

ACT SUPPLEMENT

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THE BANK OF TANZANIA ACT, 2006

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No. 4 OF 2006

I ASSENT

JAKAYA M. KIKWETE

*President*7th June, 2006

An Act to provide for more responsive regulatory role of the Bank of Tanzania in relation to the formulation and implementation of monetary policy; to provide for the supervision of banks and financial institutions and to provide for other related matters.

ENACTED by the Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

1.—(1) This Act may be cited as the Bank of Tanzania Act, 2006.

Short title
and
commence-
ment

(2) This Act shall come into operation on such date as the Minister shall, by notice published in the *Gazette*, appoint.

2. This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar.

Application

3. In this Act, unless the context requires otherwise—

Interepreta-
tion

- “Act” means the Bank of Tanzania Act, 2006;
- “Bank” means the Bank of Tanzania referred to under section 4(1) of this Act;
- “bank” means an entity that is engaged in the banking business;
- “banking business” means the business of receiving funds from the general public through the acceptance of deposits payable upon demand or after a fixed period or after notice, or any similar operation through the frequent sale or placement of bonds, certificates, notes or other securities, and to use such funds, in whole or in part, for loans or investments for the account of and at the risk of the person doing such business;
- “Board” means the Board of Directors of the Bank established by section 9 of the Act;
- “credit reference bureau” means an entity specialized in the collection and sale of credit performance information for individuals and companies;
- “credit reference databank” means a computerized mechanism created by the Bank to receive and supply information to banks, financial institutions, credit reference bureaus and other institutions authorized by the Bank, regarding the credit transactions of customers, including their off-balance sheet operations;
- “clearing system” means a set of procedures whereby banks or financial institutions present and exchange data or documents relating to funds or securities transfer to other financial institutions at a clearing house and includes a mechanism for the calculation of participants’ bilateral or multilateral net positions with a view to facilitating the settlement of their obligations on a net or gross basis;
- “Director” means a member of the Board other than the Governor or the Deputy Governors;
- “Deputy Governor” means a Deputy Governor appointed under section 8(3);
- “ex-officio member” means a member of the Board who attends a meeting by virtue of his position;
- “financial institution” means an entity engaged in the business of banking, but limited as to size, locations served, or permitted activities, as prescribed by the Bank or required by the terms and conditions of its licence;
- “foreign exchange” means currencies and units of accounts other than the currency of the United Republic, and claims in and to such currencies and units of accounts;
- “Government” means the Government of the United Republic;
- “Governments” means the Government of the United Republic and the Revolutionary Government of Zanzibar;
- “Governor” means a Governor of the Bank appointed under section

8(1);

“member” in relation to the Board means a member of the Board of Directors;

“Minister” means, except where otherwise specified, the Minister responsible for financial matters of the United Republic;

“payment system” means a system consisting of a set of instruments, banking procedures and typically, inter-bank funds transfer systems that ensure the circulation of money;

“public authority” means—

- (a) the authority for any political sub-division of the United Republic, including any city, municipal, town or district council; or
- (b) any common services authority of which Tanzania is a member with other countries; or
- (c) any corporation, agency or enterprise specified for the purposes of this Act by the Bank;

“settlement system” means an arrangement established and operated by, or under the control of the Bank for the discharge of payment obligations and settlement obligations between settlement system participants.

PART II

THE BANK

4.—(1) There shall continue to exist a corporation going by the name and style of the Bank of Tanzania.

Establish-
ment of the
Bank

(2) The Bank of Tanzania shall be a body corporate and in its corporate name shall—

- (a) have perpetual succession and a common seal;
- (b) be capable of suing and being sued; and

- (c) subject to the provisions of this Act, be capable of acquiring, holding and alienating any movable or immovable property.

Principal
functions
of the
Bank

5.-(1) The principal functions of the Bank shall be to exercise the functions of a central bank and, without prejudice to the generality of the foregoing, to formulate, implement and be responsible for monetary policy, including exchange rate policy, to issue currency, to regulate and supervise banks and financial institutions including mortgage financing, development financing, lease financing, licencing and revocation of licences and to deal, hold and manage gold and foreign exchange reserves of Tanzania.

(2) The Bank shall compile, analyse, and publish the monetary, financial, balance of payments statistics and other statistics covering various sectors of the national economy.

(3) In the pursuit of its objectives and performance of its tasks, the Bank shall be autonomous and accountable as provided for under this Act.

Regulatory
and
supervi-
sory func-
tions with
respect to
clearance
and settle-
ment
systems

6.-(1) The Bank shall—

- (a) regulate, monitor, and supervise the payment, clearing and settlement system including all products and services thereof; and
- (b) conduct oversight functions on the payment, clearing and settlement systems in any bank, financial institution or infrastructure service provider or company.

(2) The Bank may—

- (a) participate in any such payment, clearing and settlement systems;
- (b) establish and operate any system for payment, clearing or settlement purposes; and
- (c) perform the functions assigned by or under any other written law for the regulation of payment, clearing and settlement systems.

7.-(1) The primary objective of the Bank shall be to formulate, define and implement monetary policy directed to the economic objective of maintaining domestic price stability conducive to a balanced and sustainable growth of the national economy.

Formulation
and
imple-
mentation of
monetary
policy

(2) Without prejudice to subsection (1), the Bank shall ensure the integrity of the financial system and support the general economic policy of the Government and promote sound monetary, credit and banking conditions conducive to the development of the national economy.

(3) The Minister and the Governor shall, where circumstances require, consult each other with a view to exchanging information and seeking coordination on economic and financial matters.

8.-(1) There shall be appointed by the President a Governor who shall, unless he dies or resigns or vacates or is removed from his office for good cause or is disqualified, hold office for a period of five years and shall be eligible for a re-appointment.

Appoint-
ment of
Governor
and
Deputy
Governors

(2) No person shall qualify to be appointed as a Governor unless he—

- (a) holds a university degree;
- (b) has not less than fifteen years experience in the fields of economics, banking, accountancy or finance or law;
- (c) has been in senior managerial positions in the government departments or institutions, private institutions or international organizations; and
- (d) has not been appointed and served as the Governor for two consecutive terms.

(3) There shall be appointed by the President three Deputy Governors who shall, unless one dies, resigns, vacates or is removed from office for good cause or is disqualified, hold office for a period of five years and be eligible for re-appointment for a further term of five years only.

(4) The appointment of the Deputy Governors shall be made on the basis that at least one of the appointees hails from either side of the United Republic.

Board of
Directors

9.-(1) There shall be a Board of Directors of the Bank and subject to this Act, the Board shall be responsible for the determination of the policy of the Bank, approval of its budget and for such other functions as are specifically conferred or imposed upon the Board by this Act or any other written law provided that the Governor and any other member of the Board may refer any matter for consideration by the Board.

(2) The Board shall consist of -

- (a) the Governor, who shall be the Chairman;
- (b) Deputy Governors, who shall be Deputy Chairmen in the order determined by the Governor;
- (c) the Permanent Secretary to the Treasury of the Government of United Republic and the Principal Secretary to the Treasury of the Revolutionary Government of Zanzibar, all of whom shall be *ex-officio* members; and
- (d) four non-executive Directors at least one of whom hails from either side of the United Republic.

(3) The Permanent Secretary to the Treasury of the Government of United Republic and the Principal Secretary to the Treasury of the Revolutionary Government of Zanzibar, may appoint in writing persons in the public service to be their representatives who shall, at any meeting for which they are appointed, have the powers of the Permanent Secretary or Principal Secretary, in their capacities as members of the Board.

(4) The non-executive Directors shall be appointed by the Minister and each shall hold office, unless he dies or resigns or vacates or is removed from office, for a term of three years, and shall be eligible for re-appointment.

(5) The members of the Board shall be appointed on the basis of merit from amongst persons who hold degrees or the equivalent qualification from an institution of higher learning recognized in Tanzania and are experienced in economics, business and finance, banking, corporate law, accountancy or other disciplines relevant to the functions of the Bank.

(6) In considering the appointment of a person to the office of member of the Board, regard shall be had in relation to that office, to the likelihood of any conflict arising between the interests of the Bank and any interests which that person has or represents.

(7) There shall be a Secretary to the Board who shall perform the following functions:

- (a) Counsel and Secretary to the Board;
- (b) Writing and keeping records of proceedings of all meetings of the Board;
- (c) Convening and preparing meetings of the Board as may be directed by the Chairman;
- (d) advising on legal matters and keeping abreast laws governing the conduct of business of the Bank; and
- (e) Such other function as may be directed by the Board or the Governor.

10.-(1) No person shall be qualified to be appointed as a member of the Board, if he is-

- (a) a member of the National Assembly or the House of Representatives or a local government authority;
- (b) a person who is a public servant within the meaning of this term in the Public Service Act, other than the Permanent Secretary to the Treasury of the Government of the United Republic and the Principal Secretary to the Treasury of the Revolutionary Government of Zanzibar or their representatives for the purposes of section 9(2)(c);
- (c) a director, officer, employee, consultant, lawyer, agent or shareholder of a bank or a financial institution in respect of which the Bank may exercise a regulatory power; or
- (d) an office bearer of any of the political parties registered in Tanzania

(2) A member of the Board shall be disqualified to hold office if he-

- (a) acquires any attribute which had he not been a member, would disqualify him for appointment;
- (b) becomes bankrupt, suspends payment or compounds with his creditors;
- (c) is adjudged or otherwise declared to be of unsound mind;
- (d) is convicted of a felony or any offence involving fraud or dishonesty;

(e) is absent without the leave of the Chairman of the Board, from three consecutive meetings of the Board; or

(f) tenders resignation.

(3) No member of the Board shall be removed from his office on grounds other than those stated in this section.

Meetings,
quorum,
conduct,
and
decisions
of the
Board

11.-(1) The Board shall meet as often as may be required for the conduct of its business and affairs but shall meet at least once in every two months.

(2) Meetings of the Board shall be convened, and notice given in accordance with the by-laws of the Bank and, in addition, the Chairman or in his absence, the Deputy Chairman, shall convene a meeting of the Board within a reasonable time of a requisition in that behalf by any member of the Board.

(3) Subject to subsection (4), quorum at meetings of the Board shall be six members.

(4) There shall be no quorum unless the Chairman or in his absence, the Deputy Chairman and two non-executive members are present at the meeting.

(5) Where in the opinion of the Chairman or in his absence, the Deputy Chairman, any matter or business is of an unusually urgent nature which cannot await the convening of a meeting consisting of the quorum, the matter may be decided at a meeting of the Chairman or as the case may be, the Deputy Chairman and at least two Deputy Governors and one non-executive member and such decision shall be as valid and binding on the Bank as if it were a decision of a meeting consisting of the quorum and every such decision shall be reported to an extra ordinary meeting of the Board.

(6) Decisions of the Board shall be reached by consensus.

(7) Without prejudice to the provision of subsection (6), where the members of the Board fail to reach a consensus on any matter before the Board, the matter shall be decided by voting; and where the votes equals, the Chairman shall have a casting vote in addition to his deliberative vote.

(8) Members of the Board referred to under paragraph (c) of subsection (2) of section 9 shall not vote in the event the decision is to be reached by casting of votes.

(9) Any member of the Board or of its committees, who is interested in any matter involving the Bank, or in the exercise or proposed exercise by the Bank of a power, shall declare that interest at every meeting of the Board or its committees at which that matter or the exercise or proposed exercise of the power, is considered by the Board or committee and the member of the Board or that committee shall not be entitled to attend or be counted in a quorum present, at a meeting at which the member has interest in the matter being considered.

(10) Where the decision of the Board is reached by voting the Governor shall inform the Minister accordingly.

(11) Subject to provisions of subsection (3), no act or proceeding by the Board shall be invalidated by reason of the existence of a vacancy among the members and all acts done in good faith by a member of the Board shall be valid notwithstanding that some defect in his appointment or qualifications be afterwards discovered.

(12) Subject to other provisions of this Act, the Board may regulate its own procedure.

12.-(1) The Board shall appoint a Monetary Policy Committee, an Audit Committee and such other committees as it may be necessary for the discharge of its functions; and it shall, subject to the provisions of this Act, specify the composition and functions of every committee appointed under this section and the terms and conditions upon which the committee shall exercise its functions.

Standing
Committees
of the
Board

(2) Every committee shall report to the Board at its next regular meeting on all the proceedings and actions of the committee, and the Board may approve, vary or reverse any decision of the committee or may give such directions affecting any action of the committee as the Board may deem fit in the circumstances of each case.

(3) Subject to the provisions of this Act and to any directions given by the Board in that behalf, each committee shall regulate its proceedings.

(4) The Monetary Policy Committee established under sub-section (1) shall be composed of the Governor, who shall be Chairman or in his absence, the Deputy Governor acting as Deputy Chairman, Deputy Governors and at least one non-executive Director.

(5) The Monetary Policy Committee shall determine on the application of the monetary policy set out by the Board and shall submit to the Board any major issues affecting the monetary policy to take its stand.

(6) The Monetary Policy Committee shall meet as often as may be necessary for the performance of its functions and shall promptly submit to the Board a report of its proceedings after each meeting by submitting the minutes of the meeting.

(7) The quorum at meetings of the committee mentioned in subsection (5) shall be three members one of whom shall be the Chairman or in his absence, the Deputy Chairman.

(8) Subject to the provisions of this Act and to any directions given by the Board in that behalf, each committee established under subsection (1) shall keep minutes of its meetings, reflecting its position on the issues raised and determined.

Management
of the
Bank and
powers of
the
Governor
and
Deputy
Governors

13.-(1) Subject to the provisions of this Act, the management of the Bank and the direction of its business and affairs is vested in the Governor and the Governor shall, in the exercise of such functions and direction, conform with the policy and other decisions made by the Board.

(2) The Governor shall, unless the Board determines otherwise, exercise powers, perform functions and execute duties of the Bank, other than any function specifically conferred on the Board, and to authorize expenditure within the budget approved by the Board.

(3) The Governor shall, subject to subsection (2), be the principal representative of the Bank and shall, in that capacity:

- (a) represent the Bank in its relation with other institutions, including the Government;

- (b) represent the Bank, either personally or by a legal representative, in any legal proceedings to which the Bank is a party;
 - (c) sign, solely or jointly with other persons, agreements concluded by the Bank, notes or securities issued by the Bank, reports, balance sheets and other financial statements, correspondence and other documents of the Bank; and
 - (d) delegate any authority provided for in this subsection, including the power of delegation to any member of the Board or other officers of the Bank.
- (4) Each of the Deputy Governors shall:
- (a) subject to the general supervision of the Governor, be responsible for the day to day management of business and affairs of the Bank as determined by the Governor;
 - (b) discharge such other duties as may be assigned to him from time to time by the Governor.
- (5) The Deputy Governor acting in the capacity of Deputy Chairman shall have full powers to act for the Governor.
- (6) The exercise by the Deputy Governor of any function of the Governor shall in the absence of proof to the contrary, be deemed to be a valid exercise of such function pursuant to subsection (5).
- (7) The Governor and the Deputy Governors shall, while in the service of the Bank, work full time and shall not, while holding their respective offices, occupy or hold any other paid or unpaid office or employment or engage in any professional or private enterprises activities.
- (8) Nothing in subsection (7) shall prohibit the Governor or Deputy Governor:
- (a) becoming or acting as a governor, director or member of the Board of any international bank or monetary authority to which the Government have adhered or given support or approval; or
 - (b) becoming or acting as a director of any corporation in Tanzania which the Bank may, in pursuance to the provisions of section

58, promote.

(9) The President may, by order published in the *Gazette*, specifically exempt any transactions or activities from provisions of subsections (7) and (8).

(10) Duties and responsibilities of each of the Deputy Governors and such by-laws shall be published in the *Gazette*.

Remune-
ration of
the
Governor,
Deputy
Governors
and
members
of the
Board

14.—(1) The salaries and allowances including retirement allowances of the Governor and the Deputy Governors shall be determined by the President.

(2) The fees, allowances and other terms of service of the members of the Board shall be determined by the Board on approval by the Minister.

(3) The salaries, allowances, fees and other terms of services offered under subsections (1) and (2) shall not be reduced or otherwise diminished.

Appoint-
ment of
officers
and other
staff of the
Bank

15.—(1) Subject to the general terms and conditions of service and to the establishment prescribed by the Board, the Governor shall be responsible for the appointment, termination of appointment and discipline of the staff of the Bank.

(2) The powers of the Board to make provisions for the staff of the Bank shall include power to provide for benefits for or in respect of staff who die or retire and their surviving dependants.

Secrecy

16. Except for the purposes of the performance of his functions, when so required by law or authorized by the Board, no member of the Board or staff of the Bank shall disclose any information relating to the Bank or to any transaction or customer of the Bank acquired in the course of employment or the discharge of his duties.

Capital,
reserves
and
accounts
of the
Bank

17.—(1) The authorized capital of the Bank shall be one hundred billion shillings, provided that it may be increased by such amount as may be determined by the Board, and authorized by the Minister, by Notice published in the *Gazette*.

(2) The capital of the Bank shall be subscribed and held only by the Government of the United Republic.

(3) The Bank may, having regard to the amount by which the value of

(3) The Board shall appoint or re-appoint a Head of Internal Audit who shall be fully compliant with international audit standards, for a period of three years as head of the internal audit function who shall report to the Governor and to the Audit Committee and may report to the Board.

(4) The function of Internal Audit shall be fully compliant with international audit standards.

(5) The Board and the Governor shall adopt a yearly audit work program and any audit and control operations to be pursued by the Head of Internal Audit and may direct the Head of Internal Audit to conduct reviews of the implementation of the decisions by the Board and any other review deemed necessary.

(6) The annual external audit of the Bank shall be performed by the Controller and Auditor General in accordance with international accounting and audit standards and in compliance with the Public Finance Act.

Cap. 348

21.-(1) The Bank shall publish and submit to the Minister within three months after the close of each financial year and the Minister shall in turn submit to the National Assembly the Bank's Annual Report comprising:

Submission
of report
to the
National
Assembly

- (a) a report of the Bank's operations and principal functions in particular its monetary policy and other activities throughout the year; and
- (b) the Balance Sheet and the Profit and Loss Account, and associated financial statements as well as detailed notes to the accounts for the year and the previous year's comparative data certified by the external auditor along with the external auditor's opinion.

(2) The Bank shall publish, within ten business days of the subsequent month, a monthly aggregated balance sheet audited by the Head of Internal Audit.

(3) The Bank shall at intervals of not more than six months after submission of each preceding statement, publish and submit to the Minister the Monetary Policy Statement for the next six months or for such shorter period as may be specified by the Minister.

(4) The Minister shall submit to the National Assembly the Statement

submitted under the provisions of subsection (3).

(5) The Bank shall, at intervals of not more than six months following the submission of the initial report, publish and submit to the Minister progress reports on the implementation of monetary policy and reports on the outlook for the future and the Minister shall in turn submit such reports to the National Assembly at its subsequent session.

(6) The Monetary Policy Statement shall:

- (a) specify the policies and means by which the Bank intends to achieve its policy targets;
- (b) state the reasons for adopting those policies and means;
- (c) contain a statement of how the Bank considers monetary policy to be formulated and implemented during the next twelve months; and
- (d) contain a review and assessment of the implementation by the Bank of monetary policy during the period to which the preceding policy statement relates whereby the Bank shall describe the factors inside and outside its control that have affected the outcome of monetary policy.

(7) In addition to the reports published by the Bank under the provisions of this section, the Bank may issue such other publications, including the statements of the Board on issues of monetary policy as the Board considers to be in the public interest.

Exemption
from
certain
taxes

22.—(1) The Bank shall be exempt from payment of any taxes, levies or duties in respect of its profits, operations, capital, property or documents or any transaction, deed, agreement or promissory note to which it is a party.

(2) The Bank shall be exempt from the payment of stamp or other duties in respect of notes and coins issued as currency.

Liquidation
and
Winding
up of the
Bank. Cap
212 1963
Decree

23. The Bank shall only be placed in liquidation or wound up pursuant to the Procedure prescribed in an enactment of Parliament but the provisions of the Companies Act and the Companies Decree shall not apply in relation therewith.

By-laws

24.—(1) The Board may make by-laws for the good order and management of the Bank.

(2) The Board shall make rules regulating travel expenses and out of pocket allowances applicable to members of the Board and of the staff of the Bank incurred in discharging their duties.

By-laws

(3) By-laws made pursuant to subsection (1) and Rules under subsection (2) may not be published in the *Gazette*.

PART III
CURRENCY

25. The unit of currency in Tanzania shall be the shilling each of which shall be divided into one hundred cents.

Currency
and its
issue

26. The Bank shall have the sole right to issue bank notes and coins in and for Tanzania which shall be the only legal tender in Tanzania.

Issuance
of bank
notes and
coins

27.-(1) Bank notes and coins shall be—

Notification
of notes
and coins

(a) in such denominations of the shilling or fractions thereof expressed in cents; and

(b) of such materials, forms and designs, shall bear such inscriptions, devices and have such other characteristics, as the Bank shall with the approval of the Minister, determine.

(2) The Bank shall give notice in the *Gazette* of the denominations and other characteristics of the bank notes and coins before they are circulated for use.

28.-(1) Subject to the provisions of this section—

Legal
tender

(a) bank notes shall be legal tender at their face value for the payment of any amount;

(b) coins shall be legal tender at their face value:

(i) in the case of a shilling, or any multiple of a shilling, for the payment of any amount;

(ii) in the case of coins having a face value of fifty cents or

below, for the payment of any amount not exceeding five hundred shillings.

(2) Subject to section 29, the Bank shall have power, on giving reasonable notice in the *Gazette*, to call in any notes or coins issued by it on payment of the face value thereof.

(3) Any notes or coins with respect to which a notice shall have been given under this section shall, on the expiration of such notice, cease to be legal tender.

(4) Nothing in this section shall be construed as precluding the Bank from making payment for any notes or coins called in accordance with subsection (3) which are delivered to the Bank after they have ceased to be legal tender.

Lost and
damaged
currency

29.-(1) No person shall be entitled to recover from the Bank the value of any lost, stolen or imperfect bank note or coin, or of any bank note that has been mutilated or of any coin that has been tampered with.

(2) Without prejudice to subsection (1), the Bank may decide on any value that may be awarded to any person who present to the Bank a bank note which is the subject of any events referred to in subsection (1).

(3) The circumstances in which and the conditions and limitations upon which, the value of any lost, stolen or imperfect notes or coins, mutilated notes or coins which have been tampered with may be refunded as of grace by the Bank shall be within the absolute discretion of the Bank.

(4) For the purposes of this section, a coin shall be deemed to have been tampered with if the coin has been impaired, diminished or lightened otherwise than by fair wear and tear, or has been defaced by stamping, engraving or piercing whether or not it has been diminished or lightened.

Destruc-
tion of
coins and
notes

30. The Bank may melt down, break up or deface any coin and may deface or destroy any bank note which has been called in or tampered with.

PART IV

OTHER OPERATIONS OF THE BANK

The Bank
as banker
to the
Govern-
ments and
other
public
authorities

31.-(1) The Bank shall be the banker, and shall act as the fiscal agent of the Governments.

(2) The Bank may, subject to such arrangements as may be made with the authority concerned, act as banker and fiscal agent for any public authority.

32.—(1) The Bank, in its capacity as a banker and fiscal agent of the Governments or of any public authority, may be the official depository of the Governments or public authority concerned and accept deposits and effect payments for the account of the Governments or public authority.

Functions
as banker
and fiscal
agent

(2) Without prejudice to subsection (1), the Bank may, after consultation with the Governments or the public authority and the bank concerned, select any other bank to be the official depository of the Governments or the public authority and shall, in respect therewith:

- (a) maintain and operate special official accounts in accordance with arrangements made between the Bank and the Governments or public authority concerned;
- (b) act as agent of the Governments for servicing the public debt, including the issuance of payment of interest on and the redemption of bonds and other securities of the Governments;
- (c) pay, remit, collect or accept for deposit or custody funds in Tanzania or abroad;
- (d) purchase, sell, transfer or accept for custody cheques, bills of exchange and other securities;
- (e) collect the proceeds, whether principal or interest, resulting from the sale for, accruing to the interest of, the Government or public authority of securities or other property; and
- (f) purchase, sell, transfer or accept for custody gold or foreign exchange.

33. The Bank may charge fee for its services as banker or fiscal agent of the Governments at such rates, on cost recovery basis, as the Bank shall determine.

Bank fee

34.—(1) Subject to the provisions of this section, the Bank may—

- (a) make direct advances to the Governments for the purposes of

Direct
advances
and other
short term
credit to
the
Govern-
ments, etc.

offsetting fluctuations between receipts from the budgeted revenues and payment of the Governments; and

- (b) purchase, hold and sell Treasury bills issued by the Governments which mature not later than twelve months from the date of issue.

(2) Each advance made to the Governments under this section shall—

- (a) be made solely for the purpose of providing temporary accommodation to the Governments and shall, accordingly, be repayable within one hundred and eighty days; and
- (b) bear interest at market rates as determined by the Bank.

Operation
in Government
securities,
etc.

35.—(1) Subject to the provisions of this section, the Bank may, for the purpose of offsetting fluctuations between receipts from the budgeted revenues and payment of the Governments, purchase, hold and sell negotiable stocks, bonds or similar debt obligations or other securities issued by the Governments which shall bear interest at such market rate as determined by the Bank and which mature not later than twelve months from the date of issue.

(2) The total amount outstanding at any time of advances made and the Treasury bills and other securities held by the Bank under this section and section 34 shall not exceed one eighth of the average budgeted revenues of each of Governments as defined in section 36.

Meaning
of annual
budgeted
revenue

36.—(1) For the purposes of section 35 the average budgeted revenues of the Governments shall be the average of the actual collected revenues of the previous three fiscal years.

(2) Collected revenues shall include taxes, levies, duties, fees, profits and income from any investment or undertaking and any contribution to the revenue of the Governments from any political sub-division of the United Republic, excluding loans, grants and other forms of economic aid and all borrowing whether of short or long term.

Prohibition
of other
credit to
Govern-
ments,
etc.

37. Except as provided in sections 34 and 35, the Bank shall not

extend any credit directly or indirectly to the Governments or any public authority.

38.—(1) The Bank may open accounts, accept deposits and collect money and other monetary claims for and on account of banks and financial institutions and may generally act as a banker to such banks and financial institutions.

Financial
relations
with other
banks

(2) Subject to the provisions of this Act, the Bank may provide additional services to banks and financial institutions, including interbank clearings and the provision of safe deposit facilities.

39.—(1) The Bank may, on such terms and conditions as it may prescribe, purchase, sell and rediscount on behalf of banks, bills of exchange, promissory notes and other credit instruments so long as such instruments bear the endorsement or acceptance of a bank, and matures within one hundred and eighty days from the date of acquisition or rediscount by the Bank.

Re-dis-
counts,
etc.

(2) The Bank shall set limits of access to the rediscount facilities.

40.—(1) The Bank may, on such terms and conditions as it may prescribe, grant loans and advances to banks and financial institutions for a period not exceeding three months against the collateral of:

Loans
and
advances

- (a) credit instruments satisfying the requirements of section 39;
- (b) Treasury bills satisfying the requirements of section 39; or
- (c) other credit instruments or securities prescribed by the Bank;

(2) For the purposes of this section the word “financial institution” shall include the Deposit Insurance Fund established under the law regulating banks and financial institutions in the United Republic.

41. The Bank shall be a lender of last resort and shall in that respect at penal interest rates published each year, grant advances or contingent commitments on an exceptional basis, to banks and financial institutions in Tanzania, that are deemed to be solvent but illiquid if:

Bank as a
lender of
last resort

- (a) in the opinion of the Board, such advance or commitment is

necessary having regard to the financial condition of the bank or the financial institution and to its systemic significance to the stability in the financial market; and

- (b) in the opinion of the Bank, the bank is solvent and provides adequate collateral and the request for financial assistance is based on the need to improve liquidity; or
- (c) available collateral is insufficient and the Minister has on behalf of the Government concurred in writing on the advance or commitment proposed by the Bank to that effect;
- (d) the Minister on behalf of the Government, has confirmed in writing that separate funds or debt securities in bearer form with interest at market rates will be made available to the Bank by the Governments to cover the advance or full amount of the commitment given in the event that it is realized; and
- (e) the Bank approves upon consent of the Board, each loan and each guarantee or other contingent commitment of the Bank or the benefit of a bank or other financial institution pursuant to this section.

Bank not
to extend
credit

42.—(1) Except as provided in sections 39, 40 and 41, the Bank shall not extend credit directly or indirectly to banks and financial institutions.

(2) The Bank shall determine and publish the rates of interest for rediscounting instruments and for granting loans or advances to banks and financial institutions.

Bank may
purchase,
hold and
sell
securities

43.—(1) For monetary policy purposes, the Bank may purchase, hold and sell securities issued by any of the Governments or by any authority for a political sub-division of the United Republic, but such purchases shall not be made to finance any Government budget deficit of either of the Governments and shall be made on the secondary market at market rates.

(2) The Bank may equally purchase and sell its own negotiable debt securities.

44.-(1) Subject to the provisions of this section, the Bank may require banks and financial institutions to maintain minimum cash balances with the Bank as reserves against the deposit and other liabilities of the banks and financial institutions and may, in that respect, prescribe the currency or the currencies in which such balances shall be held.

Control
of banking
activities

(2) The Bank may prescribe different ratios for different kinds of deposits and other liabilities and may prescribe the methods of computing the amount of the reserves which ratios and methods shall apply uniformly to all banks and financial institutions and may exclude certain liabilities from this calculation.

(3) Any requirement or increase in the ratios shall take effect on the expiration of at least thirty days notice to the banks and financial institutions.

(4) The Bank shall impose on any bank or financial institution that fails to maintain the minimum balances required under this section a daily penalty charge on the amount of the deficiency of greater than of 0.2 per centum or three times the average yearly lending rate of such bank or such financial institution divided by 360, and such charge may be recovered by deduction from any balance of, or money owing to the bank or financial institution concerned or recovered as civil debt.

45 Every bank or financial institution shall maintain liquid assets at levels prescribed by the Bank in accordance with the provisions of the Banking and Financial Institutions Act, 2006.

Liquid
assets
ratio

46.-(1) Every bank or financial institution and any affiliate shall furnish to the Bank, at such time and in such manner as may be prescribed by the Bank, such information as the Bank may require for the proper discharge of its functions and responsibilities under this Act.

Submission
and
publica-
tion of
informa-
tion

(2) Where any bank or financial institution contravenes or fails to comply with any requirement of this section, the bank or financial institution concerned and every officer who is in default shall be liable on conviction to a default fine stipulated under section 66 of the Banking and Financial Institutions Act, 2006.

47.-(1) Notwithstanding any provision to the contrary contained in any written law, the Bank shall have power to access to any oral and documented information, including information in computers, books,

Power to
conduct
examina-
tions of
banks or
financial
institutions

minutes, accounts, cash securities, documents, vouchers as well as any other things in the possession or custody or under the control of a bank or financial institution or its affiliate, which relate to the business of such bank or financial institution.

(2) The Bank may carry out, at such times as it may consider necessary, an examination of any bank or financial institution in accordance with the provisions of the Banking and Financial Institutions Act, 2006.

Credit
reference
system

48.-(1) The Bank shall create a credit reference system designed to collect and provide information on the payment record of the clients of all banks and financial institutions, savings and credit schemes and other entities engaged in a regular basis in the extension of credit within the United Republic.

(2) The credit reference system shall consist of a credit reference databank administered by the Bank and private credit reference bureaus operating under the conditions prescribed by the Bank.

(3) All banks and financial institutions shall, having ascertained the proper identity of their customers, individuals as well as representatives of customers that are legal entities, report to the credit reference databank detailed information about all credit facilities extended to each client, in the format and with the frequency as the Bank may prescribe.

(4) The Bank shall have and exercise powers to mandate a standardized method or technology for the assignment of a unique identification number to each client by all banks and financial institutions.

(5) The information received from banks and financial institutions shall be consolidated by the Bank with a view to determining, at a minimum, the total indebtedness and payment performance of each client and may provide to each reporting institution for internal control and monitoring purposes.

(6) The Bank may require banks and financial institutions report to the credit reference databank other information relevant to their clients' operations including, but not limited to, information on electronic payment instruments and cheques that are returned or refused for lack of funds, fraud or any other information required by the credit reference databank.

(7) The Bank may require any savings and credit institution or scheme and any other entity engaged in the extension of credit to report any information required by the credit reference databank.

(8) The Bank shall have and exercise powers to license and regulate operations of private credit reference bureaux that access information from the credit reference databank.

(9) All clients of institutions providing information to the Bank shall execute a written consent to such institutions to obtain from, exchange with or disclose all information relating to the clients to banks, financial institutions or credit reference bureaux.

(10) The information so collected, exchanged with or disclosed to banks, financial institutions or credit reference bureaux shall be used only for the purpose of verifying accuracy of the information, conducting credit investigations and executing and performing long or credit agreement.

49.-(1) Where any private credit reference bureau is found involved in gross or repeated violation of consumer protection regulations or fails to furnish correct information that may be required by the credit reference databank, the Bank may impose on the private credit reference bureau a penalty charge of not less than five hundred thousand shillings for every day during which the non-compliance continues or withdraws its licence.

Administra-
tive
penalty

(2) The Bank may use the credit reference databank to monitor the credit activities of any individual institution and the credit market for purposes of publication of periodical information.

(3) All banks and financial institutions may request information from the credit reference databank or a credit information bureau regarding payment record of all prospective clients, and in relation therewith banks and financial institutions shall observe that all written loan applications are signed by every prospective client and filed for review by the Bank in the course of periodic examinations.

50.-(1) The Bank shall, subject to the provisions of this Act, formulate, determine and implement the exchange rate policy in the United Republic with a view to attaining its primary monetary objective stated in section 7.

External
reserves,
gold and
foreign
exchange

(2) In order to ensure a smooth and effective coordination with the Government's economic policy, the Governor shall consult with the

Minister on the exchange rate policy and on any major draft decision on the exchange rate policy with reasons thereon.

Reserve of
external
assets

51.—(1) The Bank shall at all times use best endeavours to maintain a reserve of external assets at a level which is, at minimum equal to four months imports requirements and the requirements of international transactions of the United Republic for the same period of time.

(2) Subject to the provisions of subsection (4), the reserve of external assets shall consist of any or all of the following:

- (a) gold;
- (b) foreign exchange in the form of:
 - (i) demand or time deposits with foreign central banks or with the Bank's agents or correspondent abroad;
 - (ii) documents and instruments customarily used for the making of payments or transfers in international transactions;
 - (iii) notes or coins; and
- (c) securities or guarantees by foreign governments or international institutions and organizations.

(3) The Bank shall from time to time determine the type and form of foreign exchange and the kinds of securities which may be held in the reserve of external assets.

(4) The Bank may include in its reserve of external assets any internationally recognized reserve assets being a reserve asset not referred to in subsection (2), including:

- (a) the reserve position of the United Republic in the International Monetary Fund; and

- (b) holdings and special drawing rights of the United Republic, which the Bank, after consultation with the International Monetary Fund considers suitable for inclusion in the reserve.

52.-(1) Subject to the provisions of this section, the Bank may:

- (a) import, export, buy, sell, hold or otherwise deal in gold;
- (b) acquire and transfer balances in foreign currencies, hold such balances with foreign central banks or with the Bank's agents or correspondents abroad, and invest such balances in marketable foreign securities; and
- (c) acquire, hold, transfer, and effect transactions of any kind in foreign exchange.

(2) The Bank may engage in foreign exchange transactions only with—

- (a) banks and financial institutions;
- (b) the Governments;
- (c) a public authority;
- (d) foreign central banks, foreign banks or foreign financial institutions;
- (e) foreign governments or agencies of foreign governments;
- (f) international financial organisations or institutions; and
- (g) any other person the Bank may prescribe by Notice in the *Gazette*.

(3) The buying and selling rates in transactions authorized by this section shall be in accordance with international agreements to which the United Republic is a party or to which the United Republic is associated.

Dealing in
gold and
foreign
currencies

Exchange
control

53. The Bank shall perform such functions in the administration of any law relating to the control of the import, export, purchase, sale or other transaction in foreign exchange and gold as may be stipulated thereof.

Payments
agreements

54. The Bank shall administer any payments agreement entered into by the Governments.

Fiscal and
deposi-
tory for
Govern-
ment's
transactions,
etc.

55. The Bank shall be the fiscal agent for all the Governments' transactions with international financial organizations or institutions of which the Government of the United Republic is a member.

Miscellane-
ous
powers
and
functions

56.-(1) The Bank may open accounts for, accept deposit from, and collect money and other monetary claims for and on account of, foreign central banks, foreign banks and foreign financial institutions and may generally act as banker to such banks and institutions.

(2) Any foreign currency reserves held on deposit or managed by the Bank shall be immune from any legal proceedings including an order for execution, attachment or any other similar process issued by any court for enforcing payment by the Bank in relation to such foreign currency reserves.

Relations
with
private
enterprises,
organiza-
tions and
bodies

57.-(1) The Bank shall, for the purposes of compilation and publication of the balance of payments statistics meeting international standards, compile information from public offices and from banks and financial institutions and, to the extent strictly necessary, from private enterprises, organizations and bodies.

(2) Public offices, banks and financial institutions shall, at a request by the Bank, provide any information the Bank considers necessary for compilation of any monetary, financial or other statistics on the financial sector.

(3) Any private enterprise, organization and body shall, at a request of the Bank, provide any information the Bank considers necessary for the compilation of the balance of payments statistics.

(4) Where any bank or financial institution fails to comply with any requirement of this section, the Bank may impose on the relevant bank or financial institution a penalty of not exceeding five hundred thousand shillings for every day during which non-compliance continues and such charge may be recovered by deduction from any balance of, or moneys

owing to, the bank or financial institution concerned or by institution of a suit.

(5) Any private enterprise, organization or body that fails to comply with a requirement by the Bank made pursuant to the provisions of subsection (3) shall be subject to a penalty not exceeding one hundred thousand shillings for every day during which non-compliance continues.

58.—(1) Subject to subsection (2), the Bank may, in order to effectively promote the functions of the Bank, subscribe to, hold, and sell shares or acquire an interest in any corporation established for the purposes of promoting the development of financial markets or of improving the financial machinery and payment systems in the United Republic.

Relations
with
corpo-
rations

(2) The total value of the Bank's holding of any shares or interest shall not at any time exceed fifty percent of the aggregate of the Bank's paid up capital and of its General Reserve Fund.

59.—(1) On minimum cash balances required, the Bank may not pay interest on such balances deposited with the Bank.

Interest on
deposit
balances
and
blocked
accounts

(2) The Bank may, where circumstances render it desirable and prudent so to do, pay interest at market rate, and subject to such qualification as it may determine, on the balances in any amount with the Bank which is a blocked account within the meaning of the prevailing foreign exchange regulations.

60.—(1) The Bank shall advise the Governments when in the Bank's opinion, any matter relating to its functions, powers and duties is likely to affect the fiscal policy and the national economic growth or the achievement of the principal objectives of the Bank.

Advice to
Governme-
nts

(2) The Governments may seek opinion and advice on draft Governments' budget, financial legislation and any other matter affecting the functions, powers and duties of the Bank or any proposals, measures or transactions relating thereto, and the Bank shall give the advice accordingly.

61.—(1) The Bank shall not—

Prohibited
operations

- (a) save as expressly authorized by this Act, engage in trade, own or acquire any direct interest in any commercial, agricultural, industrial or similar undertaking except in the course of obtaining satisfaction for any debt due to the Bank;
 - (b) purchase, acquire or lease immovable property for any purpose except as premises for the Bank (including reasonable provision for anticipated future requirements) or for the use by members of the Board or its staff;
 - (c) guarantee any loan, advance or investment unless expressly authorized by this Act.
- (2) Where, in the case provided in paragraph (a) of sub-section (1), the Bank acquires any interest it shall dispose of the same at the earliest suitable opportunity.

PART V MISCELLANEOUS PROVISIONS

Limitation
on external
holdings

62. The Governments shall not hold or maintain any reserve of external assets except to the extent necessary for working balances.

Prohibited
banking
names

63. Save with the written consent of the Bank, no bank shall be registered hereafter under the provisions of any law, by a name which includes any of the words "Central", "State," "Government" and "Reserve".

Banks,
etc.,
deemed to
be public
service for
certain
purposes

64. In the discharge of its functions under this Act and in the administration of any law, the Bank, members of the Board and staff of the Bank shall be treated as holding office in the public service.

Immunity
of
members
of the
Board,
staff and
employees
of the
Bank

65.—(1) Notwithstanding the provisions of any other law, no action or other proceedings shall lie or be instituted against any member of the Board of the Bank, official or employee of the Bank for or in respect of any act or thing done or omitted to be done in good faith in the exercise of powers conferred by this Act.

(2) Any official or other member of the staff authorized to make decisions on behalf of the Bank having an equivalent interest in any matter involving the Bank shall be required to report that matter to the

(3) The Board may make by-laws, rules and issue directions, orders and circulars regulating the manner by which the objective of this Act may be carried on.

(4) The by-laws, rules, directions, orders and circulars issued under subsection (3) may not be published in the *Gazette*.

Repeal
and
savings
Cap.197

71.-(1) The Bank of Tanzania Act, is hereby repealed.

(2) Notwithstanding the repeal of the Bank of Tanzania Act -

- (a) all regulations, rules, orders, by-laws, directions or other subsidiary legislation made, given or issued under that Act and which are in force immediately before the date of coming into operation of this Act shall remain in force until they are revoked, cancelled or varied by regulations, rules, orders, by-laws, directions or other subsidiary legislation made, given or issued under this Act;
- (b) all appointments made under that Act and which have not been revoked immediately before coming into operation of this Act shall remain in force until they are revoked or fresh appointments are made under this Act; and
- (c) all legal proceedings instituted or Orders made under that Act shall continue and be deemed to be proceedings or orders made under the provisions of this Act.

Passed in the National Assembly on the 3rd April, 2006.

DAMIAN S. FOKA,
Clerk of the National Assembly

supervisor and shall not be entitled to make decisions related to that matter.

66. Notwithstanding anything to the contrary in any written law, where any judgement or order has been obtained against the Bank, no execution or attachment or process in whatever nature, shall be issued against the Bank or against any property or asset of the Bank, but the Bank shall cause to be paid such amounts as may, by judgement or order, be awarded against the Bank to the person entitled.

Immunity
of the
Bank

67.-(1) All assets of the Government including any local or foreign currency held on deposit or managed by the Bank, shall be immune from any enforcement proceedings and no execution, attachment or any other similar process issued by any court for enforcing payment by the Bank in relation to any asset held on account of the Government and no person shall be individually liable under any order for payment by the Bank or any officer of the Bank in relation to such asset held on account of the Government.

Immunity
of all
assets
managed
by the
Bank

(2) Where in relation to any asset of the Government held by the Bank proceedings have been instituted in any court for enforcement or procuring execution by attachment or any other similar process, the provisions of the Government Proceedings Act, shall apply *mutatis mutandis* in relation to such proceedings against the Bank or any officer of the Bank.

Cap.5

68. In the event of conflict arising from the provisions of this Act and any other Act relating to the exercise of power and performance of functions of the Bank, the provisions of this Act shall prevail.

Overriding
effect

69. The Board shall prescribe rules to be applied by the Bank on the waiver of compliance or penalties for non-compliance of the provisions of this Act or regulations and any such matter that is economically or otherwise important shall be referred to the Board for determination.

Waiver for
non-comp-
liance

70.-(1) The Minister may make regulations necessary or desirable to give effect to the provisions of this Act.

Powers
to make
regulations

(2) Regulations made under subsection (1) shall be published in the *Gazette*.