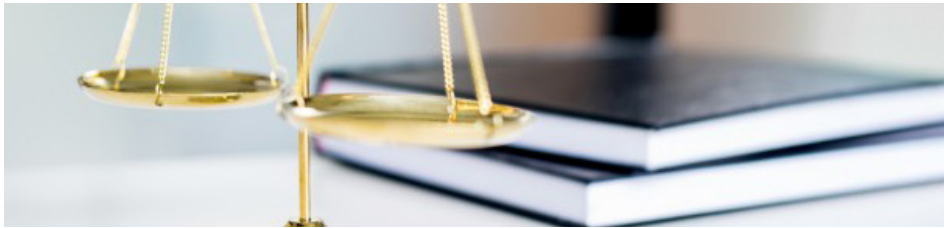


25 June 2019



National Assembly debates Bill to change various laws

- Brought under certificate of urgency
- Laws to be affected include Companies Act, Copyright and Neighbouring Rights Act, Films and Stage Plays Act, NGOs Act, Societies Act, Statistics Act, Tanzania Shipping Agencies Act and Trustees Incorporation Act
- Gives wide powers to Registrar of Companies to strike out companies when in breach of the law
- NGOs and Societies definition tightened

The National Assembly is debating various changes to the law vide a Bill, the Written Law (Miscellaneous Amendments) (No 3) Act of 2019 (the Bill), which has been brought under a certificate of urgency. The Bill proposes amendments to the Companies Act, Copyright and Neighbouring Rights Act, Films and Stage Plays Act, NGOs Act, Societies Act, Statistics Act, Tanzania Shipping Agencies Act and Trustees Incorporation Act.

Companies Act

A company that is limited by guarantee but not having a share capital, and is incorporated or registered under this Act and had obtained a certificate of compliance under section 11 of the Non-Governmental Organizations Act, shall now, within two months from the date of coming into operation of this section be deemed to have been registered under the Non-Governmental Organizations Act and struck off from the register. This effectively means that some entities that fell under the ambit of the Companies Registrar but were doing NGO related work would now come under the NGOs Act likely for better monitoring.

A further amendment to the Companies Act is proposed whereby the Registrar may strike out fraudulently registered companies, or companies registered and engaging in criminal activities such as money laundering, human trafficking, drug trafficking; terrorism financing or any other offence punishable by law; or companies registered which at the time of incorporation misrepresented themselves, or where shareholders or directors were prohibited from entering the country or a registered company is operating contrary to its objectives as prescribed in the memorandum and articles of association. This provision gives the Registrar wide powers to strike out a company but allows a company, member or creditor aggrieved by the decision of the Registrar within 5 years to challenge the decision, and doesn't allow the Registrar, within such period of 5 years, to register another company with the same name.

The proposed amendment introduces very wide powers to the Registrar of Companies to strike out a company when it is in breach of any other offence punishable by law, without specifying any specific legislation. This goes to the heart of the Companies Act and will prove to be very controversial.

Copyright and Neighbouring Rights Act

This Act is proposed to be amended by increasing fines in section 42 of between TZS 20M to 50% of the value of pirated material, whichever is higher, based on whether the offence is a first offence or a subsequent one. Further, if the offender is a legal person regulated by the Tanzania Communications Regulatory Authority, the person may be suspended under the TCRA Act. This sends a signal to the mobile operators in areas like ring tones and other materials that they use from artists. The amendment

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also introduces notion of compoundment of offences for those who wish to avoid criminal prosecution.

Films and Stage Plays Act

The amendments to this Act, amongst other proposed changes, require that any foreign production company or individual using Tanzania scene, content and location for filming the whole or any part of a film, advertisement, documentary or program, must submit to the Tanzania Film Board raw footage; acknowledge all physical locations used for filming; submit a copy of a finished film, advertisement, documentary or program; sign a prescribed clearance form before exiting Tanzania and submit the same to the Tanzania Film Board or any other authority appointed by the Board; grant rights to the government of Tanzania to use content for the purposes of promoting Tanzania.

Any person who contravenes the above, shall, upon conviction be liable to a fine of not less than 5% of the production cost of the film, advertisement, documentary or program.

NGOs Act

If the NGOs Act is amended, the definition of NGO will be narrowed down and will now not include a company formed and registered under the Companies Act, a trust formed and registered under the Trustees' Incorporation Act; a trade union formed and registered under the Employment and Labour Relations Act; a religious or faith propagating organisation; a cooperative society formed and registered under the Cooperative Societies Act; an agricultural association formed and registered under any written law other than this Act; a society formed and registered under the Societies Act; a political party formed and registered under the Political Parties Act; a microfinance group (VICOPA) registered under the Microfinance Act; a sports association formed and registered under the National Sport Council of Tanzania Act; and any organisation which the Minister may, by order published in the Gazette, declare not to be a non-governmental organisation for the purpose of this Act.

The proposed amendment gives very wide powers to the Registrar of NGOs to suspend and/or investigate NGOs, that could hamper the effective functioning of NGOs. Further, an NGO that does not fit to be an NGO by virtue of section 2 shall, after expiration of two months from the date of coming into operation of this proposed section, be deemed to have been de-registered. The amendment proposes an automatic deregistration which will affect a number of entities that are doing NGO work but may not meet the new criteria under the proposed amendment.

Societies Act

If the Societies Act is amended, the definition of what is a society will be narrowed down and will not include a company formed and registered under the Companies Act; a trust formed and registered under the Trustees' Incorporation Act; a trade union formed and registered under the Employment and Labour Relations Act; a religious or faith propagating organisation; a cooperative society formed and registered under the Cooperative Societies Act; an agricultural association formed and registered under any written law other than this Act; a political party formed and registered under the Political Parties Act; a non-governmental organisation formed and registered under the Non-Governmental Organisations Act; a microfinance group (VICOPA) registered under the Microfinance Act; a sport association formed and registered under the National Sport Council of Tanzania Act.

Further amendments include that an association registered under this Act, and which does not fit to be a society by virtue of section 2 shall, after expiration of two months from the date of coming into operation of this section, be deemed to have been de-registered. Any society declared by order of the Minister to be a society dangerous to the good governance of Tanzania, shall be declared to be unlawful under the provisions

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of this section and every such order made under the provisions of this section shall continue in force until revoked under this Act.

Statistics Act

The controversial Statistics Act, is also proposed to be amended. Amongst other amendments, publishing is defined to include release or dissemination of statistical information to the public in any form or media. Hence, both traditional or modern media are now covered with non-official statistics proposed to mean statistics produced without the authority of the Bureau.

The Bill proposes to amend the Statistics Act whereby a person who has different findings from statistics disseminated by the Bureau shall, subject to consultation with the Bureau, have the right to challenge such statistics provided that, the consultation shall involve discussion on the methodology used, data sources, analysis and data interpretation. If there is disagreement on the statistics, such matter will be referred to a Technical Committee for determination.

Where the Technical Committee determines that the findings are correct, it shall direct the findings to be published; the statistics disseminated by the Bureau are correct and also the findings are correct it shall direct both to be published; the statistics disseminated by the Bureau are correct but the findings are incorrect, it shall direct the findings not be published; the statistics disseminated by the Bureau are incorrect and the findings are correct it shall declare as such and direct the findings be published; and both the statistics disseminated by the Bureau and the findings are incorrect, it shall declare the statistics unpublished and the findings incorrect.

The Act proposes that the following statistical information may be published without consultation - surveys or researches in natural sciences, technology or innovation conducted by recognised academic and research institutions such as universities and other academic and research institutions; researches conducted using administrative data or statistics from Government institutions such as ministries, independent departments, authorities and regional administration; surveys or researches conducted for programmes by international organisations, regional bodies, intergovernmental organisations, bilateral institutions, diplomatic missions, or international development organisations; and surveys or researches conducted purely for internal or personal use by institutions or organisations which are not intended to be published.

To read the Bill [click here](#).

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