

CHAPTER 231

THE EAST AFRICAN DEVELOPMENT BANK ACT

[PRINCIPAL LEGISLATION]

ARRANGEMENT OF SECTIONS

Section Title

1. Short title and application.
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4. Certain provisions of Charter to Treaty of 1980 to have force of law.

SCHEDULE

CHAPTER 231

THE EAST AFRICAN DEVELOPMENT BANK ACT

An Act to provide for the carrying out of the obligations of the Government of the United Republic arising under the Treaty amending and re-enacting the Charter of the East African Development Bank and to provide for related matters.

[8th June, 1984]

[DPG]

Acts Nos.
7 of 1984
15 of 1985
13 of 2005
8 of 2012

WHEREAS the Governments of the United Republic of Tanzania, the Republic of Uganda and the Republic of Kenya, hereinafter referred to as “the Parties”, did in Article 21 of the Treaty for East African Co-operation of 6th June, 1967, hereinafter referred to as “the Treaty of 1967”, agree to establish a development bank, known as the East African Development Bank, hereinafter referred to as “the Bank”, the Charter therefore, hereinafter referred to as “the Charter”, being set out in Annex VI of the Treaty of 1967;

AND WHEREAS the said Treaty of 1967 is no longer operative;

AND WHEREAS the Parties by a Treaty signed on 23rd July, 1980, hereinafter referred to as “the Treaty of 1980”, agreed to amend and re-enact the Charter of the Bank;

NOW, THEREFORE, BE IT ENACTED by the Parliament of the United Republic of Tanzania as follows:

Short title and
application

1.-(1) This Act may be cited as the East African Development Bank Act.

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

- Interpretation. 2. In this Act, unless the context requires otherwise-
“Minister” means the Minister responsible for finance.
- Financial provision 3.-(1) There shall be charged on and paid out of the Consolidated Fund, without further appropriation other than this Act, all payments required to be made by the Government to the Bank under the terms of the Treaty.
- (2) For the purpose of providing any sums required for making payments under this section, the Minister may, on behalf of the Government, make such arrangements as are necessary, or raise loans by the creation and issue of securities bearing such rates of interest and subject to such conditions as to repayment, redemption or otherwise as he thinks fit, and the principal and interest of such securities and the charges and expenses incurred in connection with their issue shall be charged on and be issued out of the Consolidated Fund.
- (3) Any moneys received by the Government from the Bank, or raised under subsection (2), shall be paid into and form part of the Consolidated Fund shall be available in any manner in which the Consolidated Fund is available.
- Certain provisions of Charter to Treaty of 1980 to have force of law Act No. 8 of 2012 s. 6 4.-(1) The provisions of the Charter annexed to the Treaty of 1980 and set out in the Schedule to this Act shall have the force of law in the United Republic of Tanzania.
- (2) Where any of the Article of the Charter set out in the Schedule is amended by the Governing Council of the East African Development Bank, the Minister may, by order published in the *Gazette*, amend the Schedule to this Act to reflect the amendment to the chapter.
- (3) An order made under subsection (2) shall state the date on which the amendment of the Charter comes or is deemed to have come into force, and shall be laid in the next meeting of the National Assembly following its publication.

SCHEDULE

(Made under section 4(1))

The Provisions of the Charter annexed to the Treaty of 1980 which are to have the Force of Law in the United Republic of Tanzania

CHAPTER VI - CURRENCIES

Article 24 - Use of currencies

Act No.
8 of 2012 s. 7

1. The member states may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank for payments in any country of the following-

- (a) currencies received by the Bank in payment of subscription to its capital stock;
- (b) currencies purchased with the currencies referred to in subparagraph (a) of this paragraph;
- (c) currencies obtained by the Bank by borrowing for inclusion in its ordinary capital resources;
- (d) currencies received by the Bank in payment of principal, interest, dividends or other charges in respect of loans or investments made out of any of the funds referred to in subparagraphs (a), (b) and (c) of this paragraph or in payment of fees in respect of guarantees made by the Bank; and
- (e) currencies received from the Bank in distribution of the net income of the Bank in accordance with Article 20 of this Charter.

2. The member States may not maintain or impose any restriction on the holding or use by the Bank or by any recipient from the Bank, for payments in any country of currency received by the Bank which does not come within the provisions of paragraph 1 of this Article unless such currency forms part of the Special Funds of the Bank and its use in subject to special regulations.

3. The member States may not maintain or impose any restriction on the holding or use by the Bank, for making amortization payments or for repurchasing in whole or in part the Bank's own obligations, or currencies received by the Bank in repayment of direct loans made out of its ordinary capital resources.

4. Each member State shall ensure, in respect of projects within its territories, that the currencies necessary to enable payments to be made to the Bank in accordance with the provisions of the contracts referred to in Article 15 of this Charter shall be made available in exchange for currency of the member State concerned.

Act No.
8 of 2012 s. 7

5. The Bank shall be accorded in the territories of the member states a creditor status no less than that accorded to the International Monetary Fund, the International Bank of Reconstruction and Development, the International Bank of Reconstruction and Development, the International Development Association, the African Development Bank and the African Development Fund.

Article 25 - [Repealed by Act No. 13 of 2005 s. 27(a)]

CHAPTER X - STATUS, IMMUNITIES AND PRIVILEGES

Article 42 - Purpose of Charter

Acts Nos.
13 of 2005 s. 27(b)
8 of 2012 s. 7

To enable the Bank effectively to fulfil its objectives and carry out the functions with which it is entrusted, the status, immunities, exemptions and privileges set forth in this Charter shall be accorded to the Bank in territories of each of the member States.

Article 43 - Legal Status

The Bank shall possess full juridical personality and, in particular, full capacity-

- (a) to contract;
- (b) to acquire, and dispose of, immovable and movable property; and
- (c) to institute legal proceedings.

Article 44 - Judicial Proceedings

Acts Nos.
13 of 2005 s. 27(b)
and (c)
8 of 2012 s. 7

1. The Bank shall enjoy immunity from every form of legal process except in any case where it has expressly waived immunity in writing, when it may be sued only in a court of competent jurisdiction in a member state in which the Bank has an office, and has appointed an agent for the purpose of accepting service or notice of process:

Provided that, no waiver of immunity shall be implied or extend to any measure of execution.

2. No action shall be brought against the Bank by members or persons acting for or deriving claim from members. However, members shall have recourse to such special procedures for the settlement of disputes between the Bank and its members as may be proscribed in Charter, in the regulations of the Bank or in contract entered into with the Bank.

Article 45 - Immunity of Assets

Acts Nos.
13 of 2005 s. 27(b)
and (c)
8 of 2012 s. 7

1. Property and other assets of the Bank, wheresoever's located and by whomsoever held, shall be immune from interference, search, requisition, confiscation, expropriation, nationalization, execution or any other form of taking or foreclosure by executive or legislative or judicial or administrative action and premises used for the business of the Bank shall be immune from search provided that in legal proceedings brought within the term of the Charter such immunity shall apply before delivery of a final judgment against the Bank by the highest court of competent jurisdiction.

2. The Bank shall prevent its premises from becoming refuges for fugitives from justice, or for persons subject to extradition, or persons avoiding service of legal process or a judicial proceeding.

3. For the purpose of this Schedule, the term "property and assets of the Bank" shall include property and assets owned or held by the Bank, the Bank's premises, deposits and funds entrusted to the Bank in the ordinary course of fulfilling its mandate.

Article 46- Immunity of Archives

Act No.
13 of 2005 s. 27(b)

The archives of the Bank and all documents belonging to it, or held by it, shall be inviolable wherever located.

Article 47 - Freedom of Assets from Restriction

To the extent necessary to carry out the objectives and functions of the Bank and subject to the provisions of this Charter, all property and other assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

Article 48 - Personal Immunities and Privileges

Act No.
13 of 2005 s. 27(b)

1. All Directors, alternate, officers and employees of the Bank shall be-
 - (a) immune from civil process with respect to acts performed by them in their official capacity; and
 - (b) accorded such immunities from immigration restrictions or alien registration, and where they are not citizens of a member State, such facilities in relation to exchange regulations as are accorded by member States to the representatives, officials and employees of comparable rank of other member States.

2. Experts or consultants recovering services to the Bank shall be accorded the same immunities and privileges as in paragraph 1 above, unless the member State concerned determines otherwise.

Article 49 - Exemption from Taxation

- Act No.
13 of 2005 s. 27(b)
- 1.** The Bank shall be enabled to import free of customs duty any goods required for the purpose of its operations except such goods as are intended for sale or are sold, to the public.
 - 2.** The Bank shall be exempted from income tax and stamp duty.

Article 51 - Waiver of Immunities

- Act No.
13 of 2005 s. 27(b)
- 1.** The Bank at its discretion may waive any of the privileges, immunities and exemptions conferred under this Charter in any case or instance, in such manner and upon such conditions as it may determine to be appropriate in the best interests of the Bank.
 - 2.** The Bank shall take every measure to ensure that the privileges, immunities, exemptions and facilities conferred by this Charter are not abused and for this purpose shall establish such regulations as it may consider necessary and expedient.
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