

THE KARIAKOO MARKET CORPORATION ACT, 1974

ARRANGEMENT OF SECTIONS

<i>Section</i>	<i>Title</i>
	PART I
	PRELIMINARY
1.	Short title and commencement.
2.	Interpretation.
	PART II
	THE KARIAKOO MARKET CORPORATION
3.	Establishment of the Corporation.
4.	Functions of the Corporation.
5.	Management of the Corporation.
6.	Officers and employees.
7.	Powers of Minister in relation to Board.
8.	Authorized capital.
9.	Payment of subscription.
	PART III
	CONTROL AND MANAGEMENT OF MARKETS
10.	Construction.
11.	Kariakoo Market.
12.	President may vest control and management.
13.	Provisions relating to land.
14.	Control and management of specified market.
15.	By-laws.
16.	Compounding of offence.
	PART IV
	FINANCIAL PROVISIONS
17.	Funds of the Corporation.
18.	Power to borrow.
19.	Annual and Supplementary Budget.
20.	Investment.
21.	Accounts and audit.
22.	General Manager report.
23.	Annual statement of accounts and report to be laid before National Assembly.
24.	Fees and allowances.
25.	Proceedings of Board not to be invalid by reason of irregularity.
26.	Protection of members of Board and officers of Corporation.
	PART V
	MISCELLANEOUS PROVISIONS
27.	Disapplication of Markets Ordinance.
28.	Disapplication of by-laws.

SCHEDULE

THE UNITED REPUBLIC OF TANZANIA



No. 36 OF 1974

ASSENT,

Julius K. Nyerere
President

30TH OCTOBER, 1974

An Act to establish the Kariakoo Market Corporation and to provide for the functions, powers, management and control of the Corporation

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ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY

1. This Act may be cited as the Kariakoo Market Corporation Act, 1974 and shall come into operation on such date as the Minister may by notice in the Gazette, appoint.

Short title and commendment

2. In this Act unless the context otherwise requires-

Interpretation

"Board" means the Board of Directors established under section 5;
"the Corporation" means the Kariakoo Market Corporation established by section 3;
"Minister" means the Minister for the time being responsible for regional administration.

PART II

THE KARIAKOO MARKET CORPORATION

3. There is hereby established a corporation to be known as the Kariakoo Market Corporation which shall-

Establishment of the Corporation

- (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 otherwise acquiring, any movable or immovable property.

Functions
of the
Corporation

4.-(1) It shall be the function of the Corporation-

- (a) to control and manage markets;
- (b) subject to the provisions of this Act, to establish markets;
- (c) subject to the provisions of this Act, to levy stallage, rents fees and tolls in respect of the use by any person of any market the control and management of which is vested in the Corporation;
- (d) to sell, buy or otherwise deal in goods at any market;
- (e) do anything or enter into any transaction which, in the opinion of the Board, is calculated to facilitate the proper and efficient carrying on of its activities and the proper exercise of its functions under this Act;
- (f) do all such acts and things as may be necessary to uphold and support the credit of the Corporation and to obtain and justify public confidence, and to avert or minimise any loss to the Corporation.

(2) In exercising its functions of control and management of any market the Corporation shall have regard to-

- (a) the political, economic and social aspirations of the people of the United Republic;
- (b) the health and general welfare of the members of the public.

Management
of the
Corporation

5.-(1) There shall be a Board of Directors of the Corporation, which shall, subject to this Act, be responsible for the policy, control and management of the Corporation.

(2) The Board of Directors shall consist of —

- (a) a chairman, who shall be appointed by the President;
- (b) such other member, being not less than five nor more than ten, as the Minister may appoint.

(3) The chairman and other members of the Board shall be appointed from amongst persons who have had experience of, and shown capacity in, agricultural, commercial or financial matters, administration or the organization of workers.

(4) The general manager of the Corporation shall be appointed by the President.

(5) The Board shall elect one of their members to act as deputy chairman.

(6) The Minister may make regulations with respect to-

- (a) the appointment of, and the tenure and vacation of office by, the members of the Board;
- (b) the quorum, proceedings and meetings of the Board and determinations of the Board;
- (c) the execution of instruments and the mode of entering into contracts by or on behalf of the Corporation, and the proof of documents purporting to be executed, issued or signed by the Corporation, or a Director, officer, or servant of the Corporation.

(7) Subject to any regulations made under subsection (6), the Board shall have power to regulate their own procedure.

6.-(1) The Board may employ such officers and other employees of the Corporation as in the opinion of the Board are necessary for the efficient Performance of the Corporation's functions under this Act.

Officers and employees

(2) The Board may delegate to the General Manager their function of appointing officers and employees either generally or in relation to any category of officers and employees.

7.-(1) The Minister may give to the Board directions of a general character as to the exercise and performance by the Board of their functions in relation to matters appearing to the Minister to affect the national interest and the Board shall give effect to any such directions.

Powers of Minister in relation to Board

(2) The Board shall afford to the Minister facilities for obtaining information with respect to the property and activities of the Corporation and shall furnish him with returns, accounts, and other information with respect thereto and afford to him facilities for the verification of information furnished, in such manner and at such times as the Minister may require.

8.-(1) The authorized nominal capital of the Corporation shall be ten million shillings divided into one hundred shares having a par value of one hundred thousand shillings each.

Authority capital

(2) The initial paid-up capital of the Corporation shall be five million shillings which shall be raised by the issue of fifty paid-up shares allotted to the United Republic.

(3) The Minister may, after consultation with the Minister for the time being responsible for finance and by order published in the *Gazette*, raise the nominal capital of the Corporation.

(4) No person other than the United Republic shall be entitled to hold any share in the Corporation.

9.-(1) Payment for the shares allotted to the United Republic under subsection (2) of section 8 shall be made in such manner as the Minister and the Minister for the time being responsible for finance may agree.

Payment of subscription

(2) Payment for any further share or shares issued by the Corporation and allotted to the United Republic shall be made in such manner as the Minister, after consultation with the Board and the Minister for the time being responsible for finance, may decide.

PART III

CONTROL AND MANAGEMENT OF MARKETS

10. In this Act "specified market" means the Kariakoo Market and includes any other market the control and management of which is vested in the Corporation by an order made under section 11.

Construction

11.-(1) The control and management of the Kariakoo Market, more particularly described in the Schedule to this Act, is hereby vested in the Corporation.

Kariakoo Markets

(2) The Minister may, by order in the *Gazette*, amend the description in the Schedule to this Act.

- President may vest control and management
- 12.**-(1) The President may by order in the *Gazette*-
- (a) vest in the Corporation the control and management of any other market in the Dar es Salaam Region;
 - (b) authorize the Corporation to establish a market anywhere in the Dar es Salaam Region and control and manage the market so established.
- Provisions relating to land
- 13.** The Corporation shall be granted a right of occupancy over the land over which a specified market exists subject to such terms and conditions as the President may approve:
- Provided that the fact that no right of occupancy over any such land has been granted to the Corporation shall not preclude the Corporation from exercising any of its rights under this Act in relation to the specified market and no person shall, in any proceedings under any by-laws made under this Act, be entitled to question the validity of such by-laws on the ground that no such right of occupancy has been granted.
- Control and management of specified market
- 14.** It shall be the duty of the Corporation to ensure that every specified market-
- (a) is kept clean and does not constitute a hazard to public health, safety or general welfare;
 - (b) has an adequate supply of fresh water and, where possible, of electricity;
 - (c) is managed in an efficient manner.
- By-laws
- 15.**-(1) The Corporation may, with the consent of the Minister make by-laws-
- (a) regulating the use of specified markets and market buildings, and keeping order, preventing obstructions and maintaining cleanliness therein or in the approaches thereto;
 - (b) prescribing the goods which may be sold in any specified market;
 - (c) prohibiting the sale of any specified kind of goods within any area (hereinafter referred to as "the market area") except in a specified market;
 - (d) requiring goods brought into specified market for sale to be sold by such weights and measures as may be prescribed;
 - (e) prescribing stallages, rents or tolls, and fees for inspection of produce, and providing for the collection thereof;
 - (f) appointing the days and the hours during each day on which a specified market shall be open to the public and preventing the sale and purchase of goods in a specified market on any days or at any hours except those prescribed in the by-laws;
 - (g) providing for the examination of produce or articles of food to be sold in a specified market and prohibiting the adulteration of any such produce or article of food;
 - (h) providing for the inspection of any produce, or article of food to be sold in a specified market.

- (i) regulating the duties and conduct of inspectors and other persons appointed for the purposes of the management of specified markets; and
- (j) generally for the efficient control and management of specified markets.

(2) By-laws made under subsection (1) may be made either in relation to any particular specified market or generally in relation to all specified markets.

(3) By-laws made under this section shall be published in the *Gazette* and a copy of a Kiswahili translation thereof shall be posted up in a conspicuous place in the specified market to which they relate:

Provided that failure to display a Kiswahili translation as aforesaid shall not constitute a defence in any proceedings for an offence involving the contravention of any provision of such by-laws.

(4) There may be annexed to the breach of any by-law made under this section a penalty not exceeding a fine of five thousand shillings or a term of imprisonment not exceeding two years or both such fine and such imprisonment and the by-law may provide for the forfeiture of any goods in relation to which such contravention has been committed.

16.-(1) The Board may, by a writing under the seal of the Corporation appoint any officer of the Corporation (hereinafter referred to as "the proper officer") to be the proper officer in relation to a specified market.

(2) A proper officer may, where he is satisfied that any person has committed an offence under any by-law made under this Act, compound such offence by requiring such person to make payment of a sum of money:

Provided that-

- (a) such sum of money shall not be less than thirty shillings or more than two hundred shillings;
- (b) the power conferred by this section shall only be exercised where the person admits in writing that he has committed the offence and that he agrees to the offence being compounded under this section.
- (c) the proper officer shall give to the person from whom he receives such amount of money, a receipt therefor.

(3) Where an offence is compounded in accordance with the provisions of subsection (2) and proceedings are brought against the offender for the same offence, it shall be a good defence for such offender if he proves to the satisfaction of the court that the offence with which he is charged has been compounded under subsection (2).

(4) Where any person is aggrieved by any order made under subsection (2) he may, within thirty days of such order being made, appeal against such order to the High Court and the provisions of Part X of the Criminal Procedure Code shall apply *mutatis mutandis* to every such appeal as if it were an appeal against sentence passed by a district court in the exercise of its original jurisdiction.

Compounding
of offences
Cap. 20

Cap.20

PART IV

FINANCIAL PROVISIONS

- Funds of the Corporation** **17.** The funds and resources of the Corporation shall consist of-
- (a) the paid-up share capital;
 - (b) the capital raised by the issue of any further share or shares;
 - (c) such sums as may be provided by Parliament by way of loan for the purposes of the Corporation;
 - (d) any sums borrowed by the Corporation in accordance with the provisions of this Act;
 - (e) any fees, rents, stallage, charges and other sums which may in any manner become payable to or vested in the Corporation under this Act or in the course of any trading operation or other activity carried on by the Corporation or any by-laws made under this Act.
- Power to borrow** **18.**-(1) With the prior approval of the Minister, the Board may, from time to time borrow moneys for the purposes of the Corporation by way of loan or overdraft, and upon such security and such terms and conditions relating to the repayment of the principal and the payment of the interest as, subject to any directions by the Minister, the Board may deem fit.
- (2) A person lending money to the Corporation shall not be bound to enquire whether the borrowing of that money by the Board has been approved by the Minister.
- Annual and Supplementary budget** **19.**-(1) In this Act "financial year" means any period not exceeding twelve consecutive months designated in that behalf by the Board:
- Provided that the first financial year after the commencement of this Act shall commence on the date of the commencement of this Act and may be of a longer or shorter period than twelve months.
- (2) Not less than two months before the beginning of any financial year (other than the first financial year) the Board shall, at their meeting especially convened for that purpose, pass a detailed budget (in this Act called " the annual budget") of the amounts respectively-
- (a) expected to be received; and
 - (b) expected to be disbursed, by the Corporation during that financial year-
- (3) If in any financial year the Board require to make any disbursements not provided for or of an amount in excess of the amount provided for, in the annual budget for that year, the Board shall, at a meeting pass a supplementary budget detailing such disbursement.
- (4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may direct.
- (5) Forthwith upon passing any annual budget or any supplementary budget the Board shall submit the same to the Minister for his approval.
- (6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove the same or may approve subject to such amendment as he may deem fit.

(7) Where the Minister has approved any annual budget or supplementary budget, the budget or, as the case may be, the supplementary budget, as amended by him, shall be binding on the Board which, subject to the provisions of subsection (8), shall confine the disbursements within the items and the amounts contained in the budget or supplementary budget as approved by the Minister.

(8) The Board may-

- (a) with the sanction in writing of the Minister make a disbursement notwithstanding that such disbursement is not provided for in any budget;
- (b) from the amount of expenditure provided for in any estimates in respect of any item, transfer, a sum not exceeding ten thousand shillings, to any other item contained in such budget;
- (c) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of such alteration of expenditure limits becoming necessary.

20. With the prior approval of the Minister, the Board may from time to time, invest any part of the moneys available in any fund in investments authorized by the Trustees Investments Act, 1967 for the investments of any trust fund.

Investment

Acts, 1967
No.33

21.-(1) The Board shall cause to be provided and kept proper books of account and records with respect-

Accounts and
Audit

- (a) the receipt and expenditure of moneys by, and other financial transactions of, the Corporation;
- (b) the assets and liabilities of the Corporation,

and shall cause to be made out for every financial year a balance sheet showing details of the income and expenditure of the Corporation and all its assets and liabilities.

(2) Within six months of the close of a financial year the accounts including the balance sheet of the Corporation in respect of that financial year shall be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act, 1968.

Acts, 1968
No. 1

(3) As soon as the accounts of the Corporation have been audited, and in any case not later than seven months after the close of such financial year, the Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report thereon made by the auditors.

(4) Every such audited balance sheet shall be placed before a meeting of the Board and, if adopted by the Board shall be endorsed with a certificate that it has been so adopted.

22. The General Manager shall at the end of each financial year prepare a report on the activities of the Corporation during the financial year and submit such report to the Minister.

General
Manager's
report

Annual state of accounts and report to be laid before National Assembly	<p>23. The Minister shall as soon as may be practicable and not later than twelve months after the close of a financial year, lay before the National Assembly the following documents in relation to such financial year-</p> <p>(a) a copy of the audited statement of accounts of the Corporation;</p> <p>(b) a copy of the auditor's report, if any;</p> <p>(c) a copy of the General Manager's report.</p>
Fees and allowances	<p>24. The Minister may, by directions under his hand prescribe the fees and allowances payable to the members of the Board.</p>
Proceedings of Board not to be invalid by reason of irregularity	<p>25. No Act or proceeding of the Board shall be invalid by reason only of the number of members not being complete at the time of such act or proceeding or of any defect in the appointment of any member or the fact that any member was at the time disqualified or disentitled to act as such.</p>
Protection of members of Board and officers of Corpora- tion	<p>26.(1) No matter or thing done by any member or officer of the Board or the Corporation shall, if done <i>bona fide</i>, in the execution or purported execution of the functions conferred upon such member or officer by this Act or by regulations made hereunder, render, such member or officer personally liable for such matter or thing.</p>
Cap. 16	<p>(2) For the avoidance of doubts it is hereby declared that the provisions of this section shall be without prejudice to the provisions of section 284A of the Penal Code or the provisions of the Specified Officers (Recovery of Debts) Act, 1970.</p>
Acts, 1970 No.7	

PART V

MISCELLANEOUS PROVISIONS

Disapplica- tion Markets Ordinance Cap. 106	<p>27. The provisions of the Markets Ordinance shall not apply to any market which is a specified market for the purposes of this Act.</p>
Disapplica- tion of by- laws Caps. 105 108 and 333	<p>28. No by-laws, rules and regulations made under the Municipalities Ordinance or the Townships Ordinance or the Local Government Ordinance and which relate to markets or sale of goods in markets or the conduct of persons within markets shall apply in relation to any market which is a specified market for the purposes of this Act.</p>

SCHEDULE

All the area situate in Dar es Salaam comprised by Block 32, Zone III and bounded by Mkunguni Street for a distance of approximately 55 metres by Swahili Street, for a distance of approximately 80 metres by Tandamuti Street for a distance of approximately 55 metres, and by Nyamwezi Street for a distance of approximately 80 metres.

Passed in the National Assembly on the twenty-second day of October, 1974.



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Acting Clerk of the National Assembly