

TANGANYIKA



No. 54 OF 1963

I ASSENT,

*Julius K. Nyerere*  
President

[6TH DECEMBER, 1963]

**An Act to dissolve the Dar es Salaam Club, to vest the Assets and Liabilities of the said Club in the Republic, to provide for the payment of certain sums to certain of the members of the said Club, to amend the Societies Ordinance and for matters connected therewith and incidental thereto**

[7TH DECEMBER, 1963]

ENACTED by the Parliament of Tanganyika.

1. This Act may be cited as the Dar es Salaam Club (Dissolution) Short title Act, 1963.

2. In this Act, unless the context otherwise requires—
- “the Club” means the Dar es Salaam Club, a company incorporated in Tanganyika and limited by guarantee; Interpre-  
tation
- “the Committee” means those persons who, immediately before the vesting date, are the members of the Committee of the Club;
- “member” means a person who is, under the Articles of Association of the Club, a member of the Club immediately before the vesting date; and references to a category or categories of members are references to such category or categories as provided in the said Articles of Association;
- “the members’ representative” means the person or persons who, under section 12, are to perform the functions of the members’ representative under this Act;
- “the Minister” means the Minister for the time being responsible for home affairs;
- “the staff” in relation to the Club means those persons who, immediately before the vesting date, are employees of the Club;
- “the vesting date” means the date appointed or deemed to have been appointed by the Minister under section 3.

The vesting date

3. (1) The Minister may, by order, appoint a date on or after the commencement of this Act to be the vesting date for the purposes of this Act.

(2) An order under this section shall be published in the Gazette.

(3) If, before the commencement of this Act, the Minister shall have given notice in the *Gazette* that a date on or after the commencement of this Act shall be the vesting date for the purposes of this Act, such notice shall, on and after the commencement of this Act, be deemed to be an order under subsection (1) and the date so notified shall be deemed to have been appointed under this section.

#### *Dissolution of the Club*

Dissolution  
Cap. 212

4.-(1) On the vesting date the Club shall stand dissolved, and no order shall be made thereafter under the Companies Ordinance avoiding the dissolution of the Club.

(2) The Registrar of Companies shall take such steps as shall be necessary to give effect to the provisions of this section.

#### *Property, rights, liabilities and obligations*

Vesting of  
assets and  
liabilities of  
the Club in  
the Republic

5.-(1) Subject to the provisions of this Act, all property, rights, liabilities and obligations which, immediately before the vesting date, were property, rights, liabilities or obligations of the Club, shall on the vesting date vest by virtue of this Act and without further assurance in the Republic.

(2) Subject to the provisions of this Act, every deed, bond and agreement (including an agreement for personal services) to which the Club was a party immediately before the vesting date, whether in writing or not and whether or not of such a nature that rights, liabilities or obligations thereunder could be assigned by the Club, shall, unless its terms or subject matter make it impossible that it should have effect as modified in manner provided by this subsection, have effect from the vesting date as if-

(a) the Republic had been a party thereto;

(b) for any reference (however worded and whether express or implied) to the Club there were substituted, as respects anything falling to be done on or after the vesting date, a reference to the Republic;

(c) for any reference (however worded and whether express or implied) to any director, officer or servant of the Club there were substituted, as respects anything falling to be done on or after the vesting date, a reference to such persons as the Minister shall appoint.

(3) Documents, other than those referred to in subsection (2) of this section and not including written laws, which refer, whether specifically or generally, to the Club shall be construed in accordance with the provisions of the said subsection (2), so far as applicable.

(4) Without prejudice to the generality of the foregoing provisions of this section, the Republic shall have all such powers necessary to take possession and recover any property, to ascertain, perfect and

enforce any right, and to discharge any liability or obligation, vested in the Republic by this section, and to deal therewith, as would have been enjoyed by the Club had the same remained vested in the Club and had the Club not been dissolved.

6.-(1) Notwithstanding the provisions of section 5-

Exceptions  
to section 5

- (a) any obligation of a member, contained in the Memorandum of Association of the Club, to contribute to the assets of the Club in the event of its being wound up; and
- (b) any obligation of a member or a person who has the privileges of a member, contained in the Articles of Association of the Club, for any subscription in respect of any period commencing on or after the vesting date, and any obligation of a member or any such person aforesaid to contribute towards any fund or collection for any particular entertainment or function due to be held on or after the vesting date, and
- (c) any obligation, contained in the Articles of Association of the Club, of a member for any unpaid entrance fee or any instalment thereof,

shall, on the vesting date, be extinguished, and no rights thereunder shall vest in the Republic.

(2) Notwithstanding the provisions of section 5-

- (a) no fund or sum collected specifically for, or as a contribution towards, any particular entertainment or function due to be held on or after the vesting date shall vest in the Republic, but the same shall, on the vesting date by virtue of this Act and without further assurance, vest in the members' representative and shall be held by him on trust to repay the same to the contributors in proportion to their contributions;
- (b) the Staff Christmas fund maintained by the club shall not vest in the Republic, but the same shall, on the vesting date by virtue of this Act and without further assurance, vest in the members' representative and shall be held by him on trust to pay the same to those members of the staff of the Club who, in accordance with past practice, have received payments from such fund, in such proportions as the Committee shall direct or, if no such directions have been received within thirty days after the vesting date, in such proportions as he shall, in his discretion, think fit,

and, subject to the provisions of subsection (1) of this section, the members' representative shall have the same rights, powers and remedies to ascertain, take possession of and recover such funds and sums as are conferred on the Republic, as respects the property and rights vested in the Republic, by subsection (4) of section 5.

(3) Notwithstanding the provisions of section 5 or of section 7, no liability of the Club arising out of any defamation or assault shall vest in the Republic and no proceedings relating thereto shall be continued against the Republic or the Attorney-General.

Legal  
proceedings

7.-(1) Any legal proceedings pending immediately before the vesting date to which the Club is a party insofar as they relate to any property, right, liability or obligation vested in the Republic by virtue of this Act or to any deed, bond or agreement or other document which has effect in accordance with subsection (2) or subsection (3) of section 5, shall be continued by or against the Attorney-General on behalf of the Republic (or such other officer of the Government as may be appointed in that behalf under the Government Suits Ordinance) in lieu of the Club.

Cap. 5

(2) Where any proceedings are instituted by or against the Republic after the appointed day in respect of any right, liability or obligation vested in or incurred by the Club, the Republic and every other party to the proceedings may take all such objections and exceptions as might have been taken in proceedings by or against the Club, including, without prejudice to the generality of the foregoing, any objection or exception under the law relating to limitation of actions, and such proceedings may be instituted notwithstanding any restriction contained in section 3 of the Government Suits Ordinance or otherwise limiting the nature of suits which may be brought against the Republic as such.

Effecting and  
securing  
vesting

8.-(1) Upon the vesting date, the Committee shall-

- (a) deliver possession of the immovable property vested by virtue of this Act in the Republic, to such person as the Minister shall appoint;
- (b) deliver the movable property vested in the Republic or the members' representative by virtue of this Act to such person as the Minister shall direct and to the members' representative respectively, together with all certificates of title, share and stock certificates and warrants and other documents creating or evidencing any right to property, and all books, papers, documents, minutes, receipts and ledgers relating to the property, rights, liabilities and obligations of which it is divested by virtue of this Act,

and the members of the Committee and officers of the Club shall do all such things as are necessary or desirable for the more effective vesting, in accordance with the provisions of this Act, of the property, rights, liabilities and obligations vested in the Club immediately before the vesting date.

(2) The Minister may, by order, provide for any matter which appears to him to be necessary or expedient for the purposes of securing the effective vesting, in accordance with the provisions of this Act, of the property, rights, liabilities and obligations vested in the Club immediately before the vesting date, and, without prejudice to the generality of the foregoing, may appoint a person to do any act or sign any document relating to the property and rights vested in the Club immediately before the vesting date whereby the provisions of this Act may be more effectually achieved; and every act done or document signed by a person in accordance with the provisions of such an order for such purposes shall be as effectual as if, it had, been done or made by the Club had the Club not been dissolved.

9. The Minister may, if he thinks fit, deliver to the donor or person having any interest therein any pictures, trophies, mementos and other movable property of a similar nature vested in the Republic by this Act which are of sentimental value to such donor or person, and any books, registers of members or histories of the Club, and upon his delivering any such property, it shall, notwithstanding the provisions of this Act, vest in the person to whom it is delivered.

Minister  
may return  
certain  
movables

10.-(1) Subject to the provisions of this section, where, after the twenty-seventh day of November, 1963, any disposition was made, by or on behalf of the Club, of the property or rights of the Club, or any person was released or discharged, by or on behalf of the Club, from any liability or obligation to the Club, such disposition, release or discharge shall be deemed to have been void and nothing therein shall be effectual to divest the Club of any such property or right or preclude the Republic or the members' representative from recovering such property or rights or from enforcing such undertaking or obligation.

Avoidance of  
dispositions

(2) Subject to the provisions of this section, where, after the twenty-seventh day of November, 1963, the Club has-

- (a) made any payment to any person without consideration or for an inadequate consideration;
- (b) sold or disposed of its property or rights without consideration or for an inadequate consideration;
- (c) acquired any property or rights for an excessive consideration;
- (d) entered into or varied any agreement so as to require an excessive consideration to be paid or given by the Club; or
- (e) entered into any other transaction of such an onerous nature as to cause a loss to or impose a burden on the Club substantially exceeding any benefit accruing to that body,

and such transaction is not avoided under subsection (1) of this section without loss to the Republic, then, unless it is shown by the party sought to be charged that the transaction was effected in the ordinary course of business of the Club and was in no way connected with any provision of this Act or with any anticipation of the making of any such provision, any person who, being at the time a director of the Club, shall have been a party to authorizing the transaction shall be jointly and severally liable, at the suit of the Attorney-General, to make good the loss to the Republic.

(3) Nothing in this section shall apply to-

- (a) any disposition, release, discharge or transaction in the ordinary course of business of the Club;
- (b) any disposition, release, discharge or transaction in pursuance of any obligation entered into before the twenty-eighth day of November, 1963, and binding on the Club.

(4) For the purpose of subsection (2) there shall be deemed to be a loss to the Republic if the value of the property and rights of the Club (after deducting the value of its liabilities and obligations) is less immediately after the disposition, release, discharge or transaction has been effected than such value immediately beforehand, and the extent of the loss shall be the difference between such values.

*Staff*

Special provisions relating to staff

11.-(1) Where, by reason of the foregoing provisions of this Act, the Republic becomes a party to any agreement for the rendering by any person of personal services-

- (a) such person shall be deemed to have been appointed to the service of the Republic on the terms of such agreement, including any provision, whether or not contained in such agreement, in relation to any provident fund to which he was a contributor immediately before the vesting date; and for the purposes of determining any right to gratuity, his service with the Republic under such agreement shall be regarded as continuous with his service with the Club before the vesting date;
- (b) such person's employment by the Club and by the Republic 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.

Acts 1962 No. 57

(2) Where, by reason of the foregoing provisions of this Act, the Republic becomes a party to any agreement for the rendering by any person of personal services, such person may, within thirty days of the vesting date, serve notice in writing on the Minister that he wishes to be discharged from his contract of service, and upon receipt of such notice the Minister shall terminate such person's employment by the Republic and the termination of employment in any such case shall, for the purposes of the Employment Ordinance, the Severance Allowance Act, 1962, and any other law (whether written or unwritten) relating to master and servant constitute a termination of employment by the Republic without notice and without default on the part of the employee, and the Republic shall make such payment to the employee (including payment of sums standing to his credit in the Staff Provident Fund vested in the Republic by this Act) as is due in such cases.

Cap. 51 C.A. Act 11

(3) Subject to any regulations made under section 16, nothing in the Provident Fund (Government Employees) Ordinance or in the Civil Service Act, 1962, or in any regulations made or deemed to have been made thereunder, shall apply to a person employed in the service of the Republic under an agreement to which this section relates.

(4) Subject to any regulations made under section 16, the Staff Provident Fund vested in the Republic by virtue of this Act shall be maintained as a separate fund for the benefit of the persons employed in the service of the Republic under an agreement to which this section relates, and the contributions payable by the employer thereunder in respect of any period commencing on or after the vesting date shall be paid by the Republic out of moneys provided by Parliament; and such fund shall be deemed to have been established as a separate fund under section 17 of the Exchequer and Audit Ordinance, 1961.

Ord. 1961 No. 21

*Payments to Members*

Members' representative

12.-(1) The Committee may by notice in writing to the Minister appoint some one or more of themselves or any other person or persons to exercise the functions of the members' representative, and may make such further appointments in place of the person or persons originally appointed as they think fit.

(2) Pending the appointment of the members' representative, and if the Committee shall fail to appoint a members' representative, the Public Trustee shall perform the functions of the members' representative.

**13.**-(1) There shall be paid to every full member and every life member a sum equal to the entrance fee paid by such member, and to every associate member a sum equal to the entrance fee paid by such associate member.

Payments  
to members,  
etc.

(2) There shall be paid to every member, and to every person who enjoys the privileges of a member, who has paid any sum by way of subscription in respect of any period on or after the vesting date, a sum equal to such proportion of such subscription as the period from the vesting date to the end of the subscription period bears to the subscription period.

(3) For the purposes of this Act every full, life and associate member elected to the Club before the first day of February, 1963, shall, unless the contrary be proved, be deemed to have paid the entrance fee prescribed by the Articles of Association as in force at the time of his election for the category of membership to which he was elected.

(4) Subject to the provisions of section 6, no sum, other than that provided for in this section, shall be paid to any member as compensation for the dissolution of the Club or the divestment of the property or rights of the Club in accordance with this Act, and no compensation shall be paid to the Club on account of the dissolution of the Club or the divestment of the property or rights of the Club in accordance with this Act.

**14.**-(1) The Minister shall pay the gross sum due to the members of the Club under section 13 to the members' representative who, shall hold the same on trust for, and shall distribute it to, the members and other persons entitled under section 13 to receive a share therein according to their respective entitlements.

Payment by  
Minister

(2) The Minister shall, in addition, pay to the members' representative such sum as shall be necessary to enable the members' representative to distribute the shares (including any sum payable under subsection (2) of section 6) free of cost to himself or to such members or to such other persons aforesaid.

(3) The sums necessary to give effect to the provisions of this section shall be charged on the Consolidated Fund.

**15.** The provisions of the Schedule hereto shall apply for the ascertainment of the sums due under sections 13 and 14 and the payment thereof to the members' representative, but the settlement of any list between the Minister and the members representative or the determination of any dispute in accordance with that Schedule shall not be binding upon any person who claims he is entitled to any sum under section 13.

Ascertain-  
ment of  
sums due

*Miscellaneous*

**16.** The Minister for Finance may make regulations for the purpose of amalgamating the Staff Provident Fund vested in the Republic by this Act with the Government Employees Provident Fund, but no regulations shall be made whereby the benefits to which contributors to the Staff Provident Fund would be entitled in respect of their employment before the making of such regulations shall be less favourable than the benefits to which they would be entitled in respect, of that period under the rules governing the Staff Provident Fund.

Regulations

Acts on  
behalf of  
Republic

17. The Minister and any person in the service of the Republic appointed by him in that behalf may exercise and perform on behalf of the Republic all the rights, powers, functions and obligations of the Republic under this Act:

C.A. Act 2

Provided that nothing in this section shall be construed as excluding the President from exercising or performing any power, function or duty which he has power to exercise or perform under subsection (1) of section 7 of the Republic of Tanganyika (Consequential, Transitional and Temporary Provisions) Act, 1962.

Amendment  
of the  
Societies  
Ordinance  
Cap. 337

18. The Societies Ordinance is hereby amended by adding, immediately below section 6B, the following new section—

"Companies  
and  
co-operatives  
formed for  
the purposes  
of club

6C. Subject to the provisions of subsection (5) of section 6A, the Minister may also exercise the powers, conferred upon him by subsection (1) of that section to require a company or co-operative society to apply for registration under this Ordinance, in respect of any company or co-operative society formed or maintained for the purpose of carrying on a club or other association of persons for social, recreational, cultural, political, educational or philanthropic purposes, and, where the Minister so exercises such powers, the provisions of subsections (2) to (5) of section 6A, and of section 6B, shall apply in relation to any such company or co-operative society."

#### THE SCHEDULE

(Section 15)

1. The members' representative shall, with all despatch, prepare:—
  - (a) a list of all full members and life members who became members within one year of the vesting date;
  - (b) a list of all full members and life members other than those included in the list prepared under subparagraph (a);
  - (c) a list of all associate members who became members within one year of the vesting date;
  - (d) a list of all associate members other than those included in the list prepared under subparagraph (c);
 and shall indicate against each member the sum paid by him as an entrance fee; and
  - (e) an account of the sums payable under subsection (2) of section 13,
 and shall forward the same to the Minister.
2. The Committee and the Minister shall give the members' representative access to all books, ledgers and records to enable him to exercise his functions under this Schedule, and the Committee shall give the Minister access to all books, ledgers and records not otherwise delivered to him under this Act if the Minister wishes to challenge the accuracy of any such list or account.
- 3.—(1) Within thirty days of the receipt of a list or account prepared under paragraph 1, the Minister shall pay to the members' representative the gross sum due in respect of the members on such list or included in such account:
 

Provided that if the Minister disputes the inclusion of any name on the list or the amount of the entrance fee paid by any member included in a list, or any item in any such account, he may withhold the payment in respect of such name, member or item, until the dispute is determined in accordance with this Schedule.

(2) If the Minister does not question the inclusion of any name, or any matter relating to the payment of his entrance fee by a member, or any item in any such account, within thirty days of the receipt of a list or account, he shall be precluded from thereafter challenging the accuracy of the list or account and shall make payment accordingly.

4. Any dispute between the members' representative and the Minister relating to the matters specified in the proviso to subparagraph (1) of paragraph 3 shall be referred to a resident magistrate appointed by the Chief Justice and shall be determined by him.

Passed in the National Assembly on the fifth day of December, 1963.

  
.....  
Clerk of the National Assembly