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COAST DEVELOPMENT AUTHORITY ACT

CHAPTER 449

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CHAPTER 449

COAST DEVELOPMENT AUTHORITY ACT

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CHAPTER 449

COAST DEVELOPMENT AUTHORITY ACT

[Date of assent: 14th January, 1991.]

[Date of commencement: 18th January, 1990.]

An Act of Parliament to provide for the establishment of an Authority to plan and co-ordinate the implementation of development projects in whole of the Coast Province and the exclusive economic zone and for connected purposes

[Act No. 20 of 1990.]

PART I – PRELIMINARY

1. Short title

This Act may be cited as the Coast Development Authority Act, 1990.

2. Interpretation

In this Act, unless the context otherwise requires—

“**Area**” means the whole of the Coast Province;

“**Authority**” means the Coast Development Authority;

“**chairman**” means the person appointed as chairman of the Authority under paragraph (a) of subsection (1) of section 4;

“**development area**” means that part of the Coast Province within Lamu, Mombasa, Kilifi, Tana River, Kwale and Taita Taveta districts including the southern half of Garissa District and the exclusive economic zone;

“**exclusive economic zone**” means the exclusive economic zone of Kenya established and delimited by section 4 of the Maritime Zones Act 1989 (No. 6 of 1989);

“**managing director**” means the managing director appointed under section 10;

“**non-official members**” means the chairman and the members of the Authority appointed under paragraph (h) of section 4.

PART II – ESTABLISHMENT AND POWERS OF THE AUTHORITY

3. Establishment of the Authority

There is hereby established an Authority which shall be a body corporate by the name of Coast Development Authority, with perpetual succession and a common seal, and which shall be capable in its corporate name of—

- (a) suing and being sued;
- (b) taking, purchasing or otherwise acquiring, holding, charging and disposing of movable and immovable property;
- (c) borrowing and lending money;
- (d) entering into contracts.

- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

4. Membership of the Authority

- (1) The Authority shall consist of the following members—
 - (a) a chairman appointed by the President;
 - (b) the Permanent Secretary to the Ministry for the time being responsible for regional development or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (c) the Permanent Secretary to the Ministry for the time being responsible for finance or an officer of that Ministry designated by The Permanent Secretary in writing;
 - (d) the Permanent Secretary to the Ministry for the time being responsible for agriculture or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (e) the Permanent Secretary to the Ministry for the time being responsible for health or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (f) the Permanent Secretary to the Ministry for the time being responsible for water development or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (g) the Permanent Secretary to the Ministry for the time being responsible for tourism or an officer of that Ministry designated by the Permanent Secretary in writing;
 - (h) the Provincial Commissioner for the Coast Province;
 - (i) eight other members appointed by the Minister, in consultation with the President, all of whom shall be appointed from the area affected by the operations of the Authority; and
 - (j) The managing director appointed under section 10.
- (2) Subject to this section, the non-official members shall hold office for a period of three years from the dates of their respective appointments.
- (3) A retiring member shall be eligible for re-appointment.
- (4) If the Minister is satisfied that any of the non-official members—
 - (a) has been guilty of improper conduct considered to be inconsistent with his membership of the Authority; or
 - (b) is incapacitated by prolonged physical or mental illness from performing his duties as a member of the Authority; or
 - (c) is unable or unfit, for any other reason, to discharge the duties of his office,

and that it would be in the interest of the Authority so to do he may terminate the appointment of that member or in the case of the chairman recommend to the President that the appointment be terminated.

- (5) The office of a non-official member shall become vacant—
- (a) upon the expiry of his term of appointment; or
 - (b) upon the termination of his appointment under sub-section (4); or
 - (c) upon the expiry of one month, or such shorter period as may be mutually agreed, after the date upon which the Minister receives a written notice signed by the member of his intention to resign; or
 - (d) if he is absent without the permission of the Authority from three consecutive meetings of the Authority of which he had reasonable notice.

(6) The non-official members shall be paid by the Authority such remuneration and allowances as the Minister may from time to time determine in consultation with the State Corporation Advisory Committee.

5. Meetings and procedure of the Authority

(1) The Authority shall be convened by the chairman at least four times in every year.

(2) The Authority shall elect a vice-chairman from among its members.

(3) The chairman or in his absence the vice-chairman, may at any time convene a special meeting of the Authority, and shall do so within fourteen days of receipt by him of a written requisition signed by at least three members.

(4) The quorum necessary for the transaction of any business at a meeting of the Authority shall be two-thirds of the members inclusive of the person presiding, and all acts, matters or things authorized or required to be done by the Authority shall be effected by a resolution passed by a majority of the members present and voting at a meeting at which a quorum is present.

(5) The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority, except that in the case of the absence of both the chairman and the vice-chairman the members present shall elect one of their number to preside at that particular meeting.

(6) At every meeting of the Authority the member presiding shall have a casting as well as a deliberative vote.

(7) Subject to subsection (4), no act, decision or proceedings of the Authority shall be questioned on account of any vacancy in the membership thereof or on account of any defect in the appointment of any of its members.

(8) Subject to this Act, and to any general or specific directions of the Minister, the Authority shall regulate its own procedure.

6. Seal and execution of documents

(1) The common seal of the Authority shall be authenticated by the signature of the managing director and such other person as may be generally or specifically authorized by the Authority.

(2) All documents, other than those required by law to be under seal, made by, and all decisions of, the Authority may be signed under the hand of the managing director.

7. Committees

The Authority may from time to time appoint such committees, whether of its own members or otherwise, as it may think necessary but no decision of any committee shall be effective unless it has been confirmed by the Authority.

8. Functions of the Authority

The functions of the Authority shall be—

- (a) to plan for the development of the Area and initiate project activities identified from such planning in the development and through the Government generally;
- (b) to develop an up-to-date long range development plan for the Area;
- (c) to initiate such studies, and carry out such surveys of the Area as may be considered necessary by the Government or the Authority, and to assess alternative demands within the Area on the natural resources thereof, and initiate, operate, or implement such projects as may be necessary to exploit those natural resources including agriculture (both irrigated and rainfed), forestry, wildlife and tourism industries, electric power generation, mining, and fishing, and to recommend economic priorities;
- (d) to co-ordinate the various studies of schemes within the Area such that human, water, animal, land and other resources are utilized to the best advantage and to monitor the design and execution of planned projects within the Area;
- (e) to effect a programme of both monitoring and evaluating the performance of projects within the Area so as to improve such performance and establish responsibility thereof, and to improve future planning;
- (f) to co-ordinate the present abstraction and use of natural resources, especially water, within the Area and to set up effective monitoring of abstraction and usage;
- (g) to cause and effect the construction of any works deemed necessary for the protection and utilization, of the water and soils of the Area including hydro-power development for multipurpose utilization of water resources;
- (h) to ensure that landowners in the Area undertake all the measures specified by the Authority to protect the water and soils of the Area;
- (i) to identify, collect, collate and correlate all such data related to the use of water and other resources and also economic and related activities within the Area as may be necessary for the efficient forward planning of the Area;
- (j) to maintain a liaison between the Government, the private sector and other interested agencies in the matter of the development of the Area with a view to limiting the duplication of effort and ensuring the best use of the available technical resources;
- (k) to examine the hydrological effects and the subsequent ecological changes on the development programmes and evaluate how they affect the economic activities of the persons dependent on river environment;

- (l) to implement development projects and programmes whose primary objective is to promote socio-economic development of the Coast Province in particular and Kenya in general;
- (m) to plan and liaise with the relevant authorities as necessary in the exploration and development of the extensive fishing and marine activities in Kenya especially in the exclusive economic zone.

PART III – ADMINISTRATION

9. Appointment and remuneration of staff

(1) The Authority may appoint, upon such terms and conditions as it thinks proper, such officers and servants as it considers necessary or desirable for the effective conduct and operation of the Authority.

(2) Every member of staff shall, subject to this Act, exercise such powers and functions and perform the duties assigned to him from time to time by the managing director.

(3) The member of staff appointed under subsection (1) shall be paid out of the funds of the Authority such salaries as the managing director, with the approval of the Authority may from time to time determine and such travelling and other expenses as they may incur in the performance of their duties.

10. Managing director

(1) There shall be an officer of the Authority, to be known as the managing director, who shall be appointed by the Minister and who shall be responsible for the execution of the policy of the Authority and for the control and management of its day to day business.

(2) The Authority shall delegate to the managing director such of its functions under this Act as are necessary for the effective transaction of the day to day business of the Authority, and, in particular the Authority shall delegate to the managing director the power, subject to any instructions of a general nature as may be given by the Authority—

- (a) to control and supervise the acts of all officers and servants of the Authority in the matters of executive administration and in all matters concerning the accounts and records of the Authority; and
- (b) to dispose of all questions relating to the service of the officers and servants of the Authority and their pay and privileges.

PART IV – FINANCIAL RESOURCES AND CONTROL

11. Funds of the Authority

(1) The funds of the Authority shall consist of—

- (a) such moneys as may from time to time be provided by Parliament;
- (b) moneys borrowed by the Authority on such terms and for such purposes as the Minister, in consultation with the Minister for the time being responsible for finance, may approve;
- (c) any moneys accruing to the Authority from any other source.

(2) Subject to the written approval of the Minister and the Treasury, funds of the Authority shall be invested in such a manner as the Authority may deem proper.

12. Accounts and audit

(1) The Authority shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Authority and shall prepare such other accounts as the Minister may require and, in addition, shall prepare yearly balance sheets made up to the end of each financial year.

(2) At the end of each financial year the accounts of the Authority shall be audited by the Auditor-General (Corporations) in accordance with section 30A of the Exchequer and Audit Act (Cap. 412).

(3) The Authority shall produce and lay before the Auditor-General (Corporations) all records and accounts of the Authority with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto and the Auditor-General (Corporations) shall be entitled to require from all members, officers and servants of the Authority such information and explanations as may be necessary for the proper performance of his duties.

(4) At the completion of the audit under this section, the Auditor-General (Corporations) shall make a report thereon to the Authority and shall at the same time send a copy of the report to the Minister.

13. Annual reports

(1) The Authority shall within a period of six months after the end of each financial year or within such longer period as the Minister may approve, submit to the Minister a report of its operations and activities during that year, together with the yearly balance sheet and such other statements of accounts as the Minister shall require, and the Authority shall publish the annual report and the yearly balance sheet in such manner as the Minister may specify.

(2) The Minister shall lay both the Authority's report and the report of the Auditor-General (Corporations), together with the yearly balance sheet and such other statements of account as the Minister may deem appropriate, before the National Assembly as soon as reasonably practicable.

PART V – MISCELLANEOUS PROVISIONS

14. Protection of members and staff

No act or thing done by any member of the Authority or by any officer or servant of the Authority shall, if the Act or thing was done *bona fide* for the purpose of carrying this Act into effect, subject him personally to any liability, action, claim or demand whatsoever.

15. Exemption from Stamp Duty

No duty shall be chargeable under the Stamp Duty Act, (Cap. 480) in respect of any instrument executed by or on behalf of or in favour of the Authority in cases where, but for this section, the Authority would be liable to pay such duty.

16. Acquisition of land for the purposes of the Authority

(1) Where land is required by the Authority for purposes of the Authority it may either—

- (a) if the land is not public land, acquire the land through negotiation and agreement with the registered owner thereof, provided that notwithstanding the provisions of section 6 of the Land Control Act (Cap. 302) the ensuing transaction shall not require the consent of the land control board if the land to be acquired is agricultural land; or
- (b) if the land is public land, or if the Authority is unable to acquire the land through negotiation and agreement in accordance with paragraph (a) notify the Minister responsible for public lands and the land specified in the notice is required for the purpose of the Authority.

(2) Where notice has been given under subsection (1)(b) the Minister responsible for matters relating the land may, in his discretion and upon such terms and conditions as he may think fit, place such land at the disposal of the Authority to be used for the purposes of the Authority.

17. Regulations

The Minister may make regulations generally for the better carrying out the provisions of this Act.
