



LAWS OF KENYA

INTERNATIONAL FINANCE CORPORATION ACT

CHAPTER 466

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CHAPTER 466

INTERNATIONAL FINANCE CORPORATION ACT

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PROVISIONS OF AGREEMENT WHICH ARE TO HAVE THE FORCE OF
LAW

CHAPTER 466**INTERNATIONAL FINANCE CORPORATION ACT**

[Date of assent: 4th December, 1963.]

[Date of commencement: 10th December, 1963.]

An Act of Parliament to provide for acceptance by Kenya of an international agreement for the establishment and operation of an International Finance Corporation and to provide for matters related thereto

[Act No. 40 of 1963, L.N. 2/1964.]

WHEREAS on the 11th April 1955, the executive directors of the International Bank for Reconstruction and Development approved Articles of Agreement (the said Articles of Agreement, as amended by a Resolution of the Board of Governors of the International Finance Corporation, dated the 1st September 1961, being hereafter in this Act referred to collectively as the Agreement) providing for the establishment and operation of an international body to be called the International Finance Corporation (hereafter in this Act referred to as the Corporation):

AND WHEREAS copies of the text of the Agreement have been laid before the National Assembly:

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

1. Short Title

This Act may be cited as the International Finance Corporation Act.

2. Interpretation

In this Act, unless the context otherwise requires, “**Minister**” means the Minister for the time being responsible for finance.

3. Acceptance of Agreements

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 Agreement; and
- (b) to deposit with the International Bank for Reconstruction and Development an instrument of acceptance of the Agreement stating that the Government of Kenya has accepted in accordance with its law the Agreement and the terms and conditions prescribed there under and under the Resolution of the Board of Governors of the Corporation relating to the membership of Kenya in the Corporation as the terms upon which the Government of Kenya shall be admitted to membership of the Corporation.

4. Financial Provisions

(1) There shall be charged on and paid out of the Consolidated Fund without further appropriation than this Act all payments required to be made from time to time to the Corporation under the Agreement and the Resolution of the Board of Governors of the Corporation relating to the membership of Kenya in the Corporation.

(2) For the purpose of providing any sums required for making any payments under subsection (1) of 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.

(3) Any moneys received by the Government from the Corporation in pursuance of the Agreement or raised under subsection (2) of this section shall be paid into and form part of the Consolidated Fund and shall be available in the same manner as that Fund is available.

5. Certain provisions of Agreement to have force of law

(1) The provisions of the Agreement set out in the Schedule to this Act shall have the force of law in Kenya—

Provided that nothing in section 9 of Article VI of the Agreement shall be construed as—

- (a) entitling the Corporation 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 Corporation any exemption from duties or taxes which form part of the price of goods sold; or
- (c) conferring on the Corporation 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 Agreement has been signed.

SCHEDULE

[Section 5(1).]

**PROVISIONS OF AGREEMENT WHICH
ARE TO HAVE THE FORCE OF LAW****ARTICLES OF AGREEMENT OF THE
INTERNATIONAL FINANCE CORPORATION****Status, Immunities and Privileges****Status of the Corporation—**

The Corporation 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 Corporation with Regard to Judicial Process—

Actions may be brought against the Corporation only in a court of competent jurisdiction in the territories of a member in which the Corporation 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 Corporation 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 Corporation.

Section 4. Immunity of Assets from Seizure—

Property and assets of the Corporation, 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 Corporation 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 Article III, section 5, and the other provisions of this Agreement, all property and assets of the Corporation shall be free from restrictions, regulations, controls and moratoria of any nature.

Section 7. Privilege for Communications—

The official communications of the Corporation 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, Directors, Alternates, officers and employees of the Corporation

- (i) shall be immune from legal process with respect to acts performed by them in their official capacity;
- (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 Corporation, 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 Corporation 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 Corporation to Directors, Alternates, officials or employees of the Corporation 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 Corporation (including any dividend or interest thereon) by whomsoever held—
 - (i) which discriminates against such obligation or security solely because it is issued by the Corporation; 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 Corporation.
- (d) No taxation of any kind shall be levied on any obligation or security guaranteed by the Corporation (including any dividend or interest thereon) by whomsoever held—
 - (i) which discriminates against such obligation or security solely because it is guaranteed by the Corporation; or
 - (ii) if the sole jurisdictional basis for such taxation is the location of any office or place of business maintained by the Corporation.

Section 11. Waiver—

The Corporation in its discretion may waive any of the privileges and immunities conferred under this Article to such extent and upon such conditions as it may determine
