

THE SHELTER-AFRIQUE ACT, 1985

No. 18 of 1985

Date of Assent: 23rd December, 1985

Date of Commencement: 23rd October, 1983

An Act of Parliament to provide for the carrying out of the obligation of Kenya arising under the Convention on the Constituent Charter of Shelter-Afrique and to provide for matters incidental thereto

WHEREAS the Government of the Republic of Kenya undertook at a meeting held in Lusaka, Zambia on the 10th and 11th May, 1982 to host the Company for Habitat and Housing in Africa (hereinafter called "Shelter-Afrique");

AND WHEREAS the Government of the Republic of Kenya concluded a Headquarters Agreement with Shelter-Afrique on the 19th October, 1983 to host Shelter-Afrique;

AND WHEREAS on the 11th May, 1982 the Government of the Republic of Kenya ratified the Convention on the Constituent Charter of Shelter-Afrique (hereinafter called "the charter") whereby the Government of the Republic of Kenya agreed to grant Shelter-Afrique the charter;

AND WHEREAS it is expedient that the Government of the Republic of Kenya should make provision for giving legal effect to the Articles of the charter and fulfil its obligations thereunder:

NOW THEREFORE, BE IT ENACTED by the Parliament of Kenya as follows:—

1. This Act may be cited as the Shelter-Afrique Act, 1985 and shall be deemed to have come into operation on the 23rd October, 1983.

Short title
and
commencement.

2. There shall be charged on and paid out of the Consolidated Fund without further appropriation than this Act all payments to be made from time to time by the Government to Shelter-Afrique under the terms of the charter.

Financial
provisions.

3. The provisions of the charter set out in the Schedule and the statutes of Shelter-Afrique as promulgated from time to time shall have the force of law in Kenya.

Provisions of
the charter, etc.
to have the
force of law.

SCHEDULE

(s. 3)

Provisions of the Constituent Charter of Shelter-Afrique which are to have the force of law in Kenya.

1. *Establishment*

- 1.1 SHELTER-AFRIQUE is hereby established as a Corporation in accordance with the terms of its statutes contained in Document ADD/SA/PS/82/06 with the liability of its members limited in the manner therein set out.
- 1.2 Its organizational structure, operations and activities shall be exclusively defined and governed by the statutes which are hereby sanctioned.
- 1.3 The said statutes and any amendments which may be validly made thereto in accordance with the relevant provisions thereof shall be valid and operative between the shareholders.

2. *Legal capacity*

- 2.1 SHELTER-AFRIQUE shall have full juridical personality and full legal capacity to, in particular—
 - (a) acquire and dispose of immovable and movable property;
 - (b) enter into contracts; and
 - (c) to sue and be sued in its own name.
- 2.2 The legal status of SHELTER-AFRIQUE shall be fully recognized by Kenya which shall to this end, take all necessary legislative and administrative actions and facilitate by all means the enjoyment by SHELTER-AFRIQUE of the said status.

3. *Immunity against all forms of seizure.*—Kenya covenants that SHELTER-AFRIQUE, its property and assets wherever located and by whomsoever held shall be immune from expropriation, nationalization and all forms of seizure (confiscation, attachment or execution) without the payment of just and prompt compensation or before the delivery of a final judgment against SHELTER-AFRIQUE, as the case may be.

4. *Officials and Personnel.*—Directors, managers, full time employees, consultants and experts of SHELTER-AFRIQUE and their spouses and children, not being citizens of Kenya, will be accorded exemptions, concessions and privileges in respect of taxation, import duties, and otherwise no less favourable than those accorded to such persons (and their spouses and children) of international financial institutions located in Kenya.

5. There will promptly be issued all visas, permits and other authorizations required to enable employees and agents of SHELTER-AFRIQUE and their families to enter, remain and reside in and leave Kenya at any time and from time to time as may be required

in order to carry out SHELTER-AFRIQUE's purposes, subject always to such employees and agents observing and complying with the laws of Kenya.

6. *Exoneration of taxes and other charges.*—Kenya will ensure that all loans, shares and other investments, and interests, dividends, profits, gains, proceeds of realizations, income, fees and moneys of any kind whatsoever (including participation in and capitalization of profits or reserves) owned by or accruing to or payable to SHELTER-AFRIQUE in Kenya or remitted to SHELTER-AFRIQUE from outside Kenya will be exempt from all taxes, levies or other imposts of any kind whatsoever now or at any time hereafter imposed in Kenya.

7. In any transaction to which SHELTER-AFRIQUE is a party, SHELTER-AFRIQUE shall be exempt from all stamp duty and other documentary taxes.

8. *Privileges of communications.*—Official communications of SHELTER-AFRIQUE will be accorded the same treatment accorded to the official communications of international financial institutions located in Kenya.

9. *Foreign Investment/Exchange Control.*—The Ministry, Central Bank or other offices for the time being responsible for foreign investment, foreign exchange control matters, foreign trade and land acquisition in Kenya will deal promptly with any request for any approval for foreign investment and/or foreign exchange control purposes that may be required for a proposed equity or loan investment by SHELTER-AFRIQUE in any enterprise in Kenya.

10. (a) For all purposes, SHELTER-AFRIQUE shall be considered as non-resident enterprise in Kenya and to this end, and without any limitations, it shall have the right to—

(1) remit out of Kenya any moneys paid by SHELTER-AFRIQUE to its internationally recruited staff and their spouses and children (not being citizens of Kenya);

(2) purchase at the best exchange rate available of any foreign currency that may be required in connection with any such remittances; and

(3) open and operate foreign banking accounts in any other country as SHELTER-AFRIQUE may think fit for the purpose of receiving or depositing any moneys and for paying the expenses of SHELTER-AFRIQUE incurred and/or payable outside Kenya.

(b) Where Kenya for the time being operates a system of priorities in the allocation of foreign exchange, it shall accord priority to the remittances above referred to.