

THE ZANZIBAR HIGHER EDUCATION LOANS BOARD ACT, 2011

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ACT NO. 3 OF 2011

I ASSENT

**{ DR. ALI MOHAMED SHEIN }
PRESIDENT OF ZANZIBAR
AND
CHAIRMAN OF THE REVOLUTIONARY COUNCIL**

1st July, 2011

**AN ACT TO REPEAL THE HIGHER EDUCATION FUND ACT
NO. 6 OF 2001 AND TO ENACT THE ZANZIBAR HIGHER
EDUCATION LOANS BOARD ACT AND
OTHER RELATED MATTERS**

ENACTED by the House of Representatives of Zanzibar

**PART I
PRELIMINARY PROVISIONS**

Short title and
Commencement.

1. This Act may be cited as the Zanzibar Higher Education Loans Board Act of 2011 and shall come into operation on such date as the Minister, by notice published in the Gazette, appoint.

Interpretation.

2. In this Act, unless the context requires otherwise:-

“Accredited Institutions” means institutions which are licensed to offer courses which lead to the awards of Advanced Diploma and or Degrees;

“Board” means the Zanzibar Higher Education Loans Board established under section 3(1) of this Act;

“Borrower” means a person who borrows money from the Board for the Higher education charges;

“Committee” means any committee of the Board established under section 11(1) or section 13 of this Act;

“Discontinued student” means a student who is granted a loan and fails to continue with his studies either for poor academic performance, misconduct or absconded;

“Director” means the officer of the Board appointed under section 15 of this Act;

“Government” means the Revolutionary Government of Zanzibar;

“Eligible student” means a Zanzibari who fulfils conditions stipulated under this Act;

“Fund” means the Zanzibar Higher Education Loans Fund established under section 17(1) of this Act;

“Higher Education” means the education provided leading to the award of Advanced Diplomas, Degrees, Masters and above;

“Loan” means the Government Finance Students’ Loan granted under this Act;

“Repeating student” means a student who is granted a loan and for any reason is compelled to repeat the previous academic year;

“Ministry” means the Ministry responsible for Education;

“Minister” means the Minister responsible for Education;

“President” means the President of Zanzibar and Chairman of the Revolutionary Council;

“Staff” means officers of the Board;

“Supplementing student” means a student who is granted a loan and sits for supplementary examination;

“Student” means any person admitted to accredited higher education institution as a candidate for higher diploma/advanced diploma, degree, masters and above.

“Surety” means a person who is permanently employed or having movable or immovable property, and who guarantees the borrower and who shall automatically and fully be liable to pay to the Fund any loan so granted in case of the default by the borrower.

PART II ESTABLISHMENT OF THE BOARD

Establishment of the Board.

3. (1) There shall be established a Board to be known as the Zanzibar Higher Education Loans Board.

(2) The Board shall:-

Composition of
the Board.

- (a) be a body corporate with perpetual succession and common seal;
- (b) in its corporate name, be capable of suing and being sued;
- (c) be capable of purchasing or acquiring, and managing in any manner and alienating any movable and immovable property;
- (d) be capable of entering into contract or agreement and doing all such things or acts for the proper performance of its functions under the provisions of this Act, which may lawfully be done or performed by a body corporate.

4. (1) The Board shall consist of the followings members:-

- (a) Chairperson who shall be appointed by the President;
- (b) Director;
- (c) eight other members to be appointed by the Minister as follows:
 - (i) Principal Secretary, Ministry responsible for Education or his representative;
 - (ii) Principal Secretary, Ministry responsible for Finance or his representative;
 - (iii) Secretary of the Planning Commission or his representative;
 - (iv) Principal Secretary, Ministry responsible for civil service or his representative;
 - (v) one member from the House of Representatives;
 - (vi) one faculty member representing higher education institutions;
 - (vii) one member representing the Association of People with Disability;
 - (viii) one member representing students from higher education institutions;

(2) The members of the Board shall elect one member among them as Vice-Chairperson.

Functions of the
Board.

5. The functions of the Board shall be:-

- (a) to grant loans out of the Fund as the Board may deem fit, to any eligible person to enable him, or assist any student, to meet the cost of higher education;

- (b) to set the criteria and conditions governing the granting of the loans including the procedures of recovery of the loans;
- (c) to determine the maximum number of eligible persons or students to be granted loans in any one particular year;
- (d) to keep the register and other records of students loan beneficiaries under the Board;
- (e) to establish operational links through higher education institutions with students loan beneficiaries;
- (f) to solicit for funds and other assistance to promote functions of the Board;
- (g) to receive any gifts, donations, grants or endowments made to the Board;
- (h) to organize fund raising activities;
- (i) to formulate sound policies for regulating the management of the Fund;
- (j) to establish operational links between employers of loan beneficiaries and sureties of borrowers for the purpose of facilitating the recovery of the loans granted under this Act;
- (k) to monitor the use of the funds disbursed and ensure adherence to the objectives of the Fund;
- (l) to conduct or cause to be conducted a research and maintain a databank on scholarships, sponsorships and awards that may be accessed by Zanzibar or Tanzania students in need or in search of opportunities and financial sponsorship or assistance for higher education or training;
- (m) to make such recommendations as it considers necessary to enable the Fund to achieve its objectives under this Act;
- (n) to perform and exercise all other functions and powers conferred on the Board by this Act.

Meetings and decisions of the Board.

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

(2) The meetings of the Board shall be held at such time and such place as the Board may determine.

(3) The Chairperson shall preside at every meeting of the Board and in his absence, the Vice-Chairperson shall preside and in the absence of both the Chairperson and Vice-Chairperson the members present shall appoint a member among themselves to preside such meeting.

(4) Six members shall constitute a quorum for a meeting of the Board.

(5) The decision of the Board shall be by the majority of the votes of the members present and in the event of an equality of votes, the Chairperson shall have the casting vote.

(6) The Board may at any time co-opt any person to act as an advisor at any of its meetings but no person so co-opted shall be entitled to vote at the meeting on any matter for decision by the Board.

(7) The Secretary shall record and keep minutes of all proceedings of all meetings and the minutes of each meeting of the Board shall be confirmed by the Board at the next meeting and signed by the Chairperson of the meeting and the Secretary to the Board.

(8) The validity of any act or proceedings of the Board shall not be affected by any vacancy among its members or by any defects of the appointment of any of them.

(9) Where a member of the Board failed to attend three consecutive meetings of the Board without sufficient cause, the Board shall advise his appointing authority of the fact and the appointing authority may terminate the appointment of the member and appoint another person in his place.

(10) Subject to the provisions of this Act, the Board shall have power to regulate its own proceedings in relation to its meetings and the transactions of its own business.

Tenure of the
Membership of
the Board.

7.(1) A member of the Board shall hold office for the period of three years from the date of his appointment, and may be eligible for re-appointment for another one term.

(2) A member shall cease to be a member upon the occurrence of any of the following:-

(a) if he dies;

(b) if he absents himself from three consecutive meetings without sufficient cause;.

- (c) if he is convicted of any criminal offence;
- (d) if, by writing under his hand addressed to his appointing authority, he resigns;
- (e) in case a member of the Board becomes member by virtue of his post, that member shall cease to be a member upon ceasing to hold that post.

(3) Where any member of the Board is, by reason of absence from Zanzibar or illness or for other sufficient cause, unable to perform his duties as a member of the Board, the appointing authority may appoint a temporary member in his place, and the temporary member shall hold office until the resumption of duty of the substantive member or until the office of the substantive member expires, whichever first occurs.

(4) When the office of a member of the Board becomes vacant in accordance with the sub section (2) of this section, the appointing authority may appoint another person in his place and to hold office for the unexpired portion of his term of office.

Seal of the Board.

8.(1) There shall be an official seal of the Board which shall be such shape, size and the form as the Board may determine.

(2) The official seal of the Board shall not be affixed to any instrument or document made, issued or executed by or on behalf of the Board except in the presence of the Chairperson or Vice-Chairperson, the Secretary or such other member of the Board or other employee of the Board as the Board may appoint in that behalf .

Remuneration of the members the Board.

9. The Members of the Board shall be entitled to such remuneration and or allowances as the Minister may, upon recommendation of the Board, prescribe from time to time.

Powers of the Board on recruitment of staff.

10.(1) The Board may, on such terms and conditions as it may determine, appoint such officers and employees as it considers necessary to achieve the Board's functions and for the efficient discharge of its responsibilities. The Board may do so upon the approval of the Minister.

(2) The officers and employees appointed under subsection (1) of this section shall be paid their salary out of the Fund in manner of such service as may be proposed by the Board and upon the approval of the Minister.

(3) Every officer or employee appointed under subsection (1) of this section shall exercise such powers and functions and perform such duties as may be assigned to him from time to time by the Director.

Establishment of the Committees.

11.(1) The Board shall establish a Committee to be known as Higher Education Committee for the purpose of assisting the performance of its functions.

(2) The Committee shall have the following members:

- (a) Principal Secretary from the Ministry responsible for education - Chairperson;
- (b) Director of Higher Education Loan Board - Secretary;
- (c) Secretary of the Planning Commission or his representative - Member;
- (d) Principal Secretary responsible for Civil Service or his representative - Member;
- (e) a Member of the House of Representatives - Member;

(3) The Committee shall elect one of their members to be the Vice Chairperson.

Functions of the Higher Education Committee.

12. The functions of the Higher Education Committee shall be:-

- (i) to appoint students who are eligible for loan for higher education in various institutions;
- (ii) to receive and approve scholarship applications to students of higher education institutions inside and outside the country together with sponsorship for scholarships which come directly to the Government of Zanzibar and send recommendations to the Board for approval;
- (iii) to prepare loans agreements between students and Board.

Other Committees.

13. The Board in consultation with the Minister may establish not more than two committees, whose members shall be appointed amongst the members of the Board whenever there is a need to do so.

Procedures of the Committee.

14.(1) The Committee shall ordinarily meet for the transaction of its business at least once in every three months.

(2) The Chairperson, in consultation with the Secretary, may at any time call a special meeting when a need arises.

(3) The quorum at a meeting of the Committee shall be two third of the members.

(4) Any issue proposed at a meeting of the Committee shall be decided by the majority of the votes of the members.

(5) The Committee may at any time co-opt any person as it deems fit and for the purpose of fulfilling some of its functions but that person shall not be entitled to vote.

(6) Members of the Committee shall be paid allowances for attendance at Committee meetings as shall be determined by the Board and approved by the Minister.

Director.

15.(1) There shall be a Director of the Board who shall be appointed by the President.

(2) A person shall not be appointed as a Director unless he holds at least Degree from any recognised institution.

Functions of the Director.

16.(1) Subject to the provision of this Act, the Director shall be responsible for the day to day functions of the Board.

(2) The Director shall be the Secretary of the Board and may participate in the Boards deliberations but shall not be entitled to vote on any resolution or any other matter before the Board.

(3) In the exercise of the powers vested to him or delegated to him by the Board, the Director, shall comply with any direction of policy or of general nature given to him by the Board, and shall not, without the prior approval of the Board, depart or permit departure from the guidelines set by the Board or normal procedures for dealing with any particular matter.

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

PART III ESTABLISHMENT OF THE FUND

Establishment of Zanzibar Higher Education Loans Fund.

17.(1) There is hereby established a Fund to be known as the Zanzibar Higher Education Loans Fund which shall be managed by the Board.

(2) All monies collected for the Zanzibar Higher Education Loans Fund shall be remitted to such Bank account as the Board shall prescribe or designate, in accordance with the provisions of this Act.

(3) The monies deposited in the Fund shall be used for the purpose of granting loans to the students who join accredited higher education institutions.

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

Object of the Fund.

18. The objectives of the funds is to provide loan to students who join in accredited higher learning institutions.

PART IV OBLIGATIONS, ELIGIBILITY AND LIABILITY

Condition for Students Loans.

19.(1) The Board shall provide money on the loan basis to any eligible student who is in need of and applied for such loan as required to meet all or any of the students' welfare cost of Higher Education in accordance with the qualifications and procedures laid down by the Board.

(2) The financial loan under subsection (1) of this section, may cover:-

- (a) tuition fees;
- (b) examination fees;
- (c) meals and accommodation charges;
- (d) books and stationeries;
- (e) transport charges;
- (f) research expenses;
- (g) field practical work expenses;
- (h) special faculty requirements; and
- (i) health insurance,

Provided that the Board shall offer to eligible student loan in respect of items specified under subsection. (2) of this section, to the extent as it may determine.

(3) The Board shall determine the certain amount of sum that shall be contributed by a student, a parent, a guardian or other person concerned, as the case may be.

(4) Where the Board has determined the certain amount of the contribution in terms of subsection (3) of this section, every student, parent, guardian or other person concerned shall be obliged to contribute the amount of the sum equal to an amount determined by the Board.

Eligibility for loan.

20.(1) Subject to the provisions of this Act, a student shall be eligible for consideration for a loan under this Act if he :-

- (a) is a Zanzibari;
- (b) has been admitted to an accredited higher learning institution;
- (c) has made a written application in the prescribed form in which shall be included inter alia, the names of the applicant, the applicant's parents or guardian and the sureties and which when approved by the Board shall prepare the basis of the loan contract, to be known as Student Loan Agreement, between the applicant of one part and the Board in other part;
- (d) is a person who has no financial assistance from any other source or sources to cover the items of cost for which the application is made;
- (e) is continuing student, who has passed the examinations necessary to enable him to advance to the next or stage of study.

(2) The requested course must be in line with the demand of the national development program.

(3) Any student may reapply for the financial loan from the Fund for another session of studies at least if such student has worked for a period of not less than two years.

(4) The Board shall provide financial loan:-

- (a) to students who undergo supplementary examinations upon such terms and conditions as the Board may determine.
- (b) to repeating students who repeat the previous academic year subject to the conditions of the Board.

(5) The Board shall not provide financial loan to discontinued student unless and until such student makes another application after the lapse of two years.

Loan's Conditions.

21. (1) The Board shall in granting loan to eligible student, impose conditions, demand security and require repayment in installments at such times and periods as the Board may determine.

(2) In granting a loan to any student, the Board shall require guarantors to guarantee any loan granted to a student and in case of any default by the student in the repayment of the loan, any guarantor who has guaranteed any such loan shall automatically and fully be liable to pay to the Board all the loan together with interest accrued from outstanding loan owed to the Board by the student.

(3) Where a guarantor has been notified by the Board under subsection (2) of this section fails or refuses to repay such a loan together with any interest accrued thereon, the guarantor shall be liable to civil proceedings against him.

Obligation of the Borrower.

22. (1) A borrower shall be required, subject to and in accordance with this Act or any regulations made hereunder, within one year of completion of his studies or with such a period as the Board decides to recall its loan whichever is earlier:-

- (a) to inform the Board of his contact address;
- (b) to begin repayment of his loan;
- (c) if he is employed, to authorize his employer to deduct from his salary the loan repayment and to remit it to the Board in such a manner as the Board may direct.

(2) Any borrower who fails or neglects to satisfy the requirement of subsection (1) of this section within the stipulated time shall, in addition to any other action that the Board may take against him, be guilty of an offence and liable to a fine of not less than fifty thousand shillings in respect of each loan deduction that remains unpaid in accordance with the provisions of subsection (1) of this section.

Obligation of an employer.

23. (1) Every employer shall be required, subject to and in accordance with this Act or any regulations made there under-

- (a) upon the employment of any borrower to inform the Board within a period of three months of such employment;
- (b) upon confirmation by the Board that such a person so employed is a borrower, to deduct from the wages or remuneration of the borrower, the amount of any loan instructed by the Board;
- (c) The employer shall pay every deduction from the borrower wages or remuneration in the prescribed manner to the Board within fifteen days of each month.

Loan repayment.

24. (1) It shall be a duty of every loan beneficiary under this Act to repay his debt to the Government through the Board.

(2) The loan granted under section 19 of this Act shall be paid immediately by the student when he is employed as the Board may direct.

(3) Any borrower who is employed by the Government or its public corporations for not less than five years shall pay half of that loan, and the other half shall be paid at such reasonable period as the Board may determine.

(4) Any borrower who is employed in private sector, international organization or self employed, for the period of five years shall pay that entire loan.

(5) The payment of the loan shall be made directly by the employer, Surety, Self employed to the account of Fund.

Liability and obligations of the borrower.

25.(1) It shall be the duty of every borrower under this Act to repay his debt to the Government through the Board.

(2) The debt that the borrower shall be liable to repay to the Government under subsection (1) of this section shall be the total sum of money given directly or indirectly.

(3) Any borrower who, without good cause fails to repay the loan shall be liable to civil proceedings.

Responsibility of an employer and surety.

26. It shall be the duty of each employer and surety of any borrower to arrange and facilitate the repayment process of loan to Board.

Penalties.

27.(1) Any employer or any other person who fails or delays to submit required payment to the Board within the period specified by the Board shall be liable to a penalty equivalent to the bank interest.

(2) Any person who employs or guaranteed the borrower and fails to arrange the repayment plan with borrower, such person commits an offence and shall be liable upon conviction to a fine of five million shillings or imprisonment for a term not less than twelve months or both such fine and imprisonment.

(3) The court before whom any person is convicted of an offence under this Act, shall without prejudice to any civil remedy, order such person to pay to the Board the amount of any outstanding loan repayments and interest or any other sum, together with any other penalty.

PART V
FINANCIAL PROVISIONS

Funds and resources of the Board.

- 28.** The funds and resources of the Board shall consists of-
- (a) such sums as may be provided for the purpose of the Board by the House of Representatives of Zanzibar.
 - (b) any funds or assets which may vest in or accrue to the Fund from other sources by way of fees, grants, gifts or any other way;
 - (c) money received by the Board for services rendered by the Board;
 - (d) any revenue received from projects established by the Board;
 - (e) any money which comes from the return of loan given to the students;
 - (f) penalties for any delay of payment or breach of contract;
 - (g) money received from the selling of the contract forms.

Annual estimates.

29.(1) At least three months before the commencement of each financial year, the Director shall prepare for approval of the Board, annual estimates of the revenue and expenditure of the Board for the ensuing year;

(2) The Board shall before the commencement of each financial year, consider and approve, subject to such modifications and amendments as it may consider appropriate, the estimates prepared in accordance with subsection (1) of this section.

(3) No expenditure of the Board shall be incurred except in accordance with the provision of annual estimates or in accordance with the provisions of any supplementary estimates approved by the Board upon consultation with the Minister.

Accounts of the Board and Audit.

30. (1) The Board shall supervise the keeping of proper books of account and records through proper records of expenditure receipts.

(2) The books of account and records of the Fund shall be kept in accordance with procedures set by the Controller and Auditor General.

(3) The books of account of the Board shall be audited by Controller and Auditor General or any authorized body and shall be audited at least at the end of each financial year.

(4) The audited accounts and the auditor's report on such accounts shall be submitted to the Board not later than three months after the end of the financial year to which they relate.

(5) It shall be the duty of the Board as soon as possible, but in any case not later than one month after receipt of the report of the auditor under this section, to forward such report to the Minister.

(6) The Board shall, not later than two months after the end of each financial year, submit to the Minister an annual report on the Management of the Fund in respect of that financial year, including the balance sheet of the Fund of that year.

(7) The Minister shall submit the report together with his observations on it before the House of Representatives as soon as may be practicable, and in any case not later than six months after the closing of each financial year.

PART VI MISCELLANEOUS PROVISIONS

Regulations.

31. (1) The Minister, in consultation with the Minister for Finance, may make such regulations or give such directions as may appear to him to be necessary and convenient for the effective and full implementation of this Act for the safety and interest of the Board.

(2) The Minister shall lay down procedures to ensure that any directions given under this section are brought to the notice of all relevant authorities.

(3) All regulations made under this section shall be published in the Official Gazette.

Repeal and
Saving.

32. (1) The Higher Education Fund Act No 6 of 2001 is hereby repealed.

(2) Anything done under the Act repealed by subsection (1) of this section shall be deemed to have been made under the provisions of this Act.

PASSED in the House of Representatives of Zanzibar on 23rd day of March, 2011.

**{IBRAHIM MZEE IBRAHIM}
CLERK OF THE HOUSE OF REPRESENTATIVES
ZANZIBAR.**