

THE UNITED REPUBLIC OF TANZANIA

*ACT SUPPLEMENT*

*No. 11*

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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO.4) ACT, 2019

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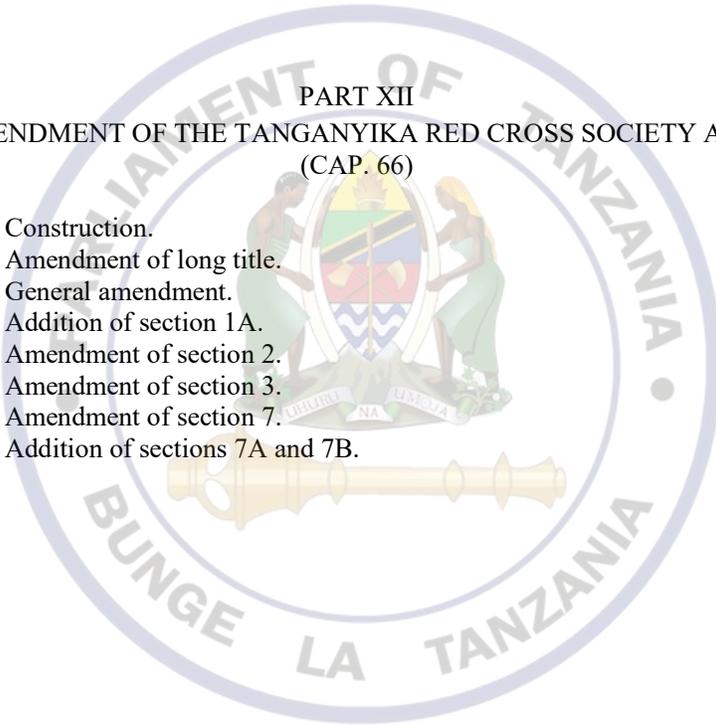
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THE UNITED REPUBLIC OF TANZANIA



NO. 11 OF 2019

I ASSENT

JOHN POMBE JOSEPH MAGUFULI  
*President*

[19<sup>th</sup> September, 2019]

**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.4) Act, 2019.

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 ADVOCATES ACT,  
(CAP. 341)

Construction Cap.341

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

Amendment of section 3

4. The principal Act is amended in section 3(2), by

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

“(a) the Attorney General, the Director of Public Prosecutions, the Solicitor General, Parliamentary Draftsmen and State Attorneys and any person duly qualified in the Office of the Attorney General, the National Prosecutions Service and the Office of the Solicitor General.”

Amendment  
of section 34

5. The Principal Act is amended in section 34, by-

(a) designating the contents of the proposed section 34 as subsection (1); and

(b) adding immediately after subsection (1) as designated, the following:

“(2) A Law Officer or State Attorney shall not, for the whole period of service as Law Officer or State Attorney, be issued with practising certificate.

(3) Notwithstanding subsection (2), the Attorney General may, upon application by a Law Officer or State Attorney, or where in his opinion he considers it necessary, exempt a Law Officer or State Attorney from the application of subsection (2).

(4) Without prejudice to subsection (2), a Law Officer or State Attorney may, subject to the guidelines prescribed by the Attorney General, administer oaths or attest documents as a commissioner for oaths or as a notary public:

Provided that such attestation or administration shall not have potential conflict of interest with his employer.”

### PART III

#### AMENDMENT OF THE BIRTHS AND DEATHS REGISTRATION ACT, (CAP. 108)

Construction  
Cap.108

6. This Part shall be read as one with the Births and Deaths Registration Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 3

7. The principal Act is amended in section 3, by-

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

- “(2) The Registrar-General shall have powers to register any birth or death which occurs at any place within Mainland Tanzania.”; and  
(b) renumbering subsections (2), (3) and (4) as subsections (3), (4) and (5) respectively.

Addition of section 5A

**8.** The principal Act is amended by adding immediately after section 5, the following:

“Delegation of powers and functions of Registrar-General

**5A.**-(1) Without prejudice to the powers and functions vested upon the Registrar-General under this Act, the Registrar-General may, in writing, delegate to the District Executive Director, Ward Executive Officer, Mtaa Executive Officer or Village Executive Officer powers to register births and deaths occurring in their respective districts, wards, mtaa and villages.

(2) Upon delegation of powers and functions under subsection (1), the District Executive Director, Ward Executive Officer, Mtaa Executive Officer or Village Executive Officer shall, subject to directives of the Registrar-General, perform the functions and exercise the powers of the Registrar-

General as delegated.

(3) Any delegation of powers and functions of the Registrar-General made to the District Executive Director, Ward Executive Officer, Mtaa Executive Officer or Village Executive Officer, prior to the coming into operation of this section, shall be deemed to be a valid delegation made under this Act.

(4) The Minister may, in consultation with the Minister responsible for local government, make regulations

prescribing the manner, forms and mechanism, including the use of technology, for effective efficient registration of births and deaths by District Executive Director, Ward Executive Officer, Mtaa Executive Officer or Village Executive Officer.”

Amendment of section 14

9. The principal Act is amended in section 14, by deleting the phrase “within two years of the registration on” and substituting for it, the phrase “at any time before the child attains the age of eighteen years and upon”.

Addition of section 17A

10. The principal Act is amended by adding immediately after section 17 the following:

“Registration of death occurring outside country

17A.-(1) Where any citizen of the United Republic dies in any country outside the United Republic, the parents, spouse or relative of the deceased shall furnish to the relevant Tanzania Embassy, High Commission or Consular, official record from the relevant authority indicating the particulars of the deceased.

(2) Upon receipt of the records under subsection (1), the relevant Embassy, High Commission or Consular shall immediately transmit the records to the Registrar-General who shall take judicial notice of such death and where applicable, enter such records in the register of deaths occurring outside the United Republic.

(3) Where the records received relate to a citizen of the United Republic who is a resident of Tanzania Zanzibar, the Registrar-General shall transmit such records to the relevant authority in Tanzania Zanzibar.

(4) The Minister may make regulations prescribing the forms, manner

and procedure for registration of deaths occurring outside the United Republic.”

Addition of section 24A

**11.** The principal Act is amended by adding immediately after section 24 the following new section:

“Deletion of entry in register

**24A.**-(1) Where the Registrar-General is satisfied that:

- (a) there exists in the register of births or deaths, two or more entries in respect of one person; or
- (b) the existence of an entry in the register of births or deaths was procured by fraud or misrepresentation,

the Registrar-General shall, subject to subsection (2), delete any of such entries in the register of births or deaths, and cancel any certificate of registration issued in respect of such birth or death.

(2) Without prejudice to the powers granted under subsection (1), the Registrar-General shall, in deleting an entry in the register pursuant to this section, be guided by the presumption that the earlier entry in the register is genuine.

(3) Where the Registrar-General deletes an entry and consequently cancels any registration certificate under this section, such entry and the certificate granted in respect of such birth or death shall cease to have legal effect.”

Addition of sections 26A, 26B and 26C

**12.** The principal Act is amended by adding immediately after section 26 the following new sections:

“Registration on presumption of death  
Cap. 6

**26A.**-(1) Without prejudice to sections 116 and 117 of the Evidence Act, where a court has issued an order as to the presumption of death of any person, the Registrar-General shall, upon receipt of an order of the court from any relevant

person, register such death.

(2) In this section, “relevant person” means the administrator of the estate duly appointed, or a Government official duly authorized by the court to register the death.

(3) Notwithstanding subsection (1), where the Registrar-General is satisfied that a person declared by the court to be dead on presumption of death is found alive, the Registrar-General shall delete from the register any entry entered thereto in respect of such person.

Confidentiality

**26B.**-(1) All particulars submitted to the Registrar-General by any person in relation to birth or death shall, unless directed otherwise by the court or any other written law, be treated as confidential.

(2) A person shall not disclose any confidential information under this section unless authorized by the Registrar-General.

(3) A person who contravenes the provisions of this section commits an offence and shall, on conviction, be liable to a fine of not less than three hundred thousand shillings but not exceeding five hundred thousand shillings or to imprisonment for a term of not less than three months but not exceeding six months or to both.

Issuance of  
registration  
certificate upon  
adoption  
Cap.13

**26C.**-(1) Subject to the provisions of the Law of the Child Act, where the High Court has granted an adoption order of a child, the Registrar-General may, upon application, register the birth of the child and issue a certificate to that effect.

(2) An application under

subsection (1) shall be accompanied with the certified copy of the adoption order of the High Court, application fees and other particulars as may be prescribed in the regulations.”

Amendment of section 29

**13.** Section 29 of the principal Act is amended-

- (a) in subsection (1), by deleting the words “five hundred” and substituting for them the words “one hundred thousand”;
- (b) in subsection (2), by deleting the words “five hundred” and substituting for them the words “one hundred thousand”; and
- (c) in subsection (3), by deleting the words “one thousand” and substituting for them the words “two hundred thousand”.

PART IV  
AMENDMENT OF THE CRIMINAL PROCEDURE ACT,  
(CAP. 20)

Construction Cap. 20

**14.** This Part shall be read as one with the Criminal Procedure Act, hereinafter referred to as the “principal Act”.

Amendment of section 3

**15.** The principal Act is amended in section 3, by inserting in their appropriate alphabetical order the following new definitions:

““plea agreement” means an agreement entered into between the prosecution and the accused in a criminal trial in accordance with sections 194A, 194B and 194C;

“plea bargaining” means a negotiation in a criminal case between a prosecutor and the accused whereby the accused agrees to-

- (a) plead guilty to a particular offence or a lesser offence or to a particular count or counts in a charge with multiple counts; or
- (b) cooperate with the prosecutor in the provision of information that may lead to a discovery of other information relating to the offence or count charged, in return for concession from the prosecutor which may lead to a lenient sentence or withdrawal of other

counts."

Addition of sections 194A, 194B, 194C, 194D, 194E, 194F, 194G and 194H

**16.** The principal Act is amended by adding immediately after section 194 the following:

"Plea bargaining

**194A.**-(1) A public prosecutor, after consultation with the victim or investigator where the circumstances so permit, may at any time before the judgment, enter a plea bargaining arrangement with the accused and his advocate if represented or, if not represented, a relative, friend or any other person legally competent to represent the accused.

(2) The accused or his advocate or a public prosecutor may initiate a plea bargaining and notify the court of their intention to negotiate a plea agreement.

(3) The court shall not participate in plea negotiations between a public prosecutor and the accused.

(4) Where prosecution is undertaken privately, no plea agreement shall be concluded without the written consent of the Director of Public Prosecutions.

Consequence of plea bargaining

**194B.** Where, consequent to a plea bargaining arrangement, a plea agreement is entered into between a public prosecutor and an accused person-

- (a) the public prosecutor may charge the accused with a lesser offence, withdraw other counts or take any other measure as appropriate depending on the circumstances of the case;
- (b) the accused may enter a plea of guilty to the offence charged or to a lesser offence or to a particular count or counts in a charge with

multiple counts in exchange for withdrawal of other counts; or

- (c) the accused may be ordered to pay compensation or make restitution or be subjected to forfeiture of the proceeds and instrumentalities that were used to commit the crime in question.

Requirements of  
plea agreement

**194C.**-(1) A plea agreement shall be in writing witnessed by advocate of the accused or, if not represented, a relative, friend or any other person legally competent to represent the accused, and shall-

- (a) state fully the terms of the agreement, the substantial facts of the matter and all other relevant facts of the case and any admissions made by the accused person;
- (b) be read and explained to the accused person in a language that he understands;
- (c) accepted by the accused person; and
- (d) be signed by the prosecutor, the accused person and his advocate, if represented or, if not represented, a relative, friend or any other person legally competent to represent the accused.

(2) Where an accused person has negotiated with a prosecutor through an interpreter, the interpreter shall certify that he is proficient in that language and that he interpreted accurately during the negotiations and in respect of the contents of the agreement.

(3) Without prejudice to the requirements set out under subsections (1)

and (2), a plea agreement shall not be entered between a prosecutor and accused, without prior written consent of the Director of Public Prosecutions or any other officer authorized by him in writing.

Registration of  
plea agreement

**194D.**-(1) Any plea agreement entered into in accordance with the provisions of sections 194A and 194B shall be registered by the court.

(2) The court shall, before it registers any such agreement, satisfy itself that the agreement was voluntarily obtained and the accused was competent to enter into such agreement.

(3) The court may pronounce a decision based on plea agreement or make such other orders as it deems necessary including an order to reject the plea agreement for sufficient reasons, except that, such rejection shall not operate as a bar to any subsequent negotiations preferred by the parties.

(4) Where the court accepts a plea agreement-

- (a) the agreement shall become binding upon the prosecution side and the accused; and
- (b) the agreement shall become part of the record of the court.

(5) Where a plea agreement entered into in accordance with sections 194A and 194B is accepted by the court, the court shall proceed to convict an accused person accordingly.

Procedure for  
registration of  
plea agreement

**194E.** Before the court records a plea-

- (a) the accused shall be placed under oath; and
- (b) the court shall address the accused person in court in a

language he understands and shall inform him of his rights and that-

- (i) by accepting a plea agreement, he is waiving his right to a full trial;
- (ii) by entering into a plea agreement, he is waiving the right to appeal except as to the extent or legality of sentence; and
- (iii) the prosecution has the right, in the case of prosecution for perjury or false statement, to use any statement that he gives in the agreement against him.

Offences which plea state shall not apply

**194F.** Plea agreements shall not be entered into in any of the following offences-

- (a) sexual offences whose punishment exceeds five years or involving victims under eighteen years;
- (b) treason and treasonable offences;
- (c) possession or trafficking in narcotic drugs whose market value is above twenty million shillings;
- (d) terrorism;
- (e) possession of Government trophy whose value is above twenty million shillings

- without the consent, in writing, of the Director of Public Prosecutions; and
- (f) any other offence as the Minister may, upon consultation with other relevant authority and by order published in the *Gazette*, prescribe.

Application to set aside conviction and sentence relating to plea bargaining

**194G.**-(1) The Director of Public Prosecutions may, in matters relating to plea bargaining and in the public interest and the orderly administration of justice, apply to the court which passed the sentence to have the conviction and sentence procured on the grounds of fraud or misrepresentation pursuant to a plea agreement be set aside.

(2) An accused person who is a party to a plea agreement may apply to the court which passed the sentence to have the conviction and sentence procured involuntarily or by misrepresentation pursuant to a plea agreement be set aside.

Power to make rules

**194H.** Subject to the provisions of this part, the Chief Justice may make rules and give directives for better carrying out the provisions of this Part relating to plea bargaining.”

Amendment of section 219

**17.** The principal Act is amended in section 219, by deleting the words "criminal lunatic" wherever they appear in that section and substituting for them the words "mentally disordered offender".

PART V  
AMENDMENT OF THE EXTRADITION ACT,  
(CAP. 368 )

Construction  
Cap.368

**18.** This Part shall be read as one with the Extradition Act, hereinafter referred to as the “principal Act”.

Addition of  
section 8A

**19.** The principal Act is amended by adding immediately after section 8 the following new section:

“Surrender of fugitive criminal

**8A.**-(1) Upon receipt of the certificate of the committal and any other report on the case from the magistrate, the Minister may, by warrant under his hand, order the fugitive criminal to be surrendered to any person who is, in his opinion, duly authorized to receive the fugitive criminal by the country from which the requisition for the surrender proceeded, and the fugitive criminal shall be surrendered accordingly.

(2) Any person to whom a warrant under this section is directed and the person so authorized under subsection (1), may receive, hold in custody and convey into the jurisdiction of that country the fugitive criminal mentioned in the warrant.”

PART VI  
AMENDMENT OF THE GOVERNMENT PROCEEDINGS ACT,  
(CAP. 5)

Construction  
Cap.5

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

Amendment of  
section 6

- 21.** The principal Act is amended in section 6, by-
- (a) in subsection (2), adding immediately after the words “the Attorney General” the words “and the Solicitor General”;
  - (b) in subsection (3), adding the words “Solicitor General” immediately after words “upon the”;
  - (c) adding immediately after subsection (5) the

following:

“(6) The Attorney General may, where necessary, give instructions to the Solicitor General to proceed or terminate any proceedings instituted by the Government and which is pending in court of law, and shall state the reasons thereof.”; and

(d) renumbering subsection (6) and (7) as (7) and (8) respectively.

Addition of  
sectin 6A

**22.** the principal Act is amended by adding immediately after section 6, a new 6A as follows:

"Power of Attorney  
General to  
intervene suits

**6A.**-(1) The Attorney General shall, through the Solicitor General, have the right to intervene in any suit or matter instituted by or against the ministries, local government authorities, independent departments and other government institutions.

(2) Where the Attorney General intervenes in any matter in pursuance of subsection (1), the provisions of the Government

Proceedings Act, shall apply in relation to the proceedings of that suit or matter as if it had been instituted by or against the ministries, local government authorities, independent departments and other government institutions:

Provided that, the requirement of ninety days notice of intention to sue the Government as stipulated under the Government Proceedings Act shall not apply where the Attorney General intervenes under this section.

(3) Notwithstanding the provisions of any written law, a ministry, local government authority, independent department or other government institution shall have a duty to notify the

Attorney General of any impending suit or intention to institute a suit or matter against the Authority

PART VII  
AMENDMENT OF THE MAGISTRATES' COURTS ACT,  
(CAP. 11)

Construction  
Cap.11

**23.** This Part shall be read as one with the Magistrates' Courts Act, hereinafter referred to as the "principal Act".

Amendment of  
section 40

**24.** The principal Act is amended in section 40(3), by-

- (a) deleting the words "fifty million" appearing in paragraph (a) and substituting for them the words "one hundred million"; and
- (b) deleting the words "thirty million" appearing in paragraph (b) and substituting for them the words "seventy million".

PART VIII  
AMENDMENT OF THE NATIONAL PROSECUTIONS SERVICE  
ACT,  
(CAP. 430)

Construction  
Cap.430

**25.** This Part shall be read as one with the National Prosecutions Service Act, hereinafter referred to as the "principal Act".

Amendment of  
section 9

**26.** The principal Act is amended in section 9, by adding immediately after subsection (5) the following new subsections:

"(6) The Director shall establish and maintain a system whereby the process of seeking and obtaining his consent for prosecutions, may be expedited.

(7) The Deputy Director of Public Prosecutions, Heads of Divisions within the service, Regional Prosecution Officers or District Prosecution Officers, shall, subject to regulations prescribed under subsection (8), have powers to consent for prosecution

of offences which require consent of the Director of Public Prosecutions.

(8) The Minister may make regulations prescribing for offences, value of offence or any other matters the consent of which may be issued by officers specified under subsection (7).”

Addition of section 9A

**27.** The principal Act is amended by adding immediately after section 9, the following new section:

“Compounding of offences **9A.**(1) Notwithstanding the provisions of any other written law relating to compounding of offences with the consent of the offender, the Director shall have powers to compound-

(a) any offence which by law an authorized officer is allowed to compound; or

(b) any offence the punishment of which is a fine.

(2) All agencies and authorities allowed to compound offences by any written law shall submit monthly reports to the Director.

(3) The Minister may, by regulations, prescribe the procedures for better carrying into effect of the provisions of this section.”

PART IX  
AMENDMENT OF THE PREVENTION AND COMBATING OF  
CORRUPTION ACT,  
(CAP. 329)

Construction Cap.329

**28.** This Part shall be read as one with the Prevention and Combating of Corruption Act, hereinafter referred to as the “principal Act”.

Amendment of section 57

**29.** The principal Act is amended in section 57, by-

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

Cap.430 “(2) Consent under subsection (1) shall be obtained in accordance with the provisions of section 9 of the National Prosecutions Service Act”.

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

PART X  
AMENDMENT OF THE PROCEEDS OF CRIMES ACT,  
(CAP. 256)

Construction  
Cap. 256  
Amendment  
of section 3

**30.** This Part shall be read as one with the Proceeds of Crimes Act, hereinafter referred to as the “principal Act”.

**31.** The principal Act is amended in section 3, by-

(a) deleting the definition of the term “specified offence” ;

(b) deleting the definition of the term “serious offence” and substituting for it the following definition:

““serious offence” means an offence against provisions of any law in United Republic or in a foreign state for a conduct which, had it occurred in United Republic would constitute a serious offence the punishment of which is either death or imprisonment for a period of not less than twelve months and includes any offence in which property has been used or proceeds generated or benefit derived;”

Repeal of  
section 6

**32.** The principal Act is amended by repealing section 6.

Amendment of  
section 9

**33.** Section 9 of the principal Act is amended-

(a) in subsection (1), by-

(i) deleting the words “six months” appearing in the opening phrase and substituting for them the words “twelve months”;

(ii) adding immediately after paragraph (a) the following new paragraph:

“(b) forfeiture order against any property

of corresponding value; or.”

- (iii) renaming paragraph (b) as paragraph (c);
- (b) by deleting subsection (5) and substituting for it the following:

“(5) The period provided for making an application in subsection (1) may be extended by the court when there is good cause for such extension.”

Amendment of section 10

**34.** The principal Act is amended in section 10 by-

- (a) deleting the words “fourteen days” appearing in subsection (1)(a) and substituting for them the words “thirty days”; and
- (b) deleting the words “fourteen days” appearing in subsection (2)(a) and substituting for them the words “thirty days”

Addition of sections 14A and 14B

**35.** The principal Act is amended by adding immediately after section 14 the following new sections:

“Forfeiture of property of corresponding value

**14A.**-(1) Where a property that is subject to forfeiture-

- (a) cannot be located upon exercise of due diligence;
- (b) has been transferred or sold to a third party who at the time of acquisition was unaware that it was being disposed of to avoid prosecution or confiscation;
- (c) has been placed in foreign jurisdiction and cannot be recovered;
- (d) has been substantially diminished in value; or
- (e) has been commingled with other property such that it becomes difficult to distinguish,

the court may order forfeiture of any other property of corresponding value of a person

convicted of an offence.

Voiding actions

**14B.**-(1) The court may, before making a forfeiture order, in the case of property in respect of which a restraining order was made and notice of it was given in accordance with this Act, set aside any conveyance or transfer of the property or interest therein that occurred in the circumstances that give rise to a reasonable inference that the property was conveyed or transferred for the purposes of avoiding the forfeiture order.

(2) The provisions of subsection (1) shall not apply where the transfer or conveyance was made for sufficient value to a person acting in good faith and without notice.”

Repeal of section 20

**36.** The principal Act is amended by repealing section 20.

Amendment of section 22

**37.** The principal Act is amended in section 22, by -  
(a) deleting subsection (4) and substituting for it the following:

“(4) Where an application is made for a pecuniary penalty order against a person's property in respect of a serious offence, all the property in the possession or under the control or direction of that person-

- (a) at the time the application is made; and
- (b) at any time between the day the offence or the earliest offence was committed and the day on which the application is made, shall be presumed, unless the contrary is proved, to be property that represents a benefit received by the person by reason of the commission of the serious offence.”

- (b) adding immediately after subsection (4) the following new subsection:

“(5) The presumption under subsection (4) shall not be rebutted by merely stating that the property was obtained from the offence that was not prosecuted.”

- (c) renumbering subsections (5) to (7) as subsections (6) to (8).

**38.** The principal Act is amended in section 23(2), by inserting the words "or any other registered entity" between the words "any trust" and "that has" appearing in paragraph (b).

**39.** The principal Act is amended in section 30, by deleting subsection (2) and substituting for it the following:

“(2) The Director of Public Prosecutions shall name as respondents to an application under subsection (1) only those persons who own, possess or control the tainted property.

(3) Notice prescribed under section 10 shall apply *mutatis mutandis* in the application made under this section.

(4) The High Court may require notice to be given to any person who in the opinion of the Court appears to have an interest in the property.

(5) A person, who claims an interest in the property may appear and adduce evidence at the hearing of the application.

(6) Where the High Court is satisfied that a tainted property which is the subject of the application is the property referred to in subsection (1), the Court shall order that the property be forfeited to the United Republic.

(7) Where the Court refuses an application under subsection (1), the Court shall make an order that describes the property and declare that it is not the property referred to in that subsection.

(8) Where the Court is satisfied that the owner of the tainted property referred to in subsection (6)-

(a) has an interest in the property which is the subject of the application; and

(b) has exercised reasonable care to ensure that the

property would not be a tainted property;

the Court shall make the order that the interest shall not be affected by forfeiture order.

(9) A person who claims an interest in property that has been forfeited and who has not been given notice under subsection (4), may make an application to the High Court to vary or set aside an order made under subsection (6) not later than sixty days after the day on which the forfeiture order was made.”

Amendment of section 38

**40.** The principal Act is amended in section 38, by deleting subsection (1) and substituting for it the following:

“(1) The Director of Public Prosecutions may make an *ex parte* application to the court for a restraining order against the property of a person who-

- (a) is under investigation or has been charged with or convicted of a serious offence including the property of a person other than the person who is under investigation or has been charged with or convicted of a serious offence; or
- (b) cannot be brought to court but his property is subject to forfeiture under this Act or any other law including the property of any other person in which he has interest or the property which is under his control or direction.”

Repeal and replacement of section 39

**41.** The principal Act is amended by repealing section 39 and substituting for it the following:

“Ground for issuing restraining order

**39.**-(1) Where an application for a restraining order is made against a property, the court shall, subject to this section, issue a restraining order against the property.

(2) Where the application is made before a person is charged, the court shall not issue a

restraining order unless the court is satisfied, having regard to the matters contained in the affidavit, that reasonable steps have been taken to investigate the offence and the person is likely to be charged with the offence.

(3) Where the respondent has not been convicted, the court shall not issue a restraining order unless the court is satisfied that-

- (a) there are reasonable grounds to believe that the respondent committed the offence; and
- (b) the property is tainted or the respondent derived benefit from the commission of the offence.

(4) Where the respondent has been convicted, the court shall not issue the restraining order unless-

- (a) it is satisfied that the respondent has been convicted of a serious offence; and
- (b) the respondent derived a benefit, directly or indirectly from the commission of the offence.

(5) Where a restraining order is sought against property of a person other than the respondent, the court shall not issue the restraining order unless there are reasonable grounds to believe that-

- (a) the property is tainted; or
- (b) the respondent has an interest in the property or the property is under control or direction of the respondent who derived a benefit, directly or indirectly, from the commission of a serious offence.

(6) Where a restraining order is sought against property of a person who cannot be brought to court, the court shall not issue the restraining order unless there are reasonable

grounds to believe that the property shall be forfeited under this Act or any other law.

(7) A restraining order shall be granted in respect of property whether or not there is any risk of the property being disposed of or otherwise dealt with in a manner that would defeat the operation of any forfeiture or pecuniary penalty order made under this Act.

(8) A restraining order issued before charging under subsection (2) shall operate for twelve months provided that the court may extend the period of twelve months upon application by the Director of Public Prosecutions.

(9) Where a person is charged within the period of twelve months or time so extended, the restraining order shall remain in force until it ceases to have effect in terms of the provisions of section 52.

(10) An application for a restraining order shall be supported by an affidavit of the investigator setting out grounds of his belief under subsection (2) to (4).”

Repeal of section 56

**42.** The principal Act is amended by repealing section 56.

**PART XI**  
**AMENDMENT OF THE OFFICE OF THE ATTORNEY GENERAL**  
**(DISCHARGE OF DUTIES) ACT,**  
**(CAP. 268)**

Construction Cap.268

**43.** This Part shall be read as one with the Office of the Attorney General (Discharge of Duties) Act, hereinafter referred to as the "principal Act".

Addition of section 17A

**44.** The principal Act is amended by adding immediately after section 17 the following new section:

Cap.341

“Restriction to practise as advocate

**17A.-(1)** A Law Officer or State Attorney shall not, for the whole period of

service as a Law Officer or State Attorney, practise as an advocate.

(2) Notwithstanding subsection (1), the Attorney General may, upon application by a Law Officer or State Attorney or, where in his opinion he considers it necessary, exempt a Law Officer or State Attorney from the application of the provisions of subsection (2).

(3) Without prejudice to subsection (2), a Law Officer or State Attorney may, subject to the guidelines prescribed by the Attorney General, administer oaths or attest documents as a commissioner for oaths or as a notary public;

Provided that such attestation or administration shall not have potential conflict of interest with his employer.

(4) The Attorney General shall, by order published in the *Gazette*, issue guidelines to-

- (a) facilitate the implementation of subsection (3); and
- (b) prescribe modality for application of exemption referred to under subsection (2).”

PART XII

AMENDMENT OF THE TANGANYIKA  
RED CROSS SOCIETY ACT,  
(CAP. 66)

Construction  
Cap.66

45. This Part shall be read as one with the Tanganyika Red Cross Society Act, hereinafter referred to as the “principal Act”.

Amendment  
of long title

46. The principal Act is amended by deleting the long

	<p>title and substituting for it the following: “An Act to provide for establishment of Tanzania Red Cross Society and to provide statutory protection for the emblems and for matters connected therewith.”</p>
General amendment	<p>47. The principal Act is amended generally by deleting the word “Tanganyika” wherever it appears in the Act and substituting for it the word “Tanzania.”</p>
Addition of section 1A	<p>48. The principal Act is amended by adding immediately after section 1 the following new section: “Application 1A. This Act shall apply to Mainland Tanzania as well as Tanzania Zanzibar.”</p>
Amendment of section 2	<p>49. The principal Act is amended in section 2, by inserting in their appropriate alphabetical order the following new definitions: ““Conventions” means the four Geneva Conventions and the additional Protocols made thereunder; “emblem” means the red cross or the red crescent; “International Red Cross and Red Crescent Movement” means the International Committee of the Red Cross (ICRC), the International Federation of Red Cross and Red Crescent Societies and the various national Red Cross or Red Crescent societies; “Minister” means the Minister responsible for legal affairs; “red cross” when used to signify a heraldic emblem, means an emblem depicting a red cross on white ground.”</p>
Amendment of section 3	<p>50. The principal Act is amended by deleting section 3 and substituting for it the following: “Re-establishment of society 3.-(1) There shall continue to be established and constituted the Tanzania Red Cross Society which shall be a member of the International Federation of the Red Cross and Red Crescent Societies, and is recognized as the sole national Red Cross Society for the United Republic. (2) The society shall be a</p>

voluntary aid Society and auxiliary to the public authorities in accordance with the 1949 Geneva Conventions and their additional protocols.

(3) The Society shall be a body corporate having perpetual succession and a common seal capable of suing and being sued and which shall have the power of holding, purchasing and otherwise acquiring, and disposing of property both movable and immovable.”

Amendment  
of section 7

**51.** The principal Act is amended by deleting section 7 and substituting for it the following:

“Offences

7.-(1) Any person who, falsely and with intent to deceive or defraud-

- (a) holds himself out to be a member of or an agent for the Society for the purpose of soliciting, collecting or receiving money or other property; or
- (b) wears or displays the emblem or any colourable imitation thereof for the purpose of inducing the belief that he is a member of or an agent for the Society or that he has been recognized by the Society as possessing any qualification for administering first-aid or other treatment for injury or sickness,

commits an offence and shall be liable on conviction to a fine of not less than one million but not exceeding two million shillings or to imprisonment for a term of not less than three years but not exceeding five years or to both.

(2) Where an offence contemplated

in this section has been committed for which any corporate body is or was liable to prosecution, any person who was, at the time of the commission of the offence, a director or a member of the management of the corporate body and who knew of or could have prevented the commission of the offence, is guilty of the said offence, either jointly with the corporate body or part there from, and on conviction shall be liable to the punishment provided for in this section.”

Addition of sections 7A and 7B

52. The principal Act is amended by adding immediately after section 7 the following:

“Emblem and compliance of usage

7A.- (1) The emblem of the Red Cross and Red Crescent are protected in the manner provided for in this Act and in the Conventions.

(2) The emblem may only be used-

- (a) as a sign that persons and equipment fall under protection of the Conventions;
- (b) to show that persons or equipment are connected to the International Red Cross and Red Crescent movement;
- (c) with the authorization of the Minister responsible for defence affairs in respect of personnel and equipment of Tanzania Peoples Defence Forces; or
- (d) in the manner as otherwise authorized by regulations made by the Minister in that regard.

(3) Subject to subsection (2), the Minister shall ensure compliance and take appropriate measures to prevent any misuse of the emblem.

(4) The Society shall, in the performance of its functions -

- (a) cooperate with the Minister

- responsible for defence affairs;
- (b) inform such Minister of any misuse of the emblem which has come to its knowledge, and
- (c) cooperate with the Government and other authorities in proceedings relating to the use or misuse of the emblem.

Powers to  
make  
regulations

**7B.** The Minister may make regulations or rules for better carrying out the provisions of this Act."

Passed by the National Assembly on the 5<sup>th</sup> September, 2019.

STEPHEN KAGAIGAI  
*Clerk of the National Assembly*

