

THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS)
ACT, 2016

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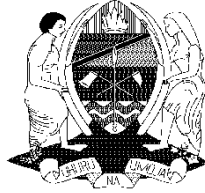
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THE UNITED REPUBLIC OF TANZANIA



NO. 3 OF 2016

I ASSENT,

.....

President

[.....]

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) Act, 2016.

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 APPELLATE JURISDICTION ACT,
(CAP.141)

Construction
Cap. 141

3. This Part shall be read as one with the Appellate Jurisdiction Act, hereinafter referred to as “the principal Act”.

Amendment
section 4

- 4.** The principal Act is amended in section 4 by-
- (a) adding immediately after subsection (3) the following new subsection-
“**(4)** The Court of Appeal shall have the power to review its own decisions.”
 - (b) re-numbering subsection (4) and (5) as subsections (5) and (6) respectively.

Amendment of
section 5

4A. The principal Act is amended in section 5 by deleting the phrase “criminal charge.”

PART III
AMENDMENT OF THE ECONOMIC AND ORGANISED CRIME
CONTROL ACT, (CAP. 200)

Construction
Cap. 200

5. This Part shall be read as one with the Economic and Organized Crime Control Act, hereinafter referred to as the “principal Act”.

Amendment of
section 2

- 6.** The principal Act is amended in section 2 by-
- (a) deleting the definition of the term “Court” and substituting for it the following -
““Court” means the Corruption and Economic Crimes Division of the High Court established under section 3;”;

(b) deleting the definition of the term “document” and substituting for it the following-

Cap. 6 “document” has the meaning ascribed to it under the Evidence Act;”;

(c) inserting in the appropriate alphabetical order the following new definition -

Cap.329 ““corruption offence” means an offence under the Prevention and Combating of Corruption Act specified in the First Schedule;

(d) deleting the definitions of the terms “lay member” and “Regional Judicial Board”.

Amendment of Part II

7. The principal Act is amended by deleting the heading and sub-heading appearing under Part II and substituting for them the following-

“THE CORRUPTION AND ECONOMIC CRIMES
DIVISION OF THE HIGH COURT
Establishment and composition of the Court”

Amendment of section 3

8. The principal Act is amended by repealing section 3 and replacing for it the following-

“Establishment, composition and jurisdiction of the Court

3.-(1) There is established the Corruption and Economic Crimes Division of the High Court with the Registry and sub-registries as may be determined by the Chief Justice, in which proceedings concerning corruption and economic cases under this Act may be instituted.

(2) The Corruption and Economic Crimes Division of the High Court shall consist of a Judge

or such number of Judges of the High Court as may be determined by the Chief Justice.

(3) The Court shall have jurisdiction to hear and determine cases involving-

- (a) corruption and economic offences specified in paragraphs 3 to 21 and paragraphs 27, 29 and 38 of the First Schedule whose value is not less than one billion shillings, save for paragraph 14;
- (b) economic offences specified under paragraphs 22, 23, 24, 25, 26, 27, 28, 30, 31, 32, 33, 34, 35, 36, 37 and 39 of the Schedule regardless of their value; and
- (c) such other offences as may be referred to, or instituted in the Court in terms of the provisions of this Act.”

Repeal of sections 4,5,6 and 7

8A.The principal Act is amended by repealing sections 4, 5, 6 and 7.

Repeal of section 16

8B. The principal Act is amended by repealing section 16.

Amendment of section 17

8C. The principal Act is amended in section 17 by deleting the word “District” and substituting for it the word “Deputy.”

Amendment
of section 29

- 9.** Section 29 of the principal Act is amended -
- (a) in subsection (3) by deleting the words “High Court sitting as the Economic Crimes Court” and substituting for them the words “Corruption and Economic Crimes Division of the High Court” ;
 - (b) in subsections (7) and (8) by deleting the words “High Court” and substituting for them the word “Court” respectively.

Amendment of
section 36

10. The principal Act is amended in section 36(5) by deleting paragraph (a) and substituting for it the following:

- “(a) where the offence with which the person is charged involves actual money or property whose value exceeds ten million shillings unless that person deposits cash or other property equivalent to half the amount or value of actual money or property involved and the rest is secured by execution of a bond:

Provided that, where the property to be deposited is immovable, it shall be sufficient to deposit the title deed, or if the title deed is not available such other evidence as is satisfactory to the court in proof of existence of the property; save that this provision shall not apply in the case of police bail.”

Amendment
of section 43

10A. The principal Act is amended by repealing section 43 and replacing for it the following-

“Judgment
and
sentence

43.-(1) After all the evidence has been heard, the Court shall proceed to pass judgment and either convicts and sentence or acquit and discharge the accused accordingly.

(2) Every judgment shall contain the point or points for determination, the decision on the point or points and the reasons for the decision, and shall be dated and signed by the trial judge or the majority judges as the case may be.

(3) Where on a question to be decided by a majority of the judges of the Court, any judge holds the view which is different from that of the majority, a minority opinion of a judge shall be signed and dated and the Court shall inform the parties of the situation and be pronounced in open court.

(4) Where the Court acquits the accused, it shall require him to give his permanent address for service in case there is an appeal against his acquittal, and the Court shall record or cause it to be recorded.”

Amendment of
section 46

10B. The principal Act is amended in section 46 by deleting the word “education,” appearing between the words “the” and “reception” and substituting for it the word “production,”

Amendment of section 49

10C. The principal Act is amended in section 49(6) by deleting the phrase “evidence the judge and lay members shall each affix his signature” appearing between the words “given” and “at” and substituting for it the phrase “evidence, the Judge or Judges shall affix their signature.”

Amendment of section 53

11. The principal Act is amended in section 53 by-

- (a) designating the contents of section 53 as subsection (1);
- (a) adding immediately after subsection (1) as designated the following new subsection:

“**(2)** Subject to subsection (1), the provisions of the Whistleblower and Witness Protection Act, and any other relevant law shall apply in matters relating to witness protection under this Act.”

Addition of section 59A

12. The principal Act is amended by adding immediately after section 59 the following new section:

“Prohibition of Insolvency

59A.-(1) Notwithstanding the provision of any other law, the provisions governing bankruptcy or filing of any insolvency proceedings shall not apply to property which is subject of investigation or trial under this Act.

(2) Winding up of the company and the functions of the liquidator shall not be performed in relation to property which is subject of investigation or trial under this Act.”

Amendment
of section 60

Cap.13

13. Section 60 of the principal Act is amended-

(a) in subsection (3), by deleting paragraph (c) and substituting for it the following:

“(c) a child shall be sentenced in accordance with the provisions of the Law of the child Act”.

(b) by deleting subsections (2), (3) and (4) and substituting for it the following-

“(2) Notwithstanding provision of a different penalty under any other law and subject to subsection (3), a person convicted of corruption or economic offence shall be liable to imprisonment for a term of not less than twenty years but not exceeding thirty years, or to both that imprisonment and any other penal measure provided for under this Act:

Provided that, where the law imposes penal measures greater than those provided by this Act, the Court shall impose such sentence.

(3) In addition to the penalty imposed under subsection (2), the court shall order the confiscation and forfeiture, to the Government of all instrumentalities and proceeds derived from the offence committed under this Act.

(4) All awards for compensation shall be taken from the personal properties or joint owned properties or such interest to the joint owned property attributed to the offender, where such properties are insufficient to cover the award, such balance shall be a civil debt due to the Government recoverable by civil process.

(5) Where the proceeds and instrumentalities in respect of which the offence

was committed are destroyed, diminished in value or otherwise rendered worthless by any act or omission, directly or indirectly of the offender, or it has been concealed, removed, converted or transferred to prevent the same from being found or to avoid forfeiture or confiscation, the offender shall be ordered to pay the amount equal to the value of the proceeds or instrumentalities of the offence.

(6) A person who knowingly aids or abets the offender in destroying, diminishing in value or otherwise rendering it worthless by any act or omission, directly or indirectly under this Act, commits an offence and shall upon conviction, be liable to imprisonment for a term not exceeding five years.”

Addition of
new
section 63A

14. The principal Act is amended by inserting immediately after section 63 the following new section-

“Power to
make
Rules

63A.-(1) The Chief Justice may, by Order published in the *Gazette*, make rules for the better performance of the duties of the Court.

(2) Without prejudice to the generality of subsection (1), the rules may prescribe-

- (a) the contents and manner in which various court reports shall be prepared and submitted;
- (b) contents of records of committal proceedings;
- (c) procedures governing preliminary hearing;
- (d) procedure for summoning of witnesses and for hearing of cases under this Act;

- (e) procedure and conduct of the Registrar in the performance of functions under this Act;
- (f) protection of witnesses under this Act; and
- (g) anything which needs to be prescribed by rules under this Act.”

Repeal of
section 66

15. The principal Act is amended by repealing section 66 and replacing for it the following-

“Savings

66.-(1) Notwithstanding the establishment of the Corruption and Economic Crimes Division of the High Court, where the Economic Crimes Court had-

- (a) commenced the hearing of any case relating to economic offences, it shall continue with the hearing until it determines the proceedings in that case; or
- (b) adjourned the hearing of any case relating to an economic offence, it shall resume the hearing on the fixed or earlier date and proceed to further hear and determine the proceedings in that case, but the court shall not take a plea or

pleas in respect of any fresh case not brought before the commencement of this Act.

(2) The coming into operation of the amending Act shall not-

- (a) affect the previous operation of the amended Act or anything duly done or suffered under it;
- (b) revive anything not in force or existing at the time immediately before the commencement of this Act;
- (c) affect any right, privilege, or obligation or liability acquired, accrued, or incurred under the amended Act; or
- (d) affect any penalty, forfeiture or punishment incurred in respect of any economic offence or other offence committed and triable under the amended Act.

(3) For the purpose of this section “amending Act” means the Written Laws (Miscellaneous Amendment) Act, 2016.”

Amendment of
the First
Schedule

16. The principal Act is amended in the First Schedule
by-

(a) deleting paragraph 14 and substituting for it the following:

“Offences
related to
Wildlife
Caps.283 or
282

14. A person is guilty of an offence under this paragraph who commits an offence under section 17, 19, 24, 26, 28, 47, 53, 103, 105, Part X or Part XI of the Wildlife Conservation Act or section 16 of the National Parks Act.”

- (b) adding immediately after paragraph 20 the following:

Offences under
the Prevention
and Combating
of Corruption
Act
Cap. 329

21. A person is guilty of an offence under this paragraph who commits any offence under the Prevention and Combating of Corruption Act other than an offence under section 15 of that Act.

Offences related
to anti-money
laundering
Cap.423

22. A person is guilty of an offence under this paragraph who commits an offence under section 12, 17 or 20 of the Anti- Money Laundering Act.

Offences related
to drugs control
Cap.95

23. A person is guilty of an offence under this paragraph who commits an offence under section 15, 16 or 23 of the Drugs Control and Enforcement Act.”

Offences related
to terrorism

24. A person is guilty of an offence under this paragraph who commits any offence under the Prevention of Terrorism Act.

Offences related
to territorial sea
and exclusive
economic zone

25. A person is guilty of an offence under this paragraph who commits any offence under the Territorial Sea and Exclusive Economic Zone Act.

Offences related
to deep sea
fishing

Cap. 388

26. A person is guilty of an offence under this paragraph who commits an offence under section 18 of the Deep Sea Fishing Authority Act.

Offences related
to mining

Cap. 123

27. A person is guilty of an offence under this paragraph who commits an offence under section 18 of the Mining Act.

Offences related
to atomic energy

Cap. 188

28. A person is guilty of an offence under this paragraph who commits an offence under section 11, 13, 14 or 72 of the Atomic Energy Act.

Offences related to
food and drugs

Cap. 219

29. A person is guilty of an offence under this paragraph who commits an offence under section 32, 18 or 114 of the Tanzania Food and Drugs Control Act.

Offences related
to extractive
industries

Cap. 447

30. A person is guilty of an offence under this paragraph who commits an offence under section 23 or 24 of the Tanzania Extractive Industries (Transparency and Accountability) Act.

Offences related
to fire arms and
ammunition

Cap.223

31. A person is guilty of an offence under this paragraph who commits an offence under section 20, 21 or 45 of the Fire Arms and Ammunition Control Act.

Offences related
to armaments

Cap.246

32. A person is guilty of an offence under this paragraph who commits any offence under the Armaments Control Act.

Offences related
to forestry

Cap.323

33. A person is guilty of an offence under this paragraph who commits an offence under section 86 or 89 of the Forest Act.

Offences related
to petroleum

Cap.392

34. A person is guilty of an offence under this paragraph who commits an offence under section 239 or 240 of the Petroleum Act.

Offences related
to oil and gas
revenues

Cap.328

35. A person is guilty of an offence under this paragraph who commits an offence under section 21 of the Oil and Gas Revenues Management Act.

Offences related
to cyber

Cap.443

36. A person is guilty of an offence under this paragraph who commits an offence under section 6, 7, 8, 9, 10, 11, 12 or 19 of the Cyber Crimes Act.

Offences related
to electronic and
postal
communications

Cap.306

37. A person is guilty of an offence under this paragraph who commits an offence under section 120, 122, 123 or 124 of the Electronic and Postal Communications Act.

Offences under
the Penal Code

Cap.16

38. A person is guilty of an offence under this paragraph who commits an offence under section 66, 96, 194A, 284A, or 318A of the Penal Code.

Offences related
to whistleblower
and witness
protection

Cap.446

39. A person is guilty of an offence under this paragraph who commits offence under section 16 of the Whistleblower and Witness Protection Act.”

Amendment of
the Second
Schedule

16A. The principal Act is amended by deleting the Second Schedule and substituting for it the following:

“
SECOND SCHEDULE

OATHS OR AFFIRMATION OF WITNESSES

(Made under section 48 (2))

Christians: “I swear that I shall do my best to tell the truth SO HELP ME GOD”

Muslims: “Wallah, Billahi, Ta Alahi:

I solemnly affirm that I shall do my best to tell the truth.”

Hindu: “I solemnly affirm that I shall do my best to tell the truth.”

Others: “I solemnly affirm that I shall do my best to tell the truth.””

PART IV
AMENDMENT OF THE JUDICATURE AND APPLICATION OF LAWS
ACT, (CAP. 358)

Construction
Cap. 179

17. This Part shall be read as one with the Judicature and Application of Laws Act, hereinafter referred to as the “principal Act”.

Addition of
section 4A

18. The principal Act is amended by adding immediately after section 4 the following new section:

“Power to
establish
High
Court
divisions
or
registries

4A.-(1) The Chief Justice may, after consultation with the President, by Order published in the *Gazette*, establish such number of divisions of the High Court as may be required for the purpose of facilitating the discharge of judicial functions in respect of specific matters as may be determined by the Chief Justice.

(2) The division established under subsection (1) shall, notwithstanding any other written law, exercise jurisdiction over such judicial functions as may be prescribed in the establishment Order.

(3) The Chief Justice may by Order published in the *Gazette*, establish such number of registries or sub-registries of the High Court as may be required.

(4) For avoidance of doubt, any division or registry or sub-registry which was established by Chief Justice prior to the coming into operation of the provisions of this section shall be

deemed to have been established in accordance with the provisions of this section.

(5) The Chief Justice may, by Order published in the *Gazette*, make rules prescribing practice and procedure of the division established under this section or for such other matters as may be required.”

PART V
AMENDMENT OF THE MAGISTRATES’ COURTS ACT,
(CAP.11)

Construction
Cap. 11

19. This Part shall be read as one with the Magistrates’ Courts Act, hereinafter referred to as “the principal Act”.

Amendment of
section 18

20. Section 18 of the principal Act is amended in subsection (1), by-

- (a) deleting the words “five million” appearing in paragraph (a) (ii) and substituting for it the words “fifty million”; and
- (b) deleting the words “three million” appearing in paragraph (a) (iii) and substituting for it the words “thirty million”.

Amendment of
section 19

21. The principal Act is amended in section 19 by deleting the words “Minister may” appearing in subsection (2) and substituting for it the phrase “Chief Justice may upon consultation with the Minister”.

- Amendment of section 40
- 22.** Section 40 of the principal Act is amended in subsection (2), by-
- (a) deleting the words “one hundred and fifty” appearing in paragraph (a) and substituting for it the words “three hundred”; and
 - (b) deleting the words “one hundred” appearing in paragraph (b) and substituting for it the words “two hundred”.

PART VI
AMENDMENT OF THE TAX REVENUE APPEALS ACT,
(CAP. 408)

- Construction Cap. 408
- 23.** This Part shall be read as one with the Tax Revenue Appeals Act, hereinafter referred to as the “principal Act”.

- Amendment of section 4
- 24.** Section 4 of the principal Act is amended-
- (a) in subsection (2)(b), by deleting the word “two” and substituting for it the word “three”;
 - (b) in subsection (2)(c), by deleting the word “four” and substituting for it the words “not more than twelve”;
 - (c) in subsection (3)(b), by inserting immediately after the word “taxation,” the word “law,”.

- Amendment of section 6
- 25.** The principal Act is amended in section 6 by deleting subsection (1) and substituting for it the following-
- “(1) The Minister shall appoint a suitable person from amongst senior judicial officer or law officer from the Government or public sector to be the Secretary of the Board.”

Amendment of
section 8

- 26.** Section 8 of the principal Act is amended-
- (a) in subsection (2)(b), by deleting the word “two” and substituting for it the word “three”;
 - (b) in subsection (2)(c), by deleting the word “four” and substituting for it the words “not more than ten”;
 - (c) in subsection (3),-
 - (i) by deleting paragraph (a) and substituting for it the following:
“(a) chairman if he holds or has previously held or is qualified for appointment to a higher judicial office in the United Republic.”;
 - (ii) by inserting immediately after the word “taxation,” appearing in paragraph (b) the word “law,”.

Amendments of
section 10

27. The principal Act is amended in section 10(1), by deleting the words “senior lawyer” and substituting for them the words “a senior judicial officer or law officer”.

Amendment of
section 25

28. The principal Act is amended in section 25(1), by inserting immediately after the word “decision” appearing in the first line, the words “and decree.”

Passed by the National Assembly on the 24th June, 2016.

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Clerk of the National Assembly