

## CHAPTER 83

### THE ASSETS OF DEPARTED ASIANS ACT.

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## CHAPTER 83

### THE ASSETS OF DEPARTED ASIANS ACT.

*Commencement:* 7 December, 1973.

**An Act to consolidate with amendments the law relating to the declaration of assets by departed Asians and to provide for other matters connected therewith or incidental thereto.**

#### **1. Declaration of assets, etc.**

(1) Every departing Asian, whether holding any trading licence or a licence to manufacture a scheduled article or not, shall, before leaving Uganda declare on Forms PRO/1 and PRO/2 specified in the Schedule to this Act his or her assets and liabilities, including those relating to any business interests, and shall also supply to the Minister such other particulars and information relating to those assets and liabilities as may be requested by the Minister.

(2) The forms submitted to the Minister under subsection (1) shall be accompanied by the following documents—

- (a) copies, or where copies are not available, a list of title deeds, debentures, loan agreements and contracts or other agreements to the like effect, regarding his assets and liabilities;
- (b) where the declaration affects any company, a certified true copy of the memorandum of association and articles of association of that company;
- (c) copies of the accounts, balance sheets or profit and loss account of the business for the last preceding two years as required or submitted for income tax purposes.

(3) The departing Asian shall, upon submitting any forms referred to in subsection (1), be given a receipt in Form PRO/3 specified in the Schedule to this Act, acknowledging the receipt by or on behalf of the Minister of the forms and any documents accompanying them.

#### **2. Register of property and business.**

The Minister shall keep a register of any property or businesses declared under section 1 in Form PRO/4 specified in the Schedule to this Act and shall

cause the contents of the register to be accurately published in the Gazette from time to time.

### **3. Vesting of assets and liabilities in the Government.**

(1) Any assets declared by a departing Asian, including any property or business recorded in the register kept under section 2, and any assets left behind by any Asian who failed to prove his or her citizenship at the time and in the manner specified by the Government shall, without any further authority, vest in the Government.

(2) The Minister may by statutory order vest any other assets of a departed Asian in the Government.

(3) Any liabilities attaching to anything vesting in the Government by virtue of subsection (1) or (2) shall also vest in the Government.

(4) Anything done by any agent appointed by a departing Asian on or after the 24th day of October, 1972, for the purposes of managing any assets declared by the departing Asian shall, where that thing was done in the proper performance of the agent's duties, be deemed to have been done by the Government.

### **4. Departed Asians' Property Custodian Board.**

(1) There is established a board to be known as the Departed Asians' Property Custodian Board which shall consist of—

- (a) the Minister responsible for finance, as chairperson;
- (b) the Minister responsible for commerce;
- (c) the Minister responsible for lands, minerals and water resources;
- (d) the Attorney General;
- (e) the Minister responsible for local government; and
- (f) two other persons nominated by the President.

(2) The board may co-opt any person for such purposes as it may find necessary.

(3) The board shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

## **5. Meetings of the board.**

(1) The board shall meet for the discharge of its functions under this Act at least once every month at such time and place as the chairperson may appoint.

(2) Three members shall form a quorum.

(3) The chairperson shall preside at the meetings of the board, and in his or her absence any one of the other three Ministers present shall preside.

(4) Decisions of the board shall be carried by a simple majority of the members present and voting; and where there is an equality of votes, the chairperson or, as the case may be, the member presiding shall have a second or casting vote.

(5) Subject to this section, the board may regulate its own procedure.

## **6. Powers of the board.**

(1) The board—

- (a) shall take over and manage all assets transferred to it by virtue of section 13 of the Assets of Departed Asians Decree, 1973;
- (b) shall discharge all the liabilities transferred to it by this Act;
- (c) may, in relation to any assets, collect all debts or other monies due to the departed Asian; and
- (d) may sell or otherwise deal with such assets in the same way as the departed Asian may do.

(2) Notwithstanding anything to the contrary contained in any agreement, a debt claimed by or against a departed Asian shall not bear any interest.

## **7. Executive secretary of the board.**

(1) The board shall have an executive secretary who shall be a public officer appointed by the board.

(2) The functions of the executive secretary shall be—

- (a) to prepare agenda and make all necessary arrangements, for the meetings of the board;

- (b) to take, or cause to be taken, minutes of the meetings of the board;
- (c) to keep proper records of all transactions of the board;
- (d) to be responsible for the day-to-day management of the business of the board, including the control of the finances of the board and the supervision and control of any staff of the board;
- (e) to carry out all the instructions of the board; and
- (f) generally to provide every administrative assistance to the board.

(3) In the performance of his or her functions under this Act, the executive secretary shall be responsible to the board.

## **8. Accounts and audit.**

(1) The board shall keep books of account and proper records relating to them.

(2) The board shall prepare in respect of each financial year a statement of account which shall include a balance sheet, a statement of income and expenditure and a statement of surplus or deficit containing such information as, had the board been a company registered under the Companies Act, would be required to be laid before the company by the directors at the annual general meeting.

(3) The books and accounts of the board shall be submitted to the Auditor General for audit not later than four months after the end of the financial year to which they relate and shall be audited not later than six months after the end of the financial year by the Auditor General or an auditor appointed by him or her.

(4) A copy of the accounts and the audit report on them shall be sent to the Minister by the Auditor General, and the Minister shall cause them to be laid before the Cabinet not later than two months from the date of receipt of them.

## **9. Custody of the seal.**

(1) The seal of the board shall be kept by the executive secretary and shall not be used on any instrument or document except in pursuance of a decision of the board.

(2) The use of the seal shall be authenticated by the signatures of two members of the board, at least one of whom shall be a Minister.

#### **10. Appointment of staff.**

(1) The board may from time to time engage upon such terms and conditions as it may think fit such officers and servants as are necessary for the proper and efficient discharge of its functions under this Act.

(2) Public officers may be transferred or seconded to the board or otherwise give assistance to it.

(3) The board may grant pensions, retiring benefits or gratuity to any of its officers and servants and may require its officers and servants to contribute to any pension scheme or superannuation scheme.

#### **11. Funds of the board.**

The funds of the board shall consist of any grants made to the board by the Government as well as monies accruing to the board in the course of discharging its functions under this Act.

#### **12. Rent in respect of building occupied by public officer, etc. as dwelling house.**

For the avoidance of doubt, where any building is occupied as a dwelling house by a public officer or a member of the armed forces, prison service or police force or by any other person employed by Government as part of his or her terms of service, the Government shall pay to the board such rent as may be determined by the board.

#### **13. Establishment of special fund.**

(1) There shall be established under the control and management of the board a fund to be called the Departed Asians Special Fund into which shall be paid all monies paid to the board under section 12.

(2) The Departed Asians Special Fund shall be a fund established under section 16 of the Public Finance Act.

#### **14. Purposes of the special fund.**

The purposes for which the fund is established are—

- (a) to serve as a depository for any monies received in respect of the assets of a departed Asian;
- (b) for the payment of compensation to any departed Asian who was the owner of any assets transferred to the board;
- (c) for repairs and improvement to the houses and premises, or their replacement where necessary;
- (d) for the payment of rates to the appropriate local authority;
- (e) for the payment of rents to respective landlords;
- (f) for meeting reasonable expenses from the operation of the fund.

#### **15. Accounts left by departed Asians.**

(1) Any bank or credit institution in Uganda with which any departed Asian has any standing account shall, as soon as such bank or credit institution becomes aware of the departure of the Asian, report the existence of the account to the board together with a statement of the exact amount of money the departed Asian has in his or her account.

(2) The Minister may direct that the account be transferred to, or be held by, another bank or credit institution.

(3) Any monies held by any bank or credit institution for a departed Asian shall, with effect from the 9th day of August, 1972, be deemed to be held on behalf of the board by the bank or credit institution.

#### **16. Payments to be reported to the board.**

(1) No payments shall be made out of the account of a departed Asian unless the payments shall have been first approved by the board.

(2) Payments may be made into the account, but any such payment shall be reported to the board by the bank within thirty days after it has been made.

#### **17. Offences and penalties.**

(1) Any bank or credit institution which fails to comply with sections 15 and 16 commits an offence and is liable on conviction to a fine not

exceeding fifty thousand shillings.

(2) Where a bank or credit institution commits an offence under subsection (1), every director of the bank or credit institution commits an offence and is liable to the penalty prescribed in that subsection unless he or she proves that the offence was committed without his or her knowledge or connivance or if he or she had knowledge of the offence, that he or she took all reasonable steps to prevent its commission.

(3) Where any payment is made by the bank contrary to section 16(1), the employee or officer making or facilitating the payment commits an offence and is, in addition to the penalty prescribed in subsection (1), liable to a term of imprisonment not exceeding two years.

#### **18. Establishment of Departed Asians' Account Common Pool Fund.**

The board shall establish under its control and management a fund to be called the Departed Asians' Account Common Pool Fund to which shall be credited all monies standing on the accounts of any departed Asians.

#### **19. Purposes of the fund.**

(1) The purpose of establishing the fund is to provide an effective means of overseeing the accounts of the departed Asians.

(2) The fund shall provide for its own maintenance, and the board may make reasonable deductions from the fund for that purpose.

#### **20. Investment by the board.**

The board may invest in any securities specified by the Trustees Act, as well as in any other securities permitted by law, the monies accruing to any of the funds established under this Act.

#### **21. Debts owed to or by departed Asians.**

(1) The board may sue for any debt owed to a departed Asian and may be sued for any debt owed by a departed Asian.

(2) The receipt by the board of payment in respect of any debt owed to a departed Asian shall be a sufficient discharge to the debtor.



(3) In any suit brought by or against the board for the recovery of any debt owed to or by a departed Asian, the board shall not be liable beyond the amount of the assets, including any monies, transferred to the board in respect of the departed Asian.

## **22. Regulations.**

The Minister may make any regulations for better carrying out the provisions and principles of this Act.

### *Schedule.*

ss. 1, 2.

#### **Forms.**

1. Declaration of Assets	Form PRO/1
2. Declaration of Business and Industrial Interests	Form PRO/2
3. Receipt	Form PRO/3
4. Register of Property	Form PRO/4
5. Application for Acquisition of Business	Form APP/1

**History:** Decree 27/1973; Decree 12/1975; Decree 3/1977; Act 9/1982, s. 16.

#### **Cross References**

Companies Act, Cap. 110. Public  
Finance Act, Cap. 193. Trustees  
Act, Cap. 164.