

CHAPTER 145

THE TANZANIA INDUSTRIAL STUDIES AND CONSULTING ORGANISATION

ACT

[PRINCIPAL LEGISLATION]

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SCHEDULE

CHAPTER 145

THE TANZANIA INDUSTRIAL STUDIES AND CONSULTING ORGANISATION ACT

An Act to establish the Tanzania Industrial Studies and Consulting Organisation, to provide for the functions of the Organisation and for related matters.

[1st October, 1976]

[G.N. No 162 of 1976]

Act No. 2 of 1976

[PCh145s1]1. Short title

This Act may be cited as the Tanzania Industrial Studies and Consulting Organisation Act.

[PCh145s2]2. Interpretation

In this Act, unless the context otherwise requires—

"Board" means the Board of Directors of the Organisation;

"Director-General" means the Director-General of the Organisation appointed under section 7;

"Member" in relation to the Board, means a member of the Board and includes the Chairman and Vice-Chairman;

"Minister" means the minister for the time being responsible for industries;

"Organisation" means the Tanzania Industrial Studies and Consulting Organisation established by section 3.

[PCh145s3]3. Establishment of Organisation

(1) There is hereby established an Organisation to be known as the Tanzania Industrial Studies and Consulting Organisation.

(2) The Organisation shall be a body corporate and shall—

- (a) have perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued;

(c) subject to the provisions of this Act, be capable of purchasing and otherwise acquiring and of alienating, any movable or immovable property.

[PCh145s4]4. Composition and proceedings of Board

(1) There shall be a Board of Directors of the Organisation which shall be responsible for the performance of the functions and the management of the affairs of the Organisation.

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

(3) The Minister may, by order in the Gazette amend, add to, vary or replace the Schedule to this Act.

[PCh145s5]5. Functions of Organisation

The functions of the Organisation shall be—

(a) to provide consultancy and advisory services on subjects associated with industrial development and management, to the Government, public institutions and such other bodies or organisations as may be approved by the Minister;

(b) to give advice and assistance to the Government, public institutions and such other bodies or organisations as may be approved by the Organisation, in the selection and employment of local or foreign consultants and advisors for any work relating to industries;

(c) to co-operate with other bodies or organisations engaged in the provision of consultancy and advisory services in Tanzania and elsewhere, in the implementation of measures calculated to foster, encourage and promote the expansion and wide use of modern industrial techniques and practices;

(d) to conduct training programs and promote the practical application of modern techniques in the development and management of industrial enterprises;

(e) to initiate and carry out surveys, research and feasibility studies designed to foster the development of industrial enterprises to be undertaken within the United Republic, by public or private institutions or organisations;

(f) to co-ordinate research in industry carried out within the United Republic and establish a system of documentation in respect of information, relating to industrial research or studies furnished to or otherwise acquired by, the Organisation;

(g) to sponsor and provide facilities for conferences and seminars on topics related to the work and activities of the Organisation and, to arrange for the publication and general dissemination of material produced in connection with such work and activities;

(h) to manage the affairs of any organisation engaged in the provision of consultancy and advisory services, the interests of which are transferred or otherwise acquired by the Organisation; and

(i) to do such acts and things as may be necessary to uphold and support the credit of the Organisation, to obtain and justify public confidence, to avert or minimise any

loss to the Organisation and to facilitate the proper and efficient performance of its functions as specified under this section.

[PCh145s6]6. Power of Board to charge fees

For the proper performance of the functions of the Organisation, the Board shall, subject to any directions the Minister may give in that behalf, have the power to charge fees for services rendered by the Organisation.

[PCh145s7]7. Appointment

(1) The President shall appoint upon such terms and conditions as he may specify, a Director-General of the Organisation who shall be the chief executive officer of the Organisation.

(2) The Board may from time to time appoint at such salaries and upon such terms and conditions as it may deem fit, such other officers and employees of the Organisation as it may deem necessary for the proper and efficient conduct of the business and activities of the Organisation.

[PCh145s8]8. Minister may give directions to Board

The Minister may give the Board directions of a general or specific nature and the Board shall give effect to every such direction.

[PCh145s9]9. Funds of Organisation

The funds and resources of the Organisation shall consist of—

(a) such sums as may be provided for the purposes of the Organisation, by Parliament either by way of grant or loan;

(b) such sums as the Organisation may receive either as fees under section 6 or in the form of contributions, made pursuant to section 10;

(c) such sums as the Organisation may, from time to time, borrow in accordance with the provisions of this Act;

(d) such sums as may in any manner become payable to or vested in, the Organisation under the provisions of this Act or incidental to the carrying out of its functions.

[PCh145s10]10. President may require certain enterprises to contribute to funds of Organisation

(1) If the President considers that it is in the national interest that any person or body of persons or any category of persons engaged within Mainland Tanzania in any business or activity affecting industrial development, should contribute to the funds of the Organisation for the furtherance of the objects for which the Organisation is established, he may, by order in the Gazette, require such person or body of persons or any category of persons in this Act referred to as the "specified enterprise" to make contribution in such amount and in such manner as may be specified in the order.

(2) Every contribution required to be made under subsection (1) shall be paid by the specified enterprise to the Organisation, and the amount so payable, shall be a debt due to the Organisation and may be recovered from the specified enterprise as a civil debt, by a suit at the instance of the Director-General or of any person authorised by him in that behalf.

(3) Where any amount of contribution is due from any specified enterprise, the Director-General may file in a court of a resident magistrate, having jurisdiction over the area in which the specified enterprise carries on business, a certificate stating—

(a) the name and address of the specified enterprise from whom such amount is due; and

(b) the amount due and upon such certificate being lodged in such court, such certificate shall be deemed to be a plaint duly lodged under Order XXXV of the Civil Procedure Code *, and the court shall proceed in accordance with the provisions of that Order and, in the event of a judgment being given in favour of the plaintiff, the court shall pass a decree for payment by the defendant to the Organisation, of the amount found due together with interest on the amount at five per centum per month, from the date on which such certificate was filed until payment.

(4) The provisions of subsection (3) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a court of a resident magistrate.

(5) Every certificate filed in a court of a resident magistrate pursuant to the provisions of subsection (3), shall be prima facie evidence of the truth of the statements contained in such certificate.

[PCh145s11]11. Restriction on employment of foreign consultants, etc.

(1) Wherever any person desires to employ any person from outside the United Republic as a consultant or advisor in relation to any work connected with industrial development he shall first submit his proposals in that behalf in writing to the Organisation.

(2) Upon receipt of proposals submitted pursuant to subsection (1), the Organisation shall hold consultations with the person who submitted the proposals and, upon completion of such consultations, the Organisation shall make such decision in relation to the proposals as will, in the opinion of the Organisation, serve the best interests of industrial development within the United Republic.

(3) Every decision made by the Organisation under subsection (2) shall be binding upon every person affected but, if any such person is aggrieved by the decision of the Organisation he may appeal to the Minister, whose decision shall be final.

(4) For the purpose of giving effect to the objects and the provisions of this section, the Organisation may, with the approval of the Minister, issue guidelines specifying the conditions which should be observed in making proposals and also specifying matters to which the Organisation shall have regard, in making a decision under this section.

(5) The Minister may by directions in writing, exclude any person or body of persons or any category of persons from the operation of the provisions of subsection (1).

[PCh145s12]12. Information on industrial research to be furnished to Organisation

(1) Every person engaged in research in industrial development within the Mainland Tanzania shall, at his own expense, furnish to the Organisation information relating to such research and shall make available to the Organisation copies of any relevant records or findings in such form and within such periods as may be prescribed.

(2) The information furnished to the Organisation under this section shall be kept by the Organisation for purposes of record and, may be dealt with or disposed of in such manner and for such purposes as the Minister may approve or direct.

(3) Any person who fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding three years or to both.

(4) The minister may by directions in writing exclude any person or body of persons from the operation of the provisions of subsection (1).

[PCh145s13]13. Disclosure of information an offence

(1) All information relating to research furnished or made available to the Organisation pursuant to section 12 shall be treated as confidential.

(2) Any member of the Board or any officer of the Organisation who discloses to any person, except for the purposes of the performance of duties or the exercise of powers under this Act, any information furnished to the Organisation pursuant to the provisions of section 12 or, any information which was otherwise acquired by such member or officer in the performance of duties or in the exercise of powers under this Act, shall be guilty of an offence:

Provided that nothing in this subsection shall apply to a disclosure of information made for the purposes of any legal proceedings which may be taken whether by virtue of this Act or otherwise or for the purposes of a report of any such proceedings.

(3) Any person guilty of an offence under subsection (1) shall be liable upon conviction to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment.

[PCh145s14]14. Where offence is committed by body corporate

Where any offence under this Act is committed by a body corporate, the body corporate, as well as every person who, at the time of the commission of the offence was concerned, whether as a director, a partner or an officer, with the management of the affairs of such body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly, unless such person proves to the satisfaction of the court that the person had no knowledge and could not by the exercise of reasonable diligence, have had knowledge of the commission of the offence.

[PCh145s15]15. Remuneration and allowances of members

The members of the Board shall be entitled to receive such remuneration, allowances and other benefits as the Minister may direct.

[PCh145s16]16. Superannuation

The Board may—

(a) grant gratuities or other retirement allowances or benefits to the officers and employees of the Organisation;

(b) establish and contribute to a superannuation fund or medical benefits fund for the officers and employees of the Organisation; and

(c) require any officer or employee of the Organisation to contribute to any such superannuation fund or medical benefits fund and fix the amount and method of payment of such contribution.

[PCh145s17]17. Power of Board to delegate

(1) Subject to subsection (5) the Board may from time to time in writing and under the seal of the Organisation, delegate, subject to such terms, conditions and restrictions as the Board may specify, to any committee of the Board or to any officer or employee of the Organisation or to any other person or body of persons, any of its functions, powers, authorities or duties under this Act and where any delegation is so made, the delegated function, power, authority or duty may be performed or, as the case may be, exercised by the delegate, subject to the terms, conditions and restrictions specified.

(2) Any delegation under subsection (1) may be made to the holder of any office under the Organisation, specifying the office but without naming the holder and, in every such case each successive holder of the office in question and each person who occupies or performs the duties of that office, may, without any further authority, perform or, as the case may be, exercise the delegated function, power, authority or duty in accordance with the delegation.

(3) The Board may revoke a delegation made under this section.

(4) No delegation made under this section shall prevent the Board from itself performing or exercising the function, power, authority or duty delegated.

(5) The Board shall not have power under this section to delegate—

(a) its power of delegation; or

(b) the power to approve the annual budget or any supplementary budget or receipts and expenditure, the annual balance sheet or any statement of account.

[PCh145s18]18. Annual and supplementary budget

(1) In this Act "financial year" means any period not exceeding twelve consecutive months designated in that behalf by the Board:

Provided that the first financial year after the commencement of this Act, shall commence on the date of the commencement of this Act and may be of longer or shorter period than twelve months.

(2) Not less than two months before the beginning of any financial year, other than the first financial year the Board shall, at a meeting specifically, convened for that purpose, pass a detailed budget, in this Act called "the annual budget", of the amounts respectively—

(a) expected to be received; and

(b) expected to be disbursed,

by the Organisation during that financial year.

(3) If in any financial year the Board intends to make any disbursement not provided for or of an amount in excess of the amount provided for, in the annual budget for the year, the Board shall, at a meeting, pass a supplementary budget detailing such disbursement.

(4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may direct.

(5) Upon passing any annual budget or any supplementary budget, the Board shall submit the same to the Minister for approval.

(6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or refuse to approve the same or may approve subject to such amendment as he may deem fit.

(7) Where the Minister has approved any annual budget or supplementary budget, with or without amendment, the budget, as approved shall be binding on the Board which, subject to the provisions of subsection (8), shall confine the disbursements of the Organisation within the items and the amounts contained in the applicable estimates as approved by the Minister.

(8) The Board may—

(a) with the sanction in writing of the Minister make a disbursement notwithstanding that the disbursement is not provided for in any budget; and

(b) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of such alteration of expenditure limits becoming necessary.

[PCh145s19]19. Annual report

The Organisation shall, within sixty days of the end of each financial year, prepare a report on the activities of the Organisation during such year and submit such report to the Minister.

[PCh145s20]20. Investment

With the approval of the Minister, the Board may, from time to time, invest any part of the moneys available in any fund of the Organisation in such investments as are

authorised investments in relation to investment of funds by a trustee under the Trustee Investments Act *.

[PCh145s21]21. Power to borrow

(1) With the approval of the Minister the Board may, from time to time, borrow moneys for the purposes of the Organisation by way of loan or overdraft and upon such security, terms and conditions relating to the repayment of the principal and to the payment of interest as, subject to any directions by the Minister, the Board may deem fit.

(2) A person lending money to the Organisation shall not be bound to enquire whether or not the borrowing of that money by the Board has been approved by the Minister.

[PCh145s22]22. Accounts and audit

(1) The Board shall cause to be provided and kept proper books of accounts and shall cause to be made out for every financial year a balance sheet showing details of the income and expenditure of the Organisation and all its assets and liabilities and records with respect to—

(a) the receipt and expenditure of moneys by, and other financial transactions of, the Organisation;

(b) the assets and liabilities of the Organisation,

(2) Within six months of the close of every financial year the accounts including the balance sheet of the Organisation in respect of that financial year shall be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act *.

(3) As soon as the accounts of the Organisation have been audited and in any case, not later than six months after the close of such financial year, the Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report made by the auditors.

(4) Every audited balance sheet shall be placed before a meeting of the Board and, if adopted by the Board, shall be endorsed with a certificate that it has been so adopted.

[PCh145s23]23. Laying of accounts before National Assembly

The Minister shall, as soon as may be practicable and not later than seven months after the close of a financial year or such longer period as the National Assembly may, by resolution approve in that behalf, lay before the National Assembly the following documents in relation to such financial year—

- (a) a copy of the Organisation's annual balance sheet;
- (b) a copy of the auditor's report, if any;
- (c) a copy of the Organisation's annual report.

[PCh145s24]24. Liability of members of Board

Without prejudice to the provisions of section 284A of the Penal Code * or of the Public Officers (Recovery of Debts Act *) no act or thing done or omitted to be done, by any member of the Board or by any officer, employee or agent of the Organisation, shall, if done or omitted bona fide in the execution or purported execution of duties under this Act as such member, officer or employee or agent, subject any such person to any action, liability or demand.

[PCh145s25]25. Regulations

(1) The Minister may, after consultation with the Board, make regulations necessary or desirable to give effect to the purposes and provisions of this Act and without prejudice to this generality regulations may be made—

(a) prescribing the form in which and the period within which information relating to industrial research, records or findings shall be furnished or made available to the Organisation under the provisions of this Act;

(b) prescribing the form in which and the procedure by which, proposals shall be made to the Organisation in respect of the employment of foreign consultants or advisors;

(c) prescribing any thing or matter relating to the payment of contributions by specified enterprises to the funds of the Organisation;

(d) prescribing anything which under this Act is to be or is permitted to be prescribed.

(2) Regulations made under this section may be made applicable to—

(a) the whole or any part of the Mainland Tanzania;

(b) any branch of industry;

(c) any category or categories of persons or specified enterprises.

SCHEDULE

(Section 4(2))

1. Composition

The Board shall consist of—

- (a) a Chairman who shall be appointed by the President;
- (b) the Director-General who shall also be the Secretary to the Board;
- (c) not less than ten and not more than fourteen other members, who shall be appointed by the Minister.

2. Vice-Chairman

The members shall from among their number, elect a Vice-Chairman, who shall hold office for as long as he remains a member of the Board.

3. Representation

In making appointments of members the Minister shall ensure that there is adequate representation on the Board of such organisations and bodies as are likely to be required to make contributions to the funds of the Organisation or are likely to utilise the skills and disciplines to be promoted by the Organisation or the services to be rendered by the Organisations and, shall further ensure that every person appointed a person who, in the opinion of the Minister has the necessary experience or qualification to enable such person to make a useful contribution to the deliberations of the Board and to assist the Board in the performance of its functions.

4. Tenure of office

(1) A member of the Board shall, unless the appointment is sooner determined by the appointing authority or, otherwise ceases to be a member, hold office for such period as the appointing authority may specify in the appointment:

Provided that in the case of a member who is a member by virtue of holding some other office, such members shall cease to be a member upon ceasing to hold that office.

(2) Any member other than a member referred to in the proviso to subparagraph (1), may at any time resign by giving notice in writing to the appointing authority and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the appointing authority, shall cease to be a member.

5. Representation at meetings

If a member who is a member by virtue of holding some other office is unable for any reason to attend any meeting, may nominate in writing another person from the organisation for the purpose of attending that meeting.

6. Casual vacancies

Where any member ceases to be a member for any reason before the expiration of the term of office, the appointing authority shall appoint another person and the person so appointed shall hold office for the remainder of the term of office of the predecessor.

7. Meetings

(1) 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 the usual place of business or residence not less than seven days before the date of such meeting and in case the chairman is unable to act by reason of illness, absence from the United Republic or other sufficient cause, the Vice-Chairman shall convene such meeting.

(2) The Chairman or in his absence the Vice-Chairman, shall be bound to convene a special meeting of the Board upon receipt of a request in writing in that behalf, signed by not less than three members and not less than seven days' notice of such meeting shall be given to all members in the manner prescribed in subparagraph (1).

(3) The Chairman, the Vice-Chairman or the temporary chairman elected in accordance with the provisions of paragraph 8, presiding at any meeting of the Board, may invite any person who is not a member to participate in the deliberations of the Board, but such person shall not be entitled to vote.

8. Procedure

(1) Six members shall constitute a quorum for a meeting of the Board.

(2) In the absence of the Chairman from a meeting of the Board the Vice-Chairman shall preside and in the absence of both the Chairman and the Vice-Chairman, the members present shall elect one of their number to be a temporary chairman of that meeting.

(3) At any meeting of the Board a decision of the majority of the members present and voting shall be deemed to be a decision of the Board and, in the event of an equality of votes the chairman of the meeting shall have a casting vote, in addition to the deliberative vote.

9. Decision by circulation of papers

Notwithstanding the provisions of paragraph 8, where the Chairman or in his absence, the Vice-Chairman directs, a decision may be made by the Board without a meeting, by circulation of the relevant papers among all the members of the Board and the expression in writing of their views, but, any member shall be entitled to require that any such decision shall be deferred until the subject matter shall be considered at a meeting of the Board.

10. Minutes of meetings

Minutes of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting.

11. Vacancies not to invalidate proceedings

Subject to the provisions of paragraph 8 relating to quorum, the Board may act notwithstanding any vacancy in the membership and no act or proceeding of the Board shall be invalid by reason only of some defect in the appointment of a person who purports to be a member.

12. Orders, or directions

All orders, directions, notices or documents made or issued by the Board shall be signed by—

(a) the Director-General; or

(b) any member of the Board or other officer of the Organisation authorised in writing by the Director-General in that behalf.

13. Seal of Organisation

The seal of the Organisation shall not be affixed to any instrument except in the presence of the Director-General or the Chairman or the Vice-Chairman or some other officer of the Organisation and at least one member of the Board.

14. Board may regulate its own proceedings

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