

THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO.3) ACT, 2019

Amendments to the Companies Act, Copyright & Neighboring Rights Act, Films and Stage Plays Act, Non-Governmental Organizations Act, Societies Act, Statistics Act, Tanzania Shipping Agencies Act and the Trustees Incorporation Act

CONSOLIDATED ANALYSIS AND PROPOSED AMENDMENTS ON THE BILL

Prepared jointly by:

Centre for Strategic Litigation, Change Tanzania, Jamii Forums, HakiElimu, Legal and Human Rights Centre, Policy Forum, Save the Children, Tanzania Human Rights Defenders Coalition, Tanzania Women Lawyers Association, TIBA, Twaweza

**Submitted in Dodoma, Tanzania on
June 23, 2019**

Companies Act Cap 212

Amendment No.	Government Proposal	Implications, gaps	Proposed Revision
<p><i>Section 4 amending Section 2 of the Company Act</i></p>	<p>“company” means a company formed and registered under this Act or an existing company established for investment, trade or commercial activities and any other activity as the Minister may, by notice published in the Gazette, prescribe;</p> <p>“commercial activities” means all activities of industry and trade, including, but not limited to, the buying or selling of commodities and activities conducted for the purpose of facilitating such buying and selling and any other activity as the Minister may, by notice published in the Gazette, prescribe;</p> <p>“investment activities” means transactions involving sale or purchase of equipment plants, properties, securities, capital, stocks, debentures or other assets generally not held for immediate re-sale and any other activity as the Minister may, by notice published in the Gazette, prescribe.</p> <p>“trade” means the transfer of goods or services from one person or entity to another and any other activity as the Minister may, by notice published in the Gazette, prescribe.</p>	<p>1. Although the proposed amendments provides room for any other activities that may not neatly fit the definitions provided, the proposed amendment does not provide clarity as to how and who determines and declares if any other activity fits the definition. In the current context of a fast changing economy it is unlikely that the law can adequately define what constitutes commercial, investment and trading activities. It risks excluding activities which may not fit such restrictive definitions. "Technologies like artificial intelligence (AI), nanotechnology, quantum computing, synthetic biology and robotics will all drastically overtake any digital progress made in the past 60 years and create realities that we previously thought to be unthinkable. Such profound realities will disrupt and change the business model of each and every industry."</p> <p>2. It is important at the very beginning for MPs to understand that Company is a general English word which means “a group of persons associated together for a common purpose”. Re Stanley [1906] 1 Ch. 131 at 134 “Company is an ambiguous term with no strictly technical meaning”. It is a term that</p>	<p>The definition of the parent Act should be maintained.</p> <p>Company Means a company formed or registered under this Act or an existing company.</p>

		<p>is ambiguous by its very nature because it just describes a group of persons. It could mean a company of soldiers, a company of friends, a company of entrepreneurs. The purpose of the Company's Act is to allow groups of persons with common interests to register a legal entity which will have a life of its own and that will be able to operate on its own through directors and other agents. The attempt to define the term company is an attempt to control what type of associations people will be allowed to form in this country under the Companies' Act.</p> <p>3. The amendment contravenes the fundamental right to freely associate that is protected by the Constitution. What the government is saying is that to be recognized as an association under the companies act, we must do the businesses set out therein. We must be a profit making enterprise or an investment. So we cannot associate as a charity for purposes of education, religion etc.... Moreover, the law contravenes the right to non-discrimination because it will only allow those who wish to associate to make profits in certain areas to do so but not other people. The definition set out does not cover all manner of business associations and clearly the drafter of this may have not have been conversant with the history of company law and our Constitution.</p>	
--	--	---	--

		<p>4. The definition will limit innovations among Tanzanians,</p> <p>5. Will also limit type of business which people what to form, which can well be dealt with during formulations of objectives of the companies.</p>	
<p><i>Section 5 of the proposed bill amending section 3 of The Companies Act by adding immediately after section 3(2) new subsection 3.</i></p>	<p>“(3) A company which is limited by guarantee which intends to promote commerce, investment, trade or any other activity as the Minister may, by notice published in the <i>Gazette</i>, prescribe, shall be incorporated or registered under this Act;”</p>	<ul style="list-style-type: none"> - Violates freedom of association by limit types of associations. - People cannot organize for charity purpose like education etc. 	<p>The Section should be deleted</p>
<p><i>Section 6 amending section 3 of the Companies Act by Add new section 3A</i></p>	<p>A company referred to under section 3(3) which was incorporated or registered prior to the coming into operation of this section shall, within two months from the date of coming into operation of this section, be required to comply with the provisions of this Act.</p>	<p>Given the significant changes and implications on companies’ registration and requirements to comply with this Act for pre-existing companies, the duration of 2 months is insufficient/impractical for compliance. It may result in many companies failing to comply in a timely manner and hence may lose registration with severe unintended consequences to the companies, the Government and the country at large. We need to increase the duration to 6-24 months and provide room for extension where necessary (which is in line with best practices in similar situations: e.g. recently, the Government extended the biometric requirement for sim-card registration by 7</p>	<p>The Section should be deleted.</p> <p>Alternatively, this is the proposed text to replace it:</p> <p>“A company referred to under section 3(3) which was incorporated or registered prior to the coming into operation of this section shall, within 24 months from the date of coming into operation of this section, be required to comply with the provisions of this Act.”</p>

		<p>months to ensure and efficient, smooth and effective procedure).</p> <p>This law is silent on those BRELA-registered companies which have NOT complied with the NGO Act.</p> <ul style="list-style-type: none"> - This provision should not apply retrospective, all registered company limited by guarantee should be deemed to be registered, if moved to NGO they should be granted certificate without any restrictions. - A company limited by guarantee is different from NGO. The two should continue being differentiated by the nature of their formation, registration and conduct and not based on the Government feeling that one entity behaves like the other. 	
<p><i>Section 6 amending section 3 of the Companies Act by Add new section 3A</i></p>	<p>A company limited by guarantee not having share capital, incorporated or registered under this Act and obtained a certificate of compliance under section 11 of the Non-Governmental Organizations Act, shall, within two months from the date of coming into operation of this section be deemed to have been registered under the Non-Governmental Organizations Act and struck off from the register</p>	<p>Unclear whether new NGO certificate will be issued or not. Two months duration is insufficient to effectively attain full compliance under the new registration (NGO Act). This may cause confusion and failure to effectively and timely comply resulting in de-registration with potentially unnecessary and irreversible effects to the individual companies, the Government and country at large.</p>	<p>A company limited by guarantee not having share capital, incorporated or registered under this, shall, within six months from the date of coming into operation of this section be deemed to have been registered under the Non-Governmental Organizations Act and struck off from the register. A new certificate of NGO registration will be issued within this period.</p>

<p>Section 8 amending section 14 of Companies Act</p>	<p>“(6) The Registrar shall not register or maintain in the register a company limited by guarantee which does not fall under section 3(3);”.</p>	<ul style="list-style-type: none"> - We have proposed delete of section 3(3) of proposed amendment in the bill. - Company limited by guarantee is different from NGO. 	<p>Section 8 of the proposed bill be deleted.</p>
<p>Section 10 amending by add new section 400A</p>	<p>(1) Where the Registrar has reasonable cause to believe that-</p> <p>(a) a registered company has been fraudulently registered;</p> <p>(b) a registered company is engaged in criminal activities such as money laundering, human trafficking, drug trafficking; terrorism financing or any other offence punishable by law;</p> <p>(c) at the time of incorporation, there was misrepresentation or fraud by a registered company;</p> <p>(d) by operation of law, all shareholders or directors have been prohibited from entering the country; or</p> <p>(e) a registered company is operating contrary to its objectives as prescribed in the memorandum and articles of association,</p> <p>he shall issue a notice in writing to the company, of his intention to strike the company off the register.</p>	<ul style="list-style-type: none"> - All over the world a company which can be struck out from the registry is a defunct company not any other company. 	<p>The Section should be deleted and maintain the previous section</p> <p>“400.-(1) Where the Registrar has reasonable cause to believe that a company is not carrying on business or in operation, he may send to the company by post a letter inquiring whether the company is carrying on business or in operation.</p> <p>(2) If the Registrar does not within thirty days of sending the letter receive any answer thereto, he shall within fourteen days after the expiration of that period send to the company by registered post a letter referring to the first letter, and stating that no answer thereto has been received, and that if an answer is not received to the second letter within thirty days from the date thereof, a notice will be published in the <i>Gazette</i> with a view to striking the name of the company off the register.</p> <p>(3) If the Registrar either receives an answer to the effect that the company is not carrying on business or in operation, or does not within thirty days after sending the second letter receive any answer, he may</p>

			publish in the <i>Gazette</i> , and send to the company by post, a notice that at the expiration of three months from the date of the notice the name of the company mentioned therein will, unless cause is shown to the contrary, be struck off the register and the company will be dissolved.”
10	<p>(2) Upon receipt of the notice referred to under subsection (1), the company may, within thirty days provide to the Registrar reasons in writing as to why the company should not be struck off the register.</p> <p>(3) Where the company fails to provide reasons under subsection (2) within the prescribed time or where the reasons provided are not satisfactory, the Registrar shall strike the company off register, publish in the Gazette the name of the company which has been struck off and notify the company accordingly.</p>	<p>The Registrar does not need to begin from the position of striking a company off the register based on his/her beliefs or suspicions. Due process should be observed. The bill also not describe what amounts to satisfactory reasons from the company. Excluding other stakeholders in determining whether the reasons are satisfactory may result in an unfair decisions being made.</p> <ul style="list-style-type: none"> - The registrar should apply to Court for striking out the company. 	<p>(2) Upon receipt of the notice referred to under subsection (1), the company may, within ninety days provide to the Registrar information and responses to his/her concerns in writing</p> <p>(3) Where the company fails to provide a response under subsection (2) within the prescribed time or where the reasons provided are not satisfactory, the Registrar shall initiate a full investigation with a view to initiating court proceedings in the event of discovery of wrong-doing.</p> <p>In alternative, “The registrar should apply to the Court of law for struck out the company from registry”</p>

10	<p>(4) Where a company, member or creditor is aggrieved by the decision of the Registrar under subsection (3) shall, within five years from the date of publication in the Gazette, apply to the court for restoration of the company in the register: Provided that, the Registrar shall not, within such period of five years, register another company with the same name.</p> <p>(5) Upon receipt of the application for restoration, the court may-</p> <p>(a) order restoration of the company in the register; and</p> <p>(b) give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.</p>	<p>Made redundant by proposed changes above. In addition it is not appropriate to allow recourse to court only once a company has been struck off. If the company no longer exists, in whose name can such a case be filed?</p>	Remove
	<p>(6) The company restored under subsection (5) shall be deemed to have continued in existence as if its name had not been struck off, and the court may, by order, give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off.</p>	<p>Made redundant by proposed changes above. In addition it is unclear whether a company that is “deemed to have continued in existence” will be liable to any taxes and fees payable to the Government during its inactive period</p>	<p>(6) The company restored under subsection (5) shall be deemed to have continued in existence as if its name had not been struck off, and the court may, by order, give such directions and make such provisions as seem just for placing the company and all other persons in the same position as nearly as may be as if the name of the company had not been struck off. There shall be no tax liabilities for the company during its period of inactivity.</p>

The Films and Stage Plays Act (Cap 230)

Amendment No.	Government Proposal	Implications, gaps	Proposed Revision
<p><i>Section 17 amending the Act adding a new Section. 6A of the Act</i></p>	<p>6A.-(1) Any foreign production company or individual using Tanzania scene, content and location for filming the whole or any part of a film, advertisement, documentary or program, shall-</p> <p>(a) submit to Tanzania Film Board raw footage;</p> <p>(b) acknowledge all physical locations used for filming;</p> <p>(c) submit a copy of a finished film, advertisement, documentary or program; Provided that, such use is compatible with fair practice and that the source and the name of the executive producer and production company are mentioned in the film, documentary or advertisement.</p> <p>(d) sign a prescribed clearance form before exiting Tanzania and submit the same to the Tanzania Film Board or any other authority appointed by the Board;</p> <p>(e) grant rights to the government of Tanzania to use content for the purposes of promoting Tanzania and its potential resources, tourism, photographic location and cultural attraction which are distributed through public broadcasts, cable programs, sound or visual recordings or any other digital platform used by public broadcaster:</p>	<ul style="list-style-type: none"> • This places unnecessary restrictions on international entities using Tanzania as a location for filming in the global market. This should not be mandatory. This will affect the local film industry and capacity and make the country unable to compete and have an impact on film tourism. • The proposed section 6A.-(1) (e) Gives government unrestricted access to creative artists' copyrighted content prior to . 	<p>6A.-(1) Any foreign production company or individual using Tanzania scene, content and location for filming the whole or any part of a film, advertisement, documentary or program, shall-</p> <p>(a) Remove</p> <p>(b) acknowledge in their final production all physical locations used for filming;</p> <p>(c) submit a copy of a finished film, advertisement, documentary or program to the Tanzania film board for its records;</p> <p>(e) grant rights to the government of Tanzania to use content for the purposes of promoting Tanzania and its potential resources, tourism, photographic location and cultural attraction which are distributed through public broadcasts, cable programs, sound or visual recordings or any other digital platform used by public broadcaster: Provided that, such use is compatible with fair practice and that the source and the name of the executive producer and production company are mentioned in the film, documentary or advertisement.</p>

<p><i>Section 18 amending (repealing and replacing) S. 14 of the Act</i></p>	<p>(3) There shall be film boards established in every district which shall be appointed by Tanzania Film Board.</p>	<ul style="list-style-type: none"> • The local film industry is not large enough to warrant a film board in every district. This will lead to unnecessary administration costs. It also makes it more bureaucratic and expensive for film producers who cover several districts in their production. The proposed amendments imply that the producer who covers several districts will have to repeat this process in all districts covered. 	<p>This amendment should be removed</p>
<p><i>Section 20 amending S. 16 of the Act</i></p>	<p>(1) A person shall not display or advertise or cause or permit to be displayed or advertised in a public place, so as to be visible from a public place, any poster unless a Film Board has first approved a poster for public display through any platform or media display</p>	<ul style="list-style-type: none"> • The Principal Act defines poster as follows; "poster" means any poster or other advertisement advertising a film or exhibition • Fundamentally, this restricts freedom of expression contrary to the Constitution of the United Republic of Tanzania. This is an excessive level of bureaucracy and censorship and will affect the whole industry. • Posters are produced regularly and in abundance, if there are some examples of content-sensitive, dangerous or incriminating posters that informs this amendment, the same should be shared because otherwise this amendment is over-burdensome and over-controlling. 	<p>(1) A person producing or intending to produce posters to be displayed or advertised may seek the advice of the Film Board on any sensitive promotional content for films or productions.</p>

<p><i>Section 21 adding Section 31 A to the Act</i></p>	<p>31A (1) The Board shall obtain profit returns from foreign film production companies or individuals in order to contribute to the national economy as well as local film industry.</p> <p>(2) The Board shall regulate a number of foreign crew entering the country for motion picture activities.</p> <p>(3) The Board shall set guidelines and procedures for accessing famous filming locations</p>	<ul style="list-style-type: none"> • The economy can benefit from film crews using Tanzania as a location. The aim of these clauses should be to facilitate and coordinate this work not create unnecessary hurdles • Production companies should not be charged a portion of their profits as this will discourage them from using Tanzania as a location. • Economic benefits to the country of filming here by international entities accrue in their spending while in the country and through the promotion of the country through the footage. Tanzania can draw examples from African countries like Tunisia who have been host to filming some of the World's Highest Grossing movies (Star Wars). • The language of clauses (2) and (3) is not enabling but rather restrictive. 	<p>31A (1) The Board shall encourage foreign film production companies or individuals to use Tanzania as a filming location</p> <p>(2) The Board shall keep record of foreign crews entering the country for motion picture activities.</p> <p>(3) The Board shall facilitate access famous filming locations for these companies or individuals.</p>
--	--	--	---

Non-Governmental Organizations Act (Cap 56)

Amendment No.	Government Proposal	Implications, gaps	Proposed Revision
<p><i>Section 25 amending section 2 of the Act</i></p>	<p>“Non-Governmental Organization” also known by its acronym "NGO" and which includes Community Based Organization (CBO) means a voluntary grouping of individuals or organizations which is, non-partisan or non-profit sharing established and operates for the benefit or welfare of the community or public organized at the local, national or international levels for the purpose of enhancing or promoting economic, environmental, social or cultural development or protecting environment.</p>	<ul style="list-style-type: none"> • The definitions of the term NGO is narrow and excludes important areas of work conducted by NGOs including defense of human rights and promotion of good governance. Since numerous registered organizations are being asked to 'move' their registration to fall under this Act, the definition should be wide enough to encompass their activities. • The definition's limitations also minimize space for diversity, creativity and innovation in the sector. The section will negatively impact the communities where organizations are working and whom they have been serving for many years. The existence of these organizations contributes to the social, economic and political development of the country as their work aims to promote social justice, democracy and other critical conditions for development. The work of these organizations directly impacts the lives of the most vulnerable and poor sections within the Tanzanian communities. • The function of NGOs is to be both supportive of government as a 	<p>The following definition is proposed:</p> <p>“Non-Governmental Organization” also known by its acronym "NGO" means a private voluntary grouping of individuals or associations, not operated for profit or for other commercial purposes but which have organized themselves nationally or internationally for the benefit of the public at large and for the promotion of social welfare, development, charity or research in the areas inclusive of, but not restricted to, health, relief, agriculture, education, industry, human rights, social justice, and the supply of amenities and services."</p>

		collaborator and also act as a critic or watchdog on behalf of citizens.	
<i>Section 26 amending section 4 of the Act</i>	(i) to suspend the operation of any Non-Governmental Organization which violates the provisions of this Act pending determination of the Board (j) to conduct monitoring of Non-Government Organizations activities on quarterly basis and report to the Board	<ul style="list-style-type: none"> • This amendment vests too much power in the Registrar, is open to abuse and against already established justice system in the Constitution of the United Republic, the Parent Act and the NGOs Code of Conduct. • There will be clear violation of the constitutional principle of Separation of powers as against the NGOs Coordination Board and the National Council for NGOs if the Registrar himself is to have the final say in whether an organization should be suspended or not. The suspension will have an immediate effect on the beneficiaries of the suspended NGO. Most NGO work directly impacts people's lives and welfare, such that allowing for unilateral suspension seems unwise. Further these organizations contribute to providing employment to citizens, if they are suspended this will affect these people, their families and dependents. • In addition, monitoring visits on a quarterly basis seem excessive; even the donors who provide the money for activities do not require this. Given that there are over 3,000 registered NGOs, it also seems unreasonable to expect 4 	<p>The proposed provisions</p> <p>i) serve a written warning requiring that particular NGO to show course as to why it should not be penalized following violation of the provisions of this Act and In the case of a repetitive default and thorough investigation by the Board, the Registrar may fine the NGO not more than one hundred thousand shillings</p> <p>ii) Provide guidelines on how NGO's should undertake Monitoring and Evaluation</p>

		visits a year to be performed and this implies that these visits will be selectively applied. It is better to create an amendment that is more feasible to implement.	
<i>Section 27 Adding section 4A</i>	The Registrar may require any law enforcement organ or public entity to provide such facilities and services of its employees as may be deemed necessary to assist the registrar in performing the functions under this Act.	<ul style="list-style-type: none"> • This provision is contrary to the constitutionally established criminal justice system in the democratic country like ours. The criminal justice system requires independence of all state machineries responsible for administration of justice. • This provision strips off independence of law enforcement organs and therefore is unnecessary in a democratic society. 	The Registrar shall, having reasonable cause to suspect criminal activity, report the matter to the appropriate law enforcement organs for further action.
<i>Section 28 adding section 8A</i>	An Organization registered under this Act, and which does not fit to be a Non-Governmental Organization by virtue of section 2 shall, after expiration of two months from the date of coming into operation of this section, be deemed to have been de-registered	<ul style="list-style-type: none"> • Automatic de-registration of organizations after two months is not a reasonable timeframe in which to allow organizations to make necessary changes to their governance structure considering the number of organizations in Tanzania and the capacity of the office of the registrar to attend to them. The time allocated has not considered a number of factors including geography, varying access to technology and the costs involved in re-registering and changing governance structures. • This requirement also goes contrary to constitutional and International 	<p>(1) An organization registered under this Act and which was previously registered under any other law shall be granted a period of 12-24 months to comply</p> <p>(2) in the event an NGO fails to comply with the provision under subsection (1) the registrar shall demand in writing that NGO to show cause why administrative measures should not be taken against it.</p> <p>(3) The Registrar may also recommend to the Board for such NGO to be fined.</p>

		<p>standards on the right to freedom of association which Tanzania is a party to such as Article 20 of the Universal Declaration of Human Rights, Article 22 of the International Covenant on Civil and Political Rights, Article 15 of the International Convention on the Rights of the Child, Article 7(c) of the Convention on the Elimination of All Forms of Discrimination Against Women, Article 26 and 40 of the International Convention on the Protection of the Rights of All Migrants Workers and Members of Their Families, Article 15 of the 1951 Convention Relating to the Status of Refugees, Article 24(7) of the International Convention for the Protection of All Persons from Enforced Disappearance, and Article 29 of the Convention on the Rights of Persons with Disabilities.</p>	
<p><i>Section 30 amending section 17 of the Act</i></p>	<p>(3) A certificate of registration issued under this section shall be valid for a period of ten years. (4) An application for renewal of certificate of registration shall be made six months before the expiry date of its registration. (5) The Board shall renew a certificate of registration upon being satisfied that the organization has complied with the</p>	<p>The requirement to seek re-registration/renewal of certificate is unnecessary and creates a burden on the NGOs both financially and administratively. It is also a burden to the Office of Registrar given the number of NGOs which will need to renew their certificates. Instead registration should remain valid until it is revoked through due process. The requirement of ‘any other written law is</p>	<p>(3) A certificate of registration issued under this section shall continue to be valid unless it is revoked by the Board due to violation of the provisions of this Act (4) The Board shall grant a certificate of registration upon being satisfied that the organization has complied with the requirements of registration under this Act (5) Remove</p>

	requirements of registration under this Act and any other written laws.	wider unnecessarily. The NGO Act is the main law regulating NGOs specifically and NGOs are subject to criminal laws as well.	
<i>Section 31 amending Section 29 of the Act</i>	addition of ‘and shall be made available to the public’	<ul style="list-style-type: none"> There is already a requirement under the parent Act to submit annually reports of NGOs to the registrar. Moreover, the regulations of 2018 on accountability and transparency already provides for this requirement. Retaining the provision of the kind amounts to unnecessary repetition. <p>On top of that, as part of the right to freedom of association, NGOs enjoys the rights to privacy and therefore Some information should remain confidential</p>	Remove this in the Parent Act and retain it as it appears in the regulations of transparency and accountability of 2018.
<i>Section 32 amending section 31 of the Act</i>	(c) to adhere to the principles of financial transparency and accountability as prescribed under other written laws	This is covered in regulations to the NGO Act issued in 2018 and thus does not need to be repeated here.	Remove this in the parent Act and retain it as it appears in the regulations of transparency and accountability of 2018.
<i>Section 34 amending the Act generally</i>	Amendment 34 deleting the words “order and good government” wherever they appear in the Act and substituting for them the words “order, morality and good governance”;	<ul style="list-style-type: none"> The article leaves a lot of room for interpretation since "morality" is subjective, immeasurable, unverifiable and open to interpretation. The Constitution as well as numerous laws already provide for order and good governance which can be made reference. This could lead to protracted, costly court disputes and 	Amendment 34 deleting the words “order and good government” wherever they appear in the Act and substituting for them the words "in violation of the Constitution of the United Republic or any other laws approved by parliament" .

		<p>burden the functioning of societies registered under this Act.</p> <ul style="list-style-type: none">• Morality should not be legislated by law and enforced by government/the state. There is no law defining morality in Tanzania so this creates significant risk of dividing Tanzanian society.• That the provision is unclear and brings multiple meaning.• That the provision is unconstitutional and is in violation of human rights	
--	--	--	--

The Societies Act (Cap 337)

Amendment No.	Government Proposal	Implications, gaps	Proposed Revision
<p><i>Section 35 amending Section 2 of the Act</i></p>	<p>"society" means a non-partisan and non-political association of ten or more persons established for professional, social, cultural, religion or economic benefits or welfare of its members, formed and registered under this Act, ... but does not include - a religious or faith propagating organization</p>	<ul style="list-style-type: none"> • The article is contradictory to its parent clause i.e. 35 (b) in that while the parent clause allows for "associations ... established for religion or economic benefits" the articles excludes "a religious or faith propagating organization". • The article is contradictory and may likely throw most religious organizations into uncertainty and disarray as "propagating religion" is indeed core business for most associations formed on the basis of religion. 	<p>"society" means any society for the time being registered under this Act, but does not include a society the registration of which is for the time being suspended, cancelled or revoked but may, where appropriate, include unregistered society applying for registration, but does not include;</p> <ol style="list-style-type: none"> a) A company formed and registered under the Companies Act b) A trust formed and registered under the Trustees' Incorporation Act; c) A trade union formed and registered under the Employment and labour Relations Act d) A cooperative society formed and registered under the Cooperative Societies Act e) A political party formed and registered under the Political Parties Act; f) A non-governmental organization formed and registered under the Non-Governmental Organization Act g) a microfinance group (VICOBA) registered under the Microfinance Act;

			h) a sport association formed and registered under the National Sport Council of Tanzania Act;
<i>Section 36 amending (repealing and replacing) section 3 and 4</i>	An association registered under this Act, which does not fit to be a society by virtue of section 2 shall, after expiration of two months from the date of coming into operation of this section, be deemed to have been deregistered	It is unclear why such short notice is given to allow societies to become compliant. The proposed amendments alter the conditions for compliance and therefore enough time needs to be availed to allow existing organizations to comply. Recent experience with NGO verification suggests the process may take up to 18 months. There is no appeal mechanism for those societies aggrieved by this clause.	Section 36 4. An organization registered under this Act, which does not fit to be a society by virtue of section 2 shall, after expiration of twenty four months from the date of coming into operation of this section, be deemed to have been de-registered. 5. Any person or society aggrieved by automatic operation of the law under Section 4 can file Judicial review before the competent Court to trial the matter.
<i>Section 37 amending (repealing and replacing) section 7 of the Act</i>	A foreign society intending to operate in Tanzania shall comply with registration requirements under this Act.	While articles mentions "foreign society" it does not go beyond to define what such is and in the end excluding associations that may not have originated from outside of Tanzania. There is no definition and therefore no provision for foreign society hence barring foreign registered associations from operating in Tanzania	A foreign society intending to operate in Tanzania shall comply with registration requirements under this Act. For the purposes of this section, a "foreign society" is a society originating in another country that aims to open a branch or chapter in Tanzania.

<p><i>Section 38 amending Section 8 of the Act</i></p>	<p>Any Society declared by order of the of Minister to be a society dangerous to the good governance of Tanzania, shall be declared to be unlawful under the provisions of this section and every such order made under the provisions of this section shall continue in force until revoked under this Act</p>	<p>Good governance' is not defined in this or any other law.</p> <p>The Principal Act section 8(1) empowers the President to declare unlawful any society. This amendment provides the same power to the Minister thereby creating confusion in the law.</p> <p>Further, the section provides unrestricted powers to the Minister. The sub section provides no room for appeal and no due process to arrive at deregistration. With such impunity, this clause contravenes the Article 13 (6) (a) of the Constitution of the United Republic of Tanzania.</p>	<p>Amendment 38</p> <p>Any Society suspected by the Minister to be a society dangerous to the good governance of Tanzania, shall be subject to a legal process to determine its registration status.</p> <p>ALTERNATIVE:</p> <p>Keep clause as is and include additional clauses as below:</p> <p>8 (7) No decision will be issued under this section before affected persons are given the right to be heard.</p> <p>8 (8) A society/person aggrieved by the decision issued under this section should have the right to make application for judicial review before The High Court.</p>
---	---	---	---

The Statistics Act (Cap 351)

Amendment No.	Government Proposal	Implications, gaps	Proposed Revision
<i>Section 52 amending S. 3 of the Act</i>	“national standards” means guidelines for producing official statistics used by Bureau;	<ul style="list-style-type: none"> • Since these guidelines are to be used to judge the quality of non-government data and its suitability for publishing, it is important to put in place transparent and consultative procedures for the development of these guidelines and their regular dissemination. • Otherwise it can appear that the Bureau is making arbitrary decisions just because the guidelines are not know. 	“national standards” means guidelines for producing official statistics used by Bureau; produced in consultation with stakeholders and regularly disseminated by the Bureau.
<i>Section 53 amending S. 6 of the Act</i>	Addition of responsibility to the mandate of the Bureau: (g) coordinate publishing of statistical information	<ul style="list-style-type: none"> • Given that Section 56 (7 (a-d) <i>of these amendments amending section 24B</i>) exempts statistical information collected by a significant proportion of organizations that do this work from consultation with the Bureau, it is more correct to say that the Bureau coordinates the publication of official statistics. 	(g) coordinate publishing of official statistics
	(2) A person who has different findings from statistics disseminated by the Bureau shall, subject to consultation with the Bureau, have the right to challenge such statistics	<ul style="list-style-type: none"> • The use of the phrase "has the right to challenge such statistics" is unclear and can be misleading. The process described is essentially one of approval or not, there is no description of what might be 	A person who has different findings from statistics disseminated by the Bureau shall have the right to publish the different findings prior to consulting with the Bureau.

		conceived as a 'challenge' and what form such a challenge would take.	
Section 55 amending S. 24A	(6) The Technical Committee referred to under this section shall be formed by the Minister and shall be composed of members who are conversant with and possess expertise on matters relating to statistics and the subject to be determined	<ul style="list-style-type: none"> • The addition of a point of recourse for disagreements on interpretations of statistics is welcome. However, its independence and integrity must be guaranteed by law. • No reference is made to the composition, mandate or rules governing the work of the Technical Committee. 	(6) The Technical Committee referred to under this section shall be formed by the Minister, after consultation with the organization(s) or individual whose statistical information is being reviewed, and shall be composed of members who are conversant with and possess expertise on matters relating to statistics and the subject to be determined.
Section 56 amending (repealing and replacing) S. 24B	(7) Notwithstanding subsection (1), the following statistical information may be published without consultation- (a) surveys or researches in natural sciences, technology or innovation conducted by recognized academic and research institutions such as universities and other academic and research institutions; (b) researches conducted using administrative data or statistics from Government institutions such as ministries, independent departments, authorities and regional administration; (c) surveys or researches conducted for programmes by international organizations, regional bodies, intergovernmental organizations bilateral institutions, diplomatic missions or international development organizations; and	<ul style="list-style-type: none"> • The increased space created in this Act for the publication, without consultation, of statistical information collected by a range of actors is appreciated and welcomed. • However this leaves several categories of research that require consultation and leads to questions about why these particular organizations are not exempted. <ul style="list-style-type: none"> ○ These include: recognized academic and research institutions conducting socioeconomic household surveys or knowledge, attitudes and perception surveys; and local civil society organizations conducting research for raising awareness, generating 	(7) Notwithstanding subsection (1), the following statistical information may be published without consultation- (a) surveys or researches in natural sciences, technology or innovation conducted by recognized academic and research institutions such as universities and other academic and research institutions; (b) researches conducted using administrative data or statistics from Government institutions such as ministries, independent departments, authorities and regional administration; (c) surveys or researches conducted for programmes by international organizations, regional bodies, intergovernmental organizations bilateral institutions, diplomatic missions or international development organizations; (d) surveys or researches conducted purely for internal or personal use by institutions or

	<p>(d) surveys or researches conducted purely for internal or personal use by institutions or organizations which are not intended to be published.</p>	<p>public debate or advocacy; and monitoring and evaluation data often collected by NGOs.</p> <ul style="list-style-type: none"> • We propose a more balanced approach to organizations working to collect statistical information. 	<p>organizations which are not intended to be published;</p> <p>(e) recognized academic and research institutions conducting socioeconomic or knowledge, attitudes and perception surveys;</p> <p>(f) local civil society organizations conducting research for raising awareness, generating public debate or advocacy; and</p> <p>(g) monitoring and evaluation data often collected by NGOs</p>
--	---	--	--

Tanzania Shipping Agencies Act (Cap 415)

Amendment No.	Government Proposal	Implications, gaps	Proposed Revision
<i>Section 61 amending section 5 of the Act</i>	(g) promoting competition in the maritime transport services; (h) entering into contractual obligations with other persons or body of persons in order to secure the provision of quality and efficient shipping services and maritime environment, safety and security, whether by means of concession, joint venture, public private partnership or other means and to delegate its own functions of providing shipping services and maritime environment, safety and security to one or more parties.	Should this section be deleted, it would prevent monopoly with TASAC. Even better, if TASAC came with a campaign to promote competitive advantage over other commercial shipping agents to promote stronger competition for wilful award of clearing contract to the regulatory requirements	Delete
	(ii) adding between the words “trophies” and “or” appearing in paragraph (a) the following words “fertilizers, industrial sugar, domestic sugar, edible cooking oil, wheat, oil products, gas, liquefied gas and chemicals or any other liquid related products	The list gives exclusivity to TASAC to clear such nature of industrial goods listed, majority of which are the only products that huge commercial clearing companies depend on for their survival	Added list of items between trophies and "or"

<p><i>Section 62 amending section 7 of the Act</i></p>	<p>(d) shipping agency functions in relation to-</p> <p>(i) tanker ships, pure car carriers vessel, cruise vessel, exhibition vessel, casual caller, chartered vessel and military ship;</p> <p>(ii) minerals, mineral concentrates, machineries, equipment, products or extracts related to minerals and petroleum, firearms and ammunition, live animals, Government trophies, fertilizers, industrial and domestic sugar, edible or cooking oil, wheat oil products, gas, liquefied gas and chemicals or any other liquid related products"; or</p> <p>(iii) any other goods as the Minister may by order published in the Gazette prescribe.</p>	<ul style="list-style-type: none"> Shipping agency functions that should fall under TASAA and should be carried out with regulator for ship agency. Where TASAC handles these activities, as well as those for clearing, a great loophole for corruption may arise, at the time of requesting for the delivery orders 	
<p><i>Section 69 amending of section 46 of the Act</i></p>	<p>The principal Act is amended in section 46, by-</p> <p>(a) deleting the words “business of shipping agency” appearing in paragraph (a) and substituting for them the words “regulated service”; and</p> <p>(b) deleting paragraph (b) and substituting for it the following: “(b) inspect and take copies of any record required under this Act to be kept in respect of regulated service or any other records relating to such service,”</p>	<ul style="list-style-type: none"> Changes affected related to the inspection of documentation of the regulated activities under the corporation. The only concern is, whether a prior notice for such inspection would be served or not, which has not been specified. If the inspection would be abrupt, then it would disturb the productive operations time, causing unnecessary panic and NPT 	

<p><i>Section 73 amending (adding a new section 1A)</i></p>	<p>73. The Principal Act is amended by adding immediately after section 1 the following: “Interpretation 1A. In this Act, unless the context requires otherwise- “trust” means a legal relationship created by personal acts, by an order of the court or operation of the law, when specified property or interests are placed under the control and management of a trustee or trustees for the benefit of another party or parties, called a beneficiary or beneficiaries, or for purposes specified under section 2(1), and excludes:</p> <p>Cap. 56 (a) a non-governmental organization registered under the Non-Governmental Organizations Act; Cap. 212 (b) a company registered under the Companies Act; Cap. 337 (c) a society registered under the Societies Act; (d) a trade union formed and registered under the Trade Unions Act; (e) an agricultural association</p>	<ul style="list-style-type: none"> • The new proposed definition of Trust may deregister many trusts and associations and their status will be unknown. Example Agakhan Foundation, Mo Foundation, Hindu Mandal, Tulia Trust, Jakaya Mrisho Kikwete Foundation, Benjamin Mkapa Foundation and many others. 	
--	--	---	--

	<p>formed and registered under any written law other than this Act;</p> <p>Cap. 258 (f) political party registered under the Political Parties Act;</p> <p>Cap. 49 (g) a sports association or club registered under the National Sports Council of Tanzania Act; Act No. 10 of 2018</p> <p>(h) a microfinance group (VICOBA) registered under the Microfinance Act;</p> <p>(i) a cooperative society formed and registered under the Cooperative Societies Act; and</p> <p>(j) any trust which the Minister may, by</p>		
--	--	--	--