

BILL SUPPLEMENT

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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO.3) ACT, 2020

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NOTICE

This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dodoma,
28th May, 2020

JOHN W. H. KIJAZI,
Secretary to the Cabinet

A Bill
for

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. 3) Act, 2020.
- Amendment of certain written laws **2.** The written laws specified in various Parts of this Act are amended in the manner specified in their respective Parts.

PART II
AMENDMENT OF THE ANIMAL WELFARE ACT,
(CAP. 154)

- Construction Cap. 154 **3.** This Part shall be read as one with the Animal Welfare Act, hereinafter referred to as the “principal Act”.
- Addition of section 9A **4.** The principal Act is amended by adding immediately after section 9 the following:
- “Relationship between local government authorities 9A.-(1) A local government authority shall, upon request, provide to the Director a report on implementation of policies relating

and
Ministry

to and development of animal welfare in its area of jurisdiction, and the Director shall, on receipt of the report, inform the Minister accordingly.

(2) Where, after considering the report from the Director under subsection (1), the Minister is satisfied that a local government authority to which the report relates, collects revenue from livestock sector and does not implement policies relating to and develop livestock sector he may, upon consultation with the Minister responsible for finance and the Minister responsible for local government authorities, suspend such local government authority from collecting revenues sourced from the livestock sector.

(3) The Minister shall notify the Minister responsible for local government authorities on the suspension undertaken under subsection (2).

(4) The Minister responsible for local government authorities shall upon receipt of the notification under subsection (3), take necessary measures to remedy the shortcomings of the respective local government authority.”

Amendment
of section 59

5. The principal Act is amended in section 59(1), by-
- (a) adding immediately after paragraph (f) the following:
“(g) unlawfully or without reasonable cause kill an animal;”
 - (b) renaming paragraphs (g) and (h) as paragraphs (h) and (i) respectively.

PART III

AMENDMENT OF THE BASIC RIGHTS AND DUTIES ENFORCEMENT ACT, (CAP. 3)

Construction
Cap. 3

6. This Part shall be read as one with the Basic Rights and Duties Enforcement Act, hereinafter referred to as the

“principal Act”.

Amendment
of section 4

7. The principal Act is amended in section 4, by-
- (a) designating the contents of section 4 as subsection (1);
 - (b) adding immediately after subsection (1) as designated the following:

“(2) An application under subsection (1) shall not be admitted by the High Court unless it is accompanied by an affidavit stating the extent to which the contravention of the provisions of Articles 12 to 29 of the Constitution has affected such person personally.

(3) For avoidance of doubt, a person exercising the right provided for under Article 26(2) of the Constitution shall abide with the provisions of Article 30(3) of the Constitution.

(4) Where redress is sought against the President, Vice-President, Prime Minister, the Speaker, Deputy Speaker or Chief Justice for any act or omission done in the performance of their duties, a petition shall only be brought against the Attorney General.”

PART IV

AMENDMENT OF THE COLLEGE OF BUSINESS EDUCATION ACT, (CAP. 315)

Construction
Cap. 315

8. This Part shall be read as one with the College of Business Education Act, hereinafter referred to as the “principal Act”.

Amendment
of section 2

9. The principal Act is amended in section 2 by inserting in their appropriate alphabetical order the following new definitions:

““committee” means any committee formed by the Governing Body pursuant to section 6(2);

“Rector” means the Rector of the College appointed under section 6B(1).”

Amendment
of section 4

- 10.** The principal Act is amended in section 4-
- (a) by designating the contents of section 4 as subsection (1);
 - (b) in subsection (1) as designated by-
 - (i) adding immediately after paragraph (b) the following:
 - “(c) to advance learning and knowledge through teaching and research;
 - (d) to provide technical and professional services;
 - (e) to promote, facilitate and sponsor research in technological, social, economic and cultural spheres for the welfare and development of mankind within and outside the United Republic; and
 - (f) to conduct and administer examinations and confer degrees, diplomas, certificates and other awards;”
 - (ii) renaming paragraph (c) as paragraph (g);
 - (c) by adding immediately after subsection (1) as designated the following:
 - “(2) In providing education and training under this section, the College shall ensure that such education and training affords trainees with requisite skills for self-employment and manning of key positions in both public and private sectors.”

Amendment
of section 5

- 11.** The principal Act is amended in section 5 by deleting subsections (2) and (3) and substituting for them the following-
- “(2) The Governing Board established under subsection (1) shall be a body corporate with perpetual succession and a common seal and shall, in its corporate name, be capable of-
 - (a) suing and being sued;
 - (b) acquiring, holding, investing and disposing of movable and immovable property;
 - (c) exercising the powers and performing the functions conferred

upon it by or under this Act;

- (d) entering into any contract or other transaction; and
- (e) doing or suffer from doing all such other acts and things which a body corporate may lawfully perform, do or suffer to be done.

(3) Notwithstanding subsection (2), the provisions of section 17 of the Office of the Attorney General (Discharge of Duties) Act shall have effect in relation to powers of the Attorney General to intervene in any suit or matter by or against the Governing Body.”.

Cap. 268

Addition of section 5A

12. The principal Act is amended by adding immediately after section 5 the following:

“Composition and tenure of Governing Body

5A.-(1) The Governing Body shall consist of eight members as follows-

- (a) a Chairman to be appointed by the President;
- (b) the Rector; and
- (c) six other members to be appointed by the Minister as follows:
 - (i) a representative from the Ministry responsible for commerce;
 - (ii) the officer incharge of higher learning education from the Ministry responsible for higher education;
 - (iii) a Law Officer representing the Attorney General;
 - (iv) a representative of the private sector apex association;
 - (v) a representative from any professional body relating to any of the core programmes undertaken by

the College; and

- (vi) one member from amongst persons with qualifications and experience in commerce.

(2) For the purpose of subsection (1)(c)(iv), the apex association shall propose three names from member associations to the Minister.

(3) At least two of the members appointed under subsection (1) shall be women.

(4) The Rector shall provide secretariat to the Governing Body.

(5) The provisions of the Schedule to this Act shall have effect as to the tenure of office of members, proceedings of the Governing Body and other related matters.

(6) The Governing Body may co-opt any person to attend its meetings and deliberate on any matter as the Governing Body may determine, but such person shall not have the right to vote.

(7) The Minister may, by order published in the *Gazette*, amend any of the provisions of the Schedule.”

Amendment
of section 6

13. The principal Act is amended in section 6-
(a) in subsection (1), by-

- (i) deleting the words “ a Director” appearing in paragraph (b) and substituting for them the words “Deputy Rectors”;
- (ii) deleting the word “and” appearing at the end of paragraph (c);
- (iii) adding immediately after paragraph (c) the following:
 - “(d) to establish branches, campuses, centres or other departments, as the case may be, for the purposes of extending the services of the College; and”
- (iv) renaming paragraph (d) as paragraph (e);

(b) by deleting subsection (2) and substituting for it the following:

“(2) The Governing Body may from among its members, form such number of committees as it considers necessary for purposes which, in the opinion of the Body, would be better administered through committees.

(3) The Governing Body may, subject to such conditions or restrictions as it deems necessary, delegate to any committee of the Body or the Rector any of its functions or powers vested in it by this Act or any other written law.

(4) Notwithstanding subsection (3), the Governing Body shall not delegate its functions or powers to-

- (a) appoint Deputy Rectors;
- (b) prescribe fees, charges and commissions;
- (c) borrow or lend money; and
- (d) appoint management staff of the College.”

Addition of sections 6A and 6B

14. The principal Act is amended by adding immediately after section 6 the following:

“Directions by Minister

6A. The Minister may give the Governing Body directions of a general or specific character and the Body shall, subject to the provisions of this Act, give effect to such directions.

Appointment and functions of Rector

Cap. 129

6B.-(1) The Minister shall, upon advice of the Governing Body and subject to the National Council for Technical Education Act, appoint a suitable person to be a Rector of the College.

(2) The Rector shall be the chief administrative and academic officer and accounting officer of the College and shall, for that purpose, be responsible

for-

- (a) the proper administration of the College; and
- (b) enforcing rules made by the Governing Body.

(3) The Rector shall, in the performance of his functions, be responsible to the Governing Body.”

Amendment
of section 9

- 15.** The principal Act is amended in section 9-
- (a) by deleting paragraph (a) and substituting for it the following:
 - “(a) money appropriated by the Parliament; and
 - (b) any grants, donations, bequests or other contributions made to the College;”
 - (b) by renaming paragraph (b) as paragraph (c); and
 - (c) in paragraph (c) as renamed, by deleting the words “Governing Body” and substituting for them the word “College”.

Amendment
of section 14

- 16.** The principal Act is amended in section 14, by-
- (a) deleting subsection (2); and
 - (b) renumbering subsection (3) as subsection (2).

Amendment
of the
Schedule

- 17.** The principal Act is amended in the Schedule, by-
- (a) deleting paragraph (1);
 - (b) renumbering paragraphs (2) to (6) as paragraphs (1) to (5) respectively.

PART V

AMENDMENT OF THE FIREARMS AND AMMUNITION CONTROL ACT, (CAP. 223)

Construction
Cap. 223

- 18.** This Part shall be read as one with the Firearms and Ammunition Control Act, hereinafter referred to as the “principal Act”.

Addition of
section 20A

- 19.** The principal Act is amended by adding immediately after section 20 the following:

“Unlawful
transfer of
firearms or

20A.-(1) A person shall not transfer any firearm or ammunition to any

ammunition other person unless he has sought and obtained permission to do so under this Act.

(2) A person who contravenes the provisions of subsection (1) commits an offence and shall, upon conviction, be liable to a penalty specified in section 60 of this Act.

(3) The Minister may make regulations prescribing the manner and procedure for transferring of firearms or ammunition.”

PART VI
AMENDMENT OF THE IMMIGRATION ACT,
(CAP. 54)

Construction
Cap. 54

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

Amendment
of
section 3

21. The principal Act is amended in section 3 by inserting in the appropriate alphabetical order the following new definition:

““Training Academy” means the Tanzania Regional Immigration Training Academy established under section 8A;”

Amendment
of
section 6

22. The principal Act is amended in section 6(a), by-
(a) deleting item (ii);
(b) renaming items (iii) to (xi) as items (ii) to (x) respectively.

Amendment
of
section 7

23. The principal Act is amended in section 7(1) by deleting the words “Deputy Commissioner General”.

Amendment
of
section 8

24. The principal Act is amended in section 8 by deleting subsection (1) and substituting for it the following:

“(1) The Department shall be divided into divisions, sections, units, regions, districts, entry or exit points and border posts as the Minister may determine.”

Addition of section 8A

25.-(1) The principal Act is amended by adding immediately after section 8 the following:

“Establishment of Training Academy

8A.-(1) There is hereby established within the Department a Training Academy to be known as Tanzania Regional Immigration Training Academy or in its acronym “TRITA”.

(2) The Training Academy shall provide basic immigration training, promotional training courses and such other trainings for-

- (a) persons who intend to join the Department;
- (b) employees of the Department; or
- (c) such other persons as the Commissioner General may determine.

(3) The Commissioner General shall have power to allocate to other training centres persons who intend to join the Department or employees of the Department.

(4) The Training Academy shall be under the supervision of the Commissioner responsible for training.

(5) The Commissioner General may provide guidance on the conduct and management of the Training Academy.

(6) The Commissioner General may, by order published in the *Gazette*, establish other immigration training centres.”

Amendment of section 9

26. The principal Act is amended in section **9**, by-

(a) adding immediately after subsection (1) the following:

“(2) In the performance of his functions under this section, the Commissioner General may issue orders for governing the discharge of

duties of the Department.”.

(b) renumbering subsection (2) as subsection (3).

Amendment of
section 11

27. The principal Act is amended in section 11(1), (2) and (3) by inserting immediately before the word “disciplinary” the word “final”.

Repeal of
section 29

28. The principal Act is amended by repealing section **29.**

Addition of
section 32A

29. The principal Act is amended by adding immediately after section 32 the following:

“Power to
issue pass

32A. Without prejudice the provisions of section 32, the Commissioner General may, subject to the regulations prescribed by the Minister, issue temporary passes as the circumstances may require.”

Amendment of
section 48

30. The principal Act is amended in section 48(1), by-
(a) deleting the words “ and the issue of visas” appearing in paragraph (h) and substituting for them the words “ issue of visas and fees payable for such visas”;
(b) deleting paragraph (q);
(c) renaming paragraph (r) as paragraph (q); and
(d) in paragraph (q) as renamed by adding immediately after subparagraph (iii) the following:
“(iv) procedure and regulation of the Training Academy.”

Amendment of
Schedule

31. The principal Act is amended by deleting the Schedule.

PART VII

AMENDMENT OF THE INTERPRETATION OF LAWS ACT, (CAP. 1)

Construction
Cap. 1

32. This Part shall be read as one with the Interpretation of Laws Act, hereinafter referred to as the

“principal Act”.

Amendment of
section 84

33. The principal Act is amended in section 84, by-
(a) adding immediately after subsection (1) the following:

“(2) The Attorney General may translate any written law from one language of enactment into another and, by notice in the *Gazette*, publish the version which is translated.”;

(b) renumbering subsections (2) and (3) as subsections (3) and (4) respectively.

PART VIII

AMENDMENT OF THE JUDICIARY ADMINISTRATION ACT, (CAP. 237)

Construction
Cap. 237

34. This Part shall be read as one with the Judiciary Administration Act, hereinafter referred to as the “principal Act”.

Addition of
section 65A

35. The principal Act is amended by adding immediately after section 65 the following:

“Protection
of Judiciary
employee

65A. An employee of the Judiciary shall not be liable in an action or suit in respect of anything done or omitted to be done in good faith in the performance of judicial function.”.

PART IX

AMENDMENT OF THE LAW REFORM (FATAL ACCIDENTS AND MISCELLANEOUS PROVISIONS) ACT, (CAP. 310)

Construction
Cap. 310

36. This Part shall be read as one with the Law Reform (Fatal Accidents and Miscellaneous Provisions) Act, hereinafter referred to as the “principal Act”.

Addition of
section 18A

37. The principal Act is amended by adding immediately after section 18 the following:

“Suit against
President,
Speaker or

18A. Notwithstanding any provisions to the contrary, leave of

Chief Justice application for orders under section 18 or any other suit under this Act for any act or omission by the President, Vice-President, Prime Minister, Speaker, Deputy Speaker or Chief Justice shall be sought or brought against the Attorney General.”.

PART X

AMENDMENT OF THE LAWS REVISION ACT,
(CAP. 4)

Construction
Cap. 4

38. This Part shall be read as one with the Laws Revision Act, hereinafter referred to as the “principal Act”.

Amendment
of section 4

39. The principal Act is amended in section 4, by-
(a) adding immediately after subsection (2) the following:

“(3) Notwithstanding any other provision to the contrary, the Attorney General may require the Chief Parliamentary Draftsman to carry out a specific revision of any written laws.

(4) Notwithstanding the provision of section 12(1), the written laws revised in terms of subsection (3) shall come into operation on such date as the Attorney General may, by notice published in the *Gazette*, appoint.”;

(b) renumbering subsection (3) as subsection (5).

Amendment
of section 5

40. The principal Act is amended in section 5 by adding immediately after subsection (6) the following:

“(7) The Attorney General shall, by notice in the *Gazette*, publish annual supplement prepared under this section.”

Amendment
of section 12

41. The principal Act is amended in section 12, by deleting subsections (1) and (2) and substituting for them the following:

“(1) The President may immediately after completion of the revision of laws carried out under section 4(2), issue a proclamation specifying the date of commencement of the Revised Edition.

(2) From the date specified in the proclamation,

the Revised Edition described in such proclamation shall, subject to the provisions of section 13, be deemed to be and shall be noted, in all courts of law, as the proper law of Tanzania in respect of the laws included therein.”

PART XI
AMENDMENT OF THE LAW SCHOOL OF TANZANIA ACT,
(CAP. 425)

Construction
Cap. 425

42. This Part shall be read as one with the Law School of Tanzania Act, hereinafter referred to as the “principal Act”.

Amendment of
section 2

43. The principal Act is amended in section 2, by-

- (a) designating the contents of section 2 as subsection (1); and
- (b) adding immediately after subsection (1) as designated the following:

“(2) Notwithstanding subsection (1), the Minister may, upon application, exempt from the requirements of subsection (1)-

Cap. 341

- (a) any Law Officer;
- (b) any judicial officer of the rank of senior officer and above;
- (c) any legally qualified lawyer in the public service of the rank equivalent to senior state attorney or above;

who holds the professional qualifications set out in section 8(1)(a) of the Advocates Act.

(3) The Minister may make regulations for better implementation of the provisions of subsection (2).

PART XII
AMENDMENT OF THE NATIONAL ASSEMBLY (ADMINISTRATION) ACT,
(CAP. 115)

Construction
Cap.115

44. This Part shall be read as one with the National Assembly (Administration) Act, hereinafter referred to as the “principal Act”.

Written Laws (Miscellaneous Amendments) (No.3)

Amendment of
section 5

- 45.** The principal Act is amended in section 5-
- (a) in subsection (1), by adding immediately after the words “There shall” the words “upon approval by the Presidents;”
 - (b) in subsection (2), by adding immediately after the words “The Commission may” the words “upon approval by the President, and”.

Amendment of
section 7

- 46.** The principal Act is amended in section 7 by deleting subsection (3).

PART XIII

**AMENDMENT OF THE PRESIDENTIAL AFFAIRS ACT,
(CAP. 9)**

Construction
Cap. 9

- 47.** This Part shall be read as one with the Presidential Affairs Act, hereinafter referred to as the “principal Act.”

Amendment of
section 6

- 48.** The principal Act is amended in section 6 by deleting subsection (3) and substituting for it the following:

“(2) Civil proceedings instituted pursuant to this section shall be instituted after the President ceases to hold Office of the President.

Cap. 33

(3) The provisions of the Civil Procedure Code shall apply in respect to the civil proceedings against the retired President under this section.

(4) In computing the time limit within which civil proceedings may be instituted against the retired President, the period which a person held the office of the President shall be excluded.”

Amendment of
section 7

- 49.** The principal Act is amended in section 7, by-
- (d) deleting subsection (1) and substituting for it the following:
 - “(1) Proceedings against an act or omission by the President other than those referred to in section 6 shall be brought against the Attorney General.”
 - (e) deleting the word “President” appearing at the end of subsection (2) and substituting for it the words “Attorney General”.

PART XIV
AMENDMENT OF THE WILDLIFE CONSERVATION ACT,
(CAP. 283)

Construction
Cap. 283

50. This Part shall be read as one with the Wildlife Conservation Act, hereinafter referred to as the “principal Act.”

Amendment of
section 116

51. The principal Act is amended in section 116 by deleting the word “livestock” appearing in subsection (3)(a).

OBJECTS AND REASONS

This Bill proposes amendments to Thirteen Written Laws, namely, the Animal Welfare Act, Cap. 154, the Basic Rights and Duties Enforcement Act, Cap. 3, the College of Business Education Act, Cap. 315, the Firearms and Ammunition Control Act, Cap. 223, the Immigration Act, Cap. 54, the Interpretation of Laws Act, Cap. 1, the Judicial Administration Act, Cap.237, the Law Reform (Fatal Accidents and Miscellaneous Provisions) Act, Cap.310, the Laws Revision Act, Cap. 4, the Law School of Tanzania Act, Cap. 425, the National Assembly (Administration) Act, Cap.115, the Presidential Affairs Act, Cap. 9 and the Wildlife Conservation Act, Cap. 283.

The proposed amendments intend to keep updated the respective laws with changes so far observed in their implementation.

The Bill is divided into Fourteen Parts as follows:

Part I deals with preliminary provisions which include the title of the Bill and the manner in which the laws proposed to be amended, are amended in their respective Parts.

Part II of the Bill proposes to amend the Animal Welfare Act, Cap. 154 by adding a new section 9A which gives mandate to the sector Ministry to intervene and where necessary take appropriate measures against any local authority which collects revenue relating to animal welfare but does not use the said revenue for the development and implementation of livestock

sector. The aim of the amendment is to reflect powers and mandates of the Sector Ministry with regard to implementation of the Government policy on protection and development of livestock sector at the local government authorities level.

The part further proposes to amend section 59 by adding new subsections (4) and (5) with a view of introducing penalty to persons who unlawfully or without reasonable cause kill an animals.

Part III of the Bill proposes to amend the Basic Rights and Duties Enforcement Act, Cap.3. It is proposed to amend section 4 to empower the court to reject an application which has not complied with Article 30(3) of the Constitution of the United Republic which requires a person who intends to institute proceedings under Part III of the Constitution to establish that his right or duty owed to him has been, is being or is likely to be violated. It is further recommended to introduce a new subsection which requires all suit or matters against the Heads of Organs of the State to be instituted against the Attorney General. The proposed amendment intends to enhance the provisions relating to immunity of Heads of Organs of States.

Part IV of the Bill proposes to amend the College of Business Education Act, Cap. 315. Section 2 is amended by adding the definitions of the terms “committee” and “Rector” so as to ensure clarity of the terms as used in various provisions of the Act. Section 4 is amended to reflect in the Act the current functions of the College and the changes adopted to accommodate the needs and best practice in the education sector.

Section 5 is amended to enhance the status of the Governing Body of the College. The amendments are further intended to reflect the powers of Attorney General to intervene and take over any suit or matter instituted against the Governing Body as provided for in the Office of the Attorney General (Discharge of Duties) Act, Cap. 268.

Section 5A is introduced in order to provide for appointments, composition, tenure and meetings of the Governing Body. Further to that, the Act is amended in section 6 in order to empower the Governing Body to establish committees, branches, campuses, centres or departments for the purposes of extending services of the College.

The amendments introduce section 6A in order to enable the Minister, where necessary, to give directions of general and specific nature to the Governing Body. Further, section 6B is introduced in order to provide for the appointment and functions of the Rector of the College.

Section 9 is amended to provide for other sources of funds of the College. The aim is to legally accommodate other sources of funds to the College. It is also proposed to amend section 14 of the Act to provide for requirement for gazetting of rules made by the Governing Body.

Part V of the Bill proposes to amend the Firearms and Ammunition Control Act, Cap. 223. A new section 20A is proposed to be added to prohibit lawful owners of firearms and ammunition to transfer the weapons to other unauthorised persons. This amendment ensures that firearms and ammunitions are at all time in the possession of a rightful owner.

Part VI of the Bill proposes to amend the Immigration Act, Cap. 54. It is proposed to amend section 3 for the purposes of providing the meaning of the term “Training Academy” as used in the Act.

The Act is further amended in sections 6, 7, 8, 8A, 9 and 11 in order to remove the designation of “Deputy Commissioner General” which has been removed from the structure of the Department; to improve the structure of the Department, to establish the Immigration Training Academy for purpose of providing training to newly recruited staff and facilitate promotion of staff of the Department. It is further proposed to add section 32A in order to empower the Commissioner General, subject to the regulations prescribed by the Minister, to issue pass for persons as the circumstances may require.

Part VII of the Bill proposes to amend the Interpretation of Laws Act, Cap. 1. Section 84 is amended to clarify on the mandate of the Attorney General with regard to translation of laws and to provide for clear provisions relating to gazetting of translated laws.

Part VIII of the Bill amends the Judicial Administration Act, Cap 237. It is proposed to introduce new section 65A in order to provide immunity to members of Judiciary for anything done or omitted to be done in good faith in the lawful performance of their functions.

Part IX of the Bill proposes to amend the Law Reform (Fatal Accidents and Miscellaneous Provisions) Act, Cap 310. It is proposed to introduce new section 18A which enables suits or

matters against the National Leaders (President, Vice-President, Prime Minister, Speaker, Deputy Speaker or Chief Justice) to be instituted against the Attorney General. The proposed amendment intends to enhance the provisions relating to immunity of Heads of Organs of States.

Part X of the Bill proposes to amend the Laws Revision Act, Cap. 4. Sections 4, 5 and 12 are amended to put a clear demarcation between the mandates of the President to proclaim revised edition which involves revision of the entire Statute Book of Tanzania and the powers of Attorney General to gazette revised edition which involve selected laws and annual supplements.

Part XI of the Bill proposes to amend the Law School of Tanzania Act, Cap. 425. The Act is amended in section 2 for the purpose of empowering the Minister to exempt Officers who hold required professional qualifications set out in the Advocates Act, Cap. 341 from the requirement of attending the legal training at the Law School of Tanzania as a pre-requisite for admission to the Bar.

Part XII of the Bill proposes to amend the National Assembly (Administration) Act, Cap. 115. The objective of the amendment is to enhance clarity on the authority and mandate to establish departments, divisions and units in the Parliamentary Service. On the other hand, the amendments seek to align the provisions of the Act with the provisions of Article 87(1) of the Constitution of the United Republic of Tanzania on the appointment of the Clerk of the National Assembly.

Part XIII of the Bill proposes to amend the Presidential Affairs Act, Cap. 9. It is proposed to amend section 6 with a view to deferring any civil proceedings against the President on his capacity as a citizen until when he ceases to hold office.

Part XIV of the Bill proposes to amend the Wildlife Conservation Act, Cap. 283 whereby section 116 Act is amended so as to restrict forfeiture of livestock by the Director of Wildlife and other authorised officers when exercising the power of compounding offences so that forfeiture may only be done by order of the court. The amendment aims at ending complaints among pastoralists and the public at large against officers who misuse the powers of compounding and ensuring uniformity between the Act, the National Parks Act, Cap. 282 and the Ngorongoro Conservation Area Act, Cap. 284 in relation to powers of compounding of offences.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kufanya marekebisho katika Sheria Kumi na Tatu ambazo ni Sheria ya Ustawi wa Wanyama, Sura ya 154, Sheria ya Utekelezaji wa Haki na Wajibu wa Msingi, Sura ya 3, Sheria ya Chuo cha Elimu ya Biashara, Sura ya 315, Sheria ya Usimamizi na Udhhibiti wa Silaha na Risasi, Sura ya 223, Sheria ya Uhamiaji, Sura ya 54, Sheria ya Tafsiri ya Sheria, Sura ya 1, Sheria ya Uendeshaji wa Mahakama, Sura ya 237, Sheria ya Maboresho ya Sheria kuhusu Ajali Mbaya na Masharti Mengineyo, Sura ya 310, Sheria ya Urekebu wa Sheria Mbalimbali, Sura ya 4, Sheria ya Shule ya Sheria Tanzania, Sura ya 425, Sheria ya Uendeshaji wa Bunge, Sura ya 115, Sheria ya Masuala ya Rais, Sura ya 9 na Sheria ya Uhifadhi wa Wanyamapori, Sura ya 283.

Marekebisho yanayopendekezwa yanalenga kuboresha Sheria husika ili ziendane na mabadiliko ya wakati na kutatua changamoto mbalimbali zilizojitokeza wakati wa utekelezaji wake.

Muswada huu umegawanyika katika Sehemu Kumi na Nne kama ifuatavyo:

Sehemu ya Kwanza ya Muswada inahusu Masharti ya Utangulizi ambayo yanajumuisha jina la Sheria inayopendekezwa na namna ambavyo Sheria zinazopendekezwa kufanyiwa marekebisho zimerekebishwa katika Sehemu husika za Muswada.

Sehemu ya Pili ya Muswada inapendekeza marekebisho katika Sheria ya Ustawi wa Wanyama, Sura ya 154 kwa kuongeza kifungu kipyua cha 9A ili kuweka utaratibu utakaouiwezesha Wizara yenye dhamana ya ustawi wa wanyama kuchukua hatua stahiki dhidi ya mamlaka ya serikali ya mtaa ambayo imepewa mamlaka ya kukusanya mapato yatokanayo na sekta ya mifugo na imeshindwa kusimamia masuala yanayohusiana na ustawi wa wanyama. Hatua hizo ni pamoja na kuzuia mamlaka ya serikali ya mtaa husika kuendelea kukusanya mapato hayo. Lengo la marekebisho hayo ni kutambua mamlaka ya Wizara katika utekelezaji wa Sera ya Serikali katika kulinda na kuendeleza sekta ya mifugo. Sambamba na marekebisho hayo inapendekezwa kurekebisha kifungu cha 59(1) kwa kuongeza aya ndogo ya (g) kwa lengo la kuweka kosa kwa mtu yeyote ambaye ataua mnyama kwa makusudi au bila sababu za msingi kuchukuliwa hatua za kisheria.

Sehemu ya Tatu ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Utekelezaji wa Haki na Wajibu wa Msingi, Sura ya 3. Kifungu cha 4 kinapendekezwa kufanyiwa marekebisho ili kuipa mahakama mamlaka ya kutopokea shauri linalofunguliwa na mtu ambaye hajatimiza masharti ya Ibara ya 30(3) ya Katiba ya Jamhuri ya Muungano inayoelekeza mtu anayefungua shauri husika awe ni yule ambaye haki yake au wajibu kwake umevunjwa, unavunjwa au unaelekea kuvunjwa. Aidha, marekebisho katika kifungu hiki yanapendekeza mashauri yote ya madai dhidi ya Viongozi Wakuu wa Mihimili yafunguliwe dhidi ya Mwanasheria Mkuu wa Serikali. Lengo la marekebisho haya ni kukidhi maudhui ya dhana ya kinga ya mashtaka dhidi ya viongozi hao.

Sehemu ya Nne ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Chuo cha Elimu ya Biashara, Sura 315. Kifungu cha 2 kinarekebishwa kwa kuongeza tafsiri ya misamiati “Committee” na “Rector” kwa lengo la kuweka tafsiri sahihi ya maneno hayo kuendana na vifungu vya Sheria hii.

Kifungu cha 4 kinarekebishwa kwa kuongeza aya mpya za (c), (d), (e) na (f). Lengo la mabadiliko haya ni kuakisi katika Sheria hii majukumu ya sasa ya Chuo na mabadiliko yaliyofanywa ili kujumuisha mahitaji na utaratibu bora wa sasa katika Sekta za Elimu.

Kifungu cha 5 kinapendekezwa kufutwa na kuandikwa upya ili kutambua mamlaka aliyonayo Mwanasheria Mkuu kwa mujibu wa Sheria ya Utekelezaji wa Majukumu ya Ofisi ya Mwanasheria Mkuu wa Serikali kuhusu kuchukua na kuendesha shauri lolote linalofunguliwa dhidi ya taasisi ya Serikali.

Kifungu kipya cha 5A kinapendekezwa kuongezwa ili kuweka utaratibu wa uteuzi, idadi na muda wa ujumbe wa vikao vya Bodi ya Usimamizi wa Chuo. Dhumuni la marekebisho haya ni kuendana na dhana ya uwazi na utawala bora katika kusimamia taratibu za uteuzi wa wajumbe. Kifungu cha 6 kinarekebishwa kwa lengo la kuipatia mamlaka ya Bodi ya Usimamizi ya Chuo kuanzisha Kamati mbalimbali za Bodi, matawi ya chuo, kampasi, vituo au idara. Lengo la mabadiliko haya ni kupanua wigo wa majukumu ya Chuo.

Kifungu kipya cha 6A kinaongezwa kwa lengo la kubainisha uteuzi na majukumu ya Mkuu wa Chuo. Kifungu kipya cha 6B kinaongezwa ili kumpa mamlaka Waziri kutoa

maelekezo kwa Bodi ya Usimamizi kuhusu masuala mbalimbali kwa kadri atakavyoona inafaa.

Kifungu cha 9 kinarekebishwa ili kuainisha vyanzo vingine vya mapato ya Chuo. Dhumuni la marekebisho haya ni kujumuisha vyanzo vingine vya mapato ya Chuo kwenye Sheria hii. Kifungu cha 14 kinarekebishwa ili kuwezesha kanuni zitakazotungwa na Bodi ya Usimamizi kutangazwa kwenye Gazeti la Serikali kwa lengo la kuzipa nguvu ya kisheria.

Sehemu ya Tano ya Muswada inapendekeza kurekebisha Sheria ya Usimamizi na Udhhibiti wa Silaha na Risasi, Sura ya 223 ambapo kifungu kipya cha 20A kinapendekezwa kuongezwa ili kuweka katazo kwa wamiliki halali wa silaha na risasi kutohamisha silaha hizo kwa watu wasio ruhusywa kumiliki silaha hizo. Lengo la marekebisho hayo ni kuhakikisha kuwa kwa wakati wote silaha na risasi zinakuwa chini ya mmiliki halali.

Sehemu ya Sita ya Muswada inapendekeza marekebisho katika Sheria ya Uhamiaji, Sura ya 54 kwa kufanya marekebisho katika kifungu cha 3 ili kuongeza tafsiri mpya ya msamiati “Training Academy”. Lengo la marekebisho hayo ni kutoa tafsiri ya msamiati huo kwa kuzingatia matumizi yake ndani ya Sheria.

Vifungu vya 6, 7, 8, 8A, 9 na 11 vinapendekezwa kurekebishwa kwa lengo la kufuta cheo cha “Naibu Kamishna Jenerali wa Uhamiaji” ambacho kimeondolewa katika Muundo wa Idara ya Uhamiaji, kuainisha mgawanyo wa Idara kwa kuzingatia muundo wa sasa wa Idara; kuanzisha Chuo cha Kikanda cha Mafunzo cha Uhamiaji ambacho kitatumika kutoa mafunzo ya awali kwa waajiriwa wapya wa Uhamiaji pamoja na mafunzo kwa ajili ya kupandishwa vyeo kwa watumishi waliopo

kazini. Pia, inapendekezwa kuongeza kifungu kipya cha 32A ili kumpa Kamishna Jenerali mamlaka ya kutoa vibali kwa kadri mazingira yatakayohitaji kwa kuzingatia kanuni zitakazoandaliwa na Waziri.

Sehemu ya Saba ya Muswada inapendekeza kuifanyia marekebisho Sheria ya Tafsiri ya Sheria, Sura ya 1. Kifungu cha 84 kinapendekezwa kurekebishwa kwa kuongeza kifungu kidogo cha (2) ili kumpa mamlaka Mwanasheria Mkuu wa Serikali kuandaa tafsiri ya Sheria kutoka lugha moja kwenda nyingine na kumuwezesha kutangaza tafsiri ya Sheria hizo kwenye Gazeti la Serikali. Lengo la marekebisho haya ni kuboresha utekelezaji wa masharti ya kifungu hiki.

Sehemu ya Nane ya Muswada inapendekeza kuifanyia marekebisho Sheria ya Uendeshaji wa Mahakama, Sura ya 237. Kifungu kipya cha 65A kinapendekezwa kuongezwa kwa lengo la kuweka masharti ya kinga dhidi ya mashtaka kwa Jaji Mkuu, Majaji na maafisa wengine wa mahakama katika utekelezaji wa majukumu yao ya kimahakama.

Sehemu ya Tisa ya Muswada inapendekeza kuifanyia marekebisho Sheria ya Maboresho ya Sheria kuhusu Ajali Mbaya na Masharti Mengineyo, Sura ya 310. Kifungu kipya cha 18A kinapendekezwa kuongezwa kwa lengo la kuwezesha mashauri yanayofunguliwa au maombi yanayoletwa chini ya Sheria hii dhidi ya uamuzi wa Viongozi wa Kitaifa (Rais, Makamu wa Rais, Waziri Mkuu, Spika, Naibu Spika na Jaji Mkuu) yatafunguliwa ama kuletwa dhidi ya Mwanasheria Mkuu wa Serikali. Lengo la marekebisho haya ni kuendana na maudhui ya dhana ya kinga ya mashtaka dhidi ya Viongozi Wakuu wa Mihimili.

Sehemu ya Kumi ya Muswada inapendekeza marekebisho kwenye Sheria ya Urekebu wa Sheria Mbalimbali, Sura ya 4. Inapendekezwa kufanya marekebisho katika vifungu vya 4, 5 na 12 vya Sheria hii kwa lengo la kubainisha ni wakati gani Sheria zilizofanyiwa urekebu zitahitaji Tamko la Rais (Proclamation) ili ziweze kuanza kutumika; na ni wakati gani Sheria moja moja zilizofanyiwa urekebu zitaanza kutumika baada ya kutangazwa kwenye Gazeti la Serikali na Mwanasheria Mkuu wa Serikali. Lengo la marekebisho haya ni kubainisha kwa uwazi maudhui ya vifungu hivyo ambapo Tamko la Rais linapaswa kutolewa pale tu urekebu unapokuwa umefanyika kwa Sheria zote za nchi. Urekebu wa Sheria mojamoja utakamilika na kuanza kutumika pale Sheria zilizofanyiwa urekebu zinapotangazwa kwenye Gazeti la Serikali na Mwanasheria Mkuu wa Serikali.

Sehemu ya Kumi na Moja ya Muswada inapendekeza marekebisho kwenye Sheria ya Shule ya Sheria Tanzania, Sura ya 425. Kifungu cha 2 kinapendekezwa kufanyiwa marekebisho ili kuwezesha Sheria hiyo kutoa msamaha kwa baadhi ya wanasheria wenye vigezo maalum ambao kwa mujibu wa sheria hiyo walipaswa kupitia kwenye Mafunzo ya Shule ya Sheria lakini kutokana na nafasi zao katika Utumishi wa Umma hawawezi kuhudhuria mafunzo hayo.

Sehemu ya Kumi na Mbili ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Uendeshaji Bunge, Sura ya 115. Marekebisho haya yanatoa ufafanuzi zaidi kuhusu mamlaka ya kuanzisha idara, divisheni na vitengo katika Utumishi wa Bunge yanapaswa kupata idhini ya Rais. Aidha, marekebisho haya yanalenga kuzingatia masharti ya Ibara ya 87(1) kuhusu mamlaka na madaraka ya uteuzi wa Katibu wa Bunge.

Sehemu ya Kumi na Tatu ya Muswada inapendekeza kuifanyia marekebisho Sheria ya Masuala ya Rais, Sura ya 9. Inapendekezwa kurekebisha kifungu cha 6 ili mashauri dhidi ya Rais kwa mambo anayodaiwa kuyatenda yeye binafsi kama raia yaliyoruhusiwa kufunguliwa dhidi yake kwa mujibu wa Ibara ya 46(2) ya Katiba ya Jamhuri ya Muungano wa Tanzania yafunguliwe baada ya kutoka madarakani. Aidha, kifungu cha 7 kinapendekezwa kurekebisha ili mashauri yoyote dhidi ya Rais yafunguliwe dhidi ya Mwanasheria Mkuu wa Serikali.

Sehemu ya Kumi na Nne ya Muswada inapendekeza kurekebisha Sheria ya Uhifadhi wa Wanyamapori, Sura ya 283 ambapo kifungu cha 116 cha Sheria kinarekebisha ili kuondoa utaratibu wa Mkurugenzi wa Wanyamapori na maafisa wengine wa wanyamapori kutaifisha mifugo (forfeiture) kupitia utaratibu wa kufililisha makosa (compounding of offences) na badala yake utafishaji wa mifugo ufanywe kwa amri ya Mahakama. Hatua hii itasaidia kuondoa malalamiko ya wafugaji na wananchi kwa ujumla dhidi ya watumishi husika kutokana na kutumia vibaya mamlaka hayo. Aidha, utaratibu unaopendekezwa utaleta uwiano na ufanani katika sheria hiyo, Sheria ya Hifadhi ya Taifa, Sura ya 282, Sheria ya Misitu, Sura ya 323 na Sheria ya Mamlaka ya Hifadhi ya Ngorongoro, Sura ya 284 katika kufililisha makosa.

Dodoma,
26 Mei, 2020

ADELARDUS L. KILANGI,
Mwanasheria Mkuu wa Serikali