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**SPECIAL BILL SUPPLEMENT**

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THE LEGAL SECTOR LAWS (MISCELLANEOUS AMENDMENTS) BILL, 2023

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**NOTICE**

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

Dodoma,  
14<sup>th</sup> August, 2023

**MOSES M. KUSILUKA**  
*Secretary to the Cabinet*

**A Bill**  
*for*

**An Act to amend various written laws relating to legal sector.**

**ENACTED** by the Parliament of the United Republic of Tanzania.

**PART I**  
**PRELIMINARY PROVISIONS**

- |                                    |  |
|------------------------------------|--|
| Short title                        | <b>1.</b> This Act may be cited as the Legal Sector Laws (Miscellaneous Amendments) Act, 2023.                                   |
| Amendments of certain written laws | <b>2.</b> 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   | <b>3.</b> This Part shall be read as one with the Advocates Act, hereinafter referred to as the “principal Act”.   |
| Amendment of section 4A | <b>4.</b> The principal Act is amended in section 4A by deleting the words “State Attorney in-charge” appearing in subsections (1)(b) and (3) and substituting for them the words “Regional State Attorney”. |
| Amendment of section 8  | <b>5.</b> The principal Act is amended in section 8(1)(a) by deleting subparagraph (i) and substituting for it the following:  |

“(i) if he is a holder of a degree in law granted by an accredited university, or any other higher learning institution and has a post-graduate diploma in legal practice granted by the Law School of Tanzania;”.

Amendment  
of section 41

**6.** The principal Act is amended in section 41(2) by deleting the words “not exceeding two thousand” and substituting for them the words “of not less than five hundred thousand shillings but not exceeding five million”.

Amendment  
of section 42

**7.** The principal Act is amended in section 42 by deleting the words “not exceeding one million shillings or twelve months imprisonment or both” and substituting for them the words “of not less than two million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than one year but not exceeding three years or to both”.

**PART III**  
**AMENDMENT OF THE APPELLATE JURISDICTION ACT,**  
**(CAP. 141)**

Construction  
Cap. 141

**8.** This Part shall be read as one with the Appellate Jurisdiction Act, hereinafter referred to as the “principal Act”.

Addition of  
section 4A

**9.** The principal Act is amended by adding immediately after section 4 the following:

“No review on interlocutory order or decision

**4A.** An application for review shall not be entertained in respect of the decision of the Court of Appeal on any preliminary or interlocutory decision or order, unless such decision or order has the effect of finally determining the appeal, revision or reference.”.

Amendment  
of section 5

**10.** The principal Act is amended in section 5-  
(a) by deleting subsection (1) and substituting for it the following:

“(1) In civil proceedings, except where any other written law provides otherwise, an appeal shall lie to the Court of Appeal against every order or decree, including an *ex-parte* or preliminary decree made by the High Court, in the exercise of its original, appellate or



- revisional jurisdiction.”; and
- (b) in subsection (2)(a), by-
- (i) deleting the word “or” appearing at the end of subparagraph (i);
  - (ii) adding the word “or” at the end of subparagraph (ii); and
  - (iii) adding immediately after subparagraph (ii) the following:
    - “(iii) any other decision or order of the High Court other than those specified under subsection (1);”.

**PART IV**  
**AMENDMENT OF THE ARBITRATION ACT,**  
**(CAP. 15)**

Construction  
Cap. 15

**11.** This Part shall be read as one with the Arbitration Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 82

**12.** The principal Act is amended in section 82(3), by deleting the words “registration and maintenance of” appearing in paragraph (b) and substituting for them the words “to prepare and maintain a”.

**PART V**  
**AMENDMENT OF THE COMMISSION FOR HUMAN RIGHTS AND**  
**GOOD GOVERNANCE ACT,**  
**(CAP. 391)**

Construction  
Cap. 391

**13.** This Part shall be read as one with the Commission for Human Rights and Good Governance Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 6

- 14.** The principal Act is amended in section 6(1), by -
- (a) deleting the words “administrative justice” appearing in paragraphs (c), (e), (j) and (m) and substituting for them the words “good governance”;
  - (b) deleting the words “administrative justice” appearing in paragraph (d); and
  - (c) deleting paragraph (i) and substituting for it the following:
    - “(i) to take steps to secure the remedying, correction, reversal or cessation of instances referred to under paragraphs (e),

(f) or (g) through fair, proper and effective means;”.

Amendment  
of section 11

- 15.** The principal Act is amended in section 11, by-
- (a) adding the words “and two Deputy Executive Secretaries” immediately after the word “Secretary” appearing in subsection (1);
  - (b) adding the words “or Deputy Executive Secretary” immediately after the word “Secretary” appearing in subsection (2); and
  - (c) adding the word “Executive” between the words “The” and “Secretary” appearing in subsection (4).

Amendment  
of section 12

**16.** The principal Act is amended in section 12, by deleting the words “and the Secretary” appearing in subsection (1) and substituting for them the words “Executive Secretary and the Deputy Executive Secretary”.

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

Construction  
Cap. 20

**17.** This Part shall be read as one with the Criminal Procedure Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 2

**18.** The principal Act is amended in section 2 by adding in its appropriate alphabetical order the following definition:  
““court” means the High Court or as the case may be, a subordinate court;”.

Addition of  
section 4A

**19.** The principal Act is amended by adding immediately after section 4 the following:

“Overriding  
objective

**4A.**-(1) The overriding objective of this Act shall be to facilitate the just, expeditious, proportionate and affordable determination of all matters governed by this Act.

(2) The court shall, in the exercise of its powers under this Act or the interpretation of any of its provisions, seek to give effect to the overriding objective specified in subsection (1).”.

Amendment

**20.** The principal Act is amended in section 202(1) by

- of section 202 deleting the words “order of the Attorney General” and substituting for them the words “the Director of Public Prosecutions”.
- Amendment sections 204 **21.** The principal Act is amended by deleting the words “order of” appearing in sections 204.
- Amendment of section 205 **22.** The principal Act is amended by deleting the words “order of” appearing in section 205.
- Amendment of section 205A **23.** The principal Act is amended in section 205A, by-  
 (a) deleting a full stop appearing at the end of subsection (1) and substituting for it a semi-colon; and  
 (b) adding immediately after subsection (1) a proviso as follows:  
 “Provided that, the cyber-forensic expert, ballistic expert or any other expert shall be an officer appointed by the Director of Public Prosecutions for that purpose.”.
- Addition of section 205B **24.** The principal Act is amended by adding immediately after section 205A the following:  
 “Appointment of expert **205B.** The Director of Public Prosecutions may, by notice in the *Gazette*, appoint from any department of the Government, local government authority or private practice a person to be an expert for the purpose of section 202, 204, 205 or 205A.”.
- Amendment of section 361 **25.** The principal Act is amended in section 361(1) by adding the words “to the trial court” immediately after the word “notice” appearing in paragraph (a).

PART VII  
 AMENDMENT OF THE ECONOMIC AND  
 ORGANISED CRIME CONTROL ACT,  
 (CAP. 200)

- Construction Cap. 200 **26.** This Part shall be read as one with the Economic and Organised Crime Control Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 29

**27.** The principal Act is amended in section 29(4) by deleting the word “ten” appearing in paragraph (d) and substituting for it the words “three hundred”.

**PART VIII**  
**AMENDMENT OF THE ELECTRONIC TRANSACTIONS ACT,**  
**(CAP. 442)**

Construction  
Cap. 442

**28.** This Part shall be read as one with the Electronic Transactions Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 18

**29.** The principal Act is amended in section 18(2) by deleting the words “admissibility and” appearing in the opening phrase.

**PART IX**  
**AMENDMENT OF THE EVIDENCE ACT,**  
**(CAP. 6)**

Construction  
Cap. 6

**30.** This Part shall be read as one with the Evidence Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 127

**31.** The principal Act is amended in section 127, by-  
(a) adding immediately after subsection (6) the following:

“(7) Notwithstanding any other law to the contrary, failure by a child of tender age to meet the provisions of subsection (2) shall not render the evidence of such child inadmissible.”; and

(b) renumbering subsection (7) as subsection (8).

**PART X**  
**AMENDMENT OF THE INSTITUTE OF JUDICIAL**  
**ADMINISTRATION LUSHOTO ACT,**  
**(CAP. 405)**

Construction  
Cap. 405

**32.** This Part shall be read as one with the Institute of Judicial Administration Lushoto Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 5

**33.** The principal Act is amended in section 5(1), by-  
(a) adding immediately after paragraph (h) the following:

“(i) to offer and conduct judicial training and

- continuing education for Judiciary staff and other stakeholders in the administration of justice;” and
- (b) renaming paragraphs (i) and (j) as paragraphs (j) and (k) respectively.
- Amendment of section 6                   **34.** The principal Act is amended in section 6(3) by deleting the word “Minister” and substituting for it the words “Chief Justice”.
- Amendment of section 8                   **35.** The principal Act is amended in section 8 by deleting the word “Minister” wherever it appears and substituting for it the words “Chief Justice”.
- Amendment of section 9                   **36.** The principal Act is amended in section 9(1) by deleting the words “after consultation with the Minister”.
- Amendment of section 14                   **37.** The principal Act is amended in section 14(2) (b) by deleting the words “Principal, the Chief Justice and the Minister” and substituting for them the word “Council”.
- Repeal and replacement of section 23                   **38.** The principal Act is amended by repealing section 23 and replacing for it the following:
- “Regulations and rules                   **23.-**(1) The Council may, with the approval of the Minister, make regulations prescribing terms and conditions of services, appointments, salary and retirement benefits of the members of the Institute.
- (2) Without prejudice to regulations made under subsection (1), the Council may make rules-
- (a) prescribing awards which may be conferred or granted by the Institute;
- (b) prescribing the conditions which may be satisfied before the grant of particular award;
- (c) prescribing instruction course to be provided by Institute;
- (d) regulating the conduct of examinations;
- (e) fixing fees and other charges for the services rendered by

- the Institute;
- (f) providing for and regulating disciplinary proceedings against the staff of the Institute and students;
- (g) fixing the duration and number of academic terms; and
- (h) providing for any matter or things which in the opinion of the Council is necessary to provide for the more efficient performance of the functions of Institute.”.

Amendment  
of Schedule

- 39.** The principal Act is amended in paragraph 1 of the Schedule-
- (a) in subparagraph (1)(b), by deleting the word “Minister” and substituting for it the words “Chief Justice”; and
  - (b) in subparagraph (3), by deleting the word “Minister” and substituting for it the words “Chief Justice”.

**PART XI**  
**AMENDMENT OF THE JUDICIARY ADMINISTRATION ACT,**  
**(CAP. 237)**

Construction  
Cap. 237

- 40.** This Part shall be read as one with the Judiciary Administration Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 3

- 41.** The principal Act is amended in section 3 by deleting the words “and includes a Judge’s Assistant” appearing in the definition of the term “judicial officer”.

Amendment  
of section 33

- 42.** The principal Act is amended in section 33 by deleting the words “or Judge’s Assistant” wherever they appear in that section.

Amendment  
of section 34

- 43.** The principal Act is amended in section 34(1) by deleting the words “Judge’s Assistant” appearing in paragraph (b).

Amendment

- 44.** The principal Act is amended in section 50, by-

- of section 50
- (a) deleting the words “State Attorney in-charge” appearing in subsection (3)(a) and substituting for them the words “Regional State Attorney”; and
  - (b) deleting the words “State Attorney in-charge of the zone in which that region is situated” appearing in subsection (4) and substituting for them the words “Regional State Attorney”.

**PART XII**  
**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 47

**46.** The principal Act is amended in section 47-

- (a) in subsection (1), by inserting the words “appellate or revisional” immediately after the word “original”;
- (b) by deleting subsection (2); and
- (c) by renumbering subsections (3) and (4) as subsections (2) and (3) respectively.

**PART XIII**  
**AMENDMENT OF THE LAW REFORM COMMISSION OF TANZANIA**  
**ACT,**  
**(CAP. 171)**

Construction  
Cap. 171

**47.** This Part shall be read as one with the Law Reform Commission of Tanzania Act hereinafter referred to as the “principal Act”.

Addition of  
section 4A

**48.** The principal Act is amended by adding immediately after section 4 the following:

“Research or  
assessment of  
Bills

**4A.-(1)** Without prejudice to the generality of the provisions of this Act, prior to seeking cabinet approval for new legislation or significant amendments to existing laws, the proposing ministry, department, or agency shall collaborate with the Commission to initiate research or assessment on the proposed measures,

Provided that, where circumstances require otherwise, the proposal for enactment of new legislation or amendment may proceed without the assessment report by the Commission.

(2) Upon completion of the research or assessment, the Commission shall submit a report to the proposing ministry, department or agency containing the findings and recommendations related to the proposed legislation or amendment.”.

Amendment  
of section 5

**49.** The principal Act is amended in section 5(1) by deleting the word “two” and substituting for it the word “four”.

Amendment  
of section 22

**50.** The principal Act is amended in section 22(2) by deleting the word “two” and substituting for it the words “not less than three”.

**PART XIV**  
**AMENDMENT OF THE LAW SCHOOL OF TANZANIA ACT,**  
**(CAP. 425)**

Construction  
Cap. 425

**51.** This Part shall be read as one with the Law School of Tanzania Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 2

**52.** The principal Act is amended in section 2 by deleting subsection (1) and substituting for it the following:

“(1) This Act shall apply to every person who is a law graduate from an accredited university or other higher learning institution awarding bachelor degree in law desiring to practice law in the United Republic, either as a state attorney, a magistrate or as an advocate of the High Court of Tanzania and courts subordinate to it.”.

Amendment  
of section 9

**53.** The principal Act is amended in section 9-  
(a) in subsection (2), by deleting the word “Principal” and substituting for it the words “Deputy Principal responsible for matters relating to practical legal training”; and



- (b) in subsection (4), by deleting the words “determined by the Governing Board” and substituting for them the words “three years and may be renewed for one further term”.

Amendment  
of section 15

**54.** The principal Act is amended in section 15 by deleting subsection (1) and substituting for it the following:

“(1) There is hereby established a Governing Board of the School which shall consist of-

- (a) sitting or retired judge, who shall be the Chairman;
- (b) the Deputy Attorney General;
- (c) Director responsible for public legal services;
- (d) Dean of faculty of law from a public university;
- (e) senior counsel representing the Tanganyika Law Society;
- (f) one member representing Trade Union of the School;
- (g) one member who possesses at least degree in the field of finance, human resources or administration obtained from recognised higher learning institution;
- (h) one member representing private universities; and
- (i) one member representing the Public Bar Association.”.

Amendment  
of section 16

**55.** The principal Act is amended in section 16(4), by-

- (a) deleting paragraph (e); and
- (b) renaming paragraphs (f) to (o) as paragraphs (e) to (n) respectively.

PART XV  
AMENDMENT OF THE LEGAL AID ACT,  
(CAP. 21)

Construction  
Cap. 21

**56.** This Part shall be read as one with the Legal Aid Act, hereinafter referred to as the “principal Act”.

Amendment

**57.** The principal Act is amended in the Schedule by

- of Schedule deleting paragraph 1(1) and substituting for it the following:
- “(1) The National Legal Aid Advisory Board shall consist of the following members appointed by the Minister:
- (a) a retired Judge or a practising advocate with not less than ten years’ working experience in legal aid who shall be the Chairperson;
  - (b) a Law Officer representing the Attorney General;
  - (c) one representative from legal aid providers;
  - (d) one representative from the National Criminal Justice Forum;
  - (e) one representative from Public Bar Association;
  - (f) one representative from the Tanganyika Law Society;
  - (g) the Director of legal services from the Ministry responsible for Local Government or his representative;
  - (h) one representative from associations dealing with persons with disabilities; and
  - (i) one representative from umbrella associations of paralegals.”.

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

- Construction  
Cap. 11                   **58.** This Part shall be read as one with the Magistrates’ Court Act, hereinafter referred to as the “principal Act”.
- Amendment  
of section 2               **59.** The principal Act is amended in section 2 by adding in its appropriate alphabetical order the following definition:  
                                  ““special court” means a court established pursuant to section 17;”.
- Repeal and  
replacement  
of section 17               **60.** The principal Act is amended by repealing section 17 and replacing for it the following:  
                                  “Establishment of court               **17.** Notwithstanding the provisions of this Act or any other written law, the Minister may, in consultation

with the Chief Justice, by order published in the *Gazette*, establish a special court for the purpose of expeditious determination of specified cases.”.

PART XVII  
AMENDMENT OF THE NATIONAL PROSECUTIONS SERVICE ACT,  
(CAP. 430)

Construction  
Cap. 430                    **61.** This Part shall be read as one with the National Prosecutions Service Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 23                **62.** The principal Act is amended in section 23(1) by inserting the words “Law Officer, State Attorney” immediately after the word “Service”.

PART XVIII  
AMENDMENT OF THE OFFICE OF THE ATTORNEY GENERAL  
(DISCHARGE OF DUTIES) ACT,  
(CAP. 268)

Construction  
Cap. 268                    **63.** This Part shall be read as one with the Office of the Attorney General (Discharge of Duties) Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 3                **64.** The principal Act is amended in section 3 by inserting in their appropriate alphabetical order the following definitions:

““autonomous” in relation to the Office of the Chief Parliamentary Draftsman, means the statutory authority to determine the office’s own administrative, planning and financial preferences and translate such preference into authoritative actions in accordance with this Act and any other written law;

“Chief Parliamentary Draftsman” means an officer appointed under section 7F to deal with legislative drafting matter, and shall include the Deputy Chief Parliamentary Draftsman, Law Officers, Parliamentary Draftsmen and State

Attorneys when exercising the functions of the Chief Parliamentary Draftsman;  
 “Solicitor General” means an officer appointed in terms of the Office of the Solicitor General (Establishment) Order, 2018 to handle civil litigation and other alternative dispute resolution matters which the Attorney General is a party, and shall include the Deputy Solicitor-General, Law Officers and State Attorneys when exercising the functions of the Solicitor General;”.

Amendment of section 4

- 65.** The principal Act is amended in section 4, by-
- (a) designating the contents of section 4 as subsection (1);
  - (b) adding the words “and the Office of the Solicitor-General (Establishment) Order, 2018” immediately after figures “2018” appearing in subsection (1) as designated; and
  - (c) adding immediately after subsection (1), as designated the following:
 

“(2) The Office of the Attorney General and the Office of the Solicitor General may establish regional or zonal offices as may be necessary for effective performance of the functions of their offices.”.

Amendment of section 5

- 66.** The principal Act is amended in section 5, by-
- (a) deleting the words “shall, through the Solicitor General,” appearing in subsection (2) and substituting for them the word “shall”; and
  - (b) inserting the words “Solicitor General, Deputy Attorney General,” between the words “the” and “Deputy” appearing in subsection (3).

Addition of sections 7A and 7B

- 67.** The principal Act is amended by adding immediately after section 7 the following:
- “Establishment of Office of Chief Parliamentary Draftsman  
**7A.**-(1) There is hereby established the Office of the Chief Parliamentary Draftsman within the organisation structure of the Office of the Attorney General.

(2) The Office of the Chief Parliamentary Draftsman shall be an

autonomous Office within the Office of the Attorney General.

(3) The Office of the Chief Parliamentary Draftsman may establish such number of Divisions, Units and Sections as may be necessary for effective performance of the functions of the Office.

Appointment  
of Chief  
Parliamentary  
Draftsman  
and Deputy  
Chief  
Parliamentary  
Draftsman

**7B.**-(1) There shall be a Chief Parliamentary Draftsman and a Deputy Chief Parliamentary Draftsman who shall be appointed by the President.

(2) A person shall qualify for appointment as Chief Parliamentary Draftsman or Deputy Chief Parliamentary Draftsman who has ten years of proven experience in legislative drafting and has unqualified competence and integrity.

(3) The Chief Parliamentary Draftsman shall be the head of the Office of the Chief Parliamentary Draftsman.”.

Amendment  
of section 8

- 68.** The principal Act is amended in section 8, by-
- (a) deleting the words “the legislative process and legal opinion on general issues” in paragraph (a) and substituting for them the words “legal matters”;
  - (b) deleting paragraphs (b) and (c);
  - (c) deleting the words “and the Office of the Solicitor General” appearing in paragraph (e); and
  - (d) renaming paragraphs (d) to (k) as paragraphs (b) to (i), respectively.

Addition of  
sections 8A  
and 8B

**69.** The principal Act is amended by adding immediately after section 8 the following:

“Functions of  
Office of Chief  
Parliamentary  
Draftsman

**8A.** The functions of the Office of the Chief Parliamentary Draftsman shall be to-

- (a) advise ministries, independent departments, agencies and other Government institutions and organisation on the legislative process;
- (b) advise the Attorney General on proper and purposeful meaning of

- enactment of Parliament, subsidiary legislation and other legal instruments;
- (c) receive from ministries drafting instructions based on Cabinet decisions and implement the instructions as required;
  - (d) draft legislative proposals into Bills for enactment into laws;
  - (e) draft all legislative instruments and resolutions for ratification by the National Assembly;
  - (f) receive from ministries legislative calendar for each financial year and advise accordingly;
  - (g) facilitate, through the Attorney General, the submission of legislation passed the National Assembly which applies to both parts of the Union to the House of Representatives;
  - (h) draft or scrutinise proposed subsidiary legislation;
  - (i) translate principal and subsidiary legislation;
  - (j) revise legislation; and
  - (k) prepare and submit monthly reports to the Attorney General on matters and duties discharged by the Chief Parliamentary Draftsman for guidance and direction.

Functions of

**8B.**-(1) The Deputy Chief

Deputy Chief  
Parliamentary  
Draftsman

Parliamentary Draftsman shall be the principal assistant to the Chief Parliamentary Draftsman.

(2) In the performance of his functions under subsection (1), the Deputy Chief Parliamentary Draftsman shall be-

(a) the accounting officer within the Office of the Chief Parliamentary Draftsman; and

(b) responsible in managing day to day affairs within the Office of the Chief Parliamentary Draftsman.

(3) Notwithstanding subsection (2), the Deputy Attorney General shall be the appointing and disciplinary authority of employees in the Office of the Chief Parliamentary Draftsman.”.

Deletion and  
substitution of  
Part III

**70.** The principal Act is amended in Part III, by-

(a) deleting the heading to Part III and substituting for it the following:

“PART III  
RELATIONSHIP OF THE OFFICE OF THE  
ATTORNEY GENERAL  
AND OTHER OFFICES”; and

(b) adding the words “*and the Office of the Chief Parliamentary Draftsman*” immediately after the words “*Administrator-General*” appearing in subtitle (a).

Amendment  
of section 10

**71.** The principal Act is amended in section 10-

(a) in subsection (1), by adding the words “and the Office of the Chief Parliamentary Draftsman” immediately after the words “Administrator-General”; and

(b) in subsection (2)(a), by adding the words “and the Office of the Chief Parliamentary Draftsman” immediately after the words “Administrator-General”.

Addition of  
subpart (b)

**72.** The principal Act is amended by-

(a) adding immediately after section 10 the following:

*“(b) Special Provisions in Relation to the Office  
of the Solicitor General*

Relationship of  
Office of  
Attorney General  
and Office of  
Solicitor General

**10A.**-(1) Notwithstanding the provisions of any other written law, the relationship between the Office of the Attorney General and the Office of the Solicitor General shall be that of client-advocate relationship.

(2) Subject to subsection (1), the Solicitor General shall, in all proceedings of a civil nature, and in the performance of his functions-

- (a) take instructions on the conduct of any litigation or arbitration from the Attorney General;
- (b) prepare and submit a report to the Attorney General on each case handled and completed, including the outcome thereof;
- (c) advise the Attorney General on all cases of a civil nature instituted in adjudication bodies by or against the Government;
- (d) handle all civil cases in courts and alternative dispute resolution matters in adjudication bodies;
- (e) hold in strict confidence all information concerning the Attorney General as the client and not divulge any such information unless



authorised by the Attorney General; and  
 (f) perform any other functions relating to cases of a civil nature as may be directed by the Attorney General.”;

(b) renaming subtitle (b) as subtitle (c); and

(c) deleting subtitle (c) as renamed and substituting for it the following:

“(c) *Special Provisions Relating to the Office of the Chief Parliamentary Draftsman*”.

Repeal and replacement of section 12

**73.** The principal Act is amended by repealing section 12 and replacing for it the following;

“Drafting and publication of Bills

**12.**-(1) The Chief Parliamentary Draftsman shall, through the Attorney General, receive drafting instructions from sector ministries that comply with the relevant Cabinet decision.

(2) Subject to subsection (1), the Chief Parliamentary Draftsman shall define drafting instructions received and exercise exclusive mandate on drafting legislative proposals into Government Bills.

(3) The Chief Parliamentary Draftsman shall, in drafting the legislative proposals under subsection (2), consult and collaborate with sectoral ministry and may, where he deems necessary, engage stakeholders in the preparation of legislative proposals.

(4) Where the legislative proposals are prepared in terms of subsection (2), the Chief Parliamentary Draftsman shall forward to the Cabinet the legislative proposals for approval.

(6) The term “drafting instructions” as used in this section, means directives given by the Cabinet for drafting legislative proposals into a Bill.”.

Addition of

**74.** The principal Act is amended by adding

- section 12A immediately after section 12 the following:
- “Attorney General may give directions **12A.** The Attorney General may, by writing under his hand, give the Chief Parliamentary Draftsman directions of a general or specific nature on matters relating to legislative drafting.”
- Addition of Part VIII **75.** The principal Act is amended by adding immediately after Part VII the following:
- “PART VIII  
FINANCIAL PROVISIONS**
- Sources of funds **34.** The funds of the Office of the Attorney General shall consist of-
- (a) any sums that may be appropriated by the Parliament;
  - (b) any moneys by way of donations or grants made within and outside the United Republic; and
  - (c) such sums of money or assets which may vest in or accrue to such offices from other sources by way of fees or in any other way under this Act or any other written law.
- Annual estimates **35.**-(1) The Office of the Attorney General shall, before commencement of the financial year, cause to be prepared, estimates of the revenue and expenditure for that year.
- (2) The annual estimates shall be submitted to the Minister who shall cause the same to be submitted to the National Assembly in accordance with the laws and procedure for such matters.
- Books of **36.**-(1) The Office of the

accounts

Attorney General shall keep proper books of accounts.

(2) Within three months from the end of each financial year, the Office of the Attorney General shall submit to the Controller and Auditor General accounts of the said offices together with-

- (a) a statement of financial activities and income;
- (b) expenditure during that financial year; and
- (c) a statement of assets and liabilities of such offices existing at the end of such financial year.

(3) The accounts of the Office of the Attorney General shall be audited by the Controller and Auditor-General.

Annual report

**37.**-(1) The Office of the Attorney General shall cause to be prepared and submitted to the Minister within six months after the close of each financial year an annual report detailing general activities and operation of their offices during that year.

(2) The annual report shall provide detailed information regarding the exercise of the functions and powers of the Office of the Attorney General during the year to which it relates and shall include-

- (a) a copy of the audited accounts;
- (b) a copy of any other report of the Controller and Auditor-General carried out during the year to which the annual report relates; and
- (c) such information and

other material as may be required by this Act or the regulations to be included in the annual report.”.

PART XIX  
AMENDMENT OF THE PAROLE BOARDS ACT,  
(CAP. 400)

Construction of Cap. 400                    **76.** This Part shall be read as one with the Parole Boards Act, hereinafter referred to as the “principal Act”.

Amendment of section 3                    **77.** The principal Act is amended in section 3(3) by deleting the words “State Attorney in charge of the zone” appearing in paragraph (b) and substituting for them the words “Regional Prosecutions Officer”.

PART XX  
AMENDMENT OF THE PENAL CODE,  
(CAP. 16)

Construction of Cap. 16                    **78.** This Part shall be read as one with the Penal Code, hereinafter referred to as the “principal Act”.

Amendment of section 131                    **79.** The principal Act is amended in section 131 by deleting the words “of the age of eighteen years or less” appearing in subsection (2) and substituting for them the words “below the age of eighteen years”.

PART XXI  
AMENDMENT OF THE PROBATE AND ADMINISTRATION OF  
ESTATES ACT,  
(CAP. 352)

Construction of Cap. 352                    **80.** This Part shall be read as one with the Probate and Administration of Estates Act, hereinafter referred to as the “principal Act”.

Amendment of section 49                    **81.** The principal Act is amended in section 49 by adding immediately after subsection (2) the following:

“(3) The executor or administrator of

estates removed or suspended by the court under subsection (2) shall, within one month from the date of his removal or suspension, file an inventory or as the case may be, accounts of the assets which have come into his hands and the manner in which they have been applied or disposed of.”.

PART XXII  
AMENDMENT OF THE PROCEEDS OF CRIME ACT,  
(CAP. 256)

Constructi  
on  
Cap. 256

**82.** This Part shall be read as one with the Proceeds of Crime Act, hereinafter referred to as the “principal Act”.

Amendme  
nt of  
section 14

**83.** The principal Act is amended in section 14, by-  
(a) adding immediately after subsection (1) the following:

“(2) Notwithstanding the provisions of subsection (1), the court may, where there is an identifiable victim and upon application by the Director of Public Prosecutions, order that the property forfeited be used to compensate the victim.

(3) An order under subsection (2) may be made if the court is satisfied, having regard to the matters contained in the affidavit, that-

- (a) the victim was not in any way involved in the commission of the offence concerned;
- (b) a pecuniary loss of a specific amount has been directly caused by the criminal offence or related offence, that forms the underlying basis for the forfeiture;
- (c) the pecuniary loss is the direct result of the illegal act and is not the result of otherwise lawful act that were committed in the course of the criminal offence;
- (d) the victim does not have recourse reasonably available to other assets from which to obtain compensation for the wrongful loss of the property; and
- (e) the victim has not been compensated

- for the wrongful loss of the property.”;
- (b) adding the words “or used to compensate the victim” immediately after the word “Republic” appearing in subsection (2); and
  - (c) renumbering subsections (2), (3), (4), (5) and (6) as subsections (4), (5), (6), (7) and (8) respectively.

PART XXIII  
AMENDMENT OF THE TANGANYIKA LAW SOCIETY ACT,  
(CAP. 307)

Construction  
Cap. 307                      **84.** This Part shall be read as one with the Tanganyika Law Society Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 15                      **85.** The principal Act is amended in section 15-

- (a) in subsection (3), by adding immediately after paragraph (d) the following:
  - “(e) is a senior member of the Society with ten or more years of practice who either runs or manages a law firm which has five or more employees or has served in any recognised governing board, save for a member representing the association of young lawyers;
  - (f) is a retired judge or magistrate who is an active member of the Society; or
  - (g) is a retired public servant with ten or more years of legal service.”;
- (b) in subsection (5), by deleting the words “one year” and substituting for them the words “three years”.

PART XXIV  
AMENDMENT OF THE TRUSTEES' INCORPORATION ACT,  
(CAP. 318)

Construction  
Cap. 318                      **86.** This Part shall be read as one with the Trustees' Incorporation Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 15                      **87.** The principal Act is amended in section 15 by adding immediately after subsection (3) the following:
 

- “(4) For the purpose of this section, “ordinary resident” means a person who is living in the United Republic lawfully and voluntarily for settlement purposes as part of regular order of his life for the time being

whether for a long or short duration.”.

Amendme  
nt of  
section 23

**88.** The principal Act is amended in section 23 by deleting subsection (2) and substituting for it the following:

Cap.  
334

“(2) At the expiration of such period as aforesaid, the Administrator-General may, by notice in the *Gazette*, revoke the incorporation of such body corporate and thereupon the trustee or trustees shall cease to be incorporated and all movable and immovable property vested in the body corporate shall, subject to the provisions of the Land Registration Act or any Act amending or replacing the same, vest in the Administrator General as a Public Trustee, and all covenants and conditions relating to any such immovable property enforceable by or against the body corporate before the revocation of its incorporation shall be enforceable to the same extent by or against the Administrator General.”.

Amendme  
nt of  
section 28

**89.** The principal Act is amended in section 28-

- (a) in subsection (1), by deleting the words “commits an offence and is liable upon conviction to a fine not exceeding” and substituting for them the words “shall be liable to a fine of not less than two hundred thousand shillings and ”;
- (b) in subsection (2), by deleting the phrase “he commits an offence and is liable upon conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment” and substituting for it the phrase “shall be liable to a fine of not less than two hundred thousand shillings”; and
- (c) by deleting subsection (3) and substituting for it the following:

“(3) Where the default concerned relates to the late filing of returns contrary to sections 6(3) and (4), 16(2) and (3) and 18, the defaulter shall, in addition to any other penalty provided, pay to the Administrator-General late filing fees of one hundred thousand shillings for every month during which the default continues.”.

## OBJECTS AND REASONS

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This Bill proposes to amend different laws responsible for administration of justice in the country. The laws proposed to be amended are pivotal in determining rights and liberties of the general public.

This Bill proposes to amend Twenty Three laws namely the Advocates Act, Cap. 341, the Appellate Jurisdiction Act, Cap 141, the Arbitration Act, Cap. 15, the Commission for Human Rights and Good Governance Act, Cap.391, the Criminal Procedure Act, Cap. 20, the Economic and Organised Crime Control Act, Cap. 200, the Electronic Transactions Act, Cap. 442, the Evidence Act, Cap. 6, the Institute of Judicial Administration Lushoto Act, Cap. 405, the Judiciary Administration Act, Cap. 237, the Land Disputes Courts Act, Cap. 216, the Law Reform Commission of Tanzania Act, Cap. 171, the Law School of Tanzania Act, Cap. 425, the Legal Aid Act, Cap. 21, the Magistrates' Courts Act, Cap. 11, the National Prosecutions Service Act, Cap. 430, the Office of the Attorney General (Discharge of Duties) Act, Cap. 268, the Parole Boards Act, Cap. 400, the Penal Code, Cap. 16, the Probate and Administration of Estates Act, Cap. 352, the Proceeds of Crime Act, Cap. 256, the Tanganyika Law Society Act, Cap. 307 and the Trustees' Incorporation Act, Cap. 318.

This Bill is divided into Twenty Four Parts whereby, 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 the Advocates Act, Cap. 341, whereby section 4A is amended in order to designate the Regional State Attorney to represent the Attorney General in the Regional Advocates Committee. The purpose of this amendment is to comply with the current organisation structure of the Office of the Attorney General. Sections 41 and 42 are amended in order to increase the penalty to unqualified persons who act as advocates and for those who pretend to be advocates. This amendment aims at deterring the commission of those offences which prejudice the ends of justice.

Part III of the Bill proposes to amend the Appellate Jurisdiction Act, Cap. 141, whereas section 4A is added to restrict application for review of inter-locutory decisions to the Court of Appeal unless such application has the effect of finally determining the appeal. Furthermore, section 5 is proposed to be amended in order to improve the conditions and circumstances for appealing to the Court of Appeal in civil cases. The objective of the amendment is to expedite the process of determination of cases to finality.



Part IV of the Bill proposes to amend the Arbitration Act, Cap. 15 whereas section 82 is amended to remove from the Tanzania Arbitration Centre powers to register arbitrators as such powers are exercised by the Registrar under the Civil Procedure Act, Cap. 33. The aim of this amendment is to harmonize the provisions of the respective laws.

Part V of the Bill proposes to amend the Commission for Human Rights and Good Governance Act, Cap. 391, whereas section 6 is amended by substituting the term “administrative justice” for the term “good governance”. The purpose of this amendment is to use terminologies that reflect accurately the functions of the Commission as stipulated in the Constitution of the United Republic of Tanzania, 1977. Section 11 is proposed to be amended in order to introduce the position of Deputy Executive Secretaries in the Commission. The aim of this amendment is to facilitate better performance of the functions of the Commission. Moreover, section 12 of the Act is amended in order to impose a requirement of the Deputy Secretary to take Oath before the president prior to commencing discharge of functions.

Part VI of the Bill proposes to amend the Criminal Procedure Act, Cap. 20, whereby section 4A is added in order to introduce the principle of overriding objectives in the Act. The purpose of this amendment is to provide for principles on dispensation of fundamental justice and avoidance technicalities in the administration of criminal justice. Sections 202, 204, 205, 205A and 205B are proposed to be amended to prescribe the manner in which experts such as ballistic experts and cyber forensic experts may be appointed by the Director of Public Prosecutions. The aim of the proposed amendments is to explicitly state and maintain consistency in the provisions of the Act on the manner of appointment and publication of experts who are appointed by the Director of Public Prosecutions. Further, section 361 of the Act is proposed to be amended in order to specify a court to which the notice of intention to appeal is to be lodged for matters determined by a subordinate court.

Part VII of the Bill proposes to amend the Economic and Organised Crime Control Act, Cap. 200, whereby section 29 is amended in order to raise the threshold of pecuniary amount of property involved in an offence charged for which bail application can be entertained to be three hundred million shillings. The purpose of this amendment is to remove contradictions of pecuniary provisions governing bail matters in economic cases.

Part VIII of the Bill proposes to amend the Electronic Transactions Act, Cap. 442, whereas section 18 (2) is proposed to be amended in order to do away with the provisions relating to admissibility of electronic evidence. The purpose of this amendment is to confine the subsection to matters relating to weight of evidence.

Part IX of the Bill proposes to amend the Evidence Act, Cap. 6 whereby section 127 is amended in order to enable the evidence of a child of tender age to be admitted in court regardless of not fulfilling the test provided for in the Act or any other written law regarding admissibility of evidence of a child of tender age. The aim of the proposed amendment is to address challenges observed in the court's interpretation of the provision whereby, the evidence of a child of tender age is not awarded any weight if the child fails to promise to tell the truth or not tell a lie.

Part X of the Bill proposes to amend the Institute of Judicial Administration Lushoto Act, Cap. 405, whereas section 5 is amended in order to confer upon the Institute a mandate to offer judicial and continuing legal education. Further, sections 6, 8 and 9 are amended to confer the administration of the Institute to the Chief Justice. Section 14 is amended to make the Academic Planning and Examinations Committee accountable to the Council and not to the Minister, Chief Justice and Principal. Section 23 is amended to give the Council powers to make rules for the better carrying out of the Institute's day to day functions. The purpose of these amendments is to align the leadership structure and systems of the Institute with rules and regulations promulgated by the National Council for Technical and Vocational Education and Training (NACTVET).

Part XI of the Bill proposes to amend the Judiciary Administration Act, Cap. 237, whereas sections 3, 33 and 34 are proposed to be amended in order to remove the designation of judges' assistants from the provisions of those sections. The purpose of this amendment is to reflect the new organisation structure of the judiciary which does not recognize judges' assistants as a substantive post. Further, section 50 is proposed to be amended in order to recognize Regional State Attorneys as official representatives of the Attorney General in the Regional Judicial Officers Ethics Committee. The purpose of this amendment is to comply with the current organisation structure of the Office of the Attorney General.

Part XII of the Bill proposes to amend the Land Disputes Courts Act, Cap. 216, whereas section 47 is proposed to be amended so as to give power to the Court of Appeal to determine appeals from the High Court in the exercise of its appellate or revisional jurisdiction. The purpose of this amendment is to enhance efficiency in the dispensation of justice relating to land disputes.

Part XIII of the Bill proposes to amend the Law Reform Commission of Tanzania Act, Cap. 171, whereas section 4A is proposed to be added in order to provide for a requirement for involving the Law Reform Commission in the legislative process in Tanzania. The purpose of this amendment is to improve the quality of legislation as well as to ensure that the decision-making process is well informed, transparent, and in the best interest of the country. Section 5(1) is proposed to be amended by adding a number of part time Commissioners from two to four due

to increased functions of the Commission. Consequently, section 22 is proposed to be amended in order to add the number of members required to constitute a quorum for meetings of the Commission. The proposed amendments aim at enhancing implementation of the functions of the Law Reform Commission.

Part XIV of the Bill proposes to amend the Law School of Tanzania Act, Cap. 425, whereas section 2 is proposed to be amended to specify the persons to whom the Act applies. Further, section 9 is proposed to be amended by removing the Principal of the School from the Examination Committee and instead adding the Deputy Principal responsible for matters relating to practical legal training and to make provisions for re-appointment of the members of the committee for one further term. The purpose of this amendment is to enable the committee to carry out its functions more effectively. Section 15 is proposed to be amended by altering the composition of the members comprising the Governing Board of the School by including members who are not lawyers. This amendment aims at making the Board more effective in handling its matters.

Part XV of the Bill the proposes to amend the Legal Aid Act, Cap 21, whereas the Schedule to the Act is amended in order to remove a serving judge and the Attorney General from being members of the National Legal Aid Advisory Board. The purpose of this amendment is to improve the functionality of the Board.

Part XVI of the Bill proposes to amend the Magistrates' Courts Act, Cap. 11, whereas section 17 is proposed to be amended to make provisions for the establishment of special courts. The purpose of the amendment is to enhance dispensation of justice and expedite disposition of cases.

Part XVII of the Bill proposes to amend the National Prosecutions Service Act, Cap. 430, whereby section 23(1) is proposed to be amended in order to include Law Officers and State Attorneys in the list of persons to whom the Director of Public Prosecutions may delegate his powers under the Act. The purpose of this amendment is to facilitate the effective discharge of functions of the National Prosecutions Service.

Part XVIII of the Bill proposes to amend the Office of the Attorney General (Discharge of Duties) Act, Cap. 268, whereas section 3 of the Act is proposed to be amended by providing definition of new terms which are intended to be used in the Act. It is also proposed to add new sections 7A and 7B in order to provide for the establishment of the Office of the Chief Parliamentary Draftsman within the organisation structure of the Office of the Attorney General. Further, new sections 8A and 8B are proposed to be added in order to provide for the functions of the Office of the Chief Parliamentary Draftsman. The amendments also intend to add a new section 10A that provides for client-advocate relationship between the Office of the Attorney General and that of the Solicitor General. Further,

section 12A is proposed to be added to empower the Attorney General to give directions of general or specific nature to the Chief Parliamentary Draftsman. It is also proposed to add a new Part that provides for sources of fund for the Office of the Attorney General and other related financial provisions.

Part XIX of the Bill proposes to amend the Parole Boards Act, Cap. 400, whereby section 3 is proposed to be amended by making the Regional Prosecutions Officer a member of Regional Parole Board. The aim is to harmonize the provisions of the Act with the current organisation structure of the Office of the Attorney General.

Part XX of the Bill proposes to amend the Penal Code, Cap. 16, whereas section 131(2) is proposed to be amended by providing the age of a child to be below eighteen years. The purpose of this amendment is to align the age of a child with other laws governing children.

Part XXI of the Bill proposes to amend the Probate and Administration of Estates Act, Cap. 352, whereas section 49 is proposed to be amended in order to add provisions which require administrators or executors whose powers are either revoked or suspended under the Act, to file an inventory or accounts thereof to the court. The purpose of this amendment is to protect deceased estate and inform the court with duties implemented by the administrator or executor prior to being relieved from exercising such duties.

Part XXII of the Bill proposes to amend the Proceeds of Crime Act, Cap. 256, whereas section 14 is proposed to be amended in order to provide for circumstances in which identifiable victims of proceeds of crimes may be compensated. The aim of this amendment is to make reparations to victims of crimes.

Part XXIII of the Bill proposes to amend the Tanganyika Law Society Act, Cap. 307, whereas section 15 is proposed to be amended in order to add the qualifications for membership to the Governing Council and to increase the tenure of members of the Governing Council. The purpose of the amendment is to strengthen the Governing Board and to provide ample time for the members to complete their responsibilities.

Part XXIV of the Bill proposes to amend the Trustees' Incorporation Act, Cap. 318, whereas section 15 is proposed to be amended in order to define the words ordinary resident. The purpose of this amendment is to clarify the use of such terms as used in the section. Further, section 23 is proposed to be amended in order to make better provisions to empower Administrator-General to handle immovable properties of trustee incorporations which have been revoked under the Act. The purpose of this amendment is to prevent misuse of immovable

properties of trustee corporations after such incorporations are revoked. Section 28 is proposed to be amended by making non-compliance with the provisions of the section to be an administrative default instead of a criminal offence. Further, fines prescribed under the section have been enhanced in order to ensure compliance with the Act.

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### MADHUMUNI NA SABABU

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Muswada huu unapendekeza kufanya marekebisho katika sheria mbalimbali zinazotumika katika utoaji wa haki nchini. Sheria zinazopendekezwa kurekebishwa ni muhimu katika mfumo mzima wa utoaji haki.

Muswada huu unapendekeza kufanya marekebisho katika Sheria Ishirini na Tatu ambazo ni Sheria ya Mwakili, Sura ya 341, Sheria ya Mamlaka ya Rufaa, Sura ya 141, Sheria ya Usuluhishi, Sura ya 15, Sheria ya Tume ya Haki za Binadamu na Utawala Bora, Sura ya 391, Sheria ya Mwenendo wa Mashauri ya Jinai, Sura ya 20, Sheria ya Ujumumu Uchumi na Makosa ya Kupanga, Sura ya 200, Sheria ya Miamala ya Kielektroniki, Sura ya 442, Sheria ya Ushahidi, Sura ya 6, Sheria ya Chuo cha Usimamizi wa Mahakama Lushoto, Sura ya 405, Sheria ya Usimamizi wa Mahakama, Sura ya 237, Sheria ya Mahakama za Migogoro ya Ardhi, Sura ya 216, Sheria ya Tume ya Kurekebisha Sheria Tanzania, Sura ya 171, Sheria ya Shule ya Sheria Tanzania, Sura ya 425, Sheria ya Msaada wa Kisheria, Sura ya 21, Sheria ya Mahakama za Mahakimu, Sura ya 11, Sheria ya Ofisi ya Taifa ya Mashtaka, Sura ya 430, Sheria ya Utekelezaji wa Majukumu ya Ofisi ya Mwanasheria Mkuu wa Serikali, Sura ya 268, Sheria ya Bodi ya Msamaha wa Wafungwa, Sura ya 400, Sheria ya Kanuni za Adhabu, Sura ya 16, Sheria ya Uthibitishaji Wosia na Usimamizi wa Mirathi, Sura ya 352, Sheria ya Mapato Yatokanayo na Uhalifu, Sura ya 256, Sheria ya Chama cha Wanasheria Tanganyika, Sura ya 307 na Sheria ya Usajili wa Wadhamini, Sura ya 318.

Muswada huu umegawanyika katika Sehemu Ishirini na Nne, ambapo Sehemu ya Kwanza inahusu Masharti ya Utangulizi yanayojumuisha Jina la Muswada na namna ambavyo Sheria mbalimbali zinapendekezwa kurekebishwa na Muswada huu.

Sehemu ya Pili ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Mwakili, Sura ya 341 ambapo kifungu cha 4A kinapendekezwa kurekebishwa ili kuondoa cheo cha Wakili wa Serikali Mfawidhi (State Attorney Incharge) na badala yake kuweka cheo cha Wakili wa Serikali wa Mkoa (Regional State Attorney). Madhumuni ya marekebisho haya ni kumfanya Wakili wa Serikali wa Mkoa kuwa mwakilishi wa Mwanasheria Mkuu wa Serikali katika kamati ya

Mwakili wa Mkoa, na pia kuendana muundo wa sasa wa Ofisi ya Mwanasheria Mkuu wa Serikali. Vifungu vya 41 na 42 vinapendekezwa kurekebisha ili kuongeza adhabu kwa watu wanaofanya kazi za uwakili ambao hawana sifa za kufanya kazi hizo. Lengo la marekebisho yanayopendekezwa ni kuzuia utendaji wa makosa hayo ambayo huathiri upatikanaji wa haki.

Sehemu ya Tatu ya Muswada inapendekeza kurekebisha Sheria ya Mamlaka ya Rufaa, Sura ya 141 ambapo kifungu cha 4A kinapendekezwa kuongezwa ili kuweka zuio kwa Mahakama ya Rufani kusikiliza maombi ya mapitio au uamuzi wa muda isipokuwa kama maombi hayo yana athari ya kumaliza shauri. Vilevile, kifungu cha 5 kinapendekezwa kurekebisha ili kuboresha masharti ya kukata rufaa katika mashauri ya madai. Msingi wa marekebisho haya ni kuweka utaratibu utakaosaidia umalizaji wa mashauri kwa wakati.

Sehemu ya Nne ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Usuluhishi, Sura ya 15, ambapo kifungu cha 82 kinapendekezwa kufanyiwa marekebisho ili kuondoa mamlaka ya kusajili wasuluhishi kutoka Kituo cha Usuluhishi kwa kuwa wasuluhishi husajiliwa na Msajili chini ya Sheria ya Mwenendo wa Mashauri ya Madai, Sura ya 33. Lengo la marekebisho haya ni kuoanisha masharti ya Sheria hizo.

Sehemu ya Tano ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Tume ya Haki za Binadamu na Utawala Bora, Sura ya 391, ambapo kifungu cha 6 kinapendekezwa kurekebisha ili kufuta maneno “administrative justice” na baadala yake kuweka maneno “good governance”. Lengo la marekebisho haya ni kutumia maneno ambayo yanaakisi majukumu ya Tume kama yalivyoainishwa katika Katiba ya Jamhuri ya Muungano wa Tanzania ya mwaka 1977. Aidha, kifungu cha 11 kinapendekezwa kufanyiwa marekebisho ili kuanzisha cheo cha Naibu Makatibu wa Tume. Lengo la marekebisho haya ni kuboresha utekelezaji wa majukumu ya Tume. Vilevile, kifungu cha 12 kinapendekezwa kurekebisha ili kuweka sharti kwa Naibu Makatibu wa Tume kuapa mbele ya Rais kabla ya kuanza kutekeleza majukumu yao.

Sehemu ya Sita ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Mwenendo wa Mashauri ya Jinai, Sura ya 20 kwa kuongeza kifungu cha 4A ili kuainisha madhumuni ya msingi (Overriding objectives) katika Sheria hii. Lengo la marekebisho haya ni kuzitaka mahakama kutenda haki kwa wakati na kuangalia haki msingi katika kusikiliza mashauri ya jinai bila kufungwa na masharti ya kiufundi. Aidha, vifungu vya 202, 204, 205, 205A na 205B vinapendekezwa kurekebisha kwa kuainisha namna ambayo wataalamu kama vile wataalamu wa milipuko na wataalam wa uchunguzi wa makosa ya mtandao wanaweza kuteuliwa na Mkurugenzi wa Mashtaka. Madhumuni ya marekebisho haya ni kuwianisha masharti ya Sheria kuhusu taratibu za uteuzi na utangazaji wa wataalam. Vilevile, kifungu cha 361 kinapendekezwa kurekebisha kwa

kubainisha mahakama ambapo notisi ya kusudio la rufaa itawasilishwa kwa mashauri yaliyoamuliwa na mahakama za mahakimu.

Sehemu ya Saba ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Uhujumu Uchumi na Makosa ya Kupanga, Sura ya 200, ambapo kifungu cha 29 kinarekebishwa kwa kuongeza kiwango cha thamani ya mali zinazohusika na kosa ambalo linaweza kutolewa dhamana kuwa shilingi milioni mia tatu. Lengo la marekebisho haya ni kuondoa mkanganyiko katika masharti yanayoweka viwango vya fedha katika dhamana zinazohusu mashauri ya uhujumu uchumi.

Sehemu ya Nane ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Miamala ya Kielektroniki, Sura ya 442 ambapo kifungu cha 18(2) kinapendekezwa kurekebishwa ili kufuta masharti yanayohusu upokeaji wa ushahidi wa kielektroniki. Lengo la marekebisho haya ni kukifanya kifungu kidogo cha (2) kihusike na masuala ya uzito wa ushahidi pekee.

Sehemu ya Tisa ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Ushahidi, Sura ya 6 ambapo kifungu cha 127 kinarekebishwa ili kuwezesha ushahidi wa mtoto wa umri mdogo kupokelewa bila kujali vigezo vilivyotolewa na Sheria au sheria nyingine yoyote kuhusu kupokelewa kwa ushahidi huo. Lengo la marekebisho haya ni kuondoa changamoto ya tafsiri mahakamani ambapo ushahidi wa mtoto umekuwa haupewi uzito endapo mtoto hakutoa ahadi ya kusema ukweli au kutosema uongo. Hali hii imesababisha watuhumiwa katika kesi nyingi, hususani kesi za ukatili kwa watoto, kuachiwa huru kutokana na kukosekana kwa uthibitisho wa ahadi ya mtoto kusema ukweli au kutosema uongo.

Sehemu ya Kumi ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Chuo cha Usimamizi wa Mahakama Lushoto, Sura ya 405, ambapo Kifungu cha 5 kinarekebishwa ili kukipa Chuo mamlaka ya kutoa mafunzo ya kimahakama na mafunzo endelevu ya sheria. Vilevile, vifungu vya 6, 8 na 9 vinapendekezwa kufanyiwa marekebisho ili kumpa Jaji Mkuu mamlaka ya kusimamia Chuo. Kifungu cha 14 kinarekebishwa ili kuifanya Kamati ya Mipango ya Taaluma na Mitihani kuwajibika kwa Baraza badala ya kuajibika kwa Waziri, Jaji Mkuu na Mkuu wa Chuo. Kifungu cha 23 kinapendekezwa kufanyiwa marekebisho ili kulipa Baraza mamlaka ya kutengeneza kanuni zinazohusu utekelezaji wa majukumu ya kila siku ya Chuo. Lengo la marekebisho haya ni kuwianisha muundo wa uongozi na mifumo ya chuo na kanuni zinazotolewa na Baraza la Taifa la Elimu ya Ufundi na Mafunzo ya Ufundi Stadi.

Sehemu ya Kumi na Moja ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Usimamizi wa Mahakama, Sura ya 237, ambapo vifungu vya 3, 33 na 34 vinapendekezwa kurekebishwa kwa kufuta cheo cha msaidizi wa jaji

katika masharti ya vifungu hivyo. Msingi wa marekebisho haya ni kwenda sanjari na mabadiliko yaliyofanyika katika muundo wa Mahakama ambao hautambui kada ya wasaidizi wa majaji. Vilevile, kifungu cha 50 kinapendekezwa kurekebishwa ili kumfanya Wakili wa Serikali wa Mkoa kuwa mwakilishi wa Mwanasheria Mkuu wa Serikali katika Kamati ya Maadili ya Mkoa ya Maafisa wa Mahakama. Lengo la marekebisho haya ni kuweka masharti yanayoendana na muundo wa sasa wa Ofisi ya Mwanasheria Mkuu wa Serikali.

Sehemu ya Kumi na Mbili ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Mahakama za Migogoro ya Ardhi, Sura ya 216 ambapo kifungu cha 47 kinapendekezwa kurekebishwa ili kuipa Mahakama ya Rufaa mamlaka ya kusikiliza rufaa kwa uamuzi wa Mahakama Kuu katika kutekeleza mamlaka yake ya rufaa na mapitio. Lengo la marekebisho ni kuongeza ufanisi katika utoaji haki kuhusu migogoro ya ardhi.

Sehemu ya Kumi na Tatu ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Tume ya Kurekebisha Sheria Tanzania, Sura ya 171 ambapo inapendekezwa kuongeza kifungu kipya cha 4A ili kutoa sharti kwa Tume ya Kurekebisha Sheria Tanzania kuhusishwa katika mchakato wa utungaji sheria. Madhumuni la marekebisho haya ni kuimarisha ubora wa sheria na kuhakikisha kuwa mchakato wa ufanyaji maamuzi unafanyika baada ya kupata taarifa za kutosha, kwa uwazi na kwa maslahi mapana ya nchi. Aidha, kifungu cha 5 kinarekebishwa kwa kuongeza idadi ya Makamishna wa muda kutokana na ongezeko la majukumu ya Tume. Sambamba na marekebisho hayo kifungu cha 22 kinapendekezwa kurekebishwa ili kuongezea idadi ya wajumbe wanaoweza kuunda akidi katika kikao cha Tume. Lengo la marekebisho haya ni kuimarisha utekelezaji wa majukumu ya Tume ya kurekebisha Sheria.

Sehemu ya Kumi na Nne ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Shule ya Sheria Tanzania, Sura ya 425 ambapo kifungu cha 2 kinarekebishwa kwa kubainisha watu wanaosimamiwa na Sheria hiyo. Vilevile, kifungu cha 9 kinapendekezwa kurekebishwa ili kumuondoa Mkuu wa Shule ya Sheria katika Kamati ya Mitihani na badala yake kumjumuisha Naibu Mkuu wa Shule anayehusika na masuala ya mafunzo ya sheria kwa vitendo. Aidha, muda wa Kamati unapendekezwa kuongezwa ili wajumbe wake waweze kuteuliwa kwa awamu nyingine. Madhumuni ya marekebisho haya ni kuweka mazingira wezeshi kwa Kamati kutekeleza majukumu yake ipasavyo. Kifungu cha 15 kinapendekezwa kurekebishwa kwa kubadili muundo wa Bodi ya Shule ili kuwajumuisha wajumbe ambao si wanasheria. Madhumuni ya marekebisho haya ni kuiwezesha Bodi kutekeleza majukumu yake kwa ufanisi zaidi.

Sehemu ya Kumi na Tano ya Muswada inapendekeza kufanya marekebisho ya Sheria ya Msaada wa Sheria, Sura ya 21, ambapo Jedwali la Sheria



linarekebishwa ili kuwaondoa Jaji anayehudumu pamoja na Mwanasheria Mkuu wa Serikali katika Bodi ya Taifa ya Ushauri wa Msaada wa Sheria na badala yake kuwaweka Jaji Mstaafu au wakili wa kujitegemea mwenye uzoefu usiopungua miaka kumi, na afisa sheria (Law Officer) ambaye atamwakilisha Mwanasheria Mkuu wa Serikali. Madhumuni ya marekebisho ni kuboresha utendaji kazi wa Bodi.

Sehemu ya Kumi na Sita ya Muswada inapendekeza kurekebisha Sheria ya Mahakama za Mahakimu Sura ya 11, ambapo kifungu cha 17 kinapendekezwa kurekebisha ili kuweka masharti ya uanzishwaji wa mahakama maalumu. Lengo la marekebisho haya ni kuboresha utoaji wa haki kwa kuharakisha umalizaji wa mashauri.

Sehemu ya Kumi na Saba ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Ofisi ya Taifa ya Mashtaka, Sura ya 430 ambapo kifungu cha 23(1) kinapendekezwa kurekebisha ili kuwajumuisha Maafisa Sheria na Mwakili wa Serikali katika orodha ya watu wanaoweza kukasimiwa mamlaka na Mkurugenzi wa Mashtaka. Madhumuni ya marekebisho haya ni kuwezesha utekelezaji wa majukumu ya Ofisi ya Taifa ya Mashtaka kwa ufanisi.

Sehemu ya Kumi na Nane ya Muswada inapendekeza kurekebisha Sheria ya Utekelezaji wa Majukumu ya Ofisi ya Mwanasheria Mkuu wa Serikali, Sura ya 268. Kifungu cha 3 kinapendekezwa kufanyiwa marekebisho kwa kuongeza tafsiri ya misamiati inayopendekezwa kutumiwa katika Sheria. Sehemu hii pia inapendekeza kuweka vifungu vipya vya 7A na 7B ili kuweka masharti ya uanzishaji wa Ofisi ya Mwandishi Mkuu wa Sheria katika muundo wa Ofisi ya Mwanasheria Mkuu wa Serikali. Inapendekezwa pia kuongeza vifungu vipya vya 8A na 8B ili kuainisha majukumu ya Ofisi ya Mwandishi Mkuu wa Sheria inayopendekezwa kuanzishwa. Aidha, marekebisho yanapendekeza kuongeza kifungu kipya cha 10A kinachoinisha uhusiano kati ya Ofisi ya Mwanasheria Mkuu wa Serikali na Wakili Mkuu wa Serikali. Vilevile, section 12A kinapendekezwa kuongezwa ili kumpa Mwanasheria Mkuu wa Serikali mamlaka ya kutoa maelekezo ya jumla au mahususi kwa Mwandishi Mkuu wa Sheria kuhusu masuala ya uandishi wa sheria. Sambamba na marekebisho hayo, inapendekezwa kuongeza Sehemu mpya inayoainisha vyanzo vya fedha vya Ofisi ya Mwanasheria Mkuu pamoja na kuweka masharti mengine kuhusu masuala ya fedha.

Sehemu ya Kumi na Tisa ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Msamaha kwa Wafungwa, Sura ya 400 ambapo kifungu cha 3 kinarekebisha ili kumuwezesha Mwendesha Mashtaka wa Mkoa kuwa mjumbe wa Bodi ya Msamaha wa Wafungwa ya Mkoa. Lengo la marekebisho haya ni kuwianisha Sheria hii na mabadiliko ya muundo wa Ofisi ya Mwanasheria Mkuu wa Serikali.

Sehemu ya Kumi na Ishirini ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Kanuni za Adhabu, Sura ya 16, ambapo kifungu cha 131(2) kinarekebishwa ili kubainisha kuwa umri wa mtoto ni chini ya umri wa miaka kumi na nane. Lengo la marekebisho haya ni kuwianisha umri wa mtoto katika Sheria hii na umri wa mtoto katika Sheria nyingine zinazohusu watoto.

Sehemu ya Ishirini na Moja ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Uthibitishaji Wosia na Usimamizi wa Mirathi, Sura ya 352 ambapo, kifungu cha 49 kinapendekezwa kurekebishwa ili kuweka masharti kwa wasimamizi wa mirathi kuwasilisha mahakamani taarifa za mali za urithi pale ambapo wasimamizi hao wanatenguliwa au kusimamishwa kuwa wasimamizi wa mirathi. Lengo la marekebisho haya ni kusaidia kulinda mali za urithi pamoja na mahakama kujua kazi alizotekeleza msimamizi wa mirathi kabla ya usimamizi wake kutenguliwa.

Sehemu ya Ishirini na Mbili ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Mapato Yatokanayo na Uhalifu, Sura ya 256, ambapo kifungu cha 14 kinapendekezwa kufanyiwa marekebisho ili kuainisha utaratibu wa kulipa fidia kwa wahanga wa makosa ya uhalifu chini ya Sheria hii. Madhumuni ya marekebisho haya ni kuwezesha wahanga wa uhalifu kulipwa fidia.

Sehemu ya Ishirini na Tatu ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Chama cha Wanasheria Tanganyika, Sura ya 307 ambapo kifungu cha 15 kinarekebishwa ili kuongeza sifa za wajumbe wa Baraza pamoja na kuongeza muda wa wajumbe wa Baraza la Uongozi wa Chama kuwa madarakani. Lengo la marekebisho haya ni kuimarisha uongozi na kuweka muda wa kutosha kwa viongozi kutekeleza vipaumbele vya Baraza.

Sehemu ya Ishirini na Nne ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Usajili wa Wadhamini, Sura ya 318 ambapo kifungu cha 15 kinapendekezwa kurekebishwa ili kuweka tafsiri ya maneno ordinary resident. Madhumuni ya marekebisho haya ni kutoa ufafanuzi wa maneno hayo kama yalivyotumika katika kifungu hicho. Vile vile kifungu cha 23 kinapendekezwa kurekebishwa ili kuweka masharti bora yanayompa Kabidhi Wasii Mkuu mamlaka ya kushikilia mali zisizohamishika za mashirika ambayo yamefutwa chini ya Sheria hiyo. Madhumuni ya marekebisho haya ni kuzuia matumizi mabaya ya mali zilizo chini ya udhamini baada ya kufutwa kwa mashirika ya udhamini. Aidha, kifungu cha 28 kinapendekezwa kufanyiwa marekebisho kwa kufanya ukiukwaji wa kifungu hicho kuwa kosa la kiutendaji badala ya kosa la jinai. Vilevile, kifungu hiki kinapendekezwa kurekebishwa kwa kuongeza adhabu ya faini ili kuhakikisha kuwa kinatekelezwa ipasavyo.

Dodoma,  
10 Agosti, 2023

PINDI HAZARA CHANA,  
*Waziri wa Katiba na Sheria*