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***BILL SUPPLEMENT***

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WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO. 7) ACT, 2019

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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,  
18<sup>th</sup> October, 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. 7) Act, 2019.
- Amendment 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 ANIMAL DISEASES ACT, (CAP. 156)**

- Construction Cap. 156                    **3.** This Part shall be read as one with the Animal Diseases Act, hereinafter referred to as the “principal Act”.
- Amendment of section 62                    **4.** The principal Act is amended in the closing phrase of section 62(1), by deleting the words “three hundred thousand shillings or not more than five hundred thousand shillings or imprisonment for six months” and substituting for them the words “five hundred thousand shillings but not exceeding ten

million shillings or to imprisonment for a term of not less than six months but not exceeding twelve months”.

Addition of section 62A

5. The principal Act is amended by adding immediately after section 62 the following:

“Compounding of offences

**62A.**-(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act or any other sector legislation, the Director or a person authorised by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction, compound such offence and order such person to pay a sum of money not exceeding five million shillings.

(2) Where the person fails to comply with the compounding order issued under this section within the prescribed period, the Director may, in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations.

(3) Where the person fails to comply with subsection (2), the Director may enforce the compounding order and interest accrued thereof in the same manner as a decree of a court.

(4) The Director shall submit quarterly reports of all compounded offences under this section to the Director of Public Prosecutions.

(5) The forms and manner of compounding of offences shall be as prescribed in the regulations made under this Act.”.

### PART III

#### AMENDMENT OF THE ANIMAL WELFARE ACT,(CAP. 154)

Construction  
Cap. 154

**6.** This Part shall be read as one with the Animal Welfare Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 59

**7.** The principal Act is amended in section 59-

(a) in subsection (1), by-

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

“(f) unnecessarily starve, underfeed or deny water or food to an animal;

(g) keep an animal in grossly dirty or verminous conditions;

(h) abandon an animal, whether permanently or not, in circumstances likely to cause unnecessary suffering to the animal;

(i) keep or manage an animal in a manner that prevents it from exhibiting normal behaviour patterns;” and

(ii) renaming paragraphs (f) and (g) as paragraphs (j) and (k) respectively;

(b) in subsection (2), by deleting the words “not exceeding one hundred thousand shillings” and substituting for them the words “of not less than one hundred thousand shillings but not exceeding one million shillings”.

Amendment  
of section 60

**8.** The principal Act is amended in section 60(1)(a), by deleting the word “fifty” and substituting for it the words “five hundred”.

#### PART IV

#### AMENDMENT OF THE BANK OF TANZANIA ACT, (CAP. 197)

Construction  
Cap.197

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

Amendment  
of section 34

**10.** The principal Act is amended in section 34, by deleting the word “Government” wherever it appears in that section and substituting for it the word “Governments”.

**PART V**  
**AMENDMENT OF THE GOVERNMENT LOANS, GUARANTEES**  
**AND GRANTS ACT, (CAP. 134)**

Construction  
Cap.134

**11.** This Part shall be read as one with the Government Loans, Guarantees and Grants Act, hereinafter referred to as the “principal Act”.

Addition of  
section 14A

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

“Authority to  
guarantee  
insurance risks

**14A.**-(1) Notwithstanding the provisions of sections 13, 13A and 14, the Minister shall, upon the advice of the National Committee, issue a guarantee for and on behalf of the Government on risk emanating from insurance policy on the following conditions-

- (a) the insurance policy is issued by an insurance company or institution owned wholly by the Government;
- (b) the insurance policy relates to a project funded by the Government or a property owned by the Government; and
- (c) the extent of the guarantee covered does not exceed 75% of the risks insured.

(2) Notwithstanding subsection (1)(c), the Minister may, upon the recommendations of the National Committee, extend the rate of risk to be guaranteed.

(3) The provisions of this section shall be deemed to have come into operation on the 1<sup>st</sup> day of June, 2019.”

**PART VI**

AMENDMENT OF THE HIV AND AIDS (PREVENTION AND CONTROL) ACT,  
(CAP. 431)

Construction  
Cap. 431

**13.** This Part shall be read as one with the HIV and AIDS (Prevention and Control) Act hereinafter referred to as the “principal Act”.

General  
amendment

**14.** The principal Act is amended generally, by deleting the words “living with HIV and AIDS” and “living with HIV/AIDS” wherever they appear in the Act and substituting for them with the words “living with HIV”.

Amendment  
of section 3

**15.** The principal Act is amended in section 3, by inserting in the appropriate alphabetical order the following new definitions-

““child” for the purposes of HIV testing under this Act, means a person below the age of fifteen;

“HIV self-testing” means the process of a person collecting his own specimen, oral fluid or blood, performing a test and interpreting the results in a private setting, either alone or with someone he trusts;”.

Amendment  
of section 7

**16.** The principal Act is amended in section 7(1), by deleting article “a” appearing between the words “Education” and “programmes” .

Amendment  
of section 13

**17.** The principal Act is amended in section 13, by-

(a) deleting the words “For the purposes of facilitating HIV testing, every public” appearing at the beginning of subsection (1) and substituting for them the words “Except for HIV self-testing, for purposes of facilitating HIV testing, every”;

(b) deleting subsection (4) and substituting for it the following:

“(4) Except for HIV self-testing, HIV testing shall be undergone or conducted in a health care or center recognized by NACP.”

Amendment  
of section 16

**18.** The principal Act is amended in section 16(2), by deleting paragraph (a) and substituting for it the following:



“(a) in case of a person below the age of eighteen years, a parent, guardian or someone he trusts;”.

Addition of sections 16A,16B,16C, 16D and 16E

**19.** The principal Act is amended by adding immediately after section 16 the following:

“HIV self-testing

**16A.-(1)** Notwithstanding other provisions of this Act, a person may undertake self-testing in accordance with the procedures provided for under this Part.

(2) A person who undertakes self-testing or assists another person to undertake self-testing shall ensure that-

- (a) testing is voluntary;
- (b) he undertakes or assists to undertake confirmation of the results in a health facility or authorized HIV testing services; and
- (c) he disposes the used test kits in a proper manner.

(3) A person below the age of eighteen years shall not undertake self-testing or be provided with self-testing kits.

Responsibilities of person providing or distributing self-testing kits

**16B.-(1)** A person shall not provide or supply self-testing kits unless he has undergone training in HIV self-testing recognized by the Ministry.

(2) A person who provides or supplies self-testing kits shall, before providing or supplying such kits-

- (a) provide pre-testing counseling to the user in accordance with the provisions of this Act;
- (b) instruct the user on the proper procedures of HIV

self-testing and disposal of used self-testing kits;

- (c) inform the user that HIV self-testing does not provide definitive and conclusive diagnosis; and
- (d) advise the user to visit a health facility or authorized HIV testing services for confirmation of results.

Quality and standards of self-testing kits

**16C.** A person shall not use or supply self-testing kits unless the kits are approved and registered by the authority responsible for quality and standards control.

Methods of self-testing

**16D.** HIV self-testing shall be done in the following manner-

- (a) by an individual alone; or
- (b) by an individual with the assistance of someone he trusts or a trained HIV testing service provider.

Offences under this Part

**16E.** A person who contravenes the provisions of this Part commits an offence.”

Amendment of section 17

**20.** The principal Act is amended in section 17-

- (a) in subsection (1), by adding the words “a person who assists another person to undertake self-testing” immediately after the word “guardians”; and
- (b) by adding immediately after subsection (2) the following:
  - “(3) A person who contravenes the provisions of this section commits an offence.”.

Amendment of section 23

**21.** The principal Act is amended in section 23(2), by deleting the words “Tanzania Bureau of Standards” and

substituting for them the words “authorities responsible for quality and standards control”.

Amendment  
of section 27

**22.** The principal Act is amended in section 27(3), by deleting the word “one million shillings or to imprisonment for a term of not less than six months”, and substituting for them the words “five million shillings but not exceeding fifty million shillings or to imprisonment for a term of not less than six months but not exceeding three years”.

Amendment  
of section 42

**23.** The principal Act is amended in section 42, by-

- (a) deleting the words “TACAIDS shall compile and disseminate relevant research findings to the public” appearing in subsection (1) and substituting for them the words “TACAIDS shall, in collaboration with NACP, compile the relevant research findings and submit to the Minister”;
- (b) adding immediately after subsection (1) the following:

“(2) The Minister may, upon receipt of the research findings and after consultation with the Minister responsible for multi sectoral coordination, policy of HIV and AIDS prevention and control, disseminate relevant research findings to the public.”;

- (c) renumbering subsections (2) and (3) as subsections (3) and (4) respectively.

Amendment  
of section 47

**24.** The principal Act is amended in section 47, by-

- (a) designating the contents of section 47 as subsection (1); and
- (b) adding immediately after the designated subsection (1) the following:

“(2) In addition to the penalty prescribed under subsection (1), the court may order payment of compensation to the victim in the sum and manner it deems fit.”.

Amendment  
of section 52

**25.** The principal Act is amended in section 52, by-

- (a) inserting immediately after paragraph (l) the following:

- “(m) provision, supply, handling and disposal of self-testing kits;”  
(b) renaming paragraphs (m) and (n) as paragraphs (n) and (o) respectively.

**PART VII**  
**AMENDMENT OF THE INDUSTRIAL AND CONSUMER CHEMICALS**  
**(MANAGEMENT AND CONTROL) ACT, (CAP.182)**

Construction  
Cap.182

**26.** This Part shall be read as one with the Industrial and Consumer Chemicals (Management and Control) Act, hereinafter referred to as the “principal Act”.

General  
amendment

- 27.** The principal Act is amended generally, by-
- (a) deleting the word "Agency" wherever it appears in the Act and substituting for it the word "Authority"; and
  - (b) deleting the words "Executive Agencies Act" wherever they appear in the Act and substituting for them the words "Government Chemist Laboratory Authority Act".

Cap. 177

Amendment  
of section 2

**28.** The principal Act is amended in section 2, by deleting the definition of the term "Board" and substituting for it the following:

""Board" means the Board for the Government Chemist Laboratory Authority established under section 7 of the Government Chemist Laboratory Authority Act;"

Cap. 177

Repeal and  
replacement  
of section 3

**29.** The principal Act is amended by repealing section 3 and replacing it with the following:

“Administration and functions under the Act **3.** The administration and functions under this Act shall be as specified under the Government Chemist Laboratory Authority Act.”

Cap. 177

Amendment  
of section 4

**30.** The principal Act is amended in section 4(2), by deleting the words "Ministerial Advisory" appearing in paragraph (e).

Amendment  
of section 6

**31.** The principal Act is amended in section 6, by deleting paragraph (e) and substituting for it the following:  
"(e) delegate any of its powers to the Chief Government Chemist, Committee of the Board or authorised public officer provided that, such delegation shall not be further delegated; and".

Amendment  
of section 11

**32.** The principal Act is amended in section 11-  
(a) in subsection (2), by-  
(i) adding immediately after paragraph (a) the following:  
"(b) the dealer of chemical;";  
(ii) by renaming paragraphs (b) and (c) as paragraphs (c) and (d) respectively;  
(b) by deleting subsection (5) and substituting for it the following:  
"(5) Every chemical imported, distributed, manufactured, transported, sold or stored shall bear on the container thereof, a label written in either Kiswahili or English language with details prescribed in the regulations."

Addition of  
section 27A

**33.** The principal Act is amended by adding immediately after section 27 the following:  
"Prohibition from dealing in chemicals listed in Third, Sixth, Seventh and Eighth Schedules  
**27A.**-(1) A person shall not possess, use, distribute, buy or sell chemicals specified under the Third, Sixth, Seventh and Eighth Schedules unless that person is registered under this Act.  
(2) Any person who contravenes subsection (1) commits an offence and shall, on conviction, be liable to-  
(a) in case of a natural person, a fine of not less than one million shillings but not exceeding five million shillings or to imprisonment for a term of two years or to both; and

(b) in case of a body corporate, a fine of not less than ten million shillings but not exceeding two hundred million shillings.”.

Amendment of section 29

**34.** The principal Act is amended in section 29(7), by deleting the words “and the Chairman of the Board”.

Amendment of section 42

**35.** The principal Act is amended in section 42, by-  
(a) deleting the words "international or foreign" appearing in subsection (1)(a) and substituting for them the words "or international"; and  
(b) adding immediately after subsection (5) the following:

“(6) Any person who imports unlabelled, obsolete or expired chemical commits an offence and shall, upon conviction, be liable to a fine of not less than five million shillings or to imprisonment for a term of six months or both.”

Amendment of section 43

**36.** The principal Act is amended in section 43(11), by deleting the words “transit chemicals or chemical wastes in the country” and substituting for them the words “imported or transit bulk chemicals in the port unless such operation is undertaken at the designated port or area”.

Amendment of section 48

Cap. 177

**37.** The principal Act is amended in section 48(4), by deleting the words “section 12 of the Executive Agencies Act, 1997” and substituting for them the words “section 36 of the Government Chemist Laboratory Authority Act”.

Amendment of section 49

Cap. 177

**38.** The principal Act is amended in section 49(1), by deleting the words “section 14 of the Executive Agencies Act, 1997” and substituting for them the words “section 41 of the Government Chemist Laboratory Authority Act”.

Repeal and replacement of section 50

**39.** The principal Act is amended by repealing section 50 and substituting for it the following-

“Annual reports and

**50.** Within six months after the end of each financial year, the Registrar

performance agreements shall prepare and submit to the Minister an annual report in accordance with section 40 of the Government Chemist Laboratory Authority Act.”

Cap. 177

Addition of section 61A

**40.** The principal Act is amended by adding immediately after section 61 the following:

"Compounding of offences

**61A.**-(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act or any other sector legislation, the Registrar or a person authorised by him in writing may, at any time prior to the commencement of the proceedings by a court of competent jurisdiction compound such offence and order such person to pay a sum of money not exceeding one half of the amount of fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where the person fails to comply with the compounding order issued under this section within the prescribed period, the Registrar may in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations.

(3) Where the person fails to comply with subsection (2), the Registrar may enforce the compounding order and interest accrued thereof in the same manner as a decree of a court.

(4) The Registrar shall submit quarterly reports of all compounded offences under this section to the Director of Public Prosecutions.

(5) The forms and manner of compounding of offences shall be as prescribed in the regulations made under this Act.”.

## PART VIII

### AMENDMENT OF THE MINING ACT, (CAP. 123)

Construction  
Cap.123

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

Amendment  
of section 73

**42.** The principal Act is amended in section 73, by-  
(a) deleting subsection (3); and  
(b) renumbering subsections (4) and (5) as subsections (3) and (4) respectively.

Addition of  
sub-part (iv)

**43.** The principal Act is amended in Part V by adding immediately below section 86B the following sub-part:

*“(iv) Lapidary Licence*

Lapidary licence

**86C.**-(1) A person shall not carry out lapidary activities without a licence issued under this sub-part.

(2) A lapidary licence shall be issued in the following categories-

- (a) large lapidary licence; and
- (b) small lapidary licence.

(3) A large or small lapidary licence shall apply to gemstones only.

Application for  
large lapidary  
licence

**86D.**-(1) An application for a large lapidary licence shall be made to the Commission in a prescribed form and shall be accompanied by the prescribed fee.

(2) An application for a large lapidary licence shall contain-

- (a) names, place of business and physical address;
- (b) the type of minerals for which the licence is sought; and



(c) any other information as may be determined by the Commission,

and shall be appended with two recent passport size photographs of the applicant.

(3) A large lapidary licence shall not be granted to or held by a person who, by reason of subsection (1) or (2) of section 8, is not qualified to be granted a primary mining licence unless the large lapidary licence is held by such person in undivided participating shares with a person or persons qualified to hold the licence under subsection (1) or (2) of section 8 and whose undivided participating share or shares amount to not less than twenty five *per centum* either alone, in the case of one person, or in aggregate, in the case of more than one person.

(4) An applicant for a large lapidary licence shall show possession of knowledge or experience in lapidary activities or has employed a person of the requisite knowledge or experience for at least two years.

Grant of large  
lapidary licence

**86E.**-(1) Subject to subsection (2), a successful applicant for a large lapidary licence under section 86B shall be entitled to the grant of a large lapidary licence for which he has applied.

(2) Notwithstanding subsection (1), a successful applicant shall not be granted a large lapidary licence if-

(a) he has not surrendered any licence which previously entitled him to carry out lapidary activities;

- (b) he previously held a large lapidary licence and was disqualified from holding such licence; or
- (c) he has been convicted of a criminal offence in relation to buying, selling or possession of minerals or unlawfully carrying out lapidary activities.

Duration of large lapidary licence and renewal

**86F.**-(1) A large lapidary licence shall be valid for a period of five years from the date of issue.

(2) A holder of a large lapidary licence may, not less than six months from the date of expiry of the licence, apply for renewal in the prescribed form and accompanied by the prescribed fees.

(3) The holder of a large lapidary licence who has failed to show evidence of transfer of lapidary skills to Tanzanians, quantity and type of equipment and an annual minimum turnover prescribed in the regulations shall be disqualified from obtaining a renewal of his licence.

Rights and obligations of holder of large lapidary licence

**86G.**-(1) The holder of a large lapidary licence may-

- (a) buy or acquire minerals specified in the licence from mineral and gem houses or import gemstones for value addition;
- (b) cut, polish, engrave or enhance gemstones through heat treatment for the purpose of value addition; and

- (c) sell, dispose of or export gems after value addition.
- (2) The holder of a large lapidary licence shall-
  - (a) where the holder is a Tanzanian, acquire and utilise ten lapidary machines and where the holder is a foreigner, acquire and utilise thirty lapidary machines for conducting lapidary activities;
  - (b) where the holder is a foreigner, transfer lapidary skills and expertise to Tanzanians;
  - (c) conduct lapidary activities at the place of business specified in the licence; and
  - (d) keep and maintain accurate records and accounts of all transactions undertaken by him and such records and accounts shall-
    - (i) be kept in such form and include such details as may be prescribed; and
    - (ii) be submitted to the Commission on a quarterly basis.

Termination of  
large lapidary  
licence

**86H.**-(1) Where a holder of a large lapidary licence is in default of any conditions for which the licence was issued, the Commission may serve on the holder a notice stating the nature of default and require him to rectify the default within thirty days from the date of receipt of the notice.

(2) Where the default has not been rectified within the time prescribed in the notice, the Commission shall terminate the large lapidary licence and notify the holder in writing.

Application for  
small lapidary  
licence

**86I.**-(1) An application for a small lapidary licence shall be made to the Commission in the prescribed form and shall be accompanied by a prescribed fee.

(2) An application for a licence under this section shall contain-

- (a) names, place of business and physical address;
- (b) the type of minerals for which the licence is sought; and
- (c) any other information as may be determined by the Commission,

and shall be appended with two recent passport size photographs of the applicant.

(3) An applicant for a small lapidary licence shall show possession of knowledge or experience in lapidary activities or has employed a person of the requisite knowledge or experience.

Grant of small  
lapidary licence

**86J.**-(1) Subject to subsection (2), a successful applicant for a small lapidary licence under section 86I shall be entitled to the grant of a small lapidary licence for which he has applied.

(2) Notwithstanding subsection (1), a successful applicant shall not be granted a small lapidary licence if-

- (a) he has not surrendered any licence which previously

entitled him to carry out lapidary activities;

(b) he previously held a small lapidary licence and was disqualified from holding such licence; or

(c) he has been convicted of a criminal offence in relation to buying, selling or possession of minerals or unlawfully carrying out lapidary activities.

(3) A small lapidary licence shall not be issued to a foreigner.

Duration and renewal of small lapidary licence

**86K.**-(1) A small lapidary licence shall be valid for a maximum period of twelve months from the date of issue, and in any case, shall expire on 30<sup>th</sup> June of each year.

(2) A holder of a small lapidary licence may, not less than one month from the date of expiry of the licence, apply for renewal in the prescribed form and accompanied by the prescribed fees.

(3) In determining an application for renewal, the Commission shall consider whether the applicant-

(a) has been in default of conditions of the licence; or

(b) is disqualified from holding a small lapidary licence under section 86J.

Rights and obligation of small lapidary licence

**86L.**-(1) The holder of a small lapidary licence may-

(a) buy or acquire minerals specified in the licence

- from mineral and gem houses and buying centers;
- (b) cut, polish, engrave minerals or enhance minerals through heat treatment for the purpose of value addition; and
- (c) sell or dispose gems to local markets within Tanzania.

(2) The holder of a small lapidary licence shall-

- (a) where the holder is a Tanzanian, acquire and utilise three lapidary machines for lapidary activities;
- (b) conduct lapidary activities at the place of business specified in the licence; and
- (c) keep and maintain accurate records and accounts of all transactions undertaken by him and such records and accounts shall-
  - (i) be kept in such form and include such details as may be prescribed; and
  - (ii) be submitted to the Commission on a quarterly basis.

Termination of  
small lapidary  
licence

**86M.**-(1) Where a holder of a small lapidary licence is in default of any condition for which the licence was issued, the Commission may serve on the holder a notice stating the nature of default and require him to rectify the default within thirty days from the date of receipt of the notice.

(2) Where the default has not been rectified within the time prescribed in the notice, the Commission shall terminate the small lapidary licence and notify the holder in writing.”

#### PART IX

#### AMENDMENT OF THE NATIONAL LEADERS’ FUNERALS ACT, (CAP. 419)

Construction  
Cap.419

**44.** This Part shall be read as one with the National Leaders’ Funerals Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 3

- 45.** The principal Act is amended in section 3, by-
- (a) deleting the definition the terms “National Cemetery” and “President, Vice-President, President of Zanzibar and Prime Minister of the United Republic”; and
  - (b) deleting the definition of the term “national leader and substituting for it the following:
    - ““national leader” means the President, Vice President, President of Zanzibar, Prime Minister of the United Republic of Tanzania, First Vice President of Zanzibar and Second Vice President of Zanzibar;”
  - (c) adding in the appropriate alphabetical order the following new definition:
    - “cemetery” means a piece of land or area designated to be a burial place by the National Funeral Committee or an area specified in terms of section 17(1);
    - “President, Vice President, President of Zanzibar, Prime Minister of the United Republic of Tanzania, First Vice President of Zanzibar and Second Vice President of Zanzibar” includes a retired President, a retired Vice President, a retired President of Zanzibar, a retired Prime Minister of the United Republic of Tanzania, a

retired First Vice President of Zanzibar and a retired Second Vice President of Zanzibar;”

Amendment of section 5

**46.** The principal Act is amended in section 5(2), by adding the words “or President of Zanzibar” immediately after the word “President”.

Amendment of section 7

**47.** The principal Act is amended in section 7(c), by-

- (a) adding a new subparagraph (i) as follows:
  - “(i) in the case of the President of Zanzibar, a period of fourteen days for state mourning and the flags to fly half mast;”
- (b) renaming subparagraph (i) as subparagraph (ii);
- (c) adding immediately after the renamed subparagraph (ii) the following:
  - “(iii) in the case of a retired President of Zanzibar, a period of seven days for state mourning and the flags to fly half mast”.
- (d) renaming subparagraphs (ii), (iii) and (iv) as subparagraphs (iv), (v) and (vi) respectively.

Amendment of section 8

**48.** The principal Act is amended in section 8(2), by inserting the word “state” between the words “for” and “mourning”.

Amendment of section 9

**49.** The principal Act is amended in section 9, by deleting subsection (2) and substituting for it the following-

- “(2) The President shall, in the case of the death of a serving specified leader, announce a period of three days for state mourning and the flag to fly half mast.”

Amendment of section 11

**50.** The principal Act is amended in section 11(2), by-

- (a) deleting the words “Chief Minister” appearing in paragraph (b) and substituting for them the words “Second Vice President of Zanzibar”;
- (b) deleting the words “Minister for” appearing in paragraphs (d), (e), (f), (g), (i), (j), (l) and (m) and



- substituting for them the words “Minister responsible for”;
- (c) adding the words “responsible for State House” immediately after the word “Zanzibar” appearing at the end of paragraph (k);
- (d) deleting paragraph (n) and substituting for it the following:  
“(n) the Minister of State, Second Vice President’s Office Zanzibar;  
“(o) Chief Secretary of Zanzibar;” and
- (e) renaming paragraphs “(o)” and “(p)” as paragraphs “(p)” and “(q)” respectively.
- Amendment of section 13
- 51.** The principal Act is amended in section 13(1), by-
- (a) adding immediately after paragraph (a) the following:  
“(b) the Chief Secretary of Zanzibar who shall be the Deputy Chairman;”
- (b) deleting the words “Minister of” appearing in paragraphs (b), (c), (d), (e), (f), (g) and (i) and substituting for them the words “Minister responsible for”;
- (c) inserting the words “Construction, Industries,” between the words “for” and “Communication” appearing in paragraph (f);
- (d) deleting paragraph (j) and substituting for it the following:  
“(j) the Permanent Secretary - Second Vice President’s Office Zanzibar;” and
- (e) renaming paragraphs (b) to (k) as paragraphs (c) to (l) respectively.
- Repeal of section 16
16. **52.** The principal Act is amended by repealing section
- Amendment of section 17
- 53.** The principal Act is amended in section 17, by-
- (a) deleting subsection (1) and substituting for it the following:  
“(1) A national leader or specified leader shall be buried at such place -

- (a) as the family of the deceased shall decide; or
  - (b) as may be specified in the will of the deceased, if any,  
in accordance with the rites and procedures for state funeral or Government funeral as may be appropriate.”; and
- (b) deleting subsection (3).

Amendment  
of section 18

**54.** The principal Act is amended in section 18(3), by deleting the words “the National Cemetery” and substituting for them the words “a cemetery”.

Amendment  
of section 20

- 55.** The principal Act is amended in section 20, by-
- (a) deleting the words “or retired President” appearing in subsection (2) and substituting for them the words “serving President of Zanzibar, retired President or retired President of Zanzibar;”
  - (b) inserting the words “or the late President of Zanzibar” between the words “President” and “and” appearing in subsection (3); and
  - (c) deleting the words “Minister, be prescribed by the Minister responsible for Defence” appearing in subsection (4) and substituting for them the words “Minister responsible for Defence, be prescribed by the Minister”.

Addition of  
section 20A

**56.** The principal Act is amended by adding immediately after section 20 the following:

“Protocols for  
burial of other  
national leaders  
of Zanzibar

**20A.** Save as provided in this Act, the procedural matters and protocols regarding the funeral conduct of the First Vice President of Zanzibar and Second Vice President of Zanzibar shall be as prescribed under the relevant law of Zanzibar relating to burial of national leaders.”

Amendment  
of section 21

**57.** The principal Act is amended in section 21, by deleting subsection (2) and substituting for it the following :

“(2) The flag used for covering the bier of the serving President, retired President,

serving President of Zanzibar or retired President of Zanzibar shall, after the burial, be presented to the deceased's family for custody.”

Amendment  
of section 22

**58.** The principal Act is amended in section 22(3), by deleting the words “Minister, be prescribed by the Minister for Public Safety and Security” and substituting for them the words “Minister responsible for Public Safety and Security, be prescribed by the Minister”.

Amendment  
of section 25

**59.** The principal Act is amended in section 25(3), by deleting the word “may” and substituting for it the word “shall”.

Amendment  
of section 26

**60.** The principal Act is amended in section 26, by deleting the closing phrase and substituting for it the following:

“commits an offence and shall, on conviction, be liable to a fine of not less than five hundred thousand shillings or to imprisonment for a term of not less than six months or to both.”

Amendment  
of section 27

**61.** The principal Act is amended in section 27(2), by-  
(a) deleting paragraphs (a), (d) and (e); and  
(b) renaming paragraphs (b), (c), (f), (g), and (h) as paragraphs (a), (b), (c), (d) and (e) respectively.

PART X  
AMENDMENT OF THE PORTS ACT, (CAP.166)

Construction  
Cap. 166

**62.** This Part shall be read as one with the Ports Act hereinafter referred to as the “principal Act”.

Amendment  
of section 2

**63.** The principal Act is amended in section 2, by-  
(a) deleting subsection (2); and  
(b) designating the contents of subsection (1) as section 2.

Amendment  
of section 3

**64.** The principal Act is amended in section 3, by deleting the definition of the term “port” and substituting for it the following:

““port” means a place, whether proclaimed harbour or not, and whether natural or artificial, to which vessels may resort for shelter to load or unload goods or passengers;”.

Addition of  
section 3A

**65.** The principal Act is amended by adding immediately after the heading to Part II the following:

“Declaration  
of ports

**3A.**-(1) The ports specified in the Second Schedule are hereby declared to be ports for the purposes of this Act and any other written laws.

(2) Notwithstanding the provisions of subsection (1), the Minister may, by notice published in the *Gazette*, declare any other place and any navigable river to be a sea port or an inland port for the purpose of this Act.”.

Amendment  
of section 7

**66.** The principal Act is amended by-  
(a) designating the contents of section 7 as section 7(1);  
(b) by adding the words “and functions” immediately after the word “Powers” appearing in the marginal note;  
(c) adding immediately after subsection (2) the following:

“(3) Without prejudice to subsection (2), the Board shall-

- (a) provide strategic guidance and formulate policies for operation and management of the Authority;
- (b) approve and oversee financial matters;
- (c) conduct managerial oversight and review the activities and performance of management of the Authority;
- (d) secure and ensure efficient use of resources, including approval of annual work plan, annual budget and supplementary budget;
- (e) approve strategic and investment plans and operations manual;
- (f) evaluate the performance of the entire management team and take necessary measures;
- (g) approve performance reports of the Authority;
- (h) exercise disciplinary powers over management employees;
- (i) approve the disposal of capital items; and
- (j) perform any other functions necessary for the achievement of the objectives of the Authority.”

Amendment  
of section 12

**67.** The principal Act is amended in section 12-

(a) in subsection (1), by adding immediately after paragraph (a) the following:

“(b) to plan, build, develop, manage, maintain, operate and control all ports;”

(b) by renaming paragraphs (b) to (w) as paragraphs (c) to (x) respectively;

(c) by deleting subsections (3) and (4) and substituting for them the following:

“(3) A person who intends to undertake port services shall, prior to engaging into such services, enter into an arrangement or agreement with the Authority.

(4) A person who conducts port services without any arrangement or contract

with the Authority commits an offence and shall, upon conviction, be liable to a penalty of not less than five thousand USD but not exceeding fifty thousand USD or its equivalent in Tanzanian shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both.

(5) Subject to subsection (4), the Authority may permit continued provision of port services in such areas upon satisfaction that the area is fit for the provision of such services.”.

Amendment of section 34

**68.** The principal Act is amended in section 34-

- (a) in subsection (2), by deleting the word “Minister” and substituting for it the word ‘President’; and
- (b) in subsection (4), by deleting the words “or as may from time to time be determined by the Board of Directors with approval of the Minister”.

Addition of section 38A

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

“Power of Authority to make rules

Cap. 298

**38A.** The Authority may, with the approval of the Minister, make general rules relating to the conditions of service of employees of the Authority consistent with the Public Service Act.”.

Amendment of section 44

**70.** The principal Act is amended in section 44(1), by deleting the words ‘for the’ appearing immediately after the word “regulations” and substituting for them the words “prescribing categories of ports”.

Amendment of section 47

**71.** The principal Act is amended in section 47, by-

- (a) deleting the words “an inland waterways port” wherever they appear in subsections (1) and (2) and substituting for them the words “the port”; and
- (b) deleting subsections (3) and (4) and substituting for them the following:

“(3) The master or owner of a vessel that contravenes this section commits an offence and shall on conviction, be liable to a fine of not less than ten thousand USD but not exceeding fifty thousand USD or its equivalent in Tanzania shillings or to imprisonment for a term of not less than one year but not exceeding two years or to both.”

Addition of section 85A

**72.** The principal Act is amended by adding immediately after section 85 the following:

“Limitation in legal proceedings

**85A.** Where any action or other legal proceeding is commenced against the Authority for any act done in pursuance or execution, or intended execution, of this Act or of any public duty or authority, or in respect of any alleged neglect or default in the execution of this Act or of any such duty or authority, the action or legal proceeding shall not be commenced against the Authority until at least one month after written notice containing the particulars of the claim, and of intention to commence the action or legal proceeding, has been served upon the Director General by the plaintiff or his agent.”.

Addition of section 90A

**73.** The principal Act is amended by adding immediately after section 90 the following:

“Restriction on execution against property of Authority

**90A.** Notwithstanding any provision to the contrary in any written law, where a judgment or order has been obtained against the Authority, no execution or attachment or process in the nature thereof shall be issued against the property or assets of the Authority or employee of the Authority but the Authority shall cause to be paid out of the revenue of the Authority such amounts as may, by the judgment or order, be awarded against the Authority to the person entitled thereto.”.

**74.** The principal Act is amended-

Amendment  
of Schedules

- (a) in the First Schedule, by:
- (i) deleting the words “once every two months” appearing in paragraph 4(1) and substituting for them the words “quarterly every year”;
- (b) in the Second Schedule, by:
- (i) deleting the reference to section “2(2)” appearing immediately below the words “FIRST SCHEDULE” and substituting for it the reference to section “3A”;
  - (ii) deleting the word “Nansio” appearing under Part II of the Inland Waterways Ports.

#### PART XI

##### AMENDMENT OF THE PREVENTION OF TERRORISM ACT, (CAP.19)

Construction  
Cap. 19

**75.** This Part shall be read as one with the Prevention of Terrorism Act hereinafter referred to as the “principal Act”.

Amendment  
of section 12

- 76.** The principal Act is amended in section 12(5), by-
- (a) adding immediately after paragraph (c) the following:
    - “(d) for prohibition of proliferation of terrorism financing;”;
  - (b) renaming paragraph (d) as paragraph (e).

#### PART XII

##### AMENDMENT OF THE REGISTRATION AND IDENTIFICATION OF PERSONS ACT, (CAP. 36)

Construction  
Cap. 36

**77.** This Part shall be read as one with the Registration and Identification of Persons Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 4

**78.** The principal Act is amended by adding immediately after section 19 a new section 19A as follows:

“Control of  
data

G.N No.122 of  
2008

**19A.-(1)** The National Identification Authority established pursuant to the National Identification (Establishment) Instrument, 2008 shall be the sole data controller of all registration information of persons



obtained pursuant to the mandate conferred upon the Authority, and the Authority shall, for that matter, have powers to determine the purpose and manner of use and means of processing personal data by a data recipient of any registration information contained in the National Identification Database.

(2) A person shall not extract, replicate or otherwise use information contained in the National Identification Database unless-

(a) that person is a data recipient; and

(b) such information is extracted, replicated or otherwise used upon obtaining authorization from the Authority.

(3) Any person who contravenes the provisions of this section or fails to comply to any terms and conditions for use of information as provided by the Authority commits an offence and shall on conviction be liable to a fine of not less than one million shillings but not more than twenty million shillings or to imprisonment for a term of not less than six months but not exceeding two years or to both.

(4) For the purpose of this section:

“Authority” means the National Identification Authority;

“data controller” means the Authority.”

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## **OBJECTS AND REASONS**

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This Bill proposes amendments to Eleven laws namely, the Animal Diseases Act, Cap. 156, the Animal Welfare Act, Cap. 154, the Bank of Tanzania Act, Cap. 197, the Government Loans, Guarantees and Grants Act, Cap. 134, the HIV and AIDS (Prevention and Control) Act, Cap. 431, the Industrial and Consumer Chemicals (Management and Control) Act, Cap. 182, the Mining Act, Cap. 123, the National Leaders' Funeral Act, Cap. 419, the Ports Act, Cap. 166, the Prevention of Terrorism Act, Cap. 19 and the Registration and Identification of Persons Act, Cap. 36

The proposed amendments intend to keep updated the respective laws with changes so far observed in their implementation.

This Bill is divided into Twelve 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 Animal Diseases Act, Cap. 156 whereas section 62 is amended with the view of enhancing the penalty for commission of offences under the Act and introducing section 62A so as to empower the Director or his authorised officer to compound offences. The amendments aim at facilitating the reduction of costs and delay in dealing with litigations in courts of law and reduction of backlog of cases at the court.

Part III of the Bill proposes to amend the Animal Welfare Act, Cap. 154 so as to add to the list of acts considered to be offences under the Act. According to the proposed amendment, it shall be an offence if a person does not ensure animals under his or her care are free from hunger and thirst, free from fear and distress, free from physical discomfort, free from pain and injury and free to

express normal patterns of behavior. The Act is also proposed to be amended to enhance the penalties stipulated for commission of various offences thereunder.

Part IV provides for amendment of the Bank of Tanzania Act, Cap 197 in order to ensure the proper use of the word “Governments” so as to include both the Government of the United Republic and the Revolutionary Government of Zanzibar in the provisions of section 34(1)(a).

Part V of the Bill proposes to amend the Government Loans, Guarantees and Grants Act, Cap. 134. A new section 14A is proposed to be added so as to enable the Government to guarantee an insurance policy for projects funded by the Government or properties wholly owned by the Government. According to the proposed amendments, the Minister, on behalf of the Government, shall only issue the said guarantee upon advice by the National Debt Management Committee. The rationale behind these amendments is to protect national interests and enable domestic companies, especially Government institutions to benefit from projects funded by the Government.

Part VI proposes to amend the HIV and AIDS (Prevention and Control) Act, Cap. 431 whereby section 3 is amended by adding the definition of the term “child” which had not been defined before and the term “HIV self-testing” which is a new concept in the Act. The amendments aim at specifying the age of a child in matters relating to HIV testing and allowing HIV self-testing. Section 7(2) is amended by correcting a clerical error so as to bring clarity to the provision.

Section 13 is amended by deleting the word “public” so that the provision may apply to all health facilities. The aim is to enable all health facilities to provide HIV testing services, whether the facilities are public and private. Section 16(2) is proposed to be

amended so as to allow HIV test results of a person below the age of 18 to be given to his parent, guardian or someone he trusts.

The Bill also proposes to introduce new sections 16A, 16B, 16C, 16D and 16E so as to introduce in the Act provisions relating to HIV self-testing. The provisions provide for the obligations and responsibilities of a person undertaking an HIV self-test and the person supplying self-testing kits and the methods of self-testing. The proposals also aim at empowering the Minister to issue guidelines to prescribe the specifications and standards of self-testing kits so as to ensure there is control in the quality of kits supplied or used for self-testing. Section 17 is amended with a view of imposing the requirement for a person who assists another to undertake HIV self-testing to comply with principles of confidentiality. The provision is further amended so as to make the act of breaching confidentiality an offence under the Act.

Section 23(2) is amended with the aim of ensuring that condoms manufactured or imported are approved by the relevant authorities responsible for regulating quality and standards in Tanzania, without necessarily naming them. This will ensure that the provision remains relevant even in instances of change of name of the respective authorities. Section 27(3) is amended so as to increase the penalty for the offence of making misleading statements regarding the cure, prevention or control of HIV and AIDS. The amendment aims at discouraging people from making such statements without scientific verification.

Section 42(1) is amended for the purpose of enhancing cooperation between TACAIDS and the National AIDS Control Program regarding collection and compilation of research findings on HIV and submission of the findings to the Minister for dissemination to the public. Section 47 is amended so as to enable the Court to make an order for compensation to victims who acquired HIV by being intentionally infected by another person. Section 52 is amended in order to empower the Minister to make

regulations prescribing the provision, supply, handling and disposal of self-testing kits.

Part VII of the Bill proposes to amend the Industrial and Consumer Chemicals (Management and Control) Act, Cap. 182 whereas the Act is proposed to be amended generally by deleting the word "Agency" wherever it appears in the Act and substituting for it the word "Authority" and deleting the reference to the Executive Agencies Act and substituting for it the reference to the Government Chemist Laboratory Authority Act. The proposed amendments aim at reflecting the change of the status of GCLA from an Agency to an Authority. Sections 2 and 4(2) are amended so as to ensure that the reference to the term "Board" means the Board established under the Government Chemist Laboratory Authority Act. These amendments also aim at recognizing and ensuring reflection in the Act of the change of status of the Authority.

Section 6 of the Act is amended so as to enable the Board to delegate its powers to the Chief Government Chemist, Committee of the Board or authorised public officer so as to reduce bureaucracy and ensure proper and timely implementation of its functions. Section 11 is amended so as to make it mandatory for all chemicals imported, distributed, manufactured, transported, sold or stored to bear on the container a label with the prescribed details written in either Kiswahili or English. The main reason for the amendment is to ensure compliance with international standards on classification and labeling of chemicals.

The Bill proposes to add a new section 27A so as to prohibit dealing in chemicals listed in the Third, Sixth, Seventh and Eighth Schedules without being registered and provide for the penalty for contravention of the provision. The aim is to strengthen the control and management of chemicals, discourage smuggling of chemicals and control illegal practices of chemicals including illegal use of chemical in manufacturing weapons.

Section 29(7) is amended so as to remove the requirement that a certificate has to be signed by both the Registrar and Chairman of the Board. According to the proposed amendment, the certificate will now be signed by the Registrar. The amendments aim at aligning the provision with section 10(2)(c) which empowers the Registrar to issue certificates.

Section 42 is amended to provide for an offence of importing chemicals that are unlabeled, obsolete or expired and prescribing the penalty. The proposed amendments aim to ensure compliance with national and international standards on dealing in chemicals. Section 43 is amended in subsection (11) so as require the unloading and repackaging of exported or bulk transit chemicals takes place at designated areas. This amendment aims at ensuring compliance to safety standards.

Sections 48, 49 and 50 are proposed to be amended so as delete the reference to various provisions of the Executive Agencies Act and substituting for it the reference to the Government Chemist Laboratory Authority Act. The Bill proposes to add a new section 61A so as to enable the Registrar to compound offences under the Act. The aim is to facilitate the reduction of costs and delay in dealing with litigations at the courts of law and reduction of backlog of cases at the court.

Part VIII proposes to amend the Mining Act, Cap. 123. Generally, the proposed amendments intend to address the challenges faced in administration and maintenance of value addition activities which were observed during implementation of the Act. Through the recent amendments made by the Written Laws (Miscellaneous Amendments) (No. 2) Act of 2019, the Mining Act requires the holder of a dealer's licence to sell and buy minerals at the established buying stations or at the mineral and gem houses. This requirement poses difficulties for dealers to carry on their

value addition activities within the established stations or mineral and gem houses.

Section 73 (3) is proposed to be deleted because its contents are proposed to be expanded in the new provisions to be added. It is proposed to add new sections 85C to 85M to provide conditions and procedures for application and issuance of lapidary licences by prohibiting a person to engage in lapidary activities without holding such licence. The reasons for the proposal to introduce lapidary licences is to allow mineral value addition activities to be conducted outside the mineral and gem houses or buying stations and to allow a holder of lapidary licence to set lapidary machines in the mineral value workshops.

Part IX of the Bill proposes to amend the National Leaders' Funeral Act, Cap. 419 whereby, among other things, general amendments are proposed by removing provisions relating to establishment of the National Cemetery and all provisions relating to its management and governance. The objective of the amendments is to afford the national leaders or their families an opportunity for observance of their customs, tradition and religious rights. Thus, section 3 is amended by deleting the definition of the term "National Cemetery", adding the definition of the term "cemetery" and broadening the definition of the term "national leader" to include the national leaders and retired national leaders of Zanzibar

Sections 5, 7, 13, 20 and 21(2) are amended to recognise national leaders of Zanzibar in various provisions relating to funeral arrangements. Section 9 is amended to make provisions for the period of mourning for serving specified leaders. Currently, the Act does not provide for period of mourning for specified leaders. Section 11 is amended so as to make the Second Vice President of Zanzibar the Deputy Chairman of the National Funeral Committee; deleting duplicity of representation and broadening the representation of Zanzibar in the National Funeral Committee. The

aim of the amendment is to enhance corporation in national funeral affairs. Section 16 of the Act is repealed and sections 17,18 and 27(2) are amended with the objective of removing provisions relating to National Cemetery and enabling the family of a deceased national leader or a will to decide the place of burial.

A new section 20A is introduced in order to incorporate in the Act provisions relating to protocols for burial of the First and Second Vice President of Zanzibar. Section 25 is amended so as to make breach of the duty of secrecy under this Act an offence under the National Security Act, Cap.47. Furthermore, section 26 is amended with a view of enhancing the penalty for divulging secret information or obstruction from a fine not exceeding Tsh 500,000 to a fine of not less than Tsh 500,000 under the Act.

Part X of the Bill proposes to amend the Ports Act, Cap. 166 whereby section 2 is amended by deleting subsection (2). In line with that amendment, it is proposed that a new section 3A be introduced so as to incorporate the provision that was contained in section 2(2). The aim of the amendment is to introduce a provision that makes reference to the ports that are specified in the Second Schedule and empower the Minister to declare any other place to be a port. Section 3 is amended by deleting and substituting the definition of the term “port” with a view of broadening the scope of the definition so as to include even unnamed ports.

Section 7 is amended by adding subsection (3) in order to stipulate the functions of the Board. Currently, there is no provision in the Act that states the functions of the Board. Section 12 is amended so as to include in the functions of the Authority the planning, building, management, operation and control of all ports. The aim of the amendment is to realise the Authority’s objectives as stipulated in section 5 of the Act and clearly provide that the Authority is the controller and operator of all ports. The provision is further amended so as to allow other persons to engage in or undertake port services. According to the proposed amendments, a



person or company intending to undertake port services must enter into an agreement with the Authority.

Section 34 is proposed to be amended so as to make the President the appointing authority of the Director General of the Tanzania Ports Authority instead of the Minister, and ensuring that the terms of his service are those set out in his letter of appointment. A new section 38A is proposed to be introduced so as to enable the Authority to make rules to govern its employees. However, the rules must be in compliance with the Public Service Act. Section 44(1) is amended so as to enable the Minister to make regulations prescribing the categories of ports. The proposed amendment aims at broadening the scope of areas on which the Minister may make regulations.

Section 47 is proposed to be amended by introducing the use of the term ports and deleting the exclusion of small boats from the provision so that the section may apply not only to inland waterways ports but also to sea ports, and to all vessels including small boats. The Bill also proposes to stipulate the penalty for contravention of the provision. The aim of the amendments in this section is to ensure that masters or owners of vessels do not dock in unauthorised ports.

It is proposed to add a new section 85A so as to make provisions for the manner of instituting legal proceedings against the Authority in instances where a person is aggrieved by a decision or order of the Authority. The amendment aims at protecting the Authority against frivolous legal actions and to give an opportunity for settling of claims amicably without necessarily going to court. It is further proposed that a new section 90A be added so as to restrict execution orders against the property of the Authority. The provision however, allows for payment of the awarded amount from the revenue of the Authority.

The First Schedule is proposed to be amended by reducing the number of times that the Board must conduct its meetings. The

amendments propose that the Board should meet four times a year. The Second Schedule is amended so as to make reference to the correct enabling provision and deleting Nansio from the list of inland water ways ports under Part II so that it may appear under Part I only.

Part XI of the Bill proposes to amend the Prevention of Terrorism Act, Cap. 19 by adding paragraph (e) in section 12(5) in order to empower the Minister to make regulations relating to the prohibition of proliferation of terrorism financing. The aim of the amendment is to enhance the provisions of the Act in the fight against terrorism financing and money laundering in the country and the region at large.

Part XII of the Bill proposes to amend the Registration and Identification of Persons Act, Cap. 36. The proposed amendment intends to add a new section 19A to provide for the recognition of the National Identification Authority as the sole data controller and processor of identification registration information obtained by the Authority consequent to registration and identification where such information is intended for use by any other person or organization. The objective of the amendment is to safe guard personal data and control the use of such information against any abuse, misuse or fabrication of information contained in the National Identification Database.

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## **MADHUMUNI NA SABABU**

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Muswada huu unapendekeza kufanya marekebisho katika Sheria Kumi na Moja ambazo ni: Sheria ya Magonjwa ya Wanyama, Sura ya 156, Sheria ya Ustawi wa Wanyama, Sura ya 154, Sheria ya Benki Kuu ya Tanzania, Sura ya 197, Sheria ya Mikopo, Dhamana na Misaada, Sura ya 134, Sheria ya Usimamizi

na Udhibiti wa VVU na UKIMWI, Sura ya 431, Sheria ya Usimamizi na Udhibiti wa Kemikali za Viwandani na Majumbani, Sura ya 182, Sheria ya Madini, Sura ya 123, Sheria ya Mazishi ya Viongozi wa Kitaifa, Sura ya 419, Sheria ya Bandari, Sura ya 166, Sheria ya Kuzuia Ugaidi, Sura ya 19 na Sheria ya Usajili na Utambuzi wa Watu, Sura ya 36.

Marekebisho yanayopendekezwa yanalenga kuboresha sheria husika ili ziendane na mabadiliko ya wakati na kutatua changamoto mbalimbali zilizojitokeza wakati wa utekelezaji wake.

Muswada huu umegawanyika katika Sehemu Kumi na Mbili.

Sehemu ya Kwanza ya Muswada inahusu masharti ya Utangulizi na yanajumuisha jina la Muswada na namna ambavyo sheria zinazopendekezwa kufanyiwa marekebisho zimerekebishwa katika Sehemu husika ya Muswada.

Sehemu ya Pili ya Muswada inapendekeza kurekebisha Sheria ya Magonjwa ya Wanyama, Sura ya 156 ambapo kifungu cha 62 kinarekebishwa kwa madhumuni ya kuongeza ukubwa wa adhabu kwa makosa mbalimbali chini ya Sheria. Inapendekezwa pia kuongeza kifungu kipya cha 62A ili kumpa Mkurugenzi au afisa aliyeidhinishwa mamlaka ya kufililisha makosa. Mapendekezo haya yanalenga kupunguza gharama, ucheleweshaji wa kesi na kupunguza mlundikano wa kesi mahakamani.

Sehemu ya Tatu ya Muswada inapendekeza kurekebisha Sheria ya Ustawi wa Wanyama, Sura ya 154. Kifungu cha 59 kinarekebishwa ili kuongeza idadi ya vitendo ambavyo ni makosa chini ya Sheria hiyo. Kwa mujibu wa marekebisho haya, itakuwa ni kosa mtu asipohakikisha kuwa wanyama walio chini ya uangalizi wake wanaishi bila njaa, kiu, woga, maumivu au majeraha. Sheria inapendekezwa pia kurekebishwa ili kuongeza ukubwa wa adhabu kwa makosa mbalimbali yaliyoainishwa chini

ya Sheria na kuongeza kiwango cha fedha ambacho Mkurugenzi anaweza kuagiza mtu alipe pale ambapo atafililisha makosa.

Sehemu ya Nne ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Benki Kuu ya Tanzania, Sura ya 197 ambapo kifungu cha 34(1) kinarekebishwa ili kuweka matumizi sahihi ya neno “Serikali” ili kujumuisha Serikali ya Jamhuri ya Muungano wa Tanzania na Serikali ya Mapinduzi ya Zanzibar.

Sehemu ya Tano ya Muswada inapendekeza kurekebisha Sheria ya Mikopo, Dhamana na Misaada, Sura ya 134. Inapendekezwa kuongeza kifungu kipya cha 14A ili kuiwezesha Serikali kutoa dhamana kwa bima iliyokatwa kwa mali miradi mikubwa inayogharamiwa na fedha za Serikali. Kwa mujibu wa marekebisho haya, Waziri mwenye dhamana na masuala ya fedha atatoa dhamana hiyo pale atakaposhauriwa kufanya hivyo na Kamati ya Usimamizi wa Deni la Taifa. Lengo la marekebisho haya ni kulinda maslahi ya Taifa na kuwezesha kampuni za ndani ya nchi, hususan taasisi za Serikali, kufaidika na miradi inayofadhiliwa kwa fedha za Serikali.

Sehemu ya Sita ya Muswada inapendekeza kufanya marekebisho katika Sheria ya Usimamizi na Udhibiti wa VVU na UKIMWI, Sura ya 431 ambapo, inapendekezwa kufanya marekebisho ya jumla katika Sheria kwa kuondoa matumizi ya maneno “kuishi na UKIMWI” na badala yake kutumia maneno “kuishi na VVU”. Kifungu cha 3 kinarekebishwa kwa kuongeza tafsiri ya neno “child” na “HIV self-testing” ambayo hayakuwa yametafsiriwa awali. Marekebisho haya yamelenga kuweka bayana umri wa mtoto katika masuala ya upimaji wa virusi vya UKIMWI (VVU). Kifungu cha 7(1) kinarekebishwa ili kurekebisha makosa ya kiuchapaji ili kuhakikisha kifungu hicho kinasomeka kwa ufasaha na maudhui yake kueleweka vizuri.

Kifungu cha 13 kinarekebishwa kuwezesha vituo vyote vya huduma ya afya kutoa huduma ya upimaji, bila kujali kuwa vituo

hivyo ni vya umma au vya watu binafsi. Kifungu cha 16 kinapendekezwa kurekebisha ili kuruhusu majibu ya vipimo ya mtu mwenye umri wa chini ya miaka 18 kutolewa pia kwa mzazi, mlezi au mtu mwingine ambaye mwenye vipimo anamuamini.

Muswada unapendekeza pia kuongeza vifungu vipya vya 16A, 16B, 16C, 16D na 16E ili kuweka katika sheria hii masharti ya kujipima VVU. Vifungu hivi vimelenga kuainisha wajibu kwa mtu anayejipima VVU na mtu anayetoa au kusambaza vifaa vya kujipima VVU. Mapendekezo haya yamelenga kumuwezesha Waziri kutoa miongozo ili kuhakikisha kuna usimamizi wa viwango vya vifaa vya kujipima VVU vinavyosambazwa au kuuzwa kwa watumiaji. Kifungu cha 17 kinarekebisha kwa lengo la kuweka wajibu wa kutunza siri kwa mtu anayemsaidia mtu mwingine kujipima. Aidha kifungu hiki kinarekebisha pia kufanya kitenda cha kutoa siri kuwa kosa chini ya sheria hii.

Kifungu cha 23(2) kinarekebisha ili kuhakikisha kuwa kondomu zinazotengenezwa au kuingizwa nchini zinaidhinishwa na mamlaka zinazohusika na udhibiti wa viwango Tanzania, bila kuwa na haja ya kuzitaja mamlaka hizo kwa majina. Lengo ni kuwezesha kifungu hiki kiendeleo kuwa sahihi na kusomeka vizuri hata pale ambapo majina ya mamlaka hizo yatabadilika. Kifungu cha 27(3) kinarekebisha ili kuongeza adhabu kwa kosa la kutoa taarifa za kupotosha kuhusu tiba au udhibiti wa VVU na UKIMWI. Marekebisho haya yanalenga kuzuia watu kutoa matamko kuhusu tiba ya UKIMWI bila ushahidi wa kisayansi.

Kifungu cha 42(1) kinarekebisha kwa dhumuni la kuboresha utaratibu wa ukusanyaji wa taarifa za utafiti kuhusu VVU na UKIMWI. Kwa mujibu wa marekebisho haya, TACAIDS itashirikiana na NACP katika ukusanyaji wa taarifa za utafiti wa masuala ya UKIMWI na kuziwasilisha kwa Waziri ili zitolewe kwa umma. Kifungu cha 47 kinarekebisha ili kuiwezesha Mahakama kutoa amri ya fidia kwa mtu aliyekambukizwa VVU kwa makusudi. Kifungu cha 52 kinarekebisha ili kumpa Waziri mamlaka

kutengeneza Kanuni za utoaji, usambazaji, matumizi na utupaji wa vifaa vya kujipimia VVU.

Sehemu ya Saba ya Muswada inapendekeza kurekebisha Sheria ya Usimamizi na Udhhibiti wa Kemikali za Viwandani na Majumbani, Sura ya 182 ambapo marekebisho ya jumla yanapendekezwa kwa kufuta neno “Wakala” na badala yake kuweka neno “Mamlaka” na kufuta rejea ya Sheria ya Wakala wa Serikali na badala yake kuweka rejea ya Sheria ya Mamlaka ya Maabara ya Mkemia Mkuu wa Serikali. Marekebisho haya yanalenga kutambua mabadiliko ya mfumo wa Ofisi ya Mkemia Mkuu kutoka Wakala na kuwa Mamlaka. Kifungu cha 2 na kifungu cha 4(2) vinarekebisha ili kuweka rejea sahihi ya Bodi kumaamisha Bodi iliyoanzishwa chini ya Sheria ya Mamlaka ya Maabara ya Mkemia Mkuu wa Serikali.

Kifungu cha 6 kinarekebisha ili kuiwezesha Bodi kukasimisha mamlaka yake kwa Mkemia Mkuu wa Serikali, Kamati au afisa aliyeidhinishwa ili kupunguza urasimu na kuhakikisha Bodi inatekeleza majukumu yake kwa ufanisi na kwa wakati. Kifungu cha 11 kinarekebisha ili kuweka sharti la kuweka maelezo (label) ya Kingereza au Kiswahili kwenye vifungashio vya kemikali ambazo ni huingizwa nchini, husambazwa, hutengenezwa, husafirishwa, hutunzwa au huuzwa. Lengo kubwa la marekebisho haya ni kuhakikisha utekelezaji wa viwango vya kimataifa katika masuala yanayohusu kemikali.

Muswada unapendekeza kuongeza kifungu kipya cha 27A ili kuzuia mtu yeyote kufanya shughuli zinazohusu kemikali zilizoainishwa katika Jedwali la Tatu, la Sita, la Saba na la Nane bila kusajiliwa na kuweka adhabu kwa ukiukwaji wa masharti hayo. Lengo ni kuimarisha udhibiti na usimamizi wa kemikali, kuzuia utorohaji wa kemikali kwa njia za magendo na kudhibiti matumizi ya kemikali yasiyo halali ikiwa ni pamoja na matumizi ya kemikali katika utengenezaji wa silaha kinyume na sheria.

Kifungu cha 29(7) kinarekebishwa ili kuondoa ulazima wa vyeti kusainiwa na Msajili na Mwenyekiti wa Bodi. Kwa mujibu wa marekebisho haya, vyeti vitasainiwa na Msajili peke yake. Marekebisho haya yamelenga kumuwezesha Msajili kutekeleza mamlaka yake ya kusaini vyeti chini ya kifungu cha 10(2).

Kifungu cha 42 kinarekebishwa ili kufanya vitendo vya uingizaji nchini kemikali ambazo hazina lebo au zimeisha muda wa matumizi kuwa kosa chini ya sheria hii na pia kuainisha adhabu kwa kosa hilo. Marekebisho haya yanalenga kuhakikisha viwango vya kitaifa na kimataifa vinazingatiwa katika shughuli zote zinazohusu kemikali. Kifungu cha 43 kinarekebishwa katika kifungu kidogo cha (11) ili kuweka masharti ya kuwa upakuaji na ufungashaji wa kemikali utapaswa kufanyika katika maeneo yaliyotengwa kwa ajili hiyo ili kuhakikisha uzingatiaji wa viwango vya usalama.

Vifungu vya 48 na 49 vinapendekezwa kufanyiwa marekebisho ili kuondoa rejea ya vifungu mbalimbali vya Sheria ya Wakala wa Serikali na badala yake kurejea Sheria ya Mamlaka ya Maabara ya Mkemia Mkuu wa Serikali. Kifungu cha 50 kinapendekezwa kufutwa na kuandikwa upya ili kuongeza muda ambao Msajili wa Kemikali atapaswa kuwasilisha taarifa ya mwaka kwa Waziri mwenye dhamana na masuala yanayohusiana na kemikali. Muswada unapendekeza kuongeza kifungu kipya cha 61A ili kumpa Msajili mamlaka ya kufililisha makosa chini ya Sheria. Lengo ni kupunguza gharama, ucheleweshaji wa kesi na kupunguza mlundikano wa kesi mahakamani.

Sehemu ya Nane ya Muswada inapendekeza marekebisho katika Sheria ya Madini, Sura 123. Kwa ujumla, mapendekezo ya marekebisho yanalenga kuondoa changamoto ambazo zimejitokeza wakati wa utekelezaji wa baadhi ya masharti katika shughuli za uongezaji thamani madini. Kupitia Sheria ya Marekebisho ya Sheria Mbalimbali (Na. 2) ya Mwaka 2019, Sheria ya Madini inawataka wamiliki wa dealer's licence kufanya

biashara ya madini ndani ya masoko ya madini pekee, hivyo kusababisha ugumu wa kufanya shughuli za uongezaji thamani madini katika masoko hayo.

Kifungu cha 73(3) kinapendekezwa kurekebisha kwa kuwa maudhui yake yanapendekezwa kuelezwa kwa mapana katika vifungu vipya vinavyopendekezwa. Muswada unapendekeza kuongeza sehemu ndogo ya (iv) yenye vifungu vipya vya 85C hadi 85M ili kuweka vigezo na taratibu za utoaji wa leseni za ukataji na ung'arishaji madini na kuweka katazo kwa mtu yeyote kufanya shughuli za ukataji na ung'arishaji wa madini bila kuwa na leseni husika. Sababu za mapendekezo ya kuanzisha aina hii ya leseni ni kuruhusu shughuli za ung'arishaji na ukataji madini kufanyika nje ya masoko ya madini kwenye mazingira ambayo yanaweza kuruhusu usimikaji wa mitambo na mashine za uongezaji thamani madini.

Sehemu ya Tisa ya Muswada inapendekeza marekebisho katika Sheria ya Mazishi ya Viongozi wa Kitaifa, Sura ya 419 ambapo marekebisho ya jumla yanafanyika kwa kuondoa masharti yanayohusu uanzishwaji wa Makaburi ya Kitaifa na usimamizi wake. Msingi wa marekebisho haya ni kuwawezesha viongozi au familia zao kuwa huru kuchagua mahala pa kuzikwa kwa kuheshimu tamaduni, mila na dini zao. Hivyo, kifungu cha 3 kinarekebisha kwa kufuta tafsiri ya neno "National Cemetery". Aidha, marekebisho mengine katika kifungu hicho yamefanywa ili kuongeza tafsiri ya neno "cemetery" na kupanua wigo wa tafsiri ya neno "kiongozi wa kitaifa" kwa lengo la kujumuisha viongozi wa kitaifa wa Zanzibar.

Vifungu vya 5, 7, 13, 20 na 21(2) vinarekebisha kwa lengo la kutambua viongozi wa kitaifa wa Zanzibar katika masharti mbalimbali ya Sheria hii yanayohusu taratibu za mazishi ya viongozi, kuainisha muda wa maombolezo wa Rais wa Zanzibar na Rais Mstaafu wa Zanzibar na kuimarisha ushiriki wa viongozi wa Zanzibar katika Kamati Tendaji. Kifungu cha 9 kinarekebisha ili



kuainisha kipindi cha maombolezo pale ambapo Spika au Jaji Mkuu atafariki. Sheria ilivyo sasa haijaainisha muda wa maombolezo kwa viongozi hao. Kifungu cha 11 kinarekebishwa kwa kumfanya Makamu wa Pili wa Rais wa Zanzibar kuwa Makamu Mwenyekiti wa Kamati ya Taifa ya Mazishi, kufuta kurudiwa kwa uwakilishi wa baadhi ya wajumbe na kuongeza uwakilishi wa Viongozi wa Zanzibar katika Kamati hiyo. Lengo ni kuboresha ushirikiano kwa pamoja katika maandalizi na taratibu za mazishi ya viongozi wa kitaifa.

Sambamba na kufuta masharti yote yanayohusiana na Makaburi ya Kitaifa, kifungu cha 16 cha Sheria kinafutwa na vifungu vya 17, 18 na 27(2) vinarekebishwa ili kuondoa dhana ya Makaburi ya Kitaifa katika masharti ya Sheria hii. Lengo la marekebisho haya ni kuruhusu kiongozi wa kitaifa kuzikwa katika eneo ambalo familia yake itaamua azikwe au kwa kuzingatia wosia wake. Pamoja na kuruhusu hilo, mazishi yatafanyika kwa taratibu za mazishi ya kitaifa au kiserikali kama zilivyoainishwa kwenye Sheria. Kifungu kipya cha 20A kinaongezwa ili kujumuisha masharti ya kuzingatiwa kwa itifaki wakati wa mazishi ya viongozi wa kitaifa wa Zanzibar. Kifungu cha 22(3) kinarekebishwa ili kuweka utaratibu kuhusiana na gwaride la mazishi. Kwa mujibu wa marekebisho haya, Waziri ataainisha utaratibu wa kufanya gwaride baada ya kujadiliana na Waziri mwenye dhamana na masuala ya ulinzi na usalama. Kifungu cha 25 kinarekebishwa ili kufanya utoaji wa taarifa za siri chini ya Sheria hii kuwa kosa chini ya Sheria ya Usalama wa Taifa, Sura ya 47. Kifungu cha 26 kinarekebishwa ili kuongeza adhabu kwa kosa la utoaji wa taarifa za siri au kukwamisha utekelezaji wa masharti ya Sheria kutoka faini isiyozidi kiasi cha shilingi laki tano na kuwa kiasi kisichopungua shilingi laki tano.

Sehemu ya Kumi ya Muswada inapendekeza marekebisho katika Sheria ya Bandari, Sura ya 166 ambapo kifungu cha 2 kinarekebishwa kwa kufuta kifungu kidogo cha (2). Sambamba na marekebisho hayo, inapendekezwa kuongeza kifungu kipya cha 3A

ili kujumuisha katika kifungu hicho maudhui ya kilichokuwa kifungu cha 2(2). Lengo la marekebisho haya ni kuweka kifungu mahsusi kinachorejea bandari zilizoainishwa katika Jedwali la Pili na kumpa Waziri mamlaka ya kutangaza maeneo mengine kuwa bandari chini ya Sheria hii. Kifungu cha 3 kinarekebishwa kwa kufuta tafsiri ya neno “bandari” na kuiandika upya kwa lengo la kupanua wigo wa tafsiri hiyo ili kuzijumuisha bandari bubu.

Kifungu cha 7 kinarekebishwa kwa kuongeza kifungu kidogo cha (3) ili kuainisha majukumu ya Bodi. Sheria ilivyo sasa haina kifungu kinachoinisha majukumu ya Bodi. Kifungu cha 12 kinarekebishwa ili kuipa Mamlaka ya Bandari Tanzania jukumu la kupanga, kujenga, kuendeleza, kusimamia na kuendesha bandari zote. Marekebisho haya yanakusudia kutambua malengo yaliyoainishwa katika kifungu cha 5 cha Sheria hii na kuweka bayana kuwa Mamlaka itasimamia na kuendesha bandari zote. Aidha kifungu hiki pia kinarekebishwa ili kuweka masharti ya kuwawezesha watu wengine kufanya shughuli za bandari. Kwa mujibu wa marekebisho haya, mtu yeyote ama kampuni inayokusudia kufanya shughuli za huduma za bandari atapaswa kuingia mkataba na Mamlaka.

Kifungu cha 34 kinapendekezwa kurekebishwa kwa lengo la kumfanya Mhe. Rais kuwa mamlaka ya uteuzi wa Mkurugenzi Mkuu, badala ya Mhe. Waziri na kuhakikisha kuwa vigezo na masharti ya ajira yake ni vile vilivyowekwa kwenye barua yake ya uteuzi. Kifungu kipya cha 38A kinapendekezwa kuongezwa kwa lengo la kuiwezesha Mamlaka kuandaa Kanuni za kuwasimamia watumishi kwa kuzingatia misingi ya Sheria ya Utumishi wa Umma. Kifungu cha 44 kimerekebishwa ili kumuwezesha Waziri kutengeneza kanuni za kuainisha makundi au aina za bandari. Mapendekezo haya yanalenga kupanua wigo wa maeneo ambayo Waziri anaweza kuyatengenezea kanuni.

Kifungu cha 47 kinapendekezwa kurekebishwa kwa kuweka matumizi ya neno “bandari” katika kifungu hicho bna kufuta

vifungu vinavyoziondoa boti au meli ndogo katika masharti ya kifungu hiki ili kuhakikisha kuwa masharti ya kifungu hiki yanatumika kwa bandari zote na pia kwa boti au meli ndogo. Muswada unapendekeza pia kuweka adhabu kwa atakayekiuka kifungu hicho. Lengo la marekebisho ni kuhakikisha kwamba wamiliki ama wasimamizi wa vyombo vya majini hawatii nanga katika bandari zisizo rasmi.

Inapendekezwa kwamba kifungu kipya cha 85A kiongezwe ili kuweka masharti ya utaratibu wa kufungua mashauri dhidi ya Mamlaka pale ambapo mtu hajaridhika na maamuzi au amri yoyote ya Mamlaka. Marekebisho haya yanalenga kutoa kinga kwa Mamlaka dhidi ya kuchukuliwa hatua za kisheria kwa madai yasiyo na msingi wowote na kuruhusu uwezekano wa kusuluhisha migogoro kabla suala halijapelekwa mahakamani. Aidha, inapendekezwa pia kuongeza kifungu kipya cha 90A kinachozuia ukaziaji wa amri za mahakama kwa kukamata mali zinazomilikiwa na Mamlaka. Badala yake, kifungu hiki kinaruhusu kiwango cha fedha kilichoamriwa kulipwa kutoka katika mapato ya Mamlaka.

Jedwali la Kwanza linapendekezwa kurekebisha kwa kupunguza idadi ya vikao vya Bodi. Marekebisho haya yanapendekeza kuwa Bodi ifanye vikao mara nne kwa mwaka. Jedwali la Pili linarekebisha kwa kufanya rejea ya kifungu sahihi kilicholitaja Jedwali na kuiondoa bandari ya Nansio katika orodha ya bandari za maziwa za kundi la I ili ibaki katika kundi la II tu. Kwa sasa, bandari ya Nansio inatokea katika orodha ya bandari kubwa na orodha ya bandari ndogo.

Sehemu ya Kumi na Moja inapendekeza kufanya marekebisho katika Sheria ya Kuzuia Ugaidi, Sura ya 19 ambapo kifungu cha 12(5) kinarekebisha kwa kuongeza aya ya (e) ili kumuwezesha Waziri kutengeneza kanuni kuzuia kuongezeka kwa vitendo vya ufadhili wa ugaidi. Lengo la marekebisho haya ni kuboresha masharti ya Sheria katika vita dhidi ya vitendo vya kufadhili ugaidi na utakatishaji fedha nchini.

Sehemu ya Kumi na Mbili ya Muswada inapendekeza marekebisho katika Sheria ya Usajili na Utambuzi wa Watu, Sura ya 36. Mapendekezo ya marekebisho yanakusudiwa kuongeza kifungu kipya cha 19A ili kuweka masharti ya kuitambua Mamlaka ya Vitambulisho ya Taifa kama taasisi pekee inayoweza kuamua namna ambavyo taarifa za watu waliosajiliwa zitatumika na watu au taasisi. Msingi wa marekebisho ni kulinda taarifa binafsi na kudhibiti matumizi mabaya ya taarifa zilizomo katika Kanzidata ya Taifa ya Utambuzi wa Watu.

Dodoma,  
16 Oktoba, 2019

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*Mwanasheria Mkuu wa Serikali*