

Tanzania

Treasury Registrar (Powers and Functions) Act

Chapter 370

Legislation as at 31 July 2002

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Treasury Registrar (Powers and Functions) Act Chapter 370

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[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]

[Ord. No. 35 of 1959; R.L. Cap. 418; Acts Nos. 16 of 1983; 2 of 1992; 14 of 1999]

An Act to incorporate an office of Treasury Registrar for the acquisition, holding and management of investments, whether secured or not, on behalf of the Government, and for related matters.

1. Short title

This Act may be cited as the and Treasury Registrar (Powers and Functions) Act.

2. Interpretation

In this Act—

"investments" include shares, stock debentures, debenture stock, loan stock, notes, bonds and mortgages in or of any corporate body or issued by or on behalf of any Government or State; and

"Minister" means the Minister responsible for finance.

3. Establishment of office of Treasury Registrar and powers

- (1) Upon the coming into operation of this Act there shall be established the office of Treasury Registrar.
- (2) The person whom the Minister appoints to the office of Treasury Registrar shall be a corporation sole by the name of the Treasury Registrar, and by that name shall have perpetual succession and an official seal with capacity and powers to acquire, hold, manage, and dispose of investments, to sue and be sued, to execute deeds and instruments, using his official seal, to enter into agreements binding himself and his successors in office, to exercise all rights conferred by the holding of investments, including the powers of holding immovable and other property, and to do all other acts and things necessary or expedient to be done in the execution of the duties of his office or which are required to be done or may be done by the Treasury Registrar under this or any other written law.

4. Assistant Treasury Registrars

A person appointed by the Minister to be an Assistant Treasury Registrar may, on behalf of the Treasury Registrar, take any oath, make any declaration, execute any deed or instrument, adhibit and authenticate the adhibition of the official seal of the Treasury Registrar, or do any other act or thing which the Treasury Registrar is required or authorised to do in the execution of his duties as Treasury Registrar or under this or any other written law.

5. Evidence of seal and acts

The official seal of the Treasury Registrar shall be officially and judicially noticed, and every document purporting to be a deed or instrument made or issued by the Treasury Registrar and to be sealed with his official seal, authenticated by the signature of the Treasury Registrar or an Assistant Treasury Registrar, shall be received in evidence and be deemed to be so made or issued without further proof, unless the contrary is shown.

6. Devolution of property and vacancies

- (1) Where any investments or other property or any interest in it are vested in the Treasury Registrar, the same shall, unless and until otherwise disposed of, pass and devolve to and vest in his successors in office from time to time.
- (2) Where there is a vacancy in the office of Treasury Registrar at the time when, if there had been no vacancy, any interest in or charge on investments or other property would have been acquired by the corporation hereby established, that interest or charge shall, notwithstanding the vacancy, vest in the successor to that office on his appointment, but without prejudice to the right of the successor to disclaim that interest or charge.
- (3) Any contract or other transaction expressed or purported to be made with the Treasury Registrar at a time when there is a vacancy in the office of Treasury Registrar, shall, on the vacancy being filled, take effect and be deemed to have taken effect as if the vacancy had been filled before the contract or transaction was expressed to be made or was capable of taking effect, and, on the appointment of a successor, shall be capable of being enforced, accepted, disclaimed or renounced by him.

7. Corporation to hold property in trust

- (1) All investments and other property vested in the Treasury Registrar, including investment comprised in the paid up capital of a public corporation or a statutory corporation pursuant to section 4 of the Public Corporations Act ¹, shall be held by the Treasury Registrar in trust for the President and for the purposes of the Government of the United Republic.
- (2) The Minister may give the Treasury Registrar directions as to the disposal of investments or other property held by him and of the interest, produce or their proceeds, and the Treasury Registrar shall give effect to each direction.
- (3) Save as is provided in subsection (2) nothing contained in this section or in any other written law relating to trusts or trustees shall be construed as requiring the Treasury Registrar to realise any property held in trust for the President and to invest its rendering the Treasury Registrar liable for retaining any that property or for not investing the proceeds of its sale or any moneys held upon the trust in investments from time to time authorised for trustees.

[s. 6A]

8. Powers in relation to corporations

- (1) For the purpose of securing the proper management of the property and other investments vested in it, the Treasury Registrar shall closely monitor the supervision and control of the financial affairs of all public and statutory corporations and may, in particular—
 - (a) cause a special examination to be made of the expenditure of the funds of any public or statutory corporation;
 - (b) require any corporation to make specific adjustments of expenditure;

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- (c) cause or facilitate the conduct of inquiries into the conduct and performance of functions by officers having control of or access to the funds or employed in the maintenance of the accounts of any public or statutory corporation;
 - (d) direct or approve the adoption, application or amendment of financial regulations so as to ensure the proper accounting of incomes and expenditure of corporation;
 - (e) recommend to the Minister measures designed to—
 - (i) minimise unproductive expenditure of funds of public and statutory corporations;
 - (ii) averting loss of funds resulting from negligence, lack of care, theft, dishonesty or otherwise.
- (2) The Minister may, by regulations, published in the *Gazette*, provide the procedure for ensuring the smooth and effective exercise by the Treasury Registrar of the powers of control and supervision conferred by this section.
- (3) For the avoidance doubt, in this section all reference to corporations is reference to public and statutory corporations to which section 4 of the Public Corporation Act² applies, and the powers conferred by this section to the Treasury Registrar in relation to corporations shall be in addition to and not in derogation of, any powers conferred on it by or under any other written law.

[s. 6B]

9. Voluntary agreement by Public Corporation

Where the Treasury Registrar has received a voluntary agreement and its report from the Labour Commissioner subject to section 39(2) of the Industrial Court of Tanzania Act³, he shall, within forty-five days—

- (a) approve the voluntary agreement and submit the same to the Minister for registration to the Industrial Court; or
- (b) disapprove the voluntary agreement and return the same to the labour Commissioner together with the detailed reasons for his disapproval of the agreement.

[s. 6C]

10. Functions of Registrar in relation to corporations

- (1) The Treasury Registrar shall keep or cause to be kept under permanent review the business and affairs of all persons and bodies of persons in respect of which the Treasury Registrar holds any property or any interest in the property pursuant to this Act.
- (2) Without prejudice to the generality of subsection (1), and in furtherance of that provision the Treasury Registrar shall, in particular—
 - (a) render advice to the Government relating to the establishment of public or statutory corporations, and the vesting of any business or property in those organisations;
 - (b) review the financial performance of public and statutory corporations with a view to recommending measures aimed at amalgamation, disestablishment or improvement of their performance;

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³

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- (c) consider, recommend or approve corporate and annual plans of public statutory corporations, or other bodies in which the Treasury Registrar has an interest before their submission to the Government for incorporation in the overall economic development plans of Government or for funding;
 - (d) set financial targets and other performance criteria to be pursued by any public statutory corporation;
 - (e) evaluate, from time to time, the performance and effectiveness of boards and management committees of public and statutory corporations, and recommend the Government remedial or improvement measures designed to ensure the proper and more efficient utilisation of finances and assets of those corporations;
 - (f) approve whether a public corporation interested in buying shares from any other public corporation or company may do so.
- (3) Every chief executive officer, as well as the board or management committee and the parent Ministry of every public or statutory corporation shall, when so required by him, furnish the Treasury Registrar with any information or report in the form and within time which may be specified in the requirement, and for the purposes of facilitating the performance by the Treasury Registrar of his functions under this section.
- (4) For the avoidance of doubt, in this section all reference to corporations is a reference to public and statutory corporations to which section 4 of the Public Corporations Act ⁴ applies; and the provisions of this section relate to the Treasury Registrar in its capacity of a corporation sole, but nothing in them shall be construed as authorising it to disregard any enactment or rule of law.
- (5) The Treasury Registrar shall, unless the appointment is by virtue of office, ensure that no person shall be a member of more than three boards of directors at the same time.

[s. 7]

11. Powers in relation to corporations

- (1) For the purposes of securing the proper management of the property and other investments vested in it, the Treasury Registrar shall closely monitor the supervision and control of the financial affairs of all public and statutory corporations and may, in particular—
- (a) cause a special examination to be made of the expenditure of the funds of any public or statutory corporation;
 - (b) require any corporation to make specific adjustments of expenditure;
 - (c) cause or facilitate the conduct of inquiries into the conduct and performance of functions by officers having control of or access to the funds or employed in the maintenance of the accounts, of any public or statutory corporation;
 - (d) direct or approve the adoption, application or amendment of financial regulations so as to ensure the proper accounting of incomes and expenditure of corporations;
 - (e) recommend to the Minister measures designed to—
 - (i) minimise unproductive expenditure of funds of public and statutory corporations;
 - (ii) averting loss of funds resulting from negligence, lack of care, theft, dishonesty or otherwise.

⁴

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- (2) The Minister may, by regulations, published in the *Gazette*, provide the procedure for ensuring the smooth and effective exercise by the Treasury Registrar of the powers or control and supervision conferred by this section.
- (3) For the avoidance of doubt, in this section all reference to corporations is reference to public and statutory corporations to which section 4 of the Public Corporations Act⁵ applies; and the powers conferred by this section to the Treasury Registrar in relation to corporations shall be in addition to and not in derogation of, any powers conferred on it by or under any other written law.

[s. 8]

12. Accounts

- (1) The Treasury Registrar shall prepare in respect of each year terminating on the thirtieth day of June a statement of account in a form approved by the Minister.
- (2) A statement of account prepared under this section shall be audited by the Controller and Auditor-General or an officer of the Audit Department appointed by him, and the auditor shall make a report to the Minister upon the accounts examined by him.
- (3) The Minister shall lay a copy of the audited accounts and of the auditor's report before the National Assembly.

[s. 9]

13. Transfer of investments

- (1) Upon the coming into operation of this Act the Minister may—
 - (a) direct any person who, or any authority which, holds securities on behalf of the Minister or the Government, to transfer the same to the Treasury Registrar;
 - (b) give directions for the transfer into the name of the Treasury Registrar of investments registered in the name of the Government; and
 - (c) give directions as to the persons who are to execute any transfer.
- (2) Where the Minister gives any directions under paragraph (a) of subsection (1) of this section, the person or authority to whom they are given shall give effect to them.
- (3) Where the Minister gives any directions under paragraph (c) of subsection (1) of this section to a person to execute a transfer of investments then, if those investments are registered in the books of any company or other corporate body in the official name or title (whether or not in current use) of an officer of the Government, the company or corporate body, as the case may be, shall, notwithstanding that the person executing the transfer is not the person in whose official name or title the investments are registered, give effect to the transfer as if it were executed by the person in whose name such investments are registered.

[s. 10]