

THE UNITED REPUBLIC OF TANZANIA

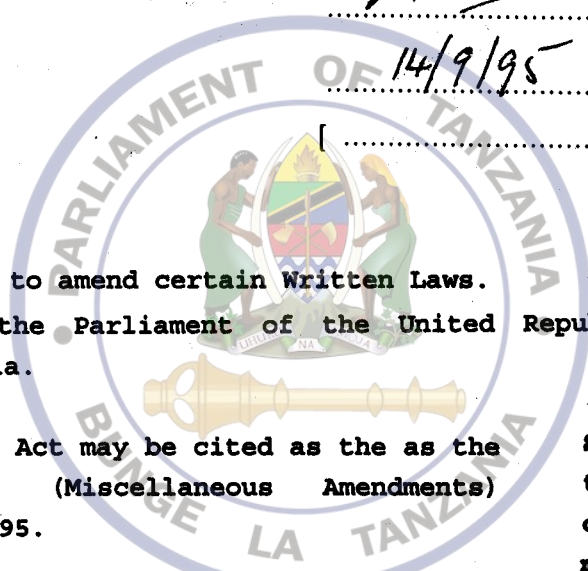


No. 18 OF 1995

*Mwanaw* I ASSENT,

President

14/9/95



An Act to amend certain Written Laws.

ENACTED by the Parliament of the United Republic of Tanzania.

1.-(1) This Act may be cited as the as the Written Laws (Miscellaneous Amendments) (No.3) Act, 1995.

Short title and commencement

(2) The amendments relating to the Banking and Financial Institutions Act, 1992 shall be deemed to have come into operation on the 1st day of March, 1995.

2. The Written Laws specified in the first and second columns of the Schedule to this Act, are hereby amended in the manner specified opposite those laws in the third column of that schedule.

Amendment of certain Written Laws

SCHEDULE

---

FIRST COLUMN

Act No. 12  
of 1991

SECOND COLUMN

The Banking and  
Financial Institutions  
Act, 1991

THIRD COLUMN

Section 2 is amended-

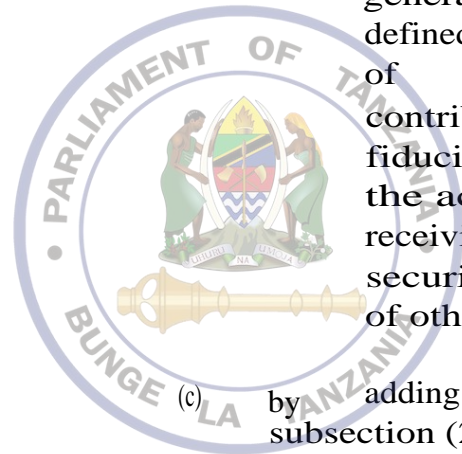
(a) by deleting subsection (3) and substituting for it the following-

11(3) The Bank may, with the approval of the Minister and by notice published in the Gazette, order that the provisions of this Act or any part thereof shall, subject to such terms and conditions as it may impose, apply to institutions involved in the business of financial intermediation."

(b) by inserting the following definition immediately after the definition "financial institution":



"financial intermediation" means the lending, investing or placement of funds or securities or both, received, acquired or obtained from the general public or from a well defined group of persons by way of deposit, borrowing, contribution, premium or in a fiduciary capacity, either for the account or the person receiving such funds or securities of for the account of other;"



(c) by adding immediately after subsection (2) as amended the following new subsections-

" (4) For the avoidance of doubt, it is hereby declared that no duty to which an auditor or former auditor of. a bank or financial institution may be subject, shall be deemed



to be breached by reason only of his communication in good faith to the Bank or any officer of the Bank whether or not in response to a request made by either of them, of any information or opinion on a matter to which this section applies and which is relevant to any function of the Bank under this Act or the Bank of Tanzania Act 1995.

(5) in relation to an auditor of a bank or financial institution this section shall apply to any matter of which he becomes aware in his capacity as auditor and which relates to the business or affairs of the bank or financial institution or any of its affiliates or any director, controller, manager or relative of such person in relation to which the information is given."

- (d) by renumbering subsections (4), and (5), as subsections (3), (4),(S) and (6) and (7) respectively.

"Section 16 is amended by inserting immediately after subsection (3). the following proviso

"Provided that the Bank may upon application by a bank or financial institution concerned and for reasonable cause in writing authorize it bank or financial institution to publish an unaudited statement of accounts within a specified time in a newspaper which in the opinion of; the Bank. is capable of reaching a great part of the public, in lieu of the summary statement duly certified by Auditors.-

Section 17 is amended by-

deleting paragraph (b) of subsection (1) and renumbering paragraphs (c) and (d) as paragraphs (b) and (c) respectively.

Section 27 is repealed and replaced by the following:

"27. Notwithstanding any other written law-

- (a) where a bank or financial institution becomes insolvent, the Bank may appoint the Board to be a liquidator of the bank or financial institution and the appointment shall have the same effect as the appointment of a

cap. 212

liquidator by the court under the provisions of the Companies ordinance;

(b)

no other liquidator of bank or financial institution shall be appointed under the provisions of the companies ordinance if the Board has already been appointed as a liquidator, and no liquidator, of a bank or financial institution shall be appointed in any event without the approval of the High court which shall not grant such approval unless the Bank certifies that the Bank does not intend to exercise its powers or may fail to exercise



cap. 212

its powers within such period not exceeding three months as may be prescribed by the High court.

- (c) where a liquidator of a bank or financial institution has been appointed the Bank may, at any time, apply to the High Court for an order that the liquidator be removed and the Board be appointed as liquidator in the first mentioned liquidators place.



Subsection (2) of section 44 is repealed and replaced by the following:

- (2) As soon as possible after taking possession the Bank shall make an inventory of the assets of the bank or financial institution concerned

and copies of that inventory shall be available for examination by all interested parties at such place and during such times as the Bank shall specify. "

Section 45 of the Principal Act is repealed and replaced by the following:

"45. Compulsory liquidation and compulsory reorganization of any bank or financial institution taken possession of by the Bank under this Part shall proceed in terms of the provisions of section 27 and such Regulations as the Governor may make. "

Section 46 of the Principal Act is repealed and replaced by the following :

"46. - (1) If the Bank decides to reorganize the affairs of any bank or financial institution, the Bank shall, after granting a hearing to all interested parties, make and send a copy of the reorganization plan to all depositors and other creditors



who do not receive full payment of their claims under the reorganization plan.

(2) Notwithstanding any other provision of this Act or any other law, the reorganization plan under this action shall:

(a) be made equitably as regards all classes of depositors, creditors and shareholders;

(b) provide for bringing in new funds so as to establish adequate ratios between-

(i) capital and deposits; and

(ii) liquid assets and deposits; and

(c) provide for the removal of any director, officer or employees responsible for the circumstances which led to the seizure of the bank or financial institution concerned."

Act No. 1  
of 1985

The Elections  
Act, 1985

Section 35 is hereby amended-

(a) by deleting the words  
"counting of votes" which appear  
in the marginal note and substituting  
for them the words:  
"Addition of Presidential  
votes"

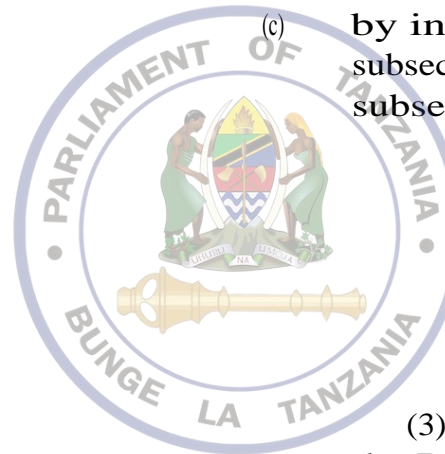


(b) by deleting subsection (l) and  
substituting for it the following:-

" (1) After all the reports of  
the results and the ballot  
boxes containing the ballot  
papers relating to Presidential  
election have been received  
from all the polling districts  
in the constituency, the  
Returning Officer shall, after  
determining the validity of any  
disputed votes, add together  
the figures of-

(a) all the votes cast in  
the constituency;

- (b) the votes in favour of each candidate;
- (c) the rejected ballot papers".



(c) by inserting immediately after subsection (1) the following new subsections:

11(2) The Returning Officer shall prepare and submit to the Commission a report of the partial results of the Presidential election in the constituency.

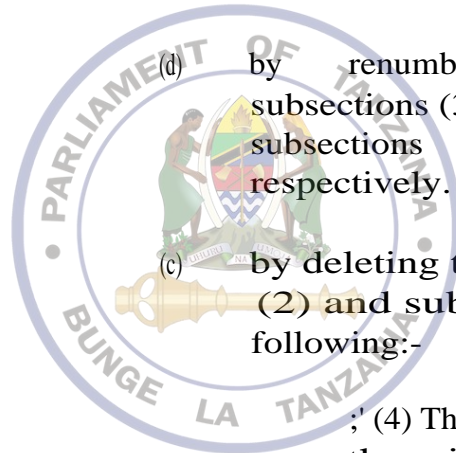
(3) The Commission may direct that the Returning Officer shall, after preparing the report of the results under subsection (2) of this section, display a copy of the report in some conspicuous public place;

(4) The Returning Officer shall certify and give a copy of the report to each of the polling agents or if present, the Presidential candidates".

(d) by renumbering the present subsections (3), (4) and (5) as subsections (6), (7) and (a) respectively.

(c) by deleting the present subsection (2) and substituting for it the following:-

;' (4) The Commission may where there is any doubt as to the accuracy in the addition of Presidential votes in any constituency, require the repetition of the addition Of the figures from the partial results from some or all of the polling stations in the constituency.



Section 57 is hereby amended in subsection 3-

- (a) by deleting the "full stop" at the end of that subsection and substituting for it a " colon" and
- (b) by adding immediately below that subsection the following proviso:-

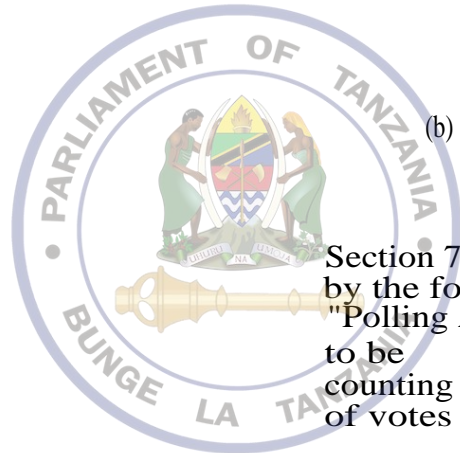


"Provided that a Candidate may in the Notice given under subsection (2), appoint an alternate polling agent who may be present and perform any of the functions of a polling agent in the absence of the polling agent from the polling station, whether permanently or temporarily.

Section 61 is hereby amended in subsection (3) by deleting the "I. colon" and the proviso which appears at the end of that subsection and substituting for them a "semicolon" .

section 62 is hereby repealed.  
Section 69 is amended-

- (a) in subsection (2) by deleting the reference to subsection" (3) " at **the end of that subsection and substituting for it reference to section "79A", and**
- (b) by, deleting subsection (3), (4) (5), and (6)-



Section 70 is repealed and replaced by the following-

"Polling Agent to be counting of votes 70(1). Every Polling agent or the alternate polling agent appointed by, a candidate agent pursuant to section 57 of this Act shall at the close of the poll and during the counting of

votes, be the counting agent of the appointing candidate"

(2) Every candidate in a parliamentary or Presidential election may appoint a counting agent to represent the candidate at the place and during the addition of election results by the Returning Officer or the commission, as the case may be.



The Act is amended by adding immediately after section 70, the following new section:-

"Place of counting of votes

70A -(1) Subject to the provisions of subsection (2) of this section, both the votes for Presidential and Parliamentary election cast at a polling station shall be



counted at that polling station.

(2) Notwithstanding the provisions of subsection (1) of this section the Commission, the Director of Elections or the Returning Officer may, for reasons of security inadequacy of counting space or other facilities or for such other reasonable cause direct that votes of a number of neighboring polling stations or of all the polling stations in a polling district or a condition of neighboring polling districts, shall be counted in one place:

(3) that where a direction is given pursuant to subsection



(2) of this section, the votes from each -polling station shall be counted separately in the some manner as if the votes had been counted at the polling station at which they were cast.



Section 71 is repealed and replaced by the following:

71.-(1) The presiding Officer of each polling station assisted by the, polling assistants assigned to the polling station, shall as soon as practicable after the closing of the poll, in the presence of , the persons referred to in section 72; if Present, proceed continuously with the counting of



votes in accordance with the methods and the procedures provided in this Part until the counting is completed.

<sup>(2)</sup> At the conclusion of every stage in the process of counting votes the candidates or the polling agents if present, shall be required to state in the prescribed manner whether they are satisfied with or they have any complaint and stating the complaint if any, in relation to each stage concluded in the counting of votes.

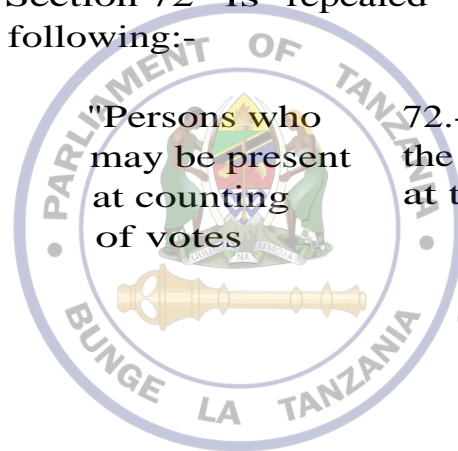
<sup>(3)</sup> Each complaint made which can be resolved or settled shall be resolved or settled at the stage. at which it is made and the

Presiding Officer shall prepare an account in the prescribed form relating to that complaint and how it was resolved.



(4) Every statement recorded by the Presiding Officer in accordance with this section shall be confirmed, signed and submitted to the Returning Officer.

Section 72 is repealed and replaced by the following:-



"Persons who may be present at counting of votes

72.-(1) No person other than the following may be present at the counting of votes-

- (a) the Presiding Officer
- (b) a polling assistant;
- (c) a polling agent or an alternate polling agent;



- (d) a candidate;
- (e) a police officer or such other person responsible for security at the place where votes are being counted;
- (f) a Returning Officer, Assistant Returning Officer, or a Regional Coordinator;
- (g) a member of the Commission;
- (h) the Director of Elections or an electoral officer of the Commission;

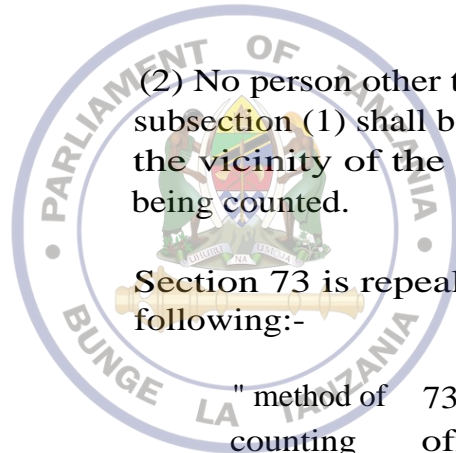
- (i) an election observer duly authorized in writing by the Commission-

(2) No person other than those referred to in subsection (1) shall be permitted to be within the vicinity of the place where votes are being counted.

Section 73 is repealed and replaced by the following:-

" method of counting votes

73-(1) Before the Presiding officer and polling count the votes, they shall, in assistants proceed to the presence of the persons referred to in section 72, if present-





- (a) ascertain and record the number of all the persons who voted at the polling station;
- (b) count and record the number of all the unused ballot papers, including any spoilt ballot papers and seal them **in a** special envelope;
- (c) inspect each seal and any padlock affixed to the ballot box to ascertain whether or not they have been opened or tampered with;

- (d) unseal each seal, one after another and lock the padlock; and
- (e) open the ballot box.

(2) After the ballot box has been opened the Presiding Officer shall take out and count aloud each ballot paper and record the total of the ballot papers found in the ballot box.

(3) After the total of the ballot papers in the ballot box has been ascertained the votes shall be counted as follows:-

- (a) the Presiding officer shall unfold each ballot paper, display it for viewing by those present and announce aloud the candidate for which the vote has been cast or whether the ballot paper is blank, spoilt or otherwise invalid;



- (b) the ballot papers which have' been displayed and shall be announced arranged in separate -lots facing upwards, according to the candidate for which they are cast or as blank or invalid votes;
- (c) the Presiding Officer shall count aloud and record the votes in each lot and verify their total with the total of all the ballot papers which were found in the ballot box and the number of voters who cast their votes at the Polling station.

Section 74 is repealed and replaced by the following:-

"Ballot papers which shall not be counted as valid.

74- A ballot Paper shall not be counted as a valid vote if -

- (a) it does not bear an official mark;

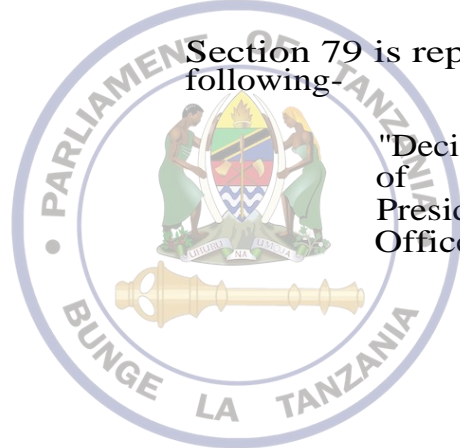


- (b) the vote on it has been recorded otherwise than in accordance with section 61 or it is required under that section to be treated as spoilt;
- (c) anything is written or marked by which a voter can be identified otherwise than by the serial number printed on it; or
- (d) it is unmarked or void for uncertainty.

Section 77 is hereby repealed.

Section 78 is amended in subsection (1) by deleting the words "Returning Officer" whenever they appear in that subsection and in each case substituting for them the words "Presiding Officer " .

Section 79 is repealed and replaced by the following-

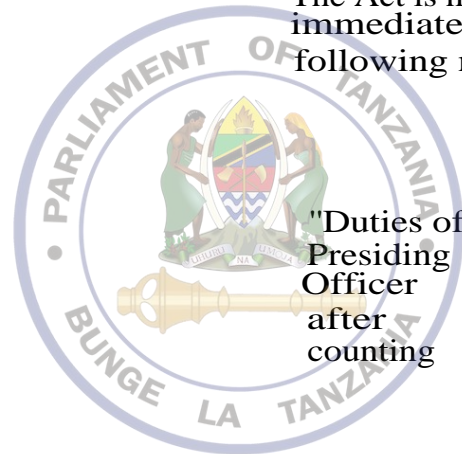


"Decision  
of  
Presiding  
Officer

79. The  
Presiding Officer after  
consultations with *the*  
polling assistants, *the*  
Polling agents or if  
**present**, *the*  
candidates decide on  
any question arising  
**in respect of any**  
ballot paper and if  
disputed, *the* decision  
**shall be subject to**  
review by the Returning  
Officer, **during the**  
addition of votes from  
**all the polling**  
stations **in the**  
constituency and whose  
decision shall be final  
and subject only to

further review by an election petition pursuant to Chapter VII of this Act."

The Act is hereby amended by adding immediately after section 79 the following new section:-



"Duties of Presiding Officer after counting

79A.-(1) Upon the conclusion of the counting of the votes in accordance with section 73 the Presiding Officer shall: -

- (a) seal up in separate packets the valid, the disputed and the rejected, ballot papers;
- (b) prepare a separate report of the results of each of the



- Parliamentary and Presidential elections in the manner and form as the Commission may direct which shall be signed by the Presiding Officer and the polling agents if present;
- (c) require the polling agents or if present, a candidate to state in the prescribed form with any complaint or to confirm satisfaction with the counting of Votes;
- (d) affix in some conspicuous place a copy of the report on the results



of the partial elections at the polling station;

- (e) if available in sufficient numbers, give each polling agent a copy of the report of results;
- (f) lock up and seal all the packets of ballot papers in the ballot box; and
- (g) accompanied by such number of polling agents present as the Commission shall direct transmit and hand over to the Returning Officer, the ballot box

together with the report of the partial results of the election at the polling station."

Section 80 is repealed and replaced by the following-

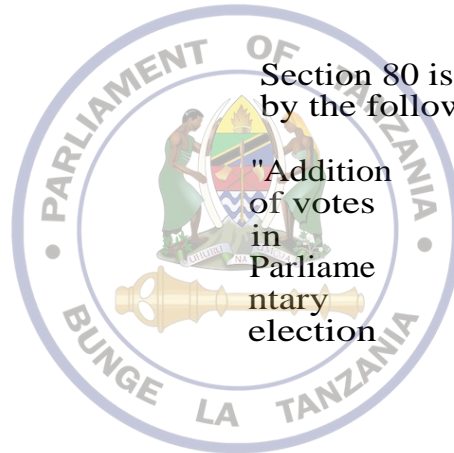
"Addition of votes in Parliamentary election

80.-(1) The provisions of section 35F shall apply in *mutatis mutandis*

relation to the counting of the votes for parliamentary election.

(2) The following persons shall be authorized to be present at the addition of votes by the Returning Officer:-

- (a) The Returning Officer;
- (b) Assistant





- Returning Officer;
- (c) Regional co-ordinator;
- (d) a member of the Commission;
- (e) the Director of Elections or an election officer of the Commission;
- (f) a candidate;
- (g) a counting agent
- (h) a police officer or such other person responsible for security at the place of counting;
- (i) an observer duly authorized in counting by the Commission.

(3) The candidate or polling agent may request the Returning Officer

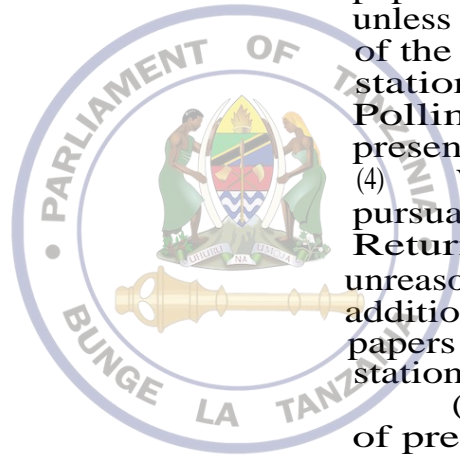


to check on any part of the addition to ascertain its accuracy but shall not be entitled to request a recount of all the votes or all the ballot papers from any polling station unless the accuracy of the report of the results from that polling station were disputed by the Polling agent or candidate present at the polling station.

(4) Where a request is made pursuant to subsection (3) the Returning Officer shall not unreasonably, refuse to check the addition or to recount the ballot papers of any particular polling station.

(5) In relation to addition of presidential results by the Commission the following may be present:

- (a) a member of the Commission;
- (b) the director of elections;
- (c) Electoral Officers of the commission;
- (d) A candidate;

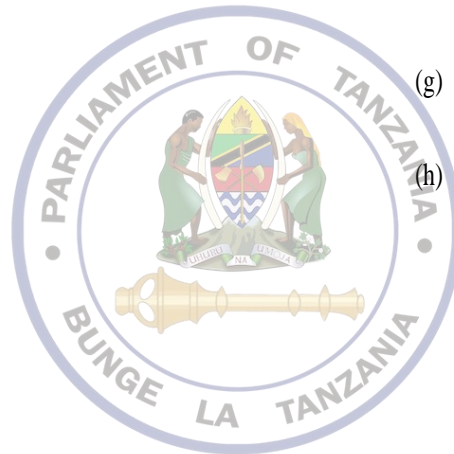


(e) a counting agent;

(f) a police officer in such other officers responsible for security at the place where the presidential results are being added;

(g) an observer duly authorized in writing by the commission;

(h) such other person as the commission may authorize;



Cap 508

The Judicial Service Act, 1962

The Act is hereby amended-

- (a) in section 2(1), by inserting immediately after the definition "judicial office" the following definition:

"Minister" means the Minister for the time being responsible for legal affairs;

- (b) in section 21 B-
- (i) by deleting subsection (4) and substituting for it the following:  
 " (4) The District Officer of the District shall be the Secretary of The Board";
- (ii) by deleting paragraphs (b) and (c) of subsection (5) and substituting for them the following:  
 " (b) receive and **investigate** complaints by the





public concerning primary court magistrates in that District and submit reports to the Minister; (c) carry out inquiries into the conduct of a primary court magistrate in consequence of a direction by the Minister so to do and report back to him; (d) perform such other functions as the Minister may direct.;"

- (e) in section 25 by adding, immediately after subsection (2) the following:  
 "(3) Nothing in this section shall be construed as impeding the Minister from



directing the commission or any Board, as he deems necessary, to carry out an inquiry into any act; omission or conduct of any Judicial officer involving or amounting to the commission of any offence whether or not in the, course of exercising his Judicial functions. "

The Political  
Parties Act, 1992

No. 5 of 1992

The Political Parties is amended-

(a) by adding immediately after section 14  
the following sections:-



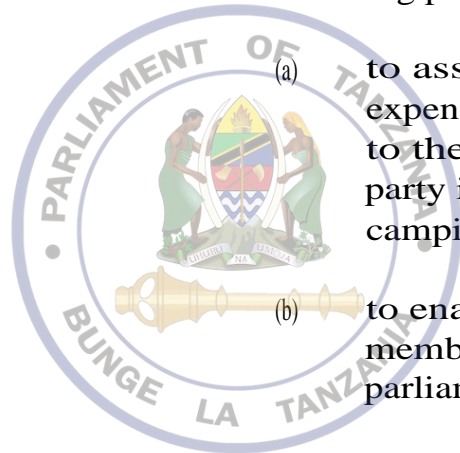
" Party to  
maintain  
Bank  
account

15.-U) Every political party  
which has been fully registered  
registered shall through their  
trustees, maintain a bank account  
of the party in which all the money  
received by the party in accordance  
with Section 14, shall be  
deposited.

(2) Any subvention from  
the Government which is payable  
to any political party under this  
Act, shall not be paid to any  
political party which does not  
maintain a bank account in  
accordance with this section.

Granting and purposes of subvention

16.-(1) Subvention from the Government may be granted to a fully registered political party for all or any of the following purposes-



- (a) to assist a political party to defray expenses necessary for and which state to the participation of the political party in an election by nominating and camping for a candidate of the party;
- (b) to enable a political party which has members in Parliament to carry out its parliamentary functions.
- (c) to assist a political party which, in the preceding general election, won not less than five percent of all the votes cost in the United Republic relation to either a parliamentary or a Presidential election, to defray such reasonable and necessary office expenses of the party other than

expenses for such matters as traveling, salaries, allowances, house rent, acquisition or maintenance, house rent, acquisition or maintenance of motor vehicles or entertainment.

(2) a subvention under paragraph (a) of subsection (1) shall be in two equal installments,-

(a) the first installment being an amount computed on the basis of the number of the candidates which a political party has nominated, to be paid soon after the nomination of the candidates in accordance with the Elections Act, 1985 or the Local Authorities (Elections) Act 1979.

(b) the second installment being an amount to be computed on the basis of the number of candidates nominated by of the political party who participated in the whole electoral process until announcement of final results.



Subvention under paragraph (b) of subsection (1), shall be an amount to be computed on the basis of the number of the members of Parliament who are members of the political party.

(3) The amount which is payable as subvention to political parties shall be prescribed from time to time by regulations under section. A. 22, after taking into consideration the prevailing economic conditions and financial capability of the Government.

(4) The Registrar shall be responsible for the management, and payment of subvention payable to political parties under this Act.

Subventions  
to be  
accounted  
for

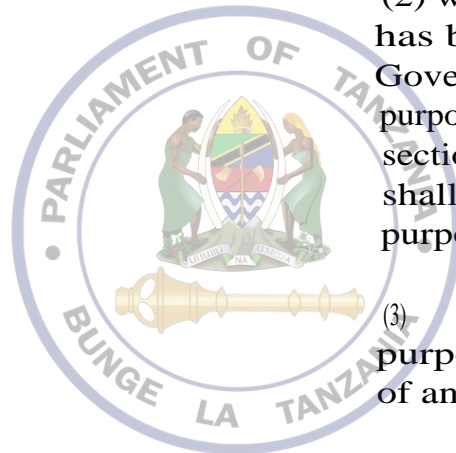
17. (1) Without prejudice to section 14, any subvention granted by the government by the government to any political party shall be

accounted for separately in accordance with regulations made under section 18.

(2) where any subvention has been granted by the Government for any of the purposes specified in section 16, such subvention shall be spent only for the purpose so specified.

(3) where the specified purpose is the furthering of an election-

- (a) if the political party does not take part in the election;
- (b) a candidate of the party withdraws from the election; or



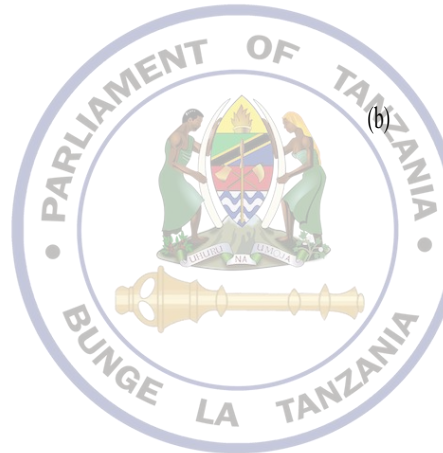
- (c) for any reason the money is not spent on the election,

the political party to which the money was granted shall refund the whole or so much of the money which has not been spent for the Election.

(4) In assessing any account submitted by a political party in relation to subvention granted for the purpose of furthering an election, the Registrar may take into consideration any complaint as other representation in writing, made by a candidate of the party in that election and which relates to the subvention being accounted for.

Forfeiture 18.-(1) Where any political of rights neglects or otherwise fails on failure to account for any money account granted pursuant to the provisions of section 16 the

(a) the Political party shall not be entitled to and subsequent subvention or installment on any subvention payable under this Act;



(b) where the subvention which has not been accounted for is also refundable to the Government in accordance with section 17, the Political party shall forfeit the right to nominate a candidates to any subsequent election, until such subvention has been refunded.



(2) The Registrar shall for the purposes of paragraph (b) of subsection (1) of this section, certify to the Electoral Commission as soon as **practicable**, the occurrences of any event by which a political party forfeits the right to participate in an election.

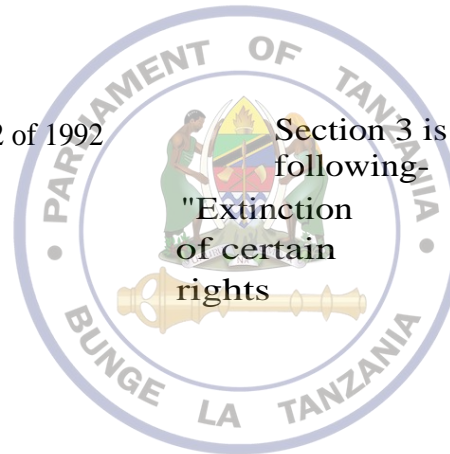
(3) if by reason failure to submit an account on f or any other reason, the Registrar has reason to suspect their any offence under the penal code may have been committed in relation to the money which has not been accounted for, make to **a report to a police station**, and the officer

in charge of that police station shall cause the matter to be investigated".

(h) by renumbering the present sections 15, 16, 17 and 19 as sections 19, 20, 21, 22 and 23 respectively.

The Regulation  
of Land Tenure  
(Established Villages)  
1992

No. 22 of 1992



Section 3 is repealed and replaced by the following:

"Extinction  
of certain  
rights

3.-(1) Subject to the provisions of Section 4 of this Act, all rights to occupy or to use land in accordance with any custom or rule of customary law existing or held or claimed to be held by any person in any Village land prior to Operation Vijiji, are hereby extinguished.

(2) For the avoidance of doubt the extinction of rights under Subsection (1) of this section shall not effect-



(a) any right to occupy or to use any village land which was acquired by any person during or subsequent to Operation Vijiji, in any village established as the result of Operation Vijiji, or

(b) any right to use or to occupy any land in accordance with any custom or rule of customary law

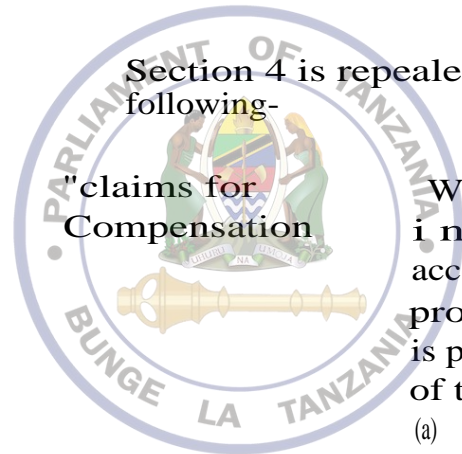
existing in any village which was not established as the result of Operation Vijiji"

Section 4 is repealed and replaced by the following-

"claims for Compensation

Where in any proceedings instituted in accordance with the provisions of this Act, it is proved to the satisfaction of the Tribunal that-

- (a) any person was an occupier of any village land to which section 3 applies.
- (b) the person had made any unexhausted improvements or added any ascertainable





value to the village land prior to operation vijiji, and

- (c) such land was not subsequently allocated to that person,



the Tribunal may award such compensation as the Tribunal may think is fair in relation to the value of the unexhausted improvements or the value added to that land.

Section 5 is hereby repealed.

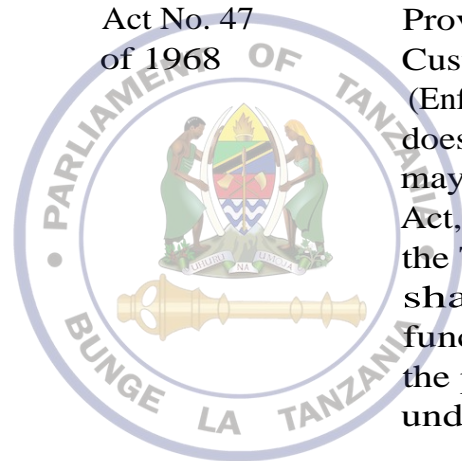
Section 6 is repealed and replaced by the following-

**Institution of proceedings**

6.-(1) Proceedings under this Act may be instituted in the Tribunal having

jurisdiction over the area  
in which the dispute  
arises:

Act No. 47  
of 1968



Provided that where the  
Customary Leaseholds  
(Enfranchisement) Act, 1968  
does not apply, the Minister  
may for the purpose of. this  
Act, establish a Tribunal and  
the Tribunal so established  
shall perform all the  
functions and exercise all  
the powers of the Tribunal  
under this Act

Section 7 is amended-

- (a) by deleting the words "subject to section 3 of this Act then which appear in the first line; and substituting for them the word "The"

Section 9 is amended-

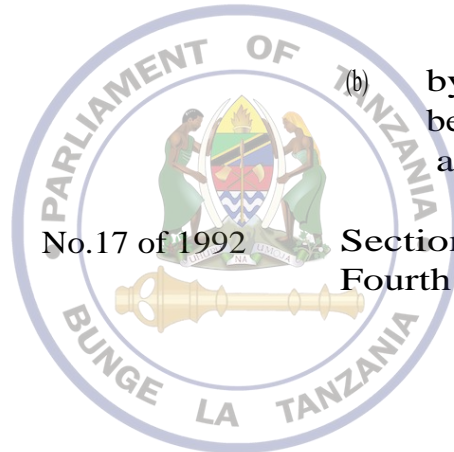
(a) in subsection (2) by deleting the word "Minister" which appears in the second line and substituting for the words, "the High Court"

(b) by deleting the words, "and shall not be reviewed by any court" which appear at the end of that subsection.

The Open University  
of Tanzania  
Act, 1992.

No.17 of 1992

Section 64 is hereby repealed. The  
Fourth Schedule is hereby deleted.

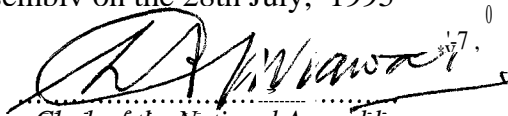


"The Ward Tribunals Act, 1985

No. 7 of 1985

Section 2 is amended the deleting the definition "Minister" and substituting for it the following new definition-  
"Minister means The Minister for the time being responsible for Local Authorities".

Passed in the National Assembly on the 28th July, 1995

  
Clerk of the National Assembly