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SPECIAL BILL SUPPLEMENT

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THE PREVENTION AND COMBATING OF CORRUPTION
(AMENDMENT) ACT, 2024

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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,
4th June, 2024

MOSES M. KUSILUKA,
Secretary to the Cabinet

A BILL
for

An Act to amend the Prevention and Combating of Corruption Act with a view of making better provisions for its effective implementation.

ENACTED by the Parliament of the United Republic of Tanzania.

Short title

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

Cap. 329

Amendment of
section 3

2. The principal Act is amended in section 3, by-
(a) deleting the definition of the term “advantage” and substituting for it the following:
““advantage” means a gift or any property movable or immovable, loan, fee, reward, favour or sexual favour and includes valuable consideration of any kind, discount, commission, rebate, bonus, deduction or percentage and employment, services or an agreement to give

employment or render services in any capacity”; and

(b) adding in their appropriate alphabetical order the following new definitions:

““appropriate measure” includes legal and administrative measures;

“Deputy Director General” means the Deputy Director General of the Bureau appointed pursuant to the provisions of this Act;

“election” in all its forms, means any electoral process, including political elections;

“entertainment” means an event, performance, activity or anything designed to entertain people which includes television and radio airings, movies, music, festivals, beauty pageants, talent competitions, advertisements or other performances or activities;

“entity” includes public, parastatal and private organisation, institution, corporation, firm, body, partnership or any other person with separate, independent and distinct legal rights;

“examine” includes conducting survey, research, study, inspection or any other act related thereto;

“gaming activity” has the meaning ascribed to it under the Gaming Act;

“member of the Bureau” includes all employees of the Bureau;

“sport” includes any football match or other game, any race or other sport to which the public, or any section thereof, is admitted on payment or otherwise;

Cap. 41

“sports competition” means any event or contest in any sport, between individuals or teams, or in which animals compete, and which is usually attended by the public and is governed by rules that include a constitution, rules or code of conduct of any sporting body that organises any sport competition or of any regulatory body under whose constitution, rules or code of conduct the sport competition or event is conducted;

“sports manipulation” means an intentional arrangement, act or omission aimed at an improper alteration of the sports’ results or the course of sport competition in order to remove all or part of the unpredictable nature of the aforementioned sport competition with a view to obtain any undue advantage for oneself or others;

“undue advantage” means an advantage which is inappropriate, unreasonable or unlawful;”.

Amendment of
section 6

3. The principal Act is amended in section 6, by-
(a) adding immediately after subsection (2) the following:

“(3) The Deputy Director General shall-

(a) be a principal assistant to the Director General in performing day to day activities of the Bureau; and

(b) perform any function as may be assigned by the Director General.”; and

(b) renumbering subsection (3) as subsection (4).

Amendment of
section 7

4. The principal Act is amended in section 7-

(a) in paragraph (e), by deleting the phrase

“prosecute offences under this Act and other offences involving corruption; and” and substituting for it the phrase “prosecute corruption and related offences under this Act and any other written law;”;

(b) in paragraph (f), by-

(i) deleting subparagraph (i) and substituting for it the following:

“(i) corruption and related offences under this Act and any other written law;”; and

(ii) deleting a full stop appearing at the end of subparagraph (iii) and substituting for it a colon and the word “and”; and

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

“(g) take such other measures as may be necessary for expedient prevention and combating of corruption.”.

Amendment of section 10

by-
5. The principal Act is amended in section 10(3)

(a) deleting the word “or” appearing at the end of paragraph (a);

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

“(b) fails to appear upon being ordered to attend;

(c) fails to produce documents; or”;

(c) renaming paragraph (b) as paragraph (d).

Amendment of section 13

6. The principal Act is amended in section 13(1) by inserting the word “search,” immediately after the word “arrest”.

Amendment of section 15

7. The principal Act is amended in section 15(3) by deleting the words “or any of its part” appearing in paragraph (a)(i) and (b) and substituting for them the phrase “or any part of its proceeds, instrumentalities or pecuniary penalty”.

Amendment of sections 16, 17 and 18

8. The principal Act is amended in sections 16(4)(a)(i) and (b), 17(3)(a)(i) and (b), 18(3)(a)(i) and (b), by adding immediately after the phrase “or any part of it” the phrase “proceeds, instrumentalities or pecuniary penalty”.

Amendment of section 20

9. The principal Act is amended in section 20 by adding immediately after subsection (3) the following:

“(4) In addition to the penalty prescribed for under this section, the court may, if such person-

(a) is an agent, order such person to pay to his principal, in such manner as the court may direct-

(i) the amount of money or value of any advantage received by him or any part of it proceeds, instrumentalities or pecuniary penalty; or

(ii) part of the amount of money or value of any advantage received by him, and that the whole or part of the residue be confiscated to the Government; and

(b) is an agent or not, order that amount or value of any advantage received by him, or any part of it, proceeds, instrumentalities or pecuniary penalty be confiscated to the Government.”.

Repeal and replacement of section 25

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

“Sexual or any other favour **25.**-(1) A person who-

- (a) being in a position of power or authority, who in the exercise of his authority, demands or imposes sexual favour or any other favour on any person as a condition for giving employment, promotion, a right, privilege or any preferential treatment; or
- (b) promises, gives, or offers sexual favour or any other favour to a person who is in a position of power or authority, to influence him to exercise his authority in his favour in giving employment, promotion, a right, privilege or any preferential treatment,

commits an offence and on conviction shall be liable to a fine of not less than two million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than five years but not exceeding ten years or to both.”.

Amendment of section 27

11. The principal Act is amended in section 27(1) by deleting paragraph (b) and substituting for it the following:

“(b) possesses or owns property disproportionate to his present or past lawful income,”.

Repeal and replacement of section 31

12. The principal Act is amended by repealing section 31 and replacing for it the following:

“Abuse of position

31. A person who-
(a) in the discharge of his functions intentionally abuses his position in the performance or failure to perform an act in violation of the law for purposes of obtaining undue advantage for himself or another person or entity; or
(b) uses his position for the purpose of obtaining

undue
advantage for
himself or for
another person
or entity,
commits an offence and on
conviction shall be liable to
a fine of not less than five
million shillings but not
more than twenty million
shillings or an amount
equivalent to three times
the market value of the
advantage or to
imprisonment for a term of
not less than five years but
not exceeding ten years.”.

Amendment of
section 35

13. The principal Act is amended in section 35 by deleting the word “contract” and substituting for it the word “favor”.

Addition of
section 38A

14. The principal Act is amended by adding immediately after section 38 the following:

“Freezing bank
account

38A.-(1) Where the Director General suspects on reasonable grounds that any person has been involved in the commission of a corruption or related offence he may, subject to the consent of the Director of Public Prosecutions, authorise and direct an investigator of the Bureau of the rank of senior investigator or above to freeze a bank account or electronic money account

and seize any document from that bank or financial institution for twenty-one days during which leave of the court for continued seizure and freezing shall be obtained.

(2) Upon application, the court may order extension of a period of seizure or freezing an account where there are reasonable grounds to suspect that the money held in the account is related to the commission of an offence under this Act.

(3) Where the court orders an extension of period of seizure or freezing of an account under subsection (2), it may, at any later time vary or set aside that order where the continued seizure or freezing is no longer required or upon production of additional evidence, and where the court is satisfied that money held into the account is not related to the commission of an offence under this Act.”.

Amendment of
section 43

15. The principal Act is amended in section 43(3) by deleting the words “Treasury Registrar” and substituting for them the words “Permanent Secretary in the Ministry responsible for treasury”.

Amendment of section 46

16. The principal Act is amended in section 46 by deleting the words “in particular, financial institutions” appearing in paragraph (a).

Addition of Part VA

17. The principal Act is amended by adding immediately after Part V the following new Part:

**“PART VA
CORRUPTION IN ELECTION, SPORTS, GAMING
AND ENTERTAINMENT**

Penalties for offences relating to corruption in election

46A. A person who commits an offence relating to corruption in election shall, without prejudice to any penalty provided in any other written law, be liable, on conviction, to a fine of not less than three million shillings but not exceeding twenty million shillings, or to imprisonment for a term of not less than three years but not exceeding five years or to both.

Corrupt activities relating to sports

46B.-(1) A person who, directly or indirectly-

(a) promises, offers, gives, or agrees to provide any advantage to another person, for himself or for another person or entity as an inducement to

manipulate the sports results, or during a sports competition;

(b) solicits, accepts, obtains, attempts to obtain or agrees to any advantage or the promise or offer thereof, for himself, another person or entity, as an inducement to manipulate the sports results or course of a sports competition,

commits an offence and on conviction shall be liable to a fine of not less than three million shillings but not exceeding twenty million shillings or an amount equivalent to the market value of an undue advantage received, or to imprisonment for a term of not less than three years but not exceeding twenty years or to both.

(2) In addition to the penalty imposed under subsection (1), the court may order pecuniary penalty or forfeiture to the Government of all instrumentalities and proceeds derived from the offence committed under this section.

(3) A person who has knowledge, whether verbally, in writing or otherwise, that an offence has been committed against any provision of subsection (1), shall communicate such knowledge to the Bureau.

(4) A person who fails to communicate the knowledge referred to under subsection (1) within twenty-one days from the date of becoming aware of such knowledge commits an offence and upon conviction, shall be liable to a fine of not less than three million shillings but not exceeding twenty million shillings or an amount equivalent to the market value of an undue advantage received or to imprisonment for a term of not less than three years but not exceeding twenty years or to both.

(5) In this section-
“person” includes
individual
and any
partnership,
corporation,
association,
sports
organisation
or any other
entity; and
“official” means
any referee,
linesman,
umpire,
steward,
sponsors or
any other
person
managing,
directing or
supervising
any sport or
game.

Corrupt activities
relating to gaming

46C.-(1) A person
who, directly or indirectly-
(a) pledges, offers,
provides, or
agrees to
furnish any
advantage to
another person,
for oneself, or
for another
person or
entity, as an
inducement or
reward for
influencing the

outcome or
undermining
the integrity of
any gaming
activity;
(b) solicits,
accepts,
obtains,
attempts to
obtain, or
agrees to any
advantage or
the promise or
offer thereof,
for oneself,
another person,
or entity, as an
inducement or
reward for
influencing the
outcome or
undermining
the integrity of
any gaming
activity,

commits an offence and on conviction shall be liable to a fine of not less than three million shillings but not exceeding twenty million shillings, or an amount equivalent to the market value of an undue advantage received, or to imprisonment for a term of not less than three years but not exceeding twenty years or to both.

(2) In addition to the penalty imposed under

subsection (2), the court may order pecuniary penalty or forfeiture to the Government of all instrumentalities and proceeds derived from the offence committed under this section.

(3) A person who possesses knowledge, whether verbally, in writing, or otherwise, of an offence committed against any provision of subsection (1) shall promptly communicate such information to the Bureau.

Corrupt activities relating to entertainment

46D.-(1) A person who directly or indirectly-

- (a) promises, offers, or gives or agrees to give any advantage to another person, for himself or for another person or entity, as an inducement to, or reward for influencing the outcome or undermining the integrity of any entertainment activity;

(b) solicits or
accepts or
obtains or
attempts to
obtain or agrees
any advantage
or the promise
or the offer
thereof, for
him, or for
another person
or entity, as an
inducement to
or reward for
influencing the
outcome or
undermining
the integrity of
any
entertainment
activity,

commits an offence and on conviction shall be liable to a fine of not less than three million shillings but not exceeding twenty million shillings, or an amount equivalent to the market value of an undue advantage received, or to imprisonment for a term of not less than three years but not exceeding twenty years or both.

(2) In addition to the penalty imposed under subsection (1), the court may order pecuniary penalty or forfeiture to the Government of all

instrumentalities and proceeds derived from the offence committed under this section.

(3) A person who has knowledge, whether verbally, in writing or otherwise, that an offence has been committed against any of the provision of subsection (1), shall communicate such knowledge to the Bureau.

(5) A person who fails to communicate the knowledge referred to under subsection (1) within twenty-one days from the date of becoming aware of such knowledge, commits an offence and on conviction shall be liable to a fine of not less than three million shillings but not exceeding twenty million shillings, or an amount equivalent to the market value of an undue advantage received, or to imprisonment for a term of not less than three years but not exceeding twenty years or to both.”.

Repeal and replacement of section 49

18. The principal Act is amended by repealing section 49 and replacing for it the following:

“Valuation of property

49. In proceedings for an offence under this Act where the subject matter

involves buildings, the method for valuation of the building shall be based-

(a) where it is established that such property or building was built, on actual construction value;

(b) where the building was purchased-

(i) on the actual price of purchase;

(ii) on the market value of such property or building.
”.

OBJECTS AND REASONS

This Bill intends to amend the Prevention and Combating of Corruption Act, Cap. 329 in order to address some challenges which have been encountered during its implementation. The Bill seeks to enhance the main objective of the Act which is geared at preventing, investigating and combating of corruption and related offences and to ensure that the Bureau performs its functions effectively.

Section 3 is proposed to be amended to improve the definitions of some of the terms used in the Act and adding the definitions of other terms in order to provide accurate interpretation of the terms used in the Act.

Section 6 is proposed to be amended to provide parameters of the functions of the Deputy Director General. The purpose of this amendment is to clearly provide for demarcation of functions of the Deputy Director General so as to smoothen the performance and operation of the Bureau.

Section 7 is proposed to be amended to provide the Bureau with the authority to enforce other measures necessary for the prevention and combating of corruption beyond the authorities stipulated therein. The purpose of this amendment is to empower the Bureau to enforce additional measures necessary for prevention and combating of corruption.

Section 10 is proposed to be amended to improve and speed up the investigation process. The purpose of this amendment is to assist in detection and prevention of corruption and related offences.

Section 13 is proposed to be amended in order to enable the Bureau to search a suspect upon arrest. The aim of this amendment is to ensure accuracy and clarity on search powers of the Bureau by removing controversies that has been rife in various corruption cases due to the lack of clear terms of the search.

Sections 15, 16, 17 and 18 are proposed to be amended in order to increase the scope of the penalties for corrupt related offences. The aim of the amendment is to enable the court to issue order to recover the amount of

money derived from the benefits of the corrupt acts and to order the arrest of the victims of such acts.

Section 20 is proposed to be amended to provide the court with additional powers to impose financial penalties and ensure restitution in cases involving corrupt activities. The purpose of this amendment is to enhance accountability, deter corrupt behavior, and ensure that offenders do not benefit from their illegal actions by stripping them of their ill-gotten gains.

Section 25 is proposed to be amended to combat sexual corruption and any other favors by targeting both the person who demands sexual favors and the person who promises or gives the same. The purpose of this amendment is to address and prevent sexual corruption comprehensively.

Section 27 is proposed to be amended to address the challenge of proxy ownership. The purpose of this amendment is to prevent individuals from circumventing ownership laws through proxies and ensure implementation of the provisions of the Act.

Sections 31 and 35 are proposed to be amended to clarify and remove ambiguities in the provisions. The purpose of this amendment is to ensure precise and unambiguous interpretation for the intended context of such provisions.

Section 38A is proposed to be added to restrain a suspect from transferring money under investigation when and during the investigation. The purpose of this amendment is to harmonize the Act with requirements of Article 51 of UNCAC, Article 4 and Article 6 of the AU Convention and enable the Government to recover illicit proceeds of corruption.

Section 43 is proposed to be amended in order to harmonise the provisions of such section with section 15(3) of the Proceeds of Crime Act, Chapter 256. The purpose of this amendment is to align this provision with existing legislation.

Further, the Act is proposed to be amended by adding a new “Part VA” which provides for corrupt activities relating to election, sports, gaming and entertainment in order to empower the Bureau to combat corruption in election, sports, gaming and entertainment. The aim of these amendments is to empower the Bureau to effectively combat corruption within these

spheres and thereby guaranteeing integrity, rights and fairness in maintained in electoral processes, sporting events, gaming activities, and entertainment industry practices.

Further, section 46 is proposed to be amended to broaden its scope. The purpose of this amendment is to extend the application of this section to include all stakeholders, such as the private sector and civil society organizations. Section 49 is proposed to be amended to comply with professional valuation standards. The purpose of this amendment is to enhance the efficiency and accuracy of valuation activities.

MADHUMUNI NA SABABU

Muswada huu unakusudia kurekebisha Sheria ya Kuzuia na Kupambana na Rushwa, Sura ya 329 ili kutatua baadhi ya changamoto zilizojitokeza wakati wa utekelezaji wake. Muswada huu unalenga kuimarisha lengo kuu la Sheria ambalo linalenga kuzuia, kuchunguza na kupambana na rushwa na makosa yanayohusiana na hayo na kuhakikisha Taasisi inatekeleza majukumu yake kwa ufanisi.

Kifungu cha 3 kinarekebishwa ili kuboresha baadhi ya tafsiri za misamiati iliyotumika katika Sheria, na kuongeza fasili za misamiati mipya inayotokana na masharti mapya yanayopendekezwa kuongezwa katika Sheria.

Kifungu cha 6 kinarekebishwa ili kubainisha majukumu ya Naibu Mkurugenzi Mkuu. Lengo la marekebisho haya ni kufafanua majukumu ya Naibu Mkurugenzi Mkuu ili kurahisisha utendaji na uendeshaji wa Taasisi.

Kifungu cha 7 kinarekebishwa ili kutoa mamlaka kwa Taasisi kutekeleza hatua nyingine muhimu za kuzuia na kupambana na rushwa zaidi ya zile zilizo rodheshwa katika kifungu hicho. Lengo la marekebisho haya ni kuiwezesha Taasisi kutekeleza hatua muhimu za ziada za kuzuia na kupambana na rushwa.

Kifungu cha 10 kinarekebishwa ili kuboresha na kuharakisha mchakato wa uchunguzi. Lengo la marekebisho haya ni kusaidia kugundua na kuzuia rushwa na makosa yanayohusiana nayo.

Kifungu cha 13 kinapendekezwa kurekebisha ili kumuwezesha afisa wa Taasisi anapomkamata mtuhumiwa aweze pia kumpekuwa. Lengo la marekebisho haya ni kuhakikisha usahihi na kuweka bayana mamlaka ya upekuzi unaofanywa na Taasisi kwa kuondoa utata ambao umekuwa ukijitokeza katika mashauri mbalimbali ya rushwa kutokana na kutokuwepo kwa masharti hayo.

Vifungu vya 15, 16, 17 na 18 vinapendekezwa kurekebisha ili kuongeza wigo wa adhabu kwa makosa yanayohusiana na vitendo vya rushwa.

Lengo la marekebisho hayo ni kuiwezesha mahakama kutoa amri ya kurejesha kiasi cha fedha kinachotokana na manufaa ya vitendo vya rushwa sambamba na kuamuru kukamatwa kwa mazalia yatokanayo na vitendo hivyo.

Kifungu cha 20 kinarekebishwa ili kutoa mamlaka ya ziada kwa mahakama kuweza kutoa adhabu za kifedha na kuhakikisha urejeshaji wa mali katika kesi za rushwa. Lengo la marekebisho haya ni kuimarisha uwajibikaji, kuzuia rushwa, na kuhakikisha kuwa wahalifu hawafaidiki kutokana na vitendo vyao vya kihalifu kwa kuwanyang'anya mapato yaliyotokana na uhalifu.

Kifungu cha 25 kinarekebishwa ili kuweka masharti ya kupambana na rushwa ya ngono na upendeleo mwingine wowote. Marekebisho haya yanamlenga mtu anayeomba rushwa ya ngono na mtu anayetoa ahadi au kutoa rushwa hiyo. Lengo la marekebisho haya ni kuzuia na kudhibiti rushwa.

Kifungu cha 27 kinarekebishwa ili kupanua wigo kujumuisha mali ambazo zipo chini ya mtuhumiwa lakini zinamilikiwa kwa jina la mtu mwingine. Lengo la marekebisho hayo ni kuzuia ukwepeshaji wa umiliki kwa kutumia uwakilishi na kuhakikisha uwajibikaji na utekelezaji wa Sheria.

Vifungu vya 31 na 35 vinapendekezwa kurekebishwa ili kufafanua na kuondoa utata wa tafsiri katika vifungu hivyo. Lengo la marekebisho haya ni kuhakikisha tafsiri sahihi na isiyo na utata kwa matumizi ya sheria yaliyokusudiwa.

Kifungu cha 38A kinapendekezwa kuongezwa kwa lengo la kuweka masharti ya kumzuia mtuhumiwa kuhamisha fedha zinazochunguzwa. Lengo la marekebisho haya ni kuoanisha masharti ya Sheria na mahitaji ya Ibara ya 51 ya Mkataba wa Umoja wa Mataifa Dhidi ya Rushwa, Ibara za 4 na 6 za Mkataba wa Umoja wa Afrika na kuifanya Serikali kuweza kurejesha mapato haramu yatokanayo na rushwa.

Kifungu cha 43 kinapendekezwa kurekebishwa kwa lengo la kuweka ulinganifu wa masharti ya kifungu hicho na masharti ya kifungu cha 15(3) cha Sheria ya Mapato Yatokanayo na Uhalifu, Sura ya 256. Lengo la marekebisho haya ni kuoanisha masharti ya kifungu hicho na sheria zilizopo.

Sheria inapendekezwa kurekebisha kwa kuongeza “SEHEMU YA TANO A” mpya ambayo inahusiana na masuala ya rushwa katika uchaguzi, michezo, michezo ya kubahatisha na burudani ili kuiwezesha Taasisi kupambana na rushwa katika uchaguzi, michezo, michezo ya kubahatisha na burudani. Lengo la marekebisho haya ni kuiwezesha Taasisi kupambana na rushwa kwa ufanisi katika nyanja hizi na hivyo kuhakikisha uadilifu na haki vinadumishwa katika michakato ya uchaguzi, matukio ya michezo, shughuli za michezo ya kubahatisha, na tasnia ya burudani.

Aidha, kifungu cha 46 kinarekebisha kwa lengo la kupanua wigo wa Taasisi kushirikiana na wadau mbalimbali katika kutekeleza majukumu yake. Lengo la marekebisho haya ni kupanua wigo wa ushirikiano ili kujumuisha wadau wote muhimu ikiwa ni pamoja na sekta binafsi na sekta za umma. Kifungu cha 49 kinarekebisha ili kuzingatia viwango vya kitaaluma vya uthamini. Lengo la marekebisho haya ni kuboresha ufanisi na usahihi wa shughuli za uthamini.

Dodoma,
3rd June, 2024

GEORGE B. SIMBACHAWENE,
*President's Office Public
Service Management and
Good Governance*