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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS)
(NO. 8) ACT, 2019

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NOTICE

This Bill to be submitted to the National Assembly is published for information to the public together with a statement of its objects and reasons.

Dodoma,
23rd October, 2019

JOHN W. H. KIJAZI,
Secretary to the Cabinet

A Bill
for

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. 8) 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 CIVIL PROCEDURE CODE,
(CAP. 33)

Construction Cap. 33

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

Amendment of section 3

4. The principal Act is amended in section 3 by adding in the appropriate alphabetical order the following definition:
““Minister” means the Minister responsible for legal affairs;”.

Amendment of Part V

5. The principal Act is amended by deleting the subtitle appearing immediately after the title to Part V and substituting for it the following subtitle:
“Conciliation, Negotiation, Mediation and Arbitration”.

Addition of section

6. The principal Act is amended by adding

64A

immediately after section 64 the following:

“Conciliation,
negotiation and
mediation

64A.-(1) Without prejudice to the provisions of section 64, parties may settle their disputes out of court by way of conciliation, negotiation or mediation.

(2) For purposes of facilitating conciliation, negotiation and mediation, the Minister may make rules prescribing for procedures, forms and other matters relating to conciliation, negotiation and mediation.”.

PART III

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

Construction
Cap.20

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

Amendment of
section 289

8. The principal Act is amended in section 289, by adding immediately after subsection (3), the following:

“(4) For the purpose of this section, “substance of evidence” includes substance contained in a document, record or any other tangible object.”.

PART IV

AMENDMENT OF THE DAIRY INDUSTRY ACT, (CAP. 262)

Construction
Cap.262

9. This Part shall be read as one with the Dairy Industry Act, hereinafter referred to as the “principal Act”.

Amendment of
section 2

10. The principal Act is amended in section 2, by-

(a) deleting the definition of the term “milk” and substituting for it the following:

““milk” means milk of a cow and includes designated milk;” and

(b) adding in the appropriate alphabetical order the following new definitions:

““milk trader” means a person or entity that buys milk from a producer or a milk collection center and sells to a

processor or consumer;

“inspector” means a person appointed as such in terms of section 33B;

“processed milk” means a product prepared from milk through any approved process, including heating, separation, evaporation and drying;”.

Amendment of section 5

11. The principal Act is amended in section 5(1), by deleting paragraph (b) and substituting for it the following:

“(b) two members representing recognised stakeholder organization in every region;”.

Amendment of section 7

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

(a) deleting paragraph (b); and

(b) renaming paragraphs (c), (d) and (e) as paragraphs (b), (c) and (d) respectively.

Repeal and replacement of section 9

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

“Composition of Board

9.-(1) The Tanzania Dairy Board shall be composed of the Chairman and other members appointed by the Minister as follows-

(a) one member representing the Ministry responsible for livestock development;

(b) one member representing the Ministry responsible for local government authorities;

(c) a Law Officer from the Office of the Attorney General;

(d) one member representing an institution responsible for food quality control; and

(e) two members representing Dairy Industry Stakeholders.”

(2) In appointing members of the Board under subsection (1), the Minister shall have due regard to

gender, but in any case, at least two members shall be female.”.

Amendment of section 16

14. The principal Act is amended in section 16(5)(a),
by-

- (a) deleting subparagraphs (iv) and (vi);
- (b) renaming subparagraph (v) as subparagraph (iv);
- (c) adding immediately after subparagraph (iv) as renamed the following:
 - “(v) milk retailers;
 - (vi) milk collectors;
 - (vii) milk whole sellers;
 - (viii) milk distributors;
 - (ix) milk traders;
 - (x) projects implemented in the dairy industry; and
 - (xi) any other person as the Board may determine.”.

Amendment of section 17

15. The principal Act is amended in section 17(2), by deleting paragraphs (a) to (d) and substituting for them the following:

- “(a) milk production;
- (b) milk processing;
- (c) dairy input supplies, manufacture or importation;
- (e) milk collection;
- (f) milk wholesale;
- (g) milk distribution;
- (h) milk retail;
- (i) milk trade;
- (j) projects implemented in the dairy industry; and
- (k) any other activity as the Board may determine.”.

Addition of section 25A

16. The principal Act is amended by adding immediately after section 25 the following:

“Compoundin
g of offences **25A.**-(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act or Regulations made there under the Registrar, or a person authorised by him in writing may, at any time

prior to the commencement of the proceedings by a court of competent jurisdiction, compound such offence and order such person to pay a sum of money not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where the person fails to comply with the compounding order issued under this section within the prescribed period, the Registrar or person authorised by him may, in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the Regulations.

(3) Where the person fails to comply with subsection (2), the Registrar may enforce the compounding order and interest accrued thereof in the same manner as a decree of a court.

(4) The Registrar shall submit quarterly reports of all compounded offences under this section to the Director of Public Prosecutions.

(5) The forms and manner of compounding of offences shall be as prescribed in the regulations made under this Act.”.

Addition of
sections 33A and
33B

17. The principal Act is amended by adding immediately after section 33 the following:

“Diary laboratory

33A. The Minister may, by regulations published in the *Gazette* and after consultation with the Chief Government Chemist, establish a diary laboratory which shall, among other things, undertake testing of quality of milk products and packaging materials regulated under this Act.

Appointment of
inspectors

33B.-(1) Subject to section 32(o), the Board may for the purpose of implementing its functions in relation to inspection, delegate to local government authorities or other relevant authorities powers to carry out inspection and such other related activities under this Act.

(2) For purposes of exercising of delegated functions under subsection (1), the Director of a local government authority or, as the case may be, the head of relevant authority shall, upon request and guidance of the Board, submit to the Board a list of eligible persons for appointment as inspectors.

(3) A person shall be deemed to be an inspector under this Act upon receipt of a letter of appointment from the Registrar and shall have powers and perform functions specified in the regulations.”.

PART V

AMENDMENT OF THE EXECUTIVE AGENCIES ACT, (CAP. 245)

Construction
Cap.245

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

Amendment of
section 3

19. The principal Act is amended in section 3 by adding immediately after subsection (6) the following:

“(7) In any proceedings by or against an Executive Agency, the Attorney General shall be joined as a necessary party, and a notice to that effect shall be served to the Attorney General and a copy thereof to the Solicitor General.

Cap. 5

(8) Where a decree is to be executed against property in possession of an Executive Agency, procedure to execute decrees against Government property under the Government Proceedings Act shall apply.”.

PART VI
AMENDMENT OF THE FISHERIES ACT,
(CAP. 279)

Construction
Cap.279

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

Amendment of
section 8

21. The principal Act is amended in section 8, by-
(a) deleting subsections (4) and (5) and substituting for them the following:

“(4) Where the Minister after considering the report from the Director referred to in paragraph (d) of subsection (3) is satisfied that, owing to the mismanagement by any local authority of any of its functions in relation to fisheries, it is in the public interest that such local authority should cease to exercise all or any of management functions in relations to fisheries, the Minister shall-

- (a) suspend the local government authority from further operations and management of fisheries;
- (b) notify the Minister responsible for local government authorities on the suspension undertaken in accordance with paragraph (a); and
- (c) advise the Minister responsible for local government authorities on the alternative nomination or take-over of the functions of the local authority that is subject of suspension.”.

Amendment of
section 40

22. The principal Act is amended in 40(1)-
(a) in the opening phrase, by deleting the words “to this Act” and substituting for them the words “or in the regulations made under this Act”;
(b) by deleting the words “one hundred thousand shillings” appearing in paragraph (a) and substituting for them the words “one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence”; and
(c) by deleting the words “ten thousand shillings”

appearing in paragraph (b) and substituting for them the words “one million shillings”.

Repeal and replacement of section 47

23. The principal Act is amended by repealing section 47 and replacing it with the following:

“Penalty for other offences

47. Any person who contravenes the provisions of this Act to which no specific penalty is prescribed commits an offence and shall, upon conviction, be liable-

(a) in the case of offences involving unlawful fishing or fish trading or facilitating unlawful fishing or fish trading, to a fine of not less than ten million shillings but not exceeding fifty million shillings;

(b) in the case of offences other than offences under paragraph (a), to a fine of not less than two hundred thousand shillings but not exceeding ten million shillings,

or to imprisonment for a term of not less than two years but not exceeding ten years.”.

PART VII

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

Construction Cap. 5

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

Amendment of section 6

25. The principal Act is amended in section 6, by-

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

“(3) All suits against the Government shall, upon the expiry of the notice period, be brought against the Government, ministry, government department, local government authority, executive agency, public corporation,

parastatal organization or public company that is alleged to have committed the civil wrong on which the civil suit is based, and the Attorney General shall be joined as a necessary party:

Provided that, a copy of the plaint for which the suit is brought shall be served upon the Solicitor General.

(4) Non-joinder of the Attorney General as prescribed under subsection (3) shall vitiate the proceedings of any suit brought in terms of subsection (3).”; and

(b) renumbering subsections (4), (5) and (6) as subsections (5), (6) and (7) respectively.

Amendment of section 16

26. The principal Act is amended in section 16, by adding immediately after subsection (3) the following:

“(4) For the purposes of subsection (3), the word “Government” shall include a Government ministry, local government authority, independent department, executive agency, public corporation, parastatal organization or a public company established under any written law to which the Government is a majority shareholder or has substantial percentage of shares.”.

PART VIII

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

Construction Cap.13

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

Amendment of section 97

28. The principal Act is amended in section 97, by-

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

“(2) Without prejudice to subsection (1), a District Court premises or a Court of Resident Magistrate premises may be used as a Juvenile Court.”.

(b) adding immediately after subsection (2) the following:

“(3) Notwithstanding subsection (2), a District Court or a Court of Resident Magistrate may hear and determine any matter triable by a Juvenile Court.

(4) For the purpose of subsection (3), a District Court or a Court of Resident Magistrate

shall follow the procedure prescribed under section 99 of this Act.

(5) A Juvenile Court established in terms of subsection (1) shall, as the case may be, be under the management and supervision of-

(a) the District Court within the District in which the Juvenile Courts is established; and

(b) the Resident Magistrate Court within the region that necessitates the establishment of the Juvenile Court.”; and

(c) renumbering subsection (3) as subsection (6).

PART IX

AMENDMENT OF THE LOCAL GOVERNMENT (DISTRICT AUTHORITIES) ACT, (CAP. 287)

Construction
Cap.287

29. This Part shall be read as one with the Local Government (District Authorities) Act, hereinafter referred to as the “principal Act”.

Amendment of
section 26

30. The principal Act is amended in section 26, by adding immediately after subsection (2) the following:

“(3) Notwithstanding subsection (2), the District Executive Director shall have the right to be joined as a party in any suit or matter instituted by or against the Village Council, and for that purpose the Village Council shall have a duty to notify the District Executive Director of any impending suit or intention to institute a suit or matter against the Village Council.”.

Amendment of
section 190

31. The principal Act is amended in section 190, by deleting subsection (1) and substituting for it the following:

“(1) No suit shall be commenced against a local government authority-

(a) unless a ninety days’ notice of intention to sue has been served upon the local government authority and a copy thereof to the Attorney General and the Solicitor General; and

(b) upon the lapse of the ninety days period for which the notice of intention to sue relates.”.

PART X

AMENDMENT OF THE LOCAL GOVERNMENT (URBAN AUTHORITIES) ACT,
(CAP. 288)

Construction
Cap.288

32. This Part shall be read as one with the Local Government (Urban Authorities) Act, hereinafter referred to as the “principal Act”.

Amendment of
section 106

33. The principal Act is amended in section 106, by deleting subsection (1) and substituting for it the following:

“(1) No suit shall be commenced against an urban authority-

- (a) unless a ninety days’ notice of intention to sue has been served upon the urban authority and a copy thereof to the Attorney General and the Solicitor General; and
- (b) upon the lapse of the ninety days period for which the notice of intention to sue relates.”.

PART XI

AMENDMENT OF THE MEAT INDUSTRY ACT,
(CAP. 421)

Construction
Cap. 421

34. This Part shall be read as one with the Meat Industry Act, hereinafter referred to as the “principal Act”.

Amendment of
section 2

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

“(3) This Act shall apply to Mainland Tanzania.”.

Amendment of
section 3

36. The principal Act is amended in section 3, by adding in the appropriate alphabetical order the following new definition:

“meat industry stakeholder” means a person involved in business or activity of commercial nature in areas of livestock production and trade, meat trade, slaughtering of livestock, meat processing, livestock market, livestock market operation, livestock exportation and importation, meat or meat product importation or exportation, meat input supplier, livestock and meat based

associations, meat input manufacturers, meat products marketing agents, butchery, abattoir owner or operator, slaughter man, and slaughter house owner or operator, meat festivals, competition and meat dealers, meat suppliers, meat technology teachings of private nature or matters associated thereto;”.

Repeal and replacement of section 5

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

“Composition of Annual Council

5. The Annual Council shall consist of the Chairman and other members to be appointed by the Minister as follows:

- (a) one member from the Ministry responsible for livestock;
- (b) one member from the Ministry responsible for local government authorities;
- (c) one member from the Ministry responsible for co-operatives;
- (d) one member from each region representing registered meat industry stakeholder’s organization;
- (e) one member from registered national livestock and meat traders’ organization;
- (f) one member from registered national meat processors’ organization;
- (g) one member from registered national meat consumers’ organization;
- (h) one member from a public institution responsible for food quality control or food and nutrition;

- (i) one member from among universities majoring in agriculture; and
- (j) two members from Non-Government Organizations active in meat industry development.”.

Repeal and replacement of section 9

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

“Composition of Board

9.-(1) The Board shall be composed of the Chairman and other members appointed by the Minister as follows:

- (a) one member representing the Ministry responsible for livestock;
- (b) one member representing the Ministry responsible for local government authorities;
- (c) one member representing the institution responsible for food quality control;
- (d) one member representing institutions for meat industry research and development;
- (e) one member with background of agricultural economics; and
- (f) three members from private sector.

(2) In appointing members of the Board under subsection (1), the Minister shall have due regard to gender, but in any case, at least two members shall be female.”.

Amendment of section 33

39. The principal Act is amended in section 33(1), by deleting the words “fifty thousand” and substituting for them the words “one hundred thousand”.

Addition of sections 33A and 33B

40. The principal Act is amended by adding immediately after section 33 the following:

“Restriction on importation and exportation of meat and meat products

33A.-(1) A person who imports into Mainland Tanzania any meat or meat

(2) A person who exports or attempts to export any meat or meat product without authorisation from the Board commits an offence and shall, upon conviction, be liable to a fine of not less than one million shillings but not exceeding five million or to imprisonment for a term of not less than six months but exceeding twelve months or to both.

(3) A person who provides false or misleading information to the Board with regard to quantity or value of meat or meat product for export, commits an offence and shall, upon conviction, be liable to a fine of not less than one million shillings but not exceeding three million shillings or to imprisonment for a term not less than six months but not exceeding twelve months or to both.

Compounding of offences

33B.-(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act or any other sector legislation, the Registrar or a person authorised by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction, compound such offence and order such person to pay a sum of money not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where the person fails to comply with the compounding order issued under this section within the prescribed period, the Registrar or a person authorised by him may, in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations.

(3) Where the person fails to comply with subsection (2), the Registrar may enforce the compounding order and interest accrued thereof in the same manner as a decree of a court.

(4) The Registrar shall submit quarterly reports of all compounded offences under this section to the Director of Public Prosecutions.

(5) The forms and manner of compounding of offences shall be as prescribed in the regulations made under this Act.”.

PART XII

AMENDMENT OF THE PENAL CODE, (CAP. 16)

Construction
Cap.16

41. This Part shall be read as one with the Penal Code, hereinafter referred to as the “principal Act”.

Amendment of
section 138C

42. The principal Act is amended in section 138C(1), by adding immediately after paragraph (c) the following:

“(d) with or without the consent of a male person who is under the age of eighteen years.”.

PART XIII

AMENDMENT OF THE PROBATE AND ADMINISTRATION OF ESTATES ACT, (CAP. 352)

Construction
Cap.352

43. This Part shall be read as one with the Probate and Administration of Estates Act, hereinafter referred to as the “principal Act”.

Amendment of
section 107

44. The principal Act is amended in section 107(3), by deleting the words “to a fine not exceeding two thousand shillings or to imprisonment for a term not exceeding six

months” and substituting for them the words “to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years”.

Amendment of
section 108

45. The principal Act is amended in section 108, by adding immediately after subsection (2) the following:

Cap. 113

“(3) Subject to section 20 of the Land Act, an executor or administrator shall not distribute estate of the deceased which is of the nature of landed property to a non-citizen entitled to benefit from estate of the deceased, except that the executor or administrator shall only distribute to the non-citizen proceeds realized from disposition of a property in which the non-citizen has a right of inheritance.”.

PART XIV

AMENDMENT OF THE TANGANYIKA LAW SOCIETY ACT, (CAP. 307)

Construction
Cap.307

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

Amendment of
section 2

47. The principal Act is amended in section 2, by adding in their appropriate alphabetical order the following definitions:

““Chapter” means Chapter established under section 17A;

“Chapter zones” means Chapter zones established under the provision of section 17A;

“member” means a member of the Tanganyika Law Society;

“member in good standing” means a member with good ethical standards and has renewed his membership by paying the subscription fees and complies with all the requisite conditions for renewal of membership for a particular year;

“Minister” means the Minister responsible for legal affairs;

“non-practicing advocate” means a member of the Tanganyika Law Society who does not possess a practicing certificate issued under the

Cap. 341

provision of section 35 of the Advocates Act;
“Secretariat” means Tanganyika Law Society
Secretariat established under section 19;”.

Amendment of
section 4

48. The principal Act is amended in section 4, by inserting the word “, Parliament” immediately after the word “Government” appearing in paragraph (c).

Amendment of
section 6

49. The principal Act is amended in section 6, by adding immediately after paragraph (c) the following:
“(d) all persons who are admitted in the roll and have sought suspension to practice and received approval of the Chief Justice.”.

Amendment of
section 8

50. The principal Act is amended in section 8(1), by-
(a) deleting paragraph (a) and substituting for it the following:
“(a) the Attorney-General, Director of Public Prosecutions, Solicitor General, Parliamentary Draftsman and State Attorneys in the public service, for the time being resident in Tanzania, and any other person duly qualified holding office in the Office of the Attorney-General, National Prosecutions Service and the Office of the Solicitor General;”;
(b) deleting paragraph (b);
(c) renaming paragraphs (c), (d), (e) as paragraphs (b),(c) and (d) respectively.

Amendment of
section 9

51. The principal Act is amended in section 9, by deleting the word “elect” and substituting for it the word “appoint”.

Amendment of
section 15

52. The principal Act is amended in section 15, by-
(a) deleting subsection (1) and substituting for it the following-
“(1) For the proper governance of the affairs of the Society, there shall be a Council consisting of a President, Vice-President, Honorary Treasurer and eight other members, all of whom shall be members of the Society duly elected during the Society’s General Election.
(2) The eight members of the Council

- referred to in subsection (1) shall comprise of seven zonal leaders and one member representing an association of young lawyers.”;
- (b) renumbering subsections (2) and (3) as subsections (3) and (4);
 - (c) adding immediately after subsection (4) as renumbered, the following:

“(5) The President, Vice President, Honorary Treasurer and the eight other members shall be elected for a term of one year and shall be eligible for re-election for one further term.

(6) The President, the Vice-President, Honorary Treasurer and other members of the Council shall assume office immediately after being sworn-in and hold office until expiration of the tenure,
Provided that:

- (a) in the event of death, resignation, removal or disqualification of the President, Vice President or Honorary Treasurer during his term of office, the vacancy so created shall be filled by qualified persons who are members of the Council and in the case of absence of a qualified member, the Nomination Committee shall appoint a qualified member to fill the vacancy;
- (b) in the occurrence of death, resignation, removal or disqualification of any other member of the Council during his term of office, the Nomination Committee shall appoint a qualified member to fill the vacancy.”.

Repeal and replacement of section 16

53. The principal Act is amended by repealing section 16 and replacing for it the following-

“Powers and duties of Council

16. The Council shall have the powers to-

- (a) exercise all powers of governance for and on

- behalf of the Annual General Meeting;
- (b) govern the affairs of the Society;
- (c) establish chapters and chapter zones;
- (d) employ the Executive Director of the Society;
- (e) approve the Society strategic plans, action plans and budget of the Society;
- (f) oversee the implementation of the Society's strategic initiatives and its functioning within the agreed framework, in accordance with relevant statutory and regulatory structures;
- (g) ensure the adequacy of financial, operational systems and internal controls;
- (h) ensure the implementation of corporate ethics and the Code of Conduct;
- (i) convene Annual General Meetings; and
- (j) perform any other duty in relation to the affairs of the Society subject to this Act or regulations made hereunder.”.

Addition of section
17A

54. The principal Act is amended by adding immediately after section 17 the following-

“Chapters of
Society

17A.-(1) There shall be Chapters of the Society in designated regions as the Council may consider necessary.

(2) There shall be chapter zones established by the Council for proper governance and management of the affairs of the chapters.

(3) The Council may make rules to govern the conduct and operations of Chapters and Chapter zones.”.

Amendment of Part V

55. The principal Act is amended by deleting the title to Part V and substituting for it the following:

PART V
SECRETARIAT

Repeal and replacement of section 19

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

“Secretariat of Society

19.-(1) There shall be a Secretariat of the Society which shall be responsible for the day to day management and administration of the affairs of the Society.

(2) The functions of the Secretariat shall be to-

- (a) implement decisions of the Council;
- (b) assist the Council in the preparation of reports and any other information for the members or stakeholders;
- (c) support the committees, chapters, zones and other bodies of the Society to discharge their functions;
- (d) organise conferences of the Society;
- (e) raise funds and manage the financial affairs of the Society within the limits of its approved budget;
- (f) keep proper books and records of all financial affairs of the Society;
- (g) keep proper minutes and activity reports of the Society;
- (h) keep up to date records and database of members of the Society;
- (i) develop and implement

projects aimed at realizing the objects of the Society and its strategic plans; and

- (j) perform any other activities in the attainment of the Society's objectives.

(3) The Council shall employ a person from amongst members or officers of the Society to be the Executive Director of the Secretariat.

(4) The Executive Director shall be employed by the Council through a transparent and competitive recruitment process.

(5) The Executive Director shall be the chief executive officer and the accounting officer of the Society and shall, in particular-

- (a) be responsible for the recruitment of staff of the Secretariat;
- (b) be responsible for the preparation of periodic strategic plans, annual action plans and budget;
- (c) be responsible for the supervision and monitoring of the day to day implementation of objectives and functions of the society;
- (d) be responsible for raising funds of the Society;
- (e) be the Secretary to the Council;
- (f) be accountable to the Council; and
- (g) perform any other duties for the proper management and administration of the affairs of the Society.

(6) A person shall not be eligible to be employed as the Executive Director of the Society unless that person-

- (a) is an advocate of the High

Court of Tanzania and the courts subordinate thereto, with at least ten years of practice;

(b) is of good moral standing in the society; and

(c) has demonstrated experience in management of the same position or its equivalent.

(7) A person employed as Executive Director shall hold office for a term of five years and may be eligible to serve for one further term subject to good standing performance.

(8) The Executive Director may be removed from office by the Council by votes of at least two thirds of the members on any of the following grounds-

(a) inability to perform functions of the office due to mental or physical infirmity;

(b) gross misconduct;

(c) incompetence;

(d) has been adjudged bankrupt;

(e) desertion of office or duty; or

(f) has been convicted of a criminal offence punishable by imprisonment for a period of not less than two years.

(9) The Council shall, before removing the Executive Director-

(a) notify the Executive Director, in writing, of the reasons for the intended removal; and

(b) afford the Executive Director an opportunity to be heard in defence of allegations brought against him.”.

Repeal and replacement of section 21

57. The principal Act is amended by repealing section 21 and replacing for it the following:

“Annual
General
Meeting

21.-(1) The Council shall, in at least the second week of April of each calendar year, convene an Annual General Meeting of the Society.

(2) The Council may, where circumstances so permit, convene other general meetings of the Society.

(3) The Annual General Meeting shall be convened by way of representation.

(4) The Annual General Meeting shall be duly constituted where it is composed of:

- (a) members of the Council;
- (b) members of all Standing Committees;
- (c) all Chapter leaders including members of their standing committees;
- (d) four members from each Chapter comprising of representatives of young lawyers, female lawyers, senior lawyers and persons with disability, all elected annually by chapter members in the chapter general meetings;
- (e) members of the Zonal Executive Committees;
- (f) two members from the Chapter zones elected from the zone members during zonal annual general meeting; and
- (g) any other person, as the Council may consider necessary to invite.

(5) Annual General Meetings shall be conducted as prescribed by Council.”.

Amendment of section 22

58. The principal Act is amended in section 22, by

deleting subsection (1) and substituting for it the following-

“(1) Notwithstanding section 21, the Council may convene a general meeting of the Society whereat least one third of members of good standing consisting of equal percentage representation from each Chapter, at any time requisition a general meeting by written notice in that behalf signed by them, specifying the object of the proposed meeting, and deposit with the Executive Director.”.

Amendment of
section 28

59. The principal Act is amended in section 28, by-

- (a) designating the contents of section 28 as contents of subsection (1);
- (b) adding immediately after subsection (1) as designated the following:

“(2) The Council shall submit to the Minister minutes of the Annual General Meeting or general meeting as the case may be within two months after the minutes have been confirmed by the Annual General Meeting or general meeting respectively.”.

Repeal and
replacement of
section 29

60. The principal Act is amended by repealing section 29 and replacing for it the following-

“Accounts of
Society

29.-(1) The Council shall cause proper accounts of all funds, property and assets of the Society to be kept, and to be audited, by an auditor approved by the Annual General Meeting from amongst auditors approved by the Minister responsible for finance.

(2) The Council shall present the audited accounts, together with the auditor’s report to the Annual General Meeting convened at a time and manner prescribed in accordance with section 21.

(3) The Council shall serve a copy of the audited accounts together with the auditor’s report to the Minister and the Minister responsible for finance within six weeks after the report is presented at the Annual General Meeting.”.

Repeal and replacement of section 30

61. The principal Act is amended by repealing section 30 and replacing for it the following-

“Reports and accounts

30.-(1) The Council shall, in the Annual General Meeting, present to the Society an annual report of the activities of the Society.

(2) The Council shall deliver a copy of the annual report to the Minister within six weeks after being presented at the Annual General Meeting.”.

PART XV

AMENDMENT OF THE TRUSTEES’ INCORPORATION ACT,
(CAP. 318)

Construction Cap.318

62. This Part shall be read as one with the Trustees’ Incorporation Act, hereinafter referred to as the “principal Act”.

Amendment of section 2

63. The principal Act is amended in section 2, by adding immediately after subsection (3) the following:

“(4) The Administrator-General may, before a trust is incorporated or at any later stage after incorporation, require disclosure of the names of settlors and beneficiaries of the trust.”.

Amendment of section 8

64. The principal Act is amended in section 8(1), by adding the words “finance, shares, monies” after the word “land,” wherever it appears in paragraph (c).

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OBJECTS AND REASONS

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This Bill proposes to amend Fourteen laws namely: the Civil Procedure Code, (Cap. 33), the Criminal Procedure Act, (Cap. 20), the Dairy Industry Act, (Cap. 262), the Executive Agencies Act, (Cap. 245), the Fisheries Act (Cap. 279), the Government Proceedings Act, (Cap. 5), the Law of the Child Act, (Cap. 13), the Local Government (Districts Authorities) Authorities Act, (Cap. 287), the Local Government (Urban Authorities) Act, (Cap. 288), the Meat Industry Act, (Cap. 421), the Penal Code, (Cap. 16), the Probate and Administration of Estates Act, (Cap. 352) and the Tanganyika Law Society Act, (Cap. 307), and the Trustees' Incorporation Act, (Cap.318).

The proposed amendments intend to keep updated the respective laws with changes so far observed in their implementation.

This Bill is divided into Fifteen Parts.

Part I deals with preliminary provisions which include the title of the Bill and the manner in which the laws proposed to be amended, are amended in their respective Parts.

Part II of the Bill proposes to amend the Civil Procedure Code, Cap. 33 by adding a new section 64A with a view to including in the Act provisions relating to conciliation, negotiation and mediation. The objective of the amendments is to facilitate settling of disputes out of court through a recognized forum.

Part III of the Bill proposes to amend the Criminal Procedure Act, Cap. 20. The amendments expound on the

meaning of “substance of evidence”. The objective of the amendment is to enhance clarity of the definition in order to accommodate other specified forms of evidence obtained during committal proceedings.

Part IV of the Bill proposes to amend the Dairy Industry Act, Cap. 262. The proposed amendments intend to improve composition of the Annual Council so as to make the Council more effective, manageable and to enhance improved cooperation between the Council and the Dairy Board.

The Bill is amended to improve composition of Board members of the Tanzania Dairy Board by empowering the Minister to appoint competent members who are resourceful to the dairy industry; and to reduce number of Board members in order to improve efficiency of the Board. These amendments make provisions for dairy stakeholders to be registered by the Board for the purpose of better control of the industry.

The Bill further proposes to empower the Minister to establish a Dairy Laboratory with a view to enhancing capacity of the Tanzania Dairy Board (TDB) to carry out tests and analysis for compliance and research. A provision on compounding of offences is also introduced in this Part in order to facilitate compliance and reduction of time and cost of litigation. The Act is amended to provide for delegation of powers to local government authorities for the purpose of widening TDB outreach services.

Part V of the Bill proposes to amend the Executive Agencies Act, Cap. 245. The Act is amended to make requirements for executive agencies to notify the Attorney General and the Solicitor General of all proceedings by or against the Executive Agency. This proposal is a result of the changes effected through the Written Laws Miscellaneous Amendment (No. 7) Act, 2018 which amended the Attorney

General (Discharge of Duties), Act, Cap. 268 following the restructuring of the Office of the Attorney General.

Part VI of the Bill proposes to amend the Fisheries Act, Cap. 279. The amendments intend to enhance efficiency in the management and control of fisheries resources. The Act is further amended to impose obligations on local government authorities to perform their role of management, protection, conservation and development of fisheries resources in their respective jurisdiction to ensure sustainability of fisheries resources.

The Act is further amended to increase penalties prescribed. The objective of the amendment is to deter offenders against illegal fishing and trade activities and to foster compliance and sustainable preservation of fisheries resources and aquatic environment.

Part VII of the Bill proposes to amend the Government Proceedings Act, Cap. 5. The proposed amendments intend to make better procedural requirements regarding notices of cases by or against the Government. The Bill is also amended to vitiate any proceeding for or against the Government where service of notice to the Attorney General and Solicitor General has not been effected. The objective of the amendment is make provisions for better management of cases for and against the Government.

Part VIII proposes to amend the Law of the Child Act, Cap. 13. The Act is amended to confer jurisdiction to all district courts and courts of resident magistrate to handle juvenile cases. The proposed amendments also place the juvenile courts under the management and supervision of the district courts and courts of the resident magistrates' in their respective districts and regions.

Part IX proposes to amend the Local Government (Districts Authorities) Act, Cap. 287. The Act is amended by providing for the requirement of District Executive Director be joined in cases that involve the Village Council, and the issuance of ninety days' notice to the Director and a copy thereof to the Attorney General and the Solicitor General. The objective of the amendment is to make better provisions for the management of cases and safeguarding of Government resources.

Part X proposes to amend the Local Government (Urban Authorities) Act, Cap. 288. The amendments intend to align the provisions of the Act with the requirement of 90 days notice to sue the Attorney General and Solicitor General as provided for under the Government Proceedings Act, Cap. 5.

Part XI proposes to amend the Meat Industry Act, Cap. 421. The proposed amendments intend to provide for a new definition of "meat industry stakeholder" to include business entities involved in the meat industry; to improve the composition of the Board by powering the Minister to appoint competent members who are resourceful to the industry; and to reduce number of Board members in order to increase efficiency of the Board. The Act is further amended by introducing specific penalties for import and export of meat and meat products without permits; and compounding of offences for the purpose of reducing time and cost associated with litigation.

Part XII proposes to amend the Penal Code, Cap. 16. The proposed amendments aim at protecting the male child from sexual abuses other than rape.

Part XIII proposes to amend the Probate and Administration of Estates Act, Cap. 352. The proposed amendments intend to prohibit non-citizens from owning land

through inheritance. The Act makes a requirement for the Administrator to sell landed property and the proceeds thereto be distributed to the non-citizens, if any.

Part XIV proposes to amend the Tanganyika Law Society Act, Cap. 307. The proposed amendments intend to improve the composition of the Governing Council so as to ensure better management of the Council. The amendments further improve the roles and functions of the Council. It is also proposed to recognize Chapters and zones of the Society, stipulate the roles and functions of the Secretariat and remove the Half Annual General Meeting with the aim of reducing the cost of management and operations and enhancing timely implementation of responsibilities by the Council.

Part XV proposes to amend the Trustees' Incorporation Act, Cap. 318. The proposed amendments intend to recognize settlors and beneficiaries of a particular trust.

MADHUMUNI NA SABABU

Muswada huu unapendekeza marekebisho katika Sheria Kumi na Nne zifuatazo: Sheria ya Mwenendo wa Mashauri ya Madai, (Sura ya 33), Sheria ya Mwenendo wa Makosa ya Jinai, (Sura ya 20), Sheria ya Maziwa, (Sura ya 262), Sheria ya Wakala wa Serikali, (Sura ya 245), Sheria ya Uvuvi, (Sura ya 279), Sheria ya Mwenendo wa Mashauri Dhidi ya Serikali, (Sura ya 5), Sheria ya Mtoto, (Sura ya 13), Sheria ya Serikali za Mitaa (Mamlaka za Wilaya), (Sura ya 287), Sheria ya Serikali za Mitaa (Mamlaka za Miji), (Sura ya 288), Sheria ya Tasia ya Nyama, (Sura ya 421), Sheria ya Kanuni za Adhabu, (Sura ya 16), Sheria ya Usimamizi wa Mirathi, (Sura ya 352), Sheria ya Chama cha Mawakili Taganyika, (Sura ya 307) na Sheria ya Usajili wa Wadhamini, (Sura ya 318).

Marekebisho yanayopendekezwa yanalenga kuboresha sheria husika ili ziendane na mabadiliko ya wakati na kutatua changamoto mbalimbali zilizojitokeza wakati wa utekelezaji wake.

Muswada huu umegawanyika katika Sehemu Kumi na Tano.

Sehemu ya Kwanza ya Muswada inahusu masharti ya Utangulizi na yanajumuisha jina la Muswada na namna ambavyo sheria zinazopendekezwa kufanyiwa marekebisho zimerekebishwa katika Sehemu husika ya Muswada.

Sehemu ya Pili ya Muswada inapendekeza kurekebisha Sheria ya Mwenendo wa Mashauri ya Madai, Sura ya 33 kwa kuongeza vifungu vipya vya 64A, 64B na 64C ili kujumuisha katika Sheria hiyo masharti yanayohusu kushughulikia madai

kwa njia ya usuluhishi, mazungumzo na upatanishi. Kwa mujibu wa mapendekezo haya, Waziri atakuwa na mamlaka ya kuanzisha vituo vya usuluhishi, mazungumzo na upatanishi na kutengeneza kanuni za kuelekeza utaratibu wa kushughulikia migogoro katika vituo hivyo. Lengo la marekebisho haya ni kuwezesha upatanishi, mazungumzo na usuluhishi wa migogoro kufanyika nje ya Mahakama kupitia jukwaa linalotambulika.

Sehemu ya Tatu ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Mwenendo wa Makosa ya Jinai, Sura ya 20. Marekebisho haya yanatoa ufafanuzi wa msamiati “mantiki ya ushahidi” yaliyotumika katika sheria hiyo kwa lengo la kuongeza wigo wa ushahidi unaopaswa kutolewa mahakamani wakati wa taratibu za kuhamisha shauri kwenda kwenye mahakama yenye mamalaka ya kusikiliza shauri husika.

Sehemu ya Nne ya Muswada inapendekeza marekebisho katika Sheria ya Tasnia ya Maziwa, Sura ya 262. Mapendekezo ya marekebisho yanalenga kuboresha muundo wa Baraza la Mwaka ili kulifanya Baraza hilo liwe na ufanisi zaidi na kuboresha ushirikiano baina ya Baraza hilo na Bodi ya Maziwa.

Sheria inarekebishwa ili kuboresha uwakilishi wa wajumbe wa Bodi ya Maziwa kwa kumpa mamlaka Waziri kuteua wajumbe wenye ujuzi wa kuendeleza tasnia ya maziwa. Sheria inarekebishwa kwa kupunguza idadi ya wajumbe wa Bodi ili kuongeza ufanisi wa Bodi hiyo. Marekebisho haya pia yanaweka masharti ya wadau wa tasnia ya maziwa kusajiliwa na Bodi ili kuwezesha uratibu na udhibiti kwa tasnia ya maziwa.

Sheria inarekebishwa kwa kuweka vifungu vipya vinavyohusu uanzishwaji wa maabara ya maziwa ili kuijengea uwezo Bodi ya Maziwa katika kufanya uchunguzi wa

kimaabara kwa ajili ya uhakiki na utafiti. Sheria inarekebishwa kwa kuweka utaratibu wa ufililishaji wa makosa kwa lengo la kuimarisha dhana ya utii wa sheria na kupunguza muda na gharama zitokanazo na uendeshaji wa mashauri mahakamani.

Sehemu ya Tano ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Wakala wa Serikali, Sura ya 245. Marekebisho haya yanapendekeza kuweka masharti ya kutoa notisi kwa Mwanasheria Mkuu wa Serikali na Wakili Mkuu wa Serikali pale Wakala wa Serikali anaposhtakiwa. Marekebisho haya pia yanaoanisha masharti ya Sheria hiyo ili kuendana na mabadiliko katika Sheria ya Utekelezaji wa Majukumu ya Ofisi ya Mwanasheria Mkuu wa Serikali yaliyofanywa kupitia Sheria ya Marekebisho ya Sheria Mbalimbali (Na. 7) ya Mwaka 2018 kufuatia mabadiliko ya muundo wa Sheria ya Ofisi ya Mwasharia Mkuu wa Serikali. Lengo la marekebisho haya ni kuweka msingi bora wa kulinda mali za Serikali zilizo chini ya Wakala wa Serikali.

Sehemu ya Sita ya Muswada inapendekeza kurekebisha Sheria ya Uvuvi, Sura ya 279. Marekebisho yanalenga kuongeza ufanisi katika usimamizi na udhibiti wa rasilimali za uvuvi. Sheria inarekebishwa pia kwa kuweka wajibu kwa Mamlaka za Serikali za Mitaa kutekeleza majukumu ya kusimamia, kulinda, kuhifadhi na kuendeleza rasilimali za uvuvi zilizopo katika maeneo yao.

Pia, marekebisho haya yanalenga kuongeza viwango vya adhabu ili kuthibiti uhalifu dhidi ya uvuvi haramu na kuimarisha utii wa sheria na kuboresha utunzaji wa rasilimali za uvuvi na mazingira ya maji.

Sehemu ya Saba ya Muswada inapendekeza marekebisho katika Sheria ya Mwenendo wa Mashauri dhidi ya Serikali, Sura ya 5. Marekebisho haya yanapendekeza

kuboresha taratibu za utoaji notisi katika mashauri yanayoihusu Serikali. Sheria inapendekezwa kurekebishwa kwa kuweka masharti ya kubatilisha mashauri yote dhidi ya Serikali iwapo Mwanasheria Mkuu wa Serikali hajaunganishwa kwenye shauri husika. Lengo la marekebisho hayo ni kuweka utaratibu bora wa usimamizi wa mashauri yanayoihusu Serikali.

Sehemu ya Nane inapendekeza marekebisho katika Sheria ya Mtoto, Sura ya 13. Sheria inarekebishwa ili kuzipa mamlaka Mahakama za Wilaya na Mahakama za Hakimu Mkazi kusikiliza mashauri ya watoto. Marekebisho katika Sheria yanaiweka Mahakama ya Mtoto chini ya usimamizi na uangalizi wa Mahakama za Wilaya na Mahakama za Hakimu Mkazi katika Wilaya na Mkoa husika.

Sehemu ya Tisa inapendekeza marekebisho katika Sheria ya Serikali za Mitaa (Mamlaka za Wilaya) Sura ya 287. Sheria hiyo inarekebishwa kwa kuweka masharti ya Mkurugenzi wa Halmashauri ya Wilaya kujumuishwa katika shauri lolote linalohusu Halmashauri ya Kijiji, na utoaji wa notisi ya siku tisini kwa Mkurugenzi huyo na nakala kwa Mwanasheria Mkuu wa Serikali na Wakili Mkuu wa Serikali. Lengo la marekebisho hayo ni kuweka utaratibu bora wa usimamizi wa mashauri yanayoihusu Serikali.

Sehemu ya Kumi inapendekeza marekebisho katika Sheria ya Serikali za Mitaa (Mamlaka za Miji) Sura ya 288. Sheria hiyo inarekebishwa ili kuainisha masharti ya utoaji wa notisi ya siku tisini kabla ya kuishitaki Serikali kwa kumjumuisha Mwanasheria Mkuu wa Serikali na Wakili Mkuu wa Serikali kwa mujibu wa Sheria ya Mashauri Dhidi ya Serikali, Sura ya 5.

Sehemu ya Kumi na Moja inapendekeza kurekebisha Sheria ya Tasnia ya Nyama, Sura ya 421. Marekebisho hayo

yanalenga kutoa tafsiri mpya ya “wadau wa tasnia ya nyama” ili kujumuisha nyanja zote za biashara katika tasnia ya nyama, kuboresha uwakilishi wa wajumbe wa Bodi ya Nyama kwa kumpa Waziri mamlaka kuteua wajumbe wenye ujuzi wa kuendeleza tasnia ya nyama na kupunguza idadi ya wajumbe wa Bodi ili kuongeza ufanisi wa Bodi. Sheria inarekebisha kwa kuweka adhabu mahsusi kwa waingizaji na wasafirishaji wa nyama na bidhaa za nyama ndani na nje ya nchi bila vibali. Sheria inarekebisha kwa kuweka utaratibu wa ufililishaji wa makosa kwa lengo la kuimarisha utii wa sheria na kupunguza muda na gharama zitokanazo na uendeshaji wa mashauri mahakamani.

Sehemu ya Kumi na Mbili inapendekeza kurekebisha Sheria ya Kanuni za Adhabu, Sura ya 16. Mapendekezo ya marekebisha yana lengo la kuwalinda watoto wa kiume dhidi ya makosa ya udhalilishaji wa kingono mbali na makosa ya ubakaji.

Sehemu ya Kumi na Tatu inapendekeza marekebisha katika Sheria ya Usimamizi wa Mirathi, Sura ya 352. Mapendekezo ya marekebisha yanakusudia kukataza watu wasio raia kumiliki ardhi kupitia mirathi. Aidha, sheria inaweka utaratibu wa watu wasio raia kunufaika na mauzo ya mirathi inayohusiana na ardhi.

Sehemu ya Kumi na Nne inapendekeza kurekebisha Sheria ya Chama cha Mwakili Taganyika, Sura ya 307. Mapendekezo yanakusudia kuboresha uwakilishi wa wajumbe wa Baraza Kuu ili kuweka usimamizi bora wa Baraza. Marekebisha yanapendekezwa ili kutambua Ofisi za kanda, kuondoa Mkutano Mkuu wa nusu mwaka kwa lengo la kupunguza gharama za uendeshaji wa Baraza.

Sehemu ya Kumi na Tano inapendekezwa kurekebisha Sheria ya Usajili wa Wadhamini, Sura ya 318. Marekebisha

haya yanakusudia kuwatambua wasimamizi na wanufaika wa mali zilizo chini ya udhamini.

Dodoma,
21 Oktoba, 2019

ADELARDUS L. KILANGI,
Attorney General