

THE UNITED REPUBLIC OF TANZANIA



No. 17 OF 1971

I ASSENT,

Julius K. Nyerere
President

6TH MAY, 1971

An Act to dissolve the National Water Resources Council and to repeal the National Water Resources Council Act, 1968

[1ST JULY, 1971]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the National Water Resources Council (Dissolution) Act, 1971 and shall come into operation on the first day of July, 1971.

Short
title and
commence-
ment
Inter-
pretation
Acts 1968
No. 7

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

"the Act" means the National Water Resources Council Act, 1968;
"the Council" means the National Water Resources Council established

by the Act;

"effective date" means the first day of July, 1971;

"Minister" means the Minister for the time being responsible for Water Development.

3. The Council is hereby dissolved.

Dissolu-
tion of
council
Vesting of
assets and
liabilities

4.-(1) Subject to the provisions of this Act, the undertakings, assets and liabilities which immediately preceding the effective date were undertakings, assets and liabilities of the Council shall, as from the effective date and by virtue of this Act and without further assurance, vest in the United Republic, and the Council shall cease to have any right or interest in any such undertaking or asset and shall cease to be liable for any such liability.

(2) On the effective date the Council shall deliver to such persons or authority as the Minister may appoint in that behalf possession of the movable or immovable properties vested by this Act in the United Republic, including, without prejudice to the generality of the foregoing, all books, papers, documents, minutes and ledgers relating to the Council and its operations.

(3) Where immediately preceding the effective date the Government of the United Republic was liable under any agreement to any person as a guarantor or surety for the performance of any act by the Council and, by virtue of the operation of the provisions of this Act, the United Republic succeeds, as a principal, to the liability of the Council to the same person, such person shall, in the event of seeking a remedy for a default, elect whether to pursue his remedy against the Government of the United Republic as a guarantor, or as the case may be, surety, or against the Government of the United Republic as a principal, and where he elects to pursue his remedy against the Government of the United Republic in the one capacity, the liability of the Government of the United Republic in the other capacity shall be extinguished.

Instruments

5. (1) All instruments to which the Council is a party shall, with effect from the effective date and, by virtue of this Act, continue in full force and effect as if the United Republic was substituted for the Council as a party thereto, and all the rights and liabilities of the Council under every such instrument shall vest in the United Republic.

(2) Where in any instrument the Council is not a party but reference is made to the Council, every such reference shall be construed as if it was a reference to the United Republic.

(3) For the purposes of this section "instrument" means any Act, subsidiary legislation, contract, guarantee, agreement (including agreement concluded by exchange of letters), bond, authority, mortgage, charge, bill of exchange, promissory note, bank draft, bank cheque, letter of credit or other security or instrument whatsoever but does not include any agreement or contract entered into between the Council and any of its employees.

Special provisions relating to employees

6. (1) Any person who was, immediately prior to the commencement of this Act, an employee of the Council may, with effect from the effective date, be employed in the service of the United Republic on terms and conditions of service not less favourable than the terms and conditions of service applicable to his employment with the Council, and where any person is so employed in the service of the United Republic-

- (a) the leave benefits and the superannuation benefits shall be in accordance with the rules and regulations, from time to time, regulating such benefits in the civil service;
- (b) where he is an employed on permanent and pensionable terms, he shall be deemed to have been so employed as from the date of his appointment to an office in the Council under the contract of employment under which he was employed immediately preceding the effective date;
- (c) his employment with the Council preceding the effective date and his employment in the service of the United Republic with effect from the effective date shall be deemed to be continuous employment by one employer within the meaning of section 8A of the Severance Allowance Act, 1963, and the provisions of that Act shall apply to the parties in the manner as it applies to the cases set out in subsection (1) of the said section 8A;

Cap. 487

(d) subject to the provisions of this subsection, the contract of employment entered into between such person and the Council shall cease to have any effect and shall not bind the United Republic.

(2) Every person who was in the employment of the Council immediately prior to the effective date shall, with effect from the effective date and notwithstanding any provision in any contract or agreement to the contrary, cease to be in such employment and where such person is not employed by the United Republic under the provisions of subsection (1) he shall be entitled to payment of such superannuation or terminal benefits as he would have been entitled had the contract of employment been expressed to expire on the effective date, and for the avoidance of doubts, it is hereby declared that every contract or agreement regulating the terms and conditions of such employee shall be construed accordingly.

7-(I) Nothing in this Act shall be construed-

- (a) as creating in favour of or against the United Republic or any other person, any right or liability under any instrument to which section 5 applies which is not a right or liability conferred or imposed by or under such instrument;
- (b) as reviving in favour of or against the United Republic, or any other person, any right or liability conferred or imposed upon the Council or such other party under any such instrument which ceased to be legally enforceable prior to the effective date;
- (c) as reviving against the United Republic or any other person any liability or obligation to which this Act applies and which ceased to be legally enforceable prior to the effective date.

Construe-
tion and
transitional
Provisions

(2) Any suit, action or other proceeding whatsoever, pending by or against the Council at the effective date in respect of any asset or liability transferred to the United Republic by this Act or under any instrument to which section 5 applies, may be continued and completed by or against the United Republic notwithstanding any provision to the contrary in the Government Suits Ordinance or any other written law. Cap. 5

(3) Notwithstanding any provision to the contrary in this Act or the Government Suits Ordinance or any other written law, any Suit, action or other proceeding instituted by or against the Council before the effective date and pending on such date, may, where such suit, action or other proceeding relates to an instrument the rights or obligations under which have not by the provisions of section 5 been transferred to the United Republic, be continued and completed by or against the United Republic as if such instrument was an instrument, the rights or obligations under which had been transferred to the United Republic by this Act.

(4) Where any right under an instrument, the rights under which have not been transferred to the United Republic, has accrued to the Council at the effective date, or would have accrued to the Council after the effective date had this Act not been enacted, the United Republic may enforce such right as if the instrument was an instrument the rights and obligations under which had been transferred to the United Republic under this Act:

Provided that nothing in this subsection shall be construed as conferring upon any person the right to enforce against the United Republic any obligation of the Council. under any such instrument save as a counter-claim in any suit or proceeding under this subsection.

(5) For the avoidance of doubts and without prejudice to any other provision of this Act, it is hereby declared that the United Republic shall have and may exercise all such powers necessary and expedient to take possession of and recover any property, to ascertain, perform and enforce any right, and to discharge any liability or obligation conferred or imposed upon the United Republic by virtue of this Act, and to deal therewith, as 'the Council would have had and could have exercised had this Act not been enacted.

8. The National Water Resources Council Act, 1968, is repealed.

Passed in the National Assembly on the twenty-~~third~~ day of April, 1971.

y. 

Clerk of the National Assembly