

TANZANIA

National Environment Management Act No. 19 of 1983

I ASSENT

J.K. NYERERE

President

10TH SEPTEMBER, 1983

An Act to provide for the establishment of the National Environment

Management Council, to provide for its functions and for other

matters related to and incident to the establishment of that Council

ENACTED by the Parliament of the United Republic of Tanzania.

PART 1

PRELIMINARY

Short title and commencement

1. This Act may be cited as the National Environment Management Act, 1983, and shall come into operation on such date as the Minister may, by notice published in the Gazette, appoint.

Interpretation

2. In this Act, unless the context otherwise requires:-

“beneficial use” means a use of the environment or of any part thereof that is conducive to human benefit, welfare, safety or health;

“Chairman” means the Chairman of the Council;

“the Council” means the National Environment Management Council established by section 3;

“conservation”, means any act or a combination of acts, processes or procedures aimed at the protection, development and control of the environment, or the elimination, minimization or prevention of harm to the environment as a result of biological, chemical, economic, physical or social developmental activity;

“Director-General” means the Director-General of the Council appointed under section 6;

“environment” means the land, water and atmosphere of the earth;

“pollution” means any direct or indirect contamination or alteration of any part of the environment so as:-

- (a) to affect any beneficial use adversely; or
- (b) to cause a condition that is detrimental or hazardous or likely to be detrimental or hazardous to:-
 - (i) human health, safety or welfare;
 - (ii) animals, plants or microbes; or
 - (iii) property,

caused by emitting anything.

PART II

THE NATIONAL ENVIRONMENT MANAGEMENT COUNCIL

Establishment of Council

3.- (1) There is hereby established a Council which shall

be known as the National Environment Management Council.

(2) The Council shall be a body corporate and shall:-

- (a) have perpetual succession and an official seal;
- (b) in its corporate name, be capable of suing and being sued;
- (c) subject to this Act, be capable of holding, purchasing or acquiring in any other way, any movable or immovable property, and of disposing of any of its property for the purpose of carrying out the functions conferred on the Council by this Act.
- (3) The provisions of the Schedule to this Act shall have effect as to the constitution and the procedure of the Council and to other matters in relation to it.

(4) Save for the provisions relating to the appointment of the Chairman, the Minister may, by order published in the Gazette amend, add to, vary, revoke or replace any of the provisions of the First Schedule.

(5) The Council may with the approval of the Minister co-opt any additional members for a specified meeting or other purpose but no co-opted member shall have the right to vote.

Functions of the Council

4. The functions of the Council shall be to advise the Government on all matters relating to the environment, and in particular the Council shall:-

- (a) formulate policy on environmental management and recommend its implementation by the Government;
- (b) co-ordinate the activities of all bodies concerned with environmental matters and serve as a channel of communication between these bodies and the Government;
- (c) evaluate existing and proposed policies and the activities of the Government directed to control of pollution and the enhancement of the environment and to the accomplishment of other objectives which affect the quality of the environment and, on the basis of that formulate policies and programmes which will achieve more effective management and enhancement of environmental quality;
- (d) recommend measures to ensure that Government policies, including those for the development and conservation of natural resources, take adequate account of environmental effects;

(e) foster co-operation between the Government, local authorities and other bodies engaged in environmental programmes;

(f) stimulate public and private participation in programmes and activities for the national beneficial use of natural resources;

(g) seek advancement of scientific knowledge of changes in the environment and encourage the development of technology to prevent or minimize adverse effects that endanger man's health and well-being;

(h) specify standards, norms and criteria for the protection of beneficial uses and the maintenance of the quality of the environment;

(i) establish and operate a system of documentation and dissemination of information relating to the environment;

(j) formulate proposals for legislation in the area of environmental issues and recommend their implementation by the Government;

(k) establish and maintain liaison in other national and international organizations respect of issues and matters relating to environmental protection and management;

(l) undertake or promote general environmental educational programme for the purpose of creating an enlightened public opinion regarding the environment and the role of the public in its protection and improvement;

(m) perform such other functions as the Minister may assign to the Council, or as are incidental or conducive to the exercise by the Council of all or any of the preceding functions.

(3) For the purposes of the better performance of its functions the Council shall establish and maintain a system of collaboration, consultation and co-operation with any person or body of persons established by or under any written law and having functions related to those specified in subsection (1) or which relate to environmental management or environmental matters generally.

General powers of the Council

5. The Council may, for the purposes of carrying out its functions under this Act, do all such acts as appear to it to be requisite, advantageous or convenient for or in connection with the carrying out of those functions or to be incidental to their proper performance and may carry on any activities in that behalf either alone or in association with any other person or body of persons.

Director of Environ-ment Protection

6.- (1) There shall be a Director-General of the Council who shall be appointed by the President on such terms and conditions as the President may determine and who shall also act as Secretary to the Council:-

(2) The Director-General shall be the chief executive officer of the Council and shall, subject to the provisions of this Act and any directions which may be given to him by the Minister or the Council, be responsible for the implementation of all the decisions of the Council and carrying out all day to day activities of the Council.

Duties of the Director

7. Without prejudice to the generality of subsection (3) of section 9, it shall be the duty of the Director, under the direction of the Council,

- (a) to consider means and initiate steps for the protection of the environment and for preventing, controlling, abating or mitigating pollution;
- (b) to carry out investigations into the problems of environmental Management,
- (c) to obtain the advice of persons having special knowledge, experience, or responsibility in regard to environmental management;
- (d) to keep under review the progress made in the pursuance attainment of the objects and purposes of the Act and to publish reports and provide information for the purpose of enhancing public awareness of such progress and of the problems and remedies that exist in relation to the management of the environment;
- (e) to promote, encourage, co-ordinate, and carry out short-term and long-term planning and projects in environmental management and protection together with or separate from other public bodies and other organs; and
- (f) generally, to administer and give effect to the provisions of this Act and to carry out other functions as may be prescribed by the Council.

8.- (1) The Council may appoint on such terms and conditions as it may determine, such number of persons to serve as officers of the Council as it may consider appropriate or necessary for the performance of the functions of the Council;

(2) The Council may engage either temporarily or on such terms as it may think fit persons who are experts in matters relating to the environment

Delegation of powers of appointment

9. The Council may, subject to such conditions as it may impose, delegate to any person or body of persons the power of appointing persons to any office or offices of the Council.

Boards and other Committees

10.- (1) Subject to the approval of the Minister, the Council may, from time to time establish such committees as it may consider necessary for the purpose of facilitating the carrying out of the objectives of the Council.

(2) The Council shall prescribe the composition, powers, duties and procedure of all committees and subject to the provisions of this Act, may delegate to any such committees any of its powers or functions.

(3) The Council may appoint on any committee established under this section any person notwithstanding that that person is not a member of the Council but any person so appointed shall have no right to vote:-

Provided that in no case shall the number of members of any committee who are not also members of the Council exceed one third of the total number of the members of a Committee.

Council may call for information

11.- (1) The Council may require in writing any person or body of persons engaged in research, or engaged in an activity effecting or relating to the environment within Tanzania, to furnish to it such information relating to that research or activity as the Council may specify.

(2) Every person or body of persons which is required to furnish information under subsection (1) shall comply with the requirement and any person or group of persons which refuses or fails to comply with that requirement shall be guilty of an offence and shall be liable on conviction to a fine not exceeding five thousand shillings.

Minister may give directions

12. The Minister may give to the Council directions of a general or specific character regarding the performance by the Council, of any of its functions under this Act, and the Council shall give effect to every direction given to it.

PART III

FINANCIAL PROVISIONS

Funds of the Council

13.- (1) The funds and resources of the Council shall consist of:-

- (a) such sums as may be provided for that purpose to the Council by Parliament, either by way of grant or loan;
- (b) such donations, grants, bequests and loans as the Council may, from time to time receive from any person or organization;
- (c) any sums or property which may vest in the Council under this Act or any other written law or which may vest in the Council in any other manner in the performance of its functions.

(2) The funds and resources of the Council shall be applied for the purposes for which the Council is established under this Act.

Power of Minister to impose duty

14.- (1) If the Minister considers it necessary in the public interest he may, after consultation with the Minister for the time being responsible for finance, by order published in the *Gazette*, impose a duty payable to the Council by any person or body of persons benefiting from the activities of the Council or whose activities affect the activities of the Council, and every such person or body of persons specified in the Order, shall take all necessary measures to pay to the Council such amount of duty and in such manner as may be specified in the order.

(2) Every amount of duty required to be paid under subsection (1) shall be paid by the specified person or body of persons, and the amount so payable shall be a debt due to the Council and may be recovered from the specified person or body of persons as a civil debt by a suit at the instance of the Director-General or any person authorized by him in that behalf.

(3) Where any amount of duty is due from any specified person or body of persons, the Director-General may file in a court of a Resident Magistrate having jurisdiction over the area in which the specified person or body of persons carries on business, a certificate stating:-

- (a) the name and address of the specified person or body of persons from whom the amount is due; and
- (b) the amount due,

and upon the certificate being lodged in court the certificate shall be deemed to be a plaint duly lodged under Order XXXV of the Civil Procedure Code 1966, and the court shall proceed in the matter in accordance with the provision, of that Order, and in the event of a judgement being given in favour of the plaintiff the court shall pass a decree for payment by the defendant to the Council of the amount found due together with interest on that amount at five per centum per month from the date on which the certificate was filed until payment.

(4) The provisions of subsection (3) shall apply notwithstanding that the amount involved exceeds the pecuniary jurisdiction of a court of a Resident Magistrate.

(5) Every certificate filed in a court of a Resident Magistrate pursuant to the provisions of subsection (3) shall, unless the contrary is proved, be conclusive evidence of the truth of the statements contained in that certificate.

Council may charge fees

15. For the purposes of the better and proper performance of its functions the Council may, subject to any directions which the Minister may give in that behalf, charge fees for any services rendered by it or by any of its committees.

Annual estimates

16.- (1) The Director-General shall, in respect of each financial year, cause to be prepared estimates of the expenditure and revenue of the Council and those estimates shall be approved by the Council before the commencement of the relevant financial year.

(2) If in any financial year the Council requires to make any disbursement not provided for or of any amount in excess of the amount provided for in the annual budget for that year, the Council shall at a meeting pass a supplementary budget detailing that disbursement.

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

(4) Forthwith upon passing any annual budget or any supplementary budget the Council shall submit to the Minister for his approval that annual budget or that supplementary budget.

(5) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove it or may approve it subject to such amendment as he may deem fit.

(6) Where the Minister has approved any annual budget or any supplementary budget, the budget, or, as the case

may be, the supplementary budget, shall be binding on the Council which, subject to subsection (7), shall confine the disbursements of the Council within the items and amounts contained in the applicable estimates as approved by the Minister.

(7) The Council may:-

- (a) with the sanction in writing of the Minister, make a disbursement notwithstanding that the disbursement is not provided for in any budget.
- (b) 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 the alteration of expenditure limits becoming necessary.

Accounts and audit

17.- (1) The Council shall cause to be provided and kept proper books of account and records with respect to:-

- (a) the receipt and expenditure of moneys by, and other financial transactions of the Council.
- (b) to assets and liabilities of the Council, and shall cause to be made out for every financial year a balance sheet showing details of the income and expenditure of the Council and all its assets and liabilities.

Acts, 1968 No.1

(2) Within six months of the close of every financial year a balance sheet showing details of the income and expenditure of the Council — in respect of that financial year shall be submitted for audit by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act, 1968.

(3) Every audited balance sheet shall be placed before a meeting of the Council which, if it adopts it shall endorse the balance sheet with a certificate that it has been so adopted.

(4) As soon as the accounts of the Council have been audited, and in any case not later than eight months after the close of the financial year, the Council shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report, made by the auditors on the statement of accounts which he shall then submit before the National Assembly.

SCHEDULE Section 3 (2)

1. The Council shall consist of:-

- (a) a Chairman, who shall be appointed by the President;
- (b) fifteen members appointed by the Minister upon nomination one each by such Ministries and organizations involved in matters relating to the management or protection of the environment as the Minister may determine;
- (c) three other members appointed by the Minister from amongst persons who, in his opinion, have the necessary experience or qualification to enable them to make a useful contribution to the realization of the objectives of, and to the deliberations of the Council.

Vice-Chairman

2. The Members shall elect one of their number to be the Vice-Chairman of the Council, and any member elected as Vice-Chairman shall, subject to his continuing to be a member hold office for a term of one year from the date of election, and shall be eligible for re-election.

Tenure of appointment

3.- (1) A member shall, unless his appointment is sooner terminated by the President or as the case may be, by the Minister or he ceases in any other way to be a member, hold office for the period specified by the President in the case of the Chairman or by the Minister, in the case of any other member, in the instrument of his appointment or if no period is so specified, for a period of three years from the date of his appointment and shall be eligible for re-appointment.

(2) Any member appointed under paragraph 1(a), or (c) may at any time resign his office by giving notice in writing to the President or, as the case may be, to the Minister, and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the President or the Minister, he shall cease to be a member.

(3) If a member of the Council who is a member by virtue of his holding some other office is unable for any reason to attend any meeting he may nominate in writing another person from his Ministry or organization to attend that meeting in his place.

Temporary membership

4. Where any member ceases to be a member for any reason before the expiration of his term of office, the appointing authority may appoint another in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

Presiding of meeting

5.- (1) The Chairman shall preside at all meetings of the Council.

(2) Where at any meeting of the Council the Chairman is absent the Vice-Chairman shall preside.

(3) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Council, the members present shall, from amongst their number elect a temporary Chairman who shall preside at the meeting.

(4) The Chairman, Vice-Chairman or a temporary Chairman presiding at the meeting of the Council, shall in the event of an equality of votes shall have a casting vote in addition to his deliberative vote.

Meeting and procedure of the Council

6.- (1) The Council shall ordinarily meet for the transaction of its business not less than twice during every year and at such additional times as may be fixed by the Chairman or, if he is absent from the United Republic or unable for any reason to act, the Vice-Chairman.

(2) The Chairman or, in his absence from the United Republic, the Vice-Chairman may, and upon application in writing by at least five members shall, convene a special meeting of the Council at any time.

(3) The Secretary of the Council shall give to each member adequate notice of the time and place of each meeting.

(4) The Council may invite any person who is not a member to participate in the deliberations of any meeting of the Council, but any person so invited shall not be entitled to vote.

Quorum

7. At any meeting of the Council not less than one half of the members in office for the time being shall constitute a quorum.

Decision of the Council

8.- (1) Subject to the provisions relating to a casting vote, all questions at a meeting of the Council shall be determined by majority of the votes of the members present.

(2) Notwithstanding sub-paragraph (1), a decision may be made by the Council without meeting by circulation of the relevant papers among the members, and the expression in writing of the views of the majority of the members.

9.- (1) The Council shall cause to be recorded and kept minutes of all business conducted or transacted at its meeting and the minutes of each meeting of the Council shall be read and confirmed or amended and confirmed, at the next meeting of the Council and signed by the person presiding at the meeting.

(2) Any minutes purporting to be signed by the person presiding at a meeting of the Council shall, in the absence of proof or error, be deemed to be a correct record of the meeting, whose minutes they purport to be.

Vacancies, etc, not to invalidate proceedings

10. The validity of any act or proceeding of the Council shall not be affected by any vacancy among its members or by any defect in the appointment of any of them.

Order directions

11. All orders, directions, notices or other documents issued or on behalf of the Council shall be signed by:-

(a) the Chairman of the Council; or

(b) the Secretary or any officer or officers of the Council authorized in writing in that behalf by the Secretary.

Seal of the Council

12. The Seal of the Council shall not be affixed to any instrument except in the presence of the Chairman or the Secretary or some other officer of the Council and at least one member of the Council.

Council may regulate its proceedings

13. Subject to the provisions of this Schedule, the Council may regulate its own proceedings.

Passed in the National Assembly on the sixteenth day of July, 1989.

E.E. KAZIMOTO

Clerk of the National Assembly