

THE UNITED REPUBLIC OF TANZANIA

BILL SUPPLIMENT

No.11

12th October, 2007

to the Gazette of the United Republic of Tanzania No. 41 Vol. 88 dated 12th October, 2007
Printed by the Government Printer, Dar es Salaam, by Order of Government

THE FINANCIAL LEASING ACT, 2007

NOTICE

This Bill to be submitted to the National Assembly is published for information to the general public together with a statement of its objects and reasons.

Dar es Salaam,
8th October, 2007

PHILLEMONT L. LUHANJO
Chief Secretary

A BILL

for

An Act to provide for financial lease transactions and for related matters.

OBJECTS AND REASONS

The objects of this Bill is to make proposals for enactment of the Financial Leasing Act, 2007. The Bill seeks to provide for a minimum legal framework to govern financial leasing, and to provide legal certainty and clarity for leasing investment consistent with the international best practices with a view to stimulating capital investment and economic growth in Tanzania. The proposed Bill provides for minimum mandatory obligations with a view to enabling efficient allocation of risks, promote and protect investment leasing operations as well as the parties' interests.

The Bill is divided into Six Parts.

Part I consists of clauses 1 to 3, covering preliminary provisions, including short title, applications and interpretation of words and terms used in the proposed Act.

Part II contains clauses 4 to 9, and it seeks to define a framework relating to formation and operations of financial lease transactions, characteristics of, and formalities and manner in which financial lease transactions will be consummated. It also sets out the framework for the subject matter of finance lease transactions, and the principle underlying the calculation of lease rentals and irrevocability of financial lease agreements once concluded.

Part III consists of a clause 10 to 14 which sets out the rights, duties and obligations of all parties involved in finance lease transaction, namely, lessor, lessee and supplier. It also seeks to allocate financial risks arising from non performance or inadequate performance of responsibilities of the parties such as those in respect of supply of defective equipment, lessor's negligent or willful inability to secure proper title to the asset, injury and damage to third parties arising from use of the leased asset.

It further provides for the circumstances under which the parties are to bear those risks and the lessor may be entitled to repossession of the leased assets and other remedies in the event of default.

Part IV contains clauses 15 to 21. It proposes to define a framework for third parties' claims and interest in financial lease transactions, and the manner in which such claims and interests may be asserted. It also sets out the obligations of lessee in respect of repair of damages caused by third parties, their rights to recover expenses involved in repairing such damages, limitations in creating charges or encumbrances over the leased assets. This part also asserts the priority of lessee's interests in the event of attachment of immovable property related to a financial lease transaction.

Part V covers clause 22 that sets out a framework for registration of leased assets.

Part VI, consisting of clauses 23 to 27, proposes miscellaneous provisions relating to powers to make regulations, freedom of parties in defining events of default, vary rights, duties, and liabilities of parties in a finance lease transaction, extent of damages and their enforceability.