

Tanzania

## Ardhi Institute Act Chapter 122

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# Tanzania

## Ardhi Institute Act

### Chapter 122

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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.]

[G.N. No. 30 of 1975; Act No. 35 of 1974]

**An Act to establish Ardhi Institute and to provide for the functions, management and control of the Institute and for connected matters.**

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

##### 1. Short title

This Act may be cited as the Ardhi Institute Act.

##### 2. Interpretation

In this Act unless the context requires otherwise—

"**Council**" means the Council of the Institute established under [section 6](#);

"**decree**" means a decree promulgated by the Council under [section 8](#);

"**Examination Board**" means an Examination Board of the Institute established under [section 7](#);

"**financial year**" in relation to the Institute includes the Institute's first accounting period, whether shorter or longer than a year and if the Institute changes its accounting period, the period, whether shorter or longer than a year, employed to give effect to the change;

"**Institute**" means the Ardhi Institute established by [section 3](#);

"**member**" in relation to the Council, includes the Chairman of the Council;

"**Minister**" means the Minister responsible for Lands;

"**Principal**" means the Principal appointed under [section 9](#).

#### Part II – The Ardhi Institute (ss. 3-8)

##### 3. Establishment of Institute

- (1) There is established an Institute which shall be known as Ardhi Institute—
- (2) The Institute shall be a body corporate and 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 and of alienating, any movable or immovable property;
- (d) subject to the provisions of this Act, have power from time to time to borrow such sums of money as it may require for its purposes.

#### 4. Departments

- (1) The Institute shall consist of the Department of Land Surveying, Department of Urban and Regional Planning, Department of Estate Management and Valuation, Department of Design, Building Construction and Housing Management and any other Departments which the Council may, with the consent of the Minister, establish.
- (2) The Council may, with the consent of the Minister, disestablish any Department or merge any two or more Departments.

#### 5. Functions of Institute

The functions of the Institute shall be—

- (a) to provide facilities for the study of, and training in, the principles, procedures and techniques of land surveying, physical planning, estate management and valuation, design, building construction, and housing management and any other relate subjects as the Council may decide;
- (b) to conduct training programmes in the subjects specified in paragraph (a) and in any other associated subjects as the Council may decide;
- (c) to engage in research into theoretical, operational and organisational problems and training needs in the subjects specified in paragraph (a) and to evaluate the results achieved by the Institute's training programmes;
- (d) to provide consultancy services to the Government, parastatal bodies and such other bodies or organisations as may be designated by the Minister;
- (e) to sponsor, arrange or provide facilities for conferences and seminars;
- (f) to establish departments, within the Institute for the organisation and administration of its work and activities;
- (g) to conduct professional examinations and to grant professional diplomas, certificates of different types and other awards of the Institute;
- (h) to do all their acts and things, and enter into all contracts and transactions, which are, in the opinion of the Council, expedient or necessary for the proper and efficient discharge of the functions of the Institute;
- (i) to arrange for the publication and general dissemination of materials produced in connection with the work and activities of the Institute;
- (j) to establish and foster closer association with the University of Dar-es-Salaam, the technical colleges and other institutions of higher learning.

#### 6. Council

- (1) There shall be a Council of the Institute.
- (2) The provisions of the Schedule to this Act shall have effect as to the composition of the Council, tenure of office of the members, termination of their appointments, the proceedings of the Council and other matters in relation to the Council and its members as are provided in it.

## 7. Powers and duties of Council

- (1) Subject to the provisions of this Act, government and control of the Institute shall be vested in the Council.
- (2) In particular and without prejudice to the generality of subsection (1) the Council shall have power—
  - (a) to administer the properties of the Institute, both movable and immovable;
  - (b) to administer the funds and other assets of the Institute;
  - (c) to signify the acts of the Institute by use of the common seal;
  - (d) on behalf of the Institute to receive gifts, donations, grants or other moneys;
  - (e) subject to the provisions of this Act, to appoint any officers of the Institute whom it considers necessary;
  - (f) to establish Examinations Boards for the conduct of examination and any other boards and committees which the Council may deem fit and delegate to any of them any of its functions under this Act;
  - (g) to do all other acts and things which may be provided for in this Act or as may, in the opinion of the Council, be necessary or expedient for the proper discharge of its functions.
- (3) The Council shall manage all the assets and properties movable and immovable, of the Institute, in the manner and for the purposes which in the opinion of the Council would promote the best interests of the Institute.

## 8. Decrees

- (1) The Council may promulgate decrees—
  - (a) prescribing enrolment fees and other charges;
  - (b) subject to regulations made under this Act, prescribing the terms and conditions of service, including the appointment, dismissal, salary and retirement benefits of the members of the staff of the Institute.
- (2) The Council may, after consultation with the appropriate Examination Board, promulgate decrees relating generally to the academic management of the Institute and in particular to—
  - (a) the qualifications necessary for entry to the Institute, the courses of instruction to be provided by the Institute, the duration and number of academic terms, and the award of diplomas, certificates and any other awards of the Institute;
  - (b) the grant of scholarships and studentships, and the revocation of any grant.
- (3) The Council may promulgate decrees regulating discipline among the members of the staff of the Institute and the students.
- (4) It shall not be necessary for the Council to publish in the *Gazette* any decree promulgated by it under this section:

Provided that where any such decree is not so published, the Council shall, in manner which it determines, bring or cause it to be brought to the notice of any person who is or is likely to be affected by it.

### Part III – Officers of the Institute (ss. 9-11)

#### 9. Principal and Vice-Principal

- (1) The Council shall appoint a suitable person to be the Principal of the Institute.
- (2) The Principal shall be the Chief Administrative and Academic Officer of the Institute and shall be responsible to the Council—
  - (a) for the proper administration of the Institute in accordance with the policy laid down by the Council;
  - (b) for the academic management of the Institute in accordance with the policy laid down by the Council;
  - (c) for the proper enforcement of decrees and by-laws made by the Council.
- (3) Notwithstanding any other provision of this Act, the appointment of the Principal and terms and conditions of his service shall be subject to the approval of the Minister.
- (4) The Council may appoint on the terms and conditions of service as it may determine, a Principal of the Institute.
- (5) The Principal or in his absence the Vice-Principal shall be entitled to be present and to speak at any meeting of the Council but shall not be entitled to vote unless he is a member thereof.
- (6) The functions of the Vice-Principal shall be generally to assist the Principal and in the event of the Principal being unable to perform his functions by reason of illness, infirmity, absence from the United Republic or otherwise, to act in the office of the Principal and perform the functions of that office.

#### 10. Secretary

- (1) The Council may appoint a suitable person to be the Secretary of the Institute.
- (2) The Secretary shall attend the meeting of the Council, but shall not, save where he is also a member of the Council be entitled to participate in the deliberations of the Council.

#### 11. Staff

- (1) The administrative staff and the academic members of the Institute shall, subject to the provisions of section 21, be appointed by the Council.
- (2) The Council may, subject to any condition and restrictions which it may impose, delegate to any person or body of persons, the powers of appointment of any members of the administrative or the academic staff of the Institute.

### Part IV – Financial provisions (ss. 12-18)

#### 12. Funds of the Institute

The funds and resources of the Institute shall consist of—

- (a) any moneys which may be provided for the purposes of the Institute by Parliament;
- (b) any funds or assets which may vest in or accrue to the Institute from other sources by way of fees, gifts, grants or otherwise;

- (c) any sums which the Council may, subject to the provisions of [section 13](#), borrow for the purposes of the Institute;
- (d) any sums which may in any manner become payable to or vested in the Institute either under the provisions of this Act or incidental to the carrying out of its functions, or by way of fees, gifts, grants or otherwise.

### 13. Power to borrow

- (1) With the prior approval of the Minister, the Council may, from time to time borrow moneys for and on behalf of the Institute by way of loan or overdraft, and upon any security and any terms and conditions relating to the repayment of the principal and the payment of the interest which subject to any directions by the Minister, the Council may deem fit.
- (2) A person lending money to the Institute shall not be bound to enquire whether the borrowing of that money by the Council has been approved by the Minister.

### 14. Annual and supplementary budget

- (1) In this Act "financial year" means period not exceeding twelve consecutive months designated in that behalf by the Council:  

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 Council shall at its meeting especially convened for that purpose, pass a detailed budget (in this Act referred to as "the annual budget") of the amounts respectively—
  - (a) expected to be received; and
  - (b) expected to be disbursed,by the Institute during that financial year.
- (3) If in any financial year the Council requires to make any disbursement not provided for or of an amount in excess of the amount provided for, in the annual budget for that year, the Council shall, at a meeting pass a supplementary budget detailing that disbursement.
- (4) The annual budget and every supplementary budget shall be in the form and include the details which the Minister may direct.
- (5) The Council upon passing any annual budget or any supplementary budget, shall submit the same to the Minister for his approval.
- (6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove the same or may approve subject to any amendments which he may deem fit.
- (7) Where the Minister has approved any annual budget or any supplementary budget, the budget or, as the case may be, the supplementary budget, as amended by him, shall be binding on the Council which, subject to the provisions of subsection (8), shall confine the disbursements within the items and the amounts contained in the budget or supplementary budget as approved by the Minister.
- (8) The Council 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) 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 the budget;

- (c) 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 such alteration of expenditure limits becoming necessary.

## 15. Investment

With the prior approval of the Minister, the Council may from time to time, invest any part of the moneys available in any fund in investments authorised by the Trustees Investments Act<sup>1</sup> for the investment of any trust fund.

## 16. Accounts and audit

- (1) The Council shall cause to be provided and kept proper books of account and records with respect of —
  - (a) the receipt and expenditure of moneys by, and other financial transactions of the Institute;
  - (b) the assets and liabilities of the Institute,and shall cause to be made out for every financial year a balance sheet showing details of the income and expenditure of the Institute 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 Institute in respect of that financial year shall be audited by the Tanzania Audit Corporation.
- (3) As soon as the accounts of the Institute have been audited, and in any case not later than six months after the close of any financial year, the Council shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report on it made by the auditors.
- (4) Every audited balance sheet shall be placed before a meeting of the Council and, if adopted by the Council shall be endorsed with a certificate that it has been so adopted.

## 17. Principal's report

The Principal shall, at the end of each financial year, prepare a report on the activities of the Institute during the financial year and submit that report to the Minister.

## 18. Annual statement of the accounts and documents laid before National Assembly

The Minister shall, as soon as may be practicable and not later than twelve months after close of a financial year, lay before the National Assembly in relation to that financial year the following:

- (a) Documents prescribing professional diplomas, and certificates;
- (b) a copy of the auditor's report, if any;
- (c) a copy of the principal's report.

<sup>1</sup>

## Part V – Miscellaneous provisions (ss. 19-23)

### 19. Regulations

- (1) With the consent of the Minister, the Council may make regulations for the better carrying out of the purposes of this Act, and without prejudice to the generality of that power, may make regulations—
  - (a) prescribing professional diplomas, certificates and other awards which may be conferred or granted by the Institute;
  - (b) prescribing the conditions which may be satisfied before any diploma, certificate, or award, may be granted;
  - (c) prescribing the manner in which diplomas, certificates, or other awards may be granted;
  - (d) regulating the conduct of examinations;
  - (e) prescribing fees for admission to the Institute;
  - (f) prescribing fees payable by the candidates for any examination held or conducted by the Institute;
  - (g) providing for and regulating disciplinary proceedings against the staff of the Institute and the students;
  - (h) prescribing anything which may be prescribed under this Act;
  - (i) providing for any matter which, in the opinion of the Council, is necessary to provide for the more efficient performance of the functions of the Institute.
- (2) Regulations made under this section shall be published in the *Gazette*.

### 20. Fees and allowances

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

### 21. Minister may give directions

The Minister may give the Council directions of a general or specific character and the Council shall give effect to every direction.

### 22. Council may make by-laws

- (1) The Council may make by-laws, regulating discipline amongst students and to provide for better government, control and administration of the Institute.
- (2) By-laws made under this section shall not be required to be published in the *Gazette*.

### 23. Protection of members of Council

- (1) No matter or thing done by or any members officer of the Institute or the Council shall, if done *bona fide* in the execution or purported execution of the functions conferred upon that officer by this Act or by regulations, render that member or officer personally liable for that matter or thing.

- (2) For the avoidance of doubts it is hereby declared that the provisions of this section shall be without prejudice to the provisions of section 284A of the Penal Code<sup>2</sup>, or the provisions of the Public Officers (Recovery of Debts) Act<sup>3</sup>.

## Schedule

### 1. Construction

In this Schedule, unless the context requires otherwise—

"**appointing authority**" in relation to any member means the person or authority, by whom that member was appointed under paragraph 2 and in the case of any member who is a member by virtue of his holding some other office, the Minister shall be deemed to be appointing authority;

"**member**" includes the Chairman.

### 2. Composition of Council

- (1) The Council shall consist of a Chairman who shall be appointed by the President and the following other members:
- (i) the Permanent Secretary responsible for Lands, Housing and Urban Development;
  - (ii) the Permanent Secretary responsible for Civil Service;
  - (iii) the Permanent Secretary responsible for Works;
  - (iv) the Permanent Secretary responsible for Education;
  - (v) the Permanent Secretary responsible for Energy;
  - (vi) the Permanent Secretary responsible for Finance;
  - (vii) the Principal of the Institute;
  - (viii) one member nominated by Trade Union;
  - (ix) one member nominated by the Vice-Chancellor of the University of Dar-es-Salaam; and
  - (x) not more than ten other members appointed by the Minister.
- (2) The Minister may, by order in the *Gazette*, amend or replace subparagraph (1) and may make any consequential amendments to this Schedule which he may consider necessary.

### 3. Tenure of office

Every member shall hold office—

- (a) in the case of a member appointed by an appointing authority, until the appointing authority revokes his appointment and appoints another member in his place;
- (b) in the case of a member who is a member by virtue of his holding some other office, until as he ceases to hold such other office.

2

[Cap. 16](#)

3

[Cap. 76](#)

4. **Absence from three consecutive meetings**

Where any member absents himself from three consecutive meetings of the Council without reasonable excuse the Council shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.

5. **Appointment of temporary member**

Where any member is by reason of infirmity or absence from the United Republic, unable to attend any meeting of the Council the appointing authority may appoint a temporary member in his place and that temporary member shall cease to hold office on the resumption of office of the substantive member.

6. **Vice-Chairman**

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

7. **Power of Chairman and Vice-Chairman**

- (1) The Chairman shall preside at all meetings of the Council.
- (2) Where at any meeting of the Council 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 Council, the members present may, from amongst their number elect a temporary Chairman who shall preside at that meeting.
- (4) The Chairman, Vice-Chairman or a temporary Chairman presiding at any meeting of the Council, shall have a vote and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

8. **Meetings and procedure of Council**

- (1) Subject to any general or specific direction of the Minister the Council shall meet not less than four times during every financial year and at any additional times as 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 at least five members, convene a special meeting of the Council at any time.
- (3) The Secretary of the Council shall give to each member adequate notice of the time and place of meeting.

9. **Quorum**

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

10. **Decisions of Council**

Subject to the provisions relating to a casting vote, all questions at a meeting of the Council shall be determined by a majority of the votes of the members present, and if the Council shall be determined by a majority of the votes of the members present, and any member refuses or fails to vote on any question he shall be deemed to have cast a negative vote.

11. **Decision by circulation of papers**

Notwithstanding the preceding provisions of this Schedule, decisions may be made by the Council without a meeting by circulation of the relevant papers among the members and the expression of the views of the majority in writing:

Provided that any member shall be entitled to require that decision be deferred and the subject matter be considered at a meeting of the Council.

**12. Seal of the Institute**

- (1) The seal of the Institute shall be of such shape, size and form as the Council may determine.
- (2) The seal shall be authenticated by the signature of the Principal, or the Secretary, or any officer of the Institute whom the Principal may nominate in that behalf.

**13. Signification of other documents**

All documents to which the Institute is a party, other than documents required by law to be under seal, and all decisions of the Council, may be signified under the hand of the Principal or the Secretary, or other officer of the Institute authorised in that behalf by the Principal.

**14. Record of proceedings of Council**

- (1) The Council shall cause minutes of all proceedings of meetings of the Council to be entered in a book kept for that purpose.
- (2) Any minutes if purporting to be approved by, and signed by the Chairman of the next succeeding meeting of the Council shall be evidence of the proceedings and, until the contrary is proved, the meeting to which the minutes relate shall be deemed to have been duly convened and all proceedings at it to have been duly transacted.

**15. Proceedings not to be invalid by reason of irregularity**

No act or proceeding of the Council shall be not invalid by reason only of the number of members not being complete at the time of the 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 disentitled to act as such.

**16. Council may regulate its proceedings**

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