

THE UNITED REPUBLIC OF TANZANIA

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ACT SUPPLEMENT

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THE CHILD PROTECTION LAWS (MISCELLANEOUS
AMENDMENTS) ACT, 2024

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THE UNITED REPUBLIC OF TANZANIA



NO. 10 OF 2024

I ASSENT

SAMIA SULUHU HASSAN

President

[2nd October, 2024]

An Act to amend certain laws in relation to child protection.

ENACTED by the Parliament of the United Republic of Tanzania.

**PART I
PRELIMINARY PROVISIONS**

Short title

1. This Act may be cited as the Child Protection Laws (Miscellaneous Amendments) Act, 2024.

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 CYBER CRIMES ACT,
(CAP. 443)**

Construction Cap. 443

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

Amendment of section 3

4. The principal Act is amended in section 3, by-
(a) deleting the definition of the term “child pornography”;

(b) deleting the definition of the terms “law enforcement officer” and “property” and substituting for them the following:

““law enforcement officer” means a police officer or any other person authorised in any written law;

“property” includes-

- (a) an asset whether movable or immovable, tangible or intangible;
 - (b) a legal document or instrument in any form, including electronic or digital, evidencing title to or interest in a property; or
 - (c) bank credit, travellers’ cheque, bankers’ cheque, money order, shares, bond and other securities drafts and letter of credits, and any interest, dividend or other income on, or value from, or generated by, such property whether situated in or outside the United Republic;”;
- (c) adding in the appropriate alphabetical order the following new definitions:

““child sexual abuse material” or “child sexual exploitation material” means any kind of material or visual display, including images, videos, audio or written content which depicts sexual acts involving a child or portrays a child in a sexualised manner, and includes any image, video or any computer generated material, whether created, adopted or modified, which can not be differentiated from a real child;

“pornography” refers to any representation, through publication, exhibition, cinematography, indecent show, information technology or by

whatever means, of a person engaged in real or simulated explicit sexual activities or any representation of the sexual parts of a person primarily for sexual purposes;”.

Repeal and replacement of section 13

5. The principal Act is amended by repealing section 13 and replacing for it the following:

“Child sexual abuse material or child sexual exploitation material

not, through computer system-

13.-(1) A person shall

(a) produce child sexual abuse material or child sexual exploitation material;

(b) offer or make available child sexual abuse material or child sexual exploitation material;

(c) distribute or transmit child sexual abuse material or child sexual exploitation material;

(d) procure any child sexual abuse material or child sexual exploitation material for oneself or for another person;

(e) compel, invite or allow a child to view pornography, child sexual abuse material or child sexual exploitation material; or

(f) knowingly possess child sexual abuse material or child sexual exploitation material in a computer data storage medium.

(2) A person shall not propose, groom or solicit, through computer system, to meet a child, followed by material acts leading to such meeting for the purpose of-

(a) engaging in sexual acts with a child by any means including:

(i) use of coercion, inducement, force or threat;

(ii) abuse of a recognised position of trust or authority;

(iii) influence over the child;

(iv) taking advantage of a particularly vulnerable situation of the child;

(v) taking advantage of mental or physical disability or a situation of dependency; or

(b) recruiting, inducing, coercing, or causing a child to participate in pornographic performances or profiting from or otherwise exploiting a child for such purposes.

(3) A person who contravenes this section commits an offence and on conviction shall be liable to a fine of not less than fifty million shillings or three times the value of undue advantage received, whichever is greater, or to imprisonment for a term of not less than seven years or to both.

(4) A person who is convicted of an offence under this section may, in addition to any other punishment, be

ordered to compensate the victim of the offence.”.

Amendment of section 19

6. The principal Act is amended in section 19, by adding at the end of subsection (3) the words “and crimes against humanity” shall have the meaning ascribed to it under the Rome Statute of International Criminal Court of 1998”.

Addition of section 19A

7. The principal Act is amended by adding immediately after section 19 the following:

“Cyber terrorism

19A.-(1) A person shall not access or cause to be accessed a computer or computer system or network for purposes of carrying out a terrorist act.

(2) A person shall not, by means of computer system, propose, groom or solicit to meet a child, followed by material acts leading to such meeting for the purpose of engaging in terrorism acts.

(3) A person who contravenes subsection (1) or (2) commits an offence and on conviction shall be liable to imprisonment for a term of not less than twenty years.

(4) For the purpose of this section, “terrorist act” shall have the meaning ascribed to it under the Prevention of Terrorism Act.”.

Cap. 19

Amendment of section 34

8. The principal Act is amended in section 34 by deleting the word “computer” appearing in the opening phrase to subsection (1) and substituting for it the word “traffic”.

Repeal and replacement of section 49

9. The principal Act is amended by repealing section 49 and replacing for it the following:

“Offences by company or other bodies

49.-(1) Where an offence under this Act is committed by a company, society, association or body of persons, every person who, at the time of the commission of the offence, was concerned as a director or an officer with the management of the affairs or activities of such company, society, association or body of persons, commits an offence and on conviction shall be liable to a fine of not less than fifteen million shillings but not exceeding twenty five million shillings.

(2) It shall be a defence for such person, director, or any officer to prove to the satisfaction of the court that he had no knowledge of the commission of the offence.”.

Amendment of section 50

10. The principal Act is amended in section 50 by adding immediately after subsection (2) the following:

“(3) The provisions of this section shall not apply to section 13.”.

**PART III
AMENDMENT OF THE LAW OF THE CHILD ACT,
(CAP. 13)**

Construction
Cap. 13

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

Amendment of
section 3

12. The principal Act is amended in section 3, by-
(a) deleting the definition of the term “court” and
substituting for it the following:

““court” means-

- (a) a primary court, juvenile court, district court, court of resident magistrate or the High Court;
 - (b) for the purpose of closed adoption, the High Court; and
 - (c) for the purpose of open adoption, district court, court of resident magistrate or juvenile court;”;
- (b) adding the words “upon obtaining permission of the commissioner” at the end of definition of the term “foster care or fosterage”; and
- (c) inserting in the appropriate alphabetical order the following new definitions:

““closed adoption” means adoption of the child by a person other than a relative;

“guardian *ad litem*” means, in matters relating to-

- (a) juvenile court, a person who takes the responsibility or is appointed to represent and protect interests of a child in a juvenile court proceeding; and
- (b) adoption, a social welfare officer appointed by the Commissioner for Social Welfare to represent rights of the child in court during the process of application for adoption;

“open adoption” means adoption of a child by a relative;

“diversion” means referring a child outside of judicial system at any time prior to or during court proceedings;”.

Amendment of section 14

13. The principal Act is amended in section 14 by deleting the phrase “not exceeding five million shillings or to imprisonment for a term not exceeding six months or to both” and substituting for it the phrase “of not less than one million shillings but not exceeding five million shillings or to imprisonment for a term of not less than six months but not exceeding two years or to both”.

Amendment of section 22

14. The principal Act is amended in section 22(2), by deleting the words “approved school” and substituting for them the words “approved residential home or institution”.

Amendment of section 32

15. The principal Act is amended in section 32 by deleting subsection (6).

Amendment of section 36

16. The principal Act is amended in section 36, by-

(a) adding immediately after subsection (3) the following:

“(4) The court shall, when making an order under subsection (3), consider a social inquiry report submitted by a social welfare officer.”; and

(b) renumbering subsections (4) and (5) as subsections (5) and (6) respectively.

Amendment of section 45

17. The principal Act is amended in section 45 by deleting subsection (1) and substituting for it the following:

“(1) A court shall order a social welfare officer to prepare a social inquiry report before consideration of an application to make an order for parentage, maintenance, custody or access.”.

Amendment of section 53

18. The principal Act is amended in section 53-

(a) in subsection (1), by deleting the word “supervision” appearing in paragraph (a) and substituting for it the word “care”;

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

“(2) An application to foster a child shall be made to the Commissioner through a social welfare officer.”;

(c) by deleting subsection (6); and

(d) by renumbering subsection (7) as subsection (6).

Repeal and replacement of section 54

19. The principal Act is amended by repealing section 54 and replacing for it the following:

“Power to make adoption order

54.-(1) Subject to the provisions of this Act-

(a) an application for closed adoption shall be made to the High Court; and

(b) an application for open adoption shall be made to the court of resident magistrate, the district court or juvenile court.

(2) Upon receipt of the application, the court may grant an application for adoption order in accordance with this Act.”.

Amendment of section 55

20. The principal Act is amended in section 55, by-

(a) deleting subsection (2); and

(b) designating the contents of subsection (1) as section 55.

Amendment of section 60

21. The principal Act is amended in section 60(2) by deleting the words “without the permission of the court” appearing in paragraph (b).

Addition of section 71A

22. The principal Act is amended by adding immediately after section 71 the following:

“Revocation of
adoption order

71A.-(1) The court may, upon application by a child, guardian *ad litem*, parent, guardian, or any other interested person, revoke an adoption order if it is satisfied that the adoption is not in the best interest of the child.

(2) The court shall, when revoking an adoption order, consider the following factors:

- (a) fraud by adoptive parent;
- (b) wrongful adoption;
- (c) adoptive child subjected to abuse and exploitation;
- (d) misrepresentation;
- (e) failure to address the child’s basic needs;
- (f) health issues or disability of the adoptive parent causing difficulty in raising the child;
- (g) no promised future for the child; or
- (h) any other factor prejudicial to the well being of the child.

(3) The application for revocation of adoption order under this section shall be made before the adoptive child attains the age of eighteen years:

Provided that, the court may, where there is

sufficient ground, admit an application for revocation of adoption order for an adoptive child who has attained the age of eighteen years and above.

(4) The court shall, when making an order under subsection (1), consider a social inquiry report submitted by a social welfare officer.”.

Amendment of section 74

23. The principal Act is amended in section 74(1) by deleting the word “three” appearing in paragraph (c) and substituting for it the word “six”

Amendment of section 94

24. The principal Act is amended in section 94(6), by deleting the words “and, where the authority does not succeed, refer the matter to the social welfare officer.”.

Amendment of section 96

25. The principal Act is amended in section 96(2), by deleting the phrase “remove the child to a place of safety for a period of not more than seven days” and substituting for it the phrase “within the period of seven days, take a child to a place of safety.”.

Addition of section 96A

26. The principal Act is amended by adding immediately after section 96 the following:

“Children councils

96A.-(1) There shall be established children councils in every village, ward, district, regional and at the national level which shall be used as a forum for children to discuss matters concerning their rights and welfare.

(2) A regional administration and a local government authority, in

consultation with the Minister, shall be responsible for the establishment and coordination of the village, ward, district and regional level children councils within their areas of jurisdiction.

(3) The Minister shall be responsible for establishment and coordination of the national children council.

(4) The Minister may, upon consultation with the Minister responsible for regional administration and local government, make regulations prescribing for the manner of establishment, coordination and conduct of children councils.”.

Amendment of Part IX

27. The principal Act is amended by deleting the heading to Part IX and substituting for it the following:
“CHILD IN CONFLICT OR IN CONTACT WITH LAW”.

Amendment of section 97

28. The principal Act is amended in section 97-
(a) in subsection (1), by deleting the phrase “There shall be established” and substituting for it the phrase “It is hereby established in every district”;
(b) by adding immediately after subsection (2) the following:
“(3) The Chief Justice may, by notice published in the *Gazette*, designate any premise to be a Juvenile Court.”;
(c) by deleting subsections (3) and (4); and
(d) by renumbering subsections (5) and (6) as subsections (4) and (5) respectively.

Amendment of section 99

29. The principal Act is amended in section 99(1) by deleting the words “next of kin” appearing in paragraphs (e) and (f) and substituting for them the words “next friend”.

Amendment of section 100

30. The principal Act is amended in section 100-
(a) by deleting the marginal note and substituting for it the following:

“Proceedings and committal of child to Juvenile Court”; and

(b) in subsection (3), by deleting the phrase “proceed with the hearing and determination of the case according to the provisions of the Magistrates Court Act or Criminal Procedure Act, as the case may be” and substituting for it the phrase “commit the person to the court of competent jurisdiction”.

Addition of section 101A

31. The principal Act is amended by adding immediately after section 101, the following:

“Diversion

101A. Where a child has committed a less serious offence, the Director of Public Prosecutions may consider a child for diversion at any time prior to, or during court proceedings.”

Amendment of section 102

32. The principal Act is amended in section 102 by deleting the words “unless he is a relative”.

Amendment of section 103

33. The principal Act is amended in section 103 by adding immediately after subsection (3) the following:

“(4) Notwithstanding any other law, for offences involving homicide, the court shall not adjourn a case for an aggregate exceeding ninety days except under circumstances specified under section 225(4) and (5) of the Criminal Procedure Act.”.

Cap. 20

Amendment of section 115

34. The principal Act is amended in section 115, by-
(a) adding immediately after subsection (3) the following:

- “(4) In all proceedings where a child is called as a witness, the court shall require the attendance of the social welfare officer.”;
- (b) renumbering subsection (4) as subsection (5); and
- (c) adding immediately after subsection (5) as renumbered the following:

“(6) The Chief Justice may make rules prescribing procedure for conducting cross examination of a child in matters involving a child.”.

Amendment of Part IX

35. The principal Act is amended in Part IX by deleting heading to subpart (c) and substituting for it the following:

“(c) Non-custodial Sentence”.

Amendment of section 130

36. The principal Act is amended in section 130-

(a) in subsection (1), by deleting the word “entered” and substituting for it the words “filed in the High Court”; and

(b) by deleting subsection (3).

Amendment of section 151

37. The principal Act is amended in section 151, by-

(a) deleting the words “an approved residential home or institution” appearing in subsection (1);

(b) deleting subsection (4);

(c) renumbering subsection (5) as subsection (4); and

(d) deleting the words “crèche approved residential home whose licence” appearing in subsection (4) as renumbered and substituting for them the words “or crèche whose certificate of registration”.

Amendment of section 155

38. The principal Act is amended in section 155 by deleting the word “licence” appearing in paragraph (a) and substituting for it the words “certificate of registration”.

Amendment of section 157

39. The principal Act is amended in section 157, by-

(a) adding immediately after paragraph (h) the following:

- “(i) procedure for diversion and measures to be taken against a child upon diversion;
 - (j) matter to be taken into consideration in determining the best interest of the child;”;
- (b) renaming paragraphs (i) and (j) as paragraphs (k) and (l) respectively.

Amendment of
section 158

by-

40. The principal Act is amended in section 158(1),

(a) adding immediately after paragraph (d) the following:

“(e) engage, influence, encourage a child to engage in sexual acts with any person;

(f) for sexual abuse or sexual exploitation purposes, utter any word, make any sound, make any gesture or exhibit any object or part of body with the intention that such word or sound shall be heard, or such gesture, object or part of body shall be seen by a child;

(g) with intent to abuse, make a child exhibit his body or any part of his body so as it is seen by such person or any other person;

(h) repeatedly or constantly follow, watch or contact a child either directly or through electronic, digital or any other means with the intent to abuse;

(i) threaten to use, in any form of media, a real or fabricated depiction through electronic, film or digital or any other mode, of any part of the body of the child or the involvement of the child in a sexual act;

(j) possess, for any ill motive, through the internet or any other information and communication technology device, child sexual abuse material;”;

(k) publish, produce, show or cause to be published, produced or shown any information, photograph or a picture of most vulnerable child, including a child in an approved residential home, that may lead to the identification of a child;” and

(b) renaming paragraphs (e) and (f) as paragraphs (l) and (m) respectively.

Amendment of section 158A

by-

41. The principal Act is amended in section 158A,

- (a) adding at the beginning of subsection (2) the words “Notwithstanding any other law, ”; and
- (b) adding immediately after sub section (2) the following:

“(3) The court may, in addition to the penalty under sub section (2), order the offender to pay compensation of an amount to be determined by the court to the child in respect of whom the offence was committed for the injuries caused.”.

PART IV
AMENDMENT OF THE LEGAL AID ACT,
(CAP. 21)

Construction Cap. 21

42. This Part shall be read as one with the Legal Aid Act, hereinafter referred to as the “principal Act”.

Amendment of section 33

43. The principal Act is amended in section 33(2) by inserting the words “or as the case may be, the magistrate in charge” immediately after the word “Registrar”.

Passed by the National Assembly on the 30th August, 2024

NENELWA JOYCE MWIHAMBI
Clerk of the National Assembly