

CHAPTER 138
THE RUFJI BASIN DEVELOPMENT AUTHORITY ACT
[PRINCIPAL LEGISLATION]
ARRANGEMENT OF SECTIONS

Section

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**SCHEDULE
CHAPTER 138**

THE RUFJI BASIN DEVELOPMENT AUTHORITY ACT

An Act to establish Rufiji Basin Development Authority, to provide for the functions and powers of the Authority and for related matters.

[1st July, 1975]

[G.N. No. 146 of 1975]

Act No. 5 of 1975

**PART I
PRELIMINARY PROVISIONS**

1. Short title

This Act may be cited as the Rufiji Basin Development Authority Act.

2. Interpretation

In this Act, unless the context otherwise requires—

"Authority" means the Rufiji Basin Development Authority established by section 4;

"Board" means the Board of Directors of the Authority established under section 5;

"Development Area" means the Rufiji Basin Development Area the boundaries of which are defined in accordance with the provisions of section 3;

"Minister" means the Minister for the time being responsible for development planning;

"Rufiji River" includes each and every tributary of that river.

**PART II
RUFJI BASIN DEVELOPMENT AUTHORITY**

3. Development Area

(1) For the purposes of this Act, the Rufiji Basin Development Area shall be an area of land through or along which the Rufiji River flows as and defined in accordance with the provisions of subsection (2).

(2) The President may, by proclamation, define the boundaries of the Rufiji Basin Development Area and may, from time to time, by proclamation, vary the boundaries as so defined.

4. Establishment of Authority

(1) There is hereby established an authority which shall be known as the Rufiji Basin Development Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued in its corporate name, of purchasing, holding, alienating, managing and disposing of any property, whether movable or immovable and, whether by way of investment or otherwise, and capable of entering into any such contract as may be necessary or expedient for the performance of its functions under this Act or under any other written law.

5. Board of Directors

(1) The management and functions of the Authority shall vest in a Board of Directors.

(2) The provisions of the Schedule to this Act shall have effect as to the constitution and proceedings of, and otherwise in relation to, the Board of Directors.

(3) The President may by order in the Gazette, amend, add to, vary or replace the Schedule to this Act.

6. Functions of the Authority

The functions of the Authority shall be—

(a) to generate electricity by means of hydro-electric works in the Development Area and to supply, on such terms and conditions as the Board may, subject to the provisions of this Act, approve, electricity so generated for the promotion of industries and the general welfare of the people of the United Republic;

(b) to undertake measures for flood control;

(c) to promote and regulate industrial activities within the Development Area;

(d) to promote and regulate agricultural activities within the Development Area;

(e) to promote and regulate the development of forestry within the Development Area and to take measures to ensure the prevention or minimisation of soil erosion;

(f) to promote and regulate fishing industry in the rivers, lakes and dams within the Development Area;

(g) to promote and regulate public inland water and road transport systems within the Development Area;

(h) to promote tourism within the Development Area and to provide for or encourage the provision of facilities necessary or expedient for the promotion of tourism;

(i) to do all such acts and things as, in the opinion of the Board may be necessary to uphold and support the credit of the Authority and to obtain and justify public confidence and, to avert and minimise any loss to the Authority; and

(j) to do anything or enter into any transaction which, in the opinion of the Board, is calculated to facilitate the proper and efficient exercise by the Authority of its functions under this Act, including—

(i) the carrying on of any of the activities of the Authority in collaboration with any other person;

(ii) the acquisition by agreement, of interests in companies and firms engaged in activities in which the Authority may lawfully be engaged under this Act and the management of the affairs or the continuance of the business of such companies and firms;

(iii) the establishment of branches within the United Republic and elsewhere.

7. President may give directions

The President may give to the Authority directions of a general or specific character as to the exercise by the Authority, of any of its functions under this Act and the Authority shall give effect to every such direction.

**PART III
POWERS OF THE AUTHORITY**

8. Powers in relation to generation of electricity

(1) For the purposes of performing its function of generating electricity by means of hydro-electric works in the Development Area, the Authority shall have power to construct, maintain, operate, protect, manage and control works—

(a) for the collection, diversion and storage of water in the Development Area;
(b) for the generation and transmission of electricity; and
(c) incidental or related to the construction, maintenance, operation, protection, management or control, of any works specified in paragraph (a) or (b).

(2) The Authority shall have power to construct, maintain, operate, protect, manage and control, works which, in the opinion of the Board, are necessary or desirable for the purpose of preventing or mitigating injurious effects of any works referred to in subsection (1).

9. President may transfer to Authority certain additional powers

(1) Where the President is satisfied that for the proper and efficient performance by the Authority of any of its functions under this Act, it is necessary or desirable that the Authority enjoy, in relation to the Development Area, any power which is by any other written law, conferred upon any other person, whether generally or in relation to any specified area, whether or not such specified area includes the Development Area or any part of it, the President may, by order in the Gazette, provide that, subject to such limitations and restrictions as he may in such order specify, the Authority may exercise such power in relation to the Development Area as if such power, were, in relation to the Development Area, conferred upon the Authority by such other written law.

(2) Where the President makes an order under subsection (1) conferring upon the Authority any power provided for in any other written law, he may, by the same or by any subsequent order, modify such other written law to such extent as he may deem necessary for the avoidance of any inconsistency or conflict between the provisions of such other written law and the provisions of the order made under subsection (1) or for providing for an appeal against the decision of the Authority in the exercise of such power or for any matter incidental to or connected with the exercise by the Authority of such power.

(3) The provisions of any order made under subsection (2) shall have the same effect as if such provisions were made by and set out in this Act.

**PART IV
ADMINISTRATION AND FINANCIAL PROVISIONS**

10. Appointment of employees

(1) The Board may from time to time appoint at such salaries and upon such terms and conditions as it may think fit, such officers and employees of the Authority as it may deem necessary for the proper and efficient conduct of the business and activities of the Authority.

(2) The President shall appoint a Director-General of the Authority who shall be the chief executive officer of the Authority.

11. Remuneration and allowances of members of Board

The members of the Board shall be entitled to receive such remuneration, allowances and other benefits as the Minister may direct.

12. Superannuation benefits

The Board may—

- (a) grant gratuities or other retirement allowances or benefits to the officers and employees of the Authority;
- (b) establish and contribute to a superannuation fund and a medical benefits fund for the officers and employees of the Authority;
- (c) require any officer or employee of the Authority to contribute to any such superannuation fund or medical benefits fund and fix the amounts and method of payment of such contribution.

13. Agents and contractors

The Board may, from time to time, appoint and employ upon such terms and conditions as it thinks fit, such agents and contractors of the Authority as the Board may deem necessary.

14. Power of Board to delegate

(1) Subject to subsection (6), the Board may from time to time, in writing under the seal of the Authority delegate, subject to such terms, conditions or restrictions as it may specify, to any committee of the Board or to any officer or employee of the Authority, all or any of the functions, powers, authorities or duties conferred by or under this Act upon the Authority or upon the Board, and where any delegation is so made the delegated function, power, authority or duty may be performed or, as the case may be, exercised by the delegatee subject to the terms, conditions or restrictions specified in the writing.

(2) Any delegation under subsection (1) may be made to the holder of an office under the Authority specifying the office but without naming the holder and in every case each successive holder of the office in question and each person who occupies or performs the duties of that office may, without any further authority, perform or, as the case may be, exercise the delegated function, power, authority or duty in accordance with the delegation made.

(3) The Board may revoke a delegation made by it under this section.

(4) No delegation made under this section shall prevent the Authority or the Board from itself performing or exercising the function, power, authority or duty delegated.

(5) Any delegation made under this section may be published in the Gazette, and upon such publication shall be judicially noticed and shall be presumed to be in force unless the contrary is proved.

(6) The Board shall not have power under this section to delegate—

- (a) its power of delegation; or
- (b) any power conferred upon the Authority or the Board by an order under section 9 except where such order expressly allows such delegation;
- (c) the power to approve the annual budget or any supplementary budget or receipts and expenditure, the annual balance sheet or any statement of account.

15. Funds and resources of the Authority

The funds and resources of the Authority shall consist of—

- (a) such sums as may be provided for the purposes of the Authority by Parliament, either by way of grant or loan;
- (b) any loan or subsidy granted to the Authority by the Government or any other person;
- (c) any sum or property which may in any manner become vested in the Authority as a result of the performance by the Authority of any of its functions.

16. Annual and supplementary budget

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

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 period longer or shorter than twelve months.

(2) Not less than two months before the beginning of any financial year, other than the first financial year, the Board shall, at its meeting specially convened for that purpose, pass a detailed budget in this Act called the annual budget, of the amounts respectively—

- (a) expected to be received; and
 - (b) expected to be disbursed,
- by the Authority during that financial year.

(3) If in any financial year the Authority requires to make any disbursement not provided for or of an amount in excess of the amount provided for, in the annual budget for the year, the Board shall, at a meeting, pass a supplementary budget detailing such disbursement.

(4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may direct.

(5) Immediately upon the passing of any annual budget or any supplementary budget the Board shall submit the same to the Minister for 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 such amendment as he may deem fit.

(7) Where the Minister has approved with or without amendment, any annual budget or supplementary budget, the budget, as approved by him, shall be binding on the Authority which, subject to the provisions of subsection (8), shall confine its disbursements within the items and the amounts contained in the applicable estimates as approved by the Minister.

(8) The Board may—

- (a) with the sanction in writing of the Minister, make a disbursement notwithstanding that such 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 fifty thousand shillings to any other item contained in such 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.

17. Reserve and special funds

The Board may, and shall, if so directed by the Minister, establish and maintain such reserve or special funds of the Authority as the Board or the Minister may consider necessary or expedient and shall make into or from any such funds, such payments as the Board may deem fit or, in the case of a fund established pursuant to a direction by the Minister, as the Minister may direct.

18. Investment

(1) With the prior approval of the Minister, the Board may, from time to time, invest any part of the moneys available in any fund of the Authority, in such manner as the Board may deem fit.

(2) The Minister may, after consultation with the Minister for the time being responsible for Finance, give the Board directions as to the disposal of the Authority's surplus funds and the Board shall give effect to every such direction.

19. Power to borrow

(1) With the prior approval of the Minister, the Board may, from time to time borrow moneys for the purposes of the Authority, by way of loan or overdraft and upon such security and such terms and conditions relating to the repayment of the principal and the payment of interest as, subject to any direction by the Minister, the Board may deem fit.

(2) A person lending money to the Authority shall not be bound to enquire whether the borrowing of that money by the Authority has been approved by the Minister.

20. Accounts and audit

(1) The Board shall cause to be provided and kept proper books of accounts and records with respect to—

(a) the receipt and expenditure of moneys by, and other financial transactions of the Authority;

(b) the assets and liabilities of the Authority,
and shall cause to be made out for every financial year a balance sheet and a statement showing details of the income and expenditure of the Authority and all its assets and liabilities.

(2) Not later than six months after the close of every financial year the accounts including the balance sheet of the Authority relating to that financial year, shall be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act.

(3) As soon as the accounts of the Authority have been audited, and in any case not later than six months after such audit, the Board shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report made by the auditors.

(4) As soon as practicable after receipt by him of the copy of the statement together with the copy of the report submitted pursuant to subsection (3), the Minister shall lay a copy of the statement together with a copy of the auditors' report before the National Assembly.

21. Report by Board

The Board shall, within six months after the end of each financial year, make a report to the Minister on the conduct of the Authority's business during that financial year and the Minister shall lay a copy of such report before the National Assembly, together with a copy of the statement of accounts required by section 20, to be laid before the National Assembly.

**PART V
MISCELLANEOUS PROVISIONS**

22. Liability of members

Without prejudice to the provisions of section 284A of the Penal Code or of the Public Officers (Recovery of Debts) Act, no act or thing done or omitted to be done, by any member of the Board or by any officer, employee or agent of the Authority shall, if done or omitted bona fide in the execution or purported execution of his duties as such member, officer, employee or agent, subject any such person to any action, liability or demand.

23. By-laws

(1) The Authority may, with the consent of the Minister make by-laws—

- (a) providing for the protection of hydro-electric and other works within the Development Area;
- (b) prohibiting or regulating access to any part or parts of the Development Area by unauthorised persons;
- (c) regulating the use of waters from the Rufiji River, lakes and dams within the Development Area;
- (d) designed to minimising pollution of the waters of any river, lake or dam within the Development Area;
- (e) providing for the safety of persons employed in the construction, maintenance, operation, protection, management or control of hydro-electric and other works within the Development Area;
- (f) generally in relation to any matter or thing which in the opinion of the Board it is necessary, expedient or desirable to make by-laws in order to enable the Authority to perform its functions under this Act or to exercise any power conferred upon it by or under this Act, efficiently.

(2) There may be annexed to the breach of any by-law made under this section a penalty not exceeding a fine of twenty thousand shillings or a term of imprisonment not exceeding three years or both.

(3) Where by an order made under section 9 any power to make regulations under any other written law in relation to any matter provided for in such written law is conferred upon the Authority, the Authority may exercise such power by making by-laws in relation to such matter as if such matter were a matter in relation to which the Authority is empowered by subsection (1) to

make by-laws, and unless a contrary intention is expressed in the order under section 9, the Authority may annex to the breach of any such by-law a penalties specified in subsection (2), notwithstanding that, but for the provisions of this subsection, the provisions of subsection (2) would not have applied in relation to the breach of such by-law.

SCHEDULE

(Section 5(2))

1. Constitution

(1) The Board shall consist of the following members–

(a) a Chairman appointed by the President;

(b) the Director-General;

(c) not less than eight and not more than ten other members appointed by the President.

(2) The members of the Board shall, from among their number, elect a Vice-Chairman, who shall hold office for so long as he remains a member of the Board.

(3) A member of the Board shall, unless his appointment is sooner determined by the Presidents or he otherwise ceases to be a member, hold office for such period as the President may specify in his appointment or if no period is so specified, for a period of three years from the date of appointment and shall be eligible for reappointment:

Provided that a member who is a member by virtue of holding some other office, shall cease to be a member upon ceasing to hold that office.

(4) Any member of the Board may at any time resign by giving notice in writing to the Permanent Secretary to the President's Office and from the date specified by the notice or, if no date is specified, from the date of the receipt of the notice by the Permanent Secretary, shall cease to be a member.

2. Secretary

The Board may appoint any member of the Board or officer of the Authority or a public officer to be the Secretary of the Board.

3. Casual vacancies

Where any member ceases to be a member for any reason before the expiration of the term of office, the President shall appoint another person and the person so appointed shall hold office for the remainder of the term of office of the predecessor.

4. Meetings

(1) An ordinary meeting of the Board shall be convened by the Chairman and the notice specifying the place, date and time of the meeting shall be sent to each member at his usual place of business or residence not less than fourteen days before the date of such meeting and in case the Chairman is unable to act by reason of illness, absence from the United Republic or other sufficient cause, the Vice-Chairman may convene such meeting.

(2) The Chairman or in his absence, the Vice-Chairman shall be bound to convene a special meeting of the Board upon receipt of a request in writing in that behalf signed by not less than five members of the Board:

Provided that not less than fourteen days' notice of such meeting shall be given to all members of the Board in the manner prescribed in subparagraph (1).

(3) The Chairman, the Vice-Chairman, or a temporary Chairman elected in accordance with the provisions of subparagraph (2) of paragraph 5 presiding at any meeting of the Board may invite any person who is not a member to participate in the deliberations of the Board, but any such person shall not be entitled to vote.

5. Procedure

(1) One-half of the total number of the members of the Board or five members, whichever is the lesser number, shall form a quorum for a meeting of the Board.

(2) In the absence of the Chairman from a meeting of the Board, the Vice-Chairman shall preside and in the absence of both the Chairman and the Vice-Chairman, the members present shall elect one of their number to be a temporary Chairman of that meeting.

(3) At any meeting of the Board a decision of the majority of the members present and voting shall be deemed to be a decision of the Board and. In the event of an equality of votes, the Chairman of the meeting shall have a casting vote in addition to the deliberative vote.

6. Decision by circulation of papers

Notwithstanding the provisions of paragraph 5, where the Chairman so directs, a decision may be made by the Board without a meeting by circulation of the relevant papers among all the members and the expression in writing of their views, but any member shall be entitled to require that any such decision is deferred until the subject matter shall be considered at a meeting of the Board.

7. Minutes of meetings

Minutes of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting.

8. The seal of Authority

The seal of the Authority shall not be affixed to any instrument except in the presence of the Director-General or of the Secretary and one member of the Board.

9. Vacancies not to invalidate proceedings

Subject to the provisions of paragraph 5 relating to quorum, the Board may act notwithstanding any vacancy in the membership and no act or proceeding of the Board shall be invalid by reason only of some defect in the appointment of a person who purports to be a member.

10. **Signing of documents**

All orders, by-laws, regulations, directions, notices or documents made or issued by the Authority or by the Board shall be signed by—

- (a) the Director-General; or
- (b) any member of the Board or other officer of the Authority authorised in writing by the Director-General in that behalf.

11. **Board may regulate its own proceedings**

Subject to the provisions of this Schedule, the Board shall have power to regulate its own proceedings.