

THE UNITED REPUBLIC OF TANZANIA

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THE ENVIRONMENTAL MANAGEMENT (AMENDMENT) ACT,
 2024

ARRANGEMENT OF SECTIONS

Section Title

PART I
 PRELIMINARY PROVISIONS

1. Short title.

PART II
 GENERAL AMENDMENTS

2. General Amendment.
3. Amendment of section 3.
4. Amendment of section 13.
5. Amendment of section 36.
6. Amendment of section 42.
7. Amendment of section 51.
8. Amendment of section 55.
9. Amendment of section 56.
10. Amendment of section 57.
11. Amendment of section 60.
12. Amendment of section 75.
13. Addition of section 75A.
14. Amendment of section 80.
15. Amendment of section 109.
16. Amendment of section 129.
17. Amendment of section 140.
18. Amendment of section 168.
19. Amendment of section 169.
20. Amendment of section 170.
21. Amendment of section 195.
22. Amendment of section 196.
23. Amendment of section 197.

- 24. Amendment of section 198.
- 25. Amendment of section 199.
- 26. Amendment of section 230.
- 27. Amendment of First Schedule.
- 28. Amendment of Second Schedule.



NOTICE

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 the Environmental Management Act with a view to making better provisions for environmental management.

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title

Cap. 191

1. This Act may be cited as the Environmental Management (Amendment) Act, 2024. and shall be read as one with the Environmental Management Act, hereinafter referred to as the “principal Act”.

PART II
GENERAL AMENDMENTS

General
Amendment

2. The principal Act is amended generally by adding the words “or unit” immediately after the words “sector environment section” wherever they appear in sections 30, 31 and 32.

Amendment of
section 3

3. The principal Act is amended in section 3-
(a) in the definition of the term “solid waste”, by

deleting the words “abandoned cars scraps” and substituting for them the words “scrap metals”; and

(b) by adding in the appropriate alphabetical order, the following new definition:

Cap. 331 ““water source” has a meaning ascribed to it under the Water Resources Management Act;”.

Amendment of
section 13

4. The principal Act is amended in section 13(1) by inserting the words “and climate change” between the words “environment” and “and”.

Amendment of
section 36

5. The principal Act is amended in section 36-

(a) in subsection (2) by deleting the words “or diploma of” and substituting for them the word “from”; and

(b) in subsection (3)-

(i) in paragraph (f), by adding the words “and other environmental related assessments” after the word “Assessments”; and

(ii) in paragraph (h), by adding the words “through the Regional Environmental Management Expert” after the word “Director- General”.

Amendment of
section 42

6. The principal Act is amended in section 42(3) by adding the words “at the interval of every five years,” immediately after the word “shall”.

Amendment of
section 51

7. The principal Act is amended in section 51(1) by adding the words “after consultation with relevant sector ministries” immediately after the words “may”.

Amendment of
section 55

8. The principal Act is amended in section 55 by adding the word “ocean” immediately after the word “riverbanks” appearing in the marginal note and subsection (1).

Amendment of
section 56

9. The principal Act is amended in section 56(1) by adding the words “and other relevant sectoral ministers” immediately after the word “land”.

Amendment of
section 57

10. The principal Act is amended in section 57(1) by deleting the words “ocean or natural lake, shorelines, riverbank, water dam or reservoir” and substituting for them the words “water sources”.

Amendment of
section 60

11. The principal Act is amended in section 60(2) by deleting the words “water officer” appearing in paragraph (c) and substituting for them the words “Basin Water Director”.

Amendment of
section 75

12. The principal Act is amended in section 75-

(a) by designating the content of that section as subsection (1);

(b) in subsection (1) as designated, by-

(i) adding immediately after paragraph (a) the following:

“(b) take measures to control and manage greenhouse gases;”;

(ii) renaming paragraphs (b) to (e) as paragraphs (c) to (f) respectively; and

(c) by adding immediately after subsection (1) as designated, the following:

“(2) For the purpose of subsection (1), the Minister shall promote participation of the private sector and provide modalities for involvement of all relevant stakeholders in implementation of strategies to deal with climate change.”.

Addition of
section 75

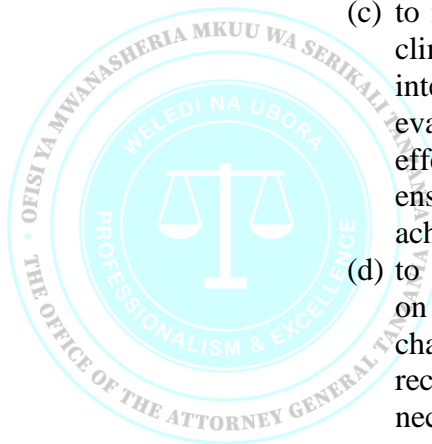
13. The principal Act is amended by adding immediately after section 75 the following:

“National **75A.** For purposes of
climate change addressing climate change, the
steering National Environmental Advisory

committee

Committee, is hereby designated as the National Climate Change Steering Committee and shall perform the following functions:

- (a) to advise the Minister on measures to be taken in order to control and manage greenhouse gases;
- (b) to provide strategic direction for implementing climate change programs, project and initiatives;
- (c) to monitor progress of climate change interventions, evaluating their effectiveness and ensuring targets are achieved;
- (d) to advise the Minister on emerging climate change issues, recommending necessary adjustment to policies, programs or laws to enhance climate change actions; and
- (e) to recommend coordinated actions and engagement of various sectors and institutions in addressing climate change.”.



Amendment of
section 80

14. The principal Act is amended in section 80(3) by adding the word “soil” immediately after the word

“water” appearing in paragraph (a).

Amendment of
section 109

15. The principal Act is amended in section 109 by deleting the word “stream” wherever it appears in that section and substituting for it the words “water source”.

Amendment of
section 129

16. The principal Act is amended in the opening phrase to section 129(3) by adding the words “after consultation with relevant sector ministries” immediately after the word “may”.

Amendment of
section 140

17. The principal Act is amended in section 140 by adding the words “responsible for standards” immediately after the word “Minister” wherever it appears in that section.

Amendment of
section 168

18. The principal Act is amended in section 168 by deleting the words “Ministerial Advisory Board of the Government Chemist Laboratory Agency” and substituting for them the words “Board of the Government Chemist Laboratory Authority”.

Amendment of
section 169

19. The principal Act is amended in section 169, by-

- (a) adding the word “communications,” immediately after the word “agriculture”;
- (b) deleting paragraph (b); and
- (c) renaming paragraph(c) as paragraph(b).

Amendment of
section 170

20. The principal Act is amended in section 170(1), by-

- (a) deleting-
 - (i) paragraph (a) and substituting for it the following:
“(a) the Tanzania Plant Health and Pesticides Authority;” and
 - (ii) paragraph (e) and substituting for it the following:

- “(e) Tanzania Veterinary Laboratory Agency;”;
- (b) adding immediately after paragraph (c) the following:
- “(d) the Tanzania Communication Regulatory Authority;
- (e) the Tanzania Bureau of Standards;
- (f) the Government Chemist Laboratory Authority;”;
- and
- (c) renaming paragraphs (d) and (e) as paragraphs (g) and (h) respectively.

Amendment of
section 195

- 21.** The principal Act is amended in section 195-
- (a) in subsection (5) by deleting the word “Minister” appearing between the words “the” and “for” and substituting for it the word “Council”; and
- (b) by adding immediately after subsection (5) the following:
- “(6) A person aggrieved by the decision of the Council under subsection (5) may, within thirty days from the date of the decision, apply to the Minister for revision in accordance with procedure that the Minister may prescribe.”.

Amendment of
section 196

- 22.** The principal Act is amended in section 196-
- (a) in subsection (5) by deleting the word “Minister” appearing after the words “apply to the” and substituting for them the word “Council”; and
- (b) by adding immediately after subsection (5) the following:
- “(6) A person aggrieved by the decision of the Council under subsection (5) may, within thirty days from the date of the decision, appeal to the Minister in accordance with procedure that the

Minister may prescribe.”.

Amendment of
section 197

23. The principal Act is amended in section 197-

- (a) in subsection (5) by deleting the word “Minister” appearing after the words “apply to the” and substituting for them the word “Council”; and
- (b) by adding immediately after subsection (5) the following:

“(6) A person aggrieved by the decision of the Council under subsection (5) may, within thirty days from the date of the decision, appeal to the Minister in accordance with procedure that the Minister may prescribe.”.

Amendment of
section 198

24. The principal Act is amended in section 198-

- (a) in subsection (6) by deleting the word “Minister” appearing after the words “apply to the” and substituting for them the word “Council”; and
- (b) by adding immediately after subsection (6) the following:

“(7) A person aggrieved by the decision of the Council under subsection (6) may, within thirty days from the date of the decision, appeal to the Minister in accordance with procedure that the Minister may prescribe.”.

Amendment of
section 199

25. The principal Act is amended in section 199-

- (a) in subsection (2) by deleting the word “Minister” appearing after the words “apply to the” and substituting for them the word “Council”;
- (b) by adding immediately after subsection (2) the following:

“(3) A person aggrieved by the

- decision of the Council under subsection (2) may within thirty days from the date of the decision, appeal to the Minister in accordance with procedure that the Minister may prescribe.”; and
- (c) by renumbering subsection (3) as subsection (4).

Amendment of
section 230

by-

- 26.** The principal Act is amended in section 230(2),
- (a) adding immediately after paragraph (q), the following:
- “(r) prescribe procedures for the management of climate change;
- (s) prescribe procedures for appeal against the decisions of the Council;”; and
- (b) renaming paragraphs (r) and (s) as paragraphs (t) and (u) respectively.

Amendment of
First Schedule

- 27.** The principal Act is amended in the First Schedule by adding the words “at least twice in a year” immediately after the word “meet” appearing in paragraph 4(1).

Amendment of
Second
Schedule

- 28.** The principal Act is amended in the Second Schedule by deleting the word “Council” wherever it appears and substituting for it the word “Board”.

OBJECTS AND REASONS

This Bill intends to amend the Environmental Management Act, Cap.191 in order to address challenges that have been encountered during its implementation.

The Environmental Management Act was enacted by the Parliament in 2004 in order to provide for legal and institutional framework for sustainable management of environment; to outline principles for management, impact and risk assessments, prevention and control of pollution, waste management, environmental quality standards, public participation, compliance and enforcement; to provide basis for implementation of international instruments on environment; to provide for implementation of the National Environment Policy. Since its enactment, the Act has been amended three times with the view to ensure compliance with national and global standards in the environmental management.

The Act is proposed to be amended generally in order to accommodate requirements within the Ministries to have a unit that deals specifically with environmental issues. The objective of this amendment is to accommodate the differences in Organizational Structures in the Ministries.

Section 3 is proposed to be amended by modifying the definition of the term “solid waste” in order to provide appropriate interpretation of the such term. Further, the section is amended in order to introduce new definitions of the term “water source” so as to provide accurate interpretation of such term as intended to be used in the Act.

Section 13 is proposed to be amended in order to include matters related to climate change to be part of matters which are under the mandate of the Minister. The objective of the proposed amendment is to facilitate control and management of climate change by the Minister.

Section 36 is proposed to be amended in order to remove the qualification of diploma for Environmental Management Officers. The section is further

proposed to be amended in order to include other emerging environmental assessments to be monitored, reviewed and approved by the environmental officer. The objective of these amendments is to have qualified officers for effective implementation of objectives of the Act.

Section 42 is proposed to be amended to provide the timeframe within which local government authorities are required to prepare and submit environmental action plan to the Minister. The objective of this amendment is to specify the time of preparation and submission of action plan to the Minister.

Section 51 is proposed to be amended in order to set requirement for the Minister to consult relevant sectoral Ministries before declaring environmental sensitive areas. The objective of this amendment is to avail the Minister with technical advice from relevant Ministries.

Section 55 is proposed to be amended to include ocean as among the protected area. The objective of this amendment is to empower the Council and local government authorities to issue guideline and prescribe measure to be taken in protecting the ocean.

Section 56 is proposed to be amended to make provisions requiring the Minister when declaring an area of land to be protected wetland to consult sector ministers instead of only consulting the Minister for land. The objective of this amendment is to ensure that the Minister is availed with technical inputs from relevant sector ministers.

Section 57 is proposed to be amended in order to prohibit human activities that may affect conservation from being conducted within all categories of water sources instead of “ocean or natural lake, shorelines, riverbank, water dam or reservoir” in order to comply with the proposed amendment under section 3. The objective of this amendment is to recognise and protect all water sources under the Water Resources Management Act, Cap. 331.

Section 60 is proposed to be amended in order to replace a water officer with Water Basin Director. The objective of this amendment is to comply with requirement of the Water Resources Management Act, Cap. 331, which require the functions relating to taking precaution to be performed by Water Basin Director.

Section 75 is proposed to be amended in order to introduce mechanisms on which private sector may participate in formulation and implementation climate change policy. The objective of this amendment is to ensure that, the established policies are implementable in combating and preventing climate change. Moreover, a new subsection 75A is proposed to be added in order to facilitate the implementation of climate change policy.

Section 80 is proposed to be amended in order to widen the scope of areas for which the Minister may prescribe initiatives and financial measures for the protection of environment. The objective of this amendment is to protect soil from effluent discharges.

Section 109 is proposed to be amended by substituting the word “stream” with the words “water source”. The objective of this amendment is to comply with the provisions of Water Resources Management Act, Cap. 331, which includes stream as among of water source.

Section 129 is proposed to be amended in order to impose a requirement of the Minister to consult with sector ministries when making rules for storm water management. The objective of this amendment is to ensure that Minister is availed with technical inputs from relevant sector ministries.

Section 140 is proposed to be amended to recognise Technical Committees and Minister responsible for standards in the formulation and approval of environmental quality standards. The objective of this amendment is to comply with the Standards Act, Cap. 130, which is the specific legislation regulating standards.

Section 168 is proposed to be amended by removing the word Agency and replacing to it the word “Authority”. The objective of this amendment is to comply with the Government Chemist Laboratory Authority Act, Cap. 177. The objective of this amendment is to comply with the changes in the law and structure.

Section 169 is proposed to be amended in order to include the Minister responsible for communications as among the Ministers to be consulted by the Minister before making rules prescribing the mode of cooperation between the council and organs established under the Industrial and Consumer Chemicals (Management and Control) Act, Cap. 182. The

objective of this amendment is to ensure that, Minister is availed with technical advice from relevant Minister.

Section 170 is proposed to be amended in order to accommodate changes of names of Tanzania Plant Health and Pesticides Authority and Tanzania Veterinary Laboratory Agency. Further, by adding the Tanzania Communication Regulatory Authority, Tanzania Bureau of Standards and the Government Chemist Laboratory Authority, in order to require them to inform the Council on their functions which has great impact on the environment. The objective of this amendment is to require the said institutions to inform the Council their functions in order to enable the Council to take the appropriate measures to protect the environment.

Sections 195,196,197,198 and 199 are proposed to be amended in order to replace the Minister with Council in reviewing Council's decisions, also mandated the Minister to revise the decision of the Council. The objectives of these amendments are to adhere to the principles of natural justice.

Section 230 is proposed to be amended to widen the mandate of the Minister in making regulations prescribing procedures for the management of climate change. The objective of this amendment is to ensure that procedures for combating climate change are well stipulated in the regulations.

The First Schedule is proposed to be amended to incorporate timeframe for the meeting of the National Environmental Advisory Committee as there was no timeframe prior. The objective of this amendment is to ensure that the environmental matters are deliberated within the appropriate time.

The Second Schedule is proposed to be amended by replacing the word Council with Board in order to rectify errors. The objective of this amendment is to eradicate contradictions.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kurekebisha Sheria ya Usimamizi wa Mazingira, Sura ya 191 ili kukabiliana na changamoto ambazo zimejitokeza wakati wa utekelezaji wake.

Sheria ya Usimamizi wa Mazingira, Sura ya 191 ilitungwa na Bunge la Jamhuri ya Muungano wa Tanzania mwaka 2004 ili kuweka mfumo wa kisheria na kitaasisi wa usimamizi endelevu wa mazingira; kuweka misingi ya usimamizi, tathmini na kuchukua tahadhali kuhusu madhara kwa mazingira, kinga na udhibiti wa uchafuzi wa mazingira, usimamizi wa taka, ubora wa viwango vya mazingira, ushirikishwaji umma, utekelezaji sheria; kuweka misingi ya utekelezaji wa makubaliano ya kimataifa; kutekeleza Sera ya Taifa ya Mazingira. Tangu kutungwa kwake, Sheria imefanyiwa marekebisho mara tatu kwa nia ya kuhakikisha uzingatiaji wa viwango vya kitaifa na kimataifa katika usimamizi wa mazingira.

Sheria inapendekezwa kurekebisha kwa ujumla ili kukidhi matakwa ya Wizara kuwa na sehemu au kitengo kinachoshughulika na masuala ya mazingira. Madhumuni ya marekebisho haya ni kukidhi tofauti za Miundo katika Wizara.

Kifungu cha 3 kinapendekezwa kurekebisha kwa kuboresha tafsiri ya msamiati “solid waste” ili kutoa maana yake sahihi. Aidha, kifungu hiki kinafanyiwa marekebisho kwa kuweka tafsiri mpya ya msamiati “water source” ili kutoa tafsiri sahihi ya neno kama lilivyokusudiwa kutumika katika Sheria.

Kifungu cha 13 kinapendekezwa kurekebisha ili kujumuisha masuala yanayohusiana na mabadiliko ya tabianchi katika masuala ambayo yanasimamiwa na Waziri. Madhumuni ya mapendekezo ya marekebisho hayo ni kumpa Waziri mamlaka ya kudhibiti na kusimamia masuala ya mabadiliko ya tabianchi.

Kifungu cha 36 kinapendekezwa kurekebisha ili kuondoa sifa ya stashahada kwa maafisa wa usimamizi wa mazingira. Aidha, kifungu

kinapendekezwa kurekebisha ili kujumuisha tathmini nyingine zinazoibuka za mazingira zitakazofuatiwa, kuhakikiwa na kuidhinishwa na afisa mazingira. Madhumuni ya marekebisho haya ni kuwa na maafisa wenye vigezo kwa ajili ya utekelezaji bora wa malengo ya Sheria.

Kifungu cha 42 kinapendekezwa kurekebisha ili kutoa muda ambao mamlaka ya serikali za mitaa zinatakiwa kuandaa na kuwasilisha mpango kazi wa mazingira kwa Waziri. Lengo la marekebisho haya ni kubainisha muda maalum wa kuandaa na kuwasilisha mpango kazi kwa Waziri.

Kifungu cha 51 kinapendekezwa kurekebisha ili kuweka sharti la Waziri kushauriana na Wizara za kisekta husika kabla ya kutangaza maeneo muhimu kwa mazingira. Lengo la marekebisho haya ni kumwezesha Waziri kupata ushauri wa kitaalamu kutoka Wizara husika.

Kifungu cha 55 kinapendekezwa kurekebisha ili kujumuisha bahari kama miongoni mwa eneo lililohifadhiwa. Madhumuni ya marekebisho haya ni kulipa Baraza na serikali za mitaa mamlaka ya kutoa miongozo na kuainisha hatua za kuchukua katika kulinda bahari.

Kifungu cha 56 kinapendekezwa kurekebisha ili kuweka masharti yanayomtaka Waziri wakati wa kutangaza ardhi oevu kushauriana na mawaziri wa kisekta badala ya kushauriana na Waziri wa ardhi pekee. Lengo la marekebisho haya ni kuhakikisha kuwa Waziri anapata ushauri wa kitaalamu kutoka kwa mawaziri wa sekta husika.

Kifungu cha 57 kinapendekezwa kurekebisha ili kutambua "bahari au ziwa asilia, mwambao, ukingo wa mto au bwawa" kama vyanzo vya maji ili kuendana na mapendekezo ya marekebisho chini ya kifungu cha 3. Lengo la marekebisho haya ni kuvitambua na kuvilinda vyanzo vyote vya maji chini ya Sheria ya Usimamizi wa Rasilimali za Maji, Sura ya 331.

Kifungu cha 60 kinapendekezwa kurekebisha ili kumuondolea afisa maji jukumu la kujiridhisha na hatua za tahadhari zilizochukuliwa na mmiliki wa kibali cha kutumia maji na kumuweka Mkurugenzi wa Bonde la Maji. Lengo la marekebisho haya ni kuzingatia matakwa ya Sheria ya Usimamizi wa Rasilimali za Maji, Sura ya 331 ambayo yanahitaji kazi zinazohusiana na kuchukua tahadhari kufanywa na Mkurugenzi wa Bonde la Maji.

Kifungu cha 75 kinapendekezwa kurekebisha ili kuanzisha mifumo ambayo sekta binafsi inaweza kushiriki katika kuandaa na kutekeleza sera ya mabadiliko ya tabianchi. Lengo la marekebisho haya ni kuhakikisha kwamba sera itakayotungwa ni bora na inatekelezeka kwenye kupambana na kuzuia mabadiliko ya tabianchi. Aidha, kifungu kipya cha 75A kinapendekezwa kuongezwa kwa lengo la kuboresha utekelezaji wa sera ya mabadiliko ya tabianchi.

Kifungu cha 80 kinapendekezwa kurekebisha ili kujumuisha udongo katika orodha ya masuala ambayo Waziri anaweza kuainisha mpango na hatua za kifedha kwa ajili ya ulinzi wa mazingira. Madhumuni ya marekebisho haya ni kulinda ardhi dhidi ya utiririshaji wa maji taka.

Kifungu cha 109 kinapendekezwa kurekebisha kwa kufuta neno mkondo na badala yake kuweka maneno chanzo cha maji. Lengo la marekebisho haya ni kuzingatia masharti ya Sheria ya Usimamizi wa Rasilimali za Maji, Sura ya 331, ambayo inajumuisha mkondo kama miongoni mwa chanzo cha maji.

Kifungu cha 129 kinapendekezwa kurekebisha ili kujumuisha masharti yanayomtaka Waziri kushauriana na Wizara za kisekta katika kutengeneza kanuni zinazosimamia maji ya mvua. Lengo la marekebisho haya ni kuhakikisha kuwa Waziri anapata ushauri wa kitaalamu kutoka katika Wizara za kisekta zinazohusika wakati wa kuandaa kanuni.

Kifungu cha 140 kinapendekezwa kurekebisha ili kutambua Kamati za Kiufundi na Waziri anayehusika na viwango katika uundaji na uidhinishaji wa viwango vya ubora wa mazingira. Lengo la marekebisho haya ni kuzingatia Sheria ya Viwango, Sura ya 130, ambayo ni sheria mahususi inayodhibiti viwango.

Kifungu cha 168 kinapendekezwa kurekebisha kwa kuondoa neno Wakala na badala yake kuweka neno Mamlaka ili kuendana na mabadiliko ya Sheria ya Mamlaka ya Maabara ya Mkemia Mkuu wa Serikali, Sura ya 177. Lengo la marekebisho haya ni kuendana na mabadiliko ya kisheria na kimuundo.

Kifungu cha 169 kinapendekezwa kurekebisha ili kumjumuisha Waziri mwenye dhamana ya mawasiliano kuwa miongoni mwa Mawaziri watakaoshauriana na Waziri kabla ya kutunga kanuni zinazoeleza namna

ya ushirikiano kati ya baraza na vyombo vilivyoanzishwa chini ya Sheria ya Usimamizi na Udhibiti wa Kemikali za Viwandani na Majumbani, Sura ya 182. Lengo la marekebisho haya ni kuhakikisha kwamba, Waziri anapata ushauri wa kitaalam kutoka kwa Waziri husika.

Kifungu cha 170 kinapendekezwa kurekebishwa ili kuendana na mabadiliko ya majina ya Mamlaka ya Afya ya Mimea na Viuatilifu, na Wakala wa Maabara ya Mifugo Tanzania. pia kuongeza taasisi za Mamlaka ya Udhibiti wa Mawasiliano Tanzania, Shirika la Viwango Tanzania na Mamlaka ya Maabara ya Mkemia Mkuu wa Serikali, ili waweze kutoa taarifa kwa Baraza kwa majukumu ambayo yana athari katika mazingira. Lengo la marekebisho haya ni kuhakikisha kwamba Baraza linapata taarifa ya majukumu yenye madhara katika mazingira ili kuchukua hatua stahiki za kulinda mazingira.

Vifungu vya 195,196,197,198 na 199 vinapendekezwa kurekebishwa ili kuondoa neno Waziri na badala yake kuweka neno Baraza ili liweze kurejea maamuzi yake, Vilevile limempa mamlaka Waziri kufanya mapitio ya maamuzi ya Baraza. Lengo la marekebisho haya ni kuzingatia misingi ya haki za asili.

Kifungu cha 230 kinapendekezwa kurekebishwa ili kuongeza mamlaka kwa Waziri kutengeneza kanuni zitakazoainisha taratibu za usimamizi wa mabadiliko ya tabianchi. Lengo la marekebisho haya ni kuhakikisha kuwa masuala yote yanayohusu kukabiliana na mabadiliko ya tabianchi yanaainishwa kwenye kanuni.

Jedwali la Kwanza linapendekezwa kurekebishwa ili kuainisha muda wa mikutano ya Kamati ya Kitaifa ya Ushauri wa Mazingira kwa kuwa hapakuwa na muda uliowekwa hapo awali. Lengo la marekebisho haya ni kuhakikisha kuwa masuala ya mazingira yanajadiliwa ndani ya muda unaofaa.

Jedwali la Pili linapendekezwa kurekebishwa kwa kutoa neno Baraza na kuweka neno Bodi ili kurekebisha makosa yaliyokuwepo kwenye Jedwali. Lengo la marekebisho haya ni kuondoa mikanganyiko.

Dodoma,
12th October, 2024

ASHATU K. KIJAJI,
*Minister of State,
Vice President's Office,
Union Affairs and Environment*