

THE PUBLIC CORPORATIONS (AMENDMENT) ACT, 1999

ARRANGEMENT OF SECTIONS

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8.	Amendment of section 35.
9.	Amendment of section 40.
10.	Insertion of section 40A.
11.	Amendment of section 42.
12.	Amendment of section 43.
13.	Addition of new section 45A.

THE UNITED REPUBLIC OF TANZANIA



No. 17 of 1999

I ASSENT,

Benjamin W. Mkaba

President

22nd December, 1999

An Act to amend the Public Corporations Act, 1992

[.....]

ENACTED by the Parliament of the United Republic.

1. This Act may be cited as the Public Corporations (Amendment) Act, 1999 and shall be read as one with the Public Corporations Act, 1992 (hereinafter referred to as "the principal Act").

Short
title and
construc-
tion

2. Section 3 of the principal Act is amended by inserting the following definitions in their appropriate alphabetical positions-

Amend-
ment of
Section 3

"divestiture" means the transfer of the proprietary interest in a specified public corporation from the Government and includes the winding up or dissolution of the specified public corporation";

"initial document" means the Memorandum of Understanding or any other similar document detailing the understanding reached during the negotiations with an investor".

Amend-
ment of
section
21

3. Section 21 of the principal Act is amended by deleting subsection (3) and substituting for it the following-

"(3) The duration of the Commission shall be extended for a second term of four years from the date of coming into effect of this Act;

Provided that upon the recommendation of the Minister responsible for planning commission accompanied by a performance report of the Commission for the preceding four years, the National Assembly may by resolution extend the term of the Commission for a further period as it shall determine.

Amend-
ment of
section
22

4.-(1) Section 22 of the principal Act is amended in subsection (1).

(a) by adding immediately after paragraph (d) the following-

"(e) to initiate, advice on and facilitate the establishment. or restructuring of regulatory bodies for the infrastructure and utility sectors;

(b) by renaming paragraph (e) as (f).

Amend-
ment of
section
24

5. Section 24 of the principal Art is amended in subsection (1) by insetting immediately after the word "Minister" the words "responsible for planning commission"

Amend-
ment of
section
25

6. Section 25 of the principal Act is amended-

(a) by renumbering the second subsection (2) as (3);

(b) - by renumbering subsection (3) as (4);

(c) in the now subsection (3) by inserting immediately after the word "Minister" the words "responsible for planning commission-

(d) in the new subsection "(4)" by inserting immediately after the word "Minister" the word "responsible for planning commission"

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| <p>7. Section 34 of the principal Act is amended in subsection (2) by adding immediately after the word "Government" the words "through the Minister"</p> | <p>Amend-
ment of
section
34</p> |
| <p>8. Section 35 of the principal Act is amended-</p> <p>(a) in subsection (4) by adding immediately after the word "Minister" the words "responsible for planning commission",</p> <p>(b) in subsection (6) by inserting immediately after the word "Minister" wherever it appears in that subsection the words "responsible for planning commission"</p> | <p>Amend-
ment of
section
35</p> |
| <p>9. Section 40 of the principal Act is amended by adding immediately after subsection (2) the following-</p> <p>"(3) The responsible Minister shall cause to be prepared and submitted to the Government for its approval all the relevant initial documents signed by the Commission and the potential investor within the period not exceeding thirty days, thereafter the Minister responsible for planning commission shall cause to be prepared and submitted to the Government for its approval all the relevant initial documents within fourteen days,</p> | <p>Amend-
ment of
section
40</p> |
| <p>10. The principal Act is amended by inserting immediately after section 40 the following section-</p> <p>"40A. (1) A specified, public corporation shall-</p> <p>(a) carry out any direction, made by the, Commission for preparing the public corporation or specified public corporation for divestiture;</p> <p>(b) keep up to date all business records and books of account;</p> | <p>Insertion
Of
section
40A</p> <p>Require-
ments of
a speci-
fied
public
corpora-
tion</p> |

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- (c) upon specification and within the time frame stipulated in writing by the Commission, transfer to the Commission all documents evidencing ownership of the title, including but not limited to certificates of titles, registration cards for all movable and immovable assets; and any other document as specified by the Commission;
 - (d) prepare two to three year's investment and, financing plan and a manpower development plan;
 - (e) prepare statutory accounts and cause them to be audited not later than four months, after each financial year and provide authenticated copies thereof to the Commission within one month after completion of the audit;
 - (f) maintain a fixed asset register which shall be reconciled with the financial statement;
 - (g) not perform any action that would result in the assets of the company being dissipated, mortgaged, or collateralized without the express approval of the Commission;
 - (h) not undertake any new capital investment programmes, unless a project appraisal document approved by the Commission, has been prepared showing that-
 - (i) routine plant, equipment and vehicle renewal is required;
 - (ii) rehabilitation expenditure is essential to keep the operations of the specified public corporation running or to improve the marketability of the enterprise;
 - (iii) new capital investment has a pay back period of less than two years; and

- (iv) the specified public corporation demonstrates that the investment will not result into a deterioration of the company's operations;
- (i) clear as far as practicable all contractual, legal and other obligations which hinder or may hinder smooth divestiture;
- (j) not give any person who is not an employee of the Commission information which might give undue advantage to that, person or any potential, investor,
- (k) disclose all or any information about the enterprise when required by the Commission;
- (l) refrain from taking Any: action or omit to do any act which may cause industrial unrest;
- (m) not enter into any lease, loan, credit agreement, settlement or compromise arrangement without the approval of the Commission,
- (n) not institute a suit intended to challenge or stop the Commission from proceeding with the divestiture of any specified public corporation without the approval of the Treasury, Registrar.

(2) Any person or officer of a specified public corporation who knowingly contravenes subsection (1) of this section commits an offence and is liable upon conviction to a fine not exceeding one million shillings or to a term of imprisonment not exceeding five years, or to both that fine and imprisonment.

(3) A specified public corporation shall be exempt from all or any of the provisions of the Rent Restriction Act, 1984.

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of 1984

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11. Section 42 of the principal Act is amended by adding immediately after paragraph (b) the following paragraphs-

Amend-
ment of
section
42

"(c) implement any directive issued by the Commission under the hand of the Chairman so as to facilitate divestiture of a specified public corporation, and

(d) to ensure no decision is taken affecting the assets, or changing the financial affairs of a specified public corporation materially without obtaining approval of the Commission".

Amendment of section 43

12. Section 43 of the principal Act is amended in subsection (2)-

(a) in paragraph (a) by inserting immediately after the word "a" the word "specified";

(b) by deleting subparagraph (i) and substituting for it the following-

"(i) have power to liquidate a specified public corporation in accordance with the Companies Ordinance".

Cap. 212

Amendment of section 44

13. Section 44 of the principal Act is amended in subsection (1) by deleting the word "public corporation" and substituting for it the word "company".

Addition of new section 45A

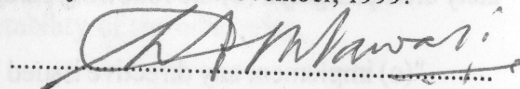
14. The principal Act is amended by adding immediately after section 45 the new section 45A-

Inoperative agreement

45A—(1) Where any voluntary or lease agreement entered by a specified public corporation is the subject of any proceedings before a court of law, and the Commission is of the opinion that the agreement was entered in anticipation of divestiture and is not at arms length, the Commission shall immediately issue to the court, notice of intention to submit its opinion and shall, within fourteen days from the date of such notice, submit its opinion before the court which shall thereupon declare the agreement to be inoperative.

(2) Where a Court receives a notice of the intention of the Commission to submit its opinion, the court shall stay the proceedings concerned to enable the Commission to submit the opinion.

Passed in the National Assembly on the 10th November, 1999.



Clerk of the National Assembly