

FOREIGN EXCHANGE ACT, 1992

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THE UNITED REPUBLIC OF TANZANIA



No. 1 of 1992

I ASSENT,
[Signature]
.....
President
17/2/92
.....

An Act to make better provisions for the more efficient administration and management of dealings and other acts in relation to gold, foreign currency, securities, payments, debts, import, export, transfer or settlement of property and for purposes incidental to and connected to those

(.....)

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

This Act may be cited as the Foreign Exchange Act, 1992.

Short title

2. This Act shall come into operation on such date as the Minister may, by notice published in the *Gazette* appoint. Commence-
ment

3. (1). This Act shall apply to Tanzania Zanzibar as well as to Mainland Tanzania. application
(2). This Act shall bind the United Republic as well as the branches or agencies of all foreign organisations registered or incorporated in the United Republic.

4. In this Act, unless the context requires otherwise- Interpretation

"Authorised dealer" means in relation to gold or any foreign currency, a person for the time being authorised by the Bank, to act, for the purposes of the Foreign Exchange Act, 1992, as an Authorised dealer in relation to gold or as the case may be, to foreign currency;

"bank" means a bank within the meaning of section 3 of the Banking and Financial Institutions Act, 1991;

"the Bank" means the Bank of Tanzania established by the Bank of Tanzania Act, 1965;

"Bureau de Change" means a business enterprise licenced by the Bank to carry on the business of buying and selling specified foreign currency;

"designated foreign currency" means any foreign currency other than specified foreign currency;

"foreign currency" means any currency other than the currency of the United Republic;

"Foreign Currency Account" is an account credited with specified foreign currency only, maintained with a bank which is an Authorised dealer, or any person authorised by the Bank to maintain a Foreign Currency Account;

"gold" means gold coins and gold bullion;

"the Governor" means the Governor of the Bank of Tanzania, appointed in accordance with the provisions of section 7 (2) of the Bank of Tanzania Act, 1965;

"the Minister" means the Minister for the time being responsible for Finance;

"property" includes both real and personal property of whatever kind or description;

"raw gold" means raw gold as defined in the Gold Trading Ordinance;

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"Regulations" means the regulations made by the Governor under Section 7 of the Foreign Exchange Act, 1992;

"security" means shares, stocks, bonds, notes (other than promissory notes), debentures, debentures stock, units under a unit trust scheme, share in any royalty, any letter of rights, any warrant conferring an option to acquire a security, any deposit certificate in respect of securities, and any other document, other than a bill of exchange or a promissory note, whereby a person recognises the title of another person to securities issued or to be issued by the first-mentioned person;

"specified foreign currency" means any currency which is recognised by the Bank as being convertible.

PART II

PROVISIONS FOR FOREIGN EXCHANGE ADMINISTRATION

Subject to such qualifications as may be provided for by regulations made under section 7-

Dealing
in foreign
currency

-
- (a) the Bank may authorise the establishment of Bureaux de Change for the purposes of carrying on the business of buying and selling specified foreign currency;
- (b) any person whether resident or not resident in the 'United Republic may hold any amount of foreign currency within the United Republic;
- (c) any person, whether resident or not resident in the United Republic may sell any amount of specified foreign currency to an Authorised dealer' or a Bureau de Change within the United Republic;
- (d) any person whether resident or not resident in the United Republic may open and maintain a Foreign Currency Account with a bank which is an Authorised dealer within the United Republic;
6. (1) Subject to the other provisions of this Act and to such directions or instructions as the Minister may give in writing to the Bank, the Bank shall have and exercise or discharge all functions, powers and duties relating to the administration, control and management of all dealings and transactions in relation to gold and foreign exchange matters.
- (2) The exercise of any function or power and the performance or duty in accordance with sub section (1) shall be subject to such conditions, limitations and qualifications
- Vesting of
Foreign
Exchange
Admin-
istration

as may from time to time be specified by the Minister by order or directions to the Bank in writing.

7. (1) Subject to section 6, the Governor may, make regulations, rules, orders, or directions, as the case maybe, relating to - Power to
make
regulations
- (a) gold, currency, securities and transactions relating to them;
 - (b) any foreign exchange transactions other than transactions referred to in paragraph (a);
 - (c) the regulation of:-
 - (i) imports into and exports from the United Republic;
 - (ii) the transfer or settlement of property;
 - (iii) payments;
 - (iv) transactions in relation to debts;
 - (d) the administration of the property of a person who has left the United Republic, for the purpose, or apparent purpose, of defeating the ends of justice.
- (2) Without prejudice to the generality of the provisions of sub section (1), regulations made under this section may provide for:-

- (a) the dealings in or possession of gold, currency or securities;
 - (b) the importation into and exportation from the United Republic;
 - (c) the acquisition by any person or assignment to any person or vesting in any person of any property (other than land) or any right thereto;
 - (d) the dealing in or in relation to property with persons resident outside the United Republic;
 - (e) requiring any person to make statements or produce documents for the purpose of the regulations;
 - (f) entering on any premises and the search of any premises or person for the purpose of giving effect to the regulations;
- (3) Different regulations, orders, rules or directions may be made under this section for, or in relation to such persons, categories of persons, or circumstances and generally in relation to which provision is made in sub section (1) as may be necessary .
- (4) In exercising his powers under sub section (1) in relation to matters pertaining to Tanzania Zanzibar the Governor shall, through the Minister, consult with the Minister responsible for Finance in the Revolutionary Government of Zanzibar.

8. (1) Except for the purposes of this Act or when ordered to do so by a court, no person exercising any functions under this Act shall, whether within or outside the United Republic, disclose any information relating to any person, firm or business which came into his possession or knowledge in the exercise of these functions
- (2) Any person who contravenes the provisions of subsection (1) shall be guilty of an offence and shall be liable on conviction to a fine not exceeding one hundred thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

Secrecy

PART III

OFFENCES, PENALTIES AND MISCELLANEOUS PROVISIONS

9. (1) Subject to subsection (2), it shall be an offence for any person, without the permission of the Governor to-
- (a) make any payment in Tanzania shillings to or for the credit of a person resident outside the United Republic, or
- (b) make any payment in Tanzania shillings to or for the credit of a person resident in the United

Offences In
relation to
Payments
in
Tanzania

-
- (ii) in case of a non-resident person leaving the country provided that such notes or coins are taken as souvenir or for numismatic purposes.
11. (1) Save as provided for under section 10, it shall be an offence for any person, without the permission of the Governor, to import or cause to be imported into the United Republic any notes or coins which are or have at any time been legal tender in the United Republic. Offences in relation to import of currency notes or coins and gold
- (2) For the avoidance of doubt, nothing in this section shall be construed as prohibiting the importation into the United Republic of any amount of gold, raw gold or any specified foreign currency in forms of notes, coins, travellers cheques, bank drafts, from any country
12. (1) It shall be an offence for any person resident in the United Republic to do any act which involves or is in association with or is preparatory to, a delay or the withholding of any payment by a person resident outside the United Republic to a which is an Authorised dealer which payment is due in respect of the exportation of goods for a period exceeding such period as may be specified in regulations made under section, 7 With-holding payment for exports

Republic by order or on behalf of a person resident outside the United Republic; or

(c) place any sum In Tanzania shillings to the credit of any person resident outside the United Republic.

(2) Where a person resident outside the United Republic has paid a sum in or towards the satisfaction of a debt due from him, paragraph (c) of sub section (1) shall not prohibit the acknowledgment or recording of the payment.

10. (1) Subject to sub section (2), except with the permission of the Governor no person shall export from or cause to be exported from the United Republic:-
- (a) any notes or coins which are or have been at any time legal tender in the United Republic, or
- (b) any gold.
- (2) There shall be exempted from the provisions of sub section (1) of this section, the exportation from and Importation into the United Republic -
- (i) in case of any resident person traveling abroad provided that the amount of Tanzania currency does not exceed the equivalent of fifty United States dollars, or
- Offences in relation to export of currency notes and gold

- (2) No Authorised dealer shall:-
 - (a) aid, abet or do any act which involves or is in association with or is preparatory to the contravention of or contravenes any provisions of this Act; or
 - (b) delay or withhold collection of payments for exports; or
 - (c) delay the sale of specified foreign currency to the Bank.

13. (1) For the purposes of this section the expression "any provision of this Act" means the provisions of this Act and of any regulations, rules, orders, directions made this Act.

General provisions in relation to offences and penalties

- (2) Any person who, whether within or outside the United Republic:-
 - (a) contravenes or fails to comply with any provision of this Act and the regulations made there under or the terms or conditions of any permit, authority, permission, direction, notice, order or any other instrument made or issued under or by virtue of this Act; or

- (b) with intent to evade the provisions of this Act, destroys, mutilates, alters, defaces, secretes, removes any document; or
- (c) for the purposes of this Act, makes any statement or produces any document which is false in any particular material; or
- (d) obstructs any person in the exercise of any power conferred upon him by this Act or in the exercise of any power which such person may lawfully exercise for the purpose of investigation or prevention of any offence under this Act; or
- (e) conspires or attempts or aids, abets, counsels or instigates, procures any other person to commit any offence under this Act;

shall be guilty of an offence and shall, subject to subsections (3) and (4), be liable to a fine not exceeding four million shillings or to imprisonment for a term not exceeding fourteen years, or to both such fine and imprisonment.

- (3) Where the offence is concerned with gold, currency, security, goods or any other property whatsoever, a larger fine may be imposed not exceeding three times the amount or value of that gold, currency, security,

goods or other property, and the Court may order such gold, currency, security, goods or other property to be forfeited to the Government;

- (4) Where any offence under this Act is committed by a body corporate the fine to be imposed shall not exceed six times the amount or value of the gold, currency, security, goods or other property, and the goods or other property to be forfeited to the Government;
- (5) Any person who makes a false declaration in respect of any transaction provided for under this Act or the regulations made thereunder with a view to:-
- (a) evading the disclosure of the actual specified foreign currency earned , or
 - (b) delaying the remittance of the specified foreign currency earned; or
 - (c) retaining any portion of the specified foreign currency payable outside the United Republic,

shall be guilty of an offence and upon conviction be liable to imprisonment for a term not exceeding ten years or to a fine equivalent, to a sum not exceeding three times the monetary value. of the amount disclosed as due or owing to the person, or to both such imprisonment and fine.

14. (l) (a) Where an offence under this Act is committed by a body corporate, then, as well as the body corporate, any person who at the time of the commission of the offence, was concerned, as a director or an officer, with the management of the affairs of such body corporate, shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves to the satisfaction of the Court that he had no knowledge, and could not by the exercise of reasonable diligence have had knowledge, of the commission of the offence.
- (b) Where any offence under this Act is committed by a person as an agent or employee then, as well as the agent or employee, the principal or employer shall be liable to be proceeded against and punished accordingly unless he can prove to the satisfaction of the Court that he had no knowledge, and could not by the exercise of reasonable diligence, have had knowledge of the commission of the offence;
15. Where any person is brought before a court on a charge under any provisions of this Act, no further proceedings in respect of the charge shall be taken against him without the consent in writing of the Director of Public Prosecutions, save such as may be necessary by remand to secure the due appearance of the person charged.

Liability of
Directors,
Employees

Consent
of Director
of Public
Prosecution

16. (1) Subject to the other provisions of this section the Governor may, if he is satisfied that any person has committed an offence under this Act, compound such offence by accepting from such person a sum of money and ordering the forfeiture to the Government of the specified foreign currency or other property in respect of which the offence was committed. Power of the
Governor to
compound
offences
- (2) Notwithstanding the generality of the power of the Governor to compound offences -
- (a) the sum of money which the Governor may accept from any person to compound any offence shall not be less than one hundred United States dollars or more than three thousand United States dollars, or the equivalent in Tanzania shillings;
- (b) the power conferred by this section shall only be exercised where the person admits in writing that he has committed the offence and by the same or any subsequent writing consents to the Governor under this paragraph;
- (c) the Governor shall give the person from whom he accepts such a sum of money a receipt for it.

- (3) The provisions of this section shall not apply to any offence under this Act if the value of the specified foreign currency, if any, involved in the offence alleged to have been committed by the accused exceeds five thousand United States dollars or its equivalent in other currencies.
- (4) Where any person is a grieved by any order made under this sub-section, he may, within forty five days of such order being made, appeal against such order to the High Court, and the provisions of Part X of the Criminal Procedure Act in Mainland Tanzania or the relevant law applicable in Tanzania Zanzibar, shall apply *mutatis mutandis* to every such appeal, as if it were an appeal against a sentence passed by District Court in the exercise of its original criminal jurisdiction.
- (5) Subject to sub section (6), where an offence under this Act is compounded in accordance with the provisions of this sub-section, and proceedings are brought against the offender for the same offence, it shall be a good defence for such offender if he proves to the satisfaction of the Court that the offence with which he is charged has been compounded under this sub-section.

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- (6) The provisions of sub section (5) shall not apply to any proceedings against any person after composition of the offence charged against him where -
- (a) on an appeal under sub section (4) the High Court has set aside the composition and any sum of money received by the Governor under sub section (1) has been refunded to the offender; or
- (b) the Governor has within thirty days from the date when he made the order under sub section (1) served notice upon the offender setting aside the order and refunded to him the sum of money received by him under that sub section.

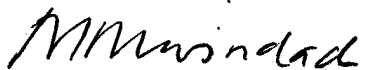
PART IV

REPEAL AND TRANSITIONAL PROVISIONS

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|-----|--|-------------------------------------|
| 17. | The Exchange Control Ordinance is hereby repealed. | Repeal of the Ordinance Cap. 294 |
| 18. | Notwithstanding the repeal of the Exchange Control Ordinance - | Savings and transitional provisions |

- (a) all regulations, rules, orders , directions or other subsidiary legislation made, given or issued under the Exchange Control Ordinance and which are in force before the effective date shall remain in force after the effective date until they are repealed or replaced by subsidiary legislation made under this Act;
- (b) all appointments made under the Exchange Control Ordinance and which have not been revoked immediately before the effective date shall on and after the effective date remain in force until they are revoked or fresh appointments are made under this Act;
- (c) all legal proceedings instituted or orders made under the Exchange Control Ordinance shall continue and be deemed to be proceedings or orders made under the provisions of this Act.

Passed in the National Assembly on the twenty second day of January, 1992.


M. MWINDADI,

Clerk of the National Assembly