

THE UNITED REPUBLIC OF TANZANIA

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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) ACT, 2011

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THE UNITED REPUBLIC OF TANZANIA



NO. 3 OF 2011

I ASSENT

JAKAYA M. KIKWETE
*President*03rd June, 2011**An Act to amend certain Written laws.**

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title 1. This Act may be cited as the Written Laws (Miscellaneous Amendments) Act, 2011.

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 EVIDENCE ACT,
(CAP. 6)

Construction Cap. 6 3. This Part shall be read as one with the Evidence Act, hereinafter referred to as the "principal Act".

Amendment of section 3 4. The principal Act is amended in section 3 by-

- (a) deleting the definition of the term “police officer” and substituting for it the following new definition:
“police officer” means a member of the Police Force of or above the rank of constable;
- (b) inserting the phrase “being physically present at the time of making the statement or by use of other means of communication including teleconference or video conference” between the words “witnesses” and “in relation to” which appears in the definition of the term “oral evidence”.

PART III

AMENDMENT OF THE PENAL CODE (CAP. 16)

Construction
Cap. 16

5. This Part shall be read as one with the Penal Code, hereinafter referred to as “the principal Act”.

Amendment
of section
132

6. The principal Act is amended in section 132 by inserting immediately after subsection (3) the following subsection:

“(4) Where the offence of attempted rape is committed by a person who is of the age below eighteen years, he shall-

- (a) if a first time offender, be sentenced to corporal punishment of five strokes;
- (b) if a second time offender, be sentenced to a term of six months;
- (c) if a third time offender or habitual offender, be sentenced to twelve months.”

Amendment
of Part XVII

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

“PART XVII

PYRAMID SCHEMES, NUISANCE AND OFFENCES AGAINST HEALTH AND CONVENIENCE”

Amendment
of section
171A

8. The principal Act is amended in subsection (2) of section 171A by-

- (a) inserting immediately after paragraph (b) the following new paragraph:

- “(c) sends or causes to be sent any chain letter or who sends or receives any money or money’s worth in connection with any chain letter;
- (b) inserting immediately after subsection (2) the following new subsection:
 - “(2A) “chain letter” as used in paragraph (c) means a document addressed by one person to another suggesting to that other person-
 - (a) that he should send a document having the same purport to a number of other persons; and
 - (b) that he should remit to a person or to an address specified in the first mentioned document money or money’s worth”;
 - (c) re-designating sections “170” as “171A” and section “171A” as “170”.

Amendment
of section
173B.

- 9. The principal Act is amended by repealing section 173B.
 - (a) designating section 285 as section 285(1); and
 - (b) inserting immediately after subsection (1) the following:
 - “(2) Where two or more persons steal anything, and at or immediately before or immediately after stealing, use or threaten to use actual violence to any person or property in order to obtain or retain the thing stolen commit an offence of gang robbery.”

Amendment
of Section
285

- 10. The principal Act is amended in section 285 by:
 - (a) designating section 285 as section 286(1); and
 - (b) inserting immediately after subsection (1) the following:
 - “(2) Where two or more persons steal anything, and at or immediately before or immediately after stealing, use threaten to use actual violence to any person or property in order to obtain or retain the thing stolen commit an offence of gang robbery.”

Amendment
of section
287A.

10A. The principal Act is amended by deleting the whole of section 287A and substituting for it the following new section:

“Armed
robbery

287A. A person who steals anything, and, at or immediately before or after stealing is armed with any dangerous or offensive weapon or instrument, and at or immediately before or after stealing uses or threatens to use violence to any person in order to obtain or retain the stolen property, commits an offence of armed robbery and shall, on conviction be liable to imprisonment for a term of not less than thirty years with or without corporal punishment.”

Addition of
new section

10B. The principal Act is amended by adding immediately after section 287B the following new section:

“Punish-
ment for
gang
robbery

287C. A person who takes part in gang robbery commits an offence and, on conviction is liable to imprisonment for a term of not less than thirty years with or without corporal punishment.

Amendment
of section
305

11. The principal Act is amended in section 305 by-

(a) inserting a new paragraph (a) as follows:

“(a) by any false pretences or any other means of fraud, with intent to defraud, obtain in his account or any other mode of account credits or causes his or any other person’s account to be credited or to credit the account of another person.”

(b) re-designating paragraphs “(a)”, “(b)” and “(c)” as paragraphs “(b)”, “(c)” and “(d)” accordingly.

PART IV

AMENDMENT OF THE WITCHCRAFT ACT, (CAP. 18)

Construction
Cap. 18

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

Amendment
of section 8

13. The principal Act is amended in section 8(7) by deleting the phrase “not exceeding one hundred and fifty shillings or to imprisonment of either description for a term not exceeding two months” and substituting for it the phrase “not exceeding one million shillings or to imprisonment for a term not exceeding two years.”

PART V

AMENDMENT OF THE CRIMINAL PROCEDURE ACT, (CAP. 20)

Construction

14. This Part shall be read as one with the Criminal Procedure Act, hereinafter referred to as the "principal Act".

Amendment
of section 58

15. The principal Act is amended in section 58 by inserting immediately after subsection (3) the following new subsections:

"(4) Subject to the provision of paragraph (c) of section 53, a police officer investigating an offence for the purposes of ascertaining whether the person under restraint has committed an offence may record a statement of that person and shall-

- (a) show the statement to the person and ask him to read it; or
- (b) read the statement to him or cause the statement to be read to him and ask him whether he would like to add or correct anything from the statement.

(5) Where a person whose statement has been written under subsection (4) wishes to correct or add anything to the statement read or shown to him, the police officer shall correct, alter or add to the statement or make any corrections, alterations or additions to the statement as requested by that person.

(6) Where a police officer is satisfied that there is no further additional statement, alteration or correction to the statement, he shall cause to be written at the end of the statement a form of certificate in accordance with the prescribed form and shall-

- (a) ask the person to sign the certificate set out at the end of the statement or if the statement extends to more than one page, sign each page of the statement; and
- (b) certify under his hand at the end of the statement, what he has done in pursuance of this subsection."

Repeal of
section
129A

16. The principal Act is amended by repealing the whole of section 129A.

Amendme
nt of
section
192

17. The principal Act is amended in section 192(1) by-

- (a) inserting immediately after figure "229" the following words "and 283" and ;
- (b) deleting the word "or" appearing between the words "the accused" and "his advocate" and substituting for it the word "and".

Amendme
nt of
section
222

18. The principal Act is amended in section 222 by deleting the word "acquit" appearing in that section and substituting for it the word "discharge".

Amendme
nt of
section
226

19. The principal Act is amended in section 226 by:

- (a) deleting the word "acquit" appearing in subsection (1) and substituting for it the word "discharge"; and
- (b) inserting immediately after section (4) the following new sub sections:

"(5) Where the court dismiss the charge and discharge an accused person under section 222 or 226, the complainant may, within thirty days from the date of dismissal, file an application for re-institution of the charge.

(6) The court may, upon being satisfied that the complainant's absence was due to reasons to which the complainant had no control or could not, within the circumstance have control, grant application for re-institution of the charge and proceedings, if any.

Amend-
ment of
section
235

20. The principal Act is amended in section 235 by deleting the phrase "shall acquit him or shall dismiss the charge under section 38 of the Penal Code" and substituting for it the phrase "shall acquit or discharge him under section 38 of the Penal Code."

Amend-
ment of
section
345

21. The principal Act is amended in section 345 by-

- (a) deleting the phrase “ save that such costs shall not exceed four thousand shillings in the case of the High Court or two thousand shillings in case of a subordinate court” appearing in subsection (1); and
- (b) deleting the phrase “save that such costs shall not exceed two thousand shillings in the case of an acquittal or discharge by the High Court or one thousand shillings in the case of an acquittal or discharge by a subordinate court; save further that no such order shall be made if the judge or magistrate considers that the private prosecutor had reasonable grounds for making his complaint.” appearing in subsection (2).

Amend-
ment of
section
353

22. The principal Act is amended in section 353 by-

- (a) deleting the words “or intended to be”; appearing in subsection (1);
- (b) inserting the word “is” between the words “or” and “intended” appearing in subsection (2);
- (c) deleting the words “or intended to be” appearing immediately after the word “evidence” and inserting the words “or intended to be” between the words “put in” and “evidence” appearing in subsection (3);
- (d) adding immediately after subsection (6) the following new subsection:

“(7) For the purpose of this section, court includes court before which an accused person appears before he is committed for his trial”.

Amend-
ment of
section
383

23. The principal Act is amended in section 383 by deleting subsections (1),(2) and (3) and substituting for them the following new subsections-

“(1) Where, on the day fixed for hearing of an appeal under sections 366 and 378 or any other date on which the hearing may be adjourned, the appellant or his advocate as the case may be, does not appear when the appeal is called on for hearing, the High Court may make an order that the appeal be dismissed;”

(2) Where the appellant or his advocate as the case may be on an appeal brought under sections 366 and 378 does not appear and the High Court is satisfied that the respondent or his advocates as the case may be was duly served with the notice of hearing, the High court may proceed to hear the appeal *ex-parte* or may adjourn the hearing to another date and give notice thereof to the respondent."

(3) Where an appeal is dismissed under subsection (1), the appellant or his advocate, as the case may be, may apply to the court for re-admission of the appeal and, where he satisfies the court that he was prevented by any sufficient cause from appearing when the appeal was called on for hearing, the court may re-admit the appeal."

Addition
of section
392A

24. The principal Act is amended by adding immediately after section 392 the following new section:

"Applica-
tions

392A-(1) Every application under this Act shall be made before a court either orally or in written form.

(2) An application made in written form shall be by way of a chamber summons supported by affidavit.

(3) The applicant shall-

- (a) in case of written application, serve the respondent with a copy of application within thirty days from the date the application was filed;
- (b) in case of oral application, the respondent shall reply to the application within the time as the court may determine."

Amend-
ment of
the First
Schedule

25. The principal Act is amended in the First Schedule by inserting in their appropriate sections the following new offences:

171A	Pyramid and other similar offences	Shall not arrest without warrant	Fine not exceeding five million shillings or imprisonment for a term not exceeding five years.	A subordinate court
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171 B	Prohibition against inducement	Shall not arrest without warrant	Fine not exceeding five million shillings or imprisonment for a term not exceeding five years.	A subordinate court
222A	Possession of human being	May arrest without warrant	Imprisonment for a term not exceeding thirty years.	
332B	Kite flying offences	Shall not arrest without warrant	Imprisonment for a term not exceeding ten years.	A subordinate court

PART VI

AMENDMENT OF THE DAR ES SALAAM INSTITUTE OF TECHNOLOGY ACT
(CAP. 144)

Construc-
tion
Cap. 144

26. This Part shall be read as one with the Dar es Salaam Institute of Technology Act, hereinafter referred to as the "principal Act".

Amend-
ment of
section 11

27. The principal Act is amended in section 11 by-

- (a) deleting the words "Director of Studies" appearing at the end of subsection (1) and substituting for them the words "Deputy Principal for Academic, Research and Consultancy;"
- (b) deleting the word "Director" wherever it appears in that section and substituting for it the words "Deputy Principal".

Amend-
ment of
section 12

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

PART VIII

AMENDMENT OF THE CONTRACTORS REGISTRATION ACT (CAP. 235)

Construction
Cap. 235

31. This Part shall be read as one with the Contractors Registration Act, hereinafter referred to as the "principal Act".

Amendment
of section 10

32. The principal Act is amended in section 10 by-

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

"(2) An application by a contractor who is registered as a sole proprietor in terms of Business Names Registration Act shall be limited to classes six and seven for general contractors and classes two and three for special contractors."

(b) renumbering subsections (2), (3) and (4) as subsections (3)(4) and (5) respectively.

Amendment
of section 13

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

(a) deleting paragraph (c) appearing in subsection (1) and substituting for it the following:

(a) deleting the words "Director of Administration and Finance" appearing in subsection (1) and substituting for them the words "Deputy Principal for Administration and Finance";

(b) deleting the word "Director" appearing in subsection (2) and substituting for it the words "Deputy Principal"

PART VII

AMENDMENT OF THE ECONOMIC AND ORGANIZED CRIME CONTROL ACT,
(CAP.200)

Construction
Cap.200

29. This Part shall be read as one with the Economic and Organized Crime Control Act, hereinafter referred to as the "principal Act".

Amendment
of section 29

30. The principal Act is amended in section 29(1) by deleting the words "the district court" appearing between the words "before" and "within" and substituting for them the phrase "the District Court and the Resident Magistrate Court" wherever it appears in that section.

“(c) fails to pay annual subscription fee within the period prescribed under this Act”;

- (b) deleting subsection (2) and substituting for it the following:

“(2) Where a contractor fails to pay the annual fees within the prescribed period, the Board shall, before suspending or revoking registration of a contractor, give a written notice of intention to suspend or revoke the registration.”

Addition of
new section
13A

34. The principal Act is amended by adding immediately after section 13 the following new section.

“Restriction on
payment of
annual
subscription fee

13A.-(1) A registered contractor shall pay an annual subscription fee as prescribed by the Board.

(2) The annual subscription fee provided under subsection (1) shall be payable to the Board not later than 30th December of every calendar year.

(3) A contractor who fails to effect payment of annual subscription fee as Prescribed under subsection (1), shall immediately cease to operate as a contractor under this Act and shall not be permitted to undertake or proceed with any construction works.”

PART IX

AMENDMENT OF THE EXECUTIVE AGENCIES ACT, (CAP 245)

Construction
Cap.245

35. This Part shall be read as one with the Executive Agencies Act, hereinafter referred to as the “principal Act”.

Amendment
of section 6

36. The principal Act is amended in section 6 by-

- (a) deleting subsection (3) and substituting for it the following:

“(3) A principal officer from the Ministry under which the agency is established who shall be a member of the Board.”;

- (b) deleting paragraph (a) of subsection (6) and substituting for it the following:

“(a) a Chief Executive Officer from the Ministry establishing an agency;”

PART X

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

Construction
Cap.288

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

Amendment
of section 94

38. The principal Act is amended in section 94 by-

- (a) adding immediately after subsection (4) the following new subsection:

“(5) For the purposes of the exercise of powers of the authority stipulated in subsections (1), (2) and (3), a reference to the authority in relation to areas on which the derivative rights were acquired for the development of the Export Processing Zones and Special Economic Zones shall imply reference of Export Processing Zones Authority.”

PART XI

AMENDMENT OF THE EXTRADITION ACT, (CAP. 368)

Construction
Cap. 368

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

Addition of
section 13A

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

“Arrest
without
warrant

13A. Notwithstanding the provisions of subsection (1), the police officer may, without a foreign warrant having been endorsed or in the absence of provisional warrant if the circumstances so requires, arrest a fugitive offender.”

PART XII

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

Construction
Act No. 5 of
2009

41. This Part shall be read as one with the Wildlife conservation Act, hereinafter referred to as the "principal Act".

Amendment
of section 38

42. The Principal Act is amended in section 38 subsection (3), by-

(a) deleting paragraphs (a) and (b) and substituting for them the following:

" (a) the Principal of Tanzania Wildlife Research Institute;

(b) a representative form Tanzania National Parks;"

(b) by deleting paragraph (d) and substituting for it the following:

"(d) a representative from the college of Wildlife Management;"

Passed in the National Assembly on the 13th April, 2011.

DR. THOMAS D. KASHILILLAH,
Clerk of the National Assembly