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SPECIAL BILL SUPPLEMENT

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THE POLITICAL PARTIES AFFAIRS LAWS (AMENDMENT) BILL,
2023

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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,
18th October, 2023

MOSES M. KUSILUKA,
Secretary to the Cabinet

A Bill
for

An Act to amend the laws governing affairs of political parties.

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and
commencement

1. This Act may be cited as the Political Parties
Affairs Laws (Amendment) Bill, 2023.

Amendment of
written laws

2. The written laws specified in various Parts of
this Act are amended in the manner specified in their
respective Parts.

PART II
AMENDMENT OF THE ELECTION EXPENSES ACT,
(CAP. 278)

Construction
Cap. 278

3. This Part shall be read as one with the Election
Expenses Act, hereinafter referred to as the “principal
Act”.

Amendment of
section 7

4. The principal Act is amended in section 7(3),
by-

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

“(b) in the case of a Member of Parliament, to the Returning Officer;”; and

- (b) deleting the words “Ward Executive Officer” appearing in paragraph (c) and substituting for them the words “Assistant Returning Officer”.

Amendment of section 9

- 5. The principal Act is amended in section 9, by-
 - (a) deleting subsection (1) and substituting for it the following:

“(1) A candidate shall, before nomination, disclose the amount of funds in his possession or which he expects to receive which he intends to use as election expenses and details of the bank account for election expenses in the following manner:

- (a) in the case of a Presidential candidate, to the National Electoral Commission;
- (b) in case of a candidate for the office of a member of parliament, to the returning officer; and
- (c) in case of a candidate for the office of a councillor, to the assistant returning officer.”; and
- (b) deleting the words “within thirty days after” appearing in subsection (2) and substituting for them the word “before”.

Amendment of section 13

- 6. The principal Act is amended in section 13(4) by deleting the words “ninety days after the election” and substituting for them the words “ninety days after the election day in the case of general election and within thirty days after election day in the case of by-election”.

Amendment of
section 18

7. The principal Act is amended in section 18, by-
- (a) deleting subsections (1), (2) and (3) and substituting for them the following:

“(1) Any candidate in a general election or by-election shall, within sixty days from the polling day during a general election and thirty days during a by-election, prepare and submit a financial report of election expenses received and spent during the election to the political party which sponsored the candidate in the election in the following manner-

- (a) in the case of a Presidential candidate, to the Secretary General;
- (b) in the case of a candidate for the post of a Member of Parliament or a Councillor, to the District Party Secretary or any person performing the duties of the District Party Secretary.

(2) Each political party which sponsored a candidate shall, within one hundred and eighty days in the case of a general election and within sixty days in the case of a by-election after the submission of the report by the candidate, transmit to the Registrar a financial report of all expenses incurred during intra-party nominations process, campaigns and election.

(3) The report submitted by a political party pursuant to subsection (2) shall be accompanied by the candidates’ financial report submitted under subsection (1) and copies of receipts or other documents evidencing payments or expenses incurred by a candidate and his agents.”;

- (b) adding immediately after subsection (4) the following:
 “(5) Without prejudice to other provisions of this Act, the penalty under subsection (4) shall not apply where a political party proves that it failed to file the reports by reason that the former candidate concerned has died or has ceased to be a member of that party.”; and
- (c) renumbering subsection (6) as subsection (7).

PART III
AMENDMENT OF THE POLITICAL PARTIES ACT,
(CAP. 258)

Construction
 Cap. 258

8. This Part shall be read as one with the Political Parties Act, hereinafter referred to as the “principal Act”.

Amendment of
 section 3

- 9.** The principal Act is amended in section 3-
- (a) in the definition of the term “political party” by inserting the words “subject to the provisions of this Act” between the words “or” and “supporting”;
- (b) by adding in the appropriate alphabetical order the definition of the following terms:
 ““Council” means the Council of Political Parties established under section 21B;
 “party organ” means a party administrative organ as described in the political party constitution which includes party national general meeting, Party National Executive Committees or Party National Central Committee;”.

Amendment of
 section 6A

- 10.** The principal Act is amended in section 6A,
 by-
- (a) adding the words “and rules” immediately after the words “its constitution” appearing in

- subsection (2);
- (b) adding the words “for election of the President of the United Republic of Tanzania” immediately after the word “candidate” appearing in subsection (4)(a).
- Amendment of section 6C by-
- 11.** The principal Act is amended in section 6C,
- (a) adding the words “or otherwise punished” between the words “party” and “unless” appearing in subsection (5);
- (b) adding immediately after subsection (6) the following:
- “(7) A political party which allows a non-citizen to participate in its decision-making process contrary to subsection (4) shall be liable to a fine not exceeding twenty million shillings or to suspension or deregistration.
- (8) A member of the appellate organ in a political party who took part in deciding a disciplinary issue being appealed against shall not vote in the determination of the appeal.
- (9) For purposes of subsection (8), submissions in response to the appeal shall be made by the party organ through its secretary.”.
- Amendment of section 9
- 12.** The principal Act is amended in section 9, by-
- (a) adding the words “and rules” immediately after the word “constitution” appearing in subsection (1)(b);
- (b) adding the words “or endanger national security” immediately after the word “peace” appearing in subsection (2)(f).
- Addition of section 10C
- 13.** The principal Act is amended by adding immediately after section 10B the following:
- “Documents to be maintained by **10C.-(1)** A fully

political party

registered political party shall at all times maintain the following documents:

- (a) the party's general policy which states the party's ideology;
- (b) the party's gender and social inclusion policy;
- (c) the party's general management rules a format which is accessible to persons with special needs;
- (d) the party's financial and property management rules;
- (e) the party's code of conducts;
- (f) rules for intra-party nomination of candidates and election of party leaders;
- (g) the party's procurement rules; and
- (h) the party's employment rules.

(2) The gender and social inclusion policy of a political party referred to under subsection (1) shall provide for all matters prescribed in the Third Schedule.

(3) A party's policy document, constitution and rules shall be signed by the chairperson and secretary

general of the party and stamped by the party's official stamp.”.

Amendment of section 11

14. The principal Act is amended in section 11 by adding the words “or processions” immediately after the word “meetings” appearing in subsection (2).

Amendment of section 11A

15. The principal Act is amended in section 11A by adding the words “or by-election” immediately after the word “election” appearing in subsection (1).

Amendment of section 13A

16. The principal Act is amended in section 13A by adding the words “or any offence under this Act” immediately after the word “practice” appearing in subsection (1).

Amendment of section 16

17. The principal Act is amended in section 16(3) by deleting the words “general or local government election” appearing in paragraph (b) and substituting for them the words “general election or by-election”.

Amendment of section 19

18. The principal Act is amended in section 19, by adding the words “suspend or” immediately after the words “intention to” appearing in subsection (2)(a).

Amendment of section 20

19. The principal Act is amended in section 20(1) by adding the words “or suspension” immediately after the word “cancellation”.

Amendment of section 21E

20. The principal Act is amended in section 21E(2) by deleting the words “such party” and substituting for them the words “such member”.

Addition of Third Schedule

21. The principal Act is amended by adding immediately after the Second Schedule the following:

“THIRD SCHEDULE

(Made under section 10C)

**BASIC PROVISIONS TO BE CONTAINED IN THE GENDER
AND SOCIAL INCLUSION POLICY OF A POLITICAL PARTY**

- (a) Provisions relating to programmes for promotion of gender and social inclusion;
- (b) Provisions relating to programmes for capacity building for women, youth and persons with disability to become leaders in or outside the party;
- (c) Provisions relating to gender and social inclusion desk for coordinating the implementation of gender and social inclusion laws and policies and handling complaints regarding gender issues.”.

OBJECTS AND REASONS

This Bill proposes to amend two laws namely; the Election Expenses Act, Cap. 278 and the Political Parties Act, Cap. 258. Generally, the amendments proposed in these Acts aim to strengthen the role of the Registrar of Political Parties in monitoring the activities of political parties as well as strengthening compliance with laws and regulations in the activities of political parties.

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 amendments to the Election Expenses Act, Cap. 278. Section 7 is amended to remove the requirement for candidates to submit to the Executive Director, District Administrative Secretary and Ward Executive Officer notification on the campaign team and instead submit it to the Returning Officer and Assistant Returning Officer. The aim of this amendment is to ensure that the notification is submitted to the right

persons as the Executive Director and the District Administrative Secretary are not always the returning officers. Section 9 is amended by improving the procedure for taking and submitting election expenses declaration form so that the form is taken from the returning officer when a candidate takes the nomination form and submitted when returning the nomination form. The aim of this amendment is to ensure the Registrar of Political Parties has enough time review the information submitted by candidates regarding funds they intend to spend in the elections before commencing campaign activities.

Section 13 is proposed to be amended to differentiate the time required for non-governmental organisations, faith based organisations or community based organisations to submit to the Registrar information on the expenses incurred in election activities during the general and by-elections. The aim of this amendment is to reduce the time required for submission of such information in case of by-election since during that period there are fewer activities compared to the period of general election. Section 18(2) is proposed to be amended to specify the period required for submission of returns on income and expenditure during by-elections. The aim of this amendment is to differentiate between the time for submission of returns during the general election and the time required during by-election since a political party should not wait six months before furnishing returns on election expenses in case of a by-election. Additionally, the section is amended to remove the requirement for political parties to submit to the Registrar of Political Parties original receipts for election expenses so that the receipts may be kept with the parties for submission to the auditor.

Part Three proposes to amend the Political Parties Act, Cap. 258. Section 3 is amended by improving the definition of the term “political party” and adding the definition of other terms used in the Act. The aim of this amendment is to ensure that intended meaning is provided for terms used in the Act. Section 6A is proposed to be amended to enable the political party general meeting to delegate its function of nominating the presidential candidate for Zanzibar. The aim of this amendment is to allow nomination of the Zanzibar presidential candidate to be done by the party’s national executive committee. Section 6C is proposed to be amended by imposing a penalty on a political party which allows a non-citizen to participate in the decision-making process of such party. The aim of the amendment is to discourage acts of non-citizens interfering in the decisions of political parties as the section currently provides for the prohibition but no

punishment is prescribed. The section is further amended to improve the procedures of taking disciplinary measures within a political party by preventing a person who participated in making a decision against a member from participating in hearing the appeal against such decision.

Section 9 is proposed to be amended to require a political party to submit a copy of its rules when applying for provisional registration. The aim of the amendment is to give the Registrar the opportunity to satisfy himself if the rules comply with the provisions of the Act. The section is further amended to disqualify a political party from being registered if its constitution and rules allow the use of language that could endanger national security. The aim of this amendment is to ensure that the political parties that are registered are those which comply with laws, rules and procedures for the national interests. A new section 10C is proposed to be added to specify the documents which a political party must maintain at all times. Among those documents are the party's gender and social inclusion policy, financial and property management rules and rules for intra-party nomination of candidates and election of party leaders. This amendment aims to ensure that a political party is run based on the rules and principles it has set for itself.

Section 11 is proposed to be amended to specify that political party processions will take place in accordance with the Police Force and Auxiliary Services Act, Cap. 322. The aim of the amendment is to harmonise the provisions of section 11 with the provisions of the Police Force and Auxilliary Services Act which specify the procedure to be observed before and during processions or meetings. Section 11A is amended to allow political parties to form coalition even during by-elections in accordance with the provisions of the Act. Section 13A is proposed to be amended to require any person who becomes aware that another person has committed or intends to commit any offence under the Act to inform the Registrar of Political Parties. The aim of this amendment is to timely prevent commission of offences and ensure that measures are taken against a person who violates the provisions of the Act.

Article 16 is proposed to be amended by requiring that grant of subvention shall as well be made taking into account the results of by-elections. The aim of this amendment is to allow subvention to be granted to political parties based on the number of parliamentary votes and the number of Members of Parliament and members of a district or urban council that a

political party has at the relevant time instead of only parliamentary votes and the number of Members of Parliament and members of a district or urban council that a party got at the general election. Sections 19, 20 and 21E are proposed to be amended to harmonise the provisions regarding suspension or cancellation of registration of a political party and suspension of a member from conducting political activities. The aim of these amendments is to ensure that the provisions of these sections portray the intended meaning. The Third Schedule is proposed to be added so as to specify matters that the political party should include in the gender and social inclusion policy. The aim of this amendment is to increase participation of women and special groups in political activities within political parties.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kufanya marekebisho katika Sheria mbili ambazo ni Sheria ya Gharama za Uchaguzi, Sura ya 278 na Sheria ya Vyama vya Siasa, Sura ya 258. Kwa ujumla marekebisho yanayopendekezwa katika Sheria hizi yanalenga kuimarisha nafasi ya Msajili wa Vyama vya Siasa kama msimamizi wa mienendo ya Vyama vya siasa pamoja na kuimarisha uzingatiaji wa Sheria na Kanuni katika shughuli za vyama vya siasa.

Muswada huu umegawanyika katika Sehemu Tatu ambapo Sehemu ya Kwanza inahusu masharti ya utangulizi yanayojumuisha Jina la Muswada na namna ambavyo Sheria zinapendekezwa kurekebishwa katika Sehemu zake.

Sehemu ya Pili ya Muswada inapendekeza marekebisho katika Sheria Gharama za Uchaguzi, Sura ya 278. Kifungu cha 7 kinarekebishwa ili kuondoa takwa la wagombea kuwasilisha taarifa kuhusu timu ya kampeni kwa Mkurugenzi wa Halmashauri, Katibu Tawala wa Wilaya na Afisa Mtendaji Kata na badala yake ziwasilishwe kwa Msimamizi wa Uchaguzi na Msimamizi Msaidizi wa Uchaguzi. Lengo la marekebisho haya ni kuhakikisha kuwa taarifa hizo zinawasilishwa kwa watu sahihi kwa kuwa si mara zote Mkurugenzi wa Halmshauri na Katibu Tawala wa Wilaya

wanakuwa wasimamizi wa uchaguzi. Kifungu cha 9 kinarekebishwa kwa kuboresha utaratibu wa kuchukua na kuwasilisha fomu za tamko la gharama za uchaguzi ili fomu hizo zichukuliwe kwa msimamizi wa uchaguzi wakati mtia nia anachukua fomu za kuomba uteuzi na kuwasilishwa wakati wa kurejesha fomu za uteuzi. Lengo la marekebisho haya ni kutoa muda wa kutosha kwa Msajili wa Vyama vya Siasa kupitia taarifa zinazowasilishwa na watia nia kuhusu gharama wanazokusudia kutumia katika uchaguzi kabla hawajaanza shughuli za kampeni.

Kifungu cha 13 kinapendekezwa kurekebishwa ili kutenganisha muda wa mashirika yasiyo ya kiserikali, asasi za kidini na asasi za kiraia kuwasilisha kwa Msajili taarifa za gharama zilizotumika katika shughuli za uchaguzi wakati wa uchaguzi mkuu na uchaguzi mdogo. Lengo la marekebisho haya ni kupunguza muda wa kuwasilisha taarifa hizo kipindi cha uchaguzi mdogo kwa kuwa kipindi hicho shughuli zinakuwa chache ikilinganishwa na kipindi cha uchaguzi mkuu. Kifungu cha 18(2) kinapendekezwa kurekebishwa ili kuainisha muda wa kuwasilisha taarifa za mapato na matumizi ya gharama za uchaguzi wakati wa uchaguzi mdogo. Lengo la marekebisho haya ni kutenganisha muda wa kuwasilisha taarifa hizo wakati wa uchaguzi mkuu na uchaguzi mdogo kwa kuwa chama cha siasa hakiwezi kusubiri miezi sita ndipo kiwasilishe taarifa ya gharama za uchaguzi panapokuwa na uchaguzi mdogo. Aidha, kifungu hicho kinarekebishwa pia ili kuondoa sharti la vyama vya siasa kuwasilisha stakabadhi halisi za matumizi ya gharama za uchaguzi kwa Msajili wa Vyama vya Siasa ili stakabadhi hizo zibaki kwenye vyama kwa ajili ya kuwasilishwa kwa mkaguzi.

Sehemu ya Tatu inapendekeza kurekebisha Sheria ya Vyama vya Siasa, Sura ya 258. Kifungu cha 3 kinarekebishwa kwa kuboresha tafsiri ya msamiati “chama cha siasa” na kuongeza tafsiri ya misamiati mingine iliyotumika katika Sheria. Lengo la marekebisho haya ni kuhakikisha kuwa misamiati iliyotumika katika Sheria inakuwa na maana iliyokusudiwa. Kifungu cha 6A kinapendekezwa kurekebishwa ili kuuwezesha Mkutano Mkuu wa chama cha siasa kukasimisha jukumu lake la kuteua mgombea wa urais wa Zanzibar. Lengo la marekebisho haya kuruhusu uteuzi wa mgombea wa urais wa Zanzibar kufanywa na Halmashauri Kuu ya chama. Kifungu cha 6C kinapendekezwa kurekebishwa kwa kuweka adhabu kwa chama cha siasa kitakachomruhusu mtu ambaye si raia wa Tanzania kushiriki katika mchakato wa kufanya maamuzi ndani ya chama husika. Lengo la marekebisho ni kukomesha vitendo vya watu wasio raia kuingilia

katika maamuzi ya vyama vya siasa kwa kuwa kwa sasa Sheria inaweka katazo lakini hakuna adhabu. Aidha, kifungu hicho kinarekebisha pia ili kuboresha utaratibu wa uchukuaji wa hatua za kinidhamu ndani ya chama cha siasa kwa kuzuia mtu ambaye alishiriki katika kufanya maamuzi ya awali dhidi ya mwanachama kushiriki katika kusikiliza rufaa dhidi ya maamuzi hayo.

Kifungu cha 9 kinapendekezwa kurekebisha ili kuweka takwa kwa chama cha siasa kuwasilisha nakala ya kanuni zake wakati wa maombi ya usajili wa muda. Lengo la marekebisha haya ni kumpa Msajili fursa ya kujiridhisha endapo kanuni hizo zimezingatia masharti ya Sheria. Kifungu hicho kinarekebisha pia ili kukinyima chama cha siasa sifa za kusajiliwa endapo katiba na kanuni zake zinaruhusu matumizi ya lugha inayoweza kuhatarisha usalama wa nchi. Lengo la marekebisha haya ni kuhakikisha kuwa vyama vya siasa vinavyosajiliwa ni vile vinavyozingatia sheria, kanuni na taratibu mbalimbali kwa maslahi mapana ya nchi. Kifungu kipya cha 10C kinapendekezwa kuongezwa ili kubainisha nyaraka ambazo chama cha siasa kinapaswa kuwa nazo wakati wote. Miongoni mwa nyaraka hizo ni sera ya jinsia na ujumuishi wa makundi maalumu, kanuni za fedha na usimamizi wa mali na kanuni za uteuzi wa wagembea na uchaguzi wa viongozi wa chama. Marekebisha haya yanalenga kuhakikisha kuwa chama cha siasa kinaendeshwa kwa kuzingatia misingi na kanuni ilizojiwekea.

Kifungu cha 11 kinapendekezwa kurekebisha ili kubainisha kuwa maandamano ya vyama vya siasa yatafanyika kwa kuzingatia Sheria ya Jeshi la Polisi na Huduma Saidizi, Sura ya 322. Lengo la marekebisha haya ni kuwianisha masharti ya kifungu cha 11 na masharti ya Sheria ya Jeshi la Polisi na Huduma Saidizi ambayo imeainisha utaratibu wa kuzingatiwa kabla na wakati wa kufanya maandamano au mikutano. Kifungu cha 11A kinarekebisha ili kuviruhusu vyama kushirikiana hata wakati wa uchaguzi mdogo kwa kuzingatia masharti yaliyomo katika Sheria. Kifungu cha 13A kinapendekezwa kurekebisha ili kumtaka mtu yeyote kutoa taarifa kwa Msajili wa Vyama vya Siasa pale anapogundua kuwa mtu mwingine ametenda kosa au anakusudia kutenda kosa lolote chini ya Sheria. Lengo la marekebisha haya ni kuzuia utendaji wa makosa na kuhakikisha hatua zinachukuliwa dhidi ya mtu anayekiuka masharti ya Sheria.

Kifungu cha 16 kinapendekezwa kurekebisha kwa kuweka takwa kuwa mgawanyo wa ruzuku utafanywa kwa kuzingatia pia matokeo ya uchaguzi mdogo. Lengo la marekebisha haya ni kuruhusu fedha za ruzuku

kugawanywa kwa vyama vya siasa kwa kuzingatia idadi ya kura za ubunge na idadi ya wabunge na madiwani ambao chama cha siasa kinao kwa wakati husika badala ya kura za ubunge na idadi ya wabunge na madiwani ambao chama kilipata wakati wa uchaguzi mkuu pekee. Vifungu vya 19, 20 na 21E vinapendekezwa kurekebisha ili kuwianisha masharti kuhusu kusitishwa au kufutwa kwa usajili wa chama cha siasa na zuio kwa mwanachama kushiriki katika shughuli za siasa. Lengo la marekebisho haya ni kuhakikisha kuwa masharti ya vifungu hivyo yanaakisi maana iliyokusudiwa. Jedwali la Tatu linapendekezwa kuongezwa ili kuainisha masuala ambayo chama cha siasa kitapaswa kujumuisha katika sera ya jinsia na ujumuishi wa makundi maalumu. Lengo la marekebisho haya ni kuongeza ushiriki wa wanawake na makundi maalumu katika shughuli za siasa ndani ya vyama vya siasa.

Dodoma,
17th October, 2023

KASSIM MAJALIWA MAJALIWA,
Prime Minister