



Amendment of the Statistics Act (2015), Cap. 351 | Analysis

Twaweza

There are several positive changes in the amendments, most notably including:

- removal of the offence of publishing statistics that are “false” or “may result to the distortion of facts”;
- greater clarity on the distinction between official statistics and non-official statistics;
- limiting a variety of offences that relate to abuse of position / neglect of duty in employment, etc. only to employees of NBS.

However, there are two areas of concern. Both concern the mandate of this legislation. This Act is intended to govern the collection, production and dissemination of official statistics. As defined by the Act and amendment, these are data collected by government institutions and NBS or by institutions mandated by NBS to collect official statistics. This is evidenced in:

- **Objects and Reasons:** “...establish the National Bureau of Statistics... provide for the coordination of the National Statistical System...”
- **Statement of Clarification on Misconception of Statistics Act 2015 (NBS):** The Act governs only Official Statistics. These are statistics published by or approved by the National Bureau of Statistics (NBS).

Despite these clear parameters, the Act makes reference to “statistical information”, meaning data collected outside of government systems, independent data, on a number of occasions. In particular: Articles 17(3)(c) on setting standards for statistics; 24A(2) on intentionally discrediting official statistics; and 37(4) on publishing or communicating statistics.

Article 17(3)(c) requires NBS to “*set standards for the collection, analysis and publication of statistics to ensure uniformity in quality, adequacy of coverage and reliability of statistical information.*” While it is not entirely clear what the limit of setting standards might be, this requirement is positive.

Article 24A(2) A person shall not disseminate or otherwise communicate to the public any statistical information which is intended to invalidate, distort, or discredit official statistics.

There seems to be an important problem here, most obviously if any official statistics happen to be incorrect (or even just disputable), then pointing out the problem and correcting it will be illegal. Any commentary querying or challenging official data would arguably be illegal under the amended Act, regardless of whether it was correct or not. **Indeed, this clause effectively outlaws fact-checking unless this confirms that the fact being checked is correct. Further, publication of any statistics that contradict (or merely cast doubt on) official statistics, would arguably be prohibited under this amendment.**

Article 37(4) Any person who publishes or causes to be published or communicates any official statistics or statistical information contrary to the provisions of this Act, commits an offense and is liable, on conviction to a fine of not less than ten million shillings or to imprisonment for a term of not less than three years or to both.

Given the mandate of this Act, the articles governing offenses and penalties should not refer to general statistical information.

In summary, the Amendments to the Statistics Act are largely positive and laudable. However, there is strong need to make the following two amendments to ensure that the Act does not step outside the boundaries and purposes for which it was created.

No.	Proposed Amendment	Changed Amendment
24A(2)	A person shall not disseminate or otherwise communicate to the public any statistical information which is intended to invalidate, distort, or discredit official statistics.	A person shall not disseminate or otherwise communicate to the public statistical information which deliberately and falsely distorts official statistics.
37(4)	Any person who publishes or causes to be published or communicates any official statistics or statistical information contrary to the provisions of this Act, commits an offense and is liable, on conviction to a fine of not less than ten million shillings or to imprisonment for a term of not less than three years or to both.	Any person who publishes or causes to be published or communicates any official statistics contrary to the provisions of this Act, commits an offense and is liable, on conviction to a fine of not less than ten million shillings or to imprisonment for a term of not less than three years or to both.