

REPUBLIC OF ZAMBIA

THE ZAMBIA TANZANIA PIPELINE ACT

CHAPTER 455 OF THE LAWS OF ZAMBIA

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CHAPTER 455

ZAMBIA TANZANIA PIPELINE

Acts No.
18 of 1967
13 of 1994

An Act to grant rights, or to provide for the granting of rights, over land to a company known as the TAZAMA Pipelines Limited; and to provide for matters connected with or ancillary to the foregoing.

[27th January, 1967]

1. This Act may be cited as the Zambia Tanzania Pipeline Act.

Short title

2. (1) In this Act, unless the context otherwise requires-

Interpretation
Cap. 184
App. 9
App. 9

"agent", in relation to the Company, means any duly authorised employee of the Company, any duly authorised contractor of or consultant to the Company and the duly authorised employees of such contractor or consultant;

"Company" means the TAZAMA Pipelines Limited, a Company incorporated in Zambia and registered as a foreign company in Tanzania;

"objects", in relation to the Company, means the objects of the Company referred to in section *three*;

"private land" means all land and all interests in land other than unalienated land or interests therein;

"Customary Area" has the meaning assigned thereto by section *two* of the Lands Act;

"state lands" shall have the meaning assigned to the expression "State Lands" in Article 2 of the Zambia (State Lands and Reserves) Orders, 1928 to 1964;

"trust land" means the land set apart by section 3 of the Zambia (Trust Land) Orders, 1947 to 1964, but shall not include any trust land which has been granted, disposed of, acquired, set aside or over which a right of occupancy has been granted, under section 5 of the said Orders;

"unalienated land" means reserves, unalienated state lands and trust land.

(2) The provisions of this Act shall have effect notwithstanding anything contained in any other written law.

3. The objects of the Company are to design, construct, lay, own, operate and maintain a pipeline for the carriage of oil or petroleum products from a point at or near Dar es Salaam in Tanzania to a point at or near Ndola in Zambia.

Objects of Company

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4. (1) The Company and its agents may enter upon any private land, or unalienated land, lying in the intended route of the pipeline and make surveys, examinations or other necessary arrangements on such land for fixing the site of the pipeline, and set out and ascertain such parts of the land as are necessary and proper for the pipeline. Right of entry

(2) Notwithstanding the provisions of subsection (1), no person shall enter into any building or upon any enclosed court or garden attached to a dwelling-house (except with the consent of the occupier thereof) without previously giving such occupier at least seven days' notice in writing of his intention to do so.

(3) As soon as may be after any entry made under subsection (1), the Company shall pay compensation for all damage done, to the President in the case of unalienated land and, in the case of private land, to any person having an interest in or right over such land.

5. (1) The President may, if he is satisfied that it is necessary to do so in order to enable the Company to carry out its objects- Rights over unalienated land

(a) grant to the Company by lease upon such terms and conditions as he may think fit, including the payment of rental, any area of unalienated land;

(b) grant to the Company upon such terms and conditions as he may think fit, including the payment of rental, any wayleave or right to place any pipeline over or under any unalienated land.

(2) When, in accordance with the provisions of this section, any unalienated land has been granted to the Company, the Company and its agents shall be entitled to reasonable access to such land or pipeline for the purpose of carrying on its operations on such land or of maintaining, removing, repairing or replacing such pipeline.

6. (1) The President may, if he is satisfied that it is necessary to do so in order to enable the Company to carry out its objects, by statutory order, authorise the Company to place any pipeline, whether above or below ground, into, out of or across any private land. Wayleaves over private land

(2) Nothing contained in this section shall authorise or empower the Company to lay down or place any pipeline into, through, or against any building, or in any private land covered with buildings, without the consent of the owner and lawful occupier.

(3) The rights conferred on the Company by an order made by the President under subsection (1) shall not be exercised unless and until the order has been published in the *Gazette*.

(4) When the Company has been authorised to use any land under this section or has placed a pipeline in position, the Company and its agents shall be entitled to reasonable access to such land for the purpose of carrying on its operation on such land or of maintaining, removing, repairing or replacing such line.

7. (1) The President may by order published in the *Gazette* acquire by compulsion in his name private land for use by the Company.

Compulsory
acquisition of private
land

(2) Before making an order under subsection (1), the President shall be satisfied that-

- (a) the Company has taken all reasonable steps to acquire on reasonable terms by agreement the land which it wishes to use and has been unable to do so; and
- (b) the acquisition of such land is necessary for the carrying out of the objects of the Company.

(3) The President may, under such conditions as he deems fit, including the payment of rent, permit the use by the Company of any land which he has acquired under the provisions of subsection (1), so, however, that-

- (a) the land shall not be used by the Company for any purpose other than the purpose for which it was acquired under the provisions of subsection (1); and
- (b) the land or such part of it as the President may determine shall revert to the use and absolute control of the President if it or any part of it is used for any purpose other than the purpose for which it was acquired under the provisions of subsection (1).

(4) The Company may, at any time after being permitted to use any land under this section, enter into possession or enjoyment of the land.

8. Where the powers under section six or seven are exercised by the President, every person having an interest in or right over the land concerned shall be paid adequate compensation from moneys appropriated by Parliament for the purpose.

Payment of adequate
compensation

9. (1) Notwithstanding any other provisions in this Act contained, any person having an interest in or right over any land-

Access to High Court

- (a) upon which entry has been made in pursuance of the provisions of section four;

(b) over which a pipeline has been laid in pursuance of the provisions of section *six*; or

(c) compulsorily acquired in pursuance of the provisions of section *seven*;

may make application to the High Court for the determination of his interest or right, the legality of the exercise of powers under the said section *four*, *six* or *seven*, and the amount of compensation to which he is entitled, and for the purpose of obtaining prompt payment of that compensation.

(2) For the purpose of regulating proceedings had in pursuance of the provisions of subsection (1), the Chief Justice may, by statutory instrument, make rules providing for-

(a) the institution and conduct of proceedings before the High Court, including the calling of expert witnesses and the number thereof;

(b) the fees, charges and rates payable in respect of proceedings before the High Court and the circumstances in which any party to the proceedings may be required to pay the costs of any other party;

(c) the assessment of compensation to be paid and the manner in which compensation awarded by the High Court may be paid and recovered.

10. When the Government pays any compensation in pursuance of the provisions of section *eight*, the Company shall, upon being called to do so by the Commissioner of Lands, pay to the Government the amount of such compensation.

Assessment of compensation

11. Notwithstanding anything contained in the Lands and Deeds Registry Act, the Registrar appointed thereunder shall, on application being made by the Commissioner of Lands, make such entries in the registers kept by him as are necessary for the registration of any order made under section *six* or *seven*.

Registration of orders made under section 6 or 7.
Cap. 185

12. Any person who, without the authority of the Company, wilfully destroys or damages any part of the pipeline constructed by or on behalf of the Company, or any works, structure or equipment incidental thereto, shall be guilty of an offence and liable on conviction to a fine not exceeding six thousand penalty units, or to imprisonment for a term not exceeding two years, or to both.

Offence

(As amended by Act No. 13 of 1994)

SUBSIDIARY LEGISLATION

ZAMBIA TANZANIA PIPELINE

CAP. 455

The Laws of Zambia

SECTION 6-THE ZAMBIA TANZANIA PIPELINE (WAYLEAVES) ORDER

Statutory Instrument
361 of 1967

Order by the President

1. This Order may be cited as the Zambia Tanzania Pipeline (Wayleaves) Order. Title
2. TAZAMA Pipelines Limited are hereby authorised to place any pipeline, whether above or below ground, into, out of or across, the private lands set forth in the Schedule. Wayleaves over private land

SCHEDULE

(Paragraph 2)

<i>Farm No.</i>	<i>District</i>	<i>Registered Proprietor</i>
2872	Mkushi	Geoffrey Frank Bollen.
1672	Mkushi	Bruce Norman Goslin and Graham Vernon Goslin
1673	Mkushi	Bruce Norman Goslin and Graham Vernon Goslin.
2287	Mkushi	Unwin Jackson Moffat, John Smith Moffat and Robert Laws Moffat.
1694	Mkushi	Eric Garfield Shorsbree.
3004	Mkushi	Bernard Dick Keth.
2894	Mkushi	Vernon James Tidy.
3351	Mkushi	Daniel Blair.
3269	Mkushi	Norman Cecil Scolnik.
3340	Mkushi	Valabhai Haribhai Patel.
3281	Mkushi	Bhanwan Pema and Govindbhai Dahyabhai Patel.
2907	Mkushi	Vallabhai Haribhai Patel.
415	Copperbelt	Rhokana Corporation Ltd.
a343a	Copperbelt	Chondwe Citrus Estates (1961) Ltd.
Remaining Extent of Farm 1013	Copperbelt	Rocco Silena and Vito Silena.
Sub. A of Farm 1013	Copperbelt	Leslie Huxtable Taylor.

SECTION 9-THE ZAMBIA TANZANIA PIPELINE (HIGH COURT) RULES

Statutory Instrument
384 of 1968
Act No.
13 of 1994

Rules by the Chief Justice

1. These Rules may be cited as the Zambia Tanzania Pipeline (High Court) Rules. Title
2. An application under section *nine* of the Act shall be made by petition in writing filed in the Registry of the High Court. Application by petition
3. The petition shall be in numbered paragraphs and shall set out the name and address of the petitioner and the circumstances of the matter and the relief sought. Petition

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- 4.** Where the petition relates solely to an entry made in pursuance or purported pursuance of rights of entry given by section *four* of the Act, the applicant shall as soon as may be cause a copy of the petition to be served on the Company. In any other case, the applicant shall as soon as may be cause copies of the petition to be served on both the Company and the Attorney-General. Service
- 5.** The High Court shall fix a date for hearing not being less than fourteen days from the date of filing and shall notify the parties. Hearing
- 6.** The petitioner may appear in person or by a legal practitioner and may adduce evidence. Petitioner
- 7.** The Company and the Government may appear by legal practitioner and may adduce evidence. Company and Government
- 8.** The Company or the Government or both may file an answer to the petition not later than two days before the date of hearing and in such case shall serve a copy of the answer on the petitioner on or before the date of hearing. Answer
- 9.** The High Court may in its discretion receive evidence by affidavit in addition to or in substitution for oral evidence. Evidence
- 10.** Expert witnesses may be called in the same manner as any other witnesses but the maximum number to be called by any one party shall be three. Expert witnesses
- 11.** The High Court may adjourn the hearing from time to time. Adjournment
- 12.** An applicant shall be entitled to be paid such reasonable compensation as the High Court shall determine- Compensation
- (a) for any inconvenience or loss caused by an entry made in pursuance or purported pursuance of any right of entry under section *four* of the Act;
- (b) for any inconvenience or loss caused by the laying and/or presence of a pipeline under the powers conferred by section *six* of the Act.
- 13. (1)** In estimating the compensation to be given for any lands or for any right or interest in lands, acquired under section *seven* of the Act, the High Court shall assess the same on the market value of such lands, right or interest on the date of acquisition. Assessment of compensation

(2) The High Court shall also take into account any damage or inconvenience suffered by the applicant by reason of the severance of land from other lands in the ownership or occupation of the applicant or by reason of the fact that part only of his right or interest is acquired.

14. The applicant's costs of proceedings in the High Court shall be paid by the other party to the proceedings and where both the Company and the Government are parties the costs shall be apportioned between them as the High Court shall decide: Costs

Provided that-

- (i) where the applicant has, prior to filing his application, been offered compensation of an amount equal to or greater than that assessed by the High Court, each party shall abide his or its own costs;
- (ii) where the High Court considers that the refusal by the petitioner of an offer was unreasonable, the petitioner may be ordered to pay such costs of the other party or parties as were incurred after the offer was made.

15. (1) The provisions of Part IV of the State Proceedings Act shall apply in respect of the payment of compensation and costs awarded by the High Court against the Government and in respect of the recovery thereof. Recovery, etc.
Cap. 71

(2) Compensation and costs and interest thereon awarded against the Company may be recovered as a civil debt.

16. The fee units payable to the High Court shall be as follows: Prescribed fees

On filing a petition	..	45,000 fee units
On filing an answer	..	45,000 fee units

(As amended by Act No. 13 of 1994)