

Tanzania

## National Construction Council Act Chapter 162

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# National Construction Council Act

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## Tanzania

# National Construction Council Act

## Chapter 162

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*[Note: This legislation has been thoroughly revised and consolidated under the supervision of the Attorney General's Office, in compliance with the Laws Revision Act No. 7 of 1994, the Revised Laws and Annual Revision Act (Chapter 356 (R.L.)), and the Interpretation of Laws and General Clauses Act No. 30 of 1972. This version is up-to-date as at 31st July 2002.]*

*[G.N. No. 95 of 1981; Act No. 20 of 1979; G.Ns. Nos. 58 of 1981; 168 of 1984; 639 of 1986]*

**An Act to establish the National Construction Council and to provide for matters related to the establishment of that Council.**

### Part I – Preliminary provisions (ss 1-2)

#### 1. Short title

This Act may be cited as the National Construction Council Act.

#### 2. Interpretation

In this Act, unless the context requires otherwise—

"**Chairman**" means the Chairman of the Council;

"**Committee**" means a Committee established under the provisions of [section 9](#);

"**Council**" means the National Construction Council established under [section 3](#);

"**member**" in relation to the Council, means a member of the Council and includes the Chairman; and in relation to a Committee means a member of the Committee and includes the Chairman of the Committee;

"**Minister**" means the Minister responsible for works;

"**Secretary**" means the officer appointed by the President to be the Secretary to the Council.

### Part II – The National Construction Council (ss 3-13)

#### 3. Establishment

- (1) There is hereby established a Council to be known as the National Construction 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; and
  - (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 purposes of carrying out the functions conferred on the Council by this Act.

- (3) The provisions of the Schedule to this Act shall have effect in respect of the constitutions of the Council, its proceedings and other matters relating to it.
- (4) The Minister may, by Order published in the *Gazette*, amend, add to, vary or replace any of the provisions of the Schedule to this Act.

#### 4. Functions of the Council

The functions of the Council shall be—

- (a) to promote the development of the construction industry in Tanzania;
- (b) to plan and co-ordinate the activities of persons engaged in the construction industry in Tanzania;
- (c) to provide advisory services and technical assistance necessary for, or related to the proper development of the construction industry, to institutions and other persons engaged in the construction industry;
- (d) to provide and promote training facilities for persons engaged in or employed or to be employed in the construction industry;
- (e) to advise the government on all matters relating to the development of the construction industry and to formulate proposals and recommendations for their implementation;
- (f) to promote the documentation and dissemination of information on any aspect of research into any activity connect to the construction industry, carried out by the Council or any person or institution, and may for that purpose publish any newspaper, journal or periodical or do any other thing designed to promote research in any matter which is necessary or desirable for the efficient development of the national construction policy;
- (g) to monitor the implementation of standards and regulations relating to the construction industry;
- (h) to monitor construction costs and make suggestions for their control;
- (i) to give advice on the economical use of materials for construction and to encourage the maximum use of local materials;
- (j) to carry out and promote the carrying out of research in various aspects of the construction industry and to co-ordinate that research;
- (k) to advise the Government, or institutions engaged in the construction industry on the adaptation of technology in the construction industry;
- (l) to participate in, or to make arrangements for, conferences, seminars and discussions on matters connected with the activities of the Council; and
- (m) to establish and monitor guidelines for tendering procedures so as to ensure fairness, speed and economy.

#### 5. General powers of the Council

The Council may, for the purpose of carrying out its functions under this Act, do any acts which appear to it to be requisite, advantageous or convenient for or in connection with the carrying out of those functions or to be related 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.

#### 6. Secretary of the Council

- (1) There shall be a Secretary of the Council who shall be appointed by the President on the terms and conditions which the President may determine and who shall also act as Secretary to the Executive Committee.

- (2) The Secretary shall be the Chief Executive and Administrative Officer of the Council and shall be responsible for co-ordinating the whole of the work of the Council.
- (3) Subject to the provisions of this section, the Secretary shall have all other functions which may be conferred upon him by the Council.
- (4) Where the Secretary is not a member of the Council, he shall have no power to vote at any meeting of the Council.

## **7. The staff of the Council**

The Council may appoint on such terms and conditions which it may determine, any number of officers of the Council whom it may consider necessary for the performance of its functions.

## **8. Delegation of powers of appointment**

The Council may, subject to the conditions which it may impose, delegate to any person or body of persons, the power of appointment to any office or offices on the Staff of the Council.

## **9. Executive Committee of Council**

- (1) The Council shall appoint an Executive Committee comprising—
  - (a) the Chairman, who shall be the Chairman of the Committee;
  - (b) twelve other members of the Council.
- (2) The functions of the Executive Committee shall be to act as the executive authority of the Council in the management of its ordinary affairs and to consult and to report to the Council thereon, and for those purposes it may exercise all the executive powers and functions vested in the Council by this Act other than the power of approving estimates conferred by [section 15](#) or any function or power delegated by the council to a committee established under [section 10](#).
- (3) The provisions of the Schedule to this Act shall apply, with such modifications as the circumstances may require, in relation to the tenure of office of the members of the Executive Committee, the right to terminate their appointment, and the appointment of a new member to fill any vacancy, and also in relation to the quorum, proceedings and meetings of the Committee.

## **10. Boards and other Committees**

- (1) Subject to the approval of the Minister, the Council may, from time to time, establish any boards and committees which 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 boards and, subject to the provisions of this Act, may delegate to any committee or board any of its powers or functions other than the power of approving estimates conferred by [section 15](#).
- (3) The Council may appoint on any committee or board 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 power to vote:

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

- (4) For the purposes of this section, the Secretary shall be deemed to be a member of the Council.

**11. Information on construction research to be furnished to the Council**

- (1) Every person engaged, or intending to engage, in the field construction industry research within the United Republic shall, at his own expense, furnish to the Council information relating to that research and shall make available to the Council copies of any relevant records or findings in the form and within the periods which may be prescribed.
- (2) Any person who contravenes or fails to comply with subsection (1) commits an offence and on conviction is liable to a fine not exceeding ten thousand shillings.
- (3) Notwithstanding subsection (1), the Council may enter into arrangements with firms or organisations engaged in research in, or activity relating to, the construction industry, within or outside Tanzania, for the purposes of establishing a system of exchanging information relating to research in or activity relating to, the construction industry.

**12. Council may call for information on research**

- (1) The Council may require in writing any person or body of persons engaged in research in, or in any activity relating to, the construction industry within Tanzania, to furnish to it any information relating to that research or activity which the Council may specify.
- (2) Every person or body of persons required to furnish information under subsection (1) shall comply with the requirement and any person who or body of persons which refuses or fails to comply with that requirement commits an offence and on conviction is liable to a fine not exceeding fifteen thousand shillings.

**13. Minister may give directions**

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 (ss 14-18)****14. Funds of the Council**

- (1) The funds and resources of the Council shall consist of—
  - (a) any sums which may be provided for the purposes of the Council by Parliament, either by way of grant or loan;
  - (b) any donations, grants, requests and loans which the Council may, from time to time receive from any person or organisation; and
  - (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.

**15. Annual estimates**

- (1) The Council 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 the form and include the details which the Minister may direct.
- (4) Forthwith upon passing any annual budget or any supplementary budget the Council shall submit that annual budget or that supplementary budget, as the case may be, to the Minister for his approval.
- (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; and
  - (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.

## 16. Accounts and audit

- (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; and
  - (b) the 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.
- (2) Within six months of the close of every financial year the accounts including the balance sheet of the Council in respect of that financial year shall be submitted for audit by the Tanzania Audit Corporation.
- (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 six 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.

## 17. Annual report

The Council shall, within six months after the close of the financial year, cause to be prepared and submitted to the Minister a report dealing generally with the activities and operations of the Council during that year and accompanied by—

- (a) a copy of the audited accounts of the Council;
- (b) a copy of the auditor's report, on the accounts; and

- (c) any other information which the Minister may direct.

## 18. Laying of accounts before National Assembly

The Minister shall, as soon as practicable after receiving them, lay before the National Assembly the audited accounts of the Council together with the auditor's report, if any, on the accounts and the annual report of the Council.

## Part IV – General provisions (ss 19-20)

## 19. Protection from personal liability

Without prejudice to the provisions of section 284A of the Penal Code<sup>1</sup> or to the provisions of the Public Officers (Recovery of Debts) Act<sup>2</sup>, or of the Parastatal Employees (Recovery of Debts) Act, no Act or thing done or omitted to be done by any member of the Council or by any employee of the Council shall, if done or omitted *bona fide* in the execution or purported execution of his duties as a member of the Council or as an employee of the Council, subject him to any action, liability or demand of any kind.

## 20. Notification of orders

Where any order, direction or requirement made or given by the Minister or the Council under this Act is not required to be published in the *Gazette*, the order, direction or requirement shall be brought to the notice of persons affected or likely to be affected by it in any manner which in the opinion of the Council will ensure the order, direction or requirement coming to the notice of persons affected or likely to be affected by it:

Provided that if the order, direction or requirement is published in the *Gazette*, all persons shall be deemed to have had notice of it.

## Schedule (Section 3(3))

### 1. Composition of the Council

The Council shall consist of—

- (a) a Chairman, who shall be appointed by the President;
- (b) five members appointed by the Minister representing one of each—
  - (i) the Office of the Prime Minister;
  - (ii) the Ministry of Finance;
  - (iii) the Ministry of Education;
  - (iv) the Ministry of Works; and
  - (v) The Ministry of Lands, Housing and Urban Development;
- (c) three other members appointed by the Minister to represent any technical and Professional institutions which are likely to assist the Council in the discharge of its functions;

<sup>1</sup>

[Cap. 16](#)

<sup>2</sup>

[Cap. 76](#)



- (d) 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 realisation of the objectives of, and to the deliberation of the Council,

**2. Vice-Chairman**

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.

**3. Tenure of appointment**

- (1) A member shall, unless his appointment is sooner terminated by the President or as the case may be, by the Minister, or that person ceases in any other way to be a member, holding 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 that person's appointment or, if no period is so specified, for a period of three years from the date of that person's appointment and shall be eligible for re-appointment.
- (2) Any member appointed under paragraph 1(a), (c) or (d) 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.

**4. Absent member to be represented at meetings**

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 this organisation to attend that meeting in his place.

**5. Casual vacancies**

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 person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

**6. Powers of Chairman and Vice-Chairman**

- (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 may, 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 have a vote and, in the event of an equality of votes, shall have a casting vote in addition to his deliberative vote.

**7. Meeting and procedure of the Council**

- (1) The Council shall ordinarily meet for the transaction of its business not less than twice during every year and at any additional times which 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 deliberation at any meeting of the Council, but any person so invited shall not be entitled to vote.

8. **Quorum**

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

9. **Decisions of Council**

- (1) Subject to the provisions relating to the a casting vote, all questions at a meeting of the Council shall be determined by a majority of the votes of the members present.
- (2) Notwithstanding subparagraph (1), a decision may be made by the Council without a meeting by circulation of the relevant papers among the members, and the expression in writing of the views of the majority of the members.

10. **Minutes of meetings**

- (1) The Council shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, 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 of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

11. **Vacancies not to invalidate proceedings**

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.

12. **Orders, directions, etc.**

All orders, directions, notices or other documents made or issued on behalf of the Council shall be signed by—

- (a) the Chairman of the Council; or
- (b) the Secretary or any other officer or officers of the Council authorised in writing in that behalf by the Secretary.

13. **Seal of the Council**

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

14. **Council may regulate its proceedings**

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