ACT NO. 17 OF 2007

I ASSENT,

JAKAYA MRISHO KIKWETE

*President*

10th September, 2007

**An Act to amend the Higher Education Students' Loans Board Act, 2004**

ENACTED by Parliament of the United Republic of Tanzania.

## PART I
## PRELIMINARY PROVISIONS

Short title and construction

**1.** This Act may be cited as the Higher Education Students' Loans Board (Amendment) Act, 2007, and shall be read as one with the Higher Education Students' Loans Board Act, 2004 hereinafter referred to as "the principal Act".

## PART II
## GENERAL AMENDMENTS

Amendment of section 3

**2.** The principal Act is amended in section 3, by inserting in appropriate alphabetical order the following definitions-

"eligible student" means a Tanzanian Student who fulfills conditions stipulated under section 17;

"employer" include natural and legal persons, institutions, licensing bodies, government and government institutions, non governmental organizations, registered professional bodies where the beneficiary belong, and any other body or organization in whose employment is a loan beneficiary or from where information of loan beneficiaries can be obtained;

"employment" includes any circumstance through which loan beneficiary works for gain or any kind of relationship between an employer and loan beneficiary in which the latter works for the former or through which the former deals with the latter in any manner or style whatsoever through which the employer and a loan beneficiary transact.

Amendment of section 5

3. The principal Act is amended in section 5 by-

(a) repealing subsection (1) and substituting for it the following subsection:

"(1) The Board shall consist of not less than nine and not more than fourteen members as follows:-

(a) a Chairman;
(b) the Director of Higher Education;
(c) one member from the Treasury;
(d) the Director of Technical Education;
(e) a legally qualified member from the Attorney-General's Chambers;
(f) one member representing the employers' association of Tanzania;
(g) one member from the financial institution;
(h) one member nominated by an organ representing public higher education institutions;
(i) one member nominated by an organ representing private higher education institutions;
(j) one member representing the Minister responsible for finance in the Revolutionary Government of Zanzibar;
(k) one student representing public higher education institutions;
(l) one student representing private higher education institutions; and
(m) two eminent persons having knowledge and experience in the management of higher learning institutions".

(b) repealing subsection (2) and substitution for it the following provision:

"(2) The Chairman shall be appointed by the President and other members shall be appointed by the Minister upon their nomination or election by persons or institutions whom they each represent:

Provided that, in appointing members of the Board the Minister shall ensure that at least one third of the members of the Board consists of women".

(c) inserting after subsection (5) the following new provision:

"(6) The provisions of subsection (1) shall not prejudice the tenure of office of the sitting chairman.";

(d) in the marginal note by inserting the words "and appointment" immediately after the word "composition".

4. The principal Act is amended in section 6 by deleting paragraph (c) and substituting for it the following: Amendment of section 6

"(c) to administer and supervise the whole process of granting, repayment and recovery of loans issued to students;

5. The principal Act is amended in section 7(1) by- Amendment of section 7

(a) inserting the phrase "or other interest bearing assets" between the words "securities" and "such funds" appearing in paragraph (c);

(b) deleting paragraph (e) and substituting for it the following:

"(e) to demand and receive such fees for services rendered by officers and other employees of the Board.";

(c) deleting paragraph (o) and substituting for it the following -

"(o) to consider and approve the annual budget submitted by the management for the purpose of monitoring and reviewing financial statements and authorize major expenditure for the Board."

6. The principal Act is amended in section 9 by inserting immediately after subsection (3) the following proviso: Amendment of section 9

"Provided that any delegation of power made under any form or style by the Board shall constitute a delegation of such powers without further proof."

7. The principal Act is amended in section 16(2) by- Amendment of section 16

(a) deleting the word "and" appearing in paragraph (d) and inserting it after the word "fees" appearing in paragraph (e);

(b) inserting immediately after paragraph (e) the following new paragraph-

"(f) special needs for students with disabilities";

(c) inserting immediately after the proposed paragraph (f) the following proviso-

"Provided that the Board shall offer to eligible students loans in respect of items specified under sub-section (2) to the extent as it may determine."

(d) adding immediately after subsection (2) the following subsections-

"(3) The Board shall determine percentage of the amount of the sum that shall be contributed by a student, a parent, a guardian or other person concerned as the case may be.

(4) Where the Board has determined the percentage of the contribution in terms of subsection (3), every student, parent, guardian or other person concerned shall be obliged to contribute the amount of the sum equal to a percentage determined by the Board."

Amendment of section 18

8. The principal Act is amended in section 18 by adding new subsections immediately after subsection (3) as follows:

"(4) The Board shall immediately cancel issuance of loan to any loan beneficiary and demand repayment of the whole loan issued to any such beneficiary in one installment when found that such beneficiary, knowingly or recklessly; supplied or caused to be supplied false information to the Board or to the Institution where such beneficiary is admitted for studies.

(5) Notwithstanding the provisions of subsection (2), the Board may institute proceedings against any loan beneficiary who furnished or caused to be furnished false information to the Board or to the institution where such beneficiary is admitted for studies."

Amendment of section 19

9. The principal Act is amended in section 19(2) by-

(a) deleting paragraph (a) and substituting for it the following:
"(a) calculated on the basis of student loan agreement;"
(b) adding the word "and" immediately after the word "account" appearing at the end of paragraph (b);
(c) deleting the proviso appearing under paragraph (b);
(d) adding immediately after paragraph (b) the following paragraph-

"(c) which the Board or the Government has paid directly to the account of the institution in which the beneficiary pursued studies, being a tuition fee or for other costs related to the beneficiary's studies."

(e) deleting paragraph (a) of subsection (4) and substituting for it the following-

"(a) arrange with the employer monthly deductions from his salary for remittance to the Board and of such amount and for such period as shall be determined by the Board."

(f) inserting a proviso immediately after paragraph (b) of sub-section (4):

"Provided that any deduction from wages, salaries or any income of beneficiaries shall not exceed one third of the total net income per month."

(g) deleting paragraph (a) of subsection (5) and substituting for it the following:

" (a) arrange with the Board about the amount and period during which remittance of money shall be made to the Board;"

10. Section 19A of the principal Act is amended- Amendment of Section 19A

(a) by renaming the contents of that section as subsection (1);

(b) by adding immediately after sub-section (1) as renamed the following new subsections:-

"(2) When any prescribed amount of loan is, in accordance with a certificate of the Executive Officer, due to the loan beneficiary such amount shall be debt accrued and the Board may cause a demand notice to the loan beneficiary through his known address or in widely circulating local newspapers to settle the prescribed amount within twenty one days from the date of such notice.

(3) Where such demand notice is properly served and the loan beneficiary fails to pay within the time specified in the notice, the Board shall apply to the competent court for summary warrant, which shall be designed by the Board to recover the debt.

(4) Where the application has been made under sub section (3), the court may grant the warrant on production by the Board of lists of the names and the addresses of loan beneficiaries and the amount due by everyone with a certificate of the Executive Officer certifying that such loan beneficiaries have been duly required to repay but have faulted.

(5) Every warrant issued under sub-section (4) shall be executed in all respect as though it were both warrant of attachment and a warrant of sale issued by the court.

(6) Notwithstanding subsection (5) the court shall have and exercise power to issue warrant of attachment and warrant of sale under this Act.

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(7) Any claim for repayment of loan under this Act may be instituted in the court under Order XXXV of the Civil Procedure Act.

(8) For the purposes of recovery of loans, proceedings may be brought to the court within the period of ten years from the date when the debt became due.

(9) The court may, for sufficient reasons, extend by half the period of time prescribed under subsection (8)."

Amendment of section 20

**11.** Section 20 of the principal Act is amended in subsection (1)-

(a) by deleting the words "when so required by the Board" appearing at the opening words; and

(b) by deleting the words " within the period as may be prescribed" appearing in paragraph (a) and substituting for them the words " within twenty eight days from the date on which such loan beneficiary is employed."

Amendment of section 21

**12.** The principal Act is amended in section 21 by deleting subsection (2) and substituting for it the following new subsections-

"(2) Where any person employs a loan beneficiary and fails to disclose or conceals such information to the Board or fails to arrange for repayment plan with such beneficiary, such person commits an offence and shall be liable upon conviction to a fine of seven million shillings or imprisonment for a term not less than twelve months or to both.

(3) Where an employer is a corporate body, then the Chief Executive Officer or any other accountable officer of such body shall be personally liable for the penalty and for the purposes of this Part, the Companies Act or any other law protecting such officers with corporate status shall not apply.

(4) Without prejudice to the provisions of subsection (2), where an employer employs a loan beneficiary and fails to disclose that information to the Board as required in this Act, the Board shall recover the whole amount of loan due to the beneficiary from the employer in wholesome single payment.

(5) Any person who obstructs any member, an employee or an officer of the Board, or its appointed agent from doing any act authorized by this Act or Regulations made under the Act, commits an offence and shall be liable upon conviction, to a fine not exceeding seven million shillings or imprisonment for a term of not less than twelve months or to both.

(6) The Board, Board employees or it's agents shall have powers to inspect any record of the employer for searching the beneficiaries information."

Amend-ment of section 22

**13.** The Principal Act is amended in section 22 by-

(a) renaming the content of that section as subsection (1);

(b) deleting paragraph (c) and substituting for it the following -

"(c) he provides the information and does any other thing or things required to be given or done by the loan beneficiary under the provisions of this Act;"

(c) adding immediately after paragraph (c) the following new paragraph -

"(d) where the debt is due and payable to the Board and the loan beneficiary fails to pay the loan, he pays the loan as if he were the loan beneficiary and all recovery mechanism shall apply against the guarantor."

(d) adding immediately after subsection (1) as renamed the following subsection -

"(2) The Board shall proceed against the guarantor only when the Board has made efforts to have the loan beneficiary repay the loan and such efforts proved futile."

Amend-ment of section 23

**14.** The principal Act is amended in section 23 by repealing subsection (1) and substituting for it the following provision:

"(1) Any person who-

(a) does or omits to do an act or thing contrary to the provisions of this Part or Regulations made under the provision in this Part;

(b) knowingly or recklessly furnishes false information,

commits an offence and shall be liable on conviction to a fine of not less than one million shillings or to imprisonment for a term of not less than twelve months or to both."

Amend-ment of section 24

**15.** The principal Act is amended in section 24 by-

(a) deleting subsection (1) and substituting for it the following-

"(1) Proceedings for offences under this Act may commence at any time when the Board has sufficient evidence to justify prosecution."

(b) adding immediately after subsection (4) the following new subsection-

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"(5) For the purposes of this Part the Law of Limitations Act shall not apply."

Amendment of section 27

**16.** The principal Act is amended in section 27 (1)(b) by deleting the words "a recognized auditors as may be appointed by the Board" and substituting for them the words "the Controller and Auditor General or his appointee".

Addition of section 28A

**17.** The principal Act is amended by adding immediately after section 28 the following new section-

"Exemption from taxes

**28A.** The Board shall be exempted from payment of all taxes, rates, duties and charges."

Addition of section 32A

**18.** The principal Act is amended by adding immediately after section 32 the following new section:

"Remittance of levy

**32A.** The Minister of Finance shall, in every financial year, remit to the account of the Board the sum of not less than zero point five per cent of the annual revenues collected from the skills development levy."

Amendment of section 33

**19.** Section 33 of the principal Act as is amended in subsection (2) by-

(a) deleting paragraphs (e) and (g) respectively;
(b) renaming paragraphs (f), (h) and (i) as paragraphs (e), (f) and (g).

Passed in the National Assembly on 13th August, 2007.

DAMIAN S. L. FOKA
*Clerk of the National Assembly*