
THE UNITED REPUBLIC OF TANZANIA

SPECIAL BILL SUPPLEMENT

No. 1

5th February, 2019

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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO.2)
ACT, 2019

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NOTICE

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

Dar es Salaam,
5th February, 2019

JOHN W. H. KIJAZI,
Secretary to the Cabinet

A BILL
for

An Act to amend certain written laws.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

- Short title 1. This Act may be cited as the Written Laws (Miscellaneous Amendments) (No.2) Act, 2019.
- Amend-
ment of
certain
written
laws 2. The Written Laws specified in various Parts of this Act are amended in the manner specified in their respective Parts.

PART II
AMENDMENT OF THE EXCISE (MANAGEMENT AND TARIFF) ACT,
(CAP.147)

- Construc-
tion
Cap.147 3. This Part shall be read as one with the Excise (Management and Tariff) Act, hereinafter referred to as the "principal Act".
- Amend-
ment of
Fourth
Schedule 4. The principal Act is amended in the Fourth Schedule by-
- (a) deleting figure.22.08 appearing in the second column and substituting for it the figure 2208.20.00;
 - (b) deleting the description "locally produced products of this heading" and the rates thereof appearing under the HS.Code 2208.20.00 and substituting for them the following:

	Description	Unit	Old Excise Rate	New Excise Rate
2208.20.00	Spirits obtained by distilling grape wine or grape marc from locally produced grapes.	l	Tshs.3,315.00 per litre	Tshs. 450.00 per litre
	Other locally produced spirits under this heading	l	Tshs. 3,315.00 per litre	Tshs. 3,315.00 per litre

PART III
AMENDMENT OF THE INCOME TAX ACT,
(CAP.332)

Construction Cap.332 5. This Part shall be read as one with the Income Tax Act, hereinafter referred to as the "principal Act".

Repeal of section 83B 6. The principal Act is amended by repealing section 83B.

Amendment of First Schedule 7. The principal Act is amended in paragraph 4 of the First Schedule-

- (a) in subparagraph (c), by deleting the word "and" appearing at the end of item (v);
- (b) by deleting subparagraph (d).

PART IV
AMENDMENT OF THE LOCAL GOVERNMENT AUTHORITIES (RATING) ACT,
(CAP. 289)

Constru-
tion
Cap. 289 **8.** This Part shall be read as one with the Local Government Authorities (Rating) Act, hereinafter referred to as the “principal Act”.

Amend-
ment of
section 3 **9.** The principal Act is amended in section 3 by deleting the definition of the terms “authority” and “rateable property” and substituting for them the following new definitions-
“authority” means the Tanzania Revenue Authority;
“rateable property” means-
(a) in the case of a plot with a single building, a building within the jurisdiction of an authority which is in actual occupation and all improvements on, in or under any such building;
(b) in the case of a plot with more than one building, only one building which generates highest rates revenue in that plot, but does not include mud huts, thatched houses, mud houses and such other similar houses;”

Amend-
ment of
section 6 **10.** The principal Act is amended in section 6(1) by adding immediately after the word “Municipal Council” the word “District Council;”

Amend-
ment of
section
16 **11.** The principal Act is amended in section 16 by:

(a) deleting subsections (1) and (1A) and substituting for them the following:
“ (1) There shall be charged property rate at the rate of -
(a) in the case of city council, municipal council and town council areas:
(i) ten thousand shillings for ordinary building;
(ii) fifty thousand shillings for each storey in a storey building; and
(b) in the case of district council areas:
(i) ten thousand shillings for ordinary building;
(ii) twenty thousand shillings for a storey building;

Cap.4
16 Provided that, a fraction of a building belonging to one or several co-owners in accordance with the Unit Titles Act shall be treated as a separate building.”;

(b) deleting subsections (3), (4), (5), (6), (7) and (8) and substituting for them the following new subsections:

“(3) The Tanzania Revenue Authority shall have powers to collect rate at a rateable area.

(4) For purposes of this section, “ordinary building” excludes mud huts, thatched houses, mud houses and such other similar houses ordinarily used for residential purposes.”

Repeal of section 18

12. The principal Act is amended by repealing section 18.

Amendment of section 18A

13. The principal Act is amended in section 18A by deleting the words “rating property and collecting property rate” and substituting for them the words “collecting property rate in collaboration with the local government authority”.

Repeal of sections 19,20 and 22

14. The principal Act is amended by repealing sections 19, 20 and 22.

Amendment of section 29

15. The principal Act is amended in section 29 by deleting the words “general or special rate” appearing in the marginal note and subsection (1) and substituting for them the word “rate”.

PART V
AMENDMENT OF THE MINING ACT,
(CAP.123)

Construction Cap.123

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

General amendment

17. The principal Act is amended generally by deleting the words “mining rights” wherever they appear and substituting for them the words “mineral rights”.

Amendment of section 4

18. The principal Act is amended in section 4 by adding in the appropriate alphabetical order the following new definitions:

- “small scale miner” means a holder of a primary mining licence;
“Mineral and Gem Houses” means the Mineral and Gem Houses established under section 27C;
“Minerals Import Permit” means a Minerals Import Permit issued under section 86A;
“mineral ore” means the naturally occurring material in the form of rocks or sediments from which economically valuable minerals can be extracted;
“tailings” means materials left over after the mineral ore is crushed and valuable minerals are extracted from it;”.

Amend-
ment of
section 9

19. The principal Act is amended in section 9 by deleting subsection (4) and substituting for it the following:

- “(4) Consent of the licensing authority where it is required under subsection (2) shall not be given unless-
- (a) there is a proof that substantial developments have been effected by the holder of a mineral right;
 - (b) there is a Tax Clearance Certificate issued by the Tanzania Revenue Authority; and
 - (c) there is proof that other charges, fees and payables have been cleared.”

Amend-
ment of
section
18

20. The principal Act is amended in section 18 by:

- (a) adding the words “a holder of import permit” immediately after the words “licensed broker” wherever they appear in subsection (1);
- (b) by deleting paragraphs (a) and (b) of subsection (4) and substituting for them the following:
 - “(a) in the case of an individual, to a fine of not less than five 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;
 - (b) in the case of a body corporate, to a fine of not less than twenty million shillings but not exceeding fifty million shillings.”

Amend-
ment of
section
27C

21. The principal Act is amended in section 27C, by-

- (a) adding immediately after subsection (1) the following new subsections:

“(2) A person who wishes to buy or dispose minerals shall buy or dispose minerals at the Mineral and Gem Houses established under subsection (1).

(3) Notwithstanding subsection (2), a holder of mining licence and special mining licence may dispose of mineral extracted from their respective licence areas at any market of choice.

(4) Where there is no Mineral and Gem Houses the Commission shall-

(a) establish buying stations whether mobile or stationed within the area where there is active mining activities;

(b) issue broker’s licence in respect of specific buying station or stations.

(5) The Minister may, for the purpose of this section and by notice published in the *Gazette*, exempt certain minerals from the requirement of this section.”;

(b) by renumbering subsection (2) as subsection (6).

Amend-
ment of
section
55

22. The principal Act is amended in section 55(3) by adding immediately after the word “recovered” appearing in paragraph (c) the words “to a holder of a dealer’s or broker’s licence”.

Amend-
ment of
section
76

23. The principal Act is amended in section 76 by adding immediately after the word “acquire” appearing in paragraph (a) the words “minerals from the Mineral and Gem Houses”.

Amend-
ment of
section
80

24. The principal Act is amended in section 80(2) by-

(a) adding immediately after paragraph (b) a new paragraph as follows:

“(c) specify the buying stations from which the applicant may buy minerals;”

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

Amend-
ment of
section
83

25. The principal Act is amended in section 83 by deleting subsection (1) and substituting for it the following:

“(1) A broker’s licence shall authorize the holder to buy or acquire gold or gemstones in a designated buying station as the licence may specify, and to sell or dispose of minerals so acquired to a licensed dealer at the Mineral and Gem House.”

Amend-
ment of
section
86

26. The principal Act is amended-

(a) by adding immediately after section 86 the following subheading:

“(iii) *Minerals Import Permit;*”

(b) by adding immediately after the proposed sub-heading (iii) the following new sections:

“Conditions
for Minerals
Import Permi

86A.-(1) A person shall not import any minerals without a relevant Minerals Import Permit issued by the Commission prior or at the entry point.

(2) Subject to the provisions of this Act, a person who wishes to import minerals for processing, disposing or dealing in or marketing purposes shall apply to the Commission for grant of a Minerals Import Permit in respect of the type of minerals he wants to import.

(3) The Commission shall, upon being satisfied with the contents of application, issue a Mineral Import Permit to the applicant in respect of minerals intended to be imported and upon payment of prescribed fees.

(4) The permit holder shall be required to comply with laws and regulations governing the importation of minerals.

Importation
of diamonds

86B. Subject to section 86A, importation of diamonds shall, in each round of import be subject to the following specific conditions:

(a) the permit holder shall apply for diamond import clearance from the Commission; and

(b) the permit holder shall submit proof of holding a certificate of compliance to the Kimberly Process Certification System.

Regulations
on
importation
of minerals

86C.-(1) The Minister may make regulations prescribing:

- (a) conditions for Minerals Import Permit;
- (b) procedures for application and issuance of Minerals Import Permit;
- (c) rights and obligations of the holder of Minerals Import Permit; or
- (d) such other matters as may be required for purposes of Minerals Import Permit under this section.

(2) The Minerals Import Permit issued under this section shall be valid for such time as may be stated in the permit.”

Addition
of section
100E

27. The principal Act is amended by -

- (a) adding immediately after section 100D the following new section:

“Mineral
ores and
tailings to
be trading
commodity

100E. Mineral ores or tailings owned or dealt with by small scale miners shall be a trading commodity in Tanzania.”

- (b) renumbering sections 100E and 100F as sections 100F and 100G respectively.

PART VI

AMENDMENT OF THE VALUE ADDED TAX ACT, (CAP.148)

Construc-
tion
Cap.148

28. This Part shall be read as one with the Value Added Tax Act, hereinafter referred to as the “principal Act”.

Addition of
section
55B

29. The principal Act is amended by adding immediately after section 55A the following new section:

“Zero-
rating
supply of
minerals

55B.-(1) Supply of precious metals, gemstones and other precious stones by a small scale miner at the buying station designated by

by small
scale
miners
Cap. 123

the Mining Commission under the Mining Act or at the Mineral and Gem House shall be zero-rated.

(2) The Minister may make Regulations for the better carrying into effect the provisions of this section.

(3) For the purpose of this section-
“Mineral and Gem Houses” shall have the meaning ascribed to it under the Mining Act;
“small scale miner” shall have the meaning ascribed to it under the Mining Act.”

OBJECTS AND REASONS

This Bill proposes to amend five Acts namely; the Excise Management and Tariff Act, (Cap.147), the Income Tax Act, (Cap.332), the Local Government Authorities (Rating) Act, (Cap.289), the Mining Act, (Cap.123) and the Value Added Tax Act, (Cap.148).

The proposed amendments to the respective laws are intended to cure the shortfalls occasioned during the implementation of the respective laws.

This Bill is divided into Six Parts. 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 Excise Management and Tariff Act, Cap.147. The Fourth Schedule is intended to be amended so as to reduce the excise duty for spirits made of locally produced grapes. The aim of the proposed amendments is to encourage manufacturers to use locally produced grapes. The proposal is intended to promote grape farming.

Part III of the Bill proposes to amend the Income Tax Act, Cap 332. Section 83B and paragraph 4(d) of the First Schedule are proposed to be repealed with the view of removing the obligation to withhold tax of 5% payable by small scale miners.

Part IV of the Bill proposes to amend the Local Government Authorities (Rating) Act, Cap.289 whereby sections 6,16, 18A

and 29 are proposed to be amended and sections 18, 19, 20 and 22 of the Act are proposed to be repealed. The aim of the proposed amendments is to set a flat rate for property tax and enable the Tanzania Revenue Authority to be the sole collector of property tax in the country. The proposed rates are Ten Thousand shillings for ordinary buildings situated in rural and urban areas, Twenty Thousand Shillings for each storey building situated in rural areas and Fifty Thousand Shillings for each storey building situated in urban areas.

Part V proposes amendment to the Mining Act, Cap.123. The Act is amended generally with a view to using proper terms “mineral rights” instead of “mining rights”. Section 4 of the Act is amended for the purpose of adding interpretation of new terms that have been used in various provisions of the Act and section 9 is amended to include tax clearance as a precondition for transfer of mineral rights. The proposed amendments are intended to ensure that taxes relating to mineral rights are paid before effecting transfer of such rights. Section 18 is amended to provide minimum penalties for offences relating to unauthorised trading of minerals.

Section 27C of the Act is amended to make buying and disposing of minerals in the Mineral and Gem Houses compulsory save for holders of mining licences or special mining licences. In the same vein, the Act is amended in sections 55, 76, 80 and 83 so as to reflect the introduction of Mineral and Gem Houses. It is further proposed that buying stations be established in mineral areas where there is no Mineral and Gem Houses. The said amendments are expected to put in place vibrant mechanism that will enable small scale miners to sell their minerals. Further, the amendments aims at regulating and controlling trading in minerals with a view to ensuring that revenues relating to trading in minerals are efficiently collected. Furthermore, the Act is

amended by adding new sections 86A, 86B and 86C to provide for matters relating to Minerals Import Permits.

Part VI of the Bill proposes to amend the Value Added Tax Act, Cap. 148. The Act is proposed to be amended by adding a new section 55B with a view of zero-rating supply of precious metal and gemstones by small scale miners at Mineral and Gem Houses.

MADHUMUNI NA SABABU

Muswada huu unapendekeza marekebisho katika Sheria tano zifuatazo; Sheria ya Ushuru wa Bidhaa, Sura 147, Sheria ya Kodi ya Mapato, Sura 332, Sheria ya Mamlaka za Serikali za Mitaa ya Utozaji wa Kodi ya Majengo, Sura 289, Sheria ya Madini, Sura 123 na Sheria ya Kodi ya Ongezeko la Thamani, Sura 148.

Lengo la kupendekeza marekebisho haya ni kuondoa upungufu uliodhihirika wakati wa utekelezaji wa baadhi ya masharti yaliyomo katika Sheria hizo.

Muswada huu umegawanyika katika Sehemu Kuu Sita. Sehemu ya Kwanza inahusu masharti ya Utangulizi ambayo yanajumuisha, jina la Muswada na namna ambavyo Sheria zinazopendekezwa kurekebishwa zitakavyorekebishwa ndani ya Muswada huu.

Sehemu ya Pili ya Muswada inapendekeza marekebisho katika Sheria ya Ushuru wa Bidhaa, Sura ya 147 ambapo Jedwali la Nne linapendekezwa kurekebishwa kwa kupunguza kiwango cha Ushuru wa Bidhaa kwenye pombe kali (spirits) inayotengenezwa nchini kwa kutumia zabibu zinazozalishwa nchini. Lengo la marekebisho haya ni kuhamasisha viwanda kutumia mvinyo unaozalishwa nchini na hivyo kuinua kilimo cha zao la zabibu.

Sehemu ya Tatu ya Muswada inahusu marekebisho ya Sheria ya Kodi ya Mapato, Sura 332. Muswada unapendekeza kufanya marekebisho kwa kufuta Kifungu cha 83B na aya 4(d) ya Jedwali la Kwanza. Lengo la marekebisho haya ni kuondoa kodi ya zuio

ya 5% kwa wachimbaji wadogo wa madini ili kuwahamasisha wachimbaji wadogo kuuza madini yao katika masoko ya madini.

Sehemu ya Nne ya Muswada inahusu marekebisho ya Sheria ya Serikali za Mitaa ya Utozaji wa Kodi ya Majengo, Sura ya 289. Muswada unapendekeza kufanya marekebisho katika vifungu vya 6,16,18A, 29 na kufuta vifungu vya 18,19,20 na 22. Lengo la marekebisho haya ni kuweka viwango mfuto vya kodi ya majengo na kuiwezesha Mamlaka ya Mapato (TRA) kuwa mkusanyaji pekee wa kodi ya majengo nchini. Viwango vinavyopendekezwa ni Shilingi elfu kumi kwa majengo ya kawaida kwa maeneo ya mijini na vijijini; Shilingi elfu ishirini kwa nyumba za ghorofa katika maeneo ya Vijijini na Shilingi elfu hamsini kwa kila sakafu kwa nyumba za ghorofa katika maeneo ya mijini.

Sehemu ya Tano ya Muswada inapendekeza marekebisho ya Sheria ya Madini, Sura ya 123. Sheria hiyo inafanyiwa marekebisho ya jumla kwa madhumuni ya kutumia istilahi sahihi kwa kufuta maneno "*mining rights*" na badala yake kutumia maneno "*mineral rights*". Kifungu cha 4 cha Sheria hiyo kinafanyiwa marekebisho kwa kuongeza tafsiri ya istilahi mpya zilizotumika katika Sheria hiyo. Kifungu cha 9 cha Sheria hiyo kinapendekezwa kurekebisha kwa madhumuni ya kujumuisha cheti cha uthibitisho wa kutodaiwa kodi kama moja ya masharti ya uhamishaji wa umiliki wa leseni za madini. Marekebisho hayo yanakusudiwa kuhakikisha kwamba kodi zinazohusu leseni za madini zinalipwa kabla ya leseni hizo kuhamishiwa katika umiliki mwingine. Kifungu cha 18 kinarekebisha kwa madhumuni ya kuweka ukomo wa chini wa adhabu kwa makosa ya kufanya biashara ya madini kinyume cha Sheria.

Kifungu cha 27C cha Sheria kinarekebisha kwa madhumuni ya kuweka ulazima wa ununuzi na uuzaji wa madini kufanywa

katika masoko ya madini isipokuwa kwa wamiliki wa leseni kubwa na za kati. Aidha, vifungu vya 55, 76, 80 na 83 vinarekebisha kwa madhumuni ya kuakisi kuanzishwa kwa masoko ya madini. Sambamba na marekebisha hayo, inapendekezwa vituo vya ununuzi wa madini vianzishwe katika maeneo ambayo hakuna masoko ya madini. Marekebisha hayo yanategemewa kuweka mfumo madhubuti utakaowezesha wachimbaji wadogo kuuza madini yao. Aidha, marekebisha hayo yanalenga kuhakikisha mapato yanayotokana na biashara ya madini yanakusanywa ipasavyo. Pia, Sheria inarekebisha kwa kuongeza vifungu vipya vya 86A, 86B na 86C vinavyoweka masharti kuhusu uingizaji wa madini nchini.

Sehemu ya Sita ya Muswada inahusu marekebisha ya Sheria ya Kodi ya Ongezeko la Thamani, Sura ya 148. Muswada unapendekeza kufanya marekebisha kwa kuongeza kifungu kipya cha 55B ili kutoza Kodi ya Ongezeko la Thamani kwa kiwango cha asilimia sifuri kwenye madini ya metali na vito yatakayouzwa na wachimbaji wadogo wa madini kwenye masoko ya madini. Lengo la mapendekezo haya ni kuwahamasisha wachimbaji wadogo kuuza madini yao katika masoko ya madini na kudhibiti utoroshaji wa madini.

Dodoma,
30 Januari, 2019

ADELARDUS L. KILANGI,
Mwanasheria Mkuu wa Serikali