

CHAPTER 253

THE DAR ES SALAAM MARITIME INSTITUTE ACT

An Act to establish the Dar es Salaam Maritime Institute and to provide for the functions, management and control of the Institute and for related matters.

[1st July, 1992]

[G.N. No. 132 of 1992]

Act No. 22 of 1991

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh253s1]1. Short title

This Act may be cited as the Dar es Salaam Maritime Institute Act.

[PCh253s2]2. Interpretation

In this Act, unless the context otherwise requires—

"Board" means the Board of Governors of the Institute established under section 5;

"Board of Examiners" means the Board of Examiners established under section 80 of the Merchant Shipping Act * and section 41 of the Merchant Shipping (Certification of Marine Officers) Regulations *;

"Institute" means the Dar es Salaam Maritime Institute established under section 3;

"Minister" means the Minister responsible for maritime affairs;

"Principal" means the Principal of the Institute appointed under section 8;

"students organisation" means an organisation approved in writing by the Minister pursuant to section 10.

PART II

THE INSTITUTE (ss 3-4)

[PCh253s3]3. Establishment of the Institute

(1) There is hereby established an Institute which shall be known as the Dar es Salaam Maritime Institute.

(2) The Institute shall be a body Corporate and shall—

- (a) have perpetual succession and an official seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) be capable of holding, purchasing or otherwise acquiring in any other way, any movable property or immovable property and disposing of any of its property.

[PCh253s4]4. Functions of the Institute

The functions of the Institute shall be to—

- (a) provide facilities for the study of and training in the principles, procedures and techniques of basic training of seafarers, marine engineering, navigation, management of shipping enterprises, special skills and knowledge of pilotage or tug handling and such other related subjects as the Board of Governors may decide;
- (b) conduct training programmes in the subject specified in paragraph (a) and in such other related subjects as the Board may decide;

(c) engage in research into theoretical, operational and organisational problems and training needs in the subjects specified in paragraph (a) and in the maritime sector in general;

(d) evaluate the results achieved by the Institutes training programme;

(e) provide consultancy services to the government, parastatal bodies and such other bodies or persons as may be necessary;

(f) sponsor, arrange or provide facilities for conferences and seminars;

(g) establish departments within the Institute for the organisation and administration of its work and activities;

(h) conduct professional examinations on behalf of the Ministry responsible for transport;

(i) do all such acts and things and enter into all such contracts and transactions, as are, in the opinions of the Board, expedient or necessary for the proper and efficient discharge of functions of the Institute;

(j) arrange for the publication and general dissemination of materials produced in connection with the work and activities of the Institute; and

(k) establish and foster closer association with other colleges, academies and institutions both nationally and internationally.

PART III

ADMINISTRATION (ss 5-10)

[PCh253s5]5. Board of Governors

(1) There shall be a Board of Governors of the Institute.

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

(3) The Minister may, by an order published in the Gazette, amend, vary or replace all or any of the provisions of the Schedule to this Act.

[PCh253s6]6. Powers and duties of the Board

(1) Subject to the provisions of this Act, the Government and control of the Institute shall be vested in the Board.

(2) In particular and without prejudice to the generality of subsection (1) the Board shall have powers—

- (a) to administer the property of the Institute, both movable and immovable;
- (b) to administer the funds and other assets of the Institute;
- (c) to signify the acts of the Institute by use of the official seal;
- (d) on behalf of the Institute, to receive gifts, donations, grants or other moneys and to make disbursements to other persons or bodies;
- (e) subject to the provisions of this Act, to appoint such officers of the Institute as it may deem necessary; and
- (f) to 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 Institute.

[PCh253s7]7. Rules

(1) Subject to section 24 the Board may after consultation with the Minister, promulgate rules prescribing—

- (a) enrolment fees and other charges;
- (b) the terms and conditions of service, including the appointment, dismissal, salaries and retirement benefits of the members of the staff of the Institute.

(2) The Board may, after consultation with the Board of Examiners and other Institutions concerned with the maritime industry promulgate rules relating generally to the academic management of the Institute and in particular to—

- (a) the qualifications necessary for entry to the Institute, the courses of instruction to be provided by the Institute, the type of awards to be offered and the duration and number of academic terms; and
- (b) the grant of scholarships and studentship and the revocation of any such grant.

(3) The Board may promulgate rules regulating discipline among the members of the staff of the Institute and the students.

(4) It shall not be necessary for the Board to publish in the Gazette any rules promulgated by it under this section.

(5) Where any rule made under this Act is not published, the Board shall in such manner as it may determine, bring or cause the rule to be brought to the notice of any person who is likely to be affected thereby.

(1) The Minister shall, after consultation with the Board, appoint a suitable person to be the Principal of the Institute.

(2) The Principal shall hold office upon such terms and conditions as may be specified in relation to his office, and in compliance with the scheme of service.

(3) The Principal shall—

(a) be the chief executive officer of the Institute and shall be responsible to the Board;

(b) exercise such functions of the Institute as the Board may delegate to him to enable him to transact all the day to day business of the Institute; and

(c) subject to any directions or restrictions given or imposed by the Board, have the power to exercise supervision and control over Acts and proceedings of all employees of the Institute and to decide upon and dispose of all questions relating to the terms and conditions of service of the employees of the Institute, having due regard to the scheme of service.

(4) In the exercise of the powers vested in him by this section or delegated to him by the Board, the Principal shall comply with the direction of policy of a general or specific nature given to him by the Board and shall not, without the prior approval of the Board, whether given generally or specifically, depart or permit departure from the approved estimates of expenditure or the approved establishment of the Institute or the normal procedure in dealing with any particular matter.

[PCh253s9]9. Staff

The Board may appoint on such terms and conditions as it deems fit, such academic and administrative staff of the Institute as it may consider necessary for the proper carrying out of the functions of the Institute.

[PCh253s10]10. Power to approve organisation

(1) There may be established within the Institute an organisation of the students of the Institute for the purpose of representing and coordinating the affairs of and amongst the students.

(2) An organisation of students under subsection (1) shall be of such form and such name as shall be approved by the Minister.

PART IV

ADMISSION, EXAMINATIONS AND BOARD OF EXAMINERS (ss 11-13)

[PCh253s11]11. Admission and payment of fees on admission

(1) Any person may, subject to such conditions as the Board may impose, be admitted to the Institute.

(2) Subject to section 24, the fees payable on admission shall be such as will be sufficient to meet the actual costs of training of a student by the Institute.

(3) Any student who is a non-Tanzanian shall pay the fees payable under subsection (2) in foreign currency.

[PCh253s12]12. Examinations

All examinations shall be conducted by the Board of Examiners as provided by the Merchant Shipping Act *, and the Merchant Shipping (Certificate of Marine Officers) Regulations *.

[PCh253s13]13. The Board of Examiners and its functions

- (1) The members of the Boards of Examiners shall be appointed by the Minister.
- (2) The Board of Examiners shall—
 - (a) satisfy themselves with regard to the content and academic standard of the relevant course of study offered by the Institute in respect of any professional certificate;
 - (b) advise the Minister on the standards of proficiency to be obtained in each examination for a relevant certificate;
 - (c) decide whether any candidate for the relevant certificate or other award, has attained the standards of proficiency required; and
 - (d) make proposals to the Board on matters relating to the academic and professional activities of the Institute.

PART V

FINANCIAL PROVISIONS (ss 14-20)

[PCh253s14]14. Funds of the Institute

The funds of the Institute shall consist of—

- (a) such moneys as may be provided by Parliament for the purposes of the Institute;

(b) such moneys as may be provided for the purpose of the Institute from other sources by way of fees, gifts, grants or otherwise;

(c) such sums as the Board may, subject to section 15, borrow for the purpose of the Institute; and

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

[PCh253s15]15. Power to borrow

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

(2) Any person lending money to the Institute shall not be bound to enquire whether the borrowing of that money by the Board of Governors has been approved by the Minister, and the Institute shall be liable in respect of the transaction notwithstanding that such consent was not obtained.

[PCh253s16]16. 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.

(2) 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 a longer or shorter period than twelve months.

(3) Not less than two months before the beginning of any financial year, other than the first financial year, the Board shall at its meeting specially convened for that purpose, pass a detailed budget, in this Act referred to as "the annual budget" of the amounts expected to be –

(a) received; and

(b) disbursed,

by the Institute during that financial year.

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

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

(6) Soon after passing any annual budget or any supplementary budget, the Board shall submit the annual budget or supplementary budget as the case may be to the Minister for his approval.

[PCh253s17]17. Investments

With the prior approval of the Minister, the Board of Governors may, from time to time, invest any part of the money available in any fund in investments authorised and subject to such conditions as are prescribed by the Trustees Investments Act * in relation to investment of funds by a trustee.

[PCh253s18]18. Accounts and audit

(1) The Board of Governors shall cause to be recorded and kept proper books of accounts and record with respect to—

(a) the receipt and expenditure of moneys and other financial transactions of the Institute; and

(b) the assets and liabilities of the Institute and shall cause to be made out for every financial year, a statement showing details of the income and expenditure of the Institute and a balance sheet in respect of all its assets and liabilities.

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

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

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

[PCh253s19]19. Principal's report

The Principal shall, at the end of each financial year, prepare a report on the activities of the Institute during the financial year and, after the Board has approved the report, submit the report to the Minister.

[PCh253s20]20. Laying of documents

The Minister, shall as soon as may be practicable and not later than twelve months after the close of a financial year, lay before the National Assembly the following documents in relation to that financial year a copy of the –

- (a) auditor's report; and
- (b) Principal's report.

PART VI

MISCELLANEOUS PROVISIONS (ss 21-25)

[PCh253s21]21. Remuneration, fees, etc.

(1) Subject to subsection (2) members of the Board shall be entitled to and be paid such remuneration, fees, allowances or expenses as the Minister may, upon the recommendation of the Board, prescribe.

(2) No remuneration, fees, allowance or expenses shall be paid to any member of the Board except as may be expressly authorised by the Minister.

[PCh253s22]22. Delegation of power by the Board

(1) Subject to the provisions of subsection (6) the Board may, by writing under the official seal of the Institute and subject to such terms, conditions and restrictions as it may specify, delegate to any committee of the Board or to any employee of the Institute, all or any of the functions, powers or duties conferred or imposed by this Act on the Board and where any delegation is so made, the delegated function, power or duty may be performed or exercised by the person so delegated.

(2) The delegation made under subsection (1) shall be made by office and not by name and in every case where delegation is so made, each successive holder of the office

in question and any person who occupies or performs the duty of that office shall, without any further authority, perform or exercise the delegated function, power or duty in accordance with the delegation made by the Board.

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

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

(5) A delegation made under this section shall be published in the Gazette, and upon its being so published shall be judicially noticed and shall be presumed to be in force unless the contrary is proved.

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

(a) its powers of delegation; or

(b) the power to approve the annual budget or any supplementary budget, the annual balance sheet or any statement of accounts.

[PCh253s23]23. Liabilities of Board members, employees and agents

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 person who is a member of the Board, employee or agent of the Institute shall, if done or omitted bona fide in the execution or purported execution of his duties as a member of the Board or employee or agent of the Institute, subject that person to any action, liability or demand of any kind.

[PCh253s24]24. Regulations

(1) The Minister may make regulations for the better carrying out of the purposes of this Act, and without prejudice to the generality of the foregoing, may make regulations—

- (a) prescribing fees for admission to the Institute;
- (b) prescribing fees payable by the candidates for any course held or conducted by the Institute;
- (c) providing for and regulating disciplinary proceeding against the officers and students of the Institute;
- (d) providing for any matter or thing which, in the opinion of the Board is necessary to provide for the more efficient performance of the functions of the Institute.

(2) The regulations made under this section shall be published in the Gazette.

[PCh253s25]25. Savings and transitional provisions

Notwithstanding the enactment of this Act—

- (a) all assets and liabilities of the former Institute immediately prior to the coming into operation of this Act shall pass by succession to the Institute and the Institute shall have all powers necessary to take possession of, recover and deal with such assets and discharge such liabilities;
- (b) every agreement in relation to the Institute whether in writing or not, to which the former Institute was a party immediately prior to the coming into operation of this Act, and whether or not the agreement was of such nature that the rights and liabilities thereunder could be assigned, shall have the effect as from the coming into operation of this Act as if the Institute had been a party to that agreement;

(c) the appointment of any staff or employee of the Institute other than the appointment of the Principal, subsisting before the coming into operation of this Act, if the staff employee so agree, shall be deemed to be made by the Board under the provisions of this Act, and for the purpose of determining the rights of pension or gratuity on retirement, the service of that staff or employee shall be regarded as continuous from the time he was first appointed by the former Institute;

(d) where anything has been commenced by or under the authority of the Government and that thing solely concerns the Institute or was done in relation to any matter concerning the former Institute that thing may be carried on and completed by or under the authority of the Board;

(e) any proceeding in relation to the Institute, pending the coming into operation of this Act, to which the former Institute was a party or by virtue of its establishment, shall continue as if the Institute was a party thereto in lieu of the former Institute;

(f) the former Institute shall, or as the Board may order, deliver to the Institute, all movable property it holds for the purpose of the Institute prior thereto, and all books, papers, documents, minutes, receipts and ledgers pertaining to the Institute and its operations; and

(g) regulations and rules in force immediately prior to the date upon which this Act comes into force, shall remain in force as if they have been made under this Act until such time as they are amended or revoked by the rules or regulations made under this Act.

SCHEDULE

(Section 5(2))

1. Composition of the Board

(1) The Board of Governors shall consist of–

- (a) the Chairman who shall be appointed by the President;
- (b) such other members not more than five who shall be appointed by the Minister;
- (c) one student representing the students' organisation.

(2) Any appointment made under subparagraph (1) shall be of a person with necessary experience or qualification to enable such person to make useful contribution to the deliberations of the Board in the performance of its functions.

2. Tenure of office

Subject to the provisions of this schedule every member of the Board shall hold office for a period of three years from the date of his appointment but may be eligible for re-appointment after the end of that period.

3. Termination of appointment

Where any member of the Board absents himself from three consecutive meetings of the Board without reasonable excuse, the Board shall advise the appointing authority of the fact and the appointment authority may terminate the appointment of that member and appoint a new member in his place.

4. Where member ceases to be a member

(1) Where any member of the Board ceases to be such a member by resignation or death or is unable to perform his functions as such member by reason of his absence from the United Republic or by reason of any infirmity of body or mind or where the appointing authority terminates his appointment under paragraph 3, the appointing authority may appoint another member in his place and the member so appointed shall, subject to the provisions of this Schedule hold office for the remainder of the term of his predecessor.

(2) Where in the opinion of the appointing authority, the absence or infirmity of any member is of a temporary nature only, he may appoint a temporary member to take his place and that temporary member shall have, so long as he remains a temporary member, all the powers and functions of a member of the Board:

Provided that on the resumption of office by the substantive member the temporary member shall cease to hold office.

5. Vice-Chairman

The Board of Governors shall elect one of its members to be the Vice-Chairman and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office of Vice-Chairman for a term to be fixed by the Board and shall be eligible for re-election after the end of that period.

6. Power of Chairman and Vice-Chairman

(1) The Chairman shall preside at all meetings of the Board.

(2) Where at any meeting of the Board the Chairman is absent, the Vice-Chairman shall preside.

(3) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Board, the members present may, from amongst their number elect a temporary Chairman who shall preside at that meeting.

(4) The Chairman, Vice-Chairman or temporary Chairman presiding at any meeting of the Board of Governors, shall have a vote and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

7. Meetings and procedure of the Board

Subject to any general or specific direction of the Chairman, the Board shall meet not less than four times during every financial year and at such additional times as may be fixed by the Chairman or, if he is absent from the United Republic or unable for any reason to act, the Vice-Chairman.

8. Quorum

At any meeting of the Board not less than one third of the members in office for the time being shall constitute a quorum.

9. Decision by vote

Subject to the provisions relating to a casting vote, all questions at a meeting of the Board shall be determined by the majority of the votes of the members present, and if any member refuses or fails to vote on any question, he shall be deemed to have cast a negative vote.

10. Decision by circulation of papers

(1) Notwithstanding the provisions of this Schedule, decisions may be made by the Board without a meeting by circulation of the relevant papers among the members and the expression of the views of the majority thereof in writing.

(2) Any member of the Board shall be entitled to require that any decision made under this paragraph be deferred and the subject matter be considered at a meeting of the Board.

11. Seal of the Institute

(1) The seal of the Institute shall be of such shape, size and form as the Board may determine.

(2) The seal shall be authorised by the signature of the Principal, or any other officer of the Institute authorised by the Principal in that behalf.

12. Signification of other documents

All documents to which the Institute is a party, other than documents required by law to be under seal and all decisions of the Board, may be signified under the hand of the Principal, or other officer of the Institute authorised by the Principal in that behalf.

13. Record of proceeding of the Board

(1) The Board shall cause minutes of all proceedings of meetings of the Board of Governors to be entered in a book kept for the purpose.

(2) Subject to subparagraph (1), the minutes if purporting to be approved by the members of the Board and signed by the Chairman on the next succeeding meeting of the Board shall be evidence of such proceeding and until the contrary is proved, the meeting

to which the minutes related shall be deemed to have been duly convened and all proceedings thereto have been duly transacted.

14. Proceedings not to be invalid by reason of irregularity

No act or proceeding of the Board shall be invalid by reason of the number of members not being complete at the time of such act or proceedings or of any defect in the appointment of any member or the fact that any member was at the time disqualified or disentitled to act as such.

15. The Board may regulate its proceedings

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