



LAWS OF KENYA

**TANA AND ATHI RIVERS
DEVELOPMENT AUTHORITY ACT**

CHAPTER 443

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CHAPTER 443

TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY ACT

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CHAPTER 443

TANA AND ATHI RIVERS DEVELOPMENT AUTHORITY ACT

[Date of assent: 4th June, 1974.]

[Date of commencement: 7th June 1974.]

An Act of Parliament to provide for the establishment of an authority to advise on the institution and co-ordination of development projects in the area of the Tana River and Athi River Basins; and for matters connected therewith and incidental thereto

[Act No. 7 of 1974, L.N. 200/1974, Act No. 8 of 1975, Act No. 8 of 1981, Act No. 12 of 1985.]

1. Short title

1. This Act may be cited as the Tana and Athi Rivers Development Authority Act.

[Act No. 8 of 1981, s. 3.]

2. Interpretation

In this Act, unless the context otherwise requires—

“**Area**” means the area drained by, and bounded by, the water sheds of the Tana and Athi Rivers and their tributaries;

“**Authority**” means the Tana and Athi Rivers Development Authority established by section 3;

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

“**Minister**” *deleted by Act No. 8 of 1981, s. 4;*

“**non-official member**” means the Chairman and the members of the Authority appointed under paragraph (f) of subsection (1) of section 4 of this Act.

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

“**scheduled Ministries**” means the Ministries of the Government set out in the Schedule to this Act.

[Act No. 8 of 1975, Sch., Act No. 8 of 1981, s. 4.]

3. Establishment of Authority

There is hereby established an authority which shall be a body corporate by the name of the Tana and Athi Rivers Development Authority, with perpetual succession and a common seal, and which shall, subject to this Act, be capable in its corporate name of—

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

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

[Act No. 8 of 1981, s. 5.]

4. Membership of Authority

- (1) The Authority shall consist of the following members—

- (a) a chairman who shall be appointed by the President;
- (b) seven members who shall be the Permanent Secretaries of the scheduled Ministries;
- (c) the General Manager of the National Irrigation Board appointed pursuant to section 11 of the Irrigation Act (Cap. 347);
- (d) the chairman of the East African Power and Lighting Company Limited;
- (e) the Director of the Water Department;
- (f) five other members, who shall not be members of the Government service, and who shall be appointed by the Minister in consultation with the President;
- (g) the managing director.

(2) Subject to this section, a non-official member shall hold office for a period of three years from the date of his appointment; and a retiring member shall be eligible for reappointment.

- (3) If the Minister is satisfied that a non-official member—

- (a) has been guilty of any improper conduct; or
- (b) is incapacitated by prolonged physical or mental illness; or
- (c) is unable or unfit, for any other reason, to discharge the duties of his office,

and that it would be in the interests of the Authority so to do, he may terminate the appointment of that member.

- (4) The office of a non-official member shall become vacant—

- (a) upon the expiry of his term of appointment;
- (b) upon the termination of his appointment under subsection (3) of this section;
- (c) upon the expiry of one month, or such shorter period as may be agreed, after the date upon which the Minister receives a written notice, signed by the member, of his intention to resign;
- (d) if he is absent without the permission of the Authority from three consecutive meetings of the Authority of which he has had reasonable notice.

(5) The non-official members shall be paid by the Authority such remuneration and allowances as the Minister may from time to time determine.

[L.N.200/1974, Sch. 2, Act No. 8 of 1975, Sch., Act No. 8 of 1981, s. 6.]

5. Procedure

(1) The Authority shall elect a vice-chairman from among its members other than the Chairman.

(2) The Authority shall meet at least once in every three months and the Chairman may convene a special meeting at any time by giving at least fourteen days notice thereof to the members.

(3) The quorum necessary for the transaction of any business by the Authority shall be eight members inclusive of the person presiding.

(4) The Chairman, or in his absence the Vice-Chairman, shall preside at all meetings of the Authority:

Provided that in the case of the absence of both the Chairman and the Vice-Chairman from any meeting the members present shall elect one of their number to preside at that meeting,

(5) Subject to the provisions of this Act 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 such persons, not being less than two as may be generally or specially authorized thereto by the Authority.

(2) All documents, other than those required by law to be under seal, and all decisions of the Authority, may be signified under the hand of the Chairman or, in the case of a decision taken at a meeting at which the Chairman was not present, under the hand of the person presiding at such meeting.

7. Committees

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

8. Functions of Authority

The functions of the Authority shall be—

- (a) to advise the Government generally and the scheduled Ministries in particular on all matters affecting the development of the Area including the apportionment of water resources;
- (b) to draw up and keep up-to-date, a long-range development plan for the Area;
- (c) to initiate such studies, and to carry out such surveys, of the Area as it may consider necessary, and to assess alternative demands within the Area on the resources thereof, including electric power generation, irrigation, wildlife, land and other resources, and to recommend economic priorities;
- (d) to co-ordinate the various studies of, and schemes within, the Area so 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 monitoring of the performance of projects within the Area so as to improve that performance and establish responsibility there for, and to improve future planning;
- (f) to ensure close co-operation between all agencies concerned with the abstraction and use of water within the Area in the setting up of effective monitoring of that abstraction and use;
- (g) to collect, assemble and correlate all such data related to the use of water and other resources within the Area as may be necessary for the efficient forward planning of the Area;
- (h) to maintain a liaison between the Government, the private sector and foreign agencies in the matter of the development of the Area with a view to limiting the duplication of effort and to assuring the best use of technical resources;
- (i) to render assistance to operating agencies in their applications for loan funds if required;
- (j) to cause the construction of any works necessary for the protection and utilization of the water and soils of the Area.

[Act No. 8 of 1981, s. 7.]

9. Appointment and remuneration of staff

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

(2) The officers and servants appointed under subsection (1) shall—

- (a) subject to this Act, exercise the powers and functions and perform the duties assigned to them from time to time by the managing director; and
- (b) 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 other expenses as they may incur in the performance of their duties.

[Act No. 8 of 1981, s. 8.]

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 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 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 to the Authority and their pay, privileges and allowances.

[Act No. 8 of 1981, s. 9.]

11. Finance

The funds of the Authority shall consist of—

- (a) such moneys as may from time to time be provided by Parliament for the purposes of the Authority;
- (b) moneys borrowed by the Authority on such terms and for such purposes as may be approved by the Minister; and
- (c) any moneys accruing to the Authority from any other source.

12. Accounts and audit

(1) The Authority shall cause to be kept all proper books and records of account of income, expenditure, assets and liabilities of the Authority.

(2) At the end of each financial year the accounts of the Authority shall be audited by the Auditor-General (Corporations).

(3) At the completion of an audit under this section the auditor shall make a report thereon to the Authority and shall at the same time furnish a copy of the report to the Minister.

[LN.200/1974, Sch., Act No. 12 of 1985, Sch.]

13. Annual report

(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 the Authority's report, 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.

[Act No. 8 of 1981, s. 10.]

14. Protection of members and officers

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 purposes of carrying this Act into effect, subject him personally to any liability, action, claim or demand whatsoever.

SCHEDULE
THE SCHEDULED MINISTRIES

[Sections 4, 8, Act No. 8 of 1975, Sch., Act No. 8 of 1981, s. 11.]

The Office of the President and the Ministries under the direction of the Ministers for the time being responsible for matters relating to—

