percent of the gross operating revenue of regulated supplier from the supply of regulated goods and services.

(4) The percentage of an annual levy payable under subsection (2) may differ as between different regulated sectors but may not be different within the same regulated sector.

(5) The Authority shall by rules published in the *Gazette* made under section 47 and Public Register prescribe licence fees and other fees to be paid by persons in connection with the procedures of the Authority.

(6) The Authority shall disclose details of the sources of its funds in the Annual Report.

(7) The Authority shall not accept any grant or donation from a regulated supplier.

50. - (1) As soon as may be reasonably practical after the end of each financial year, the Authority shall deposit to a special account all surplus funds of the Authority.

Surplus
funds

(2) The Authority shall use funds from the special account only for one or more of the following purposes -

- (a) consumer education or information projects;
- (b) special non-recurring projects; -
- (c) budgeted capital expenditure;
- (d) major rate regulating inquiries.
- (e) training, research and development.

Accounts
and finan-
cial audit

51-- (1) The Authority shall keep books of accounts and maintain proper records of its operations in accordance with commercial accounting standards.

Act No.
33
of 1972

(2) The accounts of the Authority may at any time and shall, at the end of each financial year, be audited by a person registered as an auditor under the Auditors and Accountants (Registration) Act, 1972, appointed by the Authority on such terms and conditions as the Authority may determine.

Perfor-
mance
audit

52.- (1) The Controller and Auditor General shall at least once every two years and more frequently as he sees fit, conduct a performance audit by the Authority of its functions including its performance in relation to key performance indicators.

(2) The Controller and Auditor General may, where necessary conduct additional audit of the Authority as requested by the Minister.

Annual
report

53.- (1) Before 30th September each year, the Authority shall prepare an annual report in respect of that year up to 30th June and submit it to the Minister, who shall lay it before the National Assembly.

(2) The annual report shall provide detailed information regarding the exercise of the functions and powers of the Authority during the year to which it relates and shall include -

- (a) a copy of the audited accounts of the Authority as per section 5 1;
- (b) a copy of the report of the Controller and Auditor General on the performance audit carried out under section 52 of the Act during the year to which the annual report relates;
- (c) such information and other material as the Authority may be required by this Act or the regulations to include in the annual report.

54.- (1) Before the end of each financial year, the Authority shall prepare a budget for the following financial year showing estimates of its receipts and expenditure for the following financial year.

Budget

(2) Subject to the provision of subsection (1), the Authority shall inform the Minister of its budget for the following financial year by submitting a copy to the Minister.

(3) Where the Minister so requests, the Authority shall commission the Authority's auditor to assess and report on the extent to which the budget represents a fair and reasonable projection of the income and expenditure of the Authority for the relevant year.

(4) The Authority shall deliver to the Minister a copy of any report prepared pursuant to subsection (3) as soon as possible after the Authority receives it.

(5) If the Authority's auditor reports that the budget does not represent a fair and reasonable projection of income and expenditure, the Minister shall require the Authority to revise the budget to correct the deficiencies.

PART XI

TRANSITIONAL AND MISCELLANEOUS PROVISIONS

55.- (1) Notwithstanding the enactment and operation of this Act in relation to the relevant sectors, any licences and permits granted prior to the commencement of this Act in relation to the production, distribution or supply of regulated goods or services in the said sectors shall remain in operation until they are revoked, annulled or otherwise replaced.

Transitional provisions and savings

(2) This Act shall not operate so as to affect in a prejudicial way the rights of any person under a licence or permit granted prior to the commencement of this Act or any contract entered into prior to the commencement of this Act.

56. (1) As from the effective date, such movable and immovable property vested in the Tanzania Broadcasting Commission and the Tanzania Communication Commissions and all assets, interests, rights, privileges, liabilities or obligations of the Tanzania Broadcasting Commission and the Tanzania Communications Commission shall be transferred to and shall be vested in the Authority without further assurance.

Transfer of assets and liabilities

(2) If any question arises as to whether any particular property, or any particular asset interest, right, privilege, liability or obligation has been transferred to or vested in accordance with the provisions of subsection (1), a certificate under the hand of the Minister shall be conclusive evidence that the property, asset, interest, right, privilege, liability or obligation was or was not so transferred or vested.

Continuation and completion of disciplinary proceedings

57. - (1) Where on the effective date any disciplinary proceedings were pending against any employee of the Tanzania Broadcasting Commission or the Tanzania Communications Commission who may join the service of the Authority, such proceedings shall be carried on and completed by the Authority and, where on the effective date any matter was in the course of being heard or investigated or had been heard or investigated by the Tanzania Broadcasting Commission or the Tanzania Communications Commission but no order or decision had been rendered, the Authority shall complete the hearing or investigation and such order, ruling or direction as it could have been made by the authority under which the proceedings or matter were or was vested before the effective date.

(2) Any order, ruling, or finding made or given in relation to any proceedings or investigation pursuant to subsection (1), shall be treated as an order, ruling or finding of the Authority and have the same force or effect as if it had been made or given by the Tanzania Broadcasting Commission or the Tanzania Communications Commission before the effective date.

(3) For purposes of sections 56, 57 and 58, the effective date shall be the date designated as such by the Minister.

Rights of employees

58. -(I) The service of any employee or staff of the former Tanzania Communications Commission and the Tanzania Broadcasting Commission shall be deemed to be continuous with the Authority.

(2) As soon as practicable but in any case not later than three years from coming into operation of this Act, the Authority shall comply with the provisions of section 14 of this Act in respect of employees who have been absorbed by the Authority.

(3) Where any employee or staff of the former Tanzania Communications Commission and the Tanzania Broadcasting Commission is not absorbed by the Authority, he may be transferred to any other Ministry or public institution, and his service shall be deemed to be continuous and if he was a member of any statutory, voluntary pension or any other superannuation scheme, such employee shall continue to be governed by the same laws and regulations governing such scheme and the employer shall contribute to such scheme accordingly.

(4) The terms and -conditions of employment of any employee or staff from the former Tanzania Communications Commission and the Tanzania Broadcasting Commission who joins the Authority through the competitive recruitment process established by the Authority in compliance with the Provisions of subsection (6) of section 14 of this Act, shall not be less favourable than those enjoyed by that employee immediately prior to the date on which he joined the service of the Authority.

(5) An employee or staff of the former Tanzania Communications Commission and the Tanzania Broadcasting Commission whose service does not continue with the Authority or is not transferred to any other Ministry or public institution and where such employee or staff is a member of any statutory, voluntary pension or other superannuation benefits scheme prior to such termination, such employee or staff shall be paid terminal benefits in accordance with the laws and regulations governing such scheme immediately before such termination.

(6) Where an employee or staff whose service with the Tanzania Communications commission and Tanzania Broadcasting Commission is deemed to be continuous under subsections (1) and (3) is a member of any statutory, voluntary pension or any other superannuation scheme, such employee shall continue to be governed by the same laws and regulations governing such scheme and the Authority shall contribute to such scheme accordingly.

(7) Subject to subsections (1), (2) and (3), nothing in this section shall operate so as to create an entitlement for any employees or staff of the former Tanzania Communications Commission and the Tanzania Broadcasting Commission to become employees or staff of the Authority

PART XII

CONSEQUENTIAL AMENDMENTS

AMENDMENTS OF THE
TANZANIA COMMUNICATIONS ACT, 1993

- | | |
|---|--|
| Construe-
tion
Act No.
18 of
1993 | 59. The Tanzania Communications Act, 1993, hereinafter referred to as "the principal Act" is amended. |
| Amend-
ment of
the long
title | 60. The principal Act is amended by deleting the long title and substituting for it the following:

"An Act to provide for the regulation of postal and telecommunications services by the Tanzania Communications Regulatory Authority" |
| Amend-
ment
of
section 2 | 61. Section 2 (1) of the principal Act is amended by:

(a) adding the following definitions in their appropriate alphabetical positions:
"Authority" means the Tanzania Communications Regulatory Authority also known by its acronym
"TCRA" established by the Tanzania Communications Regulatory Authority Act, 2003;

(b) by deleting the definitions of the words "Chairman" "Director General", and "Minister" and substituting for them the following:
"Chairman" has the same meaning as ascribed to it under section 3 of the Tanzania Communications Regulatory Authority Act, 2003;
"Director General" has the same meaning as ascribed to it under section 3 of the Tanzania Communications Regulatory Authority Act, 2003;
"Authority" has the same meaning as ascribed to it under section 3 of the Tanzania Communications Regulatory Authority Act, 2003;
"Minister" has the same meaning as ascribed to it under section 3 of the Tanzania Communications Regulatory Authority Act, 2003;

(c) by deleting the word "Commission" wherever it appears in the principal Act and substituting for it the word "Authority" |

No. 12 of
2003

- | | |
|--|--------------------------|
| 62. Section 3 of the Principal Act is repealed. | Repeal of section 3 |
| 63. Section 4 of the principal Act is repealed. | Repeal of section 4 |
| 64. Section 8 of the principal Act is repealed. | Repeal of section 8 |
| 65. Section 10 of the principal Act is amended by deleting the phrase "the Tanzania Broadcasting Commission and" appearing in the second and third lines of subsection (3) and substituting for it the phrase "Zanzibar Broadcasting Commission" | Repeal of section 10 |
| 66. Section 10A of the principal Act is repealed. | Repeal of section 10A |
| 67. Section 22 Of the Principal Act is amended by repealing subsection (3). | Repeal of section 22 |
| 68. Part VII of the principal Act is hereby repealed. | Repeal of Part V11 |
| 69. The First and Third Schedules to the principal Act are repealed. | Repeal of First Schedule |

AMENDMENT OF THE
BROADCASTING SERVICES ACT, 1993

- | | |
|---|--------------------------------|
| 70. The Broadcasting Services Act, 1993, hereinafter referred to as "the principal Act" is amended. | Construction Act No. 6 of 1993 |
| 71. The principal Act is amended by deleting the long title and substituting for it the following:
"An Act to provide for the regulation of broadcasting and other related matters by the Tanzania Communications Regulatory Authority-. | Amendment of the long title |
| 72. Section 2 of the Principal Act is amended by: | Amendment of section 2 |

- Act
No. 12
of 2003
- (a) adding the following definition in its appropriate alphabetical positions:
"Authority" means the Tanzania Communications Regulatory Authority also known by its acronym
"TCRA" established by the Tanzania Communications Regulatory Authority Act, 2003;
 - (b) by deleting the definition of the word "Minister" and substituting for it the following:
"Minister" has the same meaning as ascribed to it under section 3 of the Tanzania Communications Regulatory Authority Act, 2003;
 - (c) by deleting the word "Commission" wherever it appears in the principal Act and substituting for it the word "Authority"

Amend-
ment of
Section 3

73. Section 3 (3) of the principal Act is amended by deleting the word "Minister" and substituting for it the word "Authority"

Repeal of
section 5

74. Section 5 of the principal Act is repealed.

Repeal of
section 8

75. Section 8 of the principal Act is repealed.

Repeal of
Part V

76. Part V of the principal Act is repealed.

Repeal of
the
Schedule

77. The Schedule to the principal Act is repealed.

AMENDMENT OF THE TANZANIA POSTS
CORPORATION ACT, 1993

Constru-
tion Act
No. 19 of
1993

78. The Tanzania Posts Corporation Act, 1993 hereinafter referred to as "the principal Act" is amended.

Amend-
ment of
section 2

79. The principal Act is amended in section 2(1)-

- (a) by deleting the definition of the word "Commission" and substituting for it in its alphabetical order the following:
"Authority" means the Tanzania Communications Regulatory Authority Act, 2003"

Act
No. 12 of
2003

- (b) by replacing, the word "Commission" wherever it appears in the principal Act with the word "Authority"

80. The principal Act is amended in section 7 by deleting the second figure (2) appearing at page 234 and substituting for it the figure (3),

Amend-
ment of
section 7

SCHEDULE

(Made under section 7(7))

THE BOARD OF DIRECTORS OF THE AUTHORITY

1.-(I) The Board of Directors of the Authority shall consist of-

Compo-
sition of
the
Board

- (a) a Chairman and a Vice Chairman who shall be non-executive;
- (b) four non-executive members; and
- (c) the Director-General appointed under section 13.

(2) In proposing names of persons for appointment as Chairman, Vice-Chairman and members of the Board, the Nomination Committee, the President and the Minister shall each have regard to appoint persons who-

- (a) are graduates of a recognized University;
- (b) have at least ten years experience in one or more of management, law, economics, finance, engineering, broadcasting or information and communications technology;
- (c) have knowledge of industry;
- (d) have satisfied the Committee that they are unlikely to have a conflict of interest under section I 1;
- (e) are willing to serve as members; and
- (f) are, in the opinion of the Committee, other-wise suitable to perform the functions and duties of a member competently and honestly.

2 - (1) The First Chairman, Vice-Chairman and members of the Board shall be appointed for the following fixed terms:

Tenure of
appoint-
ment

- (a) a Chairman four years;
- (b) a Vice-Chairman three years; and
- (c) two other members - five years.

(2) Members, including the Chairman, and Vice Chairman shall each be eligible for re-appointment for one further successive term but shall not otherwise be eligible for re-appointment.

(3) Any member, may at any time resign by giving notice in writing to the appointment authority and from the date specified in the notice or if no date is so specified, from the date of receipt of the notice by the appointment authority, be shall cease to be a member.

Secretary	3 - (1) The Board shall appoint a lawyer of not less than ten years experience to be the Secretary of the Board. (2) The Secretary of the Board may take part in proceedings of the Board but shall have no vote.
Meetings of the Board	4.-(1) The Board shall meet at least four times yearly at such dates, places and times as it deems necessary for the transaction of its business and it shall convene special meeting upon request by the majority of members. (2) An ordinary meeting of the Board shall be convened by the Chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than ten days before the date of the meeting and where the Chairman is unable to act by reason of illness or other cause or is absent from the United Republic, the Vice-Chairman may convene the meeting. (3) The Chairman or, in his absence, the Vice-Chairman, may on his own motion, and shall, if requested in writing in that behalf by at least half the members, convene a special meeting of the Board. (4) The Board may invite any person who is not a member to participate in the deliberations of the Board, but any person so invited shall have no vote at the meeting. (5) The Board may act notwithstanding any vacancy in its membership. 5. The quorum at any meeting of the Board shall be half of the members.
Minutes of the meetings	6. Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at its next meeting.
Official seal of the Authority	7. - (1) The official seal of the Authority shall be of such shape, size and form as the Board may determine. (2) The official seal of the Authority shall not be affixed to any instrument or document except in the presence of the Secretary or such other employee of the Authority as the Board may appoint in that behalf.
Examination of documents	8. All deeds, documents, rulings, declarations or other official instruments requiring the seal of the Authority shall be sealed with the official seal of the Authority in the presence of any two officers of the Authority duly authorized by the Authority to act in that behalf and shall be signed by those officers- (2) The Authority may by resolutions or otherwise appoint an officer or employee of the Commission or any other agent, either generally or in a particular case, to execute or sign on behalf of the Authority any agreement or other Instrument not under seal in relation to any matter coming within the powers of the Commission.

9. No act or proceeding of the Board shall be invalid by reason of any defect or irregularity in the appointment of any Member or by reason that any person who purported *bona fide* to act as a member at the time of the act or proceedings, was in fact disqualified or not entitled to act as a member.

Proceedings not invalidated by irregularity

10. Where any member absents himself from three consecutive meetings of the Board without sufficient cause, the Board shall advise the appointing authority of the fact and the appointment authority may terminate the appointment of the member and appoint another member in his place.

Absence from three consecutive meeting

11. Subject to this Act, the Board shall have power to regulate its own procedure in relation to its meetings and the transaction of its business.

Board may regulate its own proceedings

Passed in the National Assembly on the 9th April 2003,

Clerk of the National Assembly