

THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO.2)
ACT, 2016

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THE UNITED REPUBLIC OF TANZANIA



NO. 4 OF 2016

I ASSENT.

President

[.....02/02/2016.....]

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.2) Act, 2016.

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 ANTI-MONEY LAUNDERING ACT,
(CAP. 423)

Construction
Cap. 423 3. This Part shall be read as one with the Anti-Money Laundering Act, hereinafter referred to as the "principal Act".

Amendment of
section 13 4. The principal Act is amended in section 13(1)(a) by inserting immediately after the words "one hundred million shillings" the phrase "or an amount equivalent to three times the market value of the property, whichever is greater".

PART III
AMENDMENT OF THE ANTI TRAFFICKING IN PERSONS ACT,
(CAP. 432)

Construction
Cap. 432 5. This Part shall be read as one with the Anti Trafficking in Persons Act, hereinafter referred to as the "principal Act".

Amendment of
section 14 6. The principal Act is amended in section 14 by deleting subsection (1) and substituting for it the following:

“(1) In addition to the penalty imposed for the commission of an offence under this Act, the court may on its own motion or on application by the Attorney General, order confiscation and forfeiture to the Government of -

- (a) all proceeds and properties derived from the commission of the offence of trafficking in person; or
- (b) anything used for purposes of committing or facilitating the commission of the offence of trafficking in persons.”

Amendment of
section 20

7. The principal Act is amended in section 20(1) by deleting the words “Task Force” and substituting for them the words “Anti-trafficking Committee”.

PART IV
AMENDMENT OF THE CIVIL PROCEDURE CODE,
(CAP. 33)

Construction
Cap. 33

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

Amendment of
section 13

9. The principal Act is amended in section 13 by adding at the end of that section the following proviso:-

“Provided that, the provisions of this section shall not be construed to oust the general jurisdiction of the High Court”.

PART V
AMENDMENT OF THE CONTRACTORS REGISTRATION ACT,
(CAP. 235)

Construction
Cap. 235

10. This Part shall be read as one with Contractors Registration Act, hereinafter referred to as the “principal Act”.

Amendment of
section 6

11. The principal Act is amended by deleting section 6 and substituting for it the following:

“Appointment
of Registrar

6.-(1) The Board shall appoint a Registrar to the Board who shall be either a registered engineer, architect, quantity

surveyor or a qualified person in either law, economics, finance or management.

(2) The Registrar shall hold or vacate office in accordance with the terms of his appointment.”

Amendment of
section 10

12. The principal Act is amended in section 10 by inserting immediately after sub section (5) the following new subsection:

“(6) An applicant under this section who is found guilty of an offence of submitting forged documents, misrepresentation or any form of fraudulent conduct, inducement or corrupt practice shall:

(a) in the case of an applicant for registration as a contractor-

(i) have his application deferred; and

(ii) be debarred from being registered as contractor for a period of not more than two years; and

(b) in the case of an applicant for upgrading or for obtaining any service from the Board-

(i) have his application deferred;

(ii) have his registration deleted; or

(iii) be debarred as contractor for a period of not more than two years.”

Amendment of
section 12

13. The principal Act is amended in section 12 by-

(a) inserting immediately after subsection (1) the following subsections:

“(2) An assessment of the majority shareholders shall base on the aggregate of shares owned by locals in the individual firm or company.

(3) Where the company applying for registration is a shareholder which is a limited liability company, the majority share holding within that limited liability company shall be assessed to determine the aggregate shares owned between the

locals and foreigners.”

- (b) re-numbering subsections (2) to (5) as subsections (4) to (7) respectively.

Amendment of
section 13

14. Section 13 of the principal Act is amended:

- (a) in subsection (1), by-
- (i) inserting immediately after paragraph (i) a new paragraph (j) as follows:
- “ (j) forgery, misrepresentation, fraudulent conduct, inducement or corrupt practice;”
- (ii) re-naming paragraph (j) as paragraph (k); and
- (b) by deleting subsection (6) and substituting for it the following:
- “(6) A sole proprietor, partners, directors or share holders of a company shall not be allowed to register a new contracting sole proprietorship or company after having been deleted as registered contractor for a period of three years unless otherwise directed by the Board.”

Amendment of
section 15

15. Section 15 of the principal Act is amended:

- (a) in subsection (1), by inserting immediately after the words “suspend” appearing in the opening phrase, the phrase “for a period to be specified by the Board,”;
- (b) by deleting paragraph (c);
- (c) in paragraph (e) by-
- (i) deleting sub-paragraph (ii); and
- (ii) re-naming sub-paragraph (iii) as sub-paragraph (ii).

Amendment of
section 16

16. The principal Act is amended in section 16 (1), by inserting immediately after the words “under section” the words “13 or”.

Amendment of
section 17

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

“ Any contractor who, having been served with a summons under section 16(2)(b) or an order issued under the provisions of section 16(2)(c), fails to comply or omits, without sufficient cause-”

Amendment of
section 23

18. The principal Act is amended in section 23(2) by deleting the words “within one year” and substituting for them the words “within sixty days”.

Amendment of
section 33

19. The principal Act is amended in section 33 by:
(a) designating the contents of section 33 as subsection (1); and
(b) inserting immediately after subsection (1) as designated, the following:

“(2) A person who contravenes subsection (1) commits an offence and is liable to a fine of 0.5% of the class limit.”

PART VI AMENDMENT OF THE EDUCATION ACT, (CAP. 353)

Construction
Cap 353

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

Amendment
of section 60

21. The principal Act is amended in section 60(1) by deleting paragraph (k).

Addition of a
new section
60A

22. The principal Act is amended by adding immediately after section 60 the following new section:

“Prohibition to
marry or
impregnate a
primary or a
secondary
pupil

60A.-(1) It shall be unlawful under any circumstance for:

(a) any person to marry a primary or secondary school girl or a school boy; or

(b) a primary or secondary school boy to marry any person.

(2) Any person who contravenes any provision of subsection (1) commits an offence and shall, on conviction, be liable to imprisonment for a term of thirty years.

(3) Any person who impregnates a primary school or a secondary school girl commits an offence and shall, on conviction, be liable to imprisonment for a term of thirty years.

(4) Any person who aids, abets or solicits a primary or secondary school girl or a school boy to marry while pursuing primary or secondary education commits an offence and shall, on conviction, be liable to a fine of not less than five million shillings or to imprisonment for a term of five years or to both.

(5) Every Head of School shall keep record and submit to the Commissioner or his representative a detailed quarterly report of cases of marriages and pregnancies under subsections (1), (3) or (4) and legal actions taken against the offenders.

Cap 16

(6) The provisions of the Penal Code relating to sexual offences shall apply *mutatis mutandis* to primary and secondary school girls and boys under the age of eighteen years, except for matters relating to sentence.

Cap. 13

(7) Where a person convicted under subsections (2), (3) or (4) is a child, he shall be sentenced in accordance with the provision of section 119 of the Law of the Child Act.”

PART VII

AMENDMENT OF THE EMPLOYMENT AND LABOUR RELATIONS ACT, (CAP. 366)

Construction
Cap. 366

23. This Part shall be read as one with the Employment and Labour Relations Act hereinafter referred to as the “principal Act.”

Amendment
of the Third
Schedule

24. The principal Act is amended in the Third Schedule by -

- (a) deleting the words “by the Labour Commissioner” appearing in paragraph 13(5) of that Schedule; and
- (b) deleting the whole of paragraph 13(9).

PART VIII
AMENDMENT OF THE EVIDENCE ACT,
(CAP. 6)

Construction
Cap. 6

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

Amendment
of section
127

- 26.** Section 127 of the principal Act is amended by-
- (a) deleting subsections (2) and (3) and substituting for them the following:

“(2) A child of tender age may give evidence without taking an oath or making an affirmation but shall, before giving evidence, promise to tell the truth to the court and not to tell any lies.”
 - (b) re-numbering subsections (4), (5), (6), (7) and (8) as subsections (3), (4), (5), (6) and (7) respectively.

PART IX
AMENDMENT OF THE FOREST ACT,
(CAP. 323)

Construction
Cap. 323

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

Amendment
of section 88

28. The principal Act is amended in section 88 by deleting the phrase “to a fine not exceeding one million shillings” and substituting for it the phrase “to a fine of not less than one hundred thousand shillings but not exceeding five million shillings”.

Amendment
of section 89

29. The principal Act is amended in section 89 by deleting the phrase “to a fine of not less than two hundred thousand shillings and not exceeding one million shillings or

to imprisonment for a term not exceeding two years” appearing in the closing phrase and substituting for it the phrase “to a fine of one million shillings or three times the market value of the prohibited produce whichever is greater or to imprisonment for a term not less than two years but not exceeding seven years”.

PART X
AMENDMENT OF THE IMMIGRATION ACT,
(CAP. 54)

Construction
Cap 54

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

Addition of
new section
31A

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

“Smuggling
immigrants

31A.-(1) A person who-

- (a) smuggles immigrants;
- (b) hosts illegal immigrants;
- (c) transports illegal immigrants;
- (d) finances, organizes or, aids the smuggling of immigrants;
- (e) facilitates in anyway the smuggling of immigrants into the United Republic or to a foreign country;

- (f) commits any fraudulent act or makes any false representation by conduct, statement or otherwise, for the purpose of entering into, remaining in or departing from, or facilitating or assisting the entrance into, reside in or departing from the United Republic; or
- (g) transports any prohibited immigrants within the United Republic of Tanzania,

commits an offence and on conviction, is liable to a fine of not less than twenty million shillings or imprisonment for a term of twenty years.”

(2) In addition to the penalty imposed for the commission of an offence under this section, the court may on its own motion or on the application by the Attorney General, order confiscation and forfeiture to the Government of -

- (a) all proceeds and properties derived from the commission of the offence of smuggling immigrants; or
- (b) anything used for purposes of committing or facilitating the commission of the offence of smuggling immigrants.”

PART XI
AMENDMENT OF THE LABOUR INSTITUTIONS ACT,
(CAP. 300)

Addition of
new section
45A

33. The principal Act is amended by inserting immediately after section 45 the following new section:

“Power to
compound
offences

45A.-(1) The labour officer may, if satisfied that any person has not complied with any provision of the labour laws or regulations made under this Act, by order, compound such offences by requiring such person to make payment of a sum of money except that -

- (a) such sum of money shall not be less than one hundred thousand shillings; and
- (b) the labour officer shall give a receipt to the person from whom he or she receives such sum of money.

(2) Where an offence is compounded in accordance with the provisions of subsection (1) and proceedings are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under subsection (1).

(3) Any person who is aggrieved by any order made under subsection (1) may, within thirty days from the date of that order, appeal to the Labour Commissioner.

(4) Where the employer fails to comply with the order given under this section within the prescribed time, the labour officer shall, in addition to the sum of money ordered, require the employer to pay an interest at the rate prescribed in the regulations.

(5) Subject to the provisions of this section, the labour officer may, seek for an execution order against the employer who fails to comply with the order issued under this section.

(6) Notwithstanding the provisions of this section, where the labour officer during inspection finds that the employer has defaulted to remit contributions or has under declared contributions to any social security fund, shall immediately report such matter to the relevant social security fund."

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

Construction
Cap. 13

34. This Part shall be read as one with the Law of the Child Act, hereinafter referred to as the "principal Act".

Addition of
section 100A

35. The principal Act is amended by adding a new section 100A immediately after section 100 as follows:

"Opinion and
recommendati
on of social
welfare officer

100A.-(1) The Juvenile Court may, during the proceedings, where it consider necessary, seek the opinion and recommendation of social welfare officer.

(2) Where the court considers necessary to have the opinion or recommendation of a social welfare officer, the court shall consider such opinion or recommendation before passing the sentence.”

Amendment of
section 103

- 36.** The principal Act is amended in section 103 by-
- (a) deleting the words “police officer” appearing in sub section (1) and substituting for them the words “public prosecutor”; and
 - (b) deleting subsection (2) and substituting for it the following:

“(2) Where a child is brought before the Juvenile court for any offence other than offences triable by the High Court, the case shall be disposed by the Juvenile court on the same day.

(3) The Juvenile court shall, subject to subsection (2), for any reason to be recorded in the proceedings adjourn the case to another day and may release the child on bail.”

Amendment of
section 119

- 37.** The principal Act is amended in section 119 by deleting subsection (1) and substituting for it the following-
- “(1) Notwithstanding any provisions of any written law, a child shall not be sentenced to imprisonment.”

Amendment of
section 158

- 38.** The principal Act is amended in section 158 (1) by-
- (a) deleting paragraph (a); and
 - (b) re-naming paragraphs (b) to (g) as paragraphs (a) to (f) respectively.

Addition of
section 158A

39. The principal Act is amended by inserting a new section 158A immediately after section 158 as follows:

“Prohibition of
female genital
mutilation on a
child

158A.-(1) A person shall not perform female genital mutilation on a child.

(2) A person who contravenes this section, commits an offence and is liable, on conviction, to a fine of not less than two million shillings or to imprisonment for term of not less than five years but not exceeding fifteen years or both.”

PART XIII
AMENDMENT OF THE LAND DISPUTES COURTS ACT,
(CAP. 216)

Construction
Cap. 216

40. This Part shall be read as one with the Land Disputes Courts Act, hereinafter referred to as the “principal Act”.

Amendment
of section 41

41. The principal Act is amended in section 41 by-
(a) re-designating section 41 as section 41(1);
(b) adding after subsection (1) as re-designated the following new subsection -

“(2) An appeal under subsection (1) may be lodged within forty five days after the date of the decision or order:

Provided that, the High Court may, for good cause, extend the time for filing an appeal either before or after the expiration of such period of forty five days.”

PART XIV
AMENDMENT OF THE MENTAL HEALTH ACT,
(CAP. 98)

Construction
Cap. 98

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

Amendment
of the Second
Schedule

43. The principal Act is amended in the Second Schedule by deleting Form 3 and substituting for it the following:

“ The Mental Health Act
(CAP.98)
RECEPTION ORDER

FORM 3

To: Officer Incharge

..... Hospital

In the District Resident Magistrate’s Court of
at.....

Whereas.....has been brought
by.....(name of the petitioner) before this court on
the position of

.....under the
provisions of section.....of this Act.

Now I.....Magistrate of the
.....
District/Resident
at.....Magistrate
.....having caused the said
.....and to be examined
by.....and being satisfied that
the said is mentally
disordered-

(a) dangerous

(b) not under proper care and control or

(c) at risk to self or others

(d) risk of deterioration.

Cruelly treated or neglected by the person having the care or charge of him and is a proper person to be taken charge of and detained under care hereby direct you to receive the said

... admitted into your hospital into your mental hospital.

Dated this.....day of20.....

GIVEN UNDER MY HAND AND THE SEAL OF THE COURT

THISDAY OF.....YEAR

.....

.....
DISTRICT/RESIDENT MAGISTRATE
TANZANIA

- *Here state whether the person giving the certificate is a Government medical officer or a registered medical practitioner duly authorized to give certificate under this Act."*

PART XV

AMENDMENT OF THE NATIONAL KISWAHILI COUNCIL ACT, (CAP. 52)

Constructi
on
Cap. 52

44. This Part shall be read as one with the National Kiswahili Council of Act, hereinafter referred to as the "principal Act."

Addition of
section 11

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

“Regulations

11. The Minister may make regulations in respect of any matter which under this Act is required or permitted to be prescribed or is necessary or convenient for better carrying out or giving effect to this Act.”

PART XVI
AMENDMENT OF THE NOTARIES PUBLIC AND
COMMISSIONERS FOR OATHS ACT,
(CAP.12)

Construction
Cap. 12

46. This Part shall be read as one with the Notaries Public and Commissioners for Oaths Act herein after referred to as the “principal Act”.

Amendment of
section 8

47. The principal Act is amended in section 8 by inserting the phrase “insert his name and” between the words “shall” and “state” appearing in that section.

Amendment of
section 9

48. The principal Act is amended in section 9 by-
(a) deleting “sub section (2)”; and
(b) renumbering section 9 (1) as section 9.

Amendment of
section 13

49. The principal Act is amended in section 13 by-
(a) deleting the words “High Court may, with the approval of the President”, and substituting for them the words “Chief Justice may”;
(b) deleting the marginal note and substituting for it the following-

“Chief Justice may make rules.”

Addition of
new section 14

50. The principal Act is amended by adding immediately after section 13 the following new sections:

“Amendment
of the
schedule

14. The Chief Justice may, by notice published in the *Gazette*, amend any Schedule to this Act.

Saving
Provisions

15. The coming into operation of the amended section 8 shall not affect any decision delivered regarding an affidavit or any affidavit filed in court before coming into operation of that section.”

Repeal of
Third
Schedule

51. The Third Scheduled to the principal Act is repealed and replaced by the following new Schedule:

“THIRD SCHEDULE
(Made under section 9)

FEEES FOR CERTIFICATES

FEEES FOR CERTIFICATES		AMOUNT
(a)	fee payable on application for a certificate to practice as a Notary Public and Commissioner for Oaths.	Tshs. 30,000/=
(b)	fee payable on each annual application for renewal of the certificate.	Tshs. 40,000
(c)	fee payable on application for lost, destroyed or mutilated certificate to be replaced	Tshs. 10,000

”

PART XVII
AMENDMENT OF THE PREVENTION OF TERRORISM ACT,
(CAP. 19)

Construction
Cap. 19

52. This Part shall be read as one with the Prevention of Terrorism Act, hereinafter referred to as the “principal Act”.

Addition of
section 11A

53. The principal Act is amended by adding immediately after section 11 the following:

“Penalties

Cap. 16

11A.-(1) A person who commits an offence under sections 5, 7 or 8, shall, on conviction, be liable to-

- (a) where the offence causes death, be sentenced in terms of section 197 of the Penal Code;
- (b) where the offence results into serious bodily harm or serious damage to property, be sentenced to life imprisonment; and
- (c) in any other case, imprisonment for a term of not less than thirty years.

(2) A person who commits an offence under section 9 or 10 shall, on conviction be liable to imprisonment for a term of not less than ten years but not exceeding twenty years.”

PART XVIII

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

Construction
Cap. 352

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

Amendment
of section 2

55. The principal Act is amended in section 2 by deleting the definition of the term “small estate” and substituting for it the following definition-

“small estate” means an estate the gross value of which a court, district court or other authority having jurisdiction in probate or administration is satisfied, does not exceed one hundred million shillings;”

PART XIX
AMENDMENT OF THE VETERINARY ACT,
(CAP. 319)

Construction
Cap. 319

56. This Part shall be read as one with the Veterinary Act hereinafter referred to as the “principal Act”.

Amendment
of Section 15

57. The principal Act is amended in section 15 by adding immediately after subsection (2) the following new subsection:

“(3) A person shall not be registered as a Veterinarian unless that person, in addition to the qualification stipulated under subsection (1), has undergone internship training for a period of not less than one year.”

PART XX
AMENDMENT OF THE WILDLIFE CONSERVATION ACT,
(CAP. 283)

Construction
Cap. 283

58. This Part shall be read as one with the Wildlife Conservation Act, hereinafter referred to as the “principal Act”.

Amendment
of section 86

59. The principal Act is amended in section 86(2) by-

(a) adding immediately after paragraph (ii) a new paragraph as follows:

“(iii) Where the value of the trophy which is the subject matter of the charge exceeds one hundred thousand shillings but does not exceed one million shillings, to a fine of not less than the amount equal to thrice the value of the trophy or to imprisonment for a term of not less than ten years but not exceeding twenty years or both;”

(b) re-naming paragraph (ii) as paragraph (iii).

PART XXI
AMENDMENT OF THE PUBLIC LEADERSHIP CODE OF
ETHICS ACT,
(CAP. 398)

Construction
Cap. 398

60. This Part shall be read as one with the Public Leadership Code of Ethics Act, hereinafter referred to as the “principal Act”.

Amendment of
section 4

61. The principal Act is amended in section 4(1), by inserting in the appropriate alphabetical order the following new definitions:

“child” means a biological, adopted or dependant child of a public leader who is below the age of eighteen years and is not married;

“conflict of interest” is the situation where a public leader through his position in office or service, obtains or expects to obtain any interest or benefit, financial or otherwise, direct or indirect for himself or for some other person for whom he has a fiduciary relationship;”.

Amendment of
section 6

62. Section 6 of the principal Act is amended,

- (a) by-re-designating the contents of section 6 as subsection 6(1);
- (b) in subsection (1) as re-designated by,
 - (i) deleting paragraph (e) and substituting for it the following:
 - “(e) in relation to public interest, that on appointment or election to office and thereafter, the public leader shall arrange his affairs in a manner that would not occasion real, potential or apparent conflict of interest;
 - (f) in relation to execution of duties, the public leader shall not, whether directly or indirectly, act or make decision in furtherance of his private interest or interest of the member of his family or any other person for whom he has a fiduciary relationship;”

(ii) re-naming paragraphs (f) to (j) as paragraphs (g) to (k), respectively;

(iii) deleting paragraph (k) as re-named and substituting for it the following:

“(k) in relation to post employment that:

- (i) a public leader shall, within six months after the termination of his service, not seek or engage in any private employment that he was associated with when he was a public leader or when he had a supervisory role in the post of public leader, and for which he had direct management of;
- (ii) a public leader shall not act, after he leaves a public office, in such a manner as to bring the service to ridicule or take improper advantage of his previous office, so that the possibilities may be minimized by:

- (aa) allowing prospects of outside employment to create a real, potential or apparent conflict of interest for public leaders while in a public office;
- (bb) obtaining preferential treatment or privileged access to government after leaving a public office;
- (cc) taking personal advantage of information obtained in the course of official duties and responsibilities until it becomes generally available to the public; and
- (dd) using a public office to unfair advantages in obtaining opportunities outside employment.”

(c) inserting after subsection (1), as re-designated the following new subsection:

“(2) A public leader who refuses, makes false declaration or fails to comply with the requirements under subsection (1) breaches the code of ethics for public leaders and is liable to the actions specified under section 8.”

Amendment of
section 9

63. Section 9 of the principal Act is amended in -

(a) in subsection (1), by-

- (i) deleting paragraph (a);
- (ii) renaming paragraphs (b) to (d) as paragraphs (a) to (c) respectively;
- (iii) adding the word “calendar” between words “each” and “year” appearing in the renamed paragraph (b);
- (iv) deleting the words “unmarried minor children” appearing in the closing words of that subsection and substituting for it the word “child”;
- (v) adding immediately after subsection (1) the following proviso:
“Provided that where the declaration of assets is made by a Commissioner under this section, the declaration shall be submitted to the President.”

- (b) deleting subsection (2);
- (c) in subsection (3), by-
 - (i) by renumbering subsections (3) to (6) as subsections (2) to (5) respectively; and
 - (ii) deleting paragraph (c) of the re-numbered subsection (2).

Amendment of
section 11

64. The principal Act is amended in section 11(2), by adding the words “or non commercial” between the words “commercial” and “operation” appearing in paragraph (f).

Amendment of
section 12

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

- (a) deleting the word “fifty” appearing in subsection (2) and substituting for it the word “two hundred”;
- (b) adding immediately after subsection (2) a new subsection (3) as follows:

“(3) An accounting officer who receives a declaration in terms of subsection (2) (b) shall report the declaration and disposal of the gifts to the Commissioner.”

Amendment of
section 13

66. The principal Act is amended in section 13-

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

“(1) A public leader shall not speak in the Cabinet, National Assembly, Local Government Council or its Committee, official forum or part of it as the case may be, in any matter in which he has a direct pecuniary interest unless-

- (a) he has disclosed the nature of that interest to the Cabinet, the National Assembly, the Local Government Council or Committee or such other forum or part of it; and
- (b) the direct pecuniary interest for which the public leader has disclosed under paragraph (a) serves or safeguards public interest.”
- (b) by deleting the words “minor children” appearing in subsection (2) and substituting for them the word “child”

Addition of
section 13A

67. The principal Act is amended, by adding immediately after section 13 the following:

“Restriction
of public
leaders to
enter into
contracts

13A. A public leader shall not, whether by himself, or through a family member or any company or association to which he is affiliated, enter into or take part in any contract with the Government or entity of the Government thereof, unless the Government or entity for which the contract is being entered into is not under the direct management of that leader.”

Amendment of
section 14

68. The principal Act is amended in section 14, by deleting the word “children” appearing in subsection (3) and substituting for them the words “child”.

Amendment of
section 15

69. The principal Act is amended in section 15, by-

- (a) deleting the word “or” appearing at the end of paragraph (a);
- (b) deleting a full stop appearing at the end of paragraph (b); and
- (c) inserting immediately after paragraph (b) a new paragraph (c) as follows:
 - “(c) without reasonable cause, delays to make a declaration under section 9(1)(c).”

Amendment of
section 18

70. The principal Act is amended in section 18, by-

- (a) deleting subsections (2), (3) and (4) and substituting for them the following:

“(2) The Secretariat shall, subject to this Act and the relevant provision of the Constitution, have the duty to-

- (a) receive declaration which are required to be made by public leaders under the Constitution or any other law;
- (b) receive allegations, and notifications of breach of the code by all public leaders who subject to this Act;
- (c) make inquiries into any alleged or suspected breach of the code by all public leaders who are subject to this Act;

- (d) conduct physical verification in respect of declaration made pursuant to this Act; and
- (e) initiate and conduct any investigation in respect of the breach of ethics prescribed under this Act.

(3) The Secretariat shall, except for matters stipulated under subsections (4) and (5), have powers to order any person to -

- (a) attend before the Secretariat for the purpose of being interviewed, orally or in writing, in relation to any matter which may assist investigation of an alleged breach of the code;
- (b) produce any book, document or any certified copy thereof and any article which may assist the investigation of an alleged breach of the code.

(4) The Commissioner shall, where the Secretariat intends to conduct investigation in respect of a bank account, by order in writing supported by a warrant issued by a magistrate, authorise an officer of the Secretariat to investigate a bank account of a public leader concerned.”

- (b) re-numbering subsections (6) and (7) as subsections (5) and (6) respectively.

Addition of
sections 18A
and 18B

71. The principal Act is amended, by adding immediately after section 18 the following new sections:

“Immunity
of officers
of the
Secretariat

18A. An officer of the Secretariat or any other person acting on behalf of the Secretariat shall not be liable for an acts done in good faith in the course of discharging his official duties.

Obstruction
of officers
from
execution
of duties

18B. Any person who, knowingly or without reasonable cause-

(a) obstructs, whether directly or indirectly, an officer from execution of his duties or powers under the Act;

(b) makes any false or misleading information, commits an offence and is liable on conviction to a fine of not less than one million shillings or to imprisonment for a term not exceeding one year or to both.”

Amendment of
section 22

72. The principal Act is amended in section 22, by-

- (a) deleting the words “appoint a tribunal in accordance with” appearing in subsection (5) and substituting for them the words “direct the tribunal appointed in terms of”;

- (b) deleting the words “of its appointment” appearing in subsection (6) and substituting for them the words “upon receipt of directives made to it under subsection (5)”.

Amendment of
section 26

73. The principal Act is amended in section 26, by-

- (a) deleting the article “A” appearing in the first line and substituting for it the words “Subject to subsection (2), a” ; and
- (b) adding immediately after subsection (1) a new subsection (2) as follows:

“(2) A member of the Tribunal shall hold office for a term of three years and shall be eligible for reappointment for another term.”
- (c) re-numbering subsections (2) to (10) as subsections (3) to (11) respectively.

Amendment of
section 31

74. Section 31 of the principal Act is amended ,

- (a) in subsection (1) by deleting the words “local government”;
- (b) in subsection (2), by inserting immediately after paragraph (e) a new paragraph (f) as follows-

“(f) matters that constitute conflict of interest, measures and procedures for the control of conflict of interest.”

Passed by the National Assembly on the 27th June, 2016.



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Clerk of the National Assembly