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CHAPTER 493B

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CHAPTER 493B

KENYA POST OFFICE SAVINGS BANK ACT

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CHAPTER 493B

KENYA POST OFFICE SAVINGS BANK ACT

[Date of assent: 30th December, 1977.]

[Date of commencement: 1st January, 1978.]

An Act of Parliament to establish the Kenya Post Office Savings Bank and to encourage and facilitate personal saving

[Act No. 23 of 1977, L.N. 24/1978, Act No. 8 of 1978, Act No. 12 of 1984, Act No. 13 of 1988, Act No. 14 of 1991, Act No. 6 of 2001, Act No. 8 of 2009, Act No. 18 of 2018.]

1. Short title

This Act may be cited as the Kenya Post Office Savings Bank Act.

2. Interpretation

In this Act—

“**Bank**” means the Kenya Post Office Savings Bank established under section 3;

“**Board**” means the Board of Directors appointed under section 5;

“**Corporation**” means the Kenya Posts and Telecommunications Corporation established under the Kenya Posts and Telecommunications Corporation Act (Cap. 411);

“**expenses**” has the meaning assigned to it in section 10;

“**former Bank**” means the Post Office Savings Bank established under the Post Office Savings Bank Act (Cap. 501) (1962) (now repealed);

“**revenue**” means income of the Bank but does not include moneys received on deposit.

3. Establishment of the Bank and vesting of assets and liabilities

(1) There is hereby established a savings bank to be known as the Kenya Post Office Savings Bank which shall replace the former Bank and which shall be a body corporate with perpetual succession and a common seal and shall have power to sue and be sued in its corporate name and to acquire, hold and dispose of movable and immovable property for the purposes of the Bank.

(2) The assets and liabilities of the former Bank subsisting at the commencement of this Act shall on that day be vested in the Bank.

(3) Savings accounts vested in the Bank under subsection (2) shall be maintained by the Bank subject to any rules made under section 15.

4. Functions of the Bank

It shall be the responsibility of the Bank—

- (a) to encourage thrift and provide the means and opportunities for the people of Kenya to save;
- (b) to open, maintain or close branches at such places, including at any office of the Corporation, as the Board deems appropriate;
- (c) to provide facilities for savings accounts including the accounts vested in the Bank on the commencement of this Act;

- (d) to issue such other instruments or facilities for personal saving in such form as it may from time to time deem to be appropriate and desirable in furtherance of the objects of this Act;
- (e) to invest any surplus funds in accordance with section 11;
- (f) to establish a corporate body for the purposes of undertaking banking business and other related financial services in Kenya and to utilise such part of the deposit capital as the Minister may authorize;
- (ff) to deal in foreign exchange;
- (g) to own and hold shares in any corporate body established in accordance with this section;
- (h) to cover the expenses of its operation with revenue earned from its investments taking one year with another.

[Act No. 14 of 1991, Sch., Act No. 8 of 2009, s. 65.]

5. Appointment of Board of Directors

(1) The Bank shall be under the control of a Board of Directors which shall, subject to the direction of the Minister, take such steps as may be necessary and desirable for the proper management of the Bank and for the promotion of the objects and purposes of this Act.

(2) The Board shall consist of seven members as follows—

- (a) a chairman who shall be appointed by the Minister;
- (b) the Managing Director of the Bank;
- (c) the Permanent Secretary to the Treasury or a public officer employed by the Treasury appointed by the Minister as alternates;
- (d) the Managing Director of the Corporation or an officer of the Corporation nominated by him as alternates;
- (e) three members appointed by the Minister who shall not be employees of the Government.

(3) A quorum for any meeting of the Board shall be four:

Provided that no meeting of the Board shall be held or continued notwithstanding that there is a quorum unless either the Permanent Secretary to the Treasury or the public officer appointed under paragraph (c) of subsection (2) is present.

[Act No. 12 of 1984, Sch.]

6. Appointment of Managing Director

(1) The Minister shall appoint a Managing Director who shall be responsible for the implementation of the policy and savings programmes of the Bank as laid down by the Board from time to time.

(2) *Deleted by Act No. 12 of 1984, Sch.*

(3) The Managing Director of the Bank may with the consent of the Board employ such persons as may be necessary for the execution of this Act.

(4) Employees of the Bank shall be engaged on such terms of service as the Board and the Treasury may approve:

Provided that the Bank may arrange with the Corporation that employees of the Corporation shall undertake duties on behalf of the Bank and that the Corporation shall be reimbursed in accordance with section 10.

7. Deposits and repayments

Deposits of money to be paid into the Bank whether paid into a savings account or in respect of any other savings facility issued by the Bank from time to time shall be received and repaid under such conditions as may be prescribed in accordance with rules made by the Board under section 15.

8. Security of moneys deposited

(1) *Deleted by Act No. 6 of 2001, s. 61.*

(2) *[Spent].*

9. Interest payable

Interest shall be payable on savings deposits and on such other savings instruments as may be issued by the Bank from time to time in accordance with rules made by the Board under section 15.

9A. Exemption from lottery licences

Nothing in the Betting, Lotteries and Gaming Act (Cap. 131) shall be taken to apply to any instrument issued under this Act by reason of any use or proposed use of chance to select particular instruments for special benefits, if the terms of the issue provide that the amount subscribed is to be repayable in full in the case of all the instruments.

[Act No. 8 of 1978, s. 12.]

10. Expenses

(1) All expenses incurred in the execution of this Act shall be met from the revenue of the Bank.

(2) For the purposes of this Act, “**expenses**” means the cost of any work or service done by or in connection with the Bank, including such sum on account of administrative and other overhead expenses incurred by the Corporation as may, with the approval of the Permanent Secretary to the Treasury, be reasonably assigned to that work or service.

11. Investment of funds

(1) Except in so far as any funds may be determined by the Board to be kept in hand for the general purposes of the Board, the Board shall ensure that any surplus of cash in the Bank shall be invested in any or all of the following—

- (a) interest-bearing securities;
- (b) the corporate body established under section 4 or in such other institution as the Board shall deem appropriate;
- (c) at interest as the Board may direct.

(2) Any sums of money that may from time to time be required for the repayment of any deposits or for the payment of interest thereon or expenses incurred in the execution of this Act may be raised by the sale of the whole or a part of such securities:

Provided that any sums of money which may be required for such purposes may, with the approval of the Minister, be advanced to the Bank by the Treasury until they can be raised by the sale of such securities and such advances shall bear interest at the rate of interest from time to time payable to depositors.

(3) Any advances made in pursuance of the proviso to subsection (2) shall be charged upon and paid out of the Consolidated Fund and every sum repaid on account of such advance shall be forthwith paid into the exchequer account.

[Act No. 14 of 1991, Sch.]

12. Accounts

(1) Annual accounts of the revenue and expenditure of the Bank for each year ending on the 31st December, together with a statement of the assets and liabilities of the Bank, shall, after being audited and certified by the Auditor-General (Corporations), be laid by the Minister before the National Assembly as soon as possible after the close of each year and shall thereafter without delay be published in the *Gazette*.

(2) The annual accounts shall include a statement of monies received and repaid by the Bank separately for each savings facility, including a statement of the amount of interest credited to each facility.

[Act No. 13 of 1988, Sch.]

13. Surplus and deficits

(1) Without prejudice to paragraph (f) of section 4, if in any year the revenue of the Bank is insufficient to defray the interest due to depositors and all expenses under this Act, such deficiency shall be charged upon and paid out of the Consolidated Fund.

(2) If in any year the revenue of the Bank shall be more than sufficient to defray the interest due to depositors and all expenses under this Act, then the Minister may direct the transfer of the surplus or any portion thereof to the Consolidated Fund:

Provided that no such transfer shall be made unless the assets of the Bank will thereafter exceed the liabilities by not less than fifteen *per centum* of the liabilities to depositors.

14. Settlement of disputes

(1) If any dispute shall arise between the Bank and any individual depositor therein, or any executor, administrator or next-of-kin of a depositor, or any creditor or assignee of a depositor who may become bankrupt or insolvent, or any person claiming to be such an executor, administrator, next-of-kin, creditor or assignee, or to be entitled to any money deposited in the Bank, then the matter in dispute shall be referred to an arbitrator to be appointed by the Registrar in consultation with the Cabinet Secretary, and any award, order or determination of or by such arbitrator shall be final and binding on all parties to the arbitration.

(2) For purposes of this section "**Registrar**" means the Registrar of the Nairobi Centre for International Arbitration established under the Nairobi Centre for International Arbitration Act, 2013 (No. 26 of 2013).

[Act No. 18 of 2018, Sch.]

15. Rules

(1) The Board may make rules for the management and regulation of the Bank.

(2) In particular and without prejudice to the generality of the foregoing, such rules may—

- (a) prescribe the terms under which deposits will be accepted;
- (b) prescribe the limits of deposits acceptable under various terms;

- (c) prescribe the rates of interest payable on deposits accepted under various terms and how such interest will be payable;
- (d) prescribe procedures for making and withdrawing deposits together with any interest thereon;
- (e) prescribe the times at which deposit books shall be returned to the Bank by depositors;
- (f) regulate deposits and withdrawals by minors, guardians, trustees, friendly societies, charitable bodies or any other bodies of persons of whatsoever description;
- (g) prescribe procedures for dealing with deposits of deceased, insane or otherwise incapacitated persons;
- (h) prescribe the terms and conditions upon which surplus cash in the Bank shall be invested;
- (i) prescribe the manner of dealing with or application of any dividends accruing from the investment in the corporate body or institution in accordance with section 11.

[Act No. 14 of 1991, Sch.]

16. Secrecy

(1) No person appointed to carry this Act into effect shall disclose the name of any depositor or the amount which may have been deposited or withdrawn by any depositor except in due course of law or to such person or persons as may be appointed to assist in carrying this Act into operation.

(2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable to a fine not exceeding five thousand shillings.

17. Repeal of Cap. 501

The Post Office Savings Act (Cap. 501) is hereby repealed.
