

Tanzania

Ocean Road Cancer Institute Act Chapter 86

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Tanzania

Ocean Road Cancer Institute Act

Chapter 86

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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. 192 of 1996; Act No. 3 of 1996]

An Act to establish the Ocean Road Cancer Institute and to provide for related matters.

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

1. Short title

This Act may be cited as the Ocean Road Cancer Institute Act.

2. Interpretation

In this Act unless the context requires otherwise—

"**Board**" means the Board of Trustees of the Ocean Road Cancer Institute established under [section 6](#);

"**Executive Director**" means the Executive Director appointed under [section 8](#);

"**Hospital**" means the Ocean Road Hospital existing prior to the establishment of the Institute;

"**Institute**" means the Ocean Road Cancer Institute established under [section 3](#);

"**member**" means a member of the Board and includes a Chairman of the Board;

"**Minister**" means the Minister responsible for health.

Part II – Ocean Road Cancer Institute (ss. 3-5)

3. Establishment of Institute

(1) There is hereby established an institute to be known as the Ocean Road Cancer Institute.

(2) The Institute shall be a body corporate and shall—

- (a) have perpetual succession and a common seal;
- (b) in its corporate name, be capable of suing and being sued;
- (c) be capable of purchasing and otherwise acquiring, and of alienating, any movable or immovable property; and
- (d) have power to borrow such sums as it may require for its purposes.

4. Functions of the Institute

The functions of the Institute shall be—

- (a) to control and manage the Institute, and to assume responsibility for the control and management of such hospitals or health facilities as may be vested in the Institute by order published in the *Gazette*;
- (b) to provide medical care to in patients and out-patients affected with cancer and other diseases in accordance with medical ethics;
- (c) to stimulate and promote programmes of education on health and particularly on cancer;
- (d) to conduct training programmes;
- (e) to provide consultant services;
- (f) to perform research activities with or without association with persons or institutions inside or outside the United Republic;
- (g) to do any act for the purpose of achieving any of the above stated objects and functions of the Institute.

5. Vesting of property

- (1) All the assets and liabilities of the cancer centre are hereby without further assurance vested in the Institute.
- (2) The Institute shall be granted a right of occupancy over the site previously occupied by the cancer centre or other place upon such terms and conditions as the President may approve.
- (3) The Minister may by order published in the *Gazette* vest in the Institute the control and management of any public hospital or health facility involved in the performance of functions similar, allied or auxiliary to those of the Institute.

Part III – Administration (ss. 6-12)

6. Board of Trustees

- (1) There is hereby established a Board of Trustees of the Institute which shall consist of—
 - (a) a Chairman who shall be appointed by the President;
 - (b) the Director-General of the Muhimbili Medical Centre;
 - (c) the Registrar of the National Radiation Commission;
 - (d) a representative from the Ministry of Health;
 - (e) a representative from the Muhimbili University College of Health Sciences;
 - (f) a legally qualified person holding office in the Attorney-General's Chambers nominated in that behalf by the Attorney-General;
 - (g) a member of Parliament; and
 - (h) three other members.
- (2) The members referred to in paragraphs (d), (e), (f), (g) and (h) shall be appointed by the Minister.
- (3) The Executive Director shall be the Secretary, but not a member, of the Board.

- (4) The provisions of the Schedule to this Act shall apply to the tenure of office of the members of the Board, the proceedings of the Board and other matters included in the Schedule.

7. Functions of the Board of Trustees

The functions of the Board shall be—

- (a) to manage on behalf of the Institute all the assets and properties, movable and immovable, of the Institute in such manner and for such purposes as in the opinion of the Board would promote the best interests of the Institute;
- (b) to signify the acts of the Institute by use of the official seal;
- (c) subject to the provisions of this Act, to appoint such employees of the Institute as the Board may consider necessary for the performance of the functions of the Institute;
- (d) to do all acts or things as may be provided for in this Act or otherwise, as may in the opinion of the Board be necessary or expedient for the proper performance of the functions of the Institute.

8. Executive Director

- (1) There shall be an Executive Director of the Institute who shall be appointed by the President on such terms and conditions as may be specified in relation to his office.
- (2) The Executive Director shall be the chief executive officer of the Institute.

9. Appointment of other employees of the Institute

The Institute may, from time to time, and subject to any directions which the Minister may give in that behalf, appoint on such terms and conditions as the Board may determine such other employees of the Institute as the Board may consider necessary for the proper and efficient conduct of the business and functions of the Institute.

10. Functions and powers of the Executive Director

- (1) It shall be the duty of the Executive Director—
 - (a) to review and make recommendations in respect of management and administration of the Institute;
 - (b) prepare or cause to be prepared draft annual corporate plan and budget for consideration and adoption by the Board;
 - (c) to ensure the effective and efficient implementation of the annual corporate plan of the Institute;
 - (d) to prepare and submit to the Board quarterly progress report or the implementation of the annual corporate plan of the Institute;
 - (e) to do all such other acts and things as may be necessary or conducive to the effective and efficient discharge of the functions of the Institute.
- (2) In the performance of the functions under this Act the Executive Director shall take into account the need to promote, establish and maintain a system of collaboration, consultation and co-operation with the Muhimbili Medical Centre, the Muhimbili University College of Health Sciences and any other person or body of persons established by or under any written law and having functions related to those of the Institute.

11. Executive Management Team

- (1) There shall be an Executive Management Team of the Institute which shall, subject to the directions of the Board be constituted by such staff of the Institute and other persons as the Board may, on the recommendation of the Executive Director, determine.
- (2) The Executive Management Team of the Institute, shall under the chairmanship of the Executive Director be the principal advisory and executive organ of the Institute and be responsible to the Board in the exercise of such functions as may be conferred upon it by or under this Act subject to any general and specific directions of the Board.

12. Discipline

The Board shall be the final disciplinary authority in respect of all the staff of the Institute.

Part IV – Financial provisions (ss. 13-19)

13. Funds of the Institute

The funds and resources of the Institute shall consist of—

- (a) such sums as may be appropriated by Parliament for the purposes of the Institute;
- (b) such sums as the Board may from time to time borrow for the purposes of the Institute;
- (c) such sums as may be payable to the Institute by way of donations, gifts, grants, loans or bequests;
- (d) such sums as may in any manner become payable to or vested in the Institute as a result or in the course of discharging its functions under this Act.

14. Annual budget estimates

- (1) At least two months before the commencement of any financial year the Executive Director shall prepare or cause to be prepared for the approval of the Board annual estimates of the revenue and expenditure of the Institute for the ensuing financial year.
- (2) The Board shall consider and approve, subject to such modifications and amendments as it may consider appropriate, the estimates prepared in accordance with subsection (1).
- (3) The annual budget estimates shall contain provisions for all the estimated expenditure during the ensuing financial year and in particular—
 - (a) for the payment of salaries, allowances and other charges in respect of the staff, Board and any committees;
 - (b) for the payment of construction, improvement, maintenance and replacement, drugs and supplies of the Institute; and
 - (c) for the proper maintenance and replacement of the furniture, equipment, drugs and supplies of the Institute; and
 - (d) for the creation of such reserve funds to meet future contingent liabilities as the Board may think fit.
- (4) No expenditure shall be incurred for the purposes of the Institute except in accordance with the provisions of the annual budget estimates, or any supplementary estimates approved by the Board.
- (5) A copy of the annual estimates and of every supplementary estimate, if any, shall immediately after approval be forwarded to the Minister.

15. Investment of Institute funds

The Board with the approval of the Minister shall have power to invest the funds of the Institute in such investments and subject to such conditions as are prescribed by the Trustees Investments Act ¹, in relation to investments of funds by a Trustee.

16. Remuneration of members of Board

The Board may with the approval of the Minister prescribe emoluments and allowances payable to the members of the Board from time to time.

17. Accounts and audit

- (1) The Board shall cause to be provided and kept proper books of accounts and records with respect to the receipt and expenditure of money by, and other financial transactions of the Institute and assets and liabilities of the Institute, and shall cause to be made out every financial year a balance sheet showing the details of the income and expenditure of the Institute and all its assets and liabilities.
- (2) Within not more than three months after the close of each financial year, the accounts, including the balance sheet of the Institute in respect of that financial year, shall be submitted to and audited by the Controller and Auditor-General.
- (3) As soon as the accounts of the Institute have been audited, and in any case not later than six months after the close of the financial year 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 Controller and Auditor-General on the statement of accounts.

18. Financial report to be laid before the National Assembly

The Minister shall as soon as practicable after receiving them lay before the National Assembly a report containing—

- (a) a copy of the audited accounts of the Institute;
- (b) a copy of the auditor's report, if any; and
- (c) a copy of the Executive Director's report on the activities of the Institute in the preceding financial year.

19. Executive Director's report

The Executive Director shall at the end of each financial year prepare a report on the activities of the Institute during that financial year and submit such report to the Minister.

Part V – Miscellaneous provisions (ss. 20-23)

20. Indemnity for *bona fide* acts

No matter or thing done by any member of the Board shall, if done *bona fide* in the execution or in the purported execution of the functions of the Board render such member personally liable for such matter or thing.

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21. Validity of acts of the Board

No act or proceeding of the Board shall be invalid by reason only of any vacancy in the membership thereof, any defect in the appointment of any member or the fact that any member was at the time in question disqualified or disentitled to act as such.

22. Minister may give directions to the Board

The Minister may give to the Board directions of a general or specific character which directions shall be consistent with the purposes and provisions of this Act, as to the performance by the Board of any of its functions under this Act, and the Board shall give effect to every direction given by the Minister.

23. Regulations

- (1) With the consent of the Minister the Board may make regulations for the better carrying out of the purposes and provisions of this Act, and without prejudice to the generality of this subsection, may make regulations—
 - (a) prescribing the conditions and terms upon which any specified facilities or services within the scope of the functions of the Institute shall be provided to members of the public and other persons;
 - (b) fixing the fees, rates and other charges for or in connection with the provision by the Institute of any facilities or services;
 - (c) providing for the proper management, control and administration of the Institute;
 - (d) providing for and regulating discipline amongst staff of the Institute and disciplinary proceedings against them;
 - (e) providing for any matter which, in the opinion of the Board, is necessary to provide for the efficient performance of the functions of the Institute;
 - (f) prescribing anything which may be prescribed under this Act.
- (2) Regulations made under this section shall be published in the *Gazette*:

Provided that where the regulations made are not of general application the Board may, in addition to or in lieu of publication in the *Gazette*, publish the regulations in such manner as will, in the opinion of the Board, ensure the contents of the regulations coming to the notice of the persons or categories of persons in respect of which they apply and of the members of the public who might be affected by the regulations.

Schedule (Section 6(4))

1. Tenure of appointment

- (1) Subject to subparagraph (2), a member shall hold office for a period of three years and shall be eligible for re-appointment.
- (2) A person who is a member by virtue of his holding some other office, shall cease to be a member upon his ceasing to hold the office by virtue of which he is a member.
- (3) Any member may resign at any time by giving notice in writing to the appointing authority 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 appointing authority.

2. Temporary member

Where any member other than the Chairman is by reason of illness, absence from the United Republic or any sufficient cause, unable to perform his duties as a member the appointing authority may appoint a temporary member in his place and the temporary member shall cease to hold office upon the resumption of office of the substantive member.

3. Meetings

- (1) Subject to any general or specific direction by the Minister, the Board shall meet not less than four times during every financial 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 sufficient cause to act, after consulting the members, the Executive Director.
- (2) An ordinary meeting of the Board shall be convened by the Executive Director after consultation with 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 ten days before the date of the meeting.
- (3) The Chairman or, in his absence, the Executive Director 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 and a notice of not less than ten days shall be given to all members in the manner prescribed in subparagraph (2).
- (4) The Chairman, or in his absence the temporary chairman elected in accordance with the provisions of subparagraph (2) of paragraph 4 presiding at any meeting of the Board may invite any person who is not a member to participate in the deliberations of the Boards, but any person so invited shall not be entitled to vote.

4. Procedure

- (1) One half of the total of members shall form a quorum for a meeting of the Board.
- (2) The Chairman shall preside at every meeting of the Board and in the absence of the Chairman from a meeting of the Board 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 person presiding over the meeting shall have a casting vote in addition to his deliberative vote.
- (4) The Board may act notwithstanding any vacancy in its membership.

5. Decision by circulation of papers

Notwithstanding the provisions of paragraph 4, where the chairman or, in his absence, the temporary 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 the views of the majority of the members, but any member shall be entitled to require that the decision be deferred and the subject-matter be considered at a meeting of the Board.

6. Minutes of meetings

Minutes in proper form 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.

7. Official seal of the Institute

- (1) The Official seal of the Institute shall be of such shape, size and form as the Board may determine.
- (2) The Official seal of the Institute shall not be affixed to any instrument or document except in the presence of the Executive Director or such other employee of the Institute as the Executive Director may appoint in that behalf.

8. Execution of documents

All regulations, appointments, instruments or documents made, issued or executed by or on behalf of the Institute or the Board shall be sealed with the official seal of the Institute and shall be signed by—

- (a) the Chairman of the Board;
- (b) the Executive Director; or
- (c) any other member of the Board or employee of the Institute authorised in writing in that behalf by the Board.

9. Proceedings not invalidated by irregularity

No act or proceeding of the Board shall be invalid by reason of any defect or irregularity in the appointment of any member or by reason that any person that any person who purported *bona fide* to act as a member at the time of the act or proceeding was in fact disqualified or not entitled to act as a member.

10. Absence from three consecutive meetings

Where any member (other than a member by virtue of his office) absents himself from three consecutive meetings of the Board without sufficient cause, the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.

11. Board may regulate its own proceedings

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