

**THE BRETTON WOODS AGREEMENTS  
ORDINANCE, 1963**

**No. 38 of 1963**

*Date of Assent: 4th December, 1963*

*Date of Commencement: 10th December, 1963*

**An <sup>Act</sup> Ordinance to provide for acceptance by Kenya of the Agreements for the International Monetary Fund and the International Bank for Reconstruction and Development and to provide for matters related thereto**

WHEREAS at the United Nations Monetary and Financial Conference held at Bretton Woods in New Hampshire in the United States of America in July 1944, Articles of the following agreements were drawn up, that is to say—

- (a) an agreement (hereafter in this <sup>Act</sup> Ordinance referred to as the Fund Agreement) for the establishment and operation of an international body to be known as the International Monetary Fund (hereafter in this <sup>Act</sup> Ordinance referred to as the Fund); and
- (b) an agreement (hereafter in this <sup>Act</sup> Ordinance referred to as the Bank Agreement) for the establishment and operation of an international body to be called the International Bank for Reconstruction and Development (hereafter in this <sup>Act</sup> Ordinance referred to as the Bank):

AND WHEREAS copies of the text of the Articles of the Fund Agreement and the Bank Agreement have been laid before the National Assembly:

AND WHEREAS it is expedient that Kenya should become a member of the Fund and of the Bank and that provision should be made for acceptance by Kenya of the Fund Agreement and the Bank Agreement and for carrying out the obligations of Kenya thereunder:

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

1. This <sup>Act</sup> Ordinance may be cited as the Bretton Woods Agreements <sup>Act</sup> Ordinance, 1963.

Short title.

Interpretation.

2. In this <sup>Act</sup> Ordinance, unless the context otherwise requires, "Minister" means the Minister for the time being responsible for finance.

Acceptance of Agreement.

3. The Minister is hereby authorized by instruments under his hand to empower such persons as may be named in such instruments, on behalf of the Government of Kenya—

(a) to sign the Articles of the Fund Agreement and the Articles of the Bank Agreement, respectively; and

(b) to deposit with the Government of the United States of America instruments of acceptance of the Fund Agreement and of the Bank Agreement stating that the Government of Kenya has accepted in accordance with its law the respective agreements and the terms and conditions prescribed under the Resolution of the Board of Governors of the Fund relating to membership of Kenya in the Fund and under the Resolution of the Board of Governors of the Bank relating to membership of Kenya in the Bank as the terms upon which the Government of Kenya shall be admitted to membership of the Fund and of the Bank.

Financial provisions.

4. (1) There shall be charged on and paid out of the Consolidated Fund without further appropriation than this <sup>Act</sup> Ordinance—

(a) all payments required to be made from time to time to the Fund under the Fund Agreement and the Resolution of the Board of Governors of the Fund relating to membership of Kenya in the Fund; and

(b) all payments required to be made from time to time to the Bank under the Bank Agreement and the Resolution of the Board of Governors of the Bank relating to membership of Kenya in the Bank.

(2) The Minister may, on behalf of the Government, create and issue to the Fund or the Bank, such non-interest-bearing and non-negotiable notes or other obligations as are provided for by section 5 of Article III of the Fund Agreement and section 12 of Article V of the Bank Agreement, and any payments in respect of any such notes or obligations so created and issued shall be charged on and paid out of the Consolidated Fund.

(3) For the purpose of providing any sums required for making any payments under this section, the Minister may, on behalf of the Government, raise loans by the creation and issue of securities bearing such rates of interest and subject to such conditions as to repayment, redemption or otherwise as he may think fit and the principal and interest of such securities and the charges and expenses incurred in connexion with their issue shall be charged on and paid out of the Consolidated Fund.

(4) Any moneys received by the Government from the Fund or the Bank or raised under subsection (3) of this section shall be paid into and form part of the Consolidated Fund and shall be available in any manner in which that Fund is available.

5. (1) The provisions of the Fund Agreement and the Bank Agreement set out in the Schedule to this Act shall have the force of law in Kenya:

Certain provisions of Agreements to have force of law.

Provided that nothing in section 9 of Article IX of the Fund Agreement or in section 9 of Article VII of the Bank Agreement shall be construed as—

- (a) entitling the Fund or the Bank to import goods free of customs duty without any restriction on their subsequent sale in the country to which they were imported; or
- (b) conferring on the Fund or the Bank any exemption from duties or taxes which form part of the price of goods sold; or
- (c) conferring on the Fund or the Bank any exemption from taxes or duties which are in fact no more than charges for services rendered.

(2) This section shall come into force as soon as the Fund Agreement and the Bank Agreement have been signed.

#### SCHEDULE

(s. 5 (1))

Provisions of Agreements which are to have the force of law.

#### THE FUND AGREEMENT

##### *Article VIII—General Obligations of Members*

#### Section 2. Avoidance of Restrictions on Current Payments—

- (b) Exchange contracts which involve the currency of any member and which are contrary to the exchange control regulations of that member maintained or imposed consistently with this Agreement shall be unenforceable in the territories of any member.

*Article IX—Status, Immunities and Privileges*

## Section 2. Status of the Fund—

The Fund shall possess full juridical personality, and, in particular, the capacity—

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

## Section 3. Immunity from Judicial Process—

The Fund, its property and its assets, wherever located and by whomsoever held, shall enjoy immunity from every form of judicial process except to the extent that it expressly waives its immunity for the purpose of any proceedings or by the terms of any contract.

## Section 4. Immunity from Other Action—

Property and assets of the Fund, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

## Section 5. Immunity of Archives—

The archives of the Fund shall be inviolable.

## Section 6. Freedom of Assets from Restrictions—

To the extent necessary to carry out the operations provided for in this Agreement, all property and assets of the Fund shall be free from restrictions, regulations, controls and moratoria of any nature.

## Section 7. Privilege for Communications—

The official communications of the Fund shall be accorded by members the same treatment as the official communications of other members.

## Section 8. Immunities and Privileges of Officers and Employees—

All Governors, Executive Directors, Alternates, officers and employees of the Fund—

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Fund waives this immunity;
- (ii) not being local nationals, shall be granted the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials, and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

## Section 9. Immunities from Taxation—

- (a) The Fund, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Fund shall also be immune from liabilities for the collection or payment of any tax or duty.
- (b) No tax shall be levied on or in respect of salaries and emoluments paid by the Fund to Executive Directors, Alternates, officers or employees of the Fund who are not local citizens, local subjects, or other local nationals.
- (c) No taxation of any kind shall be levied on any obligation or security issued by the Fund, including any dividend or interest thereon, by whomsoever held—
- (i) which discriminates against such obligation or security solely because of its origin; or
  - (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Fund.

## THE BANK AGREEMENT

*Article VII—Status, Immunities and Privileges*

## Section 2. Status of the Bank—

The Bank shall possess full juridical personality, and, in particular, the capacity—

- (i) to contract;
- (ii) to acquire and dispose of immovable and movable property;
- (iii) to institute legal proceedings.

## Section 3. Position of the Bank with Regard to Judicial Process—

Actions may be brought against the Bank only in a court of competent jurisdiction in the territories of a member in which the Bank has an office, has appointed an agent for the purpose of accepting service or notice of process, or has issued or guaranteed securities. No actions shall, however, be brought by members or persons acting for or deriving claims from members. The property and assets of the Bank shall, wheresoever located and by whomsoever held, be immune from all forms of seizure, attachment or execution before the delivery of final judgment against the Bank.

## Section 4. Immunity of Assets from Seizure—

Property and assets of the Bank, wherever located and by whomsoever held, shall be immune from search, requisition, confiscation, expropriation or any other form of seizure by executive or legislative action.

## Section 5. Immunity of Archives—

The archives of the Bank shall be inviolable.

## Section 6. Freedom of Assets from Restrictions—

To the extent necessary to carry out the operations provided for in this Agreement and subject to the provisions of this Agreement, all property and assets of the Bank shall be free from restrictions, regulations, controls and moratoria of any nature.

## Section 7. Privilege for Communications—

The official communications of the Bank shall be accorded by each member the same treatment that it accords to the official communications of other members.

## Section 8. Immunities and Privileges of Officers and Employees—

All Governors, Executive Directors, Alternates, officers and employees of the Bank—

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity except when the Bank waives this immunity;
- (ii) not being local nationals, shall be accorded the same immunities from immigration restrictions, alien registration requirements and national service obligations and the same facilities as regards exchange restrictions as are accorded by members to the representatives, officials and employees of comparable rank of other members;
- (iii) shall be granted the same treatment in respect of travelling facilities as is accorded by members to representatives, officials and employees of comparable rank of other members.

## Section 9. Immunities from Taxation—

- (a) The Bank, its assets, property, income and its operations and transactions authorized by this Agreement, shall be immune from all taxation and from all customs duties. The Bank shall also be immune from liability for the collection or payment of any tax or duty.
- (b) No tax shall be levied on or in respect of salaries and emoluments paid by the Bank to Executive Directors, Alternates, officials or employees of the Bank who are not local citizens, local subjects, or other local nationals.
- (c) No taxation of any kind shall be levied on any obligation or security issued by the Bank (including any dividend or interest thereon) by whomsoever held—
  - (i) which discriminates against such obligation or security solely because it is issued by the Bank; or
  - (ii) if the sole jurisdictional basis for such taxation is the place or currency in which it is issued, made payable or paid, or the location of any office or place of business maintained by the Bank.

- (d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Bank (including any dividend or interest thereon) by whomsoever held—
- (i) which discriminates against such obligation or security solely because it is guaranteed by the Bank; or
  - (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Bank.