

Tanzania

## Kariakoo Market Corporation Act Chapter 132

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# Kariakoo Market Corporation Act

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## Tanzania

# Kariakoo Market Corporation Act

## Chapter 132

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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.]*

*[Acts Nos. 36 of 1974; 16 of 1985; G.N. No. 30 of 1978]*

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

### Part I – Preliminary provisions (ss 1-2)

#### 1. Short title

This Act may be cited as the Kariakoo Market Corporation Act.

#### 2. Interpretation

In this Act, unless the context otherwise requires—

"**Board**" means the Board of Directors established under [section 5](#);

"**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 (ss 3-9)

#### 3. Establishment of Corporation

There is established a corporation to be known as the Kariakoo Market Corporation which 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 purchasing and otherwise acquiring, any movable or immovable property.

#### 4. Functions of Corporation

(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 out 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.

## 5. Management of Corporation

- (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 members, being not less than five but not 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 organisation of workers.
- (4) There shall be a general manager of the Corporation who shall be appointed by the President.
- (5) The members of the Board shall elect one of the members to be the deputy chairman.
- (6) The Minister may make regulations with respect to—
- (a) the appointment of, the tenure and vacation of office by, the members of the Board;
  - (b) the quorum, proceedings and meetings of the Board and decisions 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 by a member of the Board, officer, or servant of the Corporation.
- (7) Subject to any regulations made under subsection (6), the Board shall have power to regulate its own procedure.

## 6. Officers and employees

- (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 functions of the Corporation under this Act.
- (2) The Board may delegate to the General Manager its function of appointing officers and employees either generally or in relation to any category of officers and employees.

## 7. Powers of Minister in relation to Board

- (1) The Minister may give to the Board directions of a general 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 and the Board shall give effect to any such direction.
- (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 the Minister with returns, accounts and other information with respect to them and afford the facilities for the verification of the information furnished, in such manner and at such times as the Minister may require.

## 8. Authorised capital

- (1) The authorised nominal capital of the Corporation shall be twenty five million shillings divided into two hundred fifty shares having a par value of one hundred thousand shillings each.
- (2) The shares of the Corporation shall be subscribed to by the Government of the United Republic and the Dar es Salaam City Council.
- (3) The shareholders shall subscribe and the Corporation shall allot the shares in the following amounts—
  - (i) the Government of the United Republic \_\_ 49 *per centum*;
  - (ii) the Dar es Salaam City Council \_\_ 51 *per centum*.
- (4) 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.

## 9. Payment of subscription

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

## Part III – Control and management of market (ss 10-16)

### 10. Construction

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 12](#).

### 11. Kariakoo Market

- (1) The control and management of the Kariakoo Market, described in the Schedule to this Act, is vested in the Corporation.
- (2) The Minister may, by order in the *Gazette*, amend the description in the Schedule to this Act.

### 12. President may vest control and management

- (1) The President may by order in the *Gazette*—
  - (a) vest in the Corporation the control and management of any other market within Dar es Salaam Region;

- (b) authorise the Corporation to establish a market anywhere within Dar es Salaam Region and control and manage the market so established.

### 13. Provisions relating to land

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.

### 14. Control and management of specified market

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.

### 15. By-laws

- (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 in of the market and in the approaches of the market;
  - (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 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 stallage, rents or tolls and fees for inspection of produce and providing for their collection;
  - (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, shall be posted up in a conspicuous place in the specified market to which they relate:

Provided that failure to display a Kiswahili translation 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 and the by-law may provide for the forfeiture of any goods in relation to which such contravention has been committed.

## 16. Compounding of offences

- (1) The Board may, in writing and under the seal of the Corporation, appoint any officer of the Corporation, in this section referred to as "the proper officer", to be the proper officer in relation to a specified market.
- (2) Where a proper officer is satisfied that any person has committed an offence under any by-law made under this Act, the proper officer may 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 the proper officer receives such amount of money, a receipt.
- (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 defence if the offender proves to the satisfaction of the court that the offence with which the offender 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 Act<sup>1</sup> shall apply *mutatis mutandis* to every such appeal as if it were an appeal against a sentence passed by a district court in the exercise of its original jurisdiction.

## Part IV – Financial provisions (ss 17-26)

### 17. Funds of Corporation

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, rent, stallage, charges and other sums which may in any manner become payable to or vested in, the Corporation under this Act or under any by-laws made under this Act or in the course of any trading operation or other activity carried on by the Corporation.

<sup>1</sup>

## 18. Power to borrow

- (1) With the approval of the Minister, the Board may borrow moneys for the purposes of the Corporation by way of loan or overdraft and upon such security, 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 by the Board has been approved by the Minister.

## 19. Annual and supplementary budget

- (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 a meeting specifically convened for that purpose, pass a detailed budget, in this section referred to as "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 intends to make any disbursements not provided for or an amount in excess of the amount provided for in the annual budget, 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 shall include such details as the Minister may direct.
- (5) Upon passing any annual budget or any supplementary budget, the Board shall submit the same to the Minister for approval.
- (6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or refuse the same or may approve subject to such amendments as the Minister may deem fit.
- (7) Where the Minister has approved any annual budget or supplementary budget or has amended any budget, the annual budget the supplementary budget or the amended budget, 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 annual budget, supplementary budget or amended 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 budget 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 reasonable foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of such adjustment of expenditure limits becoming necessary.



## 20. Investment

With the approval of the Minister, the Board may invest any part of the moneys available in any fund, in investments authorised by the Trustee Investments Act<sup>2</sup>, for investments of any trust fund.

## 21. Accounts and audit

- (1) The Board shall cause to be provided and kept proper books of account and records with respect to —
  - (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<sup>3</sup>.
- (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 any report made by the auditors.
- (4) Every such audited statement of accounts including the 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. General Manager's report

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 shall submit such report to the Minister.

## 23. Annual statement of accounts and report to be laid before National Assembly

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 —

- (a) a copy of the audited statement of accounts of the Corporation;
- (b) a copy of the auditor's report, if any;
- (c) a copy of the General Manager's report.

## 24. Fees and allowances

The Minister may, by directions under his hand, prescribe the fees and allowances payable to the members of the Board.

<sup>2</sup>

[Cap. 53](#)

<sup>3</sup>

[Cap. 56](#)

## 25. Proceedings of Board not to be invalid by reason of irregularity

No act or proceeding of the Board shall be invalid by reason only of a vacancy in the membership at the time of such act or proceeding or of any defect in the appointment of any member or of the fact that any member was at the time disqualified or not entitled to act as such.

## 26. Protection of members of Board and officers of Corporation

- (1) Nothing done by any member or officer of the Board or the Corporation, if done *bona fide*, in the execution or purported execution of the functions conferred upon such member or officer by this Act or by regulations under the Act, shall made hereunder, render such member or officer personally liable.
- (2) For the avoidance of doubt it is declared that the provisions of this section shall be without prejudice to the provisions of section 284A of the Penal Code<sup>4</sup> or the provisions of the Public Officers (Recovery of Debts) Act<sup>5</sup>.

## Part V – Miscellaneous provisions (ss 27-28)

### 27. Disapplication of R.L. [Cap 106](#)

*[Disapplication of Markets Ordinance: Incorporated into s. 28]*

### 28. Disapplication of R.L. Caps 105, 108 and 333

No written law, other than this Act, which relates to markets or to the sale of goods in markets or to the conduct of persons within markets, shall apply in relation to any market which is a specified market for the purposes of this Act.

## Schedule (Section 11(1))

All the area situate in Dar es Salaam comprised of 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.

<sup>4</sup>

[Cap. 16](#)

<sup>5</sup>

[Cap. 76](#)