THE EDUCATION FUND ACT, 2001

ARRANGEMENT OF SECTIONS

Section Title

PART I

PRELIMINARY PROVISIONS

1. Short title and commencement.
2. Application.
3, Interpretation.

PART II

THE EDUCATION FUND

4. Establishment of the Education Fund.

PART III

ESTABLISHMENT, POWERS AND FUNCTIONS OF THE AUTHORITY

5. Establishment of the Authority.
6. Objectives and functions of the Authority.

PART IV

THE BOARD AND ITS FUNCTIONS

7. Establishment of the Board and its Committees,
8. Powers and functions of the Board.
9. Director General and other employees.

PART V

SPECIAL PROVISIONS ON HIGHER EDUCATION AND APPLICABILITY OF THE FUND To TANZANIA ZANZIBAR

10. Functions of the Authority and Fund extends to Tanzania Zanzibar.
11. Commencement of operation of Part V

PART VI

SPECIAL PROVISIONS RELATING TO DONATIONS GIFTS, GRANTS AND BEQUESTS

12. Award of Certificate of Educational Appreciation.

PART VII

FINANCIAL PROVISIONS

13. Funds of the Authority.
14. Revenue to accrue to the Fund
15. Estimates of income and expenditure of the Authority
16. Accounts, audit and annual reports
17. Quarterly reports.
18. Internal audit and periodic audit reports.

PART VIII

GENERAL PROVISIONS

19. Exemption.
20. Power to make Regulations.

SCHEDULES

FIRST SCHEDULE

SECOND SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



No. 9 OF *2001*

I **ASSENT**

.....

President

.....

An Act to establish the Education Fund, to provide for management of the fund and for related matters

[.....]

ENACTED by the Parliament of the United Republic of Tanzania

PART I
PRELIMINARY PROVISIONS

Short title and commenCement

1. This Act may be cited as the Education Fund Act, 2001 and shall come into operation on such date as the Minister may by notice published in the *Gazette* appoint, and a different date may be appointed for the provisions of Part V of this Act,

Application

2. This Act shall not apply to Tanzania Zanzibar except for the provision of Part V.

Interpretation

3. In this Act, unless the context requires otherwise-

"Authority" means the Tanzania Education Authority established by section 5;

"Board" means the Board of the Authority established by section 7;

"Certificate of Educational Appreciation" means the certificate issued under section 12;

"education levels" means the pre-and primary education, secondary education and tertiary education levels as categorised under the National Higher Education Policy;

"Fund Assisted project or Programme" means any project or programme funded by the Authority;

"Government agency" means any government department or office designated as a Government agency;

"higher learning institution" means an institution recognized as a higher education, institution, under the National Higher Education Policy;

"Minister" mews the Minister responsible for higher education matters;

"professional higher education" means education provided by the full professional higher education institutions;

"secondary level education" mews education obtained through secondary schools;

"tertiary, level education" means education obtained from a higher learning institution;

PART 11

THE EDUCATION FUND

Establishment of the Education fund

4.-(1) Them is hereby established a Fund to be known as the Education Fund into which shall be paid all monies collected as grants or loans in accordance with the provisions of this Act, or from any other source.

(2) All monies collected as education fund shall be remitted to such bank accounts as the Authority shall prescribe or designate, and in accordance with the provisions of this Act.

(3) The monies deposited in the Fund shall be used for the purposes of improvement of the quality, access to and equality of education at all educational levels in Mainland Tanzania, in accordance with Fund Assisted Projects or Programmes; and in Tanzania Zanzibar it will be applied as defined in Part V of this Act.

(4) The Minister shall, for the purpose of ensuring proper functioning of this Act with regard to the Fund consult with the Minister responsible for finance.

PART III

ESTABLISHMENT, POWERS AND FUNCTIONS

Or THE AUTHORITY

Establiment of the **Authority**

5.- (1) There is hereby established an Authority to be known as the Tanzania Education Authority, which shall consist of the Board, its committees and all operating directorates.

(2) the Authority established under subsection (1) shall be compact and it shall perform its functions in the manner which is efficient and affective,

(3) 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 prop**erty;

(c) exercising the powers and performing the functions conferred upon it by or under this Act; .

(d) entering into contracts or other transactions **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-,

(e) in its corporate name and, subject to this Act, to borrow money, acquire and dispose of property and do all such other things as a body corporate may lawfully do.

(4) The seal of the Authority shall be authenticated by the signatures of the Chairman of the Board and the Secretary to the Board, ,

(5) In the absence of the Chairman or the Vice Chairman of the Board, a member of the Board specifically designated by, him for, the purpose,. may sign a document in his place and in the absence of the Secretary to the Board, a person performing the functions of the Secretary may sign a document in his place.

(6) Every document purporting to be an instrument issued by the Authority shall be sealed with the seal of the Authority authenticated in the manner provided under subsection (3) and such instrument shall be received in evidence without further proof

Objectives and function of the authority

6. The objectives and the functions of the Authority **shall be-**

(a) to secure adequate and stable financing of **education;**

(b) to advise the Government on new sources of revenue for the purpose of ensuring Adequate and stable flow of money into the Fund;

(c) to raise the quality of **education and increase access and equal,** ity;

(d) to promote education and training according to needs within the framework of overall national socio-economic develop-ment plans and policies;

(e) to apply the money deposited into the Fund for the purposes of improvement and promotion of education;

(f) to develop and review periodically the formula for allocation and disbursement from the Fund to the different educational levels;

(g) to monitor the use of the funds disbursed and ensure adherence to the objects of the Fund,

(i) to receive gifts, donations, grants or other moneys on behalf of the Fund,

(j) to sponsor and provide facilities for higher learning and to establish relationship or association with institutions both nationally and internationally.

PART IV
THE BOARD AND ITS FUNCTIONS

Establishment of the Board and its Commi. ttees

7.- (1) There is hereby established a Board which shall be the governing body of the Authority.

(2) The provisions of the First Schedule to this Act shall have effect as to the composition of the Board, the appointment and tenure of its members, proceedings of the Board and such other matters in relation to the Board and its members.

(3) The Minister may, by notice published in the *Gazette* amend or vary the composition of the Board.

(4) The Minister may, by order published in the *Gazette* amend, vary or replace all or any of the provisions of the First Schedule to this Act other than the provisions of paragraph 2.

(5) (a) There shall be two committees of the Board, and members of each committee who shall be appointed from amongst members of the Board.

(b) The Board may co-opt a member or members in the committees as it deems fit and for the purpose of fulfilling some of its functions the Board may establish other committees whenever there is a need for so to do.

(6) The Revenue Committee shall be the Board's organ for-

(a) development of policy framework for the effective planning of all processes of revenue collection for the Authority

(b) developing policies for mobilising the public and stimulating them to contribute to the Fund.

(c) evaluating the Authority financial position and propose general and specific, directives to enhance, the sustainability of revenue flow into the Fund and the authority;

(d) performing such other functions as the Board may from time to time delegate.

(7) The Award Committee shall be the, Board' s organ *for* the formulation of policies strategies that are necessary to ensure the objectives and equitable distribution of the Fund's resources.

Powers and functiorm of thc Board

8.-(1) The Board shall be responsible for the performance of the functions and management of the affairs of the Authority,

(2) Without prejudice to the generality of subsection (1), the Board shall have powers to-

(a) develop policies of the Fund and to supervise their implementation at the national level;

(b) set the policies and procedures for the use of the Fund;

(c) approve, the plans and the annual budgets of the Authority;

(d) signify the acts of the Authority by using the Official sea;

(e) appoint an auditor or auditors to carry out the audit of the Fund;

(f) appoint such officers of the Fund in accordance with this Act and any regulations made under the Act;

(g) appoint such officers of the Fund in accordance with this Act

(h) do all acts or things provided for in this Act which may in the opinion of the Board be necessary for the proper carrying out of the functions of the Authority.

Director General and other employee,

9.-(1) The Board shall, subject to the provisions of the Second Schedule to this Act, appoint a Director General of the Authority who shall be the chief executive of the Authority and shall be directly responsible to the Board for the day to day administration of the affairs of the Authority.

(2) The Director General shall be the Secretary to the, Board and may participate in the, Board's deliberations and shall be entitled to vote on any resolution or any other matter before the Board,

(3) The Board may subject to the provisions of the Second Schedule this Act, appoint or employ directors and other employees of the Authority on such terms and conditions as the Board may approve.

(4) The Director General and other directors shall constitute the management team of the Board.,

PART V

SPECIAL PROVISIONS ON HIGHER EDUCATION AND APPLICABILITY OF THE FUND TO TANZANIA ZANZIBAR

Function of Authority and Fund extend to Tanzania Zanzibar

10.-(1) The functions of the Authority and the Fund in respect of higher education shall extend to Tanzania Zanzibar-

(2) The Authority shall, in carrying out its functions at the union level enter into arrangement with its counterpart in Tanzania Zanzibar which Is responsible for the administration of the Education Fund established under the laws of Tanzania Zanzibar.

Commencement of operation of Part V

11. The Provisions of this part shall become operative upon the commencement of the arrangement to be entered into, pursuant to subsection, (2) Of section I 0.

PART VI

SPECIAL PROVISIONS RELATING TO DONATIONS, GIFTS, GRANTS AND BEQUESTS

Certificate of Educational Appreciation

12.-(1) Any person who-

(a) makes a donation Of money or equipment to a Fund's Assisted Educational Project or Programme;

(b) avails Sponsorship or a grant to any student for the Purpose of enabling such student to pursue secondary level education or attend tertiary level training,

shall be awarded by the Authority a certificate to be known as a Certificate of Educational Appreciation.

(2) The Certificate of Educational Appreciation shall-

(a) give full particulars of the awardee, the amount of money to which he is eligible for tax relief, the taxes and the mode to which relief may be elected; and

(b) be signed by both the Director General, and the Commissioner General of the, Tanzania Revenue Authority and shall bear the respective seals of the signatories' organizations.

(3) Every awardee of a Certificate of Educational Appreciation shall be entitled at his option, to either-

Act No. 33 of 1973

(a) apply the amount stated in the Certificate of Educational Appreciation as an allowable deduction under section 16(2) of the income Tax Act, 1973;

Act No. 24 *of 1997*

(b) apply the amount stated in the Certificate of Educational Appreciation as a deduction against the vatable turnover under the Provisions of the Value Added Tax Act. 1997; or

(c) apply the amount stated in the Certificate of Educational Appreciation as a relief for the, purposes of customs or import duties, by way of a deduction against the dutiable value.

(4) The Certificate of Educational Appreciation shall be valid for-

(a) the elected relief only and shall not be used again for any of the other optional relief under subsection (3) of this section;

(b) the awardee within a period not exceeding six years fro. the date of the award, but once submitted for purposes of obtaining any of the elected optional relief it shall remain in the custody of the tax authority to which it is submitted until the amount thereon is fully utilized whereupon the Certificate of Educational Appreciation shall be water marked in bold across the face by the word " *UTILISED"*

(5) Any person who deals, or attempts to deal with the Certificate of Educational Appreciation in a manner which is inconsistent to the provisions of this Part shall be deemed to have committed an act of default under this Act.

(6) Any person who is declared by the Commissioner General to have committed an act of default under this Part shall be subject to the following sanctions; namely-

(a) where the Certificate of Educational Appreciation has not yet been utilized, it shall be forthwith canceled;

(b) in addition to the sanction provided for under paragraph (a) of this subsection the person who commits the default shall be liable to criminal prosecution.

(7) For the purposes of this section the act of default shall be deemed to constitute the offence of uttering a false document or obtaining money under false pretences, as the case may be, and shall be construed in accordance with the provisions of the Penal Code of Tanzania Mainland or such similar legislation in Tanzania Zanzibar. Cap. 16

PART VII
FINANCIAL PROVISIONS

13. The funds of the Authority shall consist of- Funds of Authority

(a) such sums not exceeding (2.0%) two percentum of the annual Government recurrent budget, less the amount payable in defraying the national debt;

(b) such sums as my be Paid to the Authority by way of grants, loans, gifts or bequests.

14.-(1) All revenue collected by or payable to the authority under this Act and in accordance with subsection (2) of section 4 of this Act, shall be payable to a designated account. Revenue to accrue to the Fund

(2) The Director General, shall submit to the Board a monthly report m respect of the status of the, revenue of the Board and the expenditure.

Estimates of income and expenditure of the Authority

15.-(1) The Director General shall, not later than three months, be for the end of each financial year, prepare and submit to the Board for its consideration, estimates of the Authority's income and expenditure for the ensuing year.

(2) The Board shall, after receiving the estimates report under subsection (1), consider and adopt the estimates subject to such modifications and amendments as the Board may consider appropriate.

(3) The annual budget estimates shall contain provisions for all the estimated expenditure during the ensuing financial year and in particular-

(a) for the payment of salaries, allowances and other charges in respect of the staff and the Board;

(b) for office rental and the proper maintenance and replacement of the furniture, equipment and other supplies of the Authority; and

(c) for the creation of such reserve funds to meet future contingent liabilities as the Board may think fit.

(4) No expenditure shall be incurred for the purposes of the Authority except in accordance with the provisions of the annual budget estimates or any supplementary estimates adopted by the Board.

Accounts, audit and annual reports

16.-(1) The Authority shall keep accounts and records of its activities and operations and shall ensure that all moneys received are properly brought to account and all payments out of its moneys are correctly made and properly authorized and adequate control is maintained over its property and over the incurring of liabiliaties by the Auhtority.

(2) The annual accounts of the Authority shall be audited by a competent and qualified auditor registered under the Auditors and Accountants (Registration) Act, 1972 appointed m the manner provided for under sub-section (2) of section 8 to this Act.

(3) The Board shall, within six months after the end of each financial year of the Authority, cause to be prepared and submitted to the Minister an annual report in respect of that year, containing-

(a) financial statements;

(b) performance indicators and other related information; and

(p) a report on the operations of the Authority,

(4) The Minister shall cause copies of each annual report to be laid before the National Assembly at its next meeting after he has received them.

Quarterly reports

17. The Director General shall, after the end of every three months, submit to the Board a report containing-

(a) performance indicators and other related information;
(b) the operations of the Authority; and
(c) such other information as the Board may deem proper.

internal audit and periodic audit reports

18,-(1) The Head of internal audit shall in addition to any other functions assigned to him by the Board or the Director General, be responsible for the internal audit of the Authority's accounts and shall submit to the Director General a report in respect of every three months of a financial year.

(2) The Director General shall submit the report referred to in subsection (1) to the Board for its consideration at the next meeting of the Board.

PART VIII
GENERAL PROVISIONS

Exemption

19.(1) The Authority shall be exempted from any tax, duties, levies, rates, fees or any charges which are payable in accordance with any, law.

(2) The exemption of the Authority under subsection (1) of this section shall not extend to the employees or other officers of the Authority who are otherwise chargeable to such tax, duties levies, rates, fees or any such charges in accordance with the laws in force.

Power to make regulations

20. **The Minister may, after consultation with the Board** make regulations for better carrying out of the provisions of this Act.

SCHEDULE

FIRST SCHEDULE

Made Under section 7 (2)

COMPOSITION AND PROCEEDINGS OF THE BOARD

InterPretation

1. In this Schedule, "member" means a member of the Board and includes the Chairman.

composition

2.-(l) The members of the Board shall be-

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

(b) five other members to be appointed by the Minister.

(2) The Minister shall, in appointing members under this paragraph, first consult with tile Ministers for the time being responsible for education in both the Union Government and tile Revolutionary Government of Zanzibar.

(3) In appointing members under this paragraph account shall be taken of person's knowledge, experience and outlook in matters relating to administration of education and financing of education",

Vice Chairman

3 The Board shall elect one of its members to be the Vice Chairman.

Treasury

4. The members of the Board shall hold office for a period of three years and may be re-appointed for one further period as the Minister may determine."

Secretary

5 The Authority's Director General shall be the Secretary of the Board.

Meetings and quoruin

6.-(1) The Board shall hold four regular meetings every year and may hold move meetings if the business of the Authority so requires.

(2) The first meeting of the Board shall be convened by the Chairman and subsequetly the Board shall meet as often as necessary for the transaction of business at such places and at such time as may be decided upon by the Board.

(3) 'file Chairman or. in his absence the Vice Chairman, shall preside at all meetings of the Board which he attend; and in the absence of both the Chairman or the vice Chairman the members present may appoint a member from among themselves to preside at that meeting.

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

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

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

Voting

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

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

Minutes

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

Vacancy

9. The Board may act notwithstanding any vacancy in its membership.

Validity of proceedings

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

Orders and directions

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

(a) the Chairman of the Board; or

(b) the Secretary or any officer authorised in writing in that behalf by the Secretary.

Proceedings

12. Subject to the provisions of this Schedule, the Board shall have power to regulate its own proceedings.

SCHEDULE

SECOND SCHEDULE

Made under section 9(3)

APPOINTMENT OF DIRECTOR GENERAL AND OTHER EMPLOYEES

Appointment of Director General and tenure of office

1.-(1) The Board shall in consultation with the Minister appoint the Director General.

(2) The Board shall determine the qualifications of the person who can apply for appointment as Director General of the Authority.

(3) The Director General shall have a fixed tenure as shall be determined by the Board.

Provided that no single tenure in office shall exceed five years, and the incumbent holder of office may be re-appointed to office for a further tenure, but shall thereafter not be eligible for further re-appointment.

Termination of appointment

2. The Board shall provide in the contract of service of the Director General such terms and conditions for the appointment and termination of his services.

Mode of appointment of Director General

3. The vacancy for the appointment of the Director General shall be advertised in the widely circulating newspapers in the country and the Board shall appoint a person who meets the criteria of appointment and who is qualified from amongst the applicants.

Renumeration of Director General

4. The Board shall determine the most an attractive remuneration package for the Director General.

Appointment of Director

5.-(1) The Directors of the Authority shall be appointed by the Board in accordance with the provisions of this Schedule.

(2) The Board shall determine the qualifications for the appointment to the office of a Director of the Authority.

(3) The Board shall determine and fix the terms and conditions to govern the service of the Directors, including such matters relating to tenure in office, remuneration and termination of services.

6.-(1) The Board shall provide guidelines or criteria for the recruitment by the management team of the Managers and other employees of the Authority,

(2) The Director General shall submit for the Board's approval the names of the Managers proposed to be employed together with their respective terms and conditions of service.

(3) The Managers and other employees of the Authority shall be responsible to the Director General.

Passed in the National Assembly on the 30th March, 2001.

Clerk of the National Assembly

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