

THE UNITED REPUBLIC OF TANZANIA



No. 67 OF 1964

I ASSENT,

Tulius K. Nyerere
President

10TH DECEMBER, 1964

An Act to amend the Magistrates' Courts Act, 1963

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Magistrates' Courts (Amendment) Act, 1964, shall be read as one with the Magistrates' Courts Act, 1963 (hereinafter referred to as the principal Act), and shall come into operation on such date, as the Minister shall, by notice published in the *Gazette*, appoint.

Short title, construction and commencement Acts 1963 No. 55

2.—(1) The office of associate judge is hereby abolished.

Abolition of associate judge

(2) Where the hearing of any proceeding has been commenced but not concluded before the commencement of this Act by a divisional court or otherwise by a court consisting of a judge and an associate judge, such proceeding may be continued and concluded and decisions and orders made therein and perfected, after the commencement of the Act, by the judge or judges of the court.

3. Section 8 of the principal Act is hereby repealed and replaced by the following new section:—

Primary courts to sit with assessors

"Assessors

8.—(1) In every proceeding in a primary court, the court shall sit with two assessors (or such greater number as an appropriate judicial authority may direct); and every such assessor shall be required, before judgment, to give his opinion as to the case generally and as to any specific question of fact addressed to him by the presiding magistrate, and the magistrate shall record the same.

(2) In any proceeding in a district court or the court of a resident magistrate in which any rule of customary law or Islamic law is in issue or relevant, the court may, and when directed by an appropriate judicial authority shall, sit with an assessor or assessors; and every such assessor shall be required, before judgment, to give his opinion as to all questions relating to customary law or Islamic law in issue in, or relevant to, the proceeding, and the magistrate shall record the same.

(3) In determining any proceeding in which the court sits with assessors, the magistrate shall not be bound to conform with the opinions of the assessors, but in any case in which he does not so conform, the magistrate shall record his reasons therefor in writing."

Certain justices to have powers of notaries public, etc.

4. Section 51 of the principal Act (which confers certain additional powers on justices of the peace assigned to a district court house) is hereby amended by substituting a semi-colon for the full stop at the end of paragraph (c) thereof and adding immediately thereafter the following new paragraph:—

Cap. 12

"(d) shall have and exercise all the powers and duties conferred upon a magistrate or registrar under section 10 of the Notaries Public and Commissioners for Oaths Ordinance."

Consequential amendments to principal Act and other laws

5.—(1) The principal Act is hereby further amended in accordance with Part A of the Schedule hereto.

(2) The provisions of the laws set out in the first, second and third columns of Part B of the Schedule hereto are hereby amended in the manner set out opposite thereto in the fourth column.

SCHEDULE

(Section 5)

PART A

CONSEQUENTIAL AMENDMENTS TO THE MAGISTRATES' COURTS ACT, 1963

Section 2	<i>Delete</i> the definition "associate".
Section 3	<i>Delete</i> the word and commas "associate," where they occur in paragraphs (a) and (b).
Section 7 (1)	<i>Delete</i> the letter "A" in the first line and <i>substitute</i> therefor the following "Subject to the provisions of section 8, a".
Section 22	<i>Delete</i> the words "an associate or" in the third line and <i>substitute</i> therefor the letter "a"; and <i>delete</i> the words "associates and" in the marginal note.
Section 23	<i>Delete</i> subsections (1) and (2) and <i>substitute</i> therefor the following new subsections:— "(1) Appeals to the High Court under this Part shall be heard by one judge unless the Chief Justice direct that an appeal be heard by two or more judges. (2) Any direction by the Chief Justice under subsection (1) may be given at any time before judgment."
Section 24	(A) <i>Delete</i> the words "or an associate" in the second line of subsection (1) and the first line of subsection (4). (B) <i>Delete</i> subsection (2).
Section 27	<i>Delete</i> subsection (3).
Section 63	(A) <i>Delete</i> the commas and words ", and having knowledge of the customary law or laws prevailing in its area," in the third and fourth lines. (B) <i>Delete</i> the words "in respect of any proceeding in which any rule of customary law is in issue or relevant" in the first, second and third lines of paragraph (b) of the proviso.
Section 65 (2)	<i>Delete</i> the word and comma "associate," in paragraph (f).
Section 73	<i>Delete</i> subsection (1).

PART B

CONSEQUENTIAL AMENDMENTS TO OTHER LAWS

The Interpretation and General Clauses Ordinance	Section 2	In the definition "judge" delete the words "but not an associate judge".	Cap. 1
The Official Oaths Act, 1962	Second Schedule Part I	Delete the item relating to an Associate Judge.	C.A. Act 8
The Judicial Service Act, 1962	Section 2A	Delete the section.	C.A. Act 10

Passed in the National Assembly on the second day of December, 1964.

[Signature]
Clerk of the National Assembly

