

ACT 455
DISTRICT ASSEMBLIES COMMON FUND ACT, 1993

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ACT 455
DISTRICT ASSEMBLIES COMMON FUND ACT, 1993(1)

AN ACT to provide for the District Assemblies Common Fund, the appointment of the District Assemblies Common Fund Administrator, to provide for the functions of the Administrator and related matters.

Establishment of the Fund

1. The District Assemblies Common Fund

(1) The District Assemblies Common Fund established by article 252 of the Constitution consists of the moneys allocated by Parliament under section 2 of this Act and the interests and dividends accruing from investments of moneys from the Fund.

(2) The allocation made by Parliament under section 2 of this Act shall be paid into the Fund in quarterly instalments.

(3) The moneys accruing to the District Assemblies in the Fund shall be distributed among the District Assemblies on the basis of a formula approved by Parliament.

(4) For the purposes of determining the formula under subsection (3), the Administrator appointed under section 3 of this Act shall, within six months after the appointment, and thereafter, within three months after the end of every financial year, submit to Parliament proposals for the formula for the consideration of Parliament.

(5) This section or any other law does not prohibit the Government or any other body or person from making grants-in-aid to a District Assembly.

2. Allocation to District Assemblies

Parliament shall annually allocate not less than five percent of the total revenues of the Republic to the District Assemblies for development, in accordance with clause (2) of article 252 of the Constitution.

3. Appointment of the Administrator

In accordance with clause (4) of article 252 of the Constitution, the President, acting in consultation with the Council of State and with the approval of Parliament, shall appoint the District Assemblies Common Fund Administrator.

4. Qualifications of the Administrator

A person is not qualified to be appointed the Administrator if that person

- (a) is not a citizen;
- (b) has been adjudged or otherwise declared
 - (i) bankrupt under a law in force in the Republic and has not been discharged, or
 - (ii) to be of unsound mind or is detained as a criminal lunatic under a law in force in the Republic; or
- (c) has been convicted
 - (i) for a high crime under the Constitution or high treason or treason or for an offence involving the security of the Republic, fraud, dishonesty or moral turpitude, or
 - (ii) for any other offence punishable by death or by a sentence of imprisonment of not less than ten years;
- (d) has been found by the report of a commission or a committee of inquiry to be incompetent to hold public office or is a person in respect of whom a commission or committee of inquiry has found that while being a public officer that person acquired assets unlawfully or defrauded the Republic or misused or abused office, or wilfully acted in a manner prejudicial

to the interest of the Republic and the findings have not been set aside on appeal or judicial review;

- (e) has not paid the relevant taxes or made arrangements satisfactory to the appropriate authority for the payment of those taxes;
- (f) is under sentence of death or any other sentence of imprisonment imposed by a Court; or
- (g) is otherwise disqualified by a law.

5. Tenure and conditions of office

(1) The Administrator shall hold office for a period of four years and is eligible for re-appointment.

(2) The salary and allowances payable, and the facilities and privileges available to the Administrator shall be determined by the President in accordance with article 71 (1) of the Constitution.

6. Removal of the Administrator

The Administrator may resign from office by writing addressed to the President and the President may request the Administrator to resign from office or remove the Administrator from office for a just cause.

7. Functions of the Administrator

The Administrator has the following functions:

- (a) to propose a formula annually for the distribution of moneys in the Fund for approval by Parliament;
- (b) to administer and distribute moneys paid into the Fund among the District Assemblies in accordance with the formula approved by Parliament;
- (c) to report in writing to the Minister on how allocations made from the Fund to the District Assemblies have been utilised by the District Assemblies; and
- (d) to perform any other functions that may be directed by the President.

Financial Provisions

8. Investment of moneys in the Fund

The Administrator may, pending the distribution of moneys in the Fund, from time to time invest all or a portion of the moneys in the Fund in the securities or in the manner approved by the Minister in consultation with the Minister responsible for Finance.

9. Financial liability of the District Assemblies

The Minister responsible for Finance shall, in consultation with the Minister, determine the category of expenditure of the approved development budget of the District Assemblies that shall in each year be met out of amounts received by the District Assemblies from the Fund.

10. Staff of the Fund

(1) There shall be appointed by the President for the Fund, in accordance with article 195 of the Constitution, the staff that the Administrator may require for the effective performance of the functions of

the Administrator.

(2) The staff of the Fund are public officers.

(3) The President may delegate the power of appointment under this section to the Minister or to the Administrator.

11. Accounts and audit

(1) The Administrator shall keep proper books of account and proper records in relation to the accounts of the Fund in the form approved by the Auditor-General.

(2) The books of account of the Fund shall at the end of each financial year be audited by the Auditor-General.

(3) The Administrator shall pay in respect of the audit the fees that the Administrator and the Auditor-General may agree on.

12. Expenses of the Administrator

(1) Subject to subsection (2), the expenses incurred by the Administrator under this Act are a charge on the Consolidated Fund.

(2) Charges including bank charges on transfers and charges on interests shall be charged on the Fund.

13. Financial year

The financial year for the Fund shall be the same as the financial year of the Government.

Miscellaneous

14. Annual report

The Administrator shall, within six months after the end of each financial year, submit to Parliament a report of the activities of the Fund during the preceding financial year including the manner in which the moneys lodged in the Fund have been distributed and the report of the Auditor-General on the accounts.

15. Complaints

A person or a District Assembly dissatisfied with the performance by the Administrator of a function under this Act may submit a complaint to the Commission on Human Rights and Administrative Justice.

16. Adaptation and modification of existing enactments

The Local Government Act, 1993 (Act 462) and any other enactment in existence immediately before the coming into force of this Act shall have effect subject to the modifications necessary to give effect to this Act.

17. Interpretation

In this Act, unless the context otherwise requires,

“**Administrator**” means the District Assemblies Common Fund Administrator provided for under

article 252 of the Constitution;

“**Auditor-General**” includes an auditor appointed by the Auditor-General;

“**Court**” means a court of competent jurisdiction;

“**District Assembly**” includes a Metropolitan and a Municipal Assembly;

“**Fund**” means District Assemblies Common Fund;

“**Minister**” means the Minister responsible for Local Government;

“**total revenue**” means the revenue collected by or accruing to the Government other than foreign loans, grants, non-tax revenue and revenues already collected by or for District Assemblies under an enactment.

Endnotes

1 (Popup - Footnote)

1. The Act was assented to on 6th July, 1993.