

THE LAKE BASIN DEVELOPMENT AUTHORITY ACT, 1979

No. 15 of 1979

Date of Assent: 22nd August, 1979

Date of Commencement: 31st August, 1979

ARRANGEMENT OF SECTIONS

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An Act of Parliament to provide for the establishment of an Authority to plan and co-ordinate the implementation of development projects in the Lake Victoria catchment area and for matters connected therewith and incidental thereto

ENACTED by the Parliament of Kenya, as follows:—

1. This Act may be cited as the Lake Basin Development Authority Act, 1979.

Short title.

2. In this Act, unless the context otherwise requires—

Interpretation.

“Area” means the Lake Victoria catchment area;

“Authority” means the Lake Basin Development Authority established by section 3;

“chairman” means the person appointed as chairman of the Authority under paragraph (a) of subsection (1) of section 4;

“development area” means that part of the Lake Victoria catchment area situate within the Western and Nyanza Provinces;

“the Minister” means the Minister for the time being responsible for matters relating to economic planning;

“non-official members” means the chairman and the members of the Authority appointed under paragraph (h) of subsection (1) of section 4;

**Establishment of
the Authority.**

3. There is hereby established an Authority which shall be a body corporate by the name of the Lake Basin Development Authority, with perpetual succession and a common seal, and which shall 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) entering into contracts;
- (e) doing or performing all such other things or acts necessary for the proper performance of its functions under this Act which may lawfully be done or performed by a body corporate.

**Membership of
the Authority.**

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

- (a) a chairman appointed by the President;
- (b) the Permanent Secretary to the Ministry for the time being responsible for economic planning;
- (c) the Permanent Secretary to the Ministry for the time being responsible for finance;

- (d) the Permanent Secretary to the Ministry for the time being responsible for agriculture;
- (e) the Permanent Secretary to the Ministry for the time being responsible for health;
- (f) the Provincial Commissioner, Nyanza Province;
- (g) the Provincial Commissioner, Western Province;
- (h) eight other members appointed by the Minister in consultation with the President, four of whom shall be appointed from the area affected by the operations of the Authority;
- (i) the Managing Director appointed under section 10.

(2) Subject to this section—

- (a) the chairman shall hold office for a period of three years from the date of his appointment; and
- (b) the members appointed under paragraph (h) of subsection (1) shall hold office for a period of three years from the date of their appointment.
- (3) A retiring member shall be eligible for reappointment.

(4) If the Minister is satisfied that any of the non-official members—

- (a) has been guilty of improper conduct; or
- (b) is incapacitated by prolonged physically 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 interest of the Authority so to do, he may terminate the appointment of such member.

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

- (a) upon the expiry of his term of appointment; or
- (b) upon the termination of his appointment under subsection (4); or
- (c) upon the expiry of one month, or such shorter period as may be mutually agreed, after the date upon which

the Minister receives a written notice signed by the member of his intention to resign; or

- (d) if he is absent, without the permission of the Authority, from three consecutive meetings of the Authority of which he had reasonable notice.

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

Meetings and
procedure of
the Authority.

5. (1) The Authority shall be convened by the chairman at least three times in every year.

(2) The Authority shall elect a vice-chairman from among its members.

(3) The chairman, or in his absence the vice-chairman, may at any time convene a special meeting of the Authority, and shall do so within fourteen days of receipt by him of a written requisition signed by at least three members.

(4) The quorum necessary for the transaction of any business of the Authority shall be ten members inclusive of the person presiding; and all acts, matters or things authorized or required to be done by the Authority shall be effected by a resolution passed by a majority of the members present and voting at a meeting at which a quorum is present.

(5) The chairman, or in his absence the vice-chairman, shall preside at all meetings of the Authority; except that in the case of the absence of both the chairman and the vice-chairman the members present shall elect one of their number to preside at that particular meeting.

(6) At every meeting of the Authority the member presiding shall have a casting as well as a deliberative vote;

(7) Subject to subsection (4), no act, decision or proceedings of the Authority shall be questioned on account of any vacancy in the membership thereof or on account of a defect in the appointment of any of its members.

(8) Subject to this Act, and to any general or specific directions of the Minister, the Authority shall regulate its own procedure.

6. (1) The common seal of the Authority shall be authenticated by the signature of the chairman and such other person as may be generally or specially authorized by the Authority.

Seal and execution of documents.

(2) All documents, other than those required by law to be under seal, made by, 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. The Authority may from time to time appoint such committees, whether of its own members or otherwise, as it may think necessary but no decision of any committee shall be effective unless it has been confirmed by the Authority.

Committees.

8. The functions of the Authority shall be—

Functions of the Authority.

(a) to plan for the development of the Area and initiate project activities identified from such planning in the development area through the Government generally;

(b) to develop an up-to-date long range development plan for the Area;

(c) to initiate such studies, and carry out such surveys, of the Area as may be considered necessary by the Government or the Authority, and to assess alternative demands within the Area on the natural resources thereof, including agriculture (both irrigated and rainfed), forestry, wildlife and tourism industries, electric power generation, mining, and fishing, and to recommend economic priorities;

(d) to co-ordinate the various studies of schemes within the Area such 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 both monitoring and evaluating the performance of projects within the development area so as to improve such performance and establish responsibility therefor, and to improve future planning;

- (f) to co-ordinate the present abstraction and use of natural resources, especially water, within the Area and to set up an effective monitoring of such abstraction and usage;
- (g) to cause and effect the construction of any works deemed necessary for the protection and utilization of the water and soils of the Area;
- (h) to ensure that landowners in the Area undertake all the measures specified by the Authority to protect the water and soils of the area;
- (i) to identify, collect, collate and correlate all such data related to the use of water and other resources and also economic and related activities within the Area as may be necessary for the efficient forward planning of the Area;
- (j) to maintain a liaison between the Government, the private sector and other interested agencies in the matter of the development of the development area with a view to limiting the duplication of effort and to ensuring the best use of the available technical resources;
- (k) to examine the hydrological effects and the subsequent ecological changes on the development programmes and evaluate how they effect the economic activities of the persons dependent on river and lake water environment;
- (l) to consider all aspects of the development of the Area and its effects on the lake inflow and outflow;
- (m) to monitor the operations and provide technical reports on the operations of any agreement or other arrangements between Kenya and other states relating to the use of the waters of Lake Victoria or of the River Nile.

Appointment
and remuneration
of staff

9. (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 the Authority.

(2) Every member of staff shall, subject to this Act, exercise such powers and functions and perform the duties assigned to him from time to time by the Managing Director.

(3) The members of staff appointed under subsection (1) shall 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 such travelling and other expenses as they may incur in the performance of their duties.

10. (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 policy of the Authority and for the control and management of its day-to-day business.

Managing
Director.

(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 the 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 of the Authority and their pay and privileges.

11. The funds of the Authority shall consist of—

Funds of
the Authority.

(a) such moneys as may from time to time be provided by Parliament;

(b) moneys borrowed by the Authority on such terms and for such purposes as the Minister, in consultation with the Minister for the time being responsible for finance, may approve;

(c) any moneys accruing to the Authority from any other source.

12. (1) The Authority shall cause to be kept all proper books and records of account of the income, expenditure, assets and liabilities of the Authority; and shall prepare such other accounts as the Minister may require and, in addition, shall prepare yearly balance sheets made up to the end of each financial year.

Accounts and
audit.

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

(3) The Authority shall produce and lay before the Controller and Auditor-General all the books and accounts of the Authority with all vouchers in support thereof, and all books, papers and writings in its possession or control relating thereto, and the Controller and Auditor-General shall be entitled to require from all members, officers and servants of the Authority such information and explanations as may be necessary for the proper performance of his duties.

(4) At the completion of an audit under this section, the Controller and Auditor-General shall make a report thereon to the Authority and shall at the same time send a copy of the report to the Minister.

Annual reports

13. (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 both the Authority's report and Controller and Auditor-General'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.

Protection of members and staff.

14. 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.

Exemption from stamp duty. Cap. 480.

15. No duty shall be chargeable under the Stamp Duty Act in respect of any instrument executed by or on behalf of or in favour of the Authority in cases where, but for this section, the Authority would be liable to pay such duty.