

CHAPTER 162

THE NATIONAL CONSTRUCTION COUNCIL ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 162

THE NATIONAL CONSTRUCTION COUNCIL ACT

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

[17th August, 1981]

[GN. No. 95 of 1981]

Acts Nos.	GNs. Nos.
20 of 1979	58 of 1981
25 of 2007	168 of 1984
	639 of 1986
	277 of 2008

PART I

PRELIMINARY PROVISIONS

Short title 1. This Act may be cited as the National Construction Council Act.

Interpretation
Act No.
25 of 2007 s. 2 2. In this Act, unless the context requires otherwise-
“Chairman” means the Chairman of the Council;
“Chief Executive Officer” means the officer appointed pursuant to the provisions of section 6(1);
“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; and
“Minister” means the Minister responsible for works.

PART II

THE NATIONAL CONSTRUCTION COUNCIL

Establishment of
Council 3.-(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 constitution 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.

Functions of
Council
Act No.
25 of 2007 s. 3
GN No.
277 of 2008

4. The functions of the Council shall be to-

- (a) promote and provide strategic leadership for the growth, development and expansion of the construction industry in Tanzania with emphasis on the development of the local capacity for socio-economic development and competitiveness in the changing global environment;
- (b) advice the government on matters relating to the development of the construction industry and to formulate proposals and recommendations for their implementation;
- (c) provide advisory services and technical assistance to construction industry stakeholders on matters related to the construction industry;
- (d) promote and co-ordinate quality training for persons engaged, or to be engaged in the construction industry;
- (e) promote, conduct and co-ordinate research on matters related to construction industry;
- (f) compile and maintain a list of projects and promote the documentation and dissemination of information related to the construction industry;

- (g) promote and monitor the development and implementation of standards, regulations and codes of practices on matters related to the construction industry;
- (h) promote the use of innovative technologies and the application of best practice in the construction industry;
- (i) promote and establish forums for enhancing industry-wide co-ordination, collaboration and discussion on matters related to the construction industry;
- (j) benchmark, monitor and evaluate the performance of the construction industry;
- (k) solicit and manage the fund for training of personnel in the construction industry;
- (l) promote quality management including provision of technical auditing services in the construction industry;
- (m) promote environmentally sustainable construction practices including health and safety aspects;
- (n) promote the export of goods and services related to the construction industry; and
- (o) facilitate efficient resolution of disputes in the construction industry.

General powers
of Council
Act No.
25 of 2007 s. 4

5.-(1) 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 incidental 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.

(2) The Council shall be a focal point for sector co-ordination of the institutions engaged in the construction industry activities, for the purpose of ensuring consolidation, harmonization and competitive performance of the industry.

Chief Executive
Officer
Act No.
25 of 2007 s. 5

6.—(1) There shall be a Chief Executive Officer of the Council who shall be appointed by the Minister.

(2) The provisions of subsection (1) shall not affect appointment of the sitting Chief Executive Officer.

(3) The Chief Executive Officer 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.

(4) Subject to the provisions of this section, the Chief Executive Officer shall have other functions which may be conferred upon him by the Council.

(5) Where the Chief Executive Officer is not a member of the Council, he shall have no power to vote at any meeting of the Council.

Staff of Council

7. The Council may appoint on terms and conditions as it may determine, a number of officers of the Council as it may consider necessary for the performance of its functions.

Delegation
of powers of
appointment

8. The Council may, subject to the conditions as 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.

Repealed

9. [Repealed by the Act No. 25 of 2007, s. 6].

Boards and other
committees

10.—(1) Subject to the approval of the Minister, the Council may, establish boards and committees as 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 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 a person 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 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 Chief Executive Officer shall be deemed to be a member of the Council.

Information on
Construction
research to be
furnished to
Council
Act No.
25 of 2007 s. 7
GN No.
277 of 2008

11.-(1) A person who is-

- (a) engaged or intending to engage; or
- (b) performing the function of registration of persons engaged or intending to engage in any activity of the construction industry in the mainland Tanzania,

shall, at his own expense furnish the Council with information relating to that activity in a form, manner and within the period as may be prescribed.

(2) For the purpose of this Act, the term:

“construction industry” means an act related to the process by which various resources are transformed into physical infrastructure through planning, designing, processing, construction, or production, alternation, repair, maintenance and demolition and the term “Infrastructure” shall include buildings, transportation systems, structures for fluid containment and underground structure or any other related activity.

(3) A person who contravenes the provision of subsection (1) commits an offence and on conviction shall be liable to a fine not exceeding one million shillings.

(4) Notwithstanding subsection (1), the Council may enter into arrangements with firms or organisations engaged in the research or activity relating to the construction industry, within or outside Tanzania, for the purposes of establishing a system of exchanging information.

Council may call
for information
on research
G.N. No.
277 of 2008

12.—(1) The Council may require in writing any person or body of persons engaged in research 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) A person or body of persons required to furnish information under subsection (1) shall comply with the requirement and any person or body of persons which refuses or fails to comply with that requirement, commits an offence and on conviction shall be liable to a fine not exceeding two million shillings.

Minister may give
directives

13. The Minister may give to the Council directives 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 directives given to it.

PART III

FINANCIAL PROVISIONS

Funds of Council

14.—(1) The funds and resources of the Council shall consist of—

- (a) any sums which may be appropriated by the Parliament for the purposes of the Council;
- (b) any donations, grants, bequests and loans as the Council may, 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.

Annual estimates **15.**—(1) The Council shall, in respect of each financial year, cause to be prepared estimates of the expenditure and revenue of the Council and the estimates shall be approved by the Council before the commencement of the relevant financial year.

(2) Where 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 supplementary budget, as the case may be, to the Minister for 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.

Accounts and
audit
Act No.
25 of 2007 s. 8

16.—(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,

(2) Subject to subsection (1), the Council 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.

(3) 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 Controller and Auditor-General established by the Public Audit Act.

(4) An 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.

(5) 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.

Cap. 418

Annual Report

17. 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 as the Minister may direct.

Laying of
Accounts
before National
Assembly

18. The Minister shall, 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

Powers to make regulations
Act No.
25 of 2007 s. 9
Protection from personal liability
Cap. 16
Cap. 76
Act No.
25 of 2007 s. 9

19. The Minister may make regulations for better carrying out of objects and functions of the Council.

20. Without prejudice to the provisions of section 284A of the Penal Code or to the provisions of the Public Officers (Recovery of Debts) Act, an act or thing done or omitted to be done by any member of the Council or by any employee of the Council, 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, shall not subject him to any action, liability or demand of any kind.

Notification of orders
Act No.
25 of 2007 s. 9

21. 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

(Made under section 3(3))

Composition of Council
Act No.
25 of 2007 s. 10

1. The Council shall consist of-
 - (a) a Chairman, who shall be appointed by the President among person with sufficient knowledge in the construction industry and related activities;
 - (b) seven members representing the public sector appointed by the Minister one from each of the following:
 - (i) Ministry responsible for infrastructure development;
 - (ii) Ministry responsible for local government;

- (iii) Ministry responsible for lands, housing and human settlement development;
 - (iv) Ministry responsible for water;
 - (v) Ministry responsible for finance;
 - (vi) Ministry responsible for science and technology; and
 - (vii) an institution of higher learning training persons to be engaged in construction industry.
- (c) seven other members representing the private sector appointed by the Minister from the professionals, categories of groups or institutions as follows:
- (i) two contractors;
 - (ii) one architect;
 - (iii) one engineer;
 - (iv) one quantity surveyor;
 - (v) one member representing the manufacturers and suppliers of construction equipment and materials; and
 - (vi) one member representing the Tanzania Private Sector Foundation.
- (d) three other member appointed by the Minister from amongst person who, in his opinion, have the necessary experience or qualification to enable them, to make a useful contribution to the realisation of the objective and to the deliberation of the Council.

Vice-Chairman 2. 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.

Tenure of appointment 3.-(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) A 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.

Absent member to be represented at meetings 4. Where 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 his organisation to attend that meeting in his place.

Casual vacancies	5. 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.
Power of Chairman and Vice-Chairman	6.—(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.
Meeting and procedure of Council	7.—(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 Chief Executive Officer 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.
Quorum	8. At any meeting of the Council not less than one half of the members in office shall constitute a quorum.
Decisions of Council	9.—(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.
Minutes of meetings	10.—(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) 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.

Vacancies, etc,
not to invalidate
proceedings

11. 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.

Orders, directives

12. The orders, directives, 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 Chief Executive Officer or any other officer or officers of the Council authorised in writing in that behalf by the Chief Executive Officer.

Seal of Council
Act No.
25 of 2007 s. 10

13. 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 Chief Executive Officer or any officer of the Council authorised in writing by the Chief Executive Officer.

Council may
regulate its own
proceedings

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