

TANGANYIKA



No. 40 OF 1963

I ASSENT,

Julius K. Nyerere
President

19TH SEPTEMBER, 1963

**An Act to give protection to certain approved Foreign Investments
and for matters incidental thereto**

[20TH SEPTEMBER, 1963]

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Foreign Investments (Protection) Act, 1963. Short title

2.-(1) In this Act unless the context otherwise requires-

Interpretation

"approved" in relation to any enterprise, foreign currency, period or proportion, means an enterprise, currency, period or proportion specified in the relevant certificate issued under section 3;

"foreign assets" includes foreign currency, credits, rights, benefits or property, any currency, credits, rights, benefits or property obtained by the expenditure of foreign currency, the provision of foreign credit, or the use or exploitation of foreign rights, benefits or property, and any profits from an investment in an approved enterprise by the holder of a certificate issued under section 3 in relation to that enterprise;

"foreign national" means a son who is not a citizen of Tanganyika, and includes a body corporate not being a body incorporated in Tanganyika;

"the Minister" means the Minister for the time being responsible for finance.

(2) For the avoidance of doubts it is hereby declared that assets shall not cease to be foreign assets by reason of their being assets in some other part of the Commonwealth, and that currency shall not cease to be foreign currency by reason of it being currency in Tanganyika as well as in some place outside Tanganyika:

Provided that in the case of currency, the relevant sum originates from outside Tanganyika.

Foreign investors may apply and be granted certificates

3.-(1) A foreign national who has invested, or who proposes to invest, foreign assets in Tanganyika may apply to the Minister for a certificate that the enterprise in which the assets are, or are proposed to be, invested is an approved enterprise for the purposes of this Act.

(2) The Minister shall consider every application made under subsection (1), and in any case in which he is satisfied that the enterprise would further the economic development of, or benefit, Tanganyika, he may in his discretion, issue a certificate to the applicant.

(3) Every certificate shall state-

- (a) the name of the holder;
- (b) the name and a description of the enterprise;
- (c) the proportion of the foreign assets invested or to be invested by the holder to the total assets of the enterprise, and where the investment consists of the acquisition of shares or stock in a body corporate, the number or amount, and description thereof;
- (d) the relevant foreign currency;
- (e) if the assets have not yet been invested, the value thereof and the period within which they shall be invested
- (f) such other matters as may be necessary or desirable for the purposes of this Act.

Amendment of certificate

4. The Minister may in his discretion amend a certificate granted under section 3-

- (a) in any case in which he is satisfied that some other foreign national has succeeded to the interest in the enterprise of the holder of the certificate, by substituting for the name of the holder the name of his successor:

Provided that the Minister shall not substitute the name of any person who has acquired the interest of the holder by the expenditure, directly or indirectly, of assets other than foreign assets;

- (b) in any case where the name of the enterprise is altered, by substituting the name as so altered;
- (c) in any case in which new foreign assets are invested or are to be invested in the enterprise by the holder, or the holder has withdrawn or been paid, in accordance with this Act, any part of his investment by varying the approved proportion in accordance therewith;
- (d) in any case where the investment consists of the acquisition of shares or stock of a body corporate, and new shares or stock are acquired otherwise than by the investment of assets which are not foreign assets, by amending the number or amount, and the description thereof;

- (e) with the written consent of the holder, by varying the approved foreign currency;
- (f) by extending the period during which foreign assets are to be invested; and
- (g) subject to the foregoing provisions and to the written consent of the holder, in such other manner as may be necessary or desirable.

5. If, at the time at which a certificate is issued under this act, any foreign assets or part thereof to which such certificate relates have not been invested in the approved enterprise, they shall be so invested within the approved period, and, if not so invested within that period, the certificate shall be deemed to have been revoked.

Assets to be brought in during approved period

6.- (1) If, at any time, any approved enterprise or any property belonging thereto is compulsorily acquired by, or at the direction of, the Government in furtherance of the nationalisation or expropriation thereof, or of any industry of which such enterprise forms a part, the full and fair value of such enterprise or property shall be ascertained and the holder of a certificate relating to such enterprise shall be paid a proportion specified in his certificate as the approved proportion.

Compulsory acquisition

(2) Where the approved enterprise is, or is carried on by, a body corporate, and the investment of the holder of a certificate consists of the purchase or other acquisition of the shares or stock of such corporate body with foreign assets, then, if the shares or stock of the holder in such body corporate are compulsorily acquired by, or at the direction of, the Government as aforesaid, the provisions of subsection (1) shall not apply, but the full and fair value of such shares or stock shall be ascertained and such value shall be paid to the holder in respect of the shares and stock specified in the certificate.

(3) If any question arises between the Government and the holder of a certificate as to the value of any enterprise, property, stock or share, the question shall be referred to and determined by arbitration, and at any such arbitration each party shall appoint one arbitrator, who shall jointly appoint a third.

(4) Compensation paid under this section shall be paid in the approved foreign currency and may be transferred out of Tanganyika at the prevailing official rate of exchange.

7. Notwithstanding the provisions of any other law for the time being in force, the holder of a certificate may, in respect of the approved enterprise to which such certificate relates, transfer out of Tanganyika in the approved foreign currency and at the prevailing official rate of exchange-

Transfer of profits, etc.

- (a) the profits, after taxation, of his investment of foreign assets;
- (b) the approved proportion of the net proceeds of sale of all or any part of the approved enterprise, either in liquidation or as a going concern;
- (c) the principal and interest of any loan specified in the certificate.

Regulations
and
directions

8. The Minister may make regulations or give directions for the better carrying out of the purposes of this Act and prescribing the manner in which applications shall be made for certificates under this Act, and the information which shall accompany such applications.

Passed in the National Assembly on the eleventh day of September, 1963.

Pius Msekwa
Clerk of the National Assembly