

THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS)
(NO.2) ACT, 2012

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THE UNITED REPUBLIC OF TANZANIA



NO. 6 OF 2012

I ASSENT,

Jayabaya Filimbi
President

[15th June, 2012]

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, 2012.

Amendment of certain written laws

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

PART II

AMENDMENT OF THE NATIONAL PROSECUTIONS SERVICE ACT,
(CAP. 430)Construction
Cap.430

3. This Part shall be read as one with the National Prosecutions Service Act, hereinafter referred to as the "principal Act".

Amendment of
section 18

4. The principal Act is amended in section 18, by -

(a) deleting subsection (1) and substituting for it the following:

"(1) The Director may, subject to the provisions of this Act, issue orders, guidelines or instructions for observance to all officers in the Service and all officials referred to in section 17(1) of this Act in the execution of their functions."

(b) adding immediately after subsection (3) the following:

"(4) The orders, guidelines and instructions issued under this section may be published in the *Gazette*."

Amendment of
section 22

5. The principal Act is amended in section 22, by deleting subsection (1) and substituting for it the following:

"(1) The Director may, by notice in the *Gazette*, appoint a person to be a public prosecutor from other departments of the Government, local government authorities, private practice or any legal officer to prosecute any case on the Director's behalf."

PART III

AMENDMENT OF THE POLICE FORCE AND AUXILIARY SERVICES ACT,
(CAP. 322)

Constru-
tion
Cap 322

6. This Part shall be read as one with the Police Force and Auxiliary Services Act, hereinafter referred to as the "principal Act".

Amend-
ment of
Section 7

7. The principal Act is amended in section 7, by adding immediately after subsection (2) the following new subsection -

"(3) The orders or directions made under this section may be published in the *Gazette*."

PART IV

AMENDMENT OF THE ROAD TRAFFIC ACT
(CAP.168)

Constru-
tion
Cap. 168

8. This Part shall be read as one with the Road Traffic Act, hereinafter referred to as the "principal Act".

Addition
of section
25A

9. The principal Act is amended by adding immediately after section 25 the following:

"Licen-
ce point
system

25A.-(1) For the purposes of ensuring compliance with the provision of this Act and the conditions attached to a driving licence, every licence shall have a number of points which may be deducted proportionally whenever a driving licence holder commits or is convicted of an offence under this Act.

(2) The Minister may make Regulations prescribing the manner in which the driving licence point system shall operate."

PART V

AMENDMENT OF THE CONSTITUENCIES DEVELOPMENT CATALYST FUND
ACT, (CAP. 96)

Constru-
ction
Cap. 96

10. This part shall be read as one with the Constituencies Development Catalyst Fund Act, hereinafter referred to as the "principal Act".

Amend-
ment of
section 3

11. The principal Act is amended in section 3, by –

(a) deleting the definition of the word "Minister" and substituting for it the following:

"Minister" means-

(a) in the case of Tanzania Mainland, the Minister responsible for local governments; and

(b) in the case of Tanzania Zanzibar means the Minister of State in Vice-President Office – Union affairs".

(b) inserting in the appropriate alphabetical order the following new definition:

"officer-in-charge" includes any person designated by the Clerk of the National Assembly to be an officer in-charge of the office in Tanzania Zanzibar";

Amend-
ment of
section 4

12. The principal Act is amended in section 4, by inserting the phrase "and officer-in-charge" immediately after the words "Union Matters" appearing in subsection (2).

Amend-
ment of
section 21

13. The principal Act is amended in section 21, by inserting the phrase “or officer-in-charge” immediately after the words “Council Director” appearing in subsection (2).

Amend-
ment of
section 22

14. The principal Act is amended in section 22(3), by-

- (a) adding immediately after item (ii) of paragraph (a) the following:
“(iii) the District Planning Officer, in the case of Tanzania Zanzibar;” and
- (b) adding immediately after item (ii) of paragraph (b) the following:
“(iii) one of the councillors mentioned under section 10(1)(c), in the case of Tanzania Zanzibar.”

PART VI

AMENDMENT OF THE PROCEEDS OF CRIME ACT, (CAP. 256)

Constru-
ction
Cap. 256

15. This Part shall be read as one with the Proceeds of Crime Act, hereinafter referred to as the “principal Act”.

Amend-
ment of
section 3

16. The principal Act is amended in section 3, by -

- (a) deleting the words “the offence” appearing in paragraph (b) of the definition of the term “tainted property” and substituting for them the word “crime”;

(b) deleting the definition of the term “property” and substituting for it the following:

“property” includes:

- (a) assets of every kind, whether corporeal or incorporeal, movable or immovable, tangible or intangible;
- (b) legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets; or
- (c) bank credits, travelers cheques, bankers cheques, money order, shares, bonds and other securities, drafts and letters of credits, and any interest, dividends or other income on or value from or generated by such assets whether situated in or outside the United Republic”.

Amend-
ment of
section 5

17. The principal Act is amended in section 5 by deleting the phrase “except section 4” appearing in the first line.

Amend-
ment of
section 12

18. The principal Act is amended in section 12 by -

- (a) inserting the following new paragraph:
 - “(a) a person was under investigation for the offence”;
- (b) re-numbering paragraphs “(a)” and “(b)” as paragraphs “(b)” and “(c)” accordingly.

Addition
of section
13A

19. The principal Act is amended by adding immediately after section 13 the following new section:

“Confisca-
tion order
were a
person has
died

13A.-(1) Where a person dies while under investigation or after being charged but before a conviction, the Attorney General may apply to the court for a confiscation order.

(2) The court may grant an application for confiscation order where it is satisfied, on balance of probabilities, that -

- (a) a person was under investigation when he died and reasonable steps have been taken to conduct investigation of an offence alleged to have been committed;
- (b) a person has been charged but dies before the conclusion of the trial, and there are reasonable grounds to believe that a confiscation order would have been issued against that person if he was alive.”

Amend-
ment of
section 30

20. The principal Act is amended in section 30, by deleting paragraph (a) appearing in subsection (1) and substituting for it the following:

“(a) for any reason to bring the person before the court on a charge for any serious offence; or”

Amend-
ment of
section 38

21. The principal Act is amended in section 38, by -

(a) deleting subsection (1) and substituting for it the following:

“(1) The Attorney General may apply to the court for a restraining order in terms of this section against all or any specified property of the person who is under investigation for a serious offence or has been charged with or convicted of a serious offence including the property acquired following issuance of restraining order and property of a person other than the person who is under investigation or has been charged with or convicted of a serious offence.”

(b) inserting immediately after subsection (5) the following:

“(6) In appointing a trustee in terms of subsection (2)(b), the court shall have regard to the qualifications of a trustee of the property which is under restraining order.”

Amend-
ment of
section 39

22. The principal Act is amended in section 39, by deleting subsection (4) and substituting for it the following:

“(4) Where the application is made before a person is charged, the court shall not issue a restraining order unless the court is satisfied that having regard to the matters contained in the affidavit, the reasonable step has been taken to investigate the offence concerned.”

PART VII

AMENDMENT OF THE PREVENTION OF TERRORISM ACT,
(CAP.19)

Constru-
tion
Cap.19

23. This Part shall be read as one with the Prevention of Terrorism Act, hereinafter referred to as the "principal Act".

Amend-
ment of
section 3

24. The principal Act is amended in section 3, by inserting in its appropriate alphabetical order the following new definitions:

““funds” includes-

- (a) assets of any kind, whether tangible or intangible, movable or immovable by whatever means acquired;
- (b) legal document or instrument in any form, including electronic or digital, evidencing title to, or interest in such assets; and
- (c) bank credits, traveller's cheque, bankers cheque, money orders, shares, bonds and other securities, draft and letters of credits;”

Cap.256

“property” has the same meaning as ascribed to it in the Proceeds of Crime Act;”.

Amend-
ment of
section 45
and 46

25. The principal Act is amended in sections 45 and 46, by deleting the phrase “the Director of Immigration” wherever it appear and substituting for it the phrase “the Principal Commissioner of Immigration.”

PART VIII

AMENDMENT OF THE ECONOMIC AND ORGANISED CRIME CONTROL ACT,
(CAP. 200)Constru-
ction
Cap.200

26. This Part shall be read as one with the Economic And Organised Crime Control Act, hereinafter referred to as the "principal Act".

Amend-
ment of
section 23

27. The principal Act is amended in section 23, by deleting subsection(11) and substituting for it the following:

"(11) For the purpose of this section:

""owner" includes a person who has interest in that property and include a third party;

"property" includes the property originally in the possession or under the control of the accused person or any property into or for which that original property is converted or exchange, or anything acquired by such conversion or exchange, whether before or after the accused was apprehended;".

PART IX

AMENDMENT OF THE DRUGS AND PREVENTION OF ILLICIT TRAFFIC IN
DRUGS ACT, (CAP. 95)Constru-
ction
Cap.95

28. This part shall be read as one with the Drugs and Prevention of Illicit Traffic in Drugs Act, hereinafter referred as "the principal Act".

Amend-
ment of
section 2

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

““court””:

- (a) in respect of offences under sections 12, 17 and 17A means subordinate court; and
- (b) in respect of offences under sections 16, 18, 19, 20, 21 and 23 means the High Court”.

Amend-
ment of
section 12

30. The principal Act is amended in section 12, by deleting the words “manufactured drugs” and the phrase “or any preparation containing any manufactured drugs” appearing in paragraph (d).

Amend-
ment of
section 16

31. The principal Act is amended in section 16 by -

- (a) deleting paragraphs “(a)” and “(b)” and substituting for them the following:

“(a) found in possession or does any act or omits to do any act or thing in respect of narcotic drugs or any preparation containing any manufactured drugs commits an offence and upon conviction shall be sentenced to life imprisonment; and

(b) trafficking in any narcotic drug or psychotropic substance commits an offence and upon conviction shall be sentenced to life imprisonment .”

- (b) deleting subsection (2).

Addition
of section
17A and
17B

32. The principal Act is amended by adding immediately after section 17 the following new sections:

“Penalty in respect of smoking, inhaling sniffing or otherwise using narcotic drugs

17A. A person who-

- (a) smokes, inhales, sniffs, or otherwise uses any narcotic drug or psychotropic substance;
- (b) without lawful and reasonable excuse, is found in any house, room or place used for smoking, inhaling, sniffing any narcotic drug or psychotropic substance; or
- (c) is found in possession of any pipe or other utensil for use in connection with smoking, inhaling, sniffing or otherwise using opium, cannabis, heroin, cocaine or any other related substance, commits an offence and upon conviction shall be liable to a fine of one million shillings or imprisonment for a term of ten years or to both.

Penalty in respect of the owner or occupier of a premise

17B. A person who-

- (a) being the owner, occupier or person concerned with the management of any premise, enclosure or conveyance permits such a premise, enclosure or conveyance to be used for the purpose of-

- (i) preparation of psychotropic substance or opium for smoking, selling, inhaling or sniffing any narcotic drug; or
 - (ii) manufacturing, producing or selling any narcotic drugs or psychotropic substance;
- (d) is found in possession of an tool, equipment, machine or any utensil used in connection with the preparation of opium or any other narcotic drug or psychotropic substance for smoking,
- commits an offence and upon conviction shall be liable to life imprisonment.”

PART X

AMENDMENT OF THE EVIDENCE ACT, (CAP. 6)

Constru-
tion
Cap.6

33. This part shall be read as one with the Evidence Act, hereinafter referred to as the “principal Act”.

Amend-
ment of
section
34B

34. The principal Act is amended in section 34B(2) by –

-
- (a) deleting a semicolon (;) and substituting for it with a full colon (:) appearing in paragraph (e); and
 - (b) inserting immediately after paragraph (e), the following proviso:
“Provided that the court shall determine the relevance of any objection;”

Passed in the National Assembly on the 16th April, 2012.



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Clerk of the National Assembly