

THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (No.3)
ACT, 2010

ARRANGEMENT OF SECTIONS

PART I

PRELIMINARY PROVISIONS

Section *Title*

1. Short title.
2. Amendment of certain written laws.

PART II

AMENDMENT OF THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT, 2010

3. Construction.
4. Repeal and replacement of section 26.

PART III

AMENDMENT OF THE MINING ACT, 2010

5. Construction.
6. Amendment of section 96.

PART IV

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

7. Construction.
8. Amendment of section 38.
9. Amendment of section 67.
10. Amendment of section 69.
11. Amendment of section 71.
12. Amendment of section 88.
13. Amendment of section 90.
14. Amendment of section 91.

15. Amendment of section 93.
16. Amendment of section 94.

PART V

AMENDMENT OF THE LABOUR INSTITUTIONS ACT, CAP. 300

17. Construction.
18. Amendment of section 2.
19. Amendment of section 50.
20. Amendment of section 53.
21. Amendment of section 63.

PART VI

AMENDMENT OF THE ELECTION EXPENSES ACT, 2010

22. Construction.
23. Amendment of section 9.
24. Amendment of section 20.
25. Amendment of section 24.

PART VII

AMENDMENT OF THE NATIONAL ELECTIONS ACT, CAP. 343

26. Construction.
27. Amendment of section 38.
28. Amendment of section 40.
29. Repeal and replacement of section 50A.

PART VIII

AMENDMENT OF THE LOCAL AUTHORITY (ELECTIONS) ACT, CAP. 292

30. Construction.
31. Amendment of section 42.
32. Amendment of section 44.
33. Repeal and replacement of section 52A.

PART IX

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

- 34. Construction.
- 35. Addition of section 178A.

PART X

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

- 36. Construction.
- 37. Amendment of section 16.
- 38. Addition of section 84A.

PART XI

AMENDMENT OF THE ROAD TRAFFIC ACT, CAP. 168

- 39. Construction.
- 40. Amendment of section 39.

PART XII

AMENDMENT OF THE PUBLIC SERVICE RETIREMENT BENEFITS ACT, CAP. 371

- 41. Construction.
- 42. Amendment of section 9.

PART XIII

AMENDMENT OF THE NATIONAL HEALTH INSURANCE FUND ACT, CAP. 395

- 43. Construction.
- 44. Amendment of section 9.

PART XIV

AMENDMENT OF THE ARMS AND AMMUNITION ACT, CAP. 223

- 45. Construction.

46. Amendment of section 34.

PART XV

AMENDMENT OF THE ELECTRICITY ACT, 2008

47. Construction.

48. Amendment of section 41.

THE UNITED REPUBLIC OF TANZANIA



NO. 17 OF 2010

I ASSENT,

Jassayon Kikwete

 President

28th July, 2010

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. 3) Act, 2010.
- 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 ELECTRONIC AND POSTAL COMMUNICATIONS ACT, 2010

- Construction Act No. 3 of 2010 3. This Part shall be read as one with the Electronic and Postal Communications Act, hereinafter referred to as the "principal Act".

Repeal and
replacement
section 26

4. The principal Act is amended by repealing section 26 and substituting for it the following provisions-

"Shareholders'
local obligation

26.-(1) The Minister shall, in consultation with the Authority, make regulations prescribing the minimum local shareholding requirement and procedure for approval and transfer of shares in a company holding an electronic communications, postal licence and content service licence.

(2) The Minister shall, within three years from the date of commencement of this Act, in consultation with a company incorporated in the United Republic and holding an individual or class licence under this Act, make regulations prescribing the minimum shareholding requirement and procedure for selling shares to Tanzania nationals through listing with the stock exchange, in accordance with the provisions of the Capital Market and Securities Act."

Cap.79

PART III

AMENDMENT OF THE MINING ACT, 2010

Construction
Act No. 14 of
2010

5. This Part shall be read as one with the Mining Act, hereinafter referred to as the "principal Act".

Amendment of
section 96

6. The principal Act is amended in section 96 by deleting the "full stop" at the end of subsection (3) and inserting thereat the phrase:

"in respect of the disturbance or damage according to the respective rights or interests of the lawful occupier in the property concerned".

PART IV

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

Construction
Cap. 366

7. This Part shall be read as one with the Employment and Labour Relations Act, hereinafter referred to as the "principal Act".

Amendment of
section 38

8. The principal Act is amended in section 38 by deleting subsection (3) and substituting for it the following provision:

"(3) Where the mediation has failed, the dispute shall be referred for arbitration which shall be concluded within sixty days during which period no retrenchment shall take effect and, where the employees are dissatisfied with the award and are desirous to proceed with revision to the Labour Court under section 91(2), the employer may proceed with their retrenchment".

Amendment of
section 67

9. The principal Act is amended in section 67 by deleting subsection (9) and substituting for it the following provision:

"(9) Any dispute over the interpretation or application of an order made under this section shall be referred to the authority or the court which made the order for interpretation and other necessary orders.

(10) Any order made pursuant to this section shall be enforced like any other order issued by the Labour Court."

Amendment of
section 69

10. The principal Act is amended in section 69 by deleting subsection (2) and substituting for it the following provision:

"(2) Where a recognised trade union has ceased to represent the majority in the bargaining unit, any other trade union may fill the prescribed forms for the purpose of being recognised as an exclusive bargaining unit."

Amendment of
section 71

11. The principal Act is amended in section 71, by-

- (a) inserting the phrase “ and shall give reasons for the termination” between the words “notice” and the “full stop” appearing in subsection (6);
- (b) deleting the phrase “ failure of which shall constitute an offence” appearing in subsection (7) and substituting for it the phrase “and shall be a rebuttable presumption that the copy so registered is authentic and may be executed as a decree of the Court”

Amendment of
section 88.

12. The principal Act is amended in section 88, by-

- (a) deleting in subsection (2)(b)(ii) the phrase “in which the amount claimed is below the pecuniary jurisdiction of the High Court”;
- (b) adding immediately after subsection (6) the following new subsections:

“(7) A mediator may, by an agreement between the parties or on application by the parties, draw a settlement agreement in respect of any dispute pending before him, which shall be signed by the parties and the mediator, and such agreement shall be deemed to be a decree of the Court.

(8) Where a party fails to-

- (a) attend any arbitration proceedings convened by arbitrator, the matter may be heard *ex-parte* as provided for under rule 28 of the Labour Institutions (Mediation and Arbitration Guidelines) Rules; or

(b) comply with any direction made by the arbitrator, the arbitrator shall proceed to make the award.”

G.N. No. 67
of 2007

- (c) renumbering subsections (7), (8) and (9) as subsections (9), (10) and (11) respectively.

Amendment of section 90

13. The principal Act is amended in section 90 by deleting figure "88(8)" appearing in this section and substituting for it figure "88(10)".

Amendment of section 91

14. The principal Act is amended in section 91, by -

- (a) deleting figure "88(8)" and substituting for it figure "88(10)" appearing in subsection (1); and
- (b) adding after paragraph (b) of subsection (2) the following new paragraph:
"(c) the award is unlawful, illogical or irrational."

Amendment of section 93

15. The principal Act is amended in section 93, by adding immediately after subsection (2) the following new subsection:

"(3) A voluntary arbitration preferred under section 14(1)(b)(ii) of the Labour Institutions Act shall be dealt with by the Commission as if it were a compulsory arbitration referred to under subsections (2) to (9) of section 88."

Cap 300

Amendment of section 94

16. The principal Act is amended in section 94 by deleting the phrase "within the pecuniary jurisdiction of High Court" which appears in the opening words of subsection (1).

PART V

AMENDMENT OF THE LABOUR INSTITUTIONS ACT, CAP.300

Construction Cap 300

17. This part shall be read as one with the Labour Institutions Act, hereinafter referred to as the "principal Act".

Amendment of section 2

18. The principal Act is amended in section 2, by inserting in the appropriate alphabetical order the following definition:

"Court" means the Labour Court".

Amendment of
section 50

19. The principal Act is amended in section 50, by –

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

“(1) There shall be established a Labour Division of the High Court.”;

(b) deleting subsection (6) and substituting for it the following provision:

“(6) No fees, cost or interest shall be payable in respect of any proceedings before the Court under the provisions of this Act-

(7) Notwithstanding subsection (6)-

(a) if any proceedings appear to the Court to be frivolous or vexatious, the Court may, in its discretion, order the party initiating such proceedings to defray the general costs and interest and, in default of payment, the said party shall be liable to imprisonment for such a period not exceeding one month as may be ordered by the court; and

(b) the general cost or interest may be imposed upon the occasion of the trial and without any action or proceedings for the recovery.”

Amendment of
section 53

20. The principal Act is amended in section 53 by -

(a) deleting the opening phrase of subsection (2) and substituting for it the following words:

“(2) The Judge Chairman may suspend a person from a panel referred to in subsection (1);

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

“(3) Where the Judge Chairman or presiding Judge suspends any assessor or person from a panel of assessors constituting the court, the Judge Chairman shall recommend to the appointing authority for his removal from the roll of assessors.”

Amendment of section 63

21. The principal Act is amended in section 63(2), by deleting paragraphs (e) and (f) and substituting for them the following paragraph:

- “(e) hinders, obstructs or disobeys any lawful order issued by a person performing a function in terms of this Act or any other labour law.”

PART VI

AMENDMENTS OF THE ELECTION EXPENSES ACT, 2010.

Construction of Act No. 6 of 2010

22. This Part shall be read as one with the Election Expenses Act, hereinafter referred to as the “principal Act”.

Amendment of section 9

23. The principal Act is amended in section 9 by deleting the phrase “at least five days before” and substituting for it the phrase “within seven days after” appearing in subsection (1).

Amendment of section 20

24. The principal Act is amended in section 20 by -

- (a) deleting the word “participating” and substituting for it with the phrase “continuing to participate” appearing in subsection (1);
- (b) deleting the word “participating” and substituting for it the phrase “continuing to participate” appearing in subsection (2).

Amendment of section 24

25. The principal Act is amended in section 24, by-

(2) The Commission may, upon determination of the objection filed by the Registrar of Political Parties on failure of the candidate to observe the provision of the Election Expenses Act, disqualify the candidate from continuing to participate in the election process”.

PART VIII

AMENDMENT OF THE LOCAL AUTHORITIES (ELECTIONS) ACT, CAP.292

Construction of Cap.292 30. This Part shall be read as one with the Local Authorities (Elections) Act, hereinafter referred to as the “principal Act”.

Amendment of section 42 31. The principal Act is amended in section 42, by deleting paragraph (d) of subsection (4).

Amendment of section 44 32. The principal Act is amended in section 44:

- (a) in subsection (1) by-
 - (i) substituting a semi-colon for a full-stop which appears at the end of paragraph (d);
 - (ii) adding the following paragraph after paragraph (d):
 - “(e) if the requirements of the Election Expenses Act, have not been complied with.”;
- (b) inserting after the word “ward” which appears in subsection (3) the phrase “or the Registrar of Political Parties”;
- (c) adding the following provision after subsection (5):
 - “(6) Notwithstanding any provision of this section, an objection filed by the Registrar of Political Parties shall be subjected to the procedure laid down under this Act.”

Repeal and replacement of section 52A

33. The principal Act is amended by repealing section 52A and replacing it with the following provision:

“Disqualification of candidates Act No.7 of 2010 S. 36

52A.-(1) Where the Registrar of Political Parties is satisfied that a candidate has committed a prohibited practice or failed to observe any other requirement of the Election Expenses Act, he may file an objection with the electoral Authority.

(2) The Electoral Authority may, upon determination of the objection filed by the registrar of Political Parties on failure of the candidate to observe the provisions of the Election Expenses Act, disqualify the candidate from continuing to participate in the election process.”

PART IX

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

Construction Cap.287

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

Addition of section 178A

35.-(1) The principal Act is amended by adding section 178A immediately after section 178, the following provisions:

“Powers to dissolve councils pending General Elections”

178A.-(1) Without prejudice to the powers of the Minister to dissolve Councils provided under section 177 and 178, the Minister shall have power to dissolve Councils at the end of tenure of the Council by notice published in the *Gazette* seven days before the President dissolves the Parliament in the year to which General Elections are to be held.

(2) Following the dissolution of the Council under subsection (1), the affairs of the Council shall be under the Director as a Chairman while all Heads of Department shall be members of the committees.

(3) In the exercise of their powers under this section the Director shall not introduce new projects or investments and shall not be allowed to change or alter any projects or investments approved by the councils prior to dissolution.”

PART X

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

Construction
Cap.288

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

Amendment of
section 16

37. The principal Act is amended in section 16, by adding immediately after subsection (6), the following provisions:

“(7) The Registrar of Villages, shall have powers to approve or disapprove any Mtaa established by an urban authority.

(8) The Registrar of Villages shall, at least once in every calendar year, cause a notice to be published in the *Gazette* containing a list of every Mtaa approved by him after the last publication specifying location of every such Mtaa”.

Addition of
section 84A

38.-(1) The principal Act is amended by adding immediately after section 84, the following provisions:

"Powers to
dissolve
councils
pending
General
Elections

84A.-(1) Without prejudice to the powers of the Minister to dissolve councils stipulated in sections 83 and 84, the Minister shall have powers to dissolve Councils at the end of the tenure of the Council, by notice published in the *Gazette*, seven days before the President dissolves the Parliament in the year to which the General Election is to be held.

(2) Following dissolution of the councils, the Committees of the councils shall remain suspended pending the General Election and the affairs of the council shall be under the Director as a Chairman while all heads of departments shall be members of the committees.

(3) In the discharge of duties, and in the exercise of powers under this section, the Director shall not initiate new projects or investments and shall not be allowed to make change or alter any project or investments approved by the councils, prior to dissolution."

PART XI

AMENDMENT OF THE ROAD TRAFFIC ACT, CAP.168

Construction
Cap.168

39. This Part shall be read as one with the Road Traffic Act, hereinafter referred to as the "principal Act".

Amendment of
section 39

40. The principal Act is amended in section 39 by deleting subsection (5) and substituting for it the following:

"(5) Any person who use on a road a motor vehicle or trailer in contravention of the provisions of subsections (1), (2) or (3) shall be guilty of an offence and shall be liable on conviction to a fine not less than fifty thousand shillings but not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding three years or to both."

PART XII
AMENDMENT OF THE PUBLIC SERVICE RETIREMENT BENEFITS ACT,
CAP.371

Construction
Cap. 371

41. This Part shall be read as one with the Public Service Retirement Benefits Act, hereinafter referred to as the "principal Act."

Amendment
of section 9

42. The principal Act is amended in section 9 (2) by deleting paragraphs (a) and (b) and substituting for them the following new paragraphs:

"(a) in the case of an officer of the rank of a Constable, the age of voluntary retirement shall be forty-five years and the age of compulsory retirement shall be fifty years;

(b) in the case of an officer of the rank of a Corporal or a Sergeant, the age of voluntary retirement shall be fifty years and the age of compulsory retirement shall be fifty-five years.;"

PART XIII
AMENDMENT OF THE NATIONAL HEALTH INSURANCE
FUND ACT, CAP.395

Construction
Cap. 395

43. This Part shall be read as one with the National Health Insurance Fund Act, hereinafter referred to as the "principal Act."

Amendment
of section 9

44. The principal Act is amended in section 9, by adding the following new provisions after subsection (2);

"(3) The provisions of subsections (1) and (2) shall not apply to members of the Police Force, Prison Services, Immigration Services and Fire and Rescue Services.

(4) For the purpose of subsection (3), the Treasury shall, in respect of every member of the Police Force, Prison Services, Immigration Services and Fire and Rescue Services, deposit contributions to the Fund at the rate equivalent to six and a quarter *per centum* of each member's monthly salary."

PART XIV
AMENDMENT OF THE ARMS AND AMMUNITION ACT,
CAP.223

Construction
Cap. 223

45. This Part shall be read as one with the Arms and Ammunition Act, hereinafter referred to as the "principal Act".

Amendment
of section 34

46. The principal Act is amended in section 34 by deleting subsection (2) and substituting for it the following provision:

"(2) Any person who commits an offence under this Act shall upon conviction be liable, except where any other penalty is provided, to imprisonment for a term not exceeding fifteen years or to a fine not exceeding shillings thirty million or to both."

PART XV
AMENDMENT OF THE ELECTRICITY ACT, 2008

Construction
Act No.10
of 2008

47. This part shall be read as one with the Electricity Act, hereinafter referred to as the "principal Act".

Amendment
of section 41

48. The principal Act is amended in section 41 by deleting subsections (7), (8) and (9) and substituting for them the following:

"(7) The Minister may make regulations prescribing the manner in which subsection (6) may be implemented."

Passed in the National Assembly on the 14th July, 2010.



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Clerk of the National Assembly