

Tanzania

Tanganyika Higher Education Trust Fund Act Chapter 313

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Tanzania

Tanganyika Higher Education Trust Fund Act

Chapter 313

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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.]

[R.L. [Cap. 369](#); Ords. Nos. 2 of 1956; 35 of 1957; Acts Nos. 24 of 1963; 1 of 1968]

An Act to establish a trust fund to provide for higher education and for the management of such fund and for related matters.

1. Short title

This Act may be cited as the Tanganyika Higher Education Trust Fund Act.

2. Interpretation

In this Act, unless the context requires otherwise—

"**Board**" means the Tanganyika Higher Education Trust Fund Board of Trustees established under section [3](#);

"**chairman**" means the chairman of the Board appointed under the provisions of section [4](#) and includes the deputy chairman;

"**Fund**" means the Tanganyika Higher Education Trust Fund established under section [11](#);

"**higher education**" means education normally provided by a university, university college, technical college, or other educational institution providing facilities for higher academic, scientific, technological, professional or vocational training, or research;

"**member**" means a member of the Board appointed under section [4](#) and includes a temporary member appointed under section [6](#);

"**property**" means property of every description, movable or immovable;

"**secretary**" means the secretary of the Board appointed under section [9](#);

"**treasurer**" means a person appointed as treasurer of the Board under section [9](#).

3. Establishment of Board of Trustees

There shall be established a Board of Trustees to be known as the Tanganyika Higher Education Trust Fund Board of Trustees which shall—

- (a) be a body corporate with perpetual succession and a common seal;
- (b) in its corporate name be capable of suing and being sued;
- (c) be capable of holding, acquiring and disposing of property; and

- (d) subject to the provisions of this Act, have power to do anything and enter into any transaction (whether or not involving expenditure or lending or investment of money) which in its opinion is calculated to facilitate the discharge of its functions or is incidental or conducive to it.

4. Constitution of Board

- (1) The Board shall consist of not less than six members, of whom at least three shall be persons not holding public office to be appointed from time to time by the President.
- (2) The President may appoint from amongst the members a chairman and a deputy chairman of the Board.
- (3) The Chairman and two other members shall constitute a quorum.

5. Tenure and vacation of office

- (1) The members shall hold office during the President's pleasure and for a period of two years.
- (2) A member may resign from the Board by giving three months' notice in writing to the President or any less period as the President may in any particular case permit.

6. Power to appoint temporary members

If during any period any member is unable owing to his absence from the United Republic or to illness or to any other cause to perform his duties the President may appoint a temporary member to perform the duties of that member for the period during which he is so disabled.

7. Vacancy among members not to invalidate proceedings

The validity of the proceedings and acts of the Board shall not be affected by any vacancy amongst its members or by any defect in the appointment of a member.

8. Procedure

- (1) Subject to the provisions of any regulations made under this Act, the Board may regulate its own proceedings and shall meet as often as occasion may require.
- (2) At all proceedings of the Board the Chairman shall preside and shall have a deliberative vote and in addition, in the event of an equality of votes, a casting vote.
- (3) All questions coming or arising before any meeting of the Board shall be decided by a majority of the members present and voting at the meeting.
- (4) All orders, directions, instruments, receipts and other documents of the Board shall be made or given under the hand of the Chairman, the secretary or the treasurer.

9. Appointment of Secretary and other staff to the Board and emoluments

- (1) The Board may appoint a secretary and other staff who may from time to time appear necessary for the discharge of its functions.
- (2) A person may be appointed as secretary or to the staff of the Board notwithstanding that he holds an office of emolument under the Government.
- (3) The Board shall pay to the members any allowances (if any) and to the secretary and staff any emoluments (if any) which the Board may determine.

10. No personal liability to attach to members

No personal liability shall attach to any member in respect of anything done or suffered in good faith and without negligence under the provisions of this Act.

11. Establishment of Fund

- (1) There shall be established a fund to be known as the Tanganyika Higher Education Trust Fund which shall be vested in the Board on trust for the purposes set out in section 12 and, subject to the provisions of this Act, shall be under the management and control of the Board.
- (2) The Fund shall consist of—
 - (a) the sum of five hundred and ninety million shillings, two hundred thousand one hundred and thirty to be paid by the Government from monies appropriated for the purpose;
 - (b) all monies received by the Board pursuant to section 13;
 - (c) the proceeds of the sale of any property received by the Board pursuant to section 13;
 - (d) the proceeds of the sale by the Board of any investments pursuant to section 15;
 - (e) all monies raised by the Board pursuant to section 21; and
 - (f) all monies accruing to the Board by way of rents, profits, interest and dividends pursuant to section 24.

12. Object of Fund

The objects and purposes to which the Fund shall be devoted are as follows—

- (a) the erection of an institution or institutions for higher education in Tanzania, the acquisition of land and the provisions of amenities normally incidental to those purposes;
- (b) the provisions of funds for the maintenance, extension and administration of such institution or institutions and the amenities incidental to the purposes;
- (c) the establishment of an endowment fund or endowment funds for purposes connected with those institutions;
- (d) the provision of scholarships, bursaries and other similar facilities for higher education whether within or outside Tanzania.
- (e) the provisions of other facilities in the Mainland Tanzania for higher education for the inhabitants of Tanzania:

Provided that where the donor of any gift or legacy expressly provides that the whole or any part of such gift or legacy may be applied outside Mainland Tanzania for any object or purpose corresponding to any object or purpose hereinbefore set out, then that part of the Fund referable to such gift or legacy, or part of it, as the case may be, may be applied accordingly.

13. Power of Board to receive gifts

- (1) The Board may receive property by way of gift or legacy on trust for any one or more of the objects and purposes set out in section 12.
- (2) All monies received pursuant to subsection (1) of this section shall be paid into the Fund.
- (3) Subject to the provisions of subsections (4), (5) and (6) of this section, the Board shall sell all property received pursuant to subsection (1) of this section and shall pay the proceeds of it into the Fund.

- (4) The Board may in its discretion retain any article received pursuant to subsection (1) of this section which in its opinion is of archaeological, geographical, anthropological, ethnological, prehistorical, historical, artistic or scientific value or interest and may take any steps which are necessary for the preservation and safe custody of those articles.
- (5) The Board may not make any disposition of any land received from the Government pursuant to subsection (1) of this section and section 23 otherwise than in the manner provided by section 17.
- (6) Any land and any investments of the kind in which the Board is authorised to invest under the provisions of this Act received by the Board pursuant to subsection (1) of this section may, in the discretion of the Board, be retained.
- (7) Any land, investments or other property retained pursuant to subsections (4), (5) and (6) of this section shall, for the purposes of this Act, be deemed to have been purchased from the Fund.
- (8) The disposition of any article retained by the Board pursuant to the provisions of subsection (4) of this section shall be in the discretion of the Board having regard to the objects set out in section 12 and the conditions on which that article was given to the Board.

14. Restriction on acceptance of property

- (1) The Board may decline to accept any property or may accept the same subject to any conditions which it may deem fit.
- (2) The Board shall not accept any property which involves the management or carrying on of any business:

Provided that nothing in this section shall preclude the Board from managing or accepting any land or interest in it.

15. Power to invest

- (1) The Board may invest any monies in the Fund—
 - (a) in any securities in which trustees are for the time being authorised by law to invest trust funds;
 - (b) in any securities the interest on which is for the time being guaranteed by the Government of the United Republic, or the Government of Kenya, or the Government of Uganda, or the Government of any other country;
 - (c) by way of first mortgage on immovable property in Mainland Tanzania up to an amount not exceeding three-fifths of its value and provided that, in the case of a lease or right of occupancy, not less than forty years of the term remains unexpired at the time of the investment;
 - (d) by way of purchase of immovable property situate in Tanzania;
 - (e) by way of fixed deposit at a bank approved by the Minister responsible for finance; and
 - (f) in any other securities (whether similar to the preceding or not) which the Minister responsible for finance may from time to time authorise in writing,and may also from time to time vary, withdraw or realise those investments.
- (2) The power conferred by subsection (1) of this section shall be exercised according to the discretion of the Board.

16. Power to retain investment which has ceased to be authorised

The Board may in its discretion continue to hold an investment which has for any reason ceased to be an investment authorised under section 15.

17. Power to manage land

The Board may lease (including the creation of sub-rights of occupancy) and make any other disposition over land retained pursuant to subsections (5) and (6) of section 3 or purchased under section 15 on any terms and conditions which it may consider appropriate, and may otherwise manage that land in any manner which it deems fit:

Provided that in the case of land granted to the Board by the President under the provisions of section 23 no disposition (except by way of a scheme pursuant to section 19) may be made over in favour of any person other than the President without the prior consent in writing of the President and any consent may only be given by the President to a disposition which, if that land had been public land, could be made over by the President under the provisions of the Land Act (other than section 20); and upon the making of that disposition, if the term created thereby exceeds a period of thirty-three years, then the whole of the reversionary interest (if any) in that land shall immediately vest in the President without compensation and without further assurance.

18. Board to give effect to donor's instructions

- (1) If the donor of any gift or legacy attaches to such gift or legacy any conditions (not inconsistent with the provisions of this Act) as to its operation as a memorial, scholarship or bursary fund, or its application for the construction of buildings, the provisions of specified amenities and facilities incident to an institution for higher education or for other purposes similar to or incidental to the foregoing, and the Board accepts the gift or legacy, then the Board shall, subject to the provisions of subsection (2) of this section, give effect to any of those conditions.
- (2) If at any time it appears to the Board to be impracticable to give effect to any conditions attached to any gift or legacy, the Board may, after consulting the donor or his legal personal representative (if it is reasonably possible so to consult the donor or his legal personal representative), vary the conditions in any manner which may appear to the Board best calculated to give effect to the intentions of the donor.

19. Board to prepare schemes

- (1) For the purpose of giving effect to the objects and purposes set out in section 12, the Board shall from time to time prepare a scheme for the distribution of that part of the Fund and other property held on trust by the Board which it shall deem fit to appropriate for the purpose of the scheme.
- (2) Any such scheme may make provision—
 - (a) for the manner in which the monies and other property held on trust by the Board are to be applied;
 - (b) for the creation of trusts;
 - (c) for limiting the class of persons or institutions to be benefited and prescribing the conditions for them;
 - (d) for the method of selecting persons and institutions to be benefited including open or restricted competition, qualifying standards, selection boards and any other method which in the opinion of the Board is best calculated to give effect to the purposes and provisions of this Act or the conditions attached to a gift or legacy;
 - (e) for the constitution, procedure and terms of reference of selection boards or other persons charged with selecting persons or institutions to be benefited;
 - (f) requiring acts or things to be performed or done to the satisfaction of a prescribed person;
 - (g) for the management and administration of the scheme and the date on which the whole or any part of the scheme shall take effect; and

- (h) generally to give effect to the objects and purposes of this Act.

20. Scheme to be submitted to President for approval

- (1) Every scheme prepared pursuant to the provisions of section 19 shall be submitted for approval to the President and the President may, with or without modification, approve any scheme so submitted or reject the same or order that a further scheme shall be submitted in its stead.
- (2) If the President approves any scheme under the provisions of subsection (1) of this section the Board shall, by notice in the *Gazette*, publish that scheme with any modifications made by the President.
- (3) A scheme shall take effect on the date or dates specified in it and shall be given effect to and administered as provided in it and, subject to the terms of that scheme, upon the appropriation of monies comprised in the scheme in the manner provided in it, the obligations and duties of the Board in relation to the monies under this Act shall be discharged.

21. Power to organise the raising of funds

- (1) The Board may promote, organise and undertake the raising of funds in any manner commonly employed for the raising of funds for charitable, religious or educational purposes.
- (2) All monies raised pursuant to the provisions of subsection (1) of this section shall, after the expenses incurred in the raising of it have been met, be paid into the Fund.

22. Land required by Board to be deemed public purpose

Notwithstanding anything contained in section 2 of the Land Acquisition Act ¹ or section 49 of the Land Act ², but without prejudice to their provisions, any land required by the Government for the purpose of vesting the same in the Board under this Act in order that the land so vested shall be used as a site for the erection of an institution for higher education or for the provision of amenities or facilities incident to that institution shall be deemed to be land required for a public purpose within the meaning of those provisions.

23. Power to make grants of public land

Notwithstanding anything contained in the Land Act ³, the President may make grants to the Board of public land for any estate which he may deem fit.

24. Expenses to be met from rents, interest, etc.

- (1) The rents, profits, interest and dividends received by the Board from land and investments pursuant to the provisions of this Act shall be applied by the Board to the payment of the expenses incurred by the Board under the provisions of this Act and to the maintenance and management of that land and investments; and any balance in hand at the end of any financial year of the Board shall be paid into the Fund.

1

[Cap. 118](#)

2

[Cap. 113](#)

3

[Cap. 113](#)

- (2) Where in any financial year the expenses incurred by the Board in carrying out its functions under this Act exceed the income of the Board derived from rents, profits, dividends and interest the excess shall be met from the fund.

25. Accounts and audit

- (1) The Board shall keep proper accounts and other records in relation to it and shall prepare in respect of each financial year of the Board a statement of account in such form as the President may direct.
- (2) The accounts of the Board shall be audited annually by the Tanzania Audit Corporation.

26. Report of the Board

The Board shall as soon as possible after the end of each financial year of the board prepare a full report on the performance by it of its functions during that financial year and one copy of that report together with a copy of the audited accounts shall be laid before the National Assembly.

27. Representation by Attorney-General

In any proceedings brought by or against the Board, the Attorney-General or his representative may intervene or represent the Board.

28. Exemption from stamp duty

No stamp duty shall be chargeable under the Stamp Duty Act ⁴ in respect of any instrument (within the meaning of that Act) executed by, or on behalf of, or in favour of, the Board in cases where, but for this exemption, the Board would be liable to pay the stamp duty chargeable in respect of that instrument.

29. Winding up of Fund and expiration

- (1) On a date to be appointed by the President by notice in the *Gazette*, the Fund and other assets vested in the Board shall be wound up by the Board in any manner which may be prescribed by regulations under this Act and the proceeds thereof distributed in the manner which may be prescribed by regulations under this Act.
- (2) Upon the winding up of the fund, the President shall by notice in the *Gazette* declare the Fund to be wound up and thereupon this Act shall expire without prejudice to anything done or suffered under it.

30. Regulations

The President may make regulations for the better carrying out of the purposes and provisions of this Act and, in particular, but without prejudice to the generality of the foregoing, may make regulations regulating the proceedings of the Board, the proof of documents purporting to be executed, issued or signed by the chairman or secretary, or treasurer, the preparation of schemes, the winding-up of the fund and other assets vested in the Board and the distribution of the proceeds thereof.

31. Reservation to the Republic

Nothing in this Act shall affect or be deemed to affect the rights of the United Republic, or of any bodies politic or corporate or other person or persons except such as are mentioned or referred to in this Act, and those claiming by, from, through or under them.