

THE LOANS AND ADVANCES REALIZATION TRUST
(AMENDMENT) ACT, 1996

ARRANGEMENT OF SECTIONS

<i>Section</i>	<i>Title</i>
1.	Short title.
2.	Amendment of section 3.
3.	Amendment of section 4.
4.	Amendment of section 5.
5.	Amendment of section 13.
6.	Amendment of section 14.
7.	Amendment of section 15.
8.	Amendment of section 18.
9.	Amendment of section 19.
10.	Amendment of section 21.
11.	Addition of section 21A.
12.	Repeal and replacement of section 29.

THE UNITED REPUBLIC OF TANZANIA



No. 10 of 1996

I ASSENT,
Benjamin Mhapa
.....
President

Benjamin Mhapa 17th June, 1996.
.....

An Act to amend the Loans and Advances Realization Trust Act, 1991

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Loans and Advances Realization Trust (Amendment) Act, 1996, and shall be read as one with the Loans and Advances Realization Trust Act, in this Act referred to as "the principal Act".

Short title
No. 6 of
1991

2. Section 3 of the principal Act is amended by inserting in their respective appropriate alphabetical positions the following definitions:

Amend-
ment of
section 3

"assets" shall include—

- (a) receivables and other obligations due to the Owner, lease indemnity and other agreements together with all collateral security and other rights (including but not limited to rights in relation to shares or stock in a body corporate such as voting rights as well as rights to appoint directors of a body corporate or otherwise

engage in the Management thereof), granted to the owner by contract or operation' of law to secure or enforce the right of payment of such obligations;

- (a) real and, personal, property of any kind owned or held by the Owner including shares or stock of a body corporate obtained by the Owner whether directly or indirectly, through foreclosure or other means in, settlement of such, obligations;
- (c) shares or stock and other investments held by the Owner; and
- (d) the business of the Owner and where the Owner is a body corporate the Owner itself whether as parent or subsidiary body corporate.

"the Owner" means the borrower in respect of a non-performing asset".

Amend-
ment of
Section 4

3. Section 4 of the principal Act is amended by deleting the whole of subsection (4) and substituting for it the following.

4 The common Seal of the Trust shall be kept in the custody of the Administrator and shall not be affixed to an instrument or document except as authorised by the Board.

Amend-
ment of
Section 5

A., The principal Act is amended by repealing section 5 and substituting for it the following:

"objects
and func-
tions of
the Trust.

5. The objects and functions of the Trust shall, subject to such direction as the Minister may deem it suitable to give to the Trust, be as follows:

- (a) to hold for and on behalf of the United Republic any non-performing asset of a bank or other financial institution which is transferred to the Trust under paragraph (a) and (b) of section 13(1);
- (b) to hold for and on behalf of a bank or financial institution any non-performing asset of such bank or financial institution which is transferred to the Trust under paragraph (c) of, section 13(1);
- (c) to take such action as may be necessary-
 - (i) to recover all amounts outstanding in respect of all transferred non-performing assets; and
 - (ii) to advise, direct or 'facilitate' the measures that have to be taken by or in respect of the owners - so as to enhance. their capacity to repay the loans and advances transferred to the Trust under section 13; and

(d) to administer and manage the Non-Performing Assets Recovery Fund established, by section 12."

5. Section 13- of the principal Act is amended by-
- (a) deleting the word "or" appearing at the end of paragraph (a);
 - (b) deleting the full-stop appearing at the end of paragraph (b) and substituting for it a semi-colon, and adding the word "or" after it; and
 - (c) adding immediately after paragraph (b) the following:
 - "(c) as may be determined by a bank or financial institution in accordance, with the Prudential Guidelines issued under the
 - by the Bank as having become non-performing for the purpose of this Act,"

Amend-
ment of
section 13

6. Section 14(l) of the Principal Act is amended by deleting the whole of that subsection and substituting for it the following:

Amend-
ment of
section 14

"Action by Trust after ... transferring and in respect of transferred assets 14--(1) The Trust shall in respect of any non-performing asset transferred by a bank or financial institution under section 13(1) (a) and (b), where the Trust holds such non-performing asset on behalf of the United Republic, cause to be paid to the bank or financial institution for the transferred asset from the Fund established by section 12 such sums as may be determined by the Trust at such rate, in such form and subject to such other forms and conditions as the Trust may determine."

7. Section 15 of the principal Act is amended.

Amend-
ment of
section 15

- (a) by deleting the word "assets" appearing on the first line of subsection (1)
- (b) by adding immediately after subsection (1) the following subsection:
 - "(2) All assets of the Owner shall, subject to any encumbrances attached thereto, vest in the Trust and shall, subject to such directions as the Minister may give in writing in that behalf at the time of the transfer of the non-performing asset concerned, be dealt with in accordance with this Act."

- (c) by renumbering the present subsection (2) as subsection (3).

8. Section 18 of the principal Act is amended:

Amend-
ment of
section 18

- (a) by deleting the whole of subsection 2(a) and, substituting for it the following:

"(2) The Tribunal shall consist of-

- (A) A Chairman and not more than three Vice Chairmen who shall be persons holding or who have previously held or are qualified to hold high judicial office, and appointed by the Minister after consultation with the Chief Justice;"

(b) by deleting paragraph (b) of subsection (2) and substituting for it the following—

“(b) Not less than eight (8) members who shall be appointed by the Minister after consultation with the Attorney-General”.

Amendment 19 of section

9. Section 19 of the principal Act is amended by adding immediately after subsection (2) the following subsection:

“(3) Notwithstanding the provisions of subsection (2), the Minister may, by rules published in the *Gazette*, provide for the rules of procedure to be applied to any matter before the Tribunal and the civil procedure rules provided in subsection (2) shall cease to apply to any such matter filed thereafter.”

Amendment of section 21

10. Section 21 (3) of the principal Act is amended by inserting immediately after the word “Chairman” appearing in the second line the following words—“or vice chairman”.

Addition of section 21A

11. The principal Act is amended by adding section 21A:

Proceedings pending in Court of Law to be transferred to the Tribunal.

21A:—(1) Notwithstanding the provisions of this Act any action or proceedings pending in any court in respect of any loan, advance or non performing asset which is by this Act transferred to the Trust shall, on the Commencement of this Act, cease to be conducted in that court and the Registrar of the High Court shall cause the action or proceedings to be transferred to the Tribunal.

(2) The actions or proceedings transferred to the Tribunal under subsection (1) shall be heard and determined in accordance with the provisions of this Act.

12. Section 29 of the principal Act is repealed and replaced by the following section.

Repeal and replacement of section 29

29:—(1) This Act shall continue to be in force until the 30th day of June, 2000, and shall then expire, unless the Minister by notice published in the *Gazette* extends its duration for two periods of one year each.

“Duration of this Act

(2) Notwithstanding subsection (1), upon the expiration of the powers of extension by the Minister, the National Assembly may, by resolution, on recommendation by the Minister, extend the duration of the Act for such further period as it may determine”.

Passed in the National Assembly on the 25th April, 1996.


Clerk of the National Assembly