

**THE KAGERA TRANSPORT ASSETS (ACQUISITION AND
REGRANT) ACT, 1983**

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SCHEDULE

KAGERA TRANSPORT ASSETS

THE UNITED REPUBLIC OF TANZANIA



No. 1 OF 1984

I ASSENT

Julius K. Nyerere
President

17th MARCH, 1984

An Act to give statutory effect to the acquisition, and provide for the regrant and transfer of management, of certain transport assets in Kagera Region and for other incidental or related matters

[.....]

WHEREAS in consequence of the implementation of the provisions of the Economic Sabotage (Special Provisions) Act, 1983, many vehicles and other articles related to transport were brought into the custody of the police:

AND WHEREAS such action resulted in the virtual stoppage of transport activities within the Kagera Region:

AND WHEREAS, subsequently, the Government of the United Republic directed that certain of the transport assets be acquired and vested in the Treasury Registrar as from the twenty-second day of August, 1983:

AND WHEREAS, consequent upon the acquisition of the transport assets it is meet to give statutory effect to that acquisition and to make other provisions to facilitate the more effectual take over and management of the said transport assets:

NOW, THEREFORE, BE IT ENACTED by the Parliament of the United Republic of Tanzania as follows:

PART I

PRELIMINARY

1. This Act may be cited as the Kagera Transport Assets (Acquisition and Regrant) Act, 1984, and shall be deemed to have come into operation on the twenty-second day of August, 1983.

Short title
and com-
mencement
Interpre-
tation

2.—(1) In this Act, unless the context requires otherwise—
“acquired asset” means any of the Kagera transport assets acquired or deemed to have been acquired in pursuance of the provisions of this Act;

- Cap. 212 "the Company" means the Kampuni ya Uchukuzi Kagera Limited incorporated under the Companies Ordinance;
- "the effective date" means the twenty-second day of August, 1983;
- "interim body" means a body established by the Minister during the interim period for the purpose of the better management of the Kagera transport assets during the interim period;
- "Kagera transport asset" means any of the lorries, buses, tankers, trailers and other vehicles, garages, offices or other article or building described in the Schedule to this Act and includes all spares, buildings and structures, whether temporary or permanent, connected with or used or stored with or used or stored for the purposes of any such assets and existing on the effective date;
- "the Minister" means the Minister for the time being responsible for matters relating to transport on land;
- "Minister for Finance" means the Minister for the time being responsible for finance;
- "previous owner" in relation to any acquired asset means the person who, immediately before the effective date, was the owner of, or deemed by law to have been the owner of, any pecuniary or proprietary interest in, the acquired asset, and includes any person claiming through the previous owner;
- "Treasury Registrar" means the Treasury Registrar appointed under the Treasury Registrar Ordinance, and includes any person appointed by the Treasury Registrar as his agent under, and for purposes of, this Act.
- (2) The Minister may, by order under his hand extend the period within which any act or thing is required to be done by any person under section 17, 18 or 19.
- (3) The Minister may, by order published in the *Gazette*, rectify any printing or clerical error in any of the particulars descriptive of any Kagera transport asset.

PART II

ACQUISITION OF KAGERA TRANSPORT ASSETS

Acquisition
of transport
assets

3.-(1) As from the effective date, the right, title and interest of the previous owner in or over every Kagera transport asset shall, by virtue of this section and without further assurance vest, free of any trust, mortgage, charge, lien, interest or any other encumbrance of any kind, in the Treasury Registrar and shall be deemed to have so vested as from the effective date, and all registers, certificates and other documents or instruments of all

kinds evidencing the ownership of any such right, title or interest of the previous owner shall be amended accordingly without requiring any person to pay any fee or other charge for any such amendment.

(2) Subject to the provisions of this Act and in particular subject to the provisions relating to mortgages, no right or interest in or on any acquired asset, including any such right or interest arising from any encumbrance of any kind, derived by any person from or through the previous owner shall be exercisable or enforceable as against the Treasury Registrar, and the asset shall vest in the Treasury Registrar free of all such rights, interests or encumbrances.

4.-(1) The Treasury Registrar shall as soon as may be practicable carry out an investigation for the purposes of determining the assets and liabilities of every previous owner as on the effective date.

Other
transport
assets
and liabilities
of the
previous
owner

(2) Where the Treasury Registrar is satisfied in relation to any asset or liability of a previous owner that such asset or liability related to or arose out of any lawful activity of the previous owner relating to any acquired asset, he shall issue a certificate to that effect in relation to the asset or liability, and where a certificate is issued, the asset or liability specified in it shall, by virtue of this section and without further assurance, vest, and be deemed to have so vested as from the effective date, in the Treasury Registrar.

5. The Treasury Registrar shall, as soon as may be practicable, carry out investigations for the purposes of determining the value of the Kagera transport assets vested in him by section 3.

Investigation
to determine
value
transport
assets
Power of
Treasury
Registrar

6. For the avoidance of doubt and without prejudice to the generality of the preceding provisions of this Part, it is hereby declared that the Treasury Registrar shall have all the powers necessary for the take over of the Kagera transport assets vested in him by section 3 and to deal with them in such manner as they could have been dealt with by the previous owner.

7. Notwithstanding any other provision of this Act where any acquired asset was, immediately preceding the effective date, subject to a mortgage, whether legal or equitable, or any other charge created by way of security for the payment of any sum of money, the asset shall vest in the Treasury Registrar subject to such mortgage or, as the case may be, charge: -

Provisions
relating to
mortgages

Provided that the provisions of this sub-section shall not apply to any mortgage or charge in respect of which the Minister, after consultation with the Minister for Finance, by an order under his hand directs that the provisions of this section shall not, or shall cease to, apply in relation to such mortgage or charge.

8. (1) Any disposition-

- (a) which was effected by a testamentary instrument executed before the effective date; and
- (b) which would have operated as a bequest of all or any of the assets vested in the Treasury Registrar by the provisions of section 3

Construction
of instrument
affecting
assets

shall have effect as a bequest of the right of the testator to be paid compensation in respect of the acquisition of the assets in relation to which that disposition would have operated.

(2) Any power of attorney or other instrument-

(a) which was executed before the effective date upon which any assets becomes vested in the Treasury Registrar under the provisions of section 3; and

(b) which operates in relation to all or any of those acquired assets, shall have the like operation in relation to the right to payment of compensation in respect of the acquisition of the Kagera transport assets, to which the power of attorney or other instrument relates.

Provisions
relating
employee

9. (1) Except where the interim body decides to retain him in its employment, every person who was, immediately preceding the effective date, employed by the previous owner in relation to an acquired asset of which the previous owner was the owner shall cease to be employed in relation to the acquired asset with effect from the effective date, and he shall be paid by the interim body all the terminal benefits and rights due to him in accordance with the terms of his employment by the previous owner and subject to the provisions of the law for the time being in force relating to the termination of employment of employees.

(2) where the interim body decides to retain any employee of the previous owner in its employment, it may either pay him his terminal benefits and then reemploy him in which case he shall be deemed to be freshly recruited, or treat him as an employee of the interim body taken over together with the acquired assets of a previous owner as from the effective date, in which case the terms and conditions of service applicable to him thereafter shall, except where the President directs otherwise, be not less favourable than those which were applicable to him immediately before the effective date, and his employment immediately before the effective date and his employment by the interim body shall be deemed to be continuous employment by one employer within the meaning of section 8A of the Severance Allowance Act, 1962, and that Act shall apply to the parties in the same manner as it applies to the cases set out in sub-section (1) of the said section 8A.

Cap. 487

(3) After a person becomes employed by the interim body his service with the interim body shall, for the purposes of determining any right to gratuity or other superannuation benefit, be regarded as continuous with his service immediately preceding the effective date.

(4) This section shall not apply to any such person employed by the previous owner, if such person-

(a) was, in the case where the previous owner is a body of persons, a director, partner, shareholder or general manager of such body of persons;

(b) is related by affinity or consanguinity to the previous owner;

(c) is a person who was, immediately preceding the effective date, employed as a general manager, in relation to the acquired asset;

(d) is a person in respect of whom the Treasury Registrar certifies in writing that this section shall not apply.

(5) The provisions of this section shall not apply in relation to any employer of the previous owner by reason only of the fact that such employee was at any time between the effective date and the expiration of two months from the date of the enactment of this Act treated by the interim body as being employed by it, and where in the case of any such person the Treasury Registrar has issued a certificate that person that is not a person to whom subsection (1) applies or has certified that that person is a person to whom subsection (4) applies, the liability of the interim body shall, notwithstanding any other written law, be limited to the payment to such person of reasonable emoluments for the period during which such person was so treated as employed by it.

10.-(1) Subject to this section, the United Republic shall, after consultation with the previous owner or his legal or personal representatives, pay such compensation in respect of every Kagera transport asset acquired from such previous owner pursuant to section 3, as the Minister for Finance may determine as being full, fair and adequate compensation.

Compensation

(2) When the amount of compensation payable to any person entitled to it by virtue of subsection (1) has been determined, the Minister for Finance shall issue a certificate setting out the amount, and that amount shall constitute a charge on and be paid out of the Consolidated Fund.

(3) Notwithstanding subsection (2), the amount of compensation shall be payable in such manner and in such instalments as the Minister for Finance shall determine.

(4) Where it appears to the Minister that any estate or interest in any acquired asset was held by any person in any fiduciary or representative character, the Minister may, if he thinks fit, apply to the High Court for directions as to whom and in what proportions the compensation should be paid.

(5) An application under subsection (4) shall be by chamber summons and shall be regulated, in so far as the same may be applicable, by the rules prescribed in the Civil Procedure Code, 1966.

Acts, 1966
No. 49

PART III

REGRAV OF ACQUIRED TRANSPORT ASSETS

11. In this Part the expression "interim period" in relation to any acquired asset means the period between the effective date and the date on which the acquired asset is transferred to the Company under section 12.

Construction

12.-(1) As soon as may be practicable after the enactment of this Act the Minister shall specify such of the acquired assets which shall be transferred to the Company.

Regrants

(2) Where a specification is made under subsection (1), the Treasury Registrar shall, by a certificate under his hand transfer to the Company-

- (a) all the rights, titles and interest, in or over the acquired asset specified and which vested in the Treasury Registrar by the operation of the provisions of Part II;
- (b) the assets and liabilities relating to the acquired asset and vested in the Treasury Registrar by the operation of the provisions of

Part 11, or so much of such assets as have not been utilized to meet any liabilities as remain undischarged at the date of such transfer.

(3) Where a certificate under subsection (2) is issued in relation to any acquired asset, the Kagera transport asset shall, by virtue of that certificate and without any further assurance, vest in the Company, and the provisions of section 3 shall, as from the date of transfer apply as if references in that section to the Treasury Registrar were references to the Company.

(4) Upon the transfer of any acquired asset to the Company under this section, all persons who are employed in relation to the acquired asset immediately preceding the date of such transfer, including the persons who were employed in relation to the acquired asset immediately before the effective date and who by virtue of section 9 (2) became employees of the interim body shall, as from the date of the transfer of such acquired asset to the company, be employed by the company and the provisions of subsection (2) and (3) of Section 9 shall apply in relation to the transfer of every such employee to the employment of the Company as if references in those subsections to the interim body were references to the Company.

Company
liable to
refund
compensation

13.-(1) Save where the President directs other wise, the Company shall be liable to refund to the Consolidated Fund the amount of the compensation paid under section 10 in respect of every acquired asset and the assets relating to it transferred to the Company under section 12.

(2) The refund required to be made under subsection (1) shall be made by such instalments and subject to such terms and conditions as the Minister for Finance may, after consultation with the President, determine.

Management
of acquired
transport
assets
during
interim

14.-(1) Every acquired asset shall, during the interim period, be managed by such person or body persons as the interim body may nominate in that behalf.

(2) The interim body shall manage every acquired asset in an efficient manner and in accordance with the best mercantile traditions and shall endeavour to avert or minimize any loss or damage to or arising from the acquired asset.

(3) The interim body shall Comply with all the directions of the Minister in connection with the management Of the acquired assets, the maintenance of books of accounts and other records relating to the business conducted in relation to the acquired assets and all other matters appertaining to them and the persons employed in relation to them.

PART IV

MISCELLANEOUS PROVISIONS

Previous
owners,
directors,
etc. to
facilitate
take over

15.-(1) Every person who immediately before the effective date was the owner, shareholder, director, member or employee of a previous owner in relation to an acquired asset shall do all such lawful acts as he may be called upon in writing to do by the Treasury Registrar or the interim body in order to facilitate the more effectual taking over by the Treasury Registrar of the Kagera transport asset in question and assuming effective control over it.

(2) Any person who contravenes the provisions of subsection (1) is guilty of an offence and shall be liable on conviction to a fine not exceeding three thousand shillings in respect of each day that the contravention continues

16.-(1) No previous owner, or any director, partner, employee or agent of a previous owner, shall dispose of or otherwise interfere with any transport asset of the previous owner-

Restriction on disposition of assets of previous owner

- (a) which is an asset which relates to the business of the previous owner connected with the acquired asset; or
- (b) which is an asset in respect of which the Treasury Registrar or the interim body or the Company has indicated to the previous owner that such asset may reasonably be regarded as an asset relating to the previous owner's business in connection with the acquired asset,

until such time as an investigation under subsection (1) of section 4 has been completed and the Treasury Registrar has indicated in writing that he does not propose to issue a certificate under subsection (2)i of that section in respect of such asset.

(2) Any person who disposes of any asset or attempts to dispose of an asset in contravention of subsection (1) shall be guilty of an offence.

(3) Notwithstanding the foregoing provisions of this section the Treasury Registrar may at anytime release to the previous owner any asset to which subsection (1) applies if the Treasury Registrar is satisfied that such asset did not relate to any business carried on by the previous owner or is not required to meet any liability in respect of which he has issued a certificate under subsection (2) of section 4.

17. (1) Every previous owner shall, on or before 31st March, 1984, submit to the Commissioner of Income Tax a provisional return of his income under section 58 of the Income Tax Act, 1973, in relation to his income for the period expiring on the effective date.

Provisions to facilitate collection tax due from previous owner Act, 1973 No. 33

(2) No compensation under this Act shall be paid to any previous owner unless-

- (a) the Commissioner of Income Tax has certified that all tax due from the previous owner for the period up to the effective date during which he was engaged in business has been paid; or
- (b) the Government has, by notice addressed to the Principal Secretary to the Treasury, been appointed an agent under section 103 of the Income Tax Act, 1973, for the payment of tax due from the previous owner out of the amount of such compensation payable to him.

18.--(I) Every previous owner shall, on or before the 31st March, 1983, submit to the Treasury Registrar-

Previous owner to submit accounts, etc

- (a) copies of income tax returns made by him to the Commissioner of Income Tax and the copies of assessments of tax made on him-
 - (i) for the four years of income preceding the year of income in which the effective date occurs; or
 - (ii) where such previous owner owned the acquired asset for a period of less than five years, for all the years of income preceding the year of income in which the effective date occurs, during which the acquired asset was owned by him;

- (b) a memorandum or statement of accounts which shall clearly indicate which portion of his income in each such year of income to which paragraph (a) applies did not accrue from the acquired asset;
- (c) original or certified Copies of statements of accounts in relation to the acquired asset in relation to such years of income as aforesaid.
- (2) Any previous owner who fails to comply with any of the provisions of this section shall be guilty of an offence.
- (3) In this section "assessment", "return" and "year of income" shall have the meanings assigned to those expressions respectively by the Income Tax Act, 1973.

Provisions
relating to
creditors

19.-(1) Every person claiming to be entitled to any debt due from any previous owner in relation to a transaction connected with the acquired asset shall, on or before 31st March, 1984, lodge with the Treasury Registrar a statement signed by him giving all particulars in relation to the transaction including-

- (a) the date of the transaction;
- (b) the nature of the transaction;
- (c) the amount due;
- (d) such other particulars as the Treasury Registrar may by notice in writing require.

(2) Where any person to whom subsection (1) applies fails to comply with the provisions of that subsection or with the requirements of any notice given under paragraph (d) thereof, the Treasury Registrar may certify that he will not be liable in respect of the debt, and where the Treasury Registrar so certifies, the debt shall, notwithstanding that the debt is a liability which has vested in him under section 4 or is a liability which he has already transferred to the Company under section 12, cease to be a liability for which the Treasury Registrar or the Company shall be liable:

Provided that nothing in this section shall be construed as importing upon the Treasury Registrar or the Company liability to pay any debt other than a debt the liability in respect of which has been vested in the Treasury Registrar under section 4 or in the Company under section 12.

(3) The Treasury Registrar shall as soon as may be practicable after the enactment Of this Act and not later than 31st March, 1984 cause an advertisement to be published in at least two newspapers circulating in Tanzania inviting creditors of the previous owners to lodge with the Treasury Registrar statements required to be lodged by subsection (1).

Obstruction
to putting
into effect
any provi-
sion of
this Act

20. Any person who in any manner whatsoever obstructs or hinders the Treasury Registrar or any officer of the Company in effectively assuming possession of or control over any acquired asset or any asset acquired under this Act is be guilty of an offence.

General
penalty
for offences

21. Any person who commits any offence under this Act for which no specific penalty is provided shall, on conviction, be liable to a fine not exceeding fifty thousand shillings or imprisonment for a term not exceeding three years or to both such fine and imprisonment, save where a different penalty is specified in relation to the offence.

22. No act or thing done or omitted to be done on or after the effective date by the Government, the interim body, the Company or any officer, employee or agent of the Government, the interim body or the Company shall, if the act or thing was done in good faith for the purpose of giving effect to any provision of this Act or for the purpose of effectively assuming possession of or control over any acquired asset or any other asset acquired under this Act, subject the Government, the interim body, the Company or such officer, employee or agent to any action, liability, claim or demand whatsoever.

Protection
against
claims
for damages
or compensa-
tion

(2) Any proceedings for damages, compensation or other relief whatsoever for any act or thing to which subsection (1) applies and instituted by or on behalf of the previous owner prior to the enactment of this Act shall abate on the enactment of this Act and no judgment or relief passed or awarded in favour of the previous owner or his agent shall be enforceable.

23.(1) The Treasury Registrar may, by notice in writing appoint any person or body of persons to be his agent in relation to any of his functions under this Act.

Treasury
Registrar
may appoint
agents

(2) A person appointed by the Treasury Registrar as an agent shall, in relation to the function or functions in respect of which he is appointed as agent, have all the powers of the Treasury Registrar under this Act or any other written law.

(3) Where a body of persons is appointed as agent shall be entitled to charge reasonable fees in relation to services rendered by it as such agent.

SCHEDULE

Kagera Transport Assets

1. KUGI'S garage and workshop building which is under construction on the effective date; 'situated at plot No. 115 and 116 on Kashozi Road and described in certificates of title Nos 908 and 606 respectively; together with all spares and materials connected with the building.

2. Motor Vehicles:-

A. LORRIES

<i>Make</i>				<i>Registration Number</i>	<i>Year of Make</i>	<i>Capacity in tons</i>
Scania	...	...	...	TZ 38318	1978	10
Scania	...	...	...	TZ 42385	1978	18
Scania	...	...	...	TZ 42905	1978	18
Scania	...	...	...	TZ 44203	1978	18
Scania	...	...	...	TZ 47655	1978	10
Scania	...	...	...	TZ 47886	1979	10
Scania	...	...	...	TZ 48512	1979	10
Scania	...	...	...	TZ 52022	1980	10
Scania	...	...	...	TZ 52155	1980	18
Scania	...	...	...	TZ 52165	1980	18
Scania	...	...	...	TZ 53982	1980	10
Scania	...	...	...	TZ 54941	1980	10
Scania	...	...	...	TZ 56016	1980	10
Scania	...	...	...	TZ 56045	1980	10
Scania	...	...	...	TZ 56062	1980	10
Scania	...	...	...	TZ 57339	1980	10
Scania	...	...	...	TZ 59206	1980	10

SCHEDULE-(Contd.)

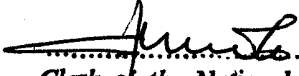
<i>Make</i>				<i>Registration Number</i>	<i>Year of Make</i>	<i>Capacity in tons</i>
Scania	...	...	...	TZ 61288	1980	10
Scania	...	...	...	TZ 63085	1982	18
Scania	...	...	...	TZ 63164	1982	10
ISUZU	...	...	...	TZ 43144	1978	7
ISUZU	...	...	...	TZ 46695	1979	7
ISUZU	...	...	...	TZ 47935	1979	7
ISUZU	...	...	...	TZ 47957	1979	7
ISUZU	...	...	...	TZ 47965	1979	7
ISUZU	...	...	...	TZ 51 lot	1979	7
ISUZU	...	...	...	TZ 53058	1979	7
ISUZU	...	...	...	TZ 58410	1980	7
Fiat	...	...	...	TZ 35885	1977	12
Fiat	...	...	...	TZ 36235	1977	12
Fiat	...	...	...	TZ 38705	1978	12
Fiat	...	...	...	TZ 56911	1980	12
Fiat	...	...	...	TZ 61185	1982	12
Leyland	...	...	...	TZ 33445	1977	12
Leyland	...	...	...	TZ 36415	1977	12
Leyland	...	...	...	TZ 37535	1978	12
Leyland	...	...	...	TZ 38065	1978	12
Leyland	...	...	...	TZ 38075	1978	12
Leyland	...	...	...	TZ 42475	1978	12
Leyland	...	...	...	TZ 47145	1978	12
Leyland	...	...	...	TZ 47165	1978	12
Leyland	...	...	...	TZ 47175	1978	12
Leyland	...	...	...	TZ 47185	1978	12
Leyland	...	...	...	TZ 52625	1980	12
B. TANKERS						
Scania	...	...	...	TZ 58481	1981	12,000Lts.
Leyland	...	...	...	TZ 33455	1977	12,000 Lts.
C. TRAILLERS						
Piacenza	...	...	...	TZ 35955	1977	25 Tons
Piacenza	...	...	...	TZ 36395	1977	25 Tons
Piacenza	...	...	...	TZ 42955	1978	25 Tons
Piacenza	...	...	...	TZ 43034	1978	25 Tons
D. BUSES						
Leyland	...	...	...	TZ 47121	1978	65 Seater
Leyland	...	...	...	MV 998	1980	65 Seater
Leyland	...	...	...	TZ 52325	1980	65 Seater
Leyland	...	...	...	TZ 53465	1980	65 Seater
Leyland	...	...	...	TZ 56463	1980	65 Seater
Leyland	...	...	...	TZ 56608	1980	65 Seater
Leyland	...	...	...	TZ 58083	1980	65 Seater
E. PICK-UPS						
Isuzu	...	...	...	TZ 42914	1978	3
Isuzu	...	...	...	TZ 43144	1978	3
Isuzu	...	...	...	TZ 47396	1979	3
Isuzu	...	...	...	TZ 50515	1979	3
F. FOUR WHEEL DRIVE						
Landrover	...	...	...	BK 5193	1965	19

SCHEDULE—(contd.)

G. MOTOR CYCLES

Honda	...	...	...	BK 5878	—	—
Honda	...	...	...	BK 5889	—	—

Passed in the National Assembly on the second day of February, 1984.


Clerk of the National Assembly