CHAPTER 412

THE EDUCATION FUND ACT

[PRINCIPAL LEGISLATION]

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CHAPTER 412

THE EDUCATION FUND ACT

An Act to establish the Education Fund, to provide for management of the Fund and for related matters.

[1st January, 2002]
[GN. No. 310 of 2004]

Acts Nos.
8 of 2001
5 of 2005
13 of 2005
4 of 2013
10 of 2013

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PART I
PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Education Fund Act.

Application

2. This Act shall not apply to Tanzania Zanzibar except for the provisions of Part V.

Interpretation

3. In this Act, unless the context otherwise requires-

"Authority" means the Tanzania Education Authority established by section 5;

"Board" means the Board of the Authority established by section 7;

"Certificate of Educational Appreciation" means the certificate issued under section 13;

"education levels" means the pre and primary education, secondary education and tertiary education levels as categorised under the national policy governing education and training;

"Fund Assisted Project or Programme" means any project or programme funded by the Authority;

"Government agency" means any Government department or office designated as a Government agency;

"higher learning institution" means an institution recognised as a higher education institution under the national policy governing education and training;

"Minister" means the Minister responsible for higher education matters;

"professional higher education" means education provided by the full professional higher education institutions;

"secondary level education" means education obtained through secondary schools;

"tertiary level education" means education obtained from a higher learning institution.

PART II
THE EDUCATION FUND

Establishment of Education Fund Act No. 10 of 2013 s. 18

4.–(1) There is hereby established a Fund to be known as the Education Fund into which shall be paid all monies collected as in accordance with the provisions of this Act, or from any other source.

(2) All monies collected as education fund shall be remitted to such bank accounts as the Authority shall prescribe or designate, and in accordance with the provisions of this Act.

(3) The monies deposited in the Fund shall be used for improvement of the access, equity and quality of education in accordance with the provisions of this Act.

(4) The Minister shall, for the purpose of ensuring proper functioning of this Act with regard to the Fund consult with the Minister responsible for finance.

PART III
ESTABLISHMENT, POWERS AND FUNCTIONS OF THE AUTHORITY

Establishment of Authority

5.–(1) There is hereby established an Authority to be known as the Tanzania Education Authority which shall consist of the Board, its committees and all operating directorates.

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(2) The Authority established under subsection (1) shall be compact and it shall perform its functions in the manner which is efficient and effective.

(3) The Authority shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-

(a) suing and being sued;

(b) acquiring, holding and disposing of real and personal property;

(c) exercising the powers and performing the functions conferred upon it by or under this Act;

(d) entering into contracts or other transactions and doing or suffering to do all such other acts and things which a body corporate may lawfully perform, do or suffer to be done;

(e) in its corporate name and, subject to this Act, borrowing money, acquiring and disposing of property and do all such other things as a body corporate may lawfully do.

(4) The seal of the Authority shall be authenticated by the signatures of the Chairman of the Board and the Secretary to the Board.

(5) In the absence of the Chairman or the Vice-Chairman of the Board, a member of the Board specifically designated by him for the purpose, may sign a document in his place and in the absence of the Secretary to the Board, a person performing the functions of the Secretary may sign a document in his place.

(6) Every document purporting to be an instrument issued by the Authority shall be sealed with the seal of the Authority authenticated in the manner provided under subsection (3) and such instrument shall be received in evidence without further proof.

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Objectives and functions of authority
Acts Nos. 5 of 2005 Sch. 10 of 2013 s. 19

6. The objectives and the functions of the Authority shall be to-

(a) provide funds to supplement the provision of education at all levels;

(b) advise the Government on new sources of revenue for the purpose of ensuring adequate and stable flow of money into the Fund;

(c) raise the quality of education and increase access and equality;

(d) promote education and training according to needs within the framework of overall national socio-economic development plans and policies;

(e) apply the money deposited into the Fund for purposes of improvement and promotion of education;

(f) develop and make periodic review of the formula for allocation and disbursement of the financial resources of the Authority to different educational levels except that, at least fifty percent of the financial resources shall be provided to finance basic and secondary education;

(g) develop and make periodic review of the resources allocated for the facilitation of education to students with disabilities;

(h) monitor the use of the funds disbursed and ensure adherence to the objectives of the Fund other than the funds allocated to other institutions specified under this section;

(i) apply the monies deposited into the Fund for the purpose of giving effect to the mandate of the Authority, the Higher Education Students' Loans Board, the Tanzania Commission for Universities and the National Council for Technical and Vocational Education and Training pursuant to the formula specified in the Third Schedule, except that, the funds so applied shall relate to the sources specified under section 14(a) to (c):

Provided that, the Authority shall consult with the institutions referred to in this section in the application of the monies deposited into Fund;

(j) receive gifts, donations, grants or other moneys on behalf of the Fund from contribution; and

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(k) sponsor and provide facilities for higher learning and to establish relationship or association with institutions both nationally and internationally.

PART IV
THE BOARD AND ITS FUNCTIONS

Establishment of Board and its committees Act No. 10 of 2013 s. 20

7.–(1) There is hereby established a Board which shall be the governing body of the Authority.

(2) The provisions of the First Schedule to this Act shall have effect as to the composition of the Board, the appointment and tenure of its members, proceedings of the Board and such other matters in relation to the Board and its members.

(3) There shall be two committees of the Board, and members of each Committee who shall be appointed from amongst members of the Board.

(4) The Board may co-opt a member or members in the committees as it deems fit and for the purpose of fulfilling some of its functions, establish other committees whenever there is a need for so to do.

(5) The Revenue Committee shall be the Board's organ for-

(a) development of policy framework for the effective planning of all processes of revenue collection for the Authority;

(b) developing policies for mobilising the public and stimulating them to contribute to the Fund;

(c) evaluating the Authority financial position and propose general and specific directives to enhance the sustainability of revenue flow into the Fund and the Authority;

(d) performing such other functions as the Board may delegate.

(6) The Award Committee shall be the Board's organ for the formulation of policies and strategies that are necessary to ensure the objectives and equitable distribution of the Fund's resources.

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Powers and functions of Board
Act No. 5 of 2005 Sch.

8.–(1) The Board shall be responsible for the performance of the functions and management of the affairs of the Authority.

(2) Without prejudice to the generality of subsection (1), the Board shall have powers to-

(a) develop policies of the Fund and to supervise their implementation at the national level;
(b) set the policies and procedures for the use of the Fund;
(c) approve the plans and the annual budgets of the Authority;
(d) signify the acts of the Authority by using the official seal;
(e) appoint an auditor or auditors to carry out the audit of the Fund;
(f) appoint such officers of the Fund in accordance with this Act and any regulations made under the Act;
(g) appoint collection agents of the Fund; and
(h) do all acts or things provided for in this Act which may in the opinion of the Board, be necessary for the proper carrying out of the functions of the Authority.

Director General and other employees

9.–(1) The Board shall, subject to the provisions of the Second Schedule to this Act, appoint a Director General of the Authority who shall be the Chief Executive of the Authority and shall be directly responsible to the Board for the day to day administration of the affairs of the Authority.

(2) The Director General shall be the Secretary to the Board and may participate in the Board's deliberations and shall be entitled to vote on any resolution or any other matter before the Board.

(3) The Board may, subject to the provisions of the Second Schedule to this Act, appoint or employ directors and other employees of the Authority on such terms and conditions as the Board may approve.

(4) The Director General and other directors shall constitute the management team of the Board.

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PART V
SPECIAL PROVISIONS ON HIGHER EDUCATION AND APPLICABILITY OF THE FUND TO TANZANIA ZANZIBAR

Functions of Authority and Fund extend to Tanzania Zanzibar

10.–(1) The functions of the Authority and the Fund in respect of higher education shall extend to Tanzania Zanzibar.

(2) The Authority shall, in carrying out its functions at the union level, enter into arrangement with its counterpart in Tanzania Zanzibar which is responsible for the administration of the Education Fund established under the laws of Tanzania Zanzibar.

Authority shall collaborate with Ministry responsible for regional administration and local government authorities Act No. 5 of 2005 Sch.

11.–(1) The Authority shall, in carrying out its functions at district level, enter into collaborative arrangements with the Ministry responsible for regional administration and local government authorities for the purpose of-

(a) establishing affiliation with the respective local councils; and

(b) facilitating the award to the respective Local Authority Education Fund contributors.

(2) The collaboration of the Authority under subsection (1) shall extend to their relevant by-laws in force in each respective council.

[s. 10A]

Commencement of operation of Part V

12. The provisions of this Part shall become operative upon the commencement of the arrangement to be entered into, pursuant to section 10(2).

[s. 11]

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PART VI
SPECIAL PROVISIONS RELATING TO DONATIONS, GIFTS, GRANTS AND BEQUESTS

Certificate of Educational Appreciation Acts Nos. 5 of 2005 Sch. 13 of 2005 s. 4

13.–(1) A person who-

(a) makes a donation in form of money, materials, equipment or machinery to the Fund's Assisted Educational Project or Programme;

(b) avails sponsorship or a grant to any student in need, and who does not belong to or does not have any family ties with the donor,

shall be awarded by the Authority a certificate to be known as a Certificate of Educational Appreciation.

(2) The Certificate of Educational Appreciation shall-

(a) give full particulars of the awardee, the amount of money to which he is eligible for tax relief, the taxes and the mode to which relief may be elected; and

(b) be signed by both the Director General, and the Commissioner General of the Tanzania Revenue Authority and shall bear the respective seals of the signatories' organisations.

(3) Every awardee of a Certificate of Educational Appreciation shall be entitled to apply the amount stated in the Certificate of Educational Appreciation as an allowable deduction under section 16(1) of the Income Tax Act.

Cap. 332

(4) A contributor who attaches conditions on his donation and wishes to obtain relief under subsection (3), shall be required to satisfy additional requirements as may be specified by the Authority, for award of such relief.

(5) The Certificate of Educational Appreciation shall be valid to the awardee within a period not exceeding six years from the date of the award, but once submitted for purposes of obtaining the relief it shall remain in the custody of the tax authority to which it is submitted until the amount thereon is fully utilised whereupon the Certificate of Educational Appreciation shall be water marked in bold across the face by the word "UTILISED".

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(6) A person who deals with the Certificate of Educational Appreciation in a manner that is inconsistent with to the provisions of this Part commits an offence.

(7) The Director General shall, where the certificate of Educational Appreciation is not utilised, within the specified period under subsection (5), forfeit any relief that may accrue under the certificate and notify the Commissioner General accordingly.

(8) The Commissioner General shall have power to compound an offence, where he is satisfied that, any person has committed an offence under this Act.

[s. 12]

PART VII
FINANCIAL PROVISIONS

Funds of Authority
Acts Nos.
5 of 2005 Sch.
4 of 2013 s. 6
10 of 2013 s. 21
Cap. 82

14. The funds of the Authority shall consist of-

(a) such sums not less than two *per centum* (2.0%) of the annual Government recurrent budget less than the amount payable in defraying the national debt as additional funding to education levels;

(b) skills and development levy as provided for under the Vocational Education and Training Act;

(c) such sums as may be appropriated to the Fund by the Parliament; and

(d) such sums as may be accrued to the Authority by way of loans repayment, interest, grants, projects or donations from any source within or outside the United Republic.

[s. 13]

Revenue to accrue to Fund
Act No.
5 of 2005 Sch.

15.–(1) All revenue collected by or payable to the authority under this Act and in accordance with section 4(2), shall be payable to a designated account.

(2) The Director General shall submit to the Board a monthly report in respect of the status of the revenue and the expenditure.

[s. 14]

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Estimates of income and expenditure of Authority

16.–(1) The Director General shall, not later than three months, before the end of each financial year, prepare and submit to the Board for its consideration, estimates of the Authority's income and expenditure for the ensuing year.

(2) The Board shall, after receiving the estimates report under subsection (1), consider and adopt the estimates subject to such modifications and amendments as the Board may consider appropriate.

(3) The annual budget estimates shall contain provisions for all the estimated expenditure during the ensuing financial year and in particular-

(a) for the payment of salaries, allowances and other charges in respect of the staff and the Board;

(b) for office rental and the proper maintenance and replacement of the furniture, equipment and other supplies of the Authority; and

(c) for the creation of such reserve funds to meet future contingent liabilities as the Board may think fit.

(4) Expenditure shall not be incurred for purposes of the Authority except in accordance with the provisions of the annual budget estimates or any supplementary estimates adopted by the Board.

[s. 15]

Accounts, audit and annual reports

17.–(1) The Authority shall keep accounts and records of its activities and operations and ensure that all moneys received are properly brought to account and all payments out of its moneys are correctly made and properly authorised and adequate control is maintained over its property and over the incurring of liabilities by the Authority.

(2) The annual accounts of the Authority shall be audited by the Controller and Auditor-General or by Auditor appointed by the Controller and Auditor-General.

(3) The Board shall, within six months after the end of each financial year of the Authority, cause to be prepared and

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submitted to the Minister an annual report in respect of that year, containing-

(a) financial statements;

(b) performance indicators and other related information; and

(c) a report on the operations of the Authority.

(4) The Minister shall cause copies of each annual report to be laid before the National Assembly at its next meeting after he has received them.

[s. 16]

Quarterly reports

18. The Director General shall, after the end of every three months, submit to the Board a report containing-

(a) performance indicators and other related information;

(b) the operations of the Authority; and

(c) such other information as the Board may deem proper.

[s. 17]

Internal audit and periodic audit reports

19.–(1) The Head of internal audit shall, in addition to any other functions assigned to him by the Board or the Director General, be responsible for the internal audit of the Authority's accounts and shall submit to the Director General a report in respect of every three months of a financial year.

(2) The Director General shall submit the report referred to in subsection (1) to the Board for its consideration at the next meeting of the Board.

[s. 18]

PART VIII
GENERAL PROVISIONS

Exemption

20.–(1) The Authority shall be exempted from any tax, duties, levies, rates, fees or any charges which are payable in accordance with any law.

(2) The exemption of the Authority under subsection (1) shall not extend to the employees or other officers of the

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Authority who are otherwise chargeable to such tax, duties, levies, rates, fees or any such charges in accordance with the laws in force.
[s. 19]

Power to make regulations

21. The Minister may, after consultation with the Board, make regulations for better carrying out of the provisions of this Act.
[s. 20]

FIRST SCHEDULE

(Made under section 7(2))

COMPOSITION AND PROCEEDINGS OF THE BOARD

Interpretation

1. In this Schedule, "member" means a member of the Board and includes the Chairman.

Composition
Act No.
10 of 2013 s. 22

2.–(1) The members of the Board shall be-

(a) the Chairman who shall be appointed by the President;

(b) other members to be appointed by the Minister as follows-

(i) a member from Higher Education Students' Loans Board;

(ii) a member representing the Committee of Vice Chancellors;

(iii) two members from Ministry responsible for regional administration and local government authority in the education coordination division, one of whom shall represent secondary education section and another basic education section;

(iv) a member from Treasury;

(v) one member from Ministry of Education engaged in higher education;

(vi) a member from private sector dealing with education;

(vii) a member from the Ministry of Education of Zanzibar responsible for higher education;

(viii) a member representing financial institutions; and

(ix) a law officer representing the Office of the Attorney General.

(2) The Minister shall, in appointing members under this paragraph, first consult with the Ministers responsible for education in both the Union Government and the Revolutionary Government of Zanzibar.

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(3) In appointing members under this paragraph, account shall be taken of person's knowledge, experience and outlook in matters relating to administration of education and financing of education.

Vice-Chairman

3. The Board shall elect one of its members to be the Vice-Chairman.

Tenure of office

4. The members of the Board shall hold office for a period of three years and may be re-appointed for one further period as the Minister may determine.

Secretary

5. The Authority's Director General shall be the Secretary of the Board.

Meetings and quorum

6.–(1) The Board shall hold four regular meetings every year and may hold more meetings if the business of the Authority so requires.

(2) The first meeting of the Board shall be convened by the Chairman and subsequently the Board shall meet as often as necessary for the transaction of business at such places and at such time as may be decided upon by the Board.

(3) The Chairman or, in his absence, the Vice-Chairman shall preside at all meetings of the Board which he attends; and in the absence of both the Chairman or the Vice-Chairman, the members present may appoint a member from among themselves to preside at that meeting.

(4) The Chairman, or in his absence, a member appointed by the Board to act in his place may, at any time, call a special meeting upon written request by a majority of the members.

(5) Notice of a meeting of the Board shall be given in writing to each member at least fourteen days before the day of the meeting.

(6) One half of the total number of members shall form a quorum for a meeting of the Board.

Voting

7.–(1) At any meeting of the Board, a decision of the majority of the members present and voting shall be deemed to be a decision of the Board.

(2) In the event of equality of votes, the Chairman of that meeting shall have a casting vote in addition to his deliberative vote.

Minutes

8. The Board shall cause the minutes of all proceedings of its meetings, to be recorded and kept and the minutes of each meeting shall be confirmed by the Board at the next meeting and signed by the Chairman of the meeting.

Vacancy

9. The Board may act notwithstanding any vacancy in its membership.

Validity of proceedings

10. The validity of any proceedings of the Board shall not be affected by any defect in the status of any member.

Orders and directions

11. All orders, directions, notices or other documents made or issued on behalf of the Board shall be signed by-

(a) the Chairman of the Board;

(b) the Secretary; or

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(c) any officer authorised in writing in that behalf by the Secretary.

Proceedings

12. Subject to the provisions of this Schedule, the Board shall have power to regulate its own proceedings.

SECOND SCHEDULE

(Made under section 9(3))

APPOINTMENT OF DIRECTOR GENERAL AND OTHER EMPLOYEES

Appointment of Director General and tenure of office

1.–(1) The Board shall in consultation with the Minister, appoint the Director General.

(2) The Board shall determine the qualifications of the person who can apply for appointment as Director General of the Authority.

(3) The Director General shall have a fixed tenure as shall be determined by the Board:

Provided that, a single tenure in office shall not exceed five years, and the incumbent holder of office may be re-appointed to office for a further tenure, but shall thereafter not be eligible for further re-appointment.

Termination of appointment

2. The Board shall provide in the contract of service of the Director General such terms and conditions for the appointment and termination of his services.

Mode of appointment of Director General

3. The vacancy for the appointment of the Director General shall be advertised in the widely circulating newspapers in the country and the Board shall appoint a person who meets the criteria of appointment and who is qualified from amongst the applicants.

Remuneration of Director General

4. The Board shall determine the most attractive remuneration package for the Director General.

Appointment of Director

5.–(1) The Director of the Authority shall be appointed by the Board in accordance with the provisions of this Schedule.

(2) The Board shall determine the qualifications for the appointment to the office of a Director of the Authority.

(3) The Board shall determine and fix the terms and conditions to govern the service of the Director, including such matters relating to tenure in office, remuneration and termination of services.

Guidelines or criteria for recruitment

6.–(1) The Board shall provide guidelines or criteria for the recruitment by the management team of the Managers and other employees of the Authority.

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(2) The Director General shall submit for the Board's approval the names of the Managers proposed to be employed together with their respective terms and conditions of service.

(3) The Managers and other employees of the Authority shall be responsible to the Director General.

THIRD SCHEDULE

(Made under section 6(i))

FORMULA FOR ALLOCATION OF FUNDS

Act No. 10 of 2013 s. 23	INSTITUTION	PERCENTAGE (%)
	1. Higher Education Students' Loans Board	64
	2. Tanzania Education Authority	30
	3. National Council for Technical and Vocational Education and Training	3
	4. Tanzania Commission for Universities	3

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