

THE UNITED REPUBLIC OF TANZANIA



No. 14 OF 1975

I ASSENT.

J. K. NYERERE,
President

12TH AUGUST, 1975

An Act to amend the National Parks Ordinance and the Ngorongoro Conservation Ordinance

[.....01-07-76.....]

ENACTED by the Parliament of the United Republic of Tanzania.

GN 114/75

PART I

PRELIMINARY

1. This Act may be cited as the Game Parks Laws (Miscellaneous Short title Amendments) Act, 1975 and shall come into operation on such date as the Minister for the time being responsible for natural resources may, by notice in the *Gazette*, appoint.

PART II

AMENDMENT OF THE NATIONAL PARKS ORDINANCE

2. In this Part, unless the context otherwise requires—
“the Ordinance” means the National Parks Ordinance.

Construction
Cap. 412

3. Section 8 of the Ordinance is amended by adding the following subsection:—

Section 8 of
Cap. 412
amended

“(3) The President may, by order in the *Gazette*, add to, amend, vary or replace the Second Schedule to this Ordinance.”.

4. Section 9 of the Ordinance is hereby repealed and replaced by the following sections:—

Section 9 of
Cap. 412
repealed and
replaced

“Fund and resources of the Trustees

- 9. The funds and resources of the Trustees shall consist of—
 - (a) such sums as may be provided for the purposes of the national parks by Parliament, either by way of grant or loan;
 - (b) any loan or subsidy granted to the Trustees by the Government or any other person;

- (c) any voluntary subscription, donation or bequest received by the Trustees from any member of the public for the purposes of the national parks or any national park;
- (d) any fee or other monies received or raised by the Trustees pursuant to any provision of this Ordinance or any subsidiary legislation made hereunder;
- (e) any sum or property which may in any manner become vested in the Trustees as a result of the performance by the Trustees of their functions.

Annual
and supplementary
budget

9A.—(1) In this Ordinance “financial year” means any period not exceeding twelve consecutive months designated in that behalf by the Trustees:

Provided that the first financial year after the commencement of the Game Parks Laws (Miscellaneous Amendments) Act, 1975 shall commence on the date of the commencement of that Act and may be of a period longer or shorter than twelve months.

(2) Not less than two months before the beginning of any financial year (other than the first financial year) the Trustees shall, at their meeting especially convened for that purpose, pass a detailed budget (in this Ordinance called “the annual budget”) of the amounts respectively—

- (a) expected to be received; and
- (b) expected to be disbursed,

by the Trustees during that financial year.

(3) If in any financial year the Trustees require to make any disbursement not provided for, or of an amount in excess of the amount provided for, in the annual budget for the year, the Trustees shall, at a meeting, pass a supplementary budget detailing such disbursement.

(4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may direct.

(5) Forthwith upon the passing of any annual budget or any supplementary budget, the Trustees shall submit the same to the Minister for his approval.

(6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove the same or may approve subject to such amendments as he may deem fit.

(7) Where the Minister has approved any annual budget or supplementary budget, the budget, as amended by him, shall be binding on the Trustees who, subject to the provisions of subsection (8), shall confine their disbursements within the items and the amounts contained in the budget as approved by the Minister.

(8) The Trustees may—

- (a) with the sanction in writing of the Minister, make a disbursement notwithstanding that such disbursement is not provided for in any budget;
- (b) from the amount of expenditure provided for in any budget in respect of any item, transfer a sum not exceeding twenty thousand shillings to any other item contained in such budget;
- (c) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of such alteration of expenditure limits becoming necessary.

Reserve and special funds

9B. The Trustees may, and shall if so directed by the Minister, establish and maintain such reserve or special funds of the Trustees as the Trustee or the Minister may consider necessary or expedient, and shall make into or from any such funds such payments as the Trustees may deem fit or, in the case of a fund established pursuant to a direction by the Minister, as the Minister may direct.

Investment

9C. With the prior approval of the Minister, the Trustees may, from time to time, invest any part of the moneys available in any fund of the Trustees in such manner as the Trustees may deem fit.

Power to borrow

9D.—(1) With the prior approval of the Minister the Trustees may, from time to time, borrow moneys for the purposes of the national parks by way of loan or overdraft, and upon such security and such terms and conditions relating to the repayment of the principal and the payment of interest as, subject to any direction by the Minister, the Trustees may deem fit.

(2) A person lending money to the Trustees shall not be bound to enquire whether the borrowing of that money by the Trustees has been approved by the Minister.

Accounts and audit

9E.—(1) The Trustees shall cause to be provided and kept proper books of accounts and records with respect to—

- (a) the receipt and expenditure of moneys by, and other financial transactions of, the Trustees;
- (b) the assets and liabilities of the Trustees,

and shall cause to be made out for every financial year a balance sheet and a statement showing details of the income and expenditure of the Trustees and all their assets and liabilities.

Acts, 1968
No. 1 (2) Not later than six months after the close of every financial year the accounts including the balance sheet of the Trustees relating to that financial year shall be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act, 1968.

(3) As soon as the accounts of the Trustees have been audited, and in any case not later than six months after such audit, the Trustees shall submit to the Minister a copy of the audited statement of accounts together with a copy of the report thereon made by the auditors.

(4) As soon as practicable after the receipt by him of the copy of the statement together with the copy of the report submitted pursuant to subsection (3) the Minister shall lay a copy of the statement together with a copy of the auditors' report before the National Assembly.

Report by the Board 9F. The Trustees shall, within six months after the end of each financial year, make a report to the Minister on the conduct of the Trustees' business during that financial year, and the Minister shall lay a copy of such report before the National Assembly together with a copy of the statement of accounts required to be laid before the National Assembly by section 9E.

Minister may give directions 9G. The Minister may give to the Trustees directions of a general or specific character as to the exercise by the Trustees of their functions under this Act, and the Trustees shall give effect to every such direction."

Section 19 of Cap. 412 repeated and replaced 5. Section 19 of the Ordinance is repealed and replaced by the following section:—

"Liability of members, etc. Cap. 16 Acts, 1970 No. 7 Acts, 1974 No. 37 19. Without prejudice to the provisions of section 284A of the Penal Code or of the Specified Officers (Recovery of Debts) Act, 1970 or of the Parastatal Employees (Recovery of Debts) Act, 1974 no act or thing done, or omitted to be done, by any Trustee or by any member, officer, servant or agent of the Trustees shall, if done or omitted *bona fide* in the execution or purported execution of his duties as such trustee, member, officer, servant or agent, subject any such person to any action, liability or demand whatsoever."

PART III

➔ AMENDMENTS TO THE NGORONGORO CONSERVATION AREA ORDINANCE

Construction Cap. 413 6. In this Part, unless the context otherwise requires, "the Ordinance" means the Ngorongoro Conservation Area Ordinance.

Section 2 of Cap. 413 amended 7. Section 2 of the Ordinance is amended in subsection (1)—
(a) by adding the following new definitions in their appropriate alphabetical positions:

“the Authority” means the Ngorongoro Conservation Area Authority established by section 4;

“the Board” means the Board of Directors of the Authority;”;

(b) by deleting the definition “Conservator” and substituting therefor the following definition :

“ “Conservator” means the Conservator of the Conservation Area appointed in accordance with the provisions of section 5B;”.

8. Section 4 of the Ordinance is hereby repealed.

Section 4 of
Cap. 413
repealed

9. The Ordinance is amended by adding immediately below Part I (consisting of sections 1, 2 and 3) the following new Part :

New Part
IA added

“PART IA

NGORONGORO CONSERVATION AREA AUTHORITY

“Establishment of Authority

4.—(1) There is hereby established an authority which shall be known as the Ngorongoro Conservation Area Authority.

(2) The Authority shall be a body corporate with perpetual succession and a common seal and shall be capable in law of suing and being sued in its corporate name, of purchasing, holding, alienating, managing and disposing of any property whatsoever, whether movable or immovable, and whether by way of investment or otherwise, and of entering into any such contract and other transactions as may be necessary or expedient for the performance of its functions under this Act or any other written law.

Board of Directors

5.—(1) The management and functions of the Authority shall vest in a Board of Directors.

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

(3) The President may, by order in the *Gazette*, amend, vary or replace all or any of the provisions of the Schedule to this Act.

Functions of
the Authority

5A. The functions of the Authority shall be—

- (a) to conserve and develop the natural resources of the Conservation Area;
- (b) to promote tourism within the Conservation Area and to provide and encourage the provision of facilities necessary or expedient for the promotion of tourism;
- (c) to safeguard and promote the interests of Masai citizens of the United Republic engaged in cattle ranching and dairy industry within the Conservation Area;
- (d) to promote and regulate the development of forestry within the Conservation Area;
- (e) to promote, regulate and facilitate transport to, from and within the Conservation Area;
- (f) to construct such roads, bridges, aerodromes, buildings and fences, to provide such water supplies and to carry out such other works and activities as the Board may consider necessary for the purposes of the development or protection of the Conservation Area;
- (g) to do all such acts and things, as in the opinion of the Board, may be necessary to uphold and support the credit of the Authority and to obtain and justify public confidence, and to avert and minimize any loss to the Authority;
- (h) to do anything and enter into any transaction which, in the opinion of the Board, is calculated to facilitate the proper and efficient exercise by the Authority of its functions under this Act, including—
 - (i) the carrying on of any of the activities of the Authority in participation with any other person;
 - (ii) the acquisition, by agreement, of interests in companies and firms engaged in activities in which the Authority may lawfully be engaged under this Act, and the management of the affairs or the continuance of the business of such companies and firms;
 - (iii) the establishment of branches within the United Republic or elsewhere.

Conservation

5B.—(1) The President shall appoint a Conservator of the Conservation Area.

(2) The Conservator shall be the principal executive officer of the Authority and shall be responsible to the Board.

(3) The Minister may appoint as many Assistant Conservators of the Conservation Area as he may consider necessary.

(4) The Assistant Conservators, if any, shall be subject to the directions of the Conservator.

Appointment
of other
officers and
employees

5C. The Board may from time to time appoint at such salaries and upon such terms and conditions as it may think fit, such other officers and employees of the Authority as it may deem necessary for the proper and efficient conduct of the business and activities of the Authority.

Superannua-
tion
benefits

5D. The Board may—

- (a) grant gratuities or other retirement allowances or benefits to the officers and employees of the Authority;
- (b) establish and contribute to a superannuation fund and a medical benefits fund for the officers and employees of the Authority;
- (c) require any officer or employee of the Authority to contribute to any such superannuation fund or medical benefits fund and fix the amounts and method of payment of such contribution.

Agents and
Contractors

5E. The Board may, from time to time, appoint and employ upon such terms and conditions as it thinks fit such agents and contractors of the Authority as the Board may deem necessary.

Power of the
Board to
delegate

5F.—(1) Subject to subsection (6), the Board may from time to time, by writing under the seal of the Authority delegate, subject to such terms, conditions and restrictions as it may specify, to any committee of the Board or to any officer or servant of the Authority, all or any of the functions, powers, authorities or duties conferred by or under this Act upon the Authority or the Board, and where any delegation is so made the delegated function, power, authority or duty may be performed or, as the case may be, exercised by the delegate subject to the terms, conditions and restrictions specified in the writing.

(2) Any delegation under subsection (1) may be made to the holder of an office under the Authority specifying the office but without naming the holder, and in every such case each successive holder of the office in question and each person who occupies or performs the duties of that office may, without any further authority, perform or, as the case may be, exercise the delegated function, power, authority or duty in accordance with the delegation made.

(3) The Board may revoke a delegation made by it under this section.

(4) No delegation made under this section shall prevent the Authority or the Board from itself performing or exercising the function, power, authority or duty delegated.

(5) Any delegation made under this section may be published in the *Gazette*, and upon such publication shall be judicially noticed and shall be presumed to be in force unless the contrary is proved.

(6) The Board shall not have power under this section to delegate—

- (a) its power of delegation; or
- (b) the power to approve the annual budget or any supplementary budget of receipts and expenditure, the annual balance sheet or any statement of account.

Funds and resources of the authority

5G. The funds and resources of the Authority shall consist of—

- (a) such sums as may be provided for the purposes of the Authority by Parliament, either by way of grant or loan;
- (b) any loan or subsidy granted to the Authority by the Government or any other person;
- (c) any sum or property which may in any manner become vested in the Authority as a result of the performance by the Authority of any of its functions;
- (d) any voluntary subscription, donation or bequest received by the Board from any member of the public for the purposes of the Conservation Area;
- (e) any fee or other monies received or raised by the Board pursuant to any provision of this Ordinance or any subsidiary legislation made hereunder.

Annual and supplementary budget

5H.—(1) In this Ordinance “financial year” means any period not exceeding twelve consecutive months designated in that behalf by the Board:

Provided that the first financial year after the commencement of the Game Parks (Miscellaneous Amendments) Act, 1975 shall commence on the date of the commencement of that Act and may be of a period longer or shorter than twelve months.

(2) Not less than two months before the beginning of any financial year (other than the first financial year) the Board shall, at its meeting especially convened for that purpose, pass a detailed budget (in this Act called the annual budget) of the amounts respectively—

- (a) expected to be received; and
- (b) expected to be disbursed,

by the Authority during that financial year.

(3) If in any financial year the Authority requires to make any disbursement not provided for or of an amount in excess of the amount provided for, in the annual budget for the year, the Board shall, at a meeting, pass a supplementary budget detailing such disbursement:

(4) The annual budget and every supplementary budget shall be in such form and include such details as the Minister may direct.

(5) Forthwith upon the passing of any annual budget or any supplementary budget, the Board shall submit the same to the Minister for his approval.

(6) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove the same or may approve subject to such amendment as he may deem fit.

(7) Where the Minister has approved any annual budget or supplementary budget, the budget, as amended by him, shall be binding on the Authority which, subject to the provisions of subsection (8), shall confine its disbursements within the items and the amounts contained in the budget as approved by the Minister.

(8) The Board may—

(a) with the sanction in writing of the Minister, make disbursement notwithstanding that such disbursement is not provided for in any budget;

(b) from the amount of expenditure provided for in any budget in respect of any item, transfer a sum not exceeding twenty thousand shillings to any other item contained in such budget;

(c) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of such alteration of expenditure limits becoming necessary.

Reserve and special funds 5i. The Board may, and shall if so directed by the Minister, establish and maintain such reserve or special funds of the Authority as the Board or the Minister may consider necessary or expedient, and shall make into or from any such funds such payments as the Board may deem fit or, in the case of a fund established pursuant to a direction by the Minister, as the Minister may direct.

Investment 5j. With the prior approval of the Minister, the Board may, from time to time, invest any part of the moneys available in any fund of the Authority maintained by it in such manner as the Board may deem fit.

Power to borrow 5k.—(1) With the prior approval of the Minister the Board may, from time to time, borrow moneys for the purposes of the Authority by way of loan or overdraft, and upon such security and such terms and conditions relating to the repayment of the principal and the payment of interest as, subject to any direction by the Minister, the Board may deem fit.

(2) A person lending money to the Authority shall not be bound to enquire whether the borrowing of that money by the Authority has been approved by the Minister.

Accounts
and audit

5L.—(1) The Board shall cause to be provided and kept proper books of accounts and records with respect to—

(a) the receipt and expenditure of moneys by, and other financial transactions of, the Authority;

(b) the assets and liabilities of the Authority,

and shall cause to be made out for every financial year a balance sheet and a statement showing details of the income and expenditure of the authority and all its assets and liabilities.

No. 1

(2) Not later than six months after the close of every financial year the accounts including the balance sheet of the Authority relating to that financial year shall be audited by the Tanzania Audit Corporation established by the Tanzania Audit Corporation Act, 1968.

(3) As soon as the accounts of the Authority have been audited, and in any case not later than six months after such audit, the Board shall submit to the Minister a copy of the report thereon made by the auditors.

(4) As soon as practicable after the receipt by him of the copy of the statement together with the copy of the report submitted pursuant to subsection (3) the Minister shall lay a copy of the statement together with a copy of the auditors' report before the National Assembly.

Report by
the Board

5M. The Board shall, within six months after the end of each financial year, make a report to the Minister on the conduct of the Authority's business during that financial year, and the Minister shall lay a copy of such report before the National Assembly together with a copy of the statement of accounts required to be laid before the National Assembly by section 5L.

President
may give
direction

5N. The President may give to the Authority directions of a general or specific character as to the exercise by the Authority of any of its functions under this Act, and the Authority shall give effect to every such direction.

Liability of
members,
etc.
Cap. 16

5P. Without prejudice to the provisions of section 284A of the Penal Code or of the Specified Officers (Recovery of Debts) Act, 1970 or of the Parastatal Employees (Recovery of Debts) Act, 1974 no act or thing done, or omitted to be done, by any member of the Board of Directors or by any officer, servant or agent of the Authority shall, if done or omitted *bona fide* in the execution or purported execution of his duties as such member, officer, servant or agent, subject any such person to any action, liability or demand whatsoever."

10. Section 6 of the Ordinance is amended— Section 6 of
Cap. 413
amended
- (a) by deleting subsection (1) and substituting therefor the following:
 “(1) The Authority may, with the consent of the Minister, make rules prohibiting, restricting and controlling entry into and residence within the Conservation Area.”;
- (b) in subsection (2):—
- (i) in paragraph (b), by deleting the words “freehold land, any leasehold land or”;
- (ii) by deleting paragraph (f) and substituting therefor the following:
 “(f) the entry into or residence with the Conservation Area of any person or category of persons specified by the Minister by an order published in the *Gazette*.”;
- (c) in subsection (3), by deleting paragraph (c).
11. Section 7 of the Ordinance is amended— Section 7
of Cap. 413
amended
- (a) in subsection (1) by deleting the words “Subject to the provisions of section 13, the Minister may” which occur at the beginning and substituting therefor the words “The Authority may, with consent of the Minister.”;
- (b) by deleting subsection (3).
12. Section 8 of the Ordinance is amended by deleting subsection (1) and substituting therefor the following— Section 8 of
Cap. 413
amended
- “(1) The Authority may, by order published in the *Gazette*, prohibit, restrict or control residence or settlement in any part of the Conservation Area other than land held under a right of occupancy granted under the Land Ordinance or land which is the subject of a claim made or, a mining lease granted, under the mining laws, for such time and in such manner as it thinks fit.”.
13. Section 9 of the Ordinance is amended by deleting subsection (1) and substituting therefor the following— Section 9
amended
- “(1) The Authority may, if in its opinion it is necessary or expedient so to do for the purpose of the conservation of the soil of, or the prevention of soil erosion on, the Conservation Area or any part thereof or otherwise for the protection and preservation of the natural resources of the Conservation Area, make order, either in relation to any particular parcel of land or generally in relation to the Conservation Area—
- (a) prohibiting, restricting or controlling the use of land for any purpose whatsoever;
- (b) prohibiting, restricting, limiting or controlling—
- (i) the introduction, grazing, watering or movement of stock;
- (ii) the firing, clearing or destruction of vegetation including stubble;

Cap. 389

- (iii) the use of wells, boreholes, waterholes, water-courses, streams, rivers or lakes;
 - (iv) the gathering of honey or forest produce;
 - (v) the exercise of any rights in relation to forest produce determined under the provisions of the Forests Ordinance;
 - (vi) the introduction or removal of flora or fauna;
 - (vii) the use of agricultural implements or machinery;
 - (viii) the carrying or use of weapons, snares, traps, nets or poison;
- (c) requiring, regulating or controlling—
- (i) the afforestation or reafforestation of land;
 - (ii) the protection of slopes and closed areas;
 - (iii) the drainage of land, including the construction, maintenance or repair of artificial or natural drains, gullies, contour banks, terraces and diversion ditches;
 - (iv) the uprooting or destruction of any vegetation;
 - (v) the removal of stock;
- (d) prohibiting, restricting or controlling—
- (i) the construction or extension of buildings or works, or restricting or controlling the siting thereof;
 - (ii) the construction or extension of any roads or tracks or restricting or controlling the siting or alignment thereof;

Provided that no order made under paragraph (d) of this subsection—

Cap. 113

- (I) shall operate so as to require any person to **demolish, destroy, alter or remove any buildings, works, road or tracks of a permanent nature or any part thereof** which were constructed prior to the coming into operation of this Ordinance; or
- (II) shall operate so as to prevent the construction or extension of any buildings, works, roads or tracks by the holder of a right of occupancy granted under section 6 or 11 of the Land Ordinance who is required to construct or extend the same by the terms or conditions thereof; or
- (III) shall operate to prevent the construction or extension of any buildings, works, roads or tracks by the holder of a claim made or lease granted under the mining laws, within the limits of such claim or lease, which are necessary for the enjoyment of the rights granted under any such claim or lease.”.

14. The Ordinance is amended by adding immediately below section 9, New section 9A added the following new section:—

“Prohibition of cultivation 9A. No person shall use any parcel of land in the Conservation Area for cultivation.”

15. Section 10 of the Ordinance is amended by deleting subsection (1) and substituting therefor the following— Section 10 of Cap. 413 amended

“(1) The Authority may, if it is of the opinion that any land within the Conservation Area, other than land occupied by a dwelling house, shop or premises used for the accommodation of travellers and visitors, or under a mining claim made, or a mining lease granted, under the mining laws, is being or may become despoiled, by order, direct that such land shall be a closed area.”

16. Section 11 of the Ordinance is amended by deleting the words “the Conservator” wheresoever they occur therein and substituting therefor in each case the words “the Authority”. Section 11 of Cap. 413 amended

17. Section 12 of the Ordinance is amended in subsection (1) by deleting the word “Conservator” which occurs in the second line and substituting therefor the word “Authority”. Section 12 of Cap. 413 amended

18. Sections 13 and 13A of the Ordinance are repealed and replaced by the following section: Sections 13 and 13A of Cap. 413 repealed and replaced

“Provisions regulating subsidiary legislation 13. All subsidiary legislation made under his Ordinance shall be published in the *Gazette* and where such subsidiary legislation has been published in English, the Authority shall, as soon as practicable after such publication, cause to be published in the *Gazette* a Swahili translation thereof:

Provided that—

- (a) where any order is made under this Ordinance which does not relate to the whole of the Conservation Area but relates to only a portion thereof or any parcel of land within the Conservation Area, the Authority may, in lieu of causing such order to be published in the *Gazette*, cause copies thereof to be posted at the office of the Conservator, at the office of the branch of the Party which has jurisdiction over the land to which the order relates and at the headquarters of the District within which such land lies;
- (b) where any order is made which affects only one person and his family (including his domestic staff), the order may be served on such person either by delivery to such person or a member of his household of a copy thereof or by affixing a copy thereof on the outer door or some conspicuous part of the premises in which such person resides or carries on business or works for gain and where so served the order shall be valid and effective notwithstanding that it has not been otherwise published.”

19. Section 14 of the Ordinance is repealed. Section 14 of Cap. 413 repealed

New Part
V added

20. Parts V (entitled "Enforcement and Penalties") and VI (entitled "Miscellaneous") of the Ordinance are renumbered as Parts VI and VII respectively and the following new Part is added immediately below Part IV:

"PART V

APPEALS

"Appeals
against
refusal
to grant
permit, certifi-
cate or other
authority

14.—(1) Any person aggrieved by—

- (a) the refusal of the Conservator or any other person authorized in that behalf to issue or grant to him any permit, certificate or other authority which may be issued or granted under this Ordinance or any subsidiary legislation made hereunder;
- (b) any condition or term annexed to any such permit, certificate or other authority issued or granted to him, may appeal to the Authority against such refusal or the imposition of such condition or term.

(2) Any person aggrieved by the decision of the Authority on any appeal under subsection (1), may appeal there-against to the Minister.

Appeal
against
orders

14A. Any person aggrieved by any order made under this Ordinance which adversely affects him, may appeal against such order to the Minister:

Provided that no appeal under this section shall lie—

- (a) save where the order, not being a general order, is a special order made in relation to the person aggrieved thereby or any member of his household or in relation to any parcel of land in or over which such person has an interest under a right of occupancy, lease, tenancy or mortgage;
- (b) against any order made under section 10.

Powers
on
appeal

14B.—(1) On appeal under section 14 or section 14A the appeals authority may affirm, vary or set aside the decision or order appealed against and where any decision or order is varied, modified or set aside, the appeals authority may give directions in respect of any matter or thing previously done or suffered under the decision or order appealed against.

(2) Subject to any further appeal provided for by this Ordinance, the decision of the appeals authority and any direction given by it shall be final and binding upon all the parties concerned, and shall not be subject to review by any court.

(3) In this section "appeals authority" means—

- (a) on an appeal to the Authority, the Authority;
- (b) on an appeal to the Minister, the Minister.

Special provisions relating to appeals to the Authority
14C.—(1) Every appeal to the Authority under this Ordinance shall be heard and determined by the Appellate Committee of the Authority consisting of three members of the Board nominated in that behalf by the Minister:

Provided that the Conservator shall not be eligible for nomination as a member of the Appellate Committee.

(2) The Minister may nominate one of the members of the Appellate Committee to be the Chairman of the Committee.

(3) The decision of the Appellate Committee shall be deemed to be the decision of the Authority and shall take effect accordingly.

Minister may make rules relating to appeals

14D. The Minister may, by rules—

- (a) prescribe the procedure on an appeal under this Part;
- (b) prescribe the fee to be paid on instituting any such appeal;
- (c) prescribe the time within which any such appeal may be instituted.”

21. Section 15 of the Ordinance is amended by deleting the words “the Conservator” wheresoever they occur therein and substituting therefor in each case the words “the Authority”.
Section 15 of Cap. 413 amended

22. Section 16 of the Ordinance is amended by deleting the words “any administrative officer, or police officer, or the Conservator or any person authorized in writing in that behalf by the Conservator” which occur in the first three lines and substituting therefor the words “a police officer, the Conservator, an Assistant Conservator or any other person authorized in writing in that behalf by the Authority”.
Section 16 of Cap. 413 amended

23. Section 17 of this Ordinance is amended—

- (a) by deleting the words “an administrative officer or police officer, or the Conservator or any person authorized in writing in that behalf by the Conservator” which occur in the first two lines and substituting therefor the words “a police officer, the Conservator, an Assistant Conservator or any other person authorized in writing in that behalf by the Authority”;
- (b) by deleting the proviso and substituting therefor the following new proviso:

“Provided that where an arrest is made under this section the person making the arrest shall ensure that the person so arrested is taken without any undue delay before the nearest magistrate.”

24. Section 18 of the Ordinance is repealed and replaced by the following section:
Section 18 of Cap. 413 repealed and replaced

“Offences

18.—(1) Any person who—

- (a) contravenes or fails to comply with an order made under section 8, 9 or 10; or
- (b) contravenes or fails to comply with any condition of a permit issued under this Ordinance; or

(c) obstructs any person in the exercise of his powers under sections 11, 12, 15, 16 or 17,

shall be guilty of an offence against this Ordinance and shall be liable on conviction, in the case of a first conviction, to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; and in the case of a second or subsequent conviction to a fine not exceeding twenty thousand shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment.

(2) Any person who tampers with or wilfully damages or alters any works constructed or executed by or on behalf of the Authority under this Ordinance shall be guilty of an offence against this Ordinance and shall be liable on conviction to a fine not exceeding fifty thousand shillings or to imprisonment for a term not exceeding seven years or to both such fine and imprisonment; and any works so tampered with, damaged, or altered may be replaced or repaired by or on behalf of the Authority at the expense of any person convicted under this subsection and the cost so incurred may be recovered upon the order of the court as if it were a fine imposed by the court."

Sections 22 and 23 repealed

25. Section 22 and section 23 of the Ordinance are repealed.

Section 24 amended

26. Section 24 of the Ordinance is amended by deleting the words "the Conservator" which occur in the last but one line and substituting therefor the words "the Authority".

New Fourth Schedule added

27. The Ordinance is amended by adding the following Schedule immediately after the Third Schedule:—

"FOURTH SCHEDULE

Construction

1. In this Schedule unless the context otherwise requires—
"appointing authority" means, in relation to the Chairman of the Board, the President and in relation to any other member, the Minister;
"member" includes the Chairman.

Composition of Board

2.—(1) The Board shall consist of—
(a) a Chairman, who shall be appointed by the President;
(b) the Conservator who shall also be the Secretary of the Board; and
(c) not less than six and not more than eleven other members appointed by the Minister.

(2) In making appointments under sub-paragraph (b) of paragraph 1 the Minister shall ensure that the members appointed are persons who will, in his opinion, perform their functions under the Ordinance having regard to the national interest.

Proceedings not to be invalid by reason of irregularity

3. No act or proceeding of the Board shall be invalid by reason only of the number of members not being complete at the time of such act or proceeding or of any defect in the appointment of any member or of the fact that any member was at the time disqualified or disentitled to act as such.

4.—(1) A member of the Board shall, unless his appointment is sooner determined by the appointing authority, or he otherwise ceases to be a member hold office for such period as the appointing authority may specify in his appointment, or if no period is so specified for a period of three years from the date of his appointment, and shall be eligible for re-appointment:

Provided that in the case of a member who is a member by virtue of his holding some other office, he shall cease to be a member upon his ceasing to hold that office.

(2) Any member of the Board may, at any time resign by giving notice in writing to the appointing authority and from the date specified in the notice or, if no date is so specified, from the date of the receipt of the notice by the appointing authority, he shall cease to be a member.

5. Where any member absents himself from three consecutive meetings of the Board without reasonable excuse the Board shall advise the appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another member in his place.

6. Where any member is, by reason of illness, infirmity or absence from the United Republic, unable to attend any meeting of the Board the appointing authority may appoint a temporary member in his place and such temporary member shall cease to hold office on the resumption of office of the substantive member.

7. The Board shall elect one of its members to be the Vice-Chairman and any member elected as Vice-Chairman shall, subject to his continuing to be a member, hold office of Vice-Chairman for a term of one year from the date of his election and shall be eligible for re-election.

8.—(1) The Chairman shall preside at all meetings of the Board.

(2) Where at any meeting of the Board the Chairman is absent, the Vice-Chairman shall preside.

(3) In the absence of both the Chairman and the Vice-Chairman at any meeting of the Board the members present may, from amongst their number, elect a temporary Chairman who shall preside at that meeting.

(4) The Chairman, Vice-Chairman or a temporary Chairman presiding at any meeting shall have a casting vote in addition to his deliberative vote.

9.—(1) The Board shall meet not less than once during every year and at such additional times as may be fixed by the Chairman or, if he is absent from the United Republic or unable for any reason to act, the Vice-Chairman.

(2) The Chairman or, in his absence from the United Republic, the Vice-Chairman may, and shall upon application in writing by at least five members, convene a special meeting of the Board at any time.

(3) The Secretary of the Board shall give to each member adequate notice of the time and place of meeting.

10. At any meeting of the Board not less than one-half of the members in office for the time being shall constitute a quorum.

11. Subject to the provisions relating to a casting vote, all questions at a meeting of the Board shall be determined by a majority of the votes of the members present.

12. Notwithstanding the foregoing provisions of this Schedule, decisions may be made by the Board without a meeting, by circulation of the relevant papers among the members and the expression of the views of the majority thereof in writing:

Provided that any member shall be entitled to require that any such decision be deferred and the subject matter be considered at a meeting of the Board.

13.—(1) The seal of the Authority shall be of such shape, size and form as the Board may determine.

(2) The seal shall be authenticated by the signature of the Chairman or the Secretary or any officer of the Authority authorized to act in that behalf by the Board.

14. All documents (other than those required by law to be under seal) issued by the Authority and all decisions of the Board shall be signed under the seal of the Authority, or the Chairman, or the Secretary, or any member of the Board or officer of the Authority authorized in that behalf by the Board.

15.—(1) The Board shall cause minutes of all proceedings of meetings of the Board to be entered in a book kept for that purpose.

(2) Any such minutes if purporting to be approved by, and signed by the Chairman of, the next succeeding meeting of the Board shall be evidence of such proceedings, and, until the contrary is proved, the meeting to which the minutes relate shall be deemed to have been duly convened and all proceedings thereon to have been lawfully transacted.

16. Subject to the provisions of this Schedule the Board may regulate its own proceedings.

Saving
provisions

28. Notwithstanding the amendment of the various provisions of the Ordinance by this Act any subsidiary legislation made under any of the said provisions and in force immediately before the commencement of this Act shall continue in force as if made under such provision of the Ordinance as amended by this Act.

Passed in the National Assembly on the sixteenth day of July, 1975.

W. J. MAINA,
Clerk of the National Assembly