

THE TANZANIA COMMISSION FOR AIDS (AMENDMENT) ACT,
2015

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THE UNITED REPUBLIC OF TANZANIA



NO.6 OF 2015

I ASSENT,

John Pombe Beke

President

25th April, 2015

An Act to amend the Tanzania Commission for AIDS Act, (Cap 379).

ENACTED by Parliament of the United Republic of Tanzania.

**PART I
PRELIMINARY PROVISIONS**

Short title

Cap. 379

1. This Act may be cited as the Tanzania Commission for AIDS (Amendment) Act, 2015, and shall be read as one with the Tanzania Commission for AIDS Act, hereinafter referred to as "the principal Act".

PART II
GENERAL AMENDMENTS

Amendment
of section 3.

2. The principal Act is amended in section 3, by-
- (a) inserting in their alphabetical order the following definitions:

“Anti Retroviral Drugs (ARVs)” means drugs used by an HIV infected person to reduce or limit the multiplication of HIV;

“Board” means the Board of Trustees of the Trust Fund established under this Act;

“Chairman” means a person appointed as Chairman of the Commission under this Act;

“Executive Director” means “the Chief Executive Officer of Commission;

“HIV and AIDS Focal Person” means a person who performs such duties as prescribed under this Act;

“local authority” means local government authorities as established under the Local Government (Urban Authority) Act and the Local Government (District Authorities) Act;

“recipient” means a person or group of persons, organisation or body corporate which receives funds from the Trust Fund;

“thematic area” means intervention areas for implementing National Multi-Sectoral Framework for HIV and AIDS national response.

- (b) deleting the definition of the term “HIV” and substituting for it the following:

“Human Immuno Deficiency Virus (HIV)” means the virus causing AIDS;

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and 288

(c) deleting the phrase “policy of HIV and AIDS prevention and control” appearing after the word “coordination” in the definition of the word “Minister”;

(d) deleting the definition of the term “AIDS” and substituting for it with the following:

“Acquired Immuno Deficiency Syndrome (AIDS)” means a condition characterized by a combination of signs and symptoms caused by HIV which attack and weaken the body’s immune system, making any infected person susceptible to other life threatening infections.

Amendment
of section 6

3. The principal Act is amended in section 6, by-

(a) deleting subsection (1) and substituting for it the following:

(1) The Commission shall consist of not more than eleven members, being:

(a) a Chairman who shall be appointed by the President; and

(b) such other members who shall be appointed by the Minister.

(b) deleting subsection (2) and substituting for it the following:

(2) In appointing members, the Minister shall have regard to experience, interest and commitment of candidates in the prevention and control of HIV and AIDS, the relevant academic qualifications and the capacity to appreciate the HIV and AIDS multidimensional issues;

(c) inserting immediately after subsection (3), the following subsection (4).

(4) Names of members appointed to Commission shall be published in the *Gazette*;

Amend-
ment of
section 7

(c) renaming subsection (4) as subsection (5).

4. The principal Act is amended in section 7,

(a) by inserting the words "for one more term"; immediately after the word "reappointment" appearing in subsection (1);

(i) inserting immediately after paragraph (a) the following paragraph (b):

(b) if he dies;

(ii) renaming paragraphs (b) (c) (d) and (e) as paragraphs (c), (d), (e) and (f);

(iii) adding the following paragraph after a renamed paragraph (f):

(g) if he is removed from office by the President or Minister, as the case may be-

(i) on grounds of inability to perform the functions of his office by reason of infirmity of body or mind;

(ii) on good reason or cause, relieve the Commissioner from duty;

(b) in subsection (3), adding immediately after the word "Commission" the phrase "in accordance with the procedure provided for in this Act"

Addition of
new section

5. The principal Act is amended by adding the following new section after section 7:

Disciplinary
authority

7A. The President or the Minister shall be the disciplinary authority in relation to the Chairman or other members of Commission respectively.

Amendment of section 8 6. The principal Act is amended in section 8 (1), by deleting the word "Executive" appearing before the word "Chairman"

Amendment of section 9 7. The principal Act is amended in section 9, by adding new subsection (4) as follows:

(4) The Commission shall, subject to the law governing public service, be the disciplinary authority in relation to employees and other staff.

Amendment of section 10 8. The principal Act is amended in section 10, by inserting the words "and committces" immediately after the word "departments".

Amendment of title under Part III 9. The principal Act is amended in Part III, by deleting the title "SECRETARIAT" and substituting for it the following title:

"MANAGEMENT OF THE COMMISSION"

Insertion of new section 11 10. The principal Act is amended, by inserting new section before section 11 as follows:

Appointment of the Executive Director 11.-(1) There shall be an Executive Director of Commission who shall be appointed by the President on such terms and conditions as shall be specified in the letter of appointment.

(2) Where the position of the Executive Director falls vacant, the Chairman shall within thirty days notify the Minister who shall take appropriate measures towards appointment of an Executive Director.

(3) The Executive Director shall be a chief executive officer and accounting officer of Commission and shall be responsible for its day to day operations.

(4) Tenure of office of the Executive Director shall be five years and may be eligible for reappointment for further one term of five years.

Duties of the
Executive Director

11A.-(1) The Executive Director may engage such other officers and employees as he may consider necessary for the efficient and exercise of powers and performance of the functions of Commission.

(2) The Executive Director may in writing, designate on temporary terms, additional persons to the staff of Commission for the purposes of carrying out specific HIV and AIDS activities.

(3) The Executive Director shall be the Secretary to Commission and shall be responsible for implementation of the decisions, policies and directions of Commission.

Amendment
of section 11

11. The principal Act is amended, by-

- (a) designating section 11 as section "11B";
- (b) deleting the designation "Executive Chairman" wherever it appear in Part III and substituting for it with the designation "Executive Director";
- (c) deleting subsection (3);
- (d) re-numbering subsection (4) as subsection (3).

Amendment
of section 13

12. The principal Act is amended in section 13, by-

- (a) deleting the words "guideline issued by the Commission" and substituting for them the phrase "regulations issued by the Minister" appearing in subsection (2);
- (b) adding the following subsections:

(4) The duty of the head of respective institutions referred to in subsection (3) shall be to co-ordinate the implementation of the institution's

HIV and AIDS committees plans and interventions which shall be internally funded.

Addition of
new Part

13. The principal Act is amended, by-

(a) adding after Part III the following new Part:

PART IV
TRUST FUND

Establishment of Trust Fund

12A.-(1) There is established a fund to be known as AIDS Trust Fund, also known as the "Trust Fund".

(2) The Trust Fund shall be administered by the Executive Director.

(3) In administering the functions of the Trust Fund, the Executive Director shall undertake the following:

- (a) advise the government on new sources of revenue for the purposes of ensuring adequate and sustainable flow of monies into the fund;
- (b) promote prevention of new infections according to the agreed priorities in the HIV and AIDS national response;
- (c) monitor the use of the funds disbursed and ensure adherence to the objective of the Trust Fund.

- (d) develop policies and procedures for the use of the Trust Fund;
- (e) allocate grants to applicants for funds in accordance with such procedures and such criteria as may be prescribed;
- (f) ensure that the operations of the Trust Fund are exercised in an economical and efficient manner; and
- (g) take all such other action which shall advance the objectives and purposes of the Trust Fund.

Board of
Trustee of the
Trust Fund

12B.-(1) There shall be a Board of Trustee of the Trust Fund.

(2) The Board shall be composed of the following:

- (a) one member from the Commission;
- (b) one member from the Ministry responsible for finance;
- (c) one member from the Ministry responsible for Health;
- (d) one member from the organization of the people living with HIV/AIDS;
- (e) one member from Non-Governmental Organizations;
- (f) two members from private sector; and
- (g) one member representing the Ministry responsible for local government.

(3) The Minister shall appoint one of members to be a Chairman.

(4) In appointing members of the Board, the Minister shall have regard to proven experience, commitment and contribution of a person, organisation or institution in the promotion of activities related to prevention of HIV/AIDS.

(5) The Executive Director of Commission shall undertake duties of a Secretary to the Board.

(6) The Board shall perform the following functions:

- (a) ensure availability of funds and resources for the implementation of HIV and AIDS activities;
- (b) solicit funds and other resources for the purposes of ensuring adequate and sustainable flow of monies into the Trust Fund; and
- (c) disburse funds or sponsor programmes which meets the criteria set by Commission.

(7) The Chairman and other members of the Board shall hold office for a period of three years and may be eligible for another term.

(8) The provisions of the Schedule shall apply in respect to proceedings of the Board and other related matters.

Fund of the
Trust Fund

12C-(1) The funds and resources of the Trust Fund shall consists of-

- (a) such sums of moneys as may be appropriated by Parliament;
 - (b) revenues collected by or payable to the AIDS Trust Fund under this Act;
 - (c) moneys raised by way of loans, donations, grants or bequeaths;
 - (d) other income generated by way of investment financed by the Trust Fund, due allowance being made to necessary expense which is to be met by such investment; and
 - (e) any such moneys or properties lawfully acquired from various sources.
- (2) All moneys appropriated and deposited in the Trust Fund shall not be reallocated or used for any other purposes other than purposes provided for under this Act.

Disbursement of funds

12D.-(1) Moneys deposited in the fund shall be used for the purposes of funding HIV and AIDS national response.

(2) Not more than two percent of the funds collected for the Trust Fund shall be used for co-ordination of HIV and AIDS national response.

Accounts and record of Trust Fund

12E.-(1) The Board shall-

- (a) keep accounts and records of all its activities;
- (b) ensure that all monies received are properly accounted for and payments are correctly made by authorized personnel;
- (c)
- (d) establish one or more separate accounts in a bank into which all moneys received by the Trust Fund shall be paid;
- (e) keep books of accounts and maintain proper records of its operations in accordance with commercial accounting standards;
- (f) prepare annual estimates of income and expenditure and adhere to any such estimates;
- (g) prepare and publish an Annual Report which shall include the financial statement in relation to each financial year ended; and
- (h) manage the resources of the Fund in a prudent and businesslike manner.

Annual report

12F.-(1) The Board shall, at any time and at each financial year, have the accounts of the Trust Fund audited by the Controller and Auditor-General.

(2) The audited annual report shall provide detailed information regarding activities of the Trust Fund during the year ending on 30th June and any additional information as may be requested by the Minister.

(3) The Minister shall submit the audited annual report of the Trust Fund to the National Assembly.

Exemption

12.-G. The Trust Fund shall be exempted from payment of any import duty, excise duty, taxes and levies in respect of its operations, capital property or documents or any other transaction, deed, agreement, fees or promissory note to which it is a party.

(b) re-designating Parts IV,V and VI as Parts V,VI and VII respectively.

Insertion of
the Schedule

14. The principal Act is amended by adding the following Schedule:

SCHEDULE

(Made under section 12B(7))

PROCEEDINGS OF THE BOARD OF TRUSTEE AND OTHER RELATED MATTERS

"vice Chairman"

1. In its first meeting, the Board shall elect one of its members to be a Vice-Chairman.

"Meeting
quorum and

2.-(1) The Board of Trustee shall hold four regular meetings every year and may hold more meetings if the business of the Trust Fund so requires.

(2) The Chairman or, in his absence the Vice-Chairman, shall preside at all meetings of the Board which he attends; and in the absence of both the Chairman and the Vice-Chairman, members present may appoint a member from among themselves to preside at that meeting.

(3) The Chairman, or in his absence, a member appointed by the Board of Trustee to act in his place may at any time, call a special meeting upon written request by a majority of the members.

(4) Notice of a meeting of the Board of Trustee shall be given in writing to each member at least fourteen days before the day of the meeting.

(5) One half of the total number of members shall form a quorum for a meeting of the Board.

Voting

3.- (1) At any meeting of the Board of Trustee, a decision of the majority of the members present and voting shall be deemed to be a decision of the Board of Trustee.

(2) In the event of equality of votes the Chairman of that meeting shall have a casting vote in addition to his deliberative vote.

Minutes

4. The Board of Trustee shall cause the minutes of all proceedings of its meetings, to be recorded and kept and the minutes of each meeting shall be confirmed by the Board of Trustee at the next meeting and signed by the Chairman of the meeting.

Vacancy

5. The Board of Trustee may act notwithstanding any vacancy in its membership.

Validity of proceedings

6. The validity of any proceedings of the Board of Trustee shall not be affected by any defect in the status of any member.

"Allowances
or remuneration

7. There shall be paid to the members of the Board such sitting allowances or remunerations as may be determined by the Minister.

Orders and
directions

8. All orders, directions, notices or other documents made or issued on behalf of the Board of Trustee shall be signed by-

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

Regulation
proceedings

9. Subject to the provisions of this Schedule, the Board shall regulate its own proceedings.

Passed in the National Assembly on the 25th March, 2015



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Clerk of the National Assembly