

CHAPTER 303

THE TANZANIA POSTS CORPORATION ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

Section

Title

PART I

PRELIMINARY PROVISIONS

1. Short title.
2. Interpretation.

PART II

THE TANZANIA POSTS CORPORATION

3. Establishment of the Corporation.
4. Role of Minister.
5. Board of Directors.
6. Appointment of Postmaster-General and other employees.
7. Power, duties and functions of the Board.

PART III

RESPONSIBILITY OF THE CORPORATION

8. Functions of the Corporation.
9. General duty of the Corporation.

PART IV

VESTING OF ASSETS AND LIABILITIES

10. Assets, rights and liabilities vested in the Corporation.

PART V

CAPITAL OF THE CORPORATION

11. Authorised capital.
12. Issued capital.
13. Capital Contribution Fund.
14. Dividends.
15. Capitalisation of profits.

PART VI

MISCELLANEOUS PROVISIONS

16. Accounts.
17. Auditors.

SCHEDULE

CHAPTER 303

THE TANZANIA POSTS CORPORATION ACT

An Act to establish the Tanzania Posts Corporation and to provide for other matters related thereto.

[1st January, 1994]

[s. 1]

Act No. 19 of 1993

PART I

PRELIMINARY PROVISIONS (ss 1-2)

[PCh303s1]1. Short title

This Act may be cited as the Tanzania Posts Corporation Act.

[PCh303s2]2. Interpretation

In this Act unless the context otherwise requires—

"assets" includes all property movable or immovable and all estates, easements and rights whether equitable or legal in, to or out of property, choses-in-action, money and goodwill;

"Commission" means the Tanzania Communications Commission established by the Tanzania Communications Act * ;

"corporation" means the Tanzania Posts Corporation established by section 3;

"former corporation" means the Tanzania Posts and Telecommunications Corporation established by the Tanzania Posts and Telecommunications Act, 1977;

"liabilities" means liabilities, debts, charges, duties and obligations of every description (whether present or future, actual or contingent, and whether payable to be observed or performed in the United Republic or elsewhere);

"Minister" means the Minister responsible for postal matters;

"rights" means all right, powers, privileges and immunities, whether actual, contingent or prospective;

"Postmaster-General" means the Postmaster-General of the Corporation appointed under section 6;

"vesting date" means the date on which assets, rights and liabilities in respect of postal services, to which the former corporation was entitled or subject to, are transferred to and vested in the Corporation as specified by the Minister in the Order made under section 4.

PART II

THE TANZANIA POSTS CORPORATION (ss 3-7)

[PCh303s3]3. Establishment of the Corporation

(1) There is established a corporation to be known as the Tanzania Posts Corporation.

(2) The Corporation 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) be capable of purchasing and alienating any movable or immovable property;

(d) have power to exercise and perform such other powers and functions as are conferred by or under this Act.

[PCh303s4]4. Role of Minister

(1) The Minister shall be responsible for the general direction and control of the postal sector in the country and shall in particular—

- (a) co-ordinate and determine postal sector policies;
- (b) liaise between the industry and the Government;
- (c) secure the issuing of postal regulations by the Commission;
- (d) in consultation with the Minister responsible for finance determine the capital structure of the Corporation;
- (e) appoint the Board of Directors;
- (f) recommend to the President on the appointment of the Chairman;
- (g) lay the annual accounts and reports before Parliament;
- (h) approve the appointment of the Chief Executive by the Board.

(2) The Minister may, after consultation with the Board give to the Corporation any directions he thinks fit as to the exercise of its functions under this Act.

(3) Without prejudice to subsection (2), if it appears to the Minister to be requisite or expedient to do so—

(a) on the occurrence of any public emergency, in the public interest or in the interests of the public security, national defence, or relations with the government of another country; or

(b) in order—

(i) to discharge or facilitate the discharge of an obligation binding on the Government by virtue of its being a member of an international organisation or a party to an international agreement;

(ii) to attain or facilitate the attainment of any other object the attainment of which is in the opinion of the Minister requisite or expedient in view of the Government being a member of such an organisation or a party to such an agreement; or

(iii) to enable the Government to become a member of such an organisation or a party to such an agreement,

he may, after consultation with the Corporation, give such directions as are necessary in the circumstances of the case.

(4) Any direction given under subsection (2) and (3) may include—

(a) provision for the interception or determination of any postal article in the course of transmission by post;

(b) provision for the postal article to be delivered to any officer mentioned in the direction to be dealt with in such manner as the Minister may direct.

(5) Notwithstanding any other duty imposed on the Corporation by this Act, the Corporation shall give effect to any directions given under subsection (2) or (3).

(6) The Corporation shall not disclose any directions given under subsections (2) and (3) if the Minister has notified the Corporation that he is of the opinion that the disclosure of the directions is against public interest.

(7) The Minister may—

(a) pay compensation for any damage caused to the Corporation by reason of its compliance with the directions of the Minister under subsection (2) or (3);

(b) make grants to the Corporation for defraying or contributing towards any losses which the Corporation may sustain by reason of compliance with the directions of the Minister under any other provision of the Act.

(8) If any doubt arises as to the existence of public emergency or as to whether any act done under this section was in the public interest or in the interest of public security, national defence or relations with the government of another country, a certificate signed by the Minister shall be conclusive evidence of the matters stated therein.

[PCh303s5]5. Board of Directors

(1) There shall be a Board of Directors of the Corporation which shall, subject to the provisions of the Act, carry out the functions and manage the affairs of the Corporation.

(2) There shall be a Chairman of the Board of Directors who shall be appointed by the President.

(3) The provisions of the Schedule to this Act shall have effect as to the constitution and proceedings of the Board and in respect of matters relating to the Board.

(4) The Minister may on the recommendation of the Corporation by order published in the Gazette vary or replace all or any of the provisions of the First Schedule to this Act.

(5) The members of the Board shall be entitled to such remuneration, fees or other allowances for expenses as the Minister may, upon the recommendation of the Board determine.

[PCh303s6]6. Appointment of Post Master-General and other employees

(1) The President shall appoint a Postmaster-General of the Corporation who shall be the Chief Executive Officer of the Corporation.

(2) The Board may appoint such number of other employees of the Corporation as it may deem necessary for the proper and efficient conduct of the business and the activities of the Corporation.

[PCh303s7]7. Power, duties and functions of the Board

(1) It shall be the general duty of the Board, by means of the undertaking of the Corporation, to provide postal services within the United Republic.

(2) The performance of the general duty referred to in subsection (1) shall include a general duty to ensure—

(a) the fullest development, consistent with economy of the undertaking of the Corporation;

(b) that the undertaking of the Corporation is operated efficiently, economically and with due regard to safety;

(c) that the financial administration of the Corporation is conducted in accordance with the provision of this Act;

(d) that the Corporation provides all reasonable facilities for the transmission of postal articles by means of special services for the remission of money order services.

(3) In the performance of its duties under subsections (1) and (2) and subject to any directions which may be given to it by the Minister under section 5 the Board may—

- (a) approve the development programme of the Corporation;
- (b) approve the annual and any revised budget of the Corporation;
- (c) decide where monies of the Corporation should be invested;
- (d) approve all monies to be borrowed by the Corporation;
- (e) approve major and policy decisions;
- (f) after consultation with the Minister, appoint the Chief Executive of the Corporation;
- (g) appoint such number of employees of the Corporation as it may deem necessary in the proper and efficient conduct of the business and activities of the Corporation;
- (h) approve salaries and other allowance or benefits to employees of the Corporation;
- (i) regulate terms of employment and grant gratuities and establish superannuation or medical schemes for employees of the Corporation;

(j) establish from amongst its members committees for the purposes of the Corporation and delegate functions to those committees;

(k) give general directions to management for the administration of the Corporation;

(l) approve tariffs.

PART III

RESPONSIBILITY OF THE CORPORATION (ss 8-9)

[PCh303s8]8. Functions of the Corporation

(1) The principal functions of the Corporation shall be—

(a) to provide a national postal service within the United Republic and between places outside the United Republic;

(b) to meet the industrial, commercial, social and household need of the nation for comprehensive and efficient postal services and so far as the Corporation considers reasonably practicable, to satisfy all reasonable demands for such services throughout the United Republic;

(c) to provide services by which money may be remitted (whether by means of money orders, postal orders or otherwise) as the Corporation thinks fit;

(d) to provide counter services for the Corporation's own and Government business and to ensure that they are compatible with those services and with other principal objects set out in this subsection.

(2) Nothing in this section shall prevent or restrict the inclusion among the objects of the Corporation of such objects and powers as are reasonably necessary or proper or

incidental or ancillary to the due attainment of the principal objects stated in subsection (1) and are not inconsistent with this Act.

(3) The Corporation shall have power to do anything which appears to it to be requisite, advantageous or incidental to, or which appears to it to facilitate, either directly or indirectly, the performance of its functions as specified in this Act and not inconsistent with any enactment for the time being in force.

[PCh303s9]9. General duty of the Corporation

(1) It shall be the general duty of the Corporation to conduct the Corporations affairs so as to ensure that—

(a) charges for services are kept at the minimum rates consistent with approved financial target; and

(b) revenues of the Corporation are sufficient to—

(i) meet all charges properly chargeable to revenue account (including depreciation of assets and proper allocation to general reserve) taking one year with another;

(ii) generate a reasonable proportion of capital needs;

(iii) remunerate capital and repay borrowings.

(2) Nothing in section 8 or this section shall be construed as imposing on the Corporation, either directly or indirectly, any form of duty or liability enforceable by proceedings before any court to which it would not otherwise be subject.

PART IV

VESTING OF ASSETS AND LIABILITIES (s 10)

[PCh303s10]10. Assets, rights and liabilities vested in the Corporation

The assets, rights and liabilities in respect of postal services to which the former Corporation was entitled or subject to, immediately before (and after) the vesting date shall be vested in the Corporation in accordance with the provisions of the Tanzania Posts and Telecommunications Corporation (Vesting of Assets and Liabilities) Act *.

PART V

CAPITAL OF THE CORPORATION (ss 11-15)

[PCh303s11]11. Authorised capital

(1) The initial authorised capital of the Corporation shall be at least two times such a sum as shall be sufficient to meet—

(a) the level of the total investment already undertaken in the former Corporation, or its predecessors relating to postal services;

(b) capital investment planned during the short and long terms in the Corporation;

(c) working capital.

(2) The Corporation shall have power to increase the level of the authorised capital subject to obtaining prior approval of the Minister responsible for finance, and the Minister responsible for communications.

(3) The authorised capital of the Corporation shall be such an amount and of such nominal value as shall be determined by the Corporation in consultation with the Minister responsible for finance and the Minister responsible for communications.

[PCh303s12]12. Issued capital

(1) As a consequence of the vesting in the Corporation of assets and liabilities relating to the postal services of the former Corporation, the Corporation shall issue securities equal to—

(a) the total revalued assets relating to the postal services of the former corporation less, any loans;

(b) investment which shall be undertaken by the Corporation under the five year development programme which will be met by subscriptions from the government;

(c) working capital which shall be required to sustain the operations.

(2) The issued capital as determined under subsection (1) shall be allotted to the Treasury Registrar.

(3) The Corporation may incorporate any subsidiary company wholly or partly owned by the Corporation which shall have a share capital which shall be determined by the Corporation.

[PCh303s13]13. Capital Contribution Fund

(1) There is hereby established a fund to be known as a Capital Contribution Fund.

(2) The Corporation shall have power to levy a capital contribution levy as a percentage of the tariff charged for the services being offered by the Corporation, after

obtaining prior approval of the Minister responsible for finance and the Minister responsible for communication.

(3) The levy so charged shall be accumulated in a capital contribution fund, and shall be used for meeting development expenditure, or for any other specific purpose as shall be determined by the Corporation.

(4) The amount standing on the credit of the Capital Contribution Fund account may be transferred to capital account to be converted into securities to be issued to the Government.

[PCh303s14]14. Dividends

(1) The Corporation may after consultation with the Minister responsible for finance declare a dividend, of such an amount as shall be recommended by the Directors.

(2) Before recommending any dividend the Directors may set aside out of profits any amount as reserves, to be applied for any purpose for what the profits of the Corporation may be applied.

[PCh303s15]15. Capitalisation of profits

The Corporation may resolve that it is desirable to capitalise any sum for the time being standing to the credit of any reserve account or profit and loss account or otherwise available for distribution and that such sum be applied in issuing bonus shares to the Government.

PART VI

MISCELLANEOUS PROVISIONS (ss 16-17)

[PCh303s16]16. Accounts

(1) The financial year of the Corporation shall be the calendar year.

(2) The Postmaster-General shall ensure that the Corporation maintains such accounting records as are required to comply with the requirements of the Act.

[PCh303s17]17. Auditors

The Corporation may appoint the Tanzania Audit Corporation or any other independent auditor to audit the accounts of the Corporation in accordance with the requirements of the Act.

SCHEDULE

COMPOSITION AND CONSTITUTION OF THE BOARD

(Section 5(3))

1. Composition

(1) The Board shall consist of—

(a) a Chairman to be appointed by the President; and

(b) not less than four nor more than six members to be appointed by the Minister.

(2) The members shall appoint one of their number to be a Vice-Chairman of the Board.

(3) The members, who shall work on a part-time basis, shall hold office for a period of two years but may be re-appointed for such further period as the Minister may determine.

2. Meetings of the Board

(1) The Board shall meet for the discharge of business at such times and places as it may decide.

(2) The Chairman or, in his absence, the Vice-Chairman, shall preside at all meetings of the Board.

(3) Decisions of the Board shall be made by a simple majority of members present and voting and in the event of an equality of votes, the Chairman or other person presiding shall have a second or casting vote.

(4) The quorum at any meeting of the Board shall be four, one of whom shall be the Chairman or, in his absence, the Vice-Chairman.

(5) The Board may at any time co-opt any person to act as an advisor at its meeting, but such person shall not be entitled to vote at the meeting.

(6) Any member who has any financial or other interest, whether direct or indirectly, in any undertaking being the subject matter of any decision before the Board, shall disclose in writing to the Board the nature of his interest and shall not participate in the discussion or decision of the Board relating to the matter.

(7) Any member who fails or refuses to disclose his interest under subparagraph (6) of this paragraph, commits an offence and upon conviction is liable to be removed from the Board and to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both that fine and imprisonment.

(8) Subject to the preceding provisions, the Board shall regulate its own proceedings.

3. Committees of the Board

The Board may on such terms and conditions as it may determine appoint such Committees as it may consider necessary to perform such functions or advice the Board on such matters as the Board may direct.

4. Remuneration of members and staff

The members of the Board and the staff of the Board shall be paid such allowances as the Board may, with prior consent of the Minister determine.