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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO. 4)
ACT, 2024

ARRANGEMENT OF SECTIONS

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

Dodoma,
14th October, 2024

MOSES M. KUSILUKA,
Secretary to the Cabinet

A Bill
for

An Act to amend certain written laws.

ENACTED by the 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. 4) Act, 2024. |
| Amendment of certain written laws | 2. The written laws specified in various Parts of this Act are amended in the manner specified in their respective Parts. |

PART II
THE AMENDMENT OF THE ADVOCATES ACT,
(CAP. 341)

- Construction
Cap. 341 **3.** This Part shall be read as one with the Advocates Act, hereinafter referred to as the “principal Act”.
- Amendment
of section 4 **4.** The principal Act is amended in section 4-
- (a) in subsection (1), by adding the words “or Executive Secretary of the Law Reform of Tanzania” immediately after the word “Prosecutions” appearing at the end of paragraph (b);
 - (b) in subsection (4), by adding the words “or the Executive Secretary of the Law Reform of Tanzania” immediately after the word “Prosecutions”; and
 - (c) in subsection (5), by adding the words “or the Executive Secretary of the Law Reform of Tanzania” immediately after the word “Prosecutions”.

PART III
AMENDMENT OF THE BASIC RIGHTS AND DUTIES
ENFORCEMENT ACT,
(CAP. 3)

- Construction
Cap. 3 **5.** This Part shall be read as one with the Basic Rights and Duties Enforcement Act, hereinafter referred to as the “principal Act”.
- Amendment
of section 9 **6.** The principal Act is amended in section 9(1) by deleting the words “unless the parties to the proceedings agree to the contrary or the magistrate is of the opinion that the raising of the question is merely frivolous or vexatious”.
- Amendment
of section 10 **7.** The principal Act is amended in section 10(1) by deleting the words “save that the determination whether an application is frivolous, vexatious or otherwise fit for hearing may be made by a single Judge of the High Court”.
- Amendment **8.** The principal Act is amended in section 14, by-

- of section 14
- (a) deleting subsection (2); and
 - (b) renumbering subsection (3) as subsection (2).

PART IV
AMENDMENT OF THE COMMUNITY SERVICE ACT,
(CAP. 291)

Construction
Cap. 291

9. This Part shall be read as one with the Community Service 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 “National Co-ordinator”; and
- (b) adding in the appropriate alphabetical order the following new definition:
 ““Director” means the Director of Probation Services appointed under section 10;”.

Amendment
of section 3

11. The principal Act is amended in section 3-

- (a) in subsection (1), by deleting the word “three” appearing in paragraphs (a) and (b) and substituting for it the word “four”; and
- (b) in subsection (3), by deleting the words “Community Service Orders Committee” and substituting for them the words “community service officer”.

Amendment
of section 7

12. The principal Act is amended in section 7(2) by deleting paragraph (k) and substituting for it the following:
 “(k) Director of Probation Services.”.

Repeal and
replacement
of section 10

13. The principal Act is amended by repealing section 10 and replacing for it the following:

“Director of
Probation
Services

10.-(1) There shall be the Director of Probation Services under the Ministry responsible for home affairs.

(2) The Director shall be appointed by the Minister from amongst public servants with proven knowledge and experience in the administration of criminal justice or correctional matters.

(3) The Director shall be the head of the Probation Service Division.”.

Repeal of section 11

14. The principal Act is amended by repealing section 11.

Amendment of section 13

15. The principal Act is amended in section 13 by deleting the words “in consultation with the relevant Community Service Orders Committee,”.

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

Construction Cap. 54

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

Amendment of section 3

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

““Diaspora Tanzanite Card” or “Card” means a valid card issued under this Act to a Tanzania non-citizen diaspora after being granted a special status;

“special status” means the status granted to a Tanzania non-citizen diaspora under this Act-

(a) for the purpose of entry, stay or exit out of the United Republic; and

(b) for such other purposes as may be provided under any other written laws; and

“Tanzania non-citizen diaspora” means a person who was formerly a citizen of the United Republic other than a citizen by naturalisation or whose either parent, grandparent or such other descendant is or was a citizen of the United Republic;”.

Amendment of section 28

18. The principal Act is amended in section 28(1) by adding immediately after paragraph (d) the following:

“(e) he is in possession of a valid Diaspora Tanzanite Card; or

- (f) he is in possession of a valid Diaspora Tanzanite Card enrollment notification issued to the applicant prior to issuance of the Diaspora Tanzanite Card.”.

Addition of sections 36A, 36B, 36C, 36D and 36E

19. The principal Act is amended by adding immediately after section 36 the following:

“Grant of special status to Tanzania non-citizen diaspora

36A.-(1) A person who intends to be granted special status shall apply to the Commissioner General in the manner prescribed in the regulations:

Provided that, where such person is a child, the application shall be made by his parent or guardian.

(2) A person shall be eligible to apply for a special status if such person-

- (a) is a Tanzania non-citizen diaspora;
- (b) observes national ethos, traditions, customs and cultural values;
- (c) is not a fugitive offender or has not been convicted of an offence of or related to money laundering, economic and organised crimes or other transnational crimes;
- (d) holds a valid passport or travel document;
- (e) is of good moral standing; and
- (f) complies with such other requirement as may be prescribed in the regulations made under this Act.

(3) The Commissioner General shall, upon being satisfied with the fulfillment of the requirements under subsection (1), grant special status and issue a Diaspora Tanzanite Card to the applicant.

Validity of
Card

36B. A Card issued in terms of this Act shall be valid for a period of ten years and may be renewed.

Dependant
of Tanzania
non-citizen
diaspora

36C.-(1) Subject to the conditions prescribed in the regulations, the Commissioner General may, on application made on that behalf by the person who has been granted a special status, issue a dependant pass to dependants of the holder of the Card.

(2) The provisions of section 39 of this Act shall apply *mutatis mutandis* in respect of the expiration of a dependant pass.

(3) For the purpose of this section, “dependant” means spouse or child of the Tanzania non-citizen diaspora:

Provided that, the dependant is not Tanzania non-citizen diaspora.

Conditions
of special
status
Cap. 2

36D. A person who has been granted a special status shall-

- (a) observe the Constitution of the United Republic and other written laws;
- (b) observe the requirements of a special status as set out under this Act; and
- (c) be of good moral standing.

Revocation
of special
status

36E.-(1) The Commissioner General may revoke a special status if he is satisfied that-

- (a) a person granted a special status has breached any conditions of the special status;

- (b) the special status was obtained by means of fraud, false representation or concealment of any material fact;
- (c) a person has shown himself by act or speech to be disloyal or dis-affectionate towards the United Republic;
- (d) a person has unlawfully traded or communicated with an enemy to the United Republic or has been engaged in or association with any business that is carried on in such a manner as to assist the enemy;
- (e) a person is engaged in any act which is against the morals of the United Republic;
- (f) it is not conducive to the public good that, that person should continue to hold the special status; or
- (g) a person engages in politics contrary to the laws governing political affairs in the United Republic.

(2) Revocation of special status in terms of subsection (1) shall constitute the automatic invalidation of the Card, and the holder shall be under obligation to return the Card to the issuer thereof.

(3) A person whose special status has been revoked, may, within one month from the date of revocation, apply to the Commissioner General for any other immigration status as provided for in the Act.”.

Amendme

20. The principal Act is amended in section 45(1) by-

nt of section 45 (a) adding the word “Card” immediately after the word “certificate” wherever it appears in that subsection; and
(b) adding the word “Card” immediately after the word Visa appearing in paragraph (o).

Amendme nt of section 48 **21.** The principal Act is amended in section 48(1) by-
(a) adding immediately after paragraph (p) the following:
“(q) prescribing procedure for application and grant of special status;”
(b) renaming paragraphs (q), (r) and (s) as paragraphs (r), (s) and (t) respectively.

PART VI
AMENDMENT OF THE KARIAKOO MARKET CORPORATION
ACT,
(CAP. 132)

Construction Cap. 132 **22.** This Part shall be read as one with the Kariakoo Market Corporation Act, hereinafter referred to as the “principal Act”.

Amendment of section 2 **23** The principal Act is amended in section 2, by adding in its appropriate alphabetical order the following new definition:
““specified market” means the Kariakoo Market and includes any other markets the control and management of which is vested in the Corporation;”.

Amendment of section 3 **24.** The principal Act is amended in section 3, by-
(a) adding immediately after paragraph (b) the following:
“(c) be capable of entering into contracts or other transactions;”; and
(b) renaming paragraphs (b) and (c) as paragraphs (c) and (d) respectively.

Amendment **25.** The principal Act is amended in section 4(1), by-

of section 4

- (a) adding immediately after paragraph (d) the following:
 - “(e) to establish and maintain efficient system of marketing by securing the most favourable arrangements for the purchase, handling, packing, sale and exportation of goods;
 - (f) to establish and maintain market outlets for goods;
 - (g) to provide for the collection, transportation, storage, grading, packing and processing of goods;”;
- (b) renaming paragraphs (e) and (f) as paragraphs (h) and (i) respectively.

Amendment
of section 5

- 26.** The principal Act is amended in section 5-
- (a) in subsection (2), by deleting paragraph (b) and substituting for it the following:
 - “(b) eight other members who shall be appointed by the Minister as follows:
 - (i) one member representing the Ministry responsible for local government;
 - (ii) one member representing the Ministry responsible for finance;
 - (iii) one member representing the Ministry responsible for industry and trade;
 - (iv) one member representing the Ministry responsible for planning and investment;
 - (v) a law officer nominated by the Attorney General;
 - (vi) one member representing the Dar es Salaam City Council;
 - (vii) one member representing the Tanzania Chamber of Commerce, Industry and Agriculture;
 - (viii) one member representing the Corporations Business Community.”;
 - (b) by deleting subsection (3) and substituting for it the following:
 - “(3) A person referred to under paragraphs (vi) to (viii) of subsection (2)(b) shall

be eligible for appointment if he possesses experience in the field of agriculture, commerce, finance, law, economics, administration or management.”;

(c) by adding immediately after subsection (4) the following:

“(5) The General Manager shall be the Secretary to the Board.

(6) The Board may invite any person who is not a member to participate in the deliberations of the Board, but the person so invited shall not vote at the meeting.”; and

(d) by renumbering subsections (5) to (7) as subsections (7) to (9) respectively.

Repeal of section 10

27. The principal Act is amended by repealing section 10.

Amendment of section 15

28. The principal Act is amended in section 15(4) by deleting the words “exceeding a fine of five thousand shillings or a term of imprisonment” and substituting for them the words “not less than two hundred thousand shillings but not exceeding one million shillings or to imprisonment for a term of not less than one year”.

Repeal and replacement of section 16

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

“Compoundi
ng of
offences

16.-(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, the General Manager 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 two thirds 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 General Manager or a person authorised by him may, in addition to the sum ordered, require the person to pay an interest at the market rate.

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

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

(5) The money charged under this section shall, unless otherwise directed by the Minister responsible for finance, be paid into the Consolidated Fund.

(6) The forms and manner of compounding of offences shall be as prescribed in the regulations.”.

Amendment
of section 17

30. The principal Act is amended in section 17, by-

(a) deleting paragraph (c) and substituting for it the following:

“(c) such monies as may be appropriated by the Parliament;”;

(b) adding immediately after paragraph (c) the following:

“(d) grants, donations, bequests or other contributions made to the Corporation;

(e) monies earned or arising from any property, investments, mortgages or debentures acquired by or invested in the Corporation;”;

and

(c) renaming paragraphs (d) and (e) as paragraphs (f) and (g) respectively.

Addition of section 18A

31. The principal Act is amended by adding immediately after section 18 the following:

“Account of Corporation

18A. Subject to the requirements of any other written law, the Corporation shall, upon approval of the Board, open and maintain a bank account into which all payments and deposits shall be made.”.

Repeal and replacement of section 24

32. The principal Act is amended by repealing section 24 and replacing for it the following:

“Allowances and remunerations

24. A member of the Board shall be paid from the funds of the Corporation such allowances and remuneration as may be determined by the relevant authority.”.

PART VII
AMENDMENT OF THE LAND ACT,
(CAP. 113)

Construction Cap. 113

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

Amendment of section 2

34. The principal Act is amended in section 2 by adding in the appropriate alphabetical order the following definition:

““special derivative right” means a right to occupy and use land granted by the Commissioner pursuant to section 19(1A) and (2)(d) and includes a lease, sub-lease, licence, usufructuary right and any interest analogous to those interests;”.

Amendment of section 19

35. The principal Act is amended in section 19-
(a) by adding immediately after subsection (1) the following:

Cap. 54
Cap. 212

“(1A) A person who is granted a special status and holds a Diaspora Tanzanite Card issued under the Immigration Act or a body incorporated under the Companies Act whose majority shareholders are persons holding a Diaspora Tanzanite Card may, subject to the provisions of this Act, be granted a special derivative right:

Provided that, the minority shareholders shall be Tanzanian citizens.”; and

(b) in subsection (2), by-

(i) deleting the full stop appearing at the end of paragraph (c) and substituting for it a semicolon and the word “or”; and

(ii) adding immediately after paragraph (c) the following:

“(d) a special derivative right granted to a person who holds a Diaspora Tanzanite Card issued under the Immigration

Cap. 54 Act.”.

Addition of
section 20A

36. The principal Act is amended by adding immediately after section 20 the following:

“Special
derivative
right

20A.-(1) The Commissioner may, subject to section 19(2)(d) and upon application in a prescribed form, grant a special derivate right in respect of general land on the following terms:

(a) conditions as provided under sub parts 2 and 3 of Part VI of the Act shall be applicable *mutatis mutandis*; and

(b) such other conditions as may be prescribed in the regulations or as the Commissioner may impose.

(2) The provisions of sub-part 4 of Part VI shall apply *mutatis mutandis* in respect of revocation and its effect of a special derivative right.

Cap. 54 (3) Notwithstanding subsection (1), a special derivative right shall terminate upon revocation of special status as provided under the Immigration Act.

(4) The procedures for application, issuance and termination of a special derivative right granted by the Commissioner shall be as provided in the regulations.”.

Amendment of section 32

- 37.** The principal Act is amended in section 32(1) by-
- (a) deleting the word “or” appearing at the end of paragraph (b);
 - (b) deleting the full stop appearing at the end of paragraph (c) and substituting for it a semicolon and the word “or”; and
 - (c) adding immediately after paragraph (c) the following:
 - “(d) in the case of special derivative right, for a term up to but not exceeding thirty-three years.”.

Amendment of section 48

- 38.** The principal Act is amended in section 48 by deleting subsection (3) and substituting for it the following:
- “(3) As soon as a notice of revocation has come into effect, the Commissioner shall-
 - (a) in the case of right of occupancy, recommend to the President to revoke the right of occupancy; and
 - (b) in the case of special derivative right, recommend to the Minister to revoke the special derivative right.”.

Amendment of section 49

- 39.** The principal Act is amended in section 49-
- (a) in subsection (1), by adding the words “or Minister” immediately after the word “President”; and
 - (b) in the opening phrase of subsection (2) by adding the words “or Minister” immediately after the word “President”.

PART VIII
AMENDMENT OF THE MINING ACT,
(CAP. 123)

Construction
Cap. 123

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

Addition of
section 88A

41. The principal Act is amended by adding immediately after section 88 the following:

“Withholdin
g of royalty
payable by
constructor

88A.-(1) A public sector entity which makes a contractual payment to a constructor who uses minerals for construction purposes shall-

- (a) withhold royalty and inspection fees payable for the minerals used at the rate provided for under this Act; and
- (b) remit the royalty and inspection fees to the Commission within seven days from the date of collection of the royalty and inspection fees due.

(2) Where any royalty or inspection fees imposed pursuant to this Act is not paid when due, the Commission shall require the retention by way of deduction or set-off of any amount to be paid as royalty or inspection fees from or out of the amount that is or may become payable by any public sector entity to the royalty or inspection fees payer or to any other person on behalf or for the benefit of the royalty or inspection fees payer.

(3) The obligation of a public sector entity to withhold royalty and inspection fees under subsection (1) shall not be reduced or extinguished on the reason that-

- (a) the entity has a right or is under an obligation to deduct and withhold any other amount from the payment or
- (b) any other law provides that the payment of a royalty or inspection fees payer from the entity shall not be reduced, retained, or subject to attachment.

(4) In this section, “public sector entity” means ministry, Government department, regional secretariat, local government authority, regulatory authority, public corporation, executive agency, commercial entity owned by the government, and any other public institution.”.

PART IX
AMENDMENT OF THE PUBLIC SERVICE ACT,
(CAP. 298)

Construction
Cap. 298

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

Amendment
of section 26

- 43.** The principal Act is amended in section 26-
- (a) in subsection (2), by deleting the words “the Chief Secretary,”;
 - (b) by adding immediately after subsection (2), the following:

Cap. 371 “(3) In addition to benefits granted pursuant to the Public Service Social Security Fund Act, the Chief Secretary shall be granted by the appropriate authority terminal benefits set out in the Third Schedule to this Act.”; and

- (c) by renumbering subsections (3) and (4) as subsections (4) and (5), respectively.

Addition of
Third
Schedule

44. The principal Act is amended by adding immediately after the Second Schedule the following:

“ _____

THIRD SCHEDULE

(Made under section 26(3))

Description of Benefits Granted to the former Chief Secretary:

- (a) a diplomatic passport for him and his spouse;
- (b) medical treatment for him and his spouse borne by the Government within the United Republic or outside the United Republic after the referral by the National Hospital;
- (c) the service of one motor vehicle to be provided by the Government replaceable after every seven years;
- (d) one driver;
- (e) necessary security and other protection to him and his spouse;
- (f) burial expenses for him and his spouse; and
- (g) use of VIP lounge.”.

OBJECTS AND REASONS

This Bill proposes to amend eight laws, namely; the Advocates Act, Cap. 341, the Basic Rights and Duties Enforcement Act, Cap. 3, the Community Service Act, Cap. 291, the Immigration Act, Cap. 54, the Kariakoo Market Corporation Act, Cap. 132, the Land Act, Cap. 113, the Mining Act, Cap. 123 and the Public Service Act, Cap. 298. The proposed amendments aim to address challenges that have arisen during the implementation of certain provisions within these laws.

The Bill is divided into Nine Parts. Part I deals with Preliminary Provisions which include the title of the Bill and the manner in which the laws are proposed to be amended in their respective Parts.

Part II of the Bill propose to amend the Advocates Act, Cap. 341, whereby section 4 is proposed to be amended in order to add the Executive Secretary of the Law Reform of Tanzania as a member of the National Advocates Committee. The objective of these amendments is to ensure that the Committee maintains a quorum in any sitting involving a matter before the committee which the Attorney General is a party thereto. The amendments will afford the committee to re-constitute itself for avoidance of conflict of interest in any given meeting.

Part III of the Bill proposes to amend the Basic Rights and Duties Enforcement Act, Cap. 3. The Act was enacted by Parliament in 1994 for purposes of providing procedures for enforcement of constitutional basic rights and duties. Since its enactment, this Act has been amended once.

Section 9 is proposed to be amended in order to remove the discretion of parties to determine whether or not to refer to the High Court a matter involving contravention of constitutional basic rights and duties arising during a hearing before a subordinate court. The objective of the amendment is to afford the subordinate court the authority to determine the proper procedure to be followed where a matter involves issues of constitutional basic rights and duties. Sections 10 and 14 are proposed to be amended by removing the provisions relating to determination as to whether a matter is frivolous and vexations by a single judge firstly before referring the matter to the panel of three judges. The objective of these amendments is to

strengthen the principles of justice by facilitating cases involving constitutional basic rights and duties to be directly heard and decided by three judges.

Part IV of the Bill proposes to amend the Community Service Act, Cap. 291. This Act was enacted by the Parliament in 2002 for purposes of providing for the introduction and regulation of community service. Sections 2, 7, and 10 are proposed to be amended in order to replace the title National Community Service Co-ordinator with the title Director of Probation Services. The objective of this amendment is to align with the organizational structure of the Ministry of Home Affairs, which currently recognizes the position of the Director of Probation Services and not the National Community Service Co-ordinator. Section 3 is proposed to be amended in order to increase the period to qualify for community service sentence for prisoners sentenced to serve imprisonment from less than three years to four years. The purpose of this amendment is to minimise congestion of prisoners.

Moreover, this section is also proposed to be amended to remove the requirement for consultation between the court and the Community Service Orders Committee, and instead, the consultation to be between the court and a community service officer when deciding on the community service to be performed by a prisoner sentenced to community service. The objective of these amendments is to enable the court to obtain professional advice from a community service officer who has a good understanding of social work matters to be performed by the prisoner. Section 11 is proposed to be repealed, and section 13 is proposed to be amended in order to remove the Community Services Committees at Region, District, Ward, and Village levels as members of those committees are also members of the Case Flow Management Committees and Criminal Justice Forums that perform the functions carried out by the Community services committees. The objective of these amendments is to avoid conflict of interests and reduce the operational costs of these committees.

Part V of the Bill proposes to amend the Immigration Act, Cap. 54, whereby section 3 is proposed to be amended by introducing new definitions of the terms “Diaspora Tanzanite Card”, “special status” and “Tanzania non-citizen diaspora”. The purpose of these amendments is to enhance clarity of newly added provisions.

Section 28 is proposed to be amended in order to add new entry authorisations, namely a Diaspora Tanzanite Card and enrolment notifications. The purpose of the amendment is to enable a holder of a Diaspora Tanzanite Card or a holder of an enrolment notification to enter the United Republic using the Card or enrollment notification without prejudice to the requirement of having a valid passport.

The Act is proposed to be amended by adding sections 36A, 36B, 36C, 36D and 36E in order to provide for matters relating to special status to Tanzania non-citizen diaspora. The provisions are meant to apply to a person who was formerly a citizen of the United Republic other than a citizen by naturalisation, or whose either parent, grandparent or such other descendant is or was a citizen of the United Republic. Under the proposed sections, once a person qualifies as a Tanzania non-citizen diaspora and ultimately granted a special status, such status will enable the Tanzania non-citizen diaspora to enjoy certain rights and privileges such as the right to entry and stay in the United Republic as well as engaging in various economic and social activities. Furthermore, a person granted with a special status shall be entitled to be issued a Diaspora Tanzanite Card as an official proof that the holder of the card has a special status. Furthermore, the proposed new sections provide for matters relating to the validity period, dependants and provisions relating to revocation of a Diaspora Tanzanite Card.

Section 45 is proposed to be amended by adding word “Card”. The purpose of the amendment is to impose penalty for offence committed by holders of Diaspora Tanzanite Card as is the case for holders of visas, permits, certificates and passes issued under the Act.

Section 48 is proposed to be amended in order to prescribe for new matters to be included in regulations including procedures for application and grant of special status. The purpose of the amendment is to ensure better implementation of the provisions of the Act.

Part VI of the Bill proposes to amend the Kariakoo Market Corporation Act, Cap. 132. This Act was enacted in 1974 in order to establish the Kariakoo Market Corporation and provide for functions, powers, management, regulation and control of the Corporation. Since its enactment, this Act has been amended three times. Generally, the proposed amendments to this Act aim at addressing the challenges that have emerged in the management of the Corporation.

Section 2 is proposed to be amended in order to add the definition of the term "specified market" which is currently defined under section 10. The objective of these amendments is to adhere to legislative drafting principles that require definitions of terms used more than once in the law to be placed in a specific interpretation section. Section 3 is proposed to be amended in order to empower the Corporation to enter into contracts. The objective of this amendment is to enable the Corporation to enter into contracts as a corporate entity. Section 4 is proposed to be amended in order to widen the scope of the Corporation's functions, including to establish and maintain efficient system of marketing by securing the most favourable arrangements for the purchase, handling, packing, sale and exportation of goods. The objective of these amendments is to broaden the scope of the Corporation's functions to meet current needs.

Section 5 is proposed to be amended in order to reduce the number of Board members, specify the institutions from which Board members shall be appointed and recognise the General Manager of the Corporation as the Secretary of the Board. Further, this section is proposed to be amended in order to improve qualifications for appointment of the member of the Board. The objective of these amendments is to reduce operational costs and strengthen the Board's performance. Furthermore, section 10 is proposed to be repealed in order to align with the proposal under section 2.

Section 15 is proposed to be amended to increase the prescribed penalty under this section as well as to provide for maximum and minimum penalty. The objective of these amendments is to provide room for the imposition of penalty which is proportional to the offence committed and to set range of penalty for offences committed under this Act.

Section 16 is proposed to be repealed and replaced in order to enable the General Manager of the Corporation or any other office authorized by the General Manager to compound offenses committed under this Act instead of that power to be exercised by the Board. Further, this section is proposed to be amended in order to ensure that revenue arising from the compounding of offenses are deposited to the Consolidated Fund and to enable the Minister responsible for regional and local government authorities to make regulations for better implementation of the provisions of this section. The objective of these amendments is to enable effective implementation of this section and improve the management of revenue generated from the compounding of offences.

Section 17 is proposed to be amended in order to widen the Corporation's sources of fund. The objective of these amendments is to enable the Corporation to have secure, adequate, and sustainable revenue sources. Further, section 18A is proposed to be added in order to allow the Corporation, with the Board's consent, to open and operate a bank account. The objective of these amendments is to ensure transparency and accountability in the Corporation's financial matters. Section 24 is proposed to be amended in order to enable members of the Board to be paid allowances and other remunerations as determined by the relevant authority. The objective of these amendments is to align with the existing procedure for determination of allowances and remunerations for board members of public and statutory corporations in Tanzania.

Part VII of the Bill proposes to amend the Land Act, Cap. 113 whereby section 19 is proposed to be amended with a view to set procedure of occupying land to a person granted special status under the Immigration Act, Cap. 54. According to the proposed amendments, a person granted special status shall have the right to occupy land through a special derivative right granted by the Commissioner for Lands. The aim of this amendment is to enable a diaspora with special status to own or dispose land acquired through any means including inheritance or sale. The special derivative right serves as a right of occupancy issued under special terms and conditions.

Further, section 32 is proposed to be amended in order to specify the duration of a special derivative right granted to a person with special status. According to these amendments, the special derivative right issued by the Commissioner for Lands to a person with special status shall be valid for a period not exceeding thirty-three years. Section 20A is proposed to be added and sections 48 and 49 are proposed to be amended in order to establish procedures for granting and revoking the special derivative right to a person with special status.

Part VIII of the Bill proposes to amend the Mining Act, Cap. 123. This Act was enacted in 2010 in order to make provisions for the exploration, extraction, processing, and sale of minerals. Since its enactment, this Act has been amended sixteen times. The Act is proposed to be amended by adding section 88A with a view to assign responsibility to public institutions to withhold payments of royalties and inspection fees payable by construction companies and submit the same to the Mining Commission. The objective of these amendments is to improve efficiency in tax

administration and control tax evasion in order to increase revenue collection from royalty and inspection fees payable by contractors.

Part IX of the Bill proposes to amend the Public Service Act, Cap. 298 whereby section 26 is proposed to be amended and the Third Schedule is proposed to be added in order to enhance benefits granted to the retired Chief Secretary as a head of public service. The aim of the amendments is to maintain the status of the retired Chief Secretaries and to acknowledge their contributions during their Service to the Government.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kufanya marekebisho katika Sheria nane zifuatazo: Sheria ya Mwakili, Sura ya 341, Sheria ya Utekelezaji wa Haki za Msingi na Wajibu, Sura ya 3, Sheria ya Uhamiaji, Sura ya 54, Sheria ya Huduma za Jamii, Sura ya 291, Sheria ya Shirika la Soko la Kariakoo, Sura ya 132, Sheria ya Ardhi, Sura ya 113, Sheria ya Madini, Sura ya 123 na Sheria ya Utumishi wa Umma, Sura ya 298. Mapendekezo ya marekebisho yanakusudia kutatua changamoto zilizojitokeza katika utekelezaji wa baadhi ya masharti katika Sheria hizo.

Muswada huu umegawanyika katika Sehemu Tisa. Sehemu ya Kwanza inahusu Masharti ya Utangulizi ambayo yanajumuisha jina la Muswada na namna ambavyo Sheria hizo zinapendekezwa kurekebishwa.

Sehemu ya Pili inapendekeza kurekebisha Sheria ya Mwakili, Sura ya 341, ambapo kifungu cha 4 kinapendekezwa kurekebishwa kwa kumuongeza Katibu Mtendaji wa Tume ya Kurekebisha Sheria kama mjumbe wa Kamati ya Taifa ya Mwakili. Lengo la marekebisho haya ni kuhakikisha kuwa Kamati inaendelea kuzingatia akidi katika vikao vyake hususani kwa suala ambalo Mwanasheria Mkuu wa Serikali ni mhusika. Marekebisho haya yatawezesha Kamati kuendelea na vikao vyake na kujiepusha na mgongano wa maslahi.

Sehemu ya Tatu ya Muswada huu inapendekeza kurekebisha Sheria ya Utekelezaji wa Haki za Msingi na Wajibu, Sura ya 3. Sheria hii ilitungwa na Bunge mwaka 1994 kwa lengo la kuainisha utaratibu wa utekelezaji wa

haki za msingi na wajibu wa kikatiba. Tangu kutungwa kwake, Sheria hii imerekebishwa mara moja.

Kifungu cha 9 kinapendekezwa kurekebishwa ili kuondoa uhiari wa wadaawa kuamua iwapo shauri lililobainika kuwa na suala la haki za msingi na wajibu wa kikatiba wakati wa usikilizwaji wake katika mahakama za chini lipelekwe Mahakama Kuu. Lengo la marekebisho haya ni kutoa mamlaka kwa mahakama kuamua utaratibu sahihi unaopaswa kuzingatiwa endapo shauri litahusisha masuala ya haki za msingi na wajibu wa kikatiba. Vifungu vya 10 na 14 vinapendekezwa kurekebishwa kwa kuondoa masharti yanayohusiana na shauri kuanza kusikilizwa na Jaji mmoja ili kubaini kama shauri hilo lina madai ya msingi. Lengo la marekebisho haya ni kuimarisha msingi wa utoaji haki kwa kuwezesha mashauri hayo kusikilizwa moja kwa moja na kuamuliwa na majaji watatu.

Sehemu ya Nne ya Muswada huu inapendekeza kurekebisha Sheria ya Huduma za Jamii, Sura ya 291. Sheria hii ilitungwa na Bunge mwaka 2002 kwa ajili ya kuweka masharti ya kuanzisha na kusimamia kifungo cha kutumikia jamii.

Vifungu vya 2, 7 na 10 vinapendekezwa kurekebishwa kwa kuondoa cheo cha Mratibu wa Kitaifa wa Huduma za Jamii na badala yake kuweka cheo cha Mkurugenzi wa Huduma za Uangalizi. Lengo la marekebisho haya ni kuendana na muundo wa Wizara ya Mambo ya Ndani ambao kwa sasa unatambua cheo cha Mkurugenzi wa Huduma za Uangalizi na siyo Mratibu wa Kitaifa wa Huduma za Jamii. Kifungu cha 3 kinapendekezwa kurekebishwa ili kuongeza muda wa kupata fursa ya kutumikia kifungo kwa kufanya kazi za jamii kwa wafungwa waliohukumiwa kwenda jela kutoka muda usiozidi miaka mitatu na kuwa miaka minne. Lengo la marekebisho haya ni kudhibiti mrundikano wa wafungwa magerezani. Aidha, kifungu hicho pia kinapendekezwa kurekebishwa ili kuondoa sharti la mashauriano kati ya mahakama na Kamati ya Huduma za Kijamii na badala yake kuweka sharti la mashauriano kati ya mahakama na afisa ustawi wa jamii wakati wa kuamua kazi ya jamii ambayo itafanywa na mfungwa aliyehukumiwa kutumikia kifungo cha kufanya kazi za jamii. Lengo la marekebisho haya ni kuiwezesha mahakama kupata ushauri wa kitaalamu kutoka kwa afisa ustawi wa jamii mwenye ufahamu mzuri wa masuala ya kazi za kijamii zitakazotekelezwa na mfungwa.

Kifungu cha 11 kinapendekezwa kufutwa na kifungu cha 13 kinapendekezwa kurekebishwa ili kuondoa Kamati za Huduma za Jamii

katika ngazi za Mkoa, Wilaya, Kata na Vijiji kwa kuwa wajumbe wa Kamati hizo pia ni wajumbe wa Kamati za Usimamizi wa Mchakato wa Kesi na Mabaraza ya Haki za Jinai ambazo zinafanya kazi zinazofanywa na kamati za huduma za jamii. Lengo la marekebisho haya ni kuondoa mgongano wa maslahi na kupunguza gharama za uendeshaji wa Kamati hizo.

Sehemu ya Tano ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Uhamiaji, Sura ya 54 ambapo kifungu cha 3 kinapendekezwa kurekebishwa kwa kuongeza tafsiri ya misamiati “Diaspora Tanzanite Card”, “special status” na “Tanzania non-citizen diaspora”. Lengo la marekebisho haya ni kuyafanya masharti yanayopendekezwa kuongezwa yaeleweke kwa urahisi zaidi.

Kifungu cha 28 kinapendekezwa kurekebishwa kwa ajili ya kuongeza masharti mapya ya ruhusa ya kuingia nchini kwa kutumia Kadi ya Tanzanite Diaspora na taarifa ya idhini ya kupewa Kadi hiyo. Lengo la marekebisho hayo ni kumwezesha mmiliki wa Kadi ya Tanzanite Diaspora na mgeni ambaye ana taarifa ya kuidhinishwa kuingia ndani ya Jamhuri ya Muungano kutumia nyaraka hiyo bila kuathiri takwa la kuwa na pasipoti halali.

Sheria inapendekezwa kufanyiwa marekebisho kwa kuongeza vifungu vya 36A, 36B, 36C, 36D na 36E kwa ajili ya kuweka masharti yanayohusu hadhi maalum kwa raia wa nchi nyingine ambaye aliwahi kuwa raia wa Tanzania au mwenye asili ya Tanzania. Masharti hayo yanakusudiwa kutumika kwa mtu ambaye alikuwa raia wa Jamhuri ya Muungano, isipokuwa kwa wale waliokuwa na uraia wa kuasili, au mtu ambaye mzazi wake mmoja, babu, bibi au mtu yeyote katika kizazi kilichomtangulia ni, au alikuwa raia wa Jamhuri ya Muungano. Kwa mujibu wa vifungu vipya vinavyopendekezwa, pale ambapo mtu anapewa hadhi maalum, hadhi hiyo itamwezesha kuingia katika Jamhuri ya Muungano na kushiriki katika shughuli za kiuchumi na kijamii. Aidha, hadhi maalum itaenda sambamba na kupata Kadi ya Tanzanite Diaspora ambayo itakuwa ni uthibitisho rasmi kwamba mmiliki wa kadi hiyo ana hadhi maalum. Vilevile, masharti mapya yanayopendekezwa yanaainisha masuala kuhusiana na muda wa uhalali, wategemezi na masharti na utaratibu wa kufutwa kwa Kadi ya Tanzanite Diaspora.

Kifungu cha 45 kinapendekezwa kurekebishwa kwa kuongeza neno “Kadi”. Lengo la marekebisho haya ni kuainisha adhabu kwa makosa yatakayotendwa na wamiliki wa Kadi ya Tanzanite Diaspora kama ilivyo kwa wamiliki wa visa, vibali, vyeti na hati za kusafiria vinavyotolewa chini ya Sheria.

Kifungu cha 48 kinapendekezwa kurekebisha kwa kuongeza eneo ambalo Waziri anaweza kulitengenezea kanuni ili kujumuisha utaratibu wa uombaji na utoaji wa hadhi maalumu. Lengo la marekebisho haya ni kuwezesha utekelezaji bora wa masharti ya Sheria.

Sehemu ya Sita ya Muswada inapendekeza kurekebisha Sheria ya Shirika la Soko la Kariakoo, Sura ya 132. Sheria hii ilitungwa mwaka 1974 kwa lengo la kuanzisha Shirika la Soko la Kariakoo na kuweka majukumu, mamlaka, usimamizi na udhibiti wa Shirika. Tangu kutungwa kwake, Sheria hii imerekebisha mara tatu. Kwa ujumla marekebisho yanayopendekezwa katika Sheria hii yanalenga katika kutatua changamoto zilizojitokeza katika usimamizi wa Shirika.

Kifungu cha 2 kinapendekezwa kurekebisha kwa kuongeza tafsiri ya msamiati *“specified market”* ambao kwa sasa tafsiri yake inatolewa chini ya kifungu cha 10. Lengo la marekebisho haya ni kuzingatia kanuni za uandishi wa sheria zinazotaka tafsiri za maneno yote yaliyotumika zaidi ya mara moja katika Sheria kuwekwa katika kifungu mahususi cha tafsiri.

Kifungu cha 3 kinapendekezwa kurekebisha ili kulipa Shirika mamlaka ya kuingia kwenye mikataba. Lengo la marekebisho haya ni kuliwezesha Shirika kuingia kwenye mikataba mbalimbali kwa kutumia jina lake kama taasisi nafsi. Kifungu cha 4 kinapendekezwa kurekebisha ili kuongeza majukumu ya Shirika kwa kujumuisha jukumu la kuanzisha na kudumisha mfumo madhubuti wa masoko kwa kuweka mipango kwa ajili ya ununuzi, utunzaji, ufungaji, uuzaji na usafirishaji wa bidhaa nje ya nchi. Lengo la marekebisho haya ni kuongeza wigo wa majukumu ya Shirika ili kukidhi mahitaji ya sasa.

Kifungu cha 5 kinapendekezwa kurekebisha ili kupunguza idadi ya wajumbe wa Bodi, kubainisha taasisi watakazotoka wajumbe wa Bodi na kumtambua Meneja Mkuu wa Shirika kama Katibu wa Bodi. Vilevile, kifungu hiki kinapendekezwa kurekebisha ili kuboresha sifa za kuteuliwa kuwa mjumbe wa Bodi. Lengo la marekebisho haya ni kuimarisha utendaji wa Bodi. Aidha, kifungu cha 10 kinapendekezwa kufutwa kwa lengo la kuendana na mapendekezo katika kifungu cha 2. Kifungu cha 15 kinapendekezwa kurekebisha ili kuongeza adhabu kwa makosa yanayotendwa chini ya kifungu hicho pamoja na kuweka ukomo wa kiwango cha juu na cha chini cha adhabu hiyo. Lengo la marekebisho haya

ni kuhuisha masharti ya kifungu hicho ili kuendana na wakati pamoja na kuongeza utii wa sheria.

Kifungu cha 16 kinapendekezwa kufutwa na kuandikwa upya ili kumwezesha Meneja Mkuu wa Shirika au afisa mwingine yeyote aliyeidhinishwa na Meneja Mkuu kufifilisha makosa yanayotendeka chini ya Sheria hii badala ya mamlaka hayo kutekelezwa na Bodi ya Wakurugenzi. Vilevile, kifungu kinapendekezwa kurekebisha ili kuwezesha mapato yanayotokana na ufililishaji wa makosa kuwasilishwa kwenye Mfuko Mkuu wa Serikali pamoja na kumwezesha Waziri mwenye dhamana na tawala za mikoa na serikali za mitaa kutengeneza kanuni kwa ajili ya utekelezaji bora wa masharti ya kifungu hicho. Lengo la marekebisha haya ni kuwezesha utekelezaji bora wa kifungu hicho na kuwezesha usimamizi bora wa mapato yanayopatikana kutokana na ufililishaji wa makosa chini ya kifungu hiki.

Kifungu cha 17 kinapendekezwa kurekebisha ili kuongeza vyanzo vya mapato ya Shirika. Lengo la marekebisha haya ni kuliwezesha Shirika kuwa na vyanzo vya mapato vya uhakika, toshelevu na endelevu. Aidha, kifungu kipyaa cha 18A kinapendekezwa kuongezwa ili kuliwezesha Shirika, kwa ridhaa ya Bodi kufungua na kuendesha akaunti ya benki. Lengo la marekebisha haya ni kuhakikisha uwazi na uwajibikaji katika masuala ya fedha ya Shirika. Kifungu cha 24 kinapendekezwa kurekebisha ili kuwawezesha wajumbe wa Bodi ya Wakurugenzi kulipwa posho na malipo mengine kama itakavyoamuliwa na mamlaka husika. Lengo la marekebisha haya ni kuweka utaratibu unaotumika wa upangaji wa posho na stahiki za wajumbe wa bodi katika mashirika ya umma nchini.

Sehemu ya Saba ya Muswada inapendekeza kufanya marekebisha katika Sheria ya Ardhi, Sura ya 113 ambapo kifungu cha 19 kinapendekezwa kufanyiwa marekebisha kwa lengo la kuweka utaratibu wa matumizi ya ardhi kwa mtu aliyepewa hadhi maalumu chini ya Sheria ya Uhamiaji, Sura ya 54. Kwa mujibu wa marekebisha yanayopendekezwa, mtu aliyepewa hadhi maalumu atakuwa na haki ya kumiliki ardhi kupitia utaratibu wa hati miliki maalumu itakayotolewa na Kamishna wa Ardhi. Lengo la marekebisha haya ni kumwezesha raia wa kigeni mwenye asili ya Tanzania kumiliki au kuondosha miliki ya ardhi aliyopata kwa njia mbalimbali ikiwemo urithi au kununua. Hati miliki maalumu itakuwa aina ya hati miliki itakayotolewa kwa vigezo na masharti maalumu.

Aidha, kifungu cha 32 kinapendekezwa kurekebishwa ili kuainisha muda wa hati miliki maalumu itakayotolewa kwa mtu aliyepewa hadhi maalumu, Kwa mujibu wa marekebisho haya hati miliki maalumu itakayotolewa na Kamishna wa Ardhi kwa mtu aliyepewa hadhi maalum itakuwa kwa muda usiozidi miaka thelathini na tatu. Kifungu cha 20A kinapendekezwa kuongezwa na vifungu vya 48 na 49 vinapendekezwa kurekebishwa kwa lengo la kuweka utaratibu wa kutoa na kusitisha hati miliki maalumu iliyoitolewa kwa mtu aliyepewa hadhi maalumu.

Sehemu ya Nane ya Muswada inapendekeza marekebisho katika Sheria ya Madini, Sura ya 123. Sheria hii ilitungwa mwaka 2010 kwa lengo la kuainisha masharti yanayohusiana na utafutaji, uchimbaji, uchakataji na uuzaji wa madini. Tangu kutungwa kwake, Sheria hii imerekebishwa mara kumi na sita. Sheria hiyo inapendekezwa kurekebishwa kwa kuongezwa kifungu cha 88A ili kutoa jukumu kwa taasisi za umma kuzuia malipo ya mrabaha na ada ya ukaguzi kutoka katika fedha zinazolipwa kwa kampuni za ujenzi na kuwasilisha malipo hayo kwa Tume ya Madini. Lengo la marekebisho haya ni kuongeza ufanisi na usimamizi wa kodi na kudhibiti ukwepaji kodi na kuongeza mapato yanayotokana na mrabaha na ada ya ukaguzi inayolipwa na makandarasi.

Sehemu ya Tisa ya Muswada inapendekeza marekebisho katika Sheria ya Utumishi wa Umma, Sura ya 298 ambapo kifungu cha 26 kinapendekezwa kurekebishwa na Jedwali la Tatu linapendekezwa kuongezwa ili kuboresha mafao yanayotolewa kwa Katibu Mkuu Kiongozi mstaafu kama mkuu wa utumishi wa umma. Lengo la marekebisho haya ni kudumisha hadhi ya Makatibu Wakuu Viongozi wastaafu na kutambua mchango wao wakati wa utumishi wao kwa Serikali.

Dodoma,
12th October, 2024

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