

THE TANZANIA HOUSING BANK ACT, 1972

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THE UNITED REPUBLIC OF TANZANIA



No. 34 OF 1972

I ASSENT,

Julius K. Nyerere
President

23RD NOVEMBER, 1972

An Act to establish the Tanzania Housing Bank

I _____ I

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Tanzania Housing Bank Act, 1972 and shall come into operation on such date as the Minister may by notice in the *Gazette* appoint.

Short title
and commence-
ment

2. In this Act, unless the context otherwise requires-
"Bank" means the Tanzania Housing Bank established by section 3;
"Board" means the Board of Directors established by section 19;
"housing development" includes-

- (a) the development of sites for construction of buildings;
- (b) the construction of buildings for residential or commercial occupation;

Interpreta-
tion

"Minister" means the Minister for the time being responsible for finance;
"parastatal organization" means any body corporate established by or under any written law other than a company registered under the Companies Ordinance save where not less than fifty per centum of the issued share capital of such company is, owned by the Government or another parastatal organization.

3-(1) There is hereby established a Bank to be known as the Tanzania Housing Bank.

Establishe-
ment
of Bank

- (2) The Bank 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 holding, purchasing and otherwise acquiring, and disposing of any property movable or immovable for the purposes or in the course of its business;
 - (d) subject to the provisions of this Act, have power from time to time to borrow such sums as it may require for its purposes.

Objects and
functions of
Bank

4. (1) The objects of the Bank shall be-

- (a) to mobilize local savings and external resources for housing development;
- (b) to operate savings, time and term deposit accounts and to pay interest thereon;
- (c) to promote housing development by-
 - (i) making available loan or equity finance for housing development to any person;
 - (ii) making available technical and financial assistance for site and service facilities;
 - (iii) rendering technical, financial and other assistance for, promotion and implementation of owner-occupied housing schemes;
 - (iv) rendering technical, financial and other assistance to Ujamaa Villages in the preparation and implementation of building programmes;
 - (v) rendering technical, financial and other assistance for the establishment and administration of institutions, co-operatives and other organizations engaged primarily in housing development for the benefit of the people of the United Republic;
 - (vi) making loans, or, guaranteeing loans made by others., to any person or body of persons, corporate or unincorporate, for the purpose of enabling such person or body to carry out housing development;
- (d) to make loans, guarantee loans made by others and to provide technical and other assistance, to persons or body of persons, corporate or unincorporate, for the construction and development of commercial and industrial premises;
- (e) so far as it falls within its competence, to ensure the implementation of Government policy on housing and building, and, without prejudice to the generality of the foregoing, to promote the use of local materials, to encourage the construction of types of houses best suited to local conditions, to foster the minimizing of building costs, prices at which houses may be, sold and rents at which they may be let;
- (f) subject to the provisions of this Act, to administer such special funds as may from time to time be placed at the disposal of the, Bank;
- (g) to perform any similar or other related function conferred upon it by the Minister after consultation with the President;
- (h) to do all such acts and things as may be necessary, expedient or advantageous for the performance of the foregoing functions.

(2) The Bank shall utilize all its ordinary and special resources for the purpose only of furtherance of the objects for which it is established.

Authorized
capital and
Shares

5.-(1) The authorized capital stock of the Bank shall be one hundred million shillings divided into one hundred shares each having a par value of one million shillings.

(2) The shares of the Bank shall be issued at such times as the Board may, subject to the approval of the Minister in writing, by resolution appoint.

(3) The authorized capital of the Bank may, subject to the approval of the Minister in writing, be increased by a resolution of the Board.

6. (1) The shares of the Bank shall be subscribed for by and allotted to the Government of the United Republic and subject to the provisions of subsection (3), no other person may subscribe for such shares.

Restriction
on share
holding

(2) Payment shall be made by the Government for shares at their par value as soon as they have been allotted by the Bank. Such payment shall be made in cash or other valuable consideration.

(3) In the event that the authorized capital stock of the Bank is increased, the Government shall subscribe for the additional shares thereby created when they are issued:

Provided that before a resolution of the Board pursuant to subsection (3) of section 5 takes effect, the President may direct that such additional shares or any part thereof shall be subscribed for by and allotted to a parastatal organization named in such direction, and any such direction shall be given effect to accordingly.

(4) In the event of any direction under the proviso to subsection (3) being given, every reference in this Act to the Government in its capacity as the shareholder shall be read and construed as including a reference to the parastatal organization named by the President in such direction.

(5) The shares of the Bank shall not be pledged or encumbered in any manner whatsoever and shall not be, transferred or assigned.

7. The ordinary capital resources of the Bank shall consist of

Ordinary
resources of
Bank

- (a) the capital stock of the Bank issued and subscribed for pursuant to section 5 and section 6;
- (b) borrowings of the Bank for use in its ordinary operations;
- (c) deposits received by the Bank;
- (d) funds or incomes, including the General Reserve Fund referred to in section 15 derived from the ordinary operations of the Bank;
- (e) any other fund or income received by the Bank which does not for in part of any Special Fund referred to in section 9.

8.- (1) The Bank may, from time to time and subject to the consent of the Minister in writing, borrow funds for its ordinary operations:

Borrowings
by Bank

Provided that the total amount outstanding on loans raised under this subsection shall not at any time exceed three times the aggregate of the issued share capital and the General Reserve Fund.

(2) Notwithstanding the provisions of subsection (1), as between a lender and the Bank, a duly sealed and authenticated certificate issued by the Bank to the effect that the loan given by the lender has been raised with the consent of the Minister and is within the limits prescribed therein, shall be conclusive evidence of the facts stated therein.

9.-(1) The Bank may, subject to the approval of the Minister, accept for administration from the United Republic or from such other sources as it may consider appropriate, Special Funds which are intended to promote the objects of the Bank.

Special funds

(2) Special Funds accepted by the Bank under subsection (1) shall be administered in conformity with the objects of the Bank and the terms and conditions of the agreement under which such funds are accepted by the Bank.

(3) Subject to the provisions of this Act, the Board shall make regulations for the administration and use of each Special Fund.

(4) For the purposes of this Act "Special Fund" includes all accretions thereto derived from its operation.

Operations of
Bank

10.-(1) The operations of the Bank shall consist of ordinary operations and special operations; ordinary operations shall be those financed from ordinary resources of the Bank as defined in section 7 and special operations shall be those financed from the Special Funds as defined in section 9.

(2) The ordinary resources and the Special Funds of the Bank shall at all times and in all respects be held, used, committed, charged, invested or otherwise disposed of, and accounted for, separately.

(3) The ordinary resources of the Bank shall not be charged with or used to discharge losses or liabilities arising out of the operations of any Special Fund nor shall the resources of any Special Fund be charged with or used to discharge losses or liabilities arising out of the operations of the ordinary resources.

(4) Expenses relating to ordinary operations shall be charged to ordinary resources of the Bank and those relating to special operations shall be charged to the appropriate Special Fund.

Provisions
relating to
equity
financing

11.-(1) The Bank shall not invest in equity financing of any institution other than an institution a substantial portion of the operations of which are similar to those of the Bank, and in any such investment preference shall be accorded to a parastatal organization.

(2) In the case of investment of ordinary resources in equity financing the total amount so invested shall not exceed twenty per centum of the aggregate of the unimpaired paid up capital stock of the Bank and the reserves and surpluses of the ordinary resources.

(3) The Bank shall not seek a controlling interest in any parastatal organization save where it is necessary so to do to safeguard the investment of the Bank.

Bank to
follow
certain
principles

12. The operations of the Bank shall be conducted in accordance with the following principles: —

- (a) the Bank shall finance only projects which are economically viable, socially desirable and technically feasible;
- (b) in making loans the Bank shall satisfy itself that adequate provisions for the enforcement of repayment of the loan and payment of interest exist;
- (c) the Bank shall determine the type and value of any security or collateral to be pledged by a borrower or an applicant for a guarantee;
- (d) the Bank shall satisfy itself of the expected ability of the borrower to repay the loan without undue hardship;

- (e) the Bank shall take all necessary measures to ensure that the proceeds of any loan made, guaranteed or participated in by the Bank are used solely for the purposes for which the loan is granted and that due attention is paid to considerations of economy and efficiency;
- (f) the Bank shall ensure that every loan contract entered into by it shall enable the Bank to require the borrower to provide all necessary and relevant information and to allow inspection of relevant books and records during such time as the loan or any part thereof remains outstanding;
- (g) in the conduct of its business the Bank shall establish and maintain proper liaison with all public departments dealing with housing standards, land and town planning, site servicing and location of buildings;
- (h) the Bank shall take all necessary measures to protect its interests.

13.-(1) In the case of direct loans made, participated in or guaranteed by the Bank, the Bank shall ensure that the contract conforms with the principles prescribed in section 12 and makes adequate provisions for the repayment of the principal, the payment of interest, commitment fee and other charges.

Loans and
guarantees
by Bank

(2) The fees, charges, commissions and interests in respect of loans and guarantees, made or given by the Bank shall be at such rates as the Board shall from time to time determine.

14. The Bank shall take all necessary and prudent steps to conserve its investments and to safeguard its financial interests.

bank's duty
to conserve
its
investments
General
reserve
Funds

15.-(1) The Bank shall establish and maintain a General Reserve Fund.

(2) The General Reserve Fund shall be applied by the Bank to making good any loss or deficiency which may arise on the ordinary operations of the Bank.

16. The Board shall determine annually what part of the net income of the Bank shall be allocated, after making provision for the General Reserve Fund, to surplus and what part, if any, shall be distributed as a dividend on its shares:

Distribution
of income

Provided that no part of the net income of the Bank shall be distributed as a dividend unless such amount as may be necessary to maintain the General Reserve Fund at an amount equal to fifty per centum of the authorized capital stock of the Bank has first been transferred to the General Reserve Fund.

17.-(1) The Board may make such regulations, including financial regulation, being consistent with the provisions of this, Act, as it considers necessary or appropriate to further the objects and functions of the Bank.

Regulations

(2) It shall not be necessary to publish in the *Gazette* any regulations made by the Board under this section or any other provision of this Act.

18. The Bank shall have a Board of Directors, a General Manager and such other officers and staff as the Board may consider necessary.

Directors
and officers
of Bank

Board of
Directors

19. (1) The Board shall consist of a Chairman appointed by the President and such other Directors, not being less than eight nor more than twelve, as the Minister may appoint.

(2) The Directors appointed by the Minister shall be chosen from amongst persons with knowledge and experience in economic and financial matters, town planning, estate management, building industry and such other fields as the Minister may consider relevant.

(3) Each Director appointed by the Minister shall hold office for such term as the Minister may specify unless he sooner resigns or otherwise vacates his office.

(4) The Directors shall, from amongst their number, elect a vice-chairman who shall hold office for the remainder of his term of office as a Director.

Powers of
Board

20. (1) The Board shall, subject to the provisions of this Act, be responsible for the performance of the functions of the Bank.

(2) The Minister may give the Board directions of a general or specific character as to the exercise and performance by the Board of its functions in relation to matters appearing to the Minister to affect the national interest.

Meetings of
Board of
Directors

21. (1) The Board shall meet at least once every two months or more frequently if the business of the Bank so requires.

(2) Meetings of the Board shall be convened by the Chairman or, in the absence of the Chairman, the Vice-Chairman, or, in the absence of both the Chairman and the Vice-Chairman, by the General Manager.

(3) Five Directors shall constitute a quorum for any meeting of the Board.

(4) Decisions of the Board shall be by a majority of votes of the Directors present and voting.

(5) Subject to the provisions of this section, the Board may regulate its own procedure and may resolve to provide for decisions being made by circulation of the relevant papers and indication by the Directors of their views thereon.

General
Manager
and other
officers
and staff of
Bank

22. (1) The General Manager of the Bank shall be appointed by the Minister after consultation with the Board:

Provided that a General Manager shall not, for so long as he holds office as such, be eligible for appointment as a Director or an alternate to a Director.

(2) Subject to subsection (3), the General Manager shall hold office for such term as may be specified in his appointment and shall be eligible for re-appointment.

(3) The Minister may, after consultation with the Board, terminate the appointment of the General Manager.

(4) The General Manager shall be the chief executive officer of the Bank and shall-

(a) subject to the directions, if any, given in that behalf by the Board, and acting in consultation with the Chairman, be responsible for the day to day management, business and affairs of the Bank;

- (b) perform such other functions as may be conferred upon him from time to time by the Board;
- (c) subject to the general terms and conditions of service and to the establishment prescribed by the Board, be responsible for the organization, appointment and dismissal of the officers and staff of the Bank;
- (d) be empowered to authorize expenditure within the administrative budget approved by the Board.

23. (1) All certificates, deeds, instruments, contracts and other documents (including bills of exchange and promissory notes) shall be deemed to be duly executed by or on behalf of the Bank—

Execution of documents

- (a) if sealed with the common seal of the Bank and signed by two Directors -or one Director and the General Manager; or
- (b) if executed in that behalf by one Director and the General Manager or some other member of the staff of the Bank authorized for that purpose by the Board.

(2) A deed, instrument, contract or other document executed in accordance with subsection (1) shall be effectual in law to bind the Bank and its successors notwithstanding any objection that may be taken thereto on the ground of the competence of any person executing the same on behalf of the Bank.

24. (1) The General Manager of the Bank shall be paid and accorded by the Bank such salary, allowances and other terms of service as may be determined from time to time by the Minister in consultation with the Board.

Remuneration of General manager and Directors

(2) The Directors of the Bank and persons appointed as alternate Directors may be paid by the Bank such fees and allowances as may from time to time be determined by the Minister.

25.-(1) The Board shall ensure that proper records and accounts are kept in relation to the operations of the Bank and such accounts shall be, audited in respect of each financial year by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act, 1968 and shall submit a copy of the report of the auditors to the Minister.

Books of accounts, etc.
Acts 1968 No.1

(2) The Bank shall prepare, submit to the Minister and publish an annual report containing the audited statement of its accounts.

(3) The Bank shall prepare and submit quarterly to the Minister a summary statement of its financial position and a profit and loss statement showing the results of its operations.

(4) All financial statements of the Bank shall show ordinary operations and the operations of each Special Fund separately.

(5) The Bank may also publish such other reports as it may consider desirable.

Agents,
offices and
branches

26. The Bank may appoint agents, and may establish offices and branches at such places within the United Republic as it considers necessary and may with the consent of the Minister in writing appoint agents and establish offices and branches outside the United Republic:

Provided that in the appointment of agents preference shall be accorded to parastatal organizations.

Bank may
terminate
its
operations

27. (1) The Bank may terminate its operations by resolution of the Board:

Provided that such resolution shall not take effect without the approval of the Minister.

(2) After such termination, the Bank shall forthwith cease all activities, except those incidental to the orderly realization, conservation and preservation of its assets and the settlement of its obligations.

Conse-
quences of
termination
of
operations

28. (1) In the event of termination of the operations of the Bank the liability of the Government for unpaid subscriptions to the capital stock of the Bank shall continue until all claims of creditors, including all contingent claims, shall have been discharged.

(2) All creditors holding direct claims shall first be paid out of the assets of the Bank and then out of the payments, to the Bank on unpaid subscriptions. Before making any payments to creditors holding direct claims, the Board shall make such arrangements as are necessary, in its judgment, to ensure a pro rata distribution among holders of direct and contingent claims.

Payment to
Government
consequent
on
winding up

29. (1) No payment of assets shall be made to the Government on account of its subscription to the capital stock of the Bank until all liabilities to creditors shall have been discharged or provided for.

(2) Payment of assets of the Bank to the Government on account of its subscription to the capital stock of the Bank shall be effected at such times and under such conditions as the Bank shall consider fair and equitable.

Subscription
for initial
authorized
capital

30. (1) The President may, at any time within six months from the date on which this Act comes into operation, by order in the *Gazette*, transfer any asset or liability of any parastatal organization named in such order to the Bank and the difference between the value of such assets and such liabilities shall be treated as payment or part payment by the Government for the shares subscribed by it under this Act.

(2) Where by an order made under subsection (1) the President transfers any asset or liability to the Bank, such asset or liability shall, with effect from the date on which such order comes into operation, vest in the Bank by virtue of such order and without further assurance, and the parastatal organization concerned shall be discharged from its obligations in respect of such liability.

(3) Where by an order made under subsection (1) the President transfers any asset or liability to the Bank, the rights and obligations of the parastatal organization concerned under any contract, guarantee, agreement, bond, authority, mortgage, charge, bill of exchange, promisory note, bank draft, bank cheque, letter of credit or any other security or instrument whatsoever relating to such asset or liability shall subject to any directions which the President may give in that behalf, by virtue of such order and without further assurance, be transferred to the Bank and every such security or instrument shall continue in force and have effect as if the Bank were substituted for the parastatal organization concerned as a party thereto.

31.-(1) The President may, at any time within six months from the date on which this Act comes into operation by order under his hand transfer any person who is an employee of any parastatal organization named in such order to the service of the Bank.

President
may transfer
employees
of
parastatal
organization

(2) Where, by an order made under subsection (1), the President organization transfers any employee of a parastatal organization to the service of the Bank-

- (a) such employee shall, as from the date of the transfer, be deemed to be an employee of the Bank;
- (b) the terms and conditions of service applicable to such employee after such transfer shall be not less favourable than those which were applicable to him immediately before the transfer, and for the purposes of determining any right to gratuity or any other superannuation benefit the service of such employee with the Bank shall be regarded as continuous, with his service immediately preceding such transfer;
- (c) the employment of such employee immediately prior to his transfer, and his employment by the Bank, shall be deemed to be continuous employment by one employer within the meaning of section 8A of the Severance Allowance Act, 1962, and that Act shall apply to the parties in the same manner as it applies to the cases set out in subsection (1) of the said section 8A.

Cap 487

32. (1) The President may, by order in the *Gazette*, transfer to the Bank all the shares in a company incorporated under the Companies Ordinance and which is a parastatal organization:

Additional
power of
President

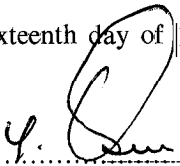
Provided that—

- (a) no order under this subsection shall be made later than six months from the date of the commencement of the Act;
- (b) the President shall in any such order make provision for payment of fair and reasonable compensation to the owners of the shares in respect of the share so transferred.

(2) Where all the shares in any company are transferred to the Bank by order made by the President under section 28 or section 30, every provision in any law or in any Articles of Association or any charter or instrument of such company providing for any consequence to follow, or requiring any act or thing to be done, or entitling any person to do any act or thing or to take any action whatsoever by reason of any reduction in the number of the shareholders below any prescribed number, shall cease to have any effect.

(3) The President may, in any order made under section 30, section 31 or subsection (1) of this section, make such supplementary, transitional or consequential provisions as he may consider, necessary or expedient to give effect to such order.

Passed in the National Assembly on the sixteenth day of November, 1972.



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Clerk of the National Assembly