

(Acts No. 2)

ACT No. 8 of 1961

**THE EAST AFRICAN RAILWAYS AND HARBOURS
(AMENDMENT) ACT, 1961**

Assented to by the East Africa High Commission in Her Majesty's name and on Her Majesty's behalf this 30th day of November, 1961.

P. M. RENISON,
Chairman of the East Africa High Commission.

**AN ACT TO AMEND THE EAST AFRICAN RAILWAYS
AND HARBOURS ACT**

Date of Commencement: By Notice

ENACTED by the East Africa High Commission with the advice and consent of the Legislative Assembly thereof, as follows:—

<p>1. This Act may be cited as the East African Railways and Harbours (Amendment) Act, 1961, and shall be read and construed as one with the East African Railways and Harbours Act, hereinafter referred to as the principal Act, and shall come into force on such date as the High Commission may by notice in the Gazette appoint.</p>	<p>Citation and commencement. R.E. Cap. 3.</p>
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<p>2. Save as may be otherwise provided in this Act, the principal Act is hereby amended by the deletion of the expression "the Commissioner" wherever it appears and the substitution therefor in each case of the expression "the General Manager".</p>	<p>General amendment to principal Act.</p>
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<p>3. Subsection (1) of section 2 of the principal Act is hereby amended by the deletion therefrom of the definitions of "Commissioner" and "the Council".</p>	<p>Amendment to section 2 of principal Act.</p>
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<p>4. Section 3 of the principal Act is hereby repealed and replaced by the following—</p>	<p>Repeal and replacement of section 3 of principal Act.</p>
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"General Manager to provide transport system through the Administration, etc.

- 3. (1)** With a view to providing a co-ordinated and integrated system within the Territories of—
- (a) rail and inland waterway transport services; and
 - (b) harbour facilities;
 - (c) auxiliary road services and coastal transport services in connexion therewith,

it is hereby declared that it shall be the duty of the General Manager to provide such a system, in accordance with the provisions of this Act, by means of the East African Railways and Harbours Administration.

(2) The High Commission may give to the General Manager directions as to the exercise and performance of his functions under this Act; and the General Manager shall give effect to such directions.

(3) Subject to the provisions of subsection (2), the control and executive management of the Administration shall be vested in the General Manager."

Repeal and replacement of section 4 of principal Act.

5. Section 4 of the principal Act is hereby repealed and replaced by the following—

"General Manager to be a corporation sole.

4. For the purpose of this Act, the General Manager shall be a corporation sole by name of the General Manager of the East African Railways and Harbours Administration, and in that capacity the provisions set out in the First Schedule shall have effect."

Repeal of sections 6 and 7 of principal Act.

6. Sections 6 and 7 of the principal Act are hereby repealed.

Amendment to section 7 of principal Act.

7. Section 8 of the principal Act is hereby amended in the following respects—

(a) by the deletion from paragraph (a) of subsection (3) of the words "the Council" and the substitution therefor of the words "the General Manager";

(b) by the deletion of subsection (5).

Repeal and replacement of section 23 of principal Act.

8. Section 23 of the principal Act is hereby repealed and replaced by the following—

"Estimates to be on non-profit earning basis.

23. (1) The estimates shall be framed on a non-profit earning basis, that is to say, on the basis that the total earnings of the Administration shall not be more than sufficient to meet—

(a) the necessary outlays for the working and maintenance of the Administration;

- (b) any sums payable by the General Manager in respect of the operations of the Administration under any order of any court;
- (c) such contributions towards the expenses of the High Commission, the Assembly, and officers in the service of the High Commission, as may be determined;
- (d) proper provision for the renewal of wasting assets;
- (e) interest and sinking fund charges due on capital, not being capital contributed out of the revenue of the Administration;
- (f) contributions to such reserve funds as are approved by the High Commission;
- (g) contributions to such betterment funds as may be approved by the High Commission.

(2) Estimates of receipts and of expenditure on revenue and net revenue accounts, and from betterment, renewal or other funds established by contributions from revenue and from loan funds, shall be prepared by the General Manager before the commencement of the financial year in which the expenditure is to be incurred, and supplementary estimates shall be prepared from time to time as may be necessary; and all such estimates shall be submitted to the High Commission for consideration.

(3) The High Commission shall cause such estimates, with such amendments, if any, as it may think fit, to be submitted to the Assembly, and the Assembly may by resolution approve or disapprove thereof or adopt modifications thereto; and the resolution of the Assembly approving of such estimates, with or without modification, shall be sufficient authority to the General Manager to issue a warrant for the expenditure of the sums contained in such estimates.

(4) Subject to such directions as may be given by the High Commission, the General Manager may, pending the approval of the Assembly, authorize expenditure in excess of the provision

under individual heads of the estimates if such expenditure is covered by savings under other heads.”

Amendment to
section 24 of
principal Act.

9. Section 24 of the principal Act is hereby amended in the following respects—

- (a) by the re-numbering thereof as subsection (1) of section 24;
- (b) by the deletion of the word “As” at the commencement of subsection (1) as so re-numbered and the substitution thereof of the words “Subject to the provisions of subsection (2), as”;
- (c) by the addition of the following new subsection—

“(2) Subject to such directions as may be given by the High Commission, the General Manager may, pending the raising of a loan which has already been authorized by an Act, borrow temporarily, whether by way of overdraft or otherwise, such sums as may be necessary to enable expenditure authorized by that Act to be incurred without undue delay:

Provided that the aggregate amount borrowed under this subsection outstanding at any one time shall not exceed the amount of the loan so authorized:

And provided further that, when the principal loan authorized by the Act has been raised, the amount borrowed under this subsection shall be paid off as soon as possible having regard to prudent financial management.”

Amendment to
section 26 of
principal Act.

10. Section 26 of the principal Act is hereby amended by the deletion of subsection (1) and the substitution thereof of the following—

“(1) The accounts of the Administration shall be kept in such manner as may be directed by the High Commission, and such accounts shall be audited annually by the auditor responsible for the audit of High Commission accounts.”

1961 *East African Railways and Harbours*
(Amendment)

No. 8

11. Section 47A of the principal Act is hereby amended by the deletion of the expression "the Commissioner" wherever it appears in subsections (1) and (4) and the substitution therefor in each case of the expression "the High Commission".

Amendment to section 47A of principal Act.

12. Section 52 of the principal Act is hereby amended in the following respects—

Amendment to section 52 of principal Act.

(a) by the deletion of the words "as the Commissioner may specify" in paragraph (d) and the substitution therefor of the words "as the High Commission may specify";

(b) by the deletion of the words "to the Commissioner" and the substitution therefor of the words "to the appropriate Minister of the Government of the Territory in which the accident occurred".

13. Section 54 of the principal Act is hereby amended by the deletion of the expression "the Commissioner" wherever it appears and the substitution therefor in each case of the expression "the High Commission".

Amendment to section 54 of principal Act.

14. Subsection (3) of section 56 of the principal Act is hereby amended by the deletion of the expression "the Commissioner" and the substitution therefor of the expression "the High Commission".

Amendment to section 56 of principal Act.

15. Section 85 of the principal Act is hereby amended by the deletion of subsection (1) and the substitution therefor of the following—

Amendment to section 85 of principal Act.

"(1) Subject to any law relating to the appointment of officers and their terms and conditions of service in the High Commission, the High Commission may appoint such officers of the Administration as may be necessary for its efficient working under such terms and conditions as it may think fit."

16. Section 86 of the principal Act is hereby amended by the deletion of subsection (3).

Amendment to section 86 of principal Act.

Repeal and replacement of section 88 of principal Act.

17. Section 88 of the principal Act is hereby repealed and replaced by the following:—

“Delegation and signification.

(1) The High Commission and the General Manager may delegate to any person any of the powers vested in them under this Act and may grant to any person powers of attorney.

(2) Any act or decision, or the notification thereof, of the High Commission or the General Manager under this Act may be signified under the hand of any employee authorized for that purpose.”

Amendment to section 97 of principal Act.

18. Section 97 of the principal Act is hereby amended by the deletion of the words “the Commissioner or”.

Amendment to section 98 of principal Act.

19. Section 98 of the principal Act is hereby amended by the deletion of the words “the Commissioner or”.

Amendment to section 99 of principal Act.

20. Subsection (2) of section 99 of the principal Act is hereby amended by the deletion of the words “or upon the General Manager”.

Repeal of Second Schedule to principal Act.

21. The Second Schedule to the principal Act is hereby repealed.

Transitional.

22. The transitional provisions contained in the Schedule shall have effect on the commencement of this Act.

SCHEDULE

TRANSITIONAL PROVISIONS

1. There shall be transferred to and vested in the General Manager all property, moveable or immoveable, vested immediately prior to the commencement of this Act in the Commissioner for Transport in relation to the Administration, without further or other assurance.

2. Subject to the provisions of the principal Act as amended by this Act, there shall be transferred to, vested in, be exercisable by, or imposed upon the General Manager all the rights, powers, liabilities and duties, whether arising under any Order in Council, Act, Ordinance, judgment, decree, order, award, contract or other document which immediately prior to the commencement of this Act were vested in, exercisable by, or imposed on the Commissioner for Transport in relation to the Administration.

1961 *East African Railways and Harbours*
(Amendment)

No. 8

3. All actions, suits, and legal proceedings pending by, or against, the Commissioner for Transport in relation to the Administration shall be carried on and prosecuted by, or against the General Manager, and no such action, suit or legal proceedings shall be prejudicially affected by the provisions of this Act, save that such action, suit or legal proceedings shall be continued by, or against the General Manager by that name.

4. Until an official seal of the General Manager has been provided, the official seal of the Commissioner for Transport in use before the commencement of this Act may be used as the official seal of the General Manager.