

THE UNITED REPUBLIC OF TANZANIA



No. 16 OF 1976

I ASSENT
Julius Nyerere
President

12TH NOVEMBER, 1976

An Act to provide for modifications to statutory provisions relating to the management of certain parastatal organizations, and to make provisions consequential to those modifications

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ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Parastatal Organizations (Modification of Management Provisions) Act, 1976. Short title

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

"Board of Directors", in relation to a specified parastatal organization, means the body vested with the management of the specified parastatal organization by or under any existing law, Articles of Association or any other charter or instrument of the specified parastatal organization, whether that body is described by the name "Board of Directors" or any derivative thereof or by any other name, and whether reference to the body is made expressly or by implication by definition, style, title, functions or otherwise;

"effective date" means the date from which the provisions of this Act shall apply to any specified parastatal organization as may be specified by the Minister under section 3;

"existing law", in relation to a specified parastatal organization, means the written law by or under which the specified parastatal organization is established as it exists immediately before the effective date, and includes any law or any provision thereof which applies to the specified parastatal organization with respect to its management;

"Management Committee" means the body vested with the management of a specified parastatal organization in accordance with the provisions of this Act;

"Minister" means the Minister for the time being responsible for labour matters;

"Minister responsible for the parent Ministry", in relation to a specified parastatal organization, means the Minister for the time being responsible under the direction of the President for the principal business in which the specified parastatal organization in question is engaged or, if the President has not for the time being assigned responsibility for the business in question to any Minister, the President;

6. "parastatal organization" means any body corporate established by or under any written law other than-

- (a) the Community, any Corporation of the Community and bodies corporate established by or under any Act of the Community;
- (b) any body corporate carrying on business in the United Republic which is wholly owned by the Government of the United Republic or a parastatal organization and a foreign person or body of persons under the terms of an agreement whereby the foreign person or body of persons is entitled to be represented on the body vested with the management of the body corporate;
- (c) any body corporate carrying on business in the United Republic which is owned wholly by the Government of the United Republic or a parastatal organization and any foreign person or body of persons under the terms of an agreement whereby the constitution or provision made for the constitution of the body vested with the management of the body corporate is not liable to be changed in any way during the term of the agreement or for so long as the body corporate subsists;
- (d) any body corporate carrying on business in the United Republic which is wholly owned by the Government of the United Republic or a parastatal organization and in respect of which the Government or the parastatal organization has entered into a loan agreement, whether as principal or guarantor, with any foreign person or body of persons under the terms of which agreement-
 - (i) the foreign person or body of persons is entitled to be represented on the body vested with the management of the body corporate; or
 - (ii) the constitution or provision made for the constitution of the body vested with the management of the body corporate is not liable to be changed in any way during the term of the agreement or for so long as the body corporate subsists; or
 - (iii) the matters referred to in sub-paragraphs (i) and (ii) of this paragraph apply together;

(e) any body corporate carrying on business in the United Republic which is wholly owned by any Person or body of persons other than the Government of the United Republic or a parastatal organization;

(f) any body corporate which the Minister may, by order published in the *Gazette*, declare not to be a parastatal organization for the purposes of this Act;

"specified parastatal organization" means a parastatal organization declared by the Minister under section 3 to be a parastatal organization for the purposes of this Act.

3.-(1) If in regard to any parastatal organization it appears that it is necessary or expedient in the national interest that the constitution of its Board of Directors or any matter in relation to the Board of Directors provided for by or under any existing law, Articles of Association or any other charter or instrument of the parastatal organization should be modified, the Minister may, either on his own initiative or at the request of the Minister responsible for the parent Ministry and after consultation with the Prime Minister, by order in the *Gazette*, declare the parastatal organization to be a parastatal organization to which the provisions of this Act shall apply, and shall in the same order or by any subsequent order specify the effective date in relation to the parastatal organization so declared.

Declaration of specified parastatal organization

(2) The Minister shall make an order of the kind described in subsection (1) in every case in which the Prime Minister gives a direction in that behalf.

(3) In the exercise of his powers under this section the Minister may specify as the effective date a date earlier than the date of the making of the order and either before or after the date of the enactment of this Act.

Provided that the Minister shall not specify as the effective date any date earlier than 1st January, 1975.

4.-(1) Where the Minister makes an order under subsection (1) or subsection (2) of section 3 declaring a parastatal organization, the law existing law or, as the case may be, the Articles of Association or any other charter or instrument of the specified parastatal organization shall, notwithstanding any provision, contained in any written law, be modified and shall be deemed to have been modified as from the effective date as follows-

Modification of existing law

(a) in lieu of the Board of Directors of the specified parastatal organization there shall be a Management Committee constituted in accordance with this section;

(b) where in the existing law or Articles of Association or any other charter or instrument of the specified parastatal organization reference is made to the Board of Directors, that reference shall, unless the context otherwise requires and subject to any express reference contained in any enactment passed or document executed after the commencement of this Act, be construed and have effect as a reference to the Management Committee.

(2) The Management Committee shall consist of-

- (a) a chairman, who shall be appointed by the Minister responsible for the parent Ministry;
- (b) the chief executive officer of the specified parastatal organization;
- (c) not less than, eleven but not more than nineteen other members of whom-
 - (i) forty per cent or as nearly thereto as practicable shall be representatives of the employees of the specified parastatal organization;
 - (ii) sixty per cent or as nearly thereto, as practicable shall be appointed by the Minister responsible for the parent Ministry from among citizens of the United Republic who are not employees of the specified parastatal organization.

(3) For the purpose of computing the proportions prescribed by paragraph (c) of subsection (2), the chairman of the Management Committee and the chief executive officer of the specified parastatal organization shall be deemed to be included among the members appointed under sub-paragraph (ii) of that paragraph.

(4) The Prime Minister may, by writing under his hand, issue directions in respect of any specified parastatal organization or category of specified parastatal organizations providing for and regulating the representation of employees on the Management Committee and prescribing guidelines for the appointment of the other members of the Management Committee, and all directions so issued shall have the same effect as if they were provisions made by and set out in this Act.

(5) The Minister may, either on his own initiative or at the request of the Minister responsible for the parent Ministry and after consultation with Prime Minister, by order published in the *Gazette*, vary or otherwise modify the provisions of subsection (2) in their application to a particular specified parastatal organization or category of specified parastatal organizations, and the provisions of any order made under this subsection shall have the same effect as if they were provisions made by and set out in this Act.

Effect of
modifications

5. Where an order is made under subsection (1) or subsection (2) of section 3 declaring a parastatal organization then, as from the effective date-

- (a) all rights, powers, privileges, duties or functions vested in or imposed on the Board of Directors of the specified parastatal organization shall, subject to the provisions of the existing law and of any other law or of the Articles of Association or any other charter or instrument, vest in the Management Committee;
- (b) all references to the Board of Directors in any instrument to which the specified parastatal organization is a party shall, unless the context otherwise requires, be construed and have effect as references to, the Management Committee.

6.-(1) The Minister may make regulations for giving effect or enabling effect to be given to the purposes and provisions of this Act and, in particular, but without prejudice to the generality of the foregoing, may by regulations modify in their application to a specified parastatal organization any of the provisions of any written law or of any regulations made thereunder or of the Articles of Association or any other charter or instrument of a specified parastatal organization in such manner and to such extent as may appear to him to be necessary or expedient to bring those provisions into conformity with the provisions of this Act or of any regulations made under this section.

Regulations and savings

(2) Save to the extent expressly provided in this Act or in any regulations made under this section, nothing in this Act or in any regulations made under this section shall be construed as to affect any provisions of any existing law or of any Articles of Association or any other charter or instrument of a specified parastatal organization, and those provisions shall continue to have force after the commencement of this Act in relation to the specified parastatal organization, except in so far as they are thereafter amended, modified, repealed or revoked by competent authority or any provision thereof expires, but shall be read with such modifications, adaptations, qualifications and exceptions as provided in this Act or any regulations made under this section.

Passed in the National Assembly on the twentieth day of October, 1976.



Clerk of the National Assembly