

Tanzania

## National Land Use Planning Commission Act Chapter 116

Legislation as at 31 July 2002

FRBR URI: /akn/tz/act/1984/3/eng@2002-07-31

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PDF created on 20 April 2024 at 14:20.

*Collection last checked for updates: 31 July 2002.*

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# National Land Use Planning Commission Act

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# Tanzania

## National Land Use Planning Commission Act

### Chapter 116

Published in Tanzania Government Gazette

Commenced on 7 October 1985

*[This is the version of this document at 31 July 2002.]*

*[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.]*

*[G.N. No. 316 of 1985; Act No. 3 of 1984]*

**An Act to provide for the establishment of the National Land Use Planning Commission, to provide for its functions and for related matters.**

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

#### 1. Short title

This Act may be cited as the National Land Use Planning Commission Act.

#### 2. Interpretation

In this Act, unless the context requires otherwise—

"**beneficial use**" means a use of the land that is conducive to public benefit, welfare, safety or health;

"**Chairman**" means the Chairman of the Commission;

"**Commission**" means the National Land Use Planning Commission established under [section 3](#);

"**Director-General**" means the Director-General of the Commission appointed under [section 7](#);

"**land use**" means the purpose for which a lot, plot, parcel, or tract of land, building, structure or premises or part of it is used or occupied or is intended to be used or occupied;

"**Land Use Plan**" means a land use plan required under this Act;

"**Minister**" means the Minister responsible for matters relating to land administration.

### Part II – The National Land Use Planning Commission (ss. 3-13)

#### 3. Establishment of the Commission

- (1) There is hereby established a Commission which shall be known as the National Land Use Planning Commission.
- (2) The Commission shall be a body corporate and shall—
  - (a) have perpetual succession and an official seal;
  - (b) in its corporate name, be capable of suing and being sued;

- (c) subject to this Act, be capable of holding, purchasing or acquiring in any other way, any movable or immovable property and of disposing any of its property for the purpose of carrying out the functions conferred on the Commission by this Act.
- (3) The provisions of the Schedule to this Act shall have effect as to the constitution and the procedure of the Commission and to other matters in relation to it.
- (4) Save for the provisions relating to the appointment of the Chairman, the Minister may, by order published in the *Gazette* amend, add to, vary, revoke or replace any of the provisions of the Schedule.
- (5) The Commission may, with the approval of the Minister, co-opt any additional members for a specified meeting or other purpose but no co-opted member shall have the right to vote.

#### 4. Functions of the Commission

- (1) The Commission shall be the principal advisory organ of the Government on all matters related to land use and, for that purpose, shall—
  - (a) formulate policy on land use planning and recommend its implementation by the Government;
  - (b) co-ordinate the activities of all bodies concerned with land use planning matters and serve as a channel of communication between these bodies and the Government;
  - (c) evaluate existing and proposed policies and the activities of the Government directed to the safe-guarding of land against its wrongful, wasteful or premature use of development and, on the basis of that, recommend to the Government policies and programmes which will achieve more effective protection and enhancement of the land quality and encourage better land use planning;
  - (d) recommend measures to ensure that Government policies including those for the development and conservation of land take adequate account of its effects on land use;
  - (e) stimulate public and private participation in programmes and activities related to land use planning for the national beneficial use of the land;
  - (f) foster co-operation between the Government, local government authorities and other bodies of persons engaged in land use planning programmes;
  - (g) seek the advancement of scientific knowledge of changes in land use and encourage the development of technology to prevent or minimise adverse effects that endangers man's health or welfare;
  - (h) specify standards, norms and criteria for the protection of beneficial uses and the maintenance of the quality of the land;
  - (i) establish and operate a system of documentation and dissemination of information relating to land use planning;
  - (j) examine existing laws, and where appropriate formulate proposals for legislation in the area of land use planning issues and recommend their implementation by the Government;
  - (k) establish and maintain liaison with other countries and international organisations with respect to issues and matters relating to land use planning;
  - (l) establish and maintain liaison with the Land Advisory Committees in the Districts and Regions with respect to issues and matters related to land use planning so as to ensure that national and local interests in land use are taken into consideration;
  - (m) prepare Regional Physical Plans and ensure their implementation by the regions;

- (n) undertake and promote general educational programmes in land use planning for the purpose of creating an enlightened public opinion regarding the land and the role of the public in its protection and improvement;
  - (o) perform all other functions which the Minister may assign to the Commission, or which are incidental or conducive to the exercise by the Commission of all or any of the preceding functions.
- (2) For the purposes of the better performance of its functions, the Commission shall establish and maintain a system of collaboration, consultation and co-operation with any person or body of persons within or outside Tanzania, established by or under any written law and having functions related to those specified in subsection (1) or which relate to land use planning matters generally.
- (3) Any person who, without reasonable excuse, hinders or obstructs the Commission or an authorised officer in carrying out any functions under subsections (1) and (2) or under [section 8](#), commits an offence and liable on conviction to a fine not exceeding 5,000/- shillings or to imprisonment for a term not exceeding twelve months, or to both such fine and imprisonment.

## 5. General powers of the Commission

The Commission may, for the purpose of carrying out its functions under this Act, do all acts which appear to it to be requisite, advantageous or convenient for or in connection with the carrying out of those functions or to be incidental to their proper performance and may carry on any activities in that behalf either alone or in association with any other person or body of persons.

## 6. District and Regional Advisory Committees

- (1) In discharging its duties, the Commission shall work through the Land Advisory Committees established in the districts and regions for the over all supervision of all activities pertaining to Land Use in the respective Districts and Regions. The Commission shall have power to issue orders, directions, notices or other documents to the District and Regional Land Advisory Committees and all such orders, directions and notices shall be binding.
- (2) The Minister may make rules prescribing the procedure for the implementation by the committees of the orders, directions and other matters, issued by the Commission.

## 7. Director-General of the Commission

- (1) There shall be a Director-General of the Commission who shall be appointed by the President on terms and conditions which the President determines and who shall also act as Secretary to the Commission.
- (2) The Director-General shall be the Chief Executive Officer of the Commission and shall, subject to the provisions of this Act and any directions which may be given to him by the Minister or the Commission, be responsible for the implementation of all decisions of the Commission and for carrying out all the day to day activities of the Commission.

## 8. Duties of the Director-General

Without prejudice to the generality of subsection (2) of [section 7](#), it shall be the duty of the Director-General, under the direction of the Commission—

- (a) to consider means and initiate steps in the safe-guarding of land against its wrongful, wasteful or premature use or development;
- (b) to carry out investigations into the problems of land use and land use planning;
- (c) to obtain the advice of persons having special knowledge, experience, or responsibility in regard to land use and land use planning;

- (d) to keep under review the progress made in the attainment of the objects and purposes of this Act and to publish reports and provide information for the purpose of enhancing public awareness of the progress and of the problems and remedies that exist in relation to land use and land use planning;
- (e) to promote, encourage, co-ordinate and carry out short-term and long-term planning and projects in land use together with or separate from other public bodies and other organs;
- (f) generally, to administer and give effect to the provisions of this Act and to carry out other functions which may be prescribed by the Commission.

## **9. The staff of the Commission**

- (1) The Commission may appoint on terms and conditions which it determines any number of persons to serve as officers of the Commission as it may consider appropriate or necessary for the performance of the functions of the Commission.
- (2) The Commission may engage, either temporarily or on the terms which it may think fit, persons who are experts in matters related to land use planning and regional physical planning.

## **10. Delegation of powers of appointment**

The Commission may, subject to any conditions which it may impose, delegate to any person or body of persons the powers of appointment to any officer or offices on the Commission.

## **11. Committees**

- (1) Subject to the approval of the Minister, the Commission may, from time to time establish committees which it considers necessary for the purpose of facilitating the carrying out of the objectives of the Commission.
- (2) The Commission shall prescribe the composition, powers, duties and procedures of all the committees and subject to the provisions of this Act may delegate to any committee any of its powers or functions.
- (3) The Commission may appoint on any committee established under this section any person notwithstanding that that person is not a member of the Commission but any person so appointed shall have no power to vote:

Provided that in no case shall the number of members of any committee who are not also members of the Commission exceed one third of the total number of the members of the Committee.

## **12. Commission may call for information**

- (1) The Commission may require in writing any person or body of persons engaged in research, or engaged in an activity affecting or relating to land use within Tanzania, to furnish to it any information related to that research or activity which the Commission may specify.
- (2) Every person or body of persons which is required to furnish information under subsection (1) shall comply with the requirement and any person or body of persons which refuses or fails to comply with that requirement commits an offence and upon conviction is liable to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding six months or to both the fine and imprisonment.

## **13. Minister may give directions**

The Minister may give to the Commission directions of a general or specific character regarding the performance by the Commission of any of its functions under this Act, and the Commission shall give effect to every direction given to it.

### Part III – Financial provisions (ss. 14-18)

#### 14. Funds of the Commission

- (1) The funds and resources of the Commission shall consists of—
  - (a) any sums which may be provided by Parliament for the purposes of the Commission;
  - (b) any donations, grants, bequests and loans which the Commission may from time to time, receive from any person or organisation.
- (2) The funds and resources of the Commission shall be applied for the purposes for which the Commission is established under this Act.

#### 15. Power of Minister to impose duty

- (1) If the Minister considers it necessary in the public interest he may after consultation with the Minister for the time being responsible for finance, by order published in the *Gazette*, impose a duty payable to the Commission by any person or body of persons benefiting from the activities of the Commission or whose activities affect the activities of the Commission and every person or body of persons specified in the Order, shall take all necessary measures to pay to the Commission the amount of duty and in the manner which is specified in the order.
- (2) Every amount of duty required to be paid under subsection (1) shall be paid by the specified person or body of persons, and the amount so payable shall be a debt due to the Commission and may be recovered from the specified person or body of persons as a civil debt by a suit at the instance of the Director-General or any person authorised by him in that behalf.
- (3) Where any amount of duty is due from any specified person or body of persons, the Director-General may file in a court of a Resident Magistrate having jurisdiction over the area in which the specified person or body of persons carries on business, a certificate stating—
  - (a) the name and address of the specified person or body of persons from whom the amount is due; and
  - (b) the amount due,and upon the certificate being lodged in court the certificate shall be deemed to be a plaint duly lodged under Order XXXV of the Civil Procedure Code<sup>1</sup>, and the court shall proceed in the matter in accordance with the provisions of that Order, and in the event of judgment being given in favour of the plaintiff the court shall pass a decree for payment by the defendant to the Commission of the amount found due together with interest on that amount found due at five *per centum* per month from the date on which the certificate was filed until payment.
- (4) The provisions of subsection (3) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a court of a Resident Magistrate.
- (5) Every certificate filed in a court of a Resident Magistrate pursuant to the provisions of subsection (3) shall, unless the contrary is proved, be conclusive evidence of the truth of the statements contained in that certificate.

#### 16. Commission may charge fees

For the purpose of the better and proper performance of its functions, the Commission may, subject to any directions which the Minister may give in that behalf, charge fees for any services rendered by it or by any of its committees.

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## 17. Annual estimates

- (1) The Director-General shall, in respect of each financial year, cause to be prepared estimates of the expenditure and revenue of the Commission and those estimates shall be approved by the Commission before the commencement of the relevant financial year.
- (2) If in any financial year the Commission requires to make any disbursement not provided for or of any amount in excess of the amount provided for in the annual budget for that year, the Commission shall, at a meeting pass a supplementary budget detailing, that disbursement.
- (3) The annual budget and every supplementary budget shall be in the form and include any details which the Minister may direct.
- (4) Forthwith upon passing the annual budget or any supplementary budget the Commission shall submit to the Minister for his approval that annual budget or that supplementary budget.
- (5) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove or may approve it subject to any amendment which he may deem fit.
- (6) Where the Minister has approved any annual budget or any supplementary budget, the budget or, as the case may be, the supplementary budget shall be binding on the Council which, subject to subsection (7), shall confine the disbursements of the Commission within the items and amounts contained in the applicable estimates as approved by the Minister.
- (7) The Commission may—
  - (a) with the sanction in writing of the Minister, make a disbursement notwithstanding that the disbursement is not provided for in any budget;
  - (b) 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 the alteration of expenditure limits becoming necessary.

## 18. Accounts and audit

- (1) The Commission 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 Commission;
  - (b) the assets and liabilities of the Commission, and shall cause to be made out for every financial year a balance sheet showing details of the income and expenditure of the Commission and all its assets and liabilities.
- (2) As soon as possible after the close of every financial year a balance sheet showing details of the income and expenditure of the Commission in respect of that financial year shall be submitted for audit by the Tanzania Audit Corporation.
- (3) Every audited balance sheet shall be placed before a meeting of the Commission which, if it adopts it shall endorse the balance sheet with a certificate that it has been so adopted.
- (4) As soon as the accounts of the Commission have been audited, and in any case not later than eight months after the close of the financial year, the Commission shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report made by the Auditors on the statement of accounts which he shall then submit before the National Assembly.



## Schedule (Section 3(2))

### 1. Composition of the Commission

The Commission shall consist of—

- (a) a Chairman, who shall be appointed by the President;
- (b) not less than nine nor more than thirteen other members appointed by the Minister from among persons who in his opinion have the necessary experience or qualification to enable them to make useful contribution to the realisation of the objectives, and to the deliberations, of the Commission.

### 2. Vice-Chairman

The members shall elect one of their number to be the Vice-Chairman of the Commission, and any member elected as Vice-Chairman shall, subject to his continuing to be a member hold office for a term of one year from the date of his election, and shall be eligible for re-election.

### 3. Tenure of appointment

- (1) A member shall, unless his appointment is sooner terminated by the President or as the case may be, by the Minister or he ceases in any other way to be a member hold office for the period specified by the President, in the case of the Chairman, or by the Minister in the case of any other member, in the instrument of his appointment or if no period is so specified, for a period of three years from the date of his appointment and shall be eligible for re-appointment.
- (2) Any member appointed under paragraph 1 (a) or (b) may at any time resign his office by giving notice in writing to the President or, as the case may be, to the Minister and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the President or the Minister, he shall cease to be a member.
- (3) If a member of the Commission who is a member by virtue of his holding some other office is unable for any reason to attend any meeting he may nominate in writing another person from his ministry or organisation to attend that meeting in his place.

### 4. Temporary membership

Where any member ceases to be a member for any reason before the expiration of his term of office, the appointing authority may appoint another in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

### 5. Presiding at meetings

- (1) The Chairman shall preside at all meetings of the Commission.
- (2) Where at any meeting of the Commission the Chairman is absent the Vice-Chairman shall preside.
- (3) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Commission, the members present shall elect one of their number, to preside at that meeting.
- (4) The Chairman, Vice-Chairman or a person presiding at any meeting of the Commission shall, in the event of an equality of votes, have a casting vote in addition to his deliberative vote.

### 6. Meetings and procedure at meetings of the Commission

- (1) The Commission shall ordinarily meet for the transaction of business not less than twice during every year and at any additional times which may be fixed by the Chairman or, if he is absent from the United Republic or unable for any reason to act, the Vice-Chairman.
- (2) The Chairman or, in his absence from the United Republic, the Vice-Chairman may, and upon application in writing by not less than half of the members shall, convene a special meeting of the Commission at any time.

- (3) The Secretary of the Commission shall give to each member adequate notice of the time and place of each meeting.
- (4) The Commission may invite any person who is not a member to participate in the deliberations of any meeting of the Commission, but any person so invited shall not be entitled to vote.

**7. Quorum**

At any meeting of the Commission not less than one half of the members in office for the time being shall constitute a quorum.

**8. Decisions of the Commission**

- (1) Subject to the provisions relating to a casting vote, all questions at a meeting of the Commission shall be determined by a majority of the votes of the members present.
- (2) Notwithstanding subparagraph (1), a decision may be made by the Commission without a meeting by circulation of the relevant papers among the members, and the expression in writing of the views of the majority of the members.

**9. Minutes of meetings**

- (1) The Commission shall cause to be recorded and kept minutes of all business conducted or transacted at its meeting and the minutes of each meeting of the Commission shall be read and confirmed or amended and confirmed, at the next meeting of the Commission and signed by the person presiding at the meeting.
- (2) Any minutes purporting to be signed by the person presiding at a meeting of the Commission shall in the absence of proof or error, be deemed to be a correct record of the meeting whose minutes they purport to be.

**10. Vacancies, etc., not to invalidate acts**

The validity of any act or proceeding of the Commission shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

**11. Orders and directions**

All orders, directions, notices or other documents made or issued on behalf of the Commission shall be signed by—

- (a) the Chairman of the Commission; or
- (b) the Secretary or any officer or officers of the Commission authorised in writing in that behalf by the Secretary.

**12. Seal of the Commission**

The seal of the Commission shall not be affixed to any instrument except in the presence of the Chairman or the Secretary or some other officer of the Commission and at least one member of the Commission.

**13. Commission may regulate its own proceedings**

Subject to the provisions of this Schedule, the Commission may regulate its own proceedings.