

THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS)
(NO.2) ACT, 2010

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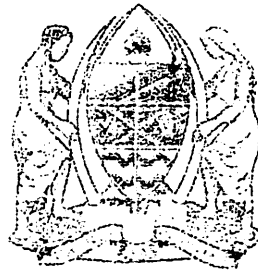
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THE UNITED REPUBLIC OF TANZANIA



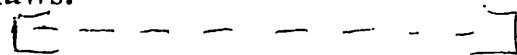
NO. 11 OF 2010

I ASSENT,

Jakaya Msho Kikwete
.....
President

20th May, 2010
.....

An Act to amend certain written laws.



ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Written Laws (Miscellaneous Amendments) (No.2) Act, 2010.

Amendment of certain laws

2. The various written laws specified in various Parts of this Act are amended in a manner specified in the respective Parts.

PART II

AMENDMENT OF THE BANK OF TANZANIA ACT, CAP. 197

Construction Cap. 197

3. This Part shall be read as one with the Bank of Tanzania Act, hereinafter referred to as the "principal Act".

Amendment
of section 9

4. The principal Act is amended in subsection (2) of section 9 by-

(a) deleting paragraph (c) and substituting for it the following:

“(c) the Principal Secretary to the Treasury of the Revolutionary Government of Zanzibar, who shall be an *ex-officio* member;”

(b) adding immediately after paragraph (c) as amended a new paragraph (d) as follows:

“(d) one representative from the Ministry responsible for finance in the Government of the United Republic;”; and

(c) renaming paragraph (d) as (e).

PART III

AMENDMENT OF THE BANKING AND FINANCIAL INSTITUTIONS ACT, CAP 342

Construction

5. This Part shall be read as one with the Banking and Financial Institutions Act, hereinafter referred to as the “principal Act”.

Amendment
of section 37

6. The principal Act is amended in subsection (3) of section 37 by deleting paragraph (b) and substituting for it the following:

“(b) one representative from the Ministry responsible for finance in the Government of the United Republic;”

PART IV

AMENDMENT OF THE CAPITAL MARKETS AND SECURITIES AUTHORITY ACT, CAP. 79

Construction
Cap. 79

7. This Part shall be read as one with the Capital Markets and Securities Authority Act, hereinafter referred to as the “principal Act”.

PART VII
AMENDMENT OF THE MERCHANT SHIPPING ACT, CAP. 165

Construction
Cap. 165

13. This Part shall be read as one with the Merchant Shipping Act hereinafter referred to as the "principal Act"

Amendment
of section
341

14. The principal Act is amended in section 341 by-

(a) adding immediately after sub-section (2) the following new sub-section:

"(3) A person who does any of the acts referred to under subsection (1) commits an offence of piracy and shall upon conviction be liable to imprisonment for life.";

(b) renumbering subsection "(3)" as sub-section (4).

PART VIII
AMENDMENT OF THE NEWSPAPERS ACT, CAP. 229

Construction
Cap. 229

15. This Part shall be read as one with the Newspapers Act, hereinafter referred to as the "principal Act".

Amendment of
section 57

16. The principal Act is amended in section 57 by deleting subsections "(1)," "(2)" and "(3)" and substituting for them the following:

"(1) The Court may, where-

(a) ends of justice so require; and

(b) the matter before it is of the nature attracting the aid of assessors,

on its own motion or upon application by either of the parties, sit with not less than three competent assessors and the case shall be tried

Amendment
of section 6

8. The principal Act is amended in subsection (3) of section 6 by deleting paragraph (c) and substituting for it the following:

“(b) one representative from the Ministry responsible for finance in the Government of the United Republic;”

PART V

AMENDMENT OF THE CRIMINAL PROCEDURE ACT, CAP. 20

Construction
Cap. 20

9. This Part shall be read as one with the Criminal Procedure Act, hereinafter referred to as the “principal Act”.

Amendment
of First
Schedule

10. The principal Act is amended in the First Schedule by deleting columns 4 and 5 of section 66 appearing under PART VIII and substituting for them the following:

4	5
<i>Punishment</i>	<i>Court</i>
<i>Life imprisonment</i>	<i>High Court</i>

PART VI

AMENDMENT OF THE FINANCIAL LEASING ACT, CAP. 417

Construction
Cap. 417

11. This Part shall be read as one with the Financial Leasing Act, hereinafter referred to as the “principal Act”.

Amendment
of
section 22

12. The principal Act is amended in section 22 by deleting the words “Minister may” and substituting for it the phrase “Governor of the Bank of Tanzania may after consultation with the Minister”.

in the manner prescribed in this section.

(2) Where the court sits with assessors and when the case on both sides is closed, the court shall—

(a) sum up the evidence for both parties to the assessors;

(b) require each of the assessors to state his opinion orally as to the case against the defendant and as to any specific question of fact addressed to him by the court; and

(c) record such opinion.

(3) In deciding any proceedings to which the provisions of subsections (1) and (2) apply, the court shall not be bound to conform to the opinions of assessors.”

PART IX

AMENDMENT OF THE PENAL CODE, CAP. 16

Construction
Cap. 16

17. This Part shall be read as one with the Penal Code, hereinafter referred to as the “principal Act”.

Amendment of
section 6

18. The principal Act is amended by repealing section 6 and substituting for it the following new section:

“Extent of
jurisdiction of
local courts

6.-(1) The jurisdiction of the Courts of Tanzania for the purposes of this Code extends to—

- (a) every place and within the territorial waters;
- (b) any offence committed by a citizen of Tanzania in any place outside Tanzania;
- (c) any offence committed by any

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person on an aircraft registered in Tanzania; and

(d) offences committed by any person on the high seas.

(2) For the purposes of this section the term "high seas" means the open seas of the world outside the jurisdiction of any state."

Amendment of section 66

19. The principal Act is amended by repealing section 66 and substituting for it the following new section:

"Piracy 66.-(1) A person who-

(a) does any act of violence or detention, or any act of degradation, committed for private ends by the crew or the passengers of a private ship or a private aircraft, and directed-

(i) against another ship or aircraft, or against persons or property on board such ship or aircraft; or

(ii) against a ship, aircraft, persons or property in a place outside the jurisdiction of any state;

(b) participates in the operation of a ship or of an aircraft with knowledge of facts

making it a pirate ship
or aircraft; or

- 4 (c) does any act of inciting
or of intentionally
facilitating an act
referred to in
paragraph (a) or (b),

commits an act of piracy.

(2) A person who does or
participate in piracy commits an
offence of piracy and on conviction
is liable to imprisonment for life.

(3) Where a pirate ship is not
registered in Tanzania, no
prosecution shall be commenced
unless there is special arrangement
between the arresting state or agency
and Tanzania.

(4) No prosecution shall be
commenced under this section
without the consent of the Director
of Public Prosecutions.

(5) For the purposes of this
section-

“pirate ship or aircraft” means a ship
or aircraft under the
dominant control of person
who-

- (a) intend to use such ship
or aircraft for piracy; or
(b) have used such ship or
aircraft for piracy, so
long as it remains under
the control of that
person; and

“private ship or private aircraft”
means a ship or aircraft that
is not owned by the
Government or held by a
person on behalf of or for the
benefit of the Government.”

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PART X

AMENDMENT OF THE PUBLIC CORPORATIONS ACT, CAP. 257

Construction
Cap. 257

20. This Part shall be read as one with the Public Corporation Act, hereinafter referred to as the “principal Act”.

General
amendments

21. The principal Act is amended generally-

(a) in section 14 by-

- (i) inserting the phrase “and to the Office of Treasury Registrar” between the words “responsible Minister” and “a draft” appearing in subsection (1)
- (ii) deleting the words “and the Commission” appearing in paragraph (f) of subsection (2) and substituting for them the phrase “and the Office of Treasury Registrar”;
- (iii) inserting the words “and the Commission” immediately after the words “responsible Minister” wherever they appear in subsections (3), (4) and (6);

(b) in sections 15 and 16 by inserting the phrase “and the Office of Treasury Registrar” immediately after the words “responsible Minister” wherever they appear in those sections;

(c) in section 18 by-

- (i) inserting the phrase “and the Office of Treasury Registrar” between the words “responsible Minister” and “any” appearing in subsection (1);
- (ii) inserting the phrase “or to the Office of Treasury Registrar” between the words “responsible Minister” and “may” appearing in subsection (1);
- (iii) inserting between the words “responsible Minister” and “any” appearing in subsection (1) the phrase “or to the Office of Treasury Registrar”;

(d) in section 20 by adding at the end of the opening words of subsection (2), the phrase “upon recommendation of the Office of Treasury Registrar”;

(e) adding immediately after section 20 a new section 20A as follows-

Powers of
Treasury
Registrar

Cap 370

20A.-(1) For the purpose of securing the proper management of the properties and other investments vested in him under the Treasury Registrar (Powers and Functions) Act, the Treasury Registrar shall closely monitor the supervision and control of the financial affairs of all public and statutory corporations and may, in particular-

- (a) cause a special examination to be made of the expenditure of the funds of any public or statutory

- corporation;
- (b) require any corporation to make specific adjustments of expenditure;
- (c) cause or facilitate the conduct of inquiries into the conduct and performance of functions by officers having control of, or access to the funds or employed in the maintenance of the accounts of any public or statutory corporation;
- (d) direct or approve the adoption, application or amendment of financial regulations so as to ensure the proper accounting of incomes and expenditure of corporation;
- (e) recommend to the Minister measures designed to-
 - (i) minimise unproductive expenditure of funds of public and statutory corporations;

(ii) averting loss of funds resulting from negligence, lack of care, theft, dishonest or otherwise.

(2) Absence of provisions in any law establishing a statutory corporation that requires the statutory corporation to comply with the provisions of this section shall not be a defence for the statutory corporation not to comply with any directive or requirement made pursuant to this section.

PART XI

AMENDMENT OF THE NATIONAL BANK OF COMMERCE (RE-ORGANISATION AND VESTING OF ASSETS AND LIABILITIES) ACT, CAP. 404

Construction
Cap. 404

22. This Part shall be read as one with the National Bank of Commerce (Re-Organisation and Vesting of Assets and Liabilities) Act, hereinafter referred to as the "principal Act".

Amendment
section 6A

23. The principal Act is amended in 6A by-

- (a) inserting the phrase "in consultation with the Treasury Registrar" between the word "may" and "direct";
- (b) inserting the phrase "and the Treasury Registrar" between the word "accountable" and a full stop

PART XII
AMENDMENT OF THE PUBLIC SERVICE RETIREMENT BENEFITS
ACT, CAP. 371

Construction
Cap. 371

24. This Part shall be read as one with the Public Service Retirement Benefits Act, hereinafter referred to as the "principal Act".

Amendment of
section 52

25. The principal Act is amended in subsection (1) of section 52 by deleting paragraph (a) and substituting for it the following-

"(a) the Chairman who shall be appointed by the President;"

PART XIII
AMENDMENT OF THE STATISTICS ACT, CAP. 351

Construction
Cap. 351

26. This Part shall be read as one with the Statistics Act, hereinafter referred to as the "principal Act".

Amendment
of section 6

27. The principal Act is amended in section 6 by deleting subsection (2) and substituting for it the following:

"(2) The Board shall consist of-

- (a) the chairman who shall be appointed by the President;
- (b) one representative of the Ministry responsible for statistics; and
- (c) not more than eight other members."

Amendment
of section 8

28. The principal Act is amended in section 8 by deleting the words "The Permanent Secretary" appearing at the beginning of that section and substituting for it the phrase:

"The Permanent Secretary of the Ministry responsible for statistics".

(2) The Office of the Treasury Registrar shall be a body corporate with perpetual succession and official Seal and shall, in its own name, be capable of-

- (a) suing and being sued;
- (b) acquiring, holding, managing and disposing of properties;
- (c) executing deeds and instruments;
- (d) entering into agreement;
- (e) exercising all rights conferred by the holding of investments including the powers of holding immovable and other properties; and
- (f) doing all other acts and things necessary or expedient to be done in the execution of the duties of the Office of Treasury Registrar or which are required to be done or may be done by the Office of Treasury Registrar under this Act or any other written law."

Addition of
section 3A

34. The principal Act is amended by adding immediately after section 3 as amended the following new section:

"Appointment
of Treasury
Registrar

3A.-(1) There shall be a Treasury Registrar who shall be appointed by the President from amongst the citizens of Tanzania.

(2) The President on appointment of the Treasury Registrar shall, consider relevant professional qualifications, experience and leadership skills suitable for appointment to the post.

(3) The Treasury Registrar shall not, personally or by virtue of his office, be

PART XIV

AMENDMENT OF THE TANZANIA REVENUE AUTHORITY ACT, CAP. 399

Construction
Cap. 399

29. This Part shall be read as one with the Tanzania Revenue Authority Act, hereinafter referred to as the "principal Act".

Amendment
of section 10

30. The principal Act is amended in sub-section (1) of section 10 by deleting paragraph (b) and substituting for it the following:

" (b) one representative from the Ministry responsible for finance in the Government of the United Republic."

PART XV

AMENDMENT OF THE TREASURY REGISTRAR (POWERS AND FUNCTIONS) ACT, CAP. 370

Construction
Cap. 370

31. This Part shall be read as one with the Treasury Registrar (Powers And Functions) Act, hereinafter referred to as the "principal Act".

Amendment
of section 2

32. The principal Act is amended in section 2 by deleting the definition of the term "investments" and substituting for it the following:

"investment" include shares, stock, debentures, debenture stock, loan stock, notes, bonds and mortgages in or of any corporate body or issued by or on behalf of the Government.

Amendment
of section 3

33. The principal Act is amended by repealing section 3 and substituting for it the following:

"Establishment of Office of Treasury Registrar 3.-(1) There is established an office to be known as the Office of the Treasury Registrar.

appointed as a member or Chairman of a corporation in which the Government is a shareholder.

(4) The provisions of subsection (3) shall not be construed as a bar to other members of the Office of Treasury Registrar from being appointed as board members.

(5) The Treasury Registrar shall hold Office for a term of five years and shall be eligible for reappointment for one further term only.”

Amendment
of section 4

35. The principal Act is amended by repealing section 4 and substituting for it the following:

“Employment
and
management of
staff

4.-(1) The Treasury Registrar shall employ, appoint, promote and control discipline of such number and categories of officers and employees of such qualifications as may be considered necessary to assist him in the performance of the functions, carrying responsibilities and exercise of his powers.

(2) In discharging the duty imposed by subsection (1), the Treasury Registrar shall, with necessary variations be guided by the laws governing employment in the public service.

(3) A person who, immediately before the coming into force of this section, holds or is acting in any capacity within the Office of Treasury Registrar, upon the coming into force of this section shall be deemed to have been appointed to or to act in that office in accordance with the provisions of this Act.

(4) The Treasury Registrar shall, upon approval of the relevant authorities, determine remuneration of officers appointed or employed

pursuant to subsection (1).”

Amendment
of section 7

36. The principal Act is amended in section 7 by deleting subsection (2) and substituting for it the following:

“ (2) The President may, for the public interest and in accordance with the relevant laws, give the Treasury Registrar directives as to the disposal of investments or other properties held by him and on the interest, produce or their proceeds.”

Amendment
of section 10

37. The principal Act is amended in section 10 by-

(a) adding immediately after paragraph (f) appearing in subsection (2), the following paragraphs:

(g) invest or to dispose of investments in public corporations or statutory corporation;

(h) supervise public corporation and statutory corporation’ investment funds;

(i) make follow-up and ensure dividends from public corporation where the Government has, shares are paid when are due;

(j) monitor and evaluate the performance of public and statutory corporations;

(k) ensure that every public corporation enters into performance contract with the Treasury Registrar immediately upon appointment of the government body:

- (l) monitor and evaluate training programme in public and statutory corporations;
 - ‡ (m) direct or approve the adoption, application or amendment of financial regulations so as to ensure the proper accounting of the income and expenditure of public corporations;
 - (n) to examine and approve organization and salaries structures, schemes of service, and incentive package in public corporations and statutory corporations; and
 - (o) to monitor capital grants, subsidy, capital funds, reserves or retained earnings earned by a corporation and any other public investments;
- (b) deleting the phrase “as well as the board or management committee and the parent Ministry” appearing in subsection (3) and substituting for it the phrase “and the Chairman of board or management committee as the case may be”;
- (c) adding immediately after subsection (5) the following new subsections:

“(6) The Treasury Registrar may, where a chief executive or the chairman of board or management committee, as the case may be, without any reasonable excuse-

(a) fails to comply with the requirements under subsection (3) within the specified time; or

(b) furnishes with the Treasury Registrar false or misleading information,

recommend to the appointing authority of such chief executive or the chairman of board or management committee to be disqualified from holding such position.

(7) The Treasury Registrar shall, before making the recommendation pursuant to subsection (6), require such chief executive or the chairman of board or management committee, as the case may be, to show cause within specified period as to why such recommendation should not be made.

(8) Notwithstanding the provisions of any written law, a person against whom a recommendation under this section has been made, shall not be appointed or considered for reappointment to run a corporation or to be the Chairman of Board or management committee, as the case may be, for any other term.”

Addition of section 11A

38. The principal Act is amended by adding immediately after section 11 the following new section:

“Funds of the Office of Treasury Registrar

11A. The funds and resources for the Office of the Treasury Registrar shall consist of monies-

- (a) appropriated by the Parliament for the purpose of the Office of the Treasury Registrar;
- (b) earned in connection with services rendered in accordance with this Act or any other law;
- (c) which are donations or bequest and terms of which are acceptable by the Treasury Registrar; and
- (d) accruing to the Office of the Treasury Registrar from any other source other than monies from government investment.”

PART XVI

AMENDMENT OF THE ELECTION EXPENSES ACT, ACT NO. 6 OF 2010

Construction 39. This Part shall be read as one the Election Expenses Act, hereinafter referred to as the “principal Act”.

Amendment of section 7 39A. The principal Act is amended in section 7(3) by deleting -

- (a) the phrase “who have been approved’ appearing in the opening words and substituting the phrase “the composition of which is notified-”;
- (b) the word “by” in paragraph (a) and substituting the word “to”;
- (c) the phrase “by the District Administrative Secretary” in paragraph (b) and substituting the phrase “in case of Tanzania Mainland, to the

Executive Director of the relevant local government authority and, in case of Tanzania Zanzibar, to the District Administrative Secretary; and

(d) the word; “by” in paragraph (c) and substituting the word “to”.

Amendment
of section 9

40. The principal Act is amended in section 9 by deleting the word “seven” appearing in the opening phrase of subsection (1) and substituting for it the word “five”.

Amendment
of section 24

40A. The principal Act is amended in section 24(1) by deleting the words “within twenty one” and substituting for them the words “at least five”.

PART XVII

AMENDMENT OF THE EMPLOYMENT AND LABOUR RELATIONS ACT, CAP. 366

Construction
Cap. 366

41. This Part shall be read as one with the Employment and Labour Relations Act, hereinafter referred to as the “principal Act”.

Amendment
of the Third
Schedule

42. The principal Act is amended in the Third Schedule by deleting paragraph 13 and substituting for it the following new paragraph:

“Disputes
originating
from the
repealed
laws

13.-(1) All disputes originating from the repealed laws shall be determined by the substantive laws applicable immediately before the commencement of this Act.

(2) All disputes pending and all applications for executions filed arising from the decision of the Minister in the subordinate courts prior to the commencement of this Act shall proceed to be determined by such courts.

(3) All disputes pending -

(a) revision of the defunct Industrial Court of Tanzania shall be determined by a panel of three Judges of the Labour Court; and

(b) hearing before the Industrial Court of Tanzania shall be determined by the Labour Court.

(4) All appeals and applications for judicial review originating from the Industrial Court of Tanzania pending in the High Court shall be determined by the High Court.

(5) The Commission shall have powers to mediate and arbitrate all disputes originating from the repealed laws brought before the Commission by the Labour Commissioner and all such disputes shall be deemed to have been duly instituted under section 86 of the Act.

(6) All references pending decision of the Minister shall-

(a) in the case of references which were returned by the High Court to the Minister for retrial, be determined and finalized by the Minister; and

(b) in the case of references pending the decision of the Minister be forwarded together with their respective complete records to the Labour Court for determination.

(7) The date of the decision of the Minister shall be the date indicated in the prescribed form.

(8) Notwithstanding the provisions of any other written laws, for the purposes of computation of limitation of time, the period between the date of decision and the date of receipt of the decision shall be excluded.

(9) The provisions of this paragraph of the Third Schedule shall apply for a period of three years from the date of publication of this amendment in the *Gazette* and, the Minister may, upon consultation with the Council and by notice published in the *Gazette*, extend that period for an aggregate period not exceeding three years.

Passed in the National Assembly on the 20th April, 2010.

Dr. Thomas D. Kashihilah
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Clerk of the National Assembly