

CHAPTER 101

**THE CABINET SECRETARY TO THE
TREASURY (INCORPORATION) ACT**

SUBSIDIARY LEGISLATION

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THE DELEGATION OF POWERS

[Legal Notice 175 of 2020]

IN EXERCISE of the powers conferred by section 5 of the Cabinet Secretary to the Treasury (Incorporation) Act, as read with section 38 of the Interpretation and General Provisions Act, the Cabinet Secretary for National Treasury and Planning delegates the powers vested in him under section 4 of the Cabinet Secretary to the Treasury (Incorporation) Act to the Principal Administrative Secretary in the National Treasury, for the purpose of the execution of leases for properties occupied by public schools and leases relating to Civil Servants Tenant Purchase Agreements that were pending as on the date of this Notice.

**THE KENYA DEVELOPMENT
CORPORATION LIMITED (VESTING) ORDER**

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ASSETS, LIABILITIES, OBLIGATIONS, PROPERTY, RIGHTS, SECURITIES AND
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**THE KENYA DEVELOPMENT
CORPORATION LIMITED (VESTING) ORDER**

[Legal Notice 113 of 2021]

1. Citation

This Order may be cited as the Kenya Development Corporation Limited (Vesting) Order.

2. Interpretation

In this Order, unless the context otherwise requires—

"assets" means the Development Finance Institutions' rights, obligations, titles, interests and estates, real or personal, recorded or unrecorded, movable or immovable, tangible or intangible, used in or related to the Development Finance Institutions including accounts, shares, negotiable instruments, funds, schemes, customers and monies;

"contract" includes document, memorandum, agreement, conveyance, deed, lease, licence, permit, exemption, power of attorney, undertaking, security or any other similar instrument, entered into by, made with, granted to or addressed to a Development Finance Institution, whether alone or with another person, and whether as principal or agent;

"customer" means a person who has an account or other dealing, transaction, or arrangement with a Development Finance Institution in the ordinary course of business;

"Development Finance Institution" means the—

- (a) Industrial and Commercial Development Corporation;
- (b) IDB Capital Limited; and
- (c) Tourism Finance Corporation;

"liability" means a duty and obligation of every description, whether actual or contingent, or present or future including a debt, charge, duty and any obligation arising from a past or existing contract or court case, and whether payable or to be performed or observed in Kenya or elsewhere;

"property" means the property listed in the Schedule including property included in the balance sheet of a Development Finance Institution as at the close of business on the date preceding the vesting date in accordance with its normal practice; property held in trust or as bailee; and securities, rights and powers of every description;

"right" means any right or power, whether actual, contingent or prospective;

"security" includes a mortgage or charge (whether legal or equitable), debenture, bill of exchange, promissory note, guarantee, lien, pledge (whether actual or constructive), hypothecation, indemnity or undertaking, or any other instrument for or means of securing the payment or discharge of a debt, liability or obligation, present or future, and actual or contingent;

"subsidiary" means any company in respect of which a Development Finance Institution is the beneficial owner of the whole of or majority of its issued share capital;

"undertaking" means the business and property vested in, belonging to or held by a Development Finance Institution and any liability to which it was subject in respect of its business as at the close of business on the date preceding the vesting date; and

"vesting date" means the date this Order comes into force.

3. Transfer and vesting

Notwithstanding anything contained in any written other law in force, the assets, liabilities, obligations, property, rights, securities and undertakings vested in a Development Finance Institution as set out in the Schedule or otherwise existing before the vesting date

[Subsidiary]

shall, with effect from the vesting date, be deemed to have been transferred to, vested in, imposed on, or be enforceable against the Kenya Development Corporation Limited.

4. Presumption of transfer

Notwithstanding the assets, liabilities, obligations, property, rights, securities and undertakings set out in the Schedule, any other assets, liabilities, obligations, property, rights, securities and undertakings of a Development Finance Institution that are found to have belonged to the Development Finance Institution on the day before the vesting date shall be deemed to have been transferred to the Kenya Development Corporation Limited.

5. Vesting of rights and liabilities

Subject to this Order, the rights, obligations and liabilities in respect of the assets, liabilities, obligations, property, rights, securities and undertakings of a Development Finance Institution set out in the Schedule shall, with effect from the vesting date, be deemed to have been transferred to, vested in, imposed on, or be enforceable against the Kenya Development Corporation Limited.

6. References to a Development Finance Institution

Any reference to a Development Finance Institution in any agreement, document or instrument entered into by the Development Finance Institution in trust on behalf of, or for the benefit of, the Development Finance Institution shall be deemed to be a reference to the Kenya Development Corporation Limited.

7. Legal proceedings, etc.

Any proceedings, including legal and arbitration proceedings, taken by or against a Development Finance Institution on or before the vesting date that remain uncompleted on the vesting date, shall be deemed to be proceedings taken by or against the Kenya Development Corporation Limited and any judgement or award obtained by or against the Development Finance Institution and not fully satisfied on or before the vesting date shall be deemed to be a judgment or award obtained by or against the Kenya Development Corporation Limited.

8. Contracts

Any contract subsisting between a Development Finance Institution and another person on or before the vesting date shall be deemed to subsist between the Kenya Development Corporation and that other person.

9. Licences, rights and permits

Any licence, right or permit issued or granted to a Development Finance Institution which is in force on or before the vesting date shall remain in force for its unexpired period as if it had been issued or granted to the Kenya Development Corporation Limited.

10. Staff

Any person employed by a Development Finance Institution on or before the vesting date shall be deemed to be an employee of the Kenya Development Corporation Limited.

11. Savings and transition

Nothing in this Order shall terminate, discharge, invalidate or prejudicially affect the assets, liabilities, obligations, property, rights, securities and undertakings of a Development Finance Institution solely on account of the transfer or vesting under this Order.

SCHEDULE

[r. 3, 5]

ASSETS, LIABILITIES, OBLIGATIONS, PROPERTY,
RIGHTS, SECURITIES AND UNDERTAKINGS

A. LAND AND BUILDINGS

1. Tourism Finance Corporation

<i>S/No.</i>	<i>Land (LR No./ Allotment letter/R No.)</i>	<i>Size (Ha.)</i>	<i>Location</i>
(a)	Utalii House (Nairobi LR/209/8664)	0.2398	Watalii Street off Loita Street, Nairobi
(b)	KNTB (L R/209/9733)	0.1603	Moi Avenue
(c)	Mombasa Island Plot (Block XXV/169)	1.9242	Off Nkrumah Road behind NSSF Building, Mombasa

2. Industrial and Commercial Development Corporation

<i>S/No.</i>	<i>Land (LRNo./ Allotment letter/R No.)</i>	<i>Size (Ha.)</i>	<i>Location</i>
(a)	209/7405	0.25	Aga Khan Walk , Nairobi
(b)	209/1326	0.16	Finance House, Loita Street, Nairobi
(c)	MSA/XXVI /468	0.11	Barmadi Lane, Kizingo, Mombasa
(d)	MN/1/21322	0.20	5th Avenue off Mahesh Doshi Road, Nyali, Mombasa
(e)	498/1085	2.40	Sawmill Area, Eldama Ravine
(f)	Portion 5257 Malindi	4.00	Malindi Town next to Malindi Airport
(g)	Eldoret/MUN/Block 15/1757	54.99	Kipkaren Road behind Rivatex, Eldoret
(h)	Embu Municipality/1494	0.17	Embu Town next to Ministry of Mines and Geology

B. SUBSIDIARIES AND INVESTMENTS

1. Tourism Finance Corporation

<i>S/No.</i>	<i>Subsidiary/ Investment</i>	<i>Shares held</i>	<i>Percentage held</i>
(a)	Bomas of Kenya Limited	253,999	100%

*Cabinet Secretary to the
Treasury (Incorporation)*

[Subsidiary]

(b)	Kabarnet Hotel Limited	245,000	98.2%
(c)	Sunset Hotel Limited	572,500	95.4%
(d)	Kenya Safari Lodges and Hotels Limited	4,161,855	82.5%
(e)	Golf Hotel Limited	241,734	80%
(f)	Mt. Elgon Lodge Limited	67,288	72.91%
(g)	Kenya Hotel Properties Limited	5,880.307	33.83%
(h)	Buffalo Springs Limited	10,000	41.66%
(i)	International Hotels (K) Limited	1,725,777	40.58%
(j)	Mountain Lodges Limited	305,078	39.11%
(k)	Maralal Safari Lodge Limited	40,100	9.5%
(l)	The Ark Limited	41,200	5.64%

2. Tourism Finance Corporation investments under liquidation

<i>S/No.</i>	<i>Subsidiary/ Investment</i>	<i>Shares held</i>	<i>Percentage held</i>
(a)	African Tours and Hotels Preference Shares (262,972 ordinary shares and 1,455 preference shares)	264,427	52.29 %

3. Industrial and Commercial under liquidation

<i>S/No.</i>	<i>Subsidiary/ Investment</i>	<i>Shares held</i>	<i>Percentage held</i>
(a)	Development Bank of Kenya Limited	46,51,750	89.32%
(b)	East African Coast Fisheries Limited	511,520	27.46%
(c)	Eveready Batteries Kenya Limited	36,583,575	17.4%
(d)	Focus Container Freight Station	25,000	25%
(e)	Funguo Investments Limited	10,773,922	18.89%
(f)	General Motors E .A. Limited	345,000	20%
(g)	Global Supply Solutions Limited	400,00	100%
(h)	Home and Hospitality Manufacturing Company Limited	111,430	11%

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Treasury (Incorporation)*

[Subsidiary]

(i)	IDB Capital Limited	17,375,000	4.29%
(j)	Kenatco Taxis Limited	250,000	100%
(k)	Kenatco Transport Company Limited	345,000	100%
(l)	Kenya National Trading Company Limited	1,600,000	100%
(m)	KWA Holdings EA Limited	44,555,036	46.7%
(n)	Mountain Region Poultry Farmers Limited	160,000	27.9%
(o)	NJIMIA (K) Limited (Pref.)	650,000	100%
(p)	Njoka Tanners Limited	1,250,000	33.16%
(q)	Organic Growers and Packers EPZ Ord.	674,440	30.2%
(r)	Sisibo Tea Factor Preferential Capital	2,550,000	28.25%
(s)	Sky Foods Limited	1,604	8.4%
(t)	South Nyanza Sugar Company Limited	125,000	0.69%
(u)	Two Rivers Development	50	2.5%
(v)	Uchumi Supermarkets Limited	7,288,472	1.99%
(w)	Agro-Chemical and Food Industries Limited-Pref.	854,000	28.17%
(x)	Almasi Beverage Limited - Pref.	369,011,278	31.55%
(y)	AON Minet Insurance Brokers Limited - Pref.	309,140	20%
(z)	Centum Investments Company Limited	152,847,897	22.97%

4. Industrial and Commercial Development Corporation under liquidation

<i>S/No.</i>	<i>Subsidiary/ Investment</i>	<i>Shares held</i>	<i>Percentage held</i>
(a)	Meatland Processing Limited	227,688	31.36%
(b)	Organic Packers Growers Limited (Pref.)	700,000	100%

CAP. 101*Cabinet Secretary to the
Treasury (Incorporation)*

[Subsidiary]

(c)	Palm Health International Limited	50,000	23.07%
(d)	Pan African Paper Mills Limited	3,293,925	5.55%
(e)	Pan Vegetable Products Limited Ord.	317,250	30%
(f)	Pan Vegetable Products Limited Pref.	63,250	100%

5. IDB Capital Limited

<i>S/No.</i>	<i>Subsidiary/ Investment</i>	<i>Shares held</i>	<i>Percentage held</i>
(a)	Consolidated Bank of Kenya Limited	1,040,000	0.3%
(b)	African Export- Import Bank (AfrExIm)	12	0.025%
(c)	Nzoia Sugar Company	250,000	0.92%
(d)	South Nyanza Sugar Company Limited	300,000	0.3%

C. OTHER ASSETS

1. All office furniture, equipment and fittings of the Development Finance Institution
2. All plant, equipment and machinery of the Development Finance Institution
3. All motor vehicles of the Development Finance Institution
4. All computers, software and ERP application systems of the Development Finance Institution
5. All securities of the Development Finance Institution

THE KENYA PORTS AUTHORITY (VESTING) ORDER, 2023

ARRANGEMENT OF SECTIONS

1. Citation
2. Interpretation
3. Transfer and vesting
4. Presumption of transfer
5. Legal and alternative dispute resolutions proceedings
6. Documents, goods and other properties
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9. Staff
10. Savings and transition

SCHEDULES

THE KENYA PORTS AUTHORITY (VESTING) ORDER, 2023

[Legal Notice 39 of 2023]

1. Citation

This Order may be cited as the Kenya Ports Authority (Vesting) Order, 2023.

2. Interpretation

In this Order, unless the context otherwise requires —

"commencement date" means the 16th June, 2021;

"entity" includes a natural person, company, association or other body of persons whether incorporated or unincorporated;

"liability" means a liability, court case, debt, charge, duty or obligation arising from past or existing project contracts or consultancies of every description and whether present or future, actual or contingent, and whether payable or to be observed or performed in Kenya or elsewhere;

"right" means any right or power, whether actual, contingent or prospective; and

"commencement date" and **"vesting date"** means the 16th June, 2021.

3. Transfer and vesting

The functions and rights vested in the Kenya Ferry Services Limited shall, from the date of the commencement of the Asset and Business Transfer Agreement between the Kenya Ports Authority and Kenya Ferry Services Limited dated the 16th June, 2021, be deemed to have been transferred and vested in the Kenya Ports Authority with effect from the commencement date.

4. Presumption of transfer

The assets, liabilities, obligations, property, rights, securities and undertakings set out in the Schedule, and any other assets, liabilities, obligations, property, rights, securities and undertakings of the Kenya Ferry Services Limited that are found to have belonged to the Kenya Ferry Services Limited on the day before the vesting date shall be deemed to have been transferred to the Kenya Ports Authority.

5. Legal and alternative dispute resolutions proceedings

All existing legal or alternative dispute resolution proceedings, or application to any authority by or against the Kenya Ferry Services Limited, shall not abate, be discontinued or in any way be prejudiced by reason only of the provisions of this Order, but the same may be prosecuted or continued by or against the Kenya Ports Authority, and any judgment or award obtained by or against the Kenya Ferry Services Limited before the commencement date shall thereafter be enforceable by or against the Kenya Ports Authority.

6. Documents, goods and other properties

The custody of any documents, goods or other property held by the Kenya Ferry Services Limited as bailee for any other person shall be transferred to the Kenya Ports Authority from the vesting date, and the rights and obligations of the Kenya Ferry Services under any contract of bailment shall be transferred or deemed to be transferred to the Kenya Ports Authority.

7. Contracts, agreements, conveyances, deeds, leases, licences, permits, exemptions, powers of attorney, undertakings, securities and other instruments

Any past or existing contracts, agreements, conveyances, deeds, leases, licences, permits, exemptions, powers of attorney, undertakings, securities and other instruments

[Subsidiary]

arising from or related to past or existing projects and consultancies entered into by, made with or granted or addressed to the Kenya Ferry Services Limited, whether alone or with any other person, and whether as principal or agent, shall, as from the commencement date, be binding and have full force and effect in every respect against or in favour of the Kenya Ports Authority as if the Kenya Ports Authority had been party thereto, bound thereby or entitled to the benefit therefor, and as if any reference, express or implied, to any member, officer or employee of the Kenya Ports Authority in respect of anything to be done on or after the commencement date were substituted a reference to the member, officer or employee of the Kenya Ports Authority who most nearly corresponds thereto.

8. References to entity to mean references to Kenya Ports Authority

Any reference to an entity in any agreement or instrument entered into by the Kenya Ferry Services Limited in trust on behalf of or for the benefit of the Government of Kenya or the Cabinet Secretary, in relation to the assets specified in the Schedule, shall be deemed to be references to the Kenya Ports Authority.

9. Staff

Any person employed by the Kenya Ferry Services Limited on or before the vesting date shall be deemed to be an employee of the Kenya Ports Authority.

10. Savings and transition

Nothing in this Order shall terminate, discharge or prejudicially affect the assets, liabilities, obligations, property, rights, securities and undertakings of the Kenya Ferry Services Limited solely on account of the transfer or vesting under this Order.

SCHEDULE

<i>S/No.</i>	<i>Land</i>	<i>Size</i>
	MOMBASA BLOCK XXVI/1085	0.2196 Ha
	MOMBASA ISLAND BLOCK XXVI/1085	0.05 Ha
	MOMBASA ISLAND BLOCK XXVI/1012	0.05 Ha

<i>S/No.</i>	<i>Land</i>	<i>Size</i>
	MOMBASA ISLAND BLOCK XXVI/1013	0.05 Ha
	MOMBASA ISLAND BLOCK XXVI/972	0.34 Ha
	MOMBASA/MS/BLOCK 1/1762	0.2878 Ha
	MOMBASA/MS/BLOCK 1/1763	0.1876 Ha
	MOMBASA/MS/BLOCK 1/1758	0.1910 Ha
	MOMBASA/MS/BLOCK 1/1699	0.8485 Ha

<i>S/No.</i>	<i>Vessel Name</i>	<i>Registration No.</i>
	MV Nyayo	IMO NUMBER 10110
	MV Harambee	IMO NUMBER 10109
	MV Kilindini	IMO NUMBER 10112
	MV Jambo	IMO NUMBER 101209/9810886
	MV Safari	IMO NUMBER 9810898
	MV Kwale	IMO NUMBER 10194/9522398
	MV Likoni	IMO NUMBER 10195/9522398

<i>S/No.</i>	<i>Works and buildings</i>
1.	Peleeza HQ Building
2.	Mtongwe Pontoon Buildings
3.	Peleeza Jetty
4.	Island and mainland ramps
5.	Island security wall

