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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO. 2)
ACT, 2021

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NOTICE

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

Dodoma,
13th January, 2021

JOHN W. H. KIJAZI
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. 2) Act, 2021.

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 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 2

4. The principal Act is amended in section 2 by deleting the definition of the term “Committee” and substituting for it the following:
““Committee” means the National Advocates Committee established under section 4;”.

Amendment
of heading to

5. The principal Act is amended in the heading to

PART II PART II by deleting the word "COMMITTE" and substituting for the word "COMMITTEES"

Amendment of section 4 **6.** The principal Act is amended in section 4, by-
(a) deleting the marginal note and substituting for it the following "Establishment of National Advocates Committee"; and
(b) inserting the word "National" before the word "Advocates".

Addition of sections 4A and 4B **7.** The principal Act is amended by adding immediately after section 4 the following-

"Establishment of Regional Advocates Ethics Committees **4A.**-(1) There is established in each Region, the Regional Advocates Ethics Committee which shall be composed of-

- (a) the High Court Registrar of the Zone where the High Court is situated who shall be a Chairman;
- (b) the State Attorney in-charge or the Regional Prosecution Officer;
- (c) a Chapter Convener of Tanganyika Law Society in the region;

(2) The Regional Advocates Ethics Committee may appoint any public officer to be a secretary to the Regional Advocates Ethics Committee.

(3) Two members of the Regional Advocates Ethics Committee, one of whom shall be a State attorney in-charge or Regional Prosecution Officer, shall form a quorum.

(4) A person who complains against an advocate shall file the complaint with the secretary to the Regional Advocates Ethics Committee.

(5) The secretary to the Regional Advocates Ethics Committee shall upon receipt of a complaint under subsection (4), forward that complaint to the Judge in-charge of the zone in which, that region is situated.

Powers of
Regional
Advocates
Committee

4B.-(1) The Regional Advocates Ethics Committee shall have jurisdiction to hear and determine-

- (a) any application by an advocate to procure the removal of his name from the Roll;
- (b) any application by any person to remove the name of any advocate from the Roll; or
- (c) any allegation of misconduct made against any advocate by any person.

(2) The procedure for hearing an application or allegation under section 13 shall *mutatis mutandis* apply to the hearing of application or allegation under this section.

Amendment
of section 13

- 8.** The principal Act is amended in section 13, by-
- (a) deleting the word “or” appearing at the end of paragraph (b);
 - (b) inserting immediately after paragraph (b) the following:
“(c) appeals from the Regional Advocates Ethics Committee; and;”;
 - (c) renumbering paragraph (c) as paragraph (d).

PART III
AMENDMENT OF THE BIRTHS AND DEATHS REGISTRATION ACT,
(CAP. 108)

Construction
Cap. 108

9. This Part shall be read as one with the Births and Deaths Registration Act, hereinafter referred to as the “principal Act”.

Amendment
of section 17

- 10.** The principal Act is amended in section 17, by-
- (a) designating the contents of section 17 as subsection (1); and
 - (b) adding immediately after subsection (1) as designated the following:
“(2) Notwithstanding subsection (1), a death certificate shall be collected by the surviving spouse or child, if any, or next of kin

of the deceased if there is no surviving spouse or child.

(3) The Registrar General shall issue guidelines on the implementation of subsection (2).”

Addition of section 19A

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

“Electronic Register and system interoperability

19A.-(1) Subject to sections 9 and 15 of this Act, the Registrar General shall, for the purpose of promoting cooperation, coordination, integration and interoperability with other identification and registration systems, keep and maintain the electronic Register of births and deaths.

(2) The Registrar General shall share and exchange registration information kept in the electronic Register of births and deaths with other public institutions mandated to identify and register persons.

(3) Where the Registrar General receives a validated registration information of persons extracted from the public institutions mandated to identify and register persons, such information shall be deemed to have been registered by the Registrar General in the electronic Register of births and deaths.

(4) The Minister may make regulations for better carrying out of the provisions of this section.”

PART IV

AMENDMENT OF THE BUSINESS NAMES (REGISTRATION) ACT, (CAP. 213)

Construction Cap. 213

12. This Part shall be read as one with the Business Names (Registration) Act, hereinafter referred to as the “principal Act”.

Amendment of section 6

13. The principal Act is amended in section 6(1) by deleting paragraphs (d) and (e) and substituting for them the following:

- “(d) where the registration to be effected is that of a firm, national identity number, correspondence address, the usual residential address of each of the individuals who are partners, and the corporate name and registered or principal office of every corporation which is partner;
- (e) where the registration to be effected is that of an individual, the present name and surname, the nationality, national identity number, correspondence address and the usual residential address;”.

Amendment
of section 16

14. The principal Act is amended in section 16 by deleting the words “fifty thousand” and substituting for them the words “two hundred thousand”.

Amendment
of section 17

15. The principal Act is amended in section 17(1) by deleting the words “fifty thousand” and substituting for them the words “two hundred thousand”.

Repeal and
replacement
of section 19

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

“Register of business names
19.-(1) There shall be a register of business names, to be kept by the Registrar, wherein shall be entered the names of firms and persons registered under this Act.

(2) Each business name shall be identified by a registration number assigned to it by the Registrar.”.

Amendment
of section 22

- 17.** The principal Act is amended in section 22, by-
- (a) adding the words “and certificates” immediately after the word “forms” appearing in paragraph (b);
 - (b) adding immediately after paragraph (b) the following:
 - “(c) the modality of making online application for registration, updating of business names and any other online transactions relating to business names”;
 - and
 - (c) renaming paragraphs (c) and (d) as paragraphs (d) and (e).

Repeal and replacement of section 25

18. The principal Act is amended by repealing section 25 and replacing for it the following:

“General penalty

25. A person who contravenes any provision of this Act for which no specific penalty is provided, commits an offence and shall, on conviction, be liable to a fine of not exceeding five million shillings or to imprisonment for a term not exceeding twelve months or to both.”.

PART V

AMENDMENT OF THE CIVIL AVIATION ACT,
(CAP. 80)

Construction Cap. 80

19. This Part shall be read as one with the Civil Aviation Act, hereinafter referred to as the “principal Act”.

Amendment of section 2

20. The principal Act is amended in section 2, by-
(a) deleting the definition of the term “cargo” and substituting for it the following:

““cargo” means any property carried on an aircraft other than mail, stores and accompanied or mishandled baggage;”;

(b) deleting the definition of the term “security” and substituting for it the following:

““security” means safeguarding civil aviation against acts of unlawful interference through a combination of measures human and material resources;”;

(c) inserting in their appropriate alphabetical order the following new definitions:

““aircraft lien” means rights or interest conferred under section 22E;

“contracting states” means any state which is party to the Chicago Convention;

“state of registry” means the contracting state on whose registry an aircraft is placed;”.

Amendment of Part II

21. The principal Act is amended by deleting the heading to Part II and substituting for it the following:

“PART II
ESTABLISHMENT OF CIVIL AVIATION
COMMITTEES”

Addition of section 3A

22. The principal Act is amended by adding immediately after section 3 the following:

“Establishment of National Civil Aviation Security Committee

3A.-(1) There shall be established a Committee to be known as the National Civil Aviation Security Committee.

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

- (a) advise and coordinate aviation security activities between ministries, departments, agencies and other organisations in the United Republic airports and aircraft operators, air traffic service providers, regulated agents, ground handling service provider and other entities concerned with or responsible for the implementation of various aspects of the national civil aviation security programme; and
- (b) review the effectiveness of aviation security measures and recommend accordingly.”

Amendment of section 4

23. The principal Act is amended in section 4(2)-

(a) in paragraph (c), by-

- (i) deleting the word “or” appearing in subparagraph (i);
- (ii) adding immediately after subparagraph (i) as amended the following:
“(ii) commercial or private transport; or”;and
- (iii) renaming subparagraph (ii) as (iii);

(b) by inserting the words “the establishment of aircraft accidents and incidents prevention program and for” after the words “providing for the” appearing in paragraph (r);

(c) by adding immediately after paragraph (ee) the following:

“(ff) regulating operations of unmanned aircraft; and

(gg) regulating transportation of dangerous goods by air.”; and
(d) by deleting subsections (4), (5) and (6).

Repeal of section 13

24. The principal Act is amended by repealing section 13.

Addition of sections 22A, 22B, 22C, 22D and 22E

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

“Formal agreements

22A. The Authority may enter into an agreement with another Authority of another contracting state for the implementation of any arrangements not otherwise inconsistent with the Chicago Convention and such agreement shall be registered with the International Civil Aviation Organization also known by its acronym ICAO.

Transfer of certain functions and duties

22B-(1) Notwithstanding provisions relating to rules of the air, aircraft radio equipment, certificates of airworthiness and licensed personnel, when an aircraft registered in a contracting state is operated pursuant to an agreement for the lease, charter or interchange of the aircraft or any similar arrangement by an operator who has its principal place of business or, if he has no such place of business, its permanent residence in the United Republic, the Authority may, by agreement with State of Registry, transfer to itself all or part of functions and duties in respect of the aircraft, relating to the said rules of the air, aircraft radio equipment, certificates of airworthiness and licensed personnel, as State of Registry.

(2) The Authority may, by agreement with such other State, accept all or part of the functions and duties relating to rules of the air, aircraft radio equipment, certificates of airworthiness and licensed personnel, as State of Registry in respect of such State's aircraft utilized by the United Republic operator.

(3) The transfer contemplated in subsection (1), shall not have effect in respect of other Contracting States before, either the agreement between States in which it is embodied has been registered with the

International Civil Aviation Organisation and made public or the existence and scope of the agreement have been directly communicated to the authorities of the other Contracting State or States concerned by a State party to the agreement.

(4) The Authority shall, when an aircraft registered in a Contracting State is operated pursuant to an agreement under subsection (1), recognize the validity of licences and certificates issued by such Contracting State.

(5) Subject to subsection (4), the Authority shall recognize certificates of airworthiness, personnel licences issued or renewed by the State of Registry, radio licences and crew licences.

Appointment of inspectors and enforcement officer

22C. The Authority shall, for the purpose of ensuring aviation safety, security, consumer protection and for any other reasons for which the Authority deems appropriate for execution of its regulatory functions, appoint inspectors and enforcement officers as may be necessary.

Unmanned aircraft

22D.-(1) An unmanned aircraft shall not be flown over the territory of the United Republic without a special authorization by the Authority and in accordance with the terms of such authorization.

(2) For the purposes of this section “unmanned aircraft” means an aircraft operated with no pilot on board.

Aircraft liens

22E. Subject to the provisions of this Act, the following claims may be secured by aircraft liens-

- (a) Government charges;
- (b) wages and other sums due to the flight and cabin crew, in respect of their operation of that aircraft;
- (c) airport, air navigation, ground handling charges;
- (d) claims against the owner in respect of loss of life or personal injury

occurring, whether on ground or air, in direct connection with the operation of the aircraft;

- (e) claims against the owner, based on a wrongful act and not on contract, in respect of loss of or damage to property occurring whether on ground or air, in direct connection with the operation of the aircraft; and
- (f) claims for salvage, wreck removal and contribution in general average.

(2) For the purposes of this section, the term "owner" includes, in relation to an aircraft, a person in whose name the aircraft is registered, and includes any person who is or has been acting as agent in the United Republic for a foreign owner or any person by whom the aircraft is hired at the time.”.

Amendment
of section 31

26. The principal Act is amended in section 31-

(a) in subsection (1) by:

- (i) deleting subparagraph (i) appearing under paragraph(a) and substituting for it the following:

“(i) to issue, renew, vary, suspend and cancel licences, certificate, authorization and permits;”;

- (ii) deleting paragraph (m) and substituting for it the following:

“(m) co-ordinate safety and security activities with other government departments, institutions and organizations.”;

Amendment
of section 42

27. The principal Act is amended in section 42(2), by-

(a) deleting paragraph (a);

(b) renaming paragraph (b) as paragraph (a); and

(c) adding immediately after paragraph (a) as renamed the following:

“(b) plan, develop and formulate safe, secure and efficient utilization of the United Republic airspace;

(c) acquire, establish and improve air navigation facilities;

- (d) promulgate, adopt, amend, vary rules, procedures, orders, circulars, notices, directives and aeronautical publications governing all aspects of civil aviation;
- (e) establish and maintain State Safety Programme;
- (f) establish a safety oversight system;
- (g) impose operating restrictions and sanctions on the operators or holders of aviation documents in the event of non-compliances with approval, licensing and certification requirements or unresolved safety and security deficiencies or concerns;
- (h) determine the technical and financial capability of a prospective operator to conduct the proposed operations; and
- (i) prohibit any aircraft from flying if a major defect or damage is found whilst within the United Republic.”.

Addition of section 67A

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

“Compounding of offences

67A.-(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 Authority may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction, compound such offence and order such person to pay a sum of money not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

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

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

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

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

PART VI
AMENDMENT OF THE COMPANIES ACT,
(CAP. 212)

Construction
Cap. 212

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

Amendment
of section 3

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

“(4) A person who intends to incorporate a company under subsection (1) shall, in the prescribed manner, provide the following particulars-

- (a) date of birth or date of incorporation or registration;
- (b) nationality or nationalities;
- (c) country of residence or country of incorporation or registration;
- (d) residential address or an address of registered office;
- (e) national identity number, registration or incorporation number;
- (f) Tax Payer Identification Number, where applicable; and
- (g) any other information as may be prescribed in the regulations.

(5) Notwithstanding subsection (1), a person shall not be eligible to incorporate a company if such person is reported by competent authorities to have been convicted or associated with instances of or related to money laundering, terrorism financing, human trafficking, drug trafficking or any other related offences as may be prescribed by the

Minister.”; and

(b) renumbering subsection (4) as subsection (6).”.

Amendment
of section 14

31. The principal Act is amended in section 14(2), by deleting the words “name and address (or registered office, email address, telephone, fax numbers and websites (if any))” appearing in the opening phrase and substituting for it the following “name, email, address, telephone, fax numbers and websites (if any), National Identification Number, Tax Identification Number (in the case of Tanzanian Nationals), Passport (in the case of foreigners) and certificate of incorporation (in the case of a company incorporated outside Tanzania) and registered office, of.”.

Addition of
section 83A

32. The principal Act is amended by adding immediately after section 83 the following:

“Notificat
ion of
transfer
and
transmissi
on of
shares to
Registrar

83A.-(1) A company which has transferred or transmitted its shares shall, within twenty-eight days from the date of transfer or transmission, notify the Registrar in such a manner as may be prescribed in the regulations.

(2) The notification referred to under subsection (1) shall be attached with a copy of tax clearance certificate.”.

Amendment
of section
129

33. The principal Act is amended in section 129, by-

(a) deleting paragraph (f); and

(b) renaming paragraph (g) as paragraph (f).

Amendment
of section
145

34. The principal Act is amended in section 145 by deleting the words “Two printed copies” appearing in subsection (1) and substituting for them the words “A copy”.

Amendment
of section
187

35. The principal Act is amended in section 187 by deleting subsection (2) and substituting for it the following:

“(2) It shall be the duty of the directors-

(a) in the case of a public company, to take all reasonable steps to secure a secretary, or each joint secretary of the company who is a person qualified as an advocate, certified public accountant, auditor or such other qualifications as the Minister may

prescribe in the regulations; and

- (b) in the case of a private company, to take all reasonable steps to secure a secretary, or each joint secretary of the company who appears to them to have the requisite knowledge and experience of discharging the functions of the secretary of a private company.”.

Amendment
of section
194

- 36.** The principal Act is amended in section 194, by-
- (a) deleting the words “and retirement of directors over age limit” appearing in the marginal note;
 - (b) deleting the words “twenty one and or he has attained the age of seventy” appearing in subsection (1) and substituting for them the word “eighteen years”;
 - (c) deleting subsections (2), (3), (4), (5), (6) and (7); and
 - (d) designating the contents of subsection (1) as section 194.

Amendment
of section
195

- 37.** The principal Act is amended in section 195(1) by deleting the words “twenty-one or after he attained any retiring age” and substituting for them the word “eighteen years”.

Addition of
section 452A

- 38.** The principal Act is amended by adding immediately after section 452 the following:

“Waive of
late filing
fee

452A. The Minister in consultation with the Minister responsible for finance may, for the purpose of enabling effective and smooth operation of online registration system, by Notice published in the *Gazette*, waive fees associated with late filing of documents payable under the Act.”.

Addition of
section 455A

- 39.** The principal Act is amended by adding immediately after section 455 the following:

“Keepin
g of
documen
ts

455A A company registered under this Act shall keep originals of the company’s filed documents for a period of not less than thirty years.”.

Addition of
section 458A

- 40.** The principal Act is amended by adding immediately after section 458 the following:

“Verificati
on of
documents

458A. The Registrar may, for the purpose of ascertaining the authenticity of facts lodged by a company, require verification of the facts in such a manner as he may consider appropriate.”.

PART VII
AMENDMENT OF THE ENVIRONMENTAL MANAGEMENT ACT,
(CAP. 191)

Construction
Cap. 191

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

Repeal and
replacement
of section
194

42. The principal Act is amended by repealing section 194 and substituting the following:

Compoundi
ng of
offences

194.-(1) Notwithstanding the provisions of this Act relating to penalties, where a person, corporate or unincorporated admits in writing that he has committed an offence under this Act, the Director General or an environmental inspector authorized by him in writing, may at any time prior to the commencement of the proceedings by a court of competent jurisdiction and by notification prescribed in the regulations compound such offence and order such person to pay a sum of money together with all reasonable expenses the Council may have incurred in connection with the offence.

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

Provided that, the provision of this subsection shall not apply to an application for forfeiture order under subsection (4).

(3) Where a person fails to comply

with the order issued under subsection (1) within the prescribed period, the Director General may enforce the order in the same manner as a decree of a court for the payment of the amount stated in the notification.

(4) Notwithstanding the provisions of subsections (1), the Director General may, in addition to the fine imposed under subsection (1), apply to the Court pursuant to section 193 for forfeiture of any instrument, article, vehicle or other thing, if any, in respect of which the offence has been committed.

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

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

PART VIII
AMENDMENT OF THE INTERPRETATION OF LAWS ACT,
(CAP. 1)

Construction
Cap. 1 **43.** This Part shall be read as one with the Interpretation of Laws Act, hereinafter referred to as the “principal Act”.

Amendment
of section 54 **44.** The principal Act is amended in section 54 by deleting the proviso to subsection (2).

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

Construction
Cap. 216 **45.** This Part shall be read as one with the Land Disputes Courts Act, hereinafter referred to as the “principal Act”.

Amendment
of section 2 **46.** The principal Act is amended in section 2 by adding in its appropriate alphabetical order the following new definition:

““Tribunal” means the ward tribunal established

Cap. 206 under the Ward Tribunals Act or as the case may be, the District Land and Housing Tribunal established under this Act;”.

Amendment of section 13

- 47.** The principal Act is amended in section 13, by-
- (a) deleting subsection (2);
 - (b) re-numbering subsections (3) and (4) as subsections (2) and (3) respectively; and
 - (c) adding immediately after subsection (3) as re-numbered the following:

“(4) Notwithstanding subsection (1), the District Land and Housing Tribunal shall not hear any proceeding affecting the title to or any interest in land unless the ward tribunal has certified that it has failed to settle the matter amicably:

Provided that, where the ward tribunal fails to settle a land dispute within thirty days from the date the matter was instituted, the aggrieved party may proceed to institute the land dispute without the certificate from the ward tribunal.

(5) The Minister responsible for legal affairs may, in consultation with the Minister responsible for ward tribunals and Minister responsible for lands, make rules prescribing the conduct and procedure of mediation of land disputes.”.

Repeal of sections 15 and 16

- 48.** The principal Act is amended by repealing of sections 15 and 16.

Repeal of sections 20 and 21

- 49.** The principal Act is amended by repealing sections 20 and 21.

Amendment of section 25

- 50.** The principal Act is amended in section 25, by-
- (a) deleting subsection (1) and substituting for it the following:

“(1) The Chairman of District Land and Housing Tribunal shall be appointed from amongst legally qualified persons in accordance with the Public Service Act.”;

- (b) adding immediately after subsection (1) the

following:

- “(2) The names of persons appointed as the Chairmen under this section shall be published in the *Gazette*.”;
- (c) renaming subsection (2) and (3) as subsection (3) and (4) respectively; and
- (d) deleting reference to subsection “(2)” appearing in subsection (4) as renumbered and substituting for it reference to subsection “(3)”.

Addition of sections 28A, 28B and 28C

51. The principal Act is amended by adding immediately after section 28 the following:

“Appointment of tribunal court brokers and process servers

GN No. 363 of 2017

28A. There shall be such number of tribunal court brokers and process servers appointed by the Committee from amongst court brokers and process servers registered under the Court Brokers and Process Service (Appointment, Remuneration and Disciplines) Rules, for execution of decrees or orders falling within the jurisdiction of the tribunal.

Establishment of Committee

28B.-(1) There shall be established a committee to be known as the Appointment and Disciplinary Committee for Tribunal Court Brokers and Process Servers.

(2) The Committee shall be composed of the following members appointed by the Minister-

- (a) a senior judicial officer representing Jaji Kiongozi who shall be a chairman;
- (b) a senior law officer representing the Attorney General;
- (c) a senior officer with experience in land matters from the Ministry responsible for lands;
- (d) a senior officer from the Ministry responsible for home affairs;
- (e) a senior officer from the President’s Office Public

Service and Good
Governance; and

(f) one member representing court
brokers.

(3) The Registrar shall be the
secretary to the Committee.

Power
to
make
rules

28C. The Minister may, in
consultation with the Chief Justice, make
regulations prescribing for-

(a) the general guidance and
control of court brokers;

(b) matters relating to tenure of
office of members, termination
of appointment, proceedings of
the Committee and other
procedural matters of the
Committee; and

(c) generally for regulating affairs
of court brokers and process
service.”.

Amendment
of section 56

52. The principal Act is amended in section 56(2), by-

(a) deleting paragraph (j); and

(b) renaming paragraph (k) as paragraph (j).

PART X

AMENDMENT OF THE MAGISTRATES’ COURTS ACT, (CAP. 11)

Construction
Cap. 11

53. This Part shall be read as one with the Magistrate’s
Courts Act, hereinafter referred to as the “principal Act”.

Repeal of
sections 7, 8
and 9

54. The principal Act is amended by repealing sections
7, 8 and 9.

Repeal of
section 13

55. The principal Act is amended by repealing section
13.

Amendment
of section 33

56. The principal Act is amended in section 33 by
adding immediately after subsection (3), the following:

“(4) Notwithstanding the provisions of
this section, an advocate or public prosecutor
may appear or act for any party in a primary

court presided over by a resident magistrate.

(5) Subject to subsection (4), procedures applied in the proceedings in a primary court shall apply in cases where an advocate or public prosecutor appears or acts for any party in a primary court.”.

Amendment
of Third
Schedule

57. The principal Act is amended in paragraph 37(2) of the Third Schedule by deleting the words “and the assessors”.

PART XI

AMENDMENT OF THE NATIONAL ASSEMBLY (ADMINISTRATION) ACT, (CAP. 115)

Construction
Cap. 115

58. This Part shall be read as one with the National Assembly (Administration) Act, hereinafter referred to as the “principal Act”.

Amendment
of section 16

59. The principal Act is amended in section 16 by deleting subsection (3) and substituting for it the following-

“(3) Upon the dissolution of Parliament, all powers and functions of the Commission shall be vested to the Chairman of the Commission until new members of the Commission are elected or appointed.”.

PART XII

AMENDMENT OF THE TOURISM ACT, (CAP. 65)

Construction
Cap. 65

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

Repeal and
replacement
of section 10

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

“Applicat
ion for
registrati
on of
tourisms
facility
and
activity
10. Any person who intends to conduct or operate a tourism facility or activity, shall be registered by the Director and issued with a certificate of registration in the manner prescribed in the Regulations.”.

Amendment
of section 11

- 62.** The principal Act is amended in section 11, by-
- (a) deleting the words “and grading” appearing in the marginal note;
 - (b) deleting the words “on receipt of an application made under section 10” appearing in sub section (1);
 - (c) deleting subsection (2);
 - (d) renumbering subsections (3), (4) and (5) as subsections (2), (3) and (4) respectively; and
 - (e) deleting the words “or grading” appearing in subsection (2) as renumbered.

Amendment
of section 12

- 63.** The principal Act is amended in section 12, by-
- (a) deleting the words “or grade” appearing in the marginal note;
 - (b) deleting the words “or grading” and “or grade” appearing in subsection (1); and
 - (c) deleting the words “or graded” and “or grade” appearing in subsection (2).

Repeal of
section 13

64. The principal Act is amended by repealing section 13.

Repeal and
replacement
of section 14

65. The principal Act is amended by repealing section 14 and replacing it with the following:

“Grading of facility

14.-(1) The Director may-

- (a) upon application by a facility operator in a manner prescribed; or
- (b) in his own motion grade a facility which meets the required standard and the operator of such facility shall be required to pay relevant fees.

(2) Upon grading or regrading of a tourism facility, the Director shall issue to the operator of the facility a certificate of grading in the form prescribed in the regulations.”;

General
amendment

66. The principal Act is amended generally in sections 15, 21, 22, 24, 25, 31, 33, 35, 39, 40 and 41 by deleting the word “Board” wherever it appears in those sections and

substituting for it the word “Director”.

Amendment
of section 15

67. The principal Act is amended in section 15 by deleting the words “set out in the Second Schedule to this Act” appearing in subsection (2) and substituting for it the words “prescribed in the regulations”.

Amendment
of section 16

68. The principal Act is amended in section 16, by-
(a) deleting subsection (4); and
(b) renumbering subsections (5) and (6) as subsections (4) and (5) respectively.

Repeal of Part
IV

69. The principal Act is amended by repealing Part IV.

Amendment
of section 23

70. The principal Act is amended in section 23, by-
(a) deleting subsection (1) and substituting for it with the following:

“An application for a licence or renewal of a licence shall be made to the Director in the manner prescribed in the regulations.”; and

(b) deleting the opening phrase to subsection (2) and substituting for it the following:

“(2) On receipt of an application referred to under subsection (1), the Director shall, where he is satisfied that the applicant-”.

(c) adding immediately after subsection (2) as amended the following:

“(3) For the purpose facilitating scrutiny process of applications for licence, the Ministry may establish a system for scrutiny involving all government institutions necessary for scrutiny of such applications.”

Amendment
of section 28

71. The principal Act is amended in section 28 by deleting the words “in the form set out in the Second Schedule to this Act” and substituting for them the words “prescribed in the regulations to”.

Amendment
of section 32

72. The principal Act is amended in section 32 by deleting the words “Secretary of the Board” and substituting for them the word “Director”.

Amendment
of section 37

73. The principal Act is amended in section 37 by deleting the words “set out in the Second Schedule to this Act”

appearing in the opening phrase and substituting for them the words “prescribed in the regulations”.

Amendment
of section 42

74. The principal Act is amended in section 42, by-
(a) deleting subsection (3); and
(b) renumbering subsections (4), (5) and (6) as subsections (3), (4) and (5) respectively.

Amendment
of section 50

75. The principal Act is amended in section 50, by-
(a) deleting a comma appearing between the words “tourism officer” and “authorized officer” and substituting for it the word “or”; and
(b) deleting the words “or a member of the Board”.

Amendment
of section 51

76. The principal Act is amended in section 51(1), by-
(a) adding immediately after paragraph (b) the following:
 “(c) an application or revocation of a licence;”
 and
(b) renumbering paragraph (c) and (d) as (d) and (e) respectively.

Amendment
of section 52

77. The principal Act is amended in section 52 by deleting the words “Secretary of the Board” and substituting for them the word “Director”.

Addition of
section 55A

78. The principal Act is amended by adding immediately after section 55 the following:

“Compound
ing of
offences

55A.-(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 Director or a person authorized by him in writing may, at any time prior to the commencement of proceedings by a court of competent jurisdiction, compound such offence and order such person to pay a sum of money not exceeding one half of the amount of fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where a person fails to comply with a compounding order issued under this section, the Director may in addition to the sum ordered require the person to pay

an interest at the rate described in the regulations.

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

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

Repeal of Schedules

79. The principal Act is amended by repealing Second and Third Schedules.

PART XIII

AMENDMENT OF THE TRADE AND SERVICE MARKS ACT,
(CAP. 326)

Construction
Cap. 326

80. This Part shall be read as one with the Trade and Service Marks Act, hereinafter referred to as the “principal Act”.

Amendment
of section 5

81. The principal Act is amended in section 5 by adding immediately after subsection (3) the following:

“(4) Where a document is required to be sealed, it may be sealed and signed electronically by an authorised person.”.

Amendment
of section 7

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

- (a) designating the contents of section 7 as subsection (1); and
- (b) adding immediately after subsection (1) as designated the following:

“(2) It shall be sufficient evidence for any requirement of the Act as to the-

- (a) delivery of a document to the Registrar;
- (b) delivery of documents in the prescribed form; or
- (c) issuance of any document by the Registrar,

if communication of such document is done in any non-paper form in such a manner as may be prescribed by the Registrar or in regulations made by the Minister.”.

Amendment
of section 60

- 83.** The principal Act is amended in section 60(2), by-
- (a) adding immediately after paragraph (b) the following:
 - “(c) for endorsements or notification of undertakings of the Registrar under sections 39, 40 and 43;
 - (d) for the prescription of requisite information in non-paper form as provided under the Act;” and
 - (b) renaming paragraphs (c) and (d) as paragraphs (e) and (f) respectively.

OBJECTS AND REASONS

This Bill proposes for amendments of Twelve laws, namely; the Advocates Act, Cap. 341, the Births and Deaths Registration Act, Cap. 108, the Business Names (Registration) Act, Cap 213, the Civil Aviation Act, Cap. 80, the Companies Act, Cap. 212, the Environmental Management Act, Cap. 191, the Interpretation of Laws Act, Cap.1, the Land Disputes Courts Act, Cap. 216, the Magistrates’ Courts Act, Cap. 11, the National Assembly (Administration) Act, Cap. 115, the Tourism Act, Cap. 65 and the Trade and Service Marks Act, Cap. 326.

This Bill is divided into Thirteen Parts as follows:

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

Part II of the Bill proposes to amend section 4 of the Act by establishing Advocates Ethics Committees at regional level. The aim is to facilitate access to justice and to enable citizens who have complaints against advocates for ethical misconduct to address such complaint at the regional level instead of lodging the same to the Advocates Ethics Committee at the national level. Appeals from the Regional Advocates Ethics Committee shall be lodged to the National Advocates Ethics Committee.

Part III of the Bill proposes to amend section 9 of the Births and Deaths Registration Act, Cap.108 with a view to allow the Registrar General to use registration information of persons generated by other public systems such as NIDA. This amendment will reduce bureaucracy, duplication and cost of doing business in the process of, for instance, obtaining births certificate and

national identification numbers without requiring a person to start afresh registration process. The amendment further proposes to give powers to the Minister to make regulations, where need be, for better carrying out the proposed amendment.

Part IV of the Bill proposes amendment to the Business Names (Registration) Act, Cap 213, whereby section 6 is proposed to be amended so as to ensure that only eligible persons register business names for lawful purpose. Sections 16 and 17 are amended with a view to enhancing the penalty so as to ensure that the penalty prescribed by law is up to date and deters commission of offences.

This Part further proposes amendments to section 19 with the aim of introducing a register of business names which shall be kept and maintained by the Registrar. Section 22 is proposed to be amended so as to empower the Minister to make regulations for smooth implementation of the provisions of the Act. It is further proposed to repeal and replace section 25 in order to provide for the general penalty for offences which no specific penalty is provided.

Part V of the Bill proposes to amend the Civil Aviation Act, Cap. 80, whereby section 2 is amended by deleting certain definitions and substituting therewith new definitions and introducing therein new definitions. These amendments are intended to reflect the changes that have taken place in the Aviation sector and International Standards requirements.

It is proposed to amend section 4 with the view to widening the scope of areas which are currently not covered by the Act. The amendment therefore empowers the Minister to make regulations for ensuring effectiveness and efficiency of the implementation of such areas. It is also proposed to delete subsections (4), (5) and (6) which provide for the procedures for implementing provisions which are not stipulated in the Act. It is further proposed to add a new section 4A which shall specify offences which may be compounded and the procedures to be followed when compounding offences.

Section 13 is proposed to be amended since its contents have been taken care under the new section 22B.

This Part also proposes to add new sections 22A to 22E. The proposed amendments are intended to empower the Authority to enter into agreement with another State for implementation of any arrangements; to transfer some of its functions to the Authority of another State when an aircraft registered in Tanzania operates in another state and vice versa; to recognize inspectors and enforcers employed by the Authority; and to recognize extinct of the already existing units within the Authority.

It is further proposed to add new section 22D with the view of prohibiting unmanned aircraft operations without authorization. This prohibition is set for safety and security reasons. Lastly, it proposes to amend section 31 with the aim of recognising and adding new functions which are currently carried out by the Authority, but they are not in the existing Act.

Part VI of the Bill proposes amendment to the Companies Act, Cap. 212, whereby section 3 is amended by adding a new subsection (4) for the purposes of ensuring that only eligible person form companies and such companies are incorporated for lawful purpose. According to the proposed amendments, a person intending to form companies shall be required to provide personal particulars such as date of birth, nationality or nationalities, country of residence or incorporation or registration, residential address or registered office, National Identity Number, registration or incorporation number. The addition of new subsection (5) is intended to prohibit from registering a company persons convicted or reported by competent authorities to be associated with instances of or related to money laundering, terrorism financing, human trafficking, drug trafficking or any other related offences.

Section 14 is amended with a view to providing proper particulars which shall be provided by a person who intends to register a company. The aim of this amendment is to provide standard particulars which shall be required when registering a company.

Addition of new section 83A aims to provide for the requirement for a company to notify the Registrar of any transfer and transmission of shares within twenty-eight days from the date of transfer or transmission. This will enable the Registrar to have updated and correct company information that will facilitate business environment concerning current shareholder status of the company.

This Part also proposes amendment of section 129 by deleting paragraph (f) to remove the requirement of disclosing information of beneficial owners in the annual return of the Company. Annual return is a public document, thus, disclosing beneficial owners information violates the confidentiality aspect of beneficial owner information. It is proposed that information on beneficial ownership should be submitted in a different mode as may be prescribed in the regulations in order to obtain current and up to date information and facilitate formation of beneficial ownership registry that adheres to the principle of confidentiality.

It is further proposed to amend section 145 in order to comply with Online Registration Systems which require submission of a copy of fillable documents in online system. The current section requires the submission of

two copies of resolutions or agreements which was relevant for manual submission, but not relevant for online or electronic transmission. This amendment aims to facilitate the ease of doing business by companies.

Section 187(2) is amended to introduce appointment criteria of secretaries of companies that will facilitate the smooth compliance to the prescribed standards. Owing to lack of criteria for appointment of Secretaries, services by many appointed Secretaries has been implemented without observing the prescribed standards.

It further proposes amendment to section 194(1) to allow an adult person of eighteen years to be eligible for appointment as Director in a company. Currently, the age for appointment as a Director is twenty one years. It is also proposed to delete subsections (2), (3), (4), (5), (6), and (7) to allow persons above the age of seventy to serve as Director of the company. This is due to the fact that, this is an internal affair of a company which can be regulated through companies internal policies and not provided in the law.

This Part further proposes amendments to introduce a new section 452A which empower the Minister after consultation with the Minister responsible for finance, to waive penalties arising out of late filing fees within prescribed period of time in order to enable effective and smooth operation of Online Registration System (ORS). Smooth inception of online registration system is hampered due to existence of the prescribed late filing fees in updating company information. The Act does not provide modality for waiver of late filing fees.

New section 455A is proposed to introduce time limit for companies to keep their records and document(s) be a maximum of thirty years. Currently, the Act is silent on the limitation of time on which Companies are obliged to keep their records and documents.

Lastly, this Part proposes a new section 458A with the aim to provide the Registrar with powers to verify facts and information lodged. Currently, the Registrar has no power to require certain facts to be verified where it appears to him that those facts need verification.

Part VII of the Bill proposes to amend the Environmental Management Act, Cap. 191, whereas section 194 repealed and replaced to clarify provisions relating to compounding of offences. The proposed amendments aim at ensuring that the power to compound offences under the Act is exercised without infringing a person's constitutional right to own property.

Part VIII of the Bill proposes to amend the Interpretation of Laws Act, Cap.1, where. It is also section 54 is amended so as to remove the time limit for

permanent secretary to perform functions of the board where the board tenure has lapsed, dully unconstituted or dissolved.

Part IX of the Bill proposes to amend the Land Disputes Courts Act, Cap. 216; whereby section 25 is proposed to be amended so as to change the appointing authority and tenure of service for Chairmen of the District Land and Housing Tribunals. According to the proposed amendments, the Chairmen shall be appointed on permanent and pensionable terms in accordance with Public Service Act. This amendment aims at removing various challenges in handling land disputes in the Ward Tribunals by removing the function of determining land dispute and instead mediate parties to a dispute. In addition, Section 28 is proposed to be amended in order to empower the Appointment and Disciplinary Committee for Tribunal Court Brokers and Process Server to appoint Tribunal Court Brokers and Process Servers amongst Court Brokers and Process Servers registered under the rules of the Chief Justice for execution of decrees or orders falling within the jurisdiction of the Tribunal. The proposed amendment also, intends to give powers to the Minister to make regulations relating to appointment, remuneration, fees, discipline and other connected matters for Tribunal Court Brokers and Process Servers. Equally, it is proposed to add section 28B which establishes the Appointment and Disciplinary Committee for Court Brokers and Process Servers.

Part X of the Bill proposes that court assessors be done away with since nowadays primary courts are presided over by Advocates with the knowledge of the law hence diminished need to having assessors in courts. This will speed up dispensation of justice in the country. In line with these recommendations, and with a view to strengthening delivery and access to justice; and considering that currently, primary courts are preceded over by Resident Magistrates with a law degree; and in view of the existence of a large workforce of law degree holders, the Bill proposes to allow Advocates and Public Prosecutors to appear in Primary Courts presided over by a Resident Magistrates with a law degree, to represent their client.

Part XI of the Bill proposes to amend the National Assembly (*Administration*) Act, Cap. 115 in section 16 with the aim to vest powers to the Chairman of the Commission after the Parliament is dissolved in order to enhance perpetuity of the Commission.

Part XII of the Bill proposes amendments of the Tourism Act, Cap 65. The objective of the amendment is to complement development of tourism licensing following the introduction of electronic licensing system which has proven efficient. The amendment intends at remove the system of issuing licence that was implemented by the Board instead the system is intended to be implemented by the Director. This will speed up the process of licencing since most of the procedure is done electronically and only small part will be

implemented by the Director. The Bill is further amended with a view to provide for mandate of the Director of Tourism to initiate registration and grading of tourism facilities and activities at his own instance and not upon application only as well as removing procedural matters that will be exhaustively provided in the regulations. The sections are also amended

This Part of the Bill further proposes to introduce a new section 55A on compounding of offences. The amendment intend to give the Director of Tourism powers to compound offences in such a manner as provided in the section.

Part XIII of the Bill proposes amendments to the Trade and Service Marks Act, Cap. 326, whereby section 5 is proposed to be amended for the purpose of enabling electronic affixation of seal and signature of documents. The Bill proposes amendment to section 7 in order to recognise any non-paper communication of documents under the Act. Section 60 is also proposed to be amended so as to broaden the scope of areas for which the Minister may make regulations.

MADHUMUNI NA SABABU

Muswada huu unapendekeza marekebisho katika Sheria Kumi na Mbili zifuatazo, Sheria ya Mwakili, Sura ya 341, Sheria ya Usajili wa Vizazi na Vifo, Sura ya 108, Sheria ya Majina ya Biashara, Sura ya 213, Sheria ya Usafiri wa Anga, Sura ya 80, Sheria ya Makampuni, Sura ya 212, Sheria ya Usimamizi wa Mazingira, Sura ya 191, Sheria ya Tafsiri ya Sheria, Sura ya 1, Sheria ya Mahakama za Migogoro ya Ardhi, Sura ya 216, Sheria ya Mahakama za Mahakimu, Sura ya 11, Sheria ya Uendeshaji Bunge, Sura ya 115, Sheria ya Utalii, Sura ya 65 na Sheria ya Alama za Biashara na Huduma, Sura ya 326.

Muswada huu umegawanyika katika Sehemu Kumi na Tatu kama ifuatavyo:

Sehemu ya Kwanza ya Muswada inaainisha masharti ya utangulizi ambayo ni jina la Muswada na tamko kuhusu marekebisho ya Sheria mbalimbali zinazokusudiwa kufanyiwa marekebisho kupitia Muswada huu.

Sehemu ya Pili ya Muswada inapendekeza marekebisho kwenye kifungu cha 4 cha Sheria ya Mwakili kwa kuanzisha Kamati za Maadili za Mwakili kwa ngazi ya Mkoa ili kurahisisha upatikanaji haki na kumwezesha mwananchi anayemlalamikia Wakili kwa ukiukaji wa maadili kushughulikia

tatizo lake katika ngazi ya Mkoa bila ya uhitaji wa kusafiri kuifuata Kamati ya Maadili katika ngazi ya taifa.

Sehemu ya Tatu ya Muswada inapendekeza kurekebisha kifungu cha 9 cha Sheria ya Usajili wa Vizazi na Vifo, Sura ya 108 kwa lengo la kuwezesha ubadilishanaji wa taarifa za usajili wa matukio muhimu baina ya taasisi moja na nyingine. Inakusudiwa kwamba mara tu taarifa za usajili zinapozalishwa na taasisi moja na kuziwasilisha kwenye taasisi nyingine, taarifa hizo zitakuwa halisi na zitatumika pasipo ulazima wa kuhitaji ujazaji wa taarifa mpya. Vilevile, Marekebisho hayo yanakusudia kumpa Waziri uwezo wa kutunga Kanuni za kuweka utaratibu wa kubadilisha taarifa na namna taarifa hizo zitakavyochukuliwa na kutumiwa na taasisi nyingine ya umma.

Sehemu ya Nne ya Muswada inapendekeza marekebisho kwenye Sheria ya Majina ya Biashara, Sura ya 213, ambapo kifungu cha 6 kinapendekezwa kufanyiwa marekebisho kwa ili kuhakikisha kwamba, majina ya biashara yanayosajiliwa ni ya wale tu ambao wanakidhi vigezo vya kusajiliwa kwa madhumuni mahsusi. Vifungu vya 16 na 17 vinapendekezwa kufanyiwa marekebisho kwa lengo la kuongeza adhabu ya faini ili kuhakikisha adhabu inayotolewa na Sheria inaendana na wakati na hivyo kuzuia utendaji wa makosa.

Sehemu hii pia inapendekeza marekebisho kwenye kifungu cha 19 kwa lengo la kuanzisha rejesta ya majina ya biashara yaliyosajiliwa itakayohifadhiwa na kutunzwa na Msajili. Kifungu cha 22 kinapendekezwa kufanyiwa marekebisho ili kumpa mamlaka Waziri kutengeneza Kanuni kwa ajili ya utekelezaji bora wa Sheria. Sehemu hii pia inapendekeza kufuta kifungu cha 25 na badala yake kuandika kifungu kipya ili kuweka masharti ya adhabu ya jumla kwa makosa ambayo hayakuwekewa adhabu mahsusi katika Sheria.

Sehemu ya Tano inapendekeza marekebisho kwenye Sheria ya Usafiri wa Anga, Sura ya 80, ambapo kifungu cha 2 kinapendekezwa kufanyiwa marekebisho kwa kufuta baadhi ya tafsiri na kuweka tafsiri mpya. Lengo la marekebisho haya ni kuendana na mabadiliko katika sekta ya usafiri wa anga na viwango vya Kimataifa. Baadhi ya maneno yamebadilika na mengine yanatakiwa kufafanuliwa kwa kina zaidi.

Inapendekezwa kufanya marekebisho kwenye kifungu cha 4 kwa lengo la kuongeza wigo wa maeneo ambayo kwa sasa hayapo kwenye Sheria ambayo Waziri mwenye dhamana anaweza kuyatungia kanuni kwa ajili ya kuongeza ufanisi kwenye utekelezaji wa Sheria.

Kifungu cha 13 kinapendekezwa kufutwa kwa kuwa maudhui ya kifungu yameboreshwa na kuhamishiwa kwenye kifungu kipya cha 22B.

Sehemu hii pia inapendekeza marekebisho kwa kuongeza vifungu vipya 22A hadi 22E. Vifungu hivi vinalenga kuipa uwezo Mamlaka kuingia makubaliano ya kiutendaji na Mamlaka za nchi nyingine; kuiwezesha Mamlaka kuingia makubaliano na nchi nyingine kwa ajili ya kuruhusu nchi hiyo kufanya ukaguzi kwa ndege za Tanzania zinazofanya biashara na nchi hiyo au nchi nyingine inayofanya biashara na Tanzania; kuwatambua wakaguzi walioajiriwa na Mamlaka na kutambua Kitengo cha Utafutaji na Uokoaji ambacho tayari kipo ndani ya mamlaka. Inapendekezwa kuipa Mamlaka uwezo wa kuzuia ndege zisizo na rubani kuruka bila kibali maalum. Zuo hili ni kwa ajili ya sababu za kiusalama.

Sehemu hii pia inapendekeza marekebisho kwenye kifungu cha 31 kwa lengo la kutambua na kuongeza kwenye Sheria majukumu ambayo tayari Mamlaka inayafanya ila kwa namna moja au nyingine hayakuwekwa kwenye Sheria. Kifungu cha 40 kinafutwa na kuandikwa upya ili kutambua na kuongeza kwenye Sheria majukumu ambayo tayari Mkurugenzi Mkuu anayatekeleza lakini hayapo katika Sheria. Inapendekezwa pia kuongeza kifungu kipya cha 4A ambacho kinalenga kuainisha baadhi ya makosa na utaratibu utakaofuatwa wakati wa kufilisha makosa.

Sehemu ya Sita inapendekeza kufanya marekebisho kwenye Sheria ya Makampuni, Sura ya 212 ambapo kifungu cha 3 kinarekebishwa kwa kuongeza kifungu kidogo cha (4) kwa lengo la kuhakikisha kuwa watu wenye sifa ya kusajili makampuni ni wale tu wenye sifa na makampuni hayo yanasajiliwa kwa malengo mahsusi. Marekebisho haya yanalenga kuweka udhibiti katika uanzishwaji na usajili wa makampuni. Watu wanaotarajia kusajili makampuni watapaswa kuwasilisha taarifa zao binafsi kama vile tarehe ya kuzaliwa, utaifa wao, nchi wanayotoka au usajili, anuani ya makazi, au ofisi ya biashara iliyosajiliwa, Namba ya Kitambulisho cha Taifa na Namba ya usajili. Kifungu kidogo cha (5) kinaongezwa kwa lengo la kuweka katazo au zuio la kusajili kampuni kwa watu waliowahi kutiwa hatiani au ambao taarifa zao zimetolewa na mamlaka husika kuwa mwombaji wamekuwa wakijihusisha na makosa yanayohusiana na utakatishaji fedha, ufadhili wa ugaidi, biashara ya binadamu, biashara ya dawa za kulevya au makosa mengine yanayohusiana nayo.

Kifungu cha 14 kinarekebishwa kwa lengo la kuainisha maelezo ambayo yanapaswa kutolewa na mtu anayetarajia kusajili kampuni. Lengo la marekebisho haya ni kuainisha maelezo mahsusi ambayo yatapaswa kutolewa na mtu anayetarajia kusajili kampuni.

Kifungu kipya cha 83A kinaongezwa kwa lengo la kuweka masharti kwa kampuni kupaswa kutoa taarifa kwa Msajili ndani ya siku ishirini na nane pindi kunapotokea uhamishaji wa hisa. Marekebisho haya yanalenga kumwezesha Msajili kuwa na taarifa sahihi na kwa muda za makampuni

ambazo zitasaidia kujua taarifa za wanahisa wa kampuni waliopo kwa kipindi hicho.

Sehemu hii pia inapendekeza kufanya marekebisho katika kifungu cha 129 kwa kufuta aya ya (f) ili kuondoa matakwa au masharti yanayohusu na kujumuisha taarifa za wamiliki wa mwisho wa manufaa kwenye taarifa ya mwaka ya kampuni. Taarifa ya mwaka ya kampuni ni nyaraka ya umma hivyo kutoa taarifa za wamiliki wa mwisho wa manufaa ni kukiuka dhana ya usiri wa taarifa hizo.

Inapendekezwa kurekebisha kifungu cha 145 kwa lengo la kukidhi mfumo wa usajili kwa njia ya kielektroniki ambao unahitaji kuwasilisha nakala moja kwa nyaraka zinazowasilishwa. Sheria ilivyo kwa sasa inahitaji kuwasilisha nakala mbili ya maazimio au makubaliano ambazo zinakidhi uwasilishaji kwa njia ya kawaida isiyo ya kielektroniki. Hitaji hilo haliendani na takwa la usajili kwa njia ya kielektroniki. Marekebisho haya yanalenga kurahishia makampuni utaratibu wa ufanyaji wa biashara.

Kifungu cha 187(2) kinapendekezwa kufanyiwa marekebisho kwa kuongeza masharti yanayohusiana na uteuzi wa Katibu wa kampuni ili kukidhi viwango vilivyowekwa. Kutokuwepo kwa vigezo vya uteuzi kumesababisha kuwepo kwa teuzi za makatibu wa makampuni wasiokuwa na uwezo.

Inapendekezwa pia kurekebisha kifungu cha 194(1) kwa lengo la kumfanya mtu mwenye umri wa miaka kumi na nane au zaidi kuwa na sifa ya kuteuliwa kuwa Mkurugenzi. Kwa sasa umri kwa mtu kuweza kuteuliwa kuwa Mkurugenzi katika kampuni ni kuanzia miaka ishirini na moja. Vifungu vidogo vya (2), (3), (4), (5), (6) na (7) vinapendekezwa kufutwa ili kuruhusu watu wenye umri wa zaidi ya miaka sabini kuteuliwa kuwa wakurugenzi wa makampuni. Marekebisho haya yanatokana na ukweli kwamba suala la ukurugenzi ndani la kampuni ni suala la ndani la kampuni ambalo linaweza kusimamiwa kupitia sera za ndani za kampuni na sio kwenye sheria.

Sehemu hii inapendekeza kuweka kifungu kipya cha 452A kwa lengo la kumpa mamlaka Waziri baada ya kushauriana na Waziri mwenye dhamana ya fedha kusamehe adhabu zinazotokana na ucheleweshwaji wa uwasilishwaji wa nyaraka wakati wa kuhuisha taarifa za kampuni kwa lengo la kurahisisha usajili kupitia mfumo wa usajili kwa njia ya kielektroniki. Sheria kwa sasa haina masharti yanayohusiana na utoaji wa msamaha kwa wale waliochelewa kutoa taarifa zao za uhuwishaji.

Kifungu kipya cha 455A kinapendekezwa kuongezwa kwa lengo la kuweka kikomo cha muda kwa makampuni kutunza taarifa na nyaraka zake kwa muda usiozidi miaka thelathini. Sheria ilivyo kwa sasa iko kimya kuhusu suala hili.

Sehemu hii pia inapendekeza kuongeza kifungu kipya cha 458A kwa lengo la kumpa mamlaka Msajili kuhakiki taaria zilizowasilishwa kwake. Sheria ilivyo kwa sasa haimpi, Msajili hana mamlaka ya kuitisha taarifa pale inapoonekana kwamba taarifa hizo zinahitaji kuhakikiwa.

Sehemu ya Saba ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Usimamizi wa Mazingira, Sura ya 191, ambapo kifungu cha 194 kinafutwa na kuandikwa upya ili kufafanua kwa ufasaha masharti kuhusu ufifilishaji wa makosa na utaratibu wa uchukuaji wa mali za mtuhumiwa wakati wa ufifilishaji. Lengo la marekebisho haya ni kuhakikisha kuwa mamlaka ya kufililisha makosa chini ya Sheria hii yanatekelezwa bila kwenda kinyume na haki ya kikatiba ya mtu kumiliki mali.

Sehemu ya Nane inapendekeza kufanya marekebisho katika Sheria ya Tafsiri ya Sheria, Sura ya 1. Marekebisho haya yanakusudia kuondoa ukomo wa muda kwa katibu mkuu kutekeleza majukumu ya bodi pale ambapo bodi hizo zinakuwa hazijateuliwa.

Sehemu ya Tisa inapendekeza kufanya marekebisho katika Sheria ya Mahakama za Migogoro ya Ardhi, Sura ya 216, ambapo kifungu cha 25 kinarekebisha kwa lengo la kubadilisha mamlaka ya uteuzi na muhula wa kushikilia nafasi kwa wenyevidi wa mabaraza ya ardhi na nyumba ya wilaya. Kwa mujibu wa marekebisho yanayopendekezwa, wenyevidi watateuliwa kwa ajira ya kudumu kwa mujibu wa Sheria ya Utumishi wa Umma. Muswada unapendekeza kurekebisha vifungu vya 2, 13, 15, 16, 20, 21, 25, 28, na 56 vya Sheria ya Mahakama ya Ardhi, Sura ya 216 ili kuondoa changamoto mbalimbali zilizojitokeza wakati wa kushughulikia migogoro ya ardhi katika Mabaraza ya Kata kwa kuondoa jukumu la kuamua mashauri ya ardhi na badala yake kubaki na jukumu la kusuluhisha migogoro husika.

Sehemu ya Kumi ya Muswada inapendekeza kurekebisha Sheria ya Mahakama za Mahakimu, Sura ya 11. Marekebisho yanapendekeza kuwaondoa wazee washauri wa mahakama katika Mahakama za Mwanzo kwa kuwa Mahakama hizo sasa zinasimamiwa na Mahakimu Wakazi wenye weledi wa sheria na hivyo kuongeza kasi ya utoaji haki kwa wakati. Sanjari na mapendekezo hayo, na kwa lengo la kuimarisha utoaji na upatikanaji wa haki; na kwa kuzingatia kuwa hivi sasa, kesi katika Mahakama za Mwanzo zinaendeshwa na Mahakimu wenye Shahada. Muswada pia unapendekeza kuwaruhusu Mwakili wa Kujitegemea na wale wa Serikali kuwakilisha wateja wao kwenye Mahakama za Mwanzo hususan zinazosimamiwa na Mahakimu wenye Shahada.

Sehemu ya Kumi na Moja ya Muswada inapendekeza kufanya marekebisho ya Sheria ya Uendeshaji Bunge, Sura ya 115 kwa kurekebisha

Kifungu cha 16 ili kumpa mamlaka Mwenyekiti wa Tume ili kumwezesha kutekeleza majukumu ya Tume baada ya Bunge kufika ukomo (kuvunjwa).

Sehemu ya Kumi na Mbili ya Muswada inapendekeza marekebisho katika Sheria ya Utalii, Sura ya 65 kwa lengo la kuimarisha mfumo wa utoaji leseni ambapo ulikuwa ukitekelezwa na Bodi na badala yake mfumo huo utatekelezwa na Mkurugenzi wa Utalii. Lengo la marekebisho haya ni kukua kwa sekta ya utalii ambapo kwa sasa sehemu kubwa ya mfumo wa leseni unafanyika kwa njia ya kielektroniki. Vilevile vifungu hivyo tajwa vinarekebishwa ili kumpa Mkurugenzi wa Utalii mamlaka ya upangaji madaraja kwenye huduma za malazi na shughuli za kitalii pale atakapoona kuna uhitaji huo pasipo kuhitaji kuletewa maombi.

Sehemu hii pia inapendekeza kuongeza kifungu kipya cha 55A kuhusu ufililishaji makosa ambapo Mkurugenzi wa Utalii ataweza kufililisha makosa kwa utaratibu uliowekwa.

Sehemu ya Kumi ya Tatu ya Muswada inapendekeza kufanya marekebisho kwenye Sheria ya Alama za Biashara na Huduma, Sura ya 326. Kifungu cha 5 kinapendekezwa kurekebishwa kwa lengo la kuwezesha ugongaji wa mihuri na utiaji sahihi kwenye nyaraka kwa njia ya kielektroniki. Kifungu cha 7 kinapendekezwa kurekebishwa kwa lengo la kutambua mawasiliano ya nyaraka kwa njia nyingine yoyote isiyo ya makaratasi chini ya Sheria hii. Kifungu cha 60 kinapendekezwa kurekebishwa ili kupanua wigo wa maeneo ambayo Waziri anaweza kuyatungia kanuni.

Dodoma
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