

THE UNITED REPUBLIC OF TANZANIA



No. 4 OF 2004

I ASSENT,

Benjamin W. Mkapa

President

14th April, 2004.

An Act to amend certain written laws.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Written Laws (Miscellaneous Amendments) (No.2) Act, 2004. Short title

2. The Written Laws specified in the first and second columns of the Schedule to this Act are hereby amended in the manner specified opposite to each of them in the third column of that Schedule. Amend-ment of certain written laws

3. Notwithstanding the publication of this Act, the amendments in respect of the Political Service Retirement Benefits Act, 1999 and the Public Service Retirement Benefits Act, 1999 shall come into operation on the 1st day of July, 2004 hereinafter referred to as "the effective date". Commencement of certain amend-ments

Act No. 4 of The Gaming Act, 2003
2003

The Act is amended in subsection (1) of section 86 -

- (a) by deleting the word “and” appearing at the end of paragraph (a);
- (b) by deleting a fullstop appearing at the end of paragraph (b) and substituting for it a semicolon;
- (c) by adding immediately after paragraph (b) the following new paragraph:

“(c) the Gambling Ordinance, 1923.”

Act No. 56 of The Explosives Act, 1963
1963

The Act is amended in subsection (4) of section 16 by deleting the whole of paragraph (b) and substituting for it the following:

“(b) at the end of each month, render such returns of his dealing with explosives.”

Cap.16 of the The Penal Code
Laws

The Act is amended -

(a) in section 286-

- (i) by deleting the words “20 years” appearing at the end of the first provision and substituting for it the words “15 years”;
- (ii) by deleting the second provision;

(b) in section 287 by deleting the second provision-

(c) by adding immediately after section 287 the following new sections:

Definition of armed robbery **278A** Any person who steals anything, and at or immediately after the time of stealing is armed with any dangerous or offensive weapon or instrument, or is in company of one or more persons, and at or immediately before or immediately after the time of the stealing uses or threatens to use violence to any person, commits an offence termed “armed robbery” and on conviction is liable to imprisonment for a minimum term of thirty years with or without corporal punishment.

“Attempted armed robbery

287B. Any person who with intent to steal anything from another person, is armed with any dangerous or offensive weapon or instrument, or is in company of one or more persons, and in the course thereof threatens, or attempts to threaten to use actual violence to any person, commits an offence termed “attempted armed robbery” and on conviction is liable to imprisonment for a minimum period of fifteen years with or without corporal punishment.

Act No. 9 of The Criminal Procedure Act, 1985
1985

The Act is amended-

in the First Schedule -

- (i) by inserting in the fifth column against the offence of “Incest by males” appearing in item 158 the following phrase:

“A subordinate Court”;

- (ii) by inserting in the fifth column against the offence of “incest by females” appearing in item 160 the following phrase:

“A subordinate Court”

- (iii) by inserting in the fifth column against the offence of “sending written threat to murder” appearing in item 214 the following phrase:

“A subordinate Court”.

Act No.2 of The Magistrates' Courts Act, 1984
1984

The Act is amended-

- (a) in section 2 by inserting in its appropriate alphabetical order the following new definition-

“commercial case” means a civil case involving a matter considered to be of commercial significance including but not limited to.

- (i) the formation of a business or commercial organization;

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- (ii) the governance of a business or commercial organization;
 - (iii) the contractual relationship of a business or commercial organization with other bodies or persons outside it;
 - (iv) the liability of a commercial or business organization or its officials arising out of its commercial or business activities;
 - (v) the liabilities of a commercial or business person arising out of that person's commercial or business activities;
 - (vi) the restructuring or payment of commercial debts by or to business or commercial organization or person;
 - (vii) the winding up or bankruptcy of a commercial or business organization or person.
 - (viii) the enforcement of commercial arbitration award;
 - (ix) the enforcement of awards of a regional court or tribunal of competent jurisdiction made in accordance with a Treaty or Mutual Assistance arrangement to which the United Republic is a signatory and which forms part of the law of the United Republic;
 - (x) admiralty proceedings; and
 - (xi) arbitration proceedings.”
- (b) in section 40 by adding immediately after subsection (2) the following new subsection:
- “(3) Notwithstanding subsection (2), the jurisdiction of the District Court shall, in relation to commercial cases, be limited-
- (a) in proceedings for the recovery of possession of immovable property, to proceedings in which the value of the property does not exceed fifty million shillings and

Act No. 3 of The Political Service Retirement
1999 Benefits Act, 1999

- (b) in the proceedings where the subject matter is capable of being estimated at a money value, to proceedings in which the value of the subject matter does not exceed thirty million shillings”

The Act is amended by deleting section 23 and substituting for it the following new sections:

“Benefits
for
Regional
Commissioners
or District
Commissioners

23.—(1) Subject to subsection (2), with effect from the effective date, a leader holding the office of a Regional Commissioner or District Commissioner shall upon ceasing to hold the office of a Regional Commissioner or District Commissioner be entitled to a gratuity of a sum equal to forty percentum of the salaries drawn by him in the course of his service as Regional Commissioner or as the case may be District Commissioner.

(2) A person who on or after the effective date holds or is appointed to the office of a Regional Commissioner or District Commissioner and prior to his appointment was a public officer shall, upon ceasing to be a leader be granted retirement benefits in accordance with the provisions of section 7 of this Act.

Benefits
prior to
the effective
date

Act No.
14 of
1981

23A.—(1) A person who on the effective date holds the office of a Regional Commissioner or District Commissioner and prior to taking office was a public officer to whom the provisions of section 7(1) of this Act apply and as of the effective date has not attained the age of retirement, shall on the effective date be entitled to the grant of gratuity or pension calculated in accordance with the provisions of section 11 of the Political Leaders Pensions Act, 1981 for the period he served as a Regional Commissioner or District Commissioner prior to the effective date and his salary as Regional Commissioner or District Commissioner, as the case may be, on the effective date shall be taken into account in computing any gratuity or pension to which such leader is entitled under that Act its repeal notwithstanding.

Act No. 18 of 1981	(2) A person who on the effective date holds the office of a Regional Commissioner or District Commissioner and to whom the provisions of subsection (1) do not apply, shall on the effective date be entitled to the grant of a gratuity or pension calculated in accordance with the provisions of section 11 of the Political Leaders' Pensions Act, 1981 for the period he served as a Regional Commissioner or District Commissioner prior and up to the effective date and his salary as Regional Commissioner or District Commissioner, as the case may be, on the effective date shall be taken into account in computing any gratuity or pension to which such leader is entitled under that Act its repeal notwithstanding.
Grant of gratuity to dependa- nts of former Regional or District Commi- ssioner	23B. Where a Regional or District Commissioner dies in office or if he dies after ceasing to hold office but before benefits are granted to him, the appropriate authority shall grant to his dependants gratuity which shall be calculated on the basis of the period he served in the office."
Act No. 2 of 1999 The Public Service Retirement Benefits Act, 1999	The Act is amended- in section 20 by deleting the whole of subsection (7).
Act No. of 1998 The Mining Act, 1998	The Act is amended- (a) in section 4 (i) by inserting in their respective alphabetical order the following new definitions- "dispute" means all disputes as referred to under section 101; "specified gemstone" means gemstone specified under subsection (2) of section 14A;

“gems” means cut and polished or engraved gemstones;
“Gemstone Board” means the board established under subsection (5) of section 20;
“Resident mines office” means such office as may be established for any area by the Minister in accordance with section 23;
“Resident mines officer” means an officer appointed under subsection (4) of section 16 to head Resident Mines Office;”

- (ii) by deleting the definition of the term “lawful occupiers” and substituting for it the following new definition:

Act No. 4 of 1999 “lawful occupiers” in relation to any land means the lawful occupier of land in accordance with the Land Act, 1999;”

- (iii) by deleting the phrase “or below the ground” appearing in the fifth line of the definition of the word “mine” and substituting for it the phrase:

“or vertically below the ground within horizontal boundaries of the licence”;

- (b) in section 9 by adding immediately after subsection (5) the following new subsection.

“(6) Application for transfer of Primary Mining licences shall be made in a prescribed form as specified in the Regulations”;

- (c) by adding immediately after section 14 the following new section -

Act No. 4 of 1999 **14A.** Where the Minister after Consultation with Gemstone Board determines that, it would be in the interests of the development of the gemstone industry in Tanzania, he may by order published in the *Gazette*, designate any gemstone to be a

specified gemstone for special conditions on trading and disposal.”

(d) in section 15-

- (i) by deleting the phrase “raw gold or gemstones” wherever the phrase appears in this section and substituting for it the word “Mineral” or “Minerals” as may be appropriate;
- (ii) by deleting the phrase “licensed dealers, licensed broker or an authorized lapidary” appearing at the end of subsection (2) and substituting for it the phrase “licensed dealer or licenced broker”.
- (iii) by deleting the whole of subsection (5).;

(e) in subsection (4) of section 16, by inserting immediately after the phrase “Zonal Mines Officer” appearing in the second line of the phrase:

“Resident Mines Officers”.

(f) in section 18, by deleting the opening phrase and substituting for it the following:

“18 The Commissioner, or person appointed by the Minister to carry out the functions referred to in this section shall-”

(g) by adding immediately after section 20 the following new section-

“Establi-
shment of
Gemstone
Board

20A.—(1) There is hereby established a Board to be known as the Gemstone Board which shall have the duty to advise the Minister on the sound development of gemstone industry and undertake any other functions as may be provided for in the Gemstone Regulations.

(2) The Composition and functions of the Board shall be as may be provided for under the Mining (Gemstones Board) Regulations.”;

- (h) in section 28, by deleting figures 25 and 26 appearing in the opening phrase and substituting for them figures 24 and 25 respectively;
- (i) in section 29-
 - (i) by adding immediately after subsection (1) the following new subsection:

“(1A) A holder of the licence who intends to renew the licence shall, within the period of three months before expiry date of the licence, submit an application for renewal of the prospecting licence.”;
 - (ii) by adding immediately after subsection (3) the following new subsection:

“(3A) The relinquished areas shall be displayed on the notice board at the Ministry headquarters, zonal and Resident Mines offices on monthly basis.”;
- (j) in subsection (1) of section 30, by deleting paragraphs (a) and (b) and substituting for them the following:
 - “(a) notify the applicant that the application has been granted or rejected;
 - (b) the applicant to give notice within four weeks of the notice under paragraph (a) to the licensing authority of his willingness to accept the proposed licence and pay the fees stipulated in the notice given by the licensing authority.
 - (c) within four weeks from the notice given by the applicant, grant the application and cause the licence to be issued to the applicant.”;
- (k) in section 57-
 - (i) by deleting paragraph (e) of subsection (1);
 - (ii) by deleting subsection (3);

- (iii) by renumbering subsections (4), (5), (6), (7) and (8) as subsections (3), (4), (5), (6) and (7).

“Penalty for failure to pay royalty (1) 57A.—(1) Where the holder of a Mineral Right granted under Division A or B fails to pay annual rent, royalty or to make payment in lieu of royalty payable by him under this Act or the regulations, shall, after thirty days from the date upon which such amount becomes due, in addition to the amount payable by him, pay a penalty-

- (i) in case of an individual person, three percentum of the amount which is due; and

- (ii) in case of a body corporate five per centum of the amount which is due.

(2) The liability to pay penalties under this section shall not exempt any person from any other liability under this Act.

(3) Any unpaid annual rent, royalty or payment in lieu of royalty, shall be a debt which shall be recovered in a court of competent jurisdiction.”

(m) in section 72-

- (i) by renumbering section 72 as section “72(1)”;

- (ii) by adding immediately after subsection (1) as renumbered the following subsections-

“(2) The Commissioner may cancel a primary prospective licence or a primary mining licence where the holder of such a licence fails to comply with any requirement of this Act and its Regulations.

(3) The Commissioner shall not suspend or cancel a licence on a ground referred to in subsection (2) unless-

- (a) he has first served on the holder a default notice specifying the grounds on which, under subsection (2), the licence is liable to be suspended or cancelled;
- (b) the holder has failed within a period of sixty days from the date on which the default notice was served or such longer period as the Commissioner may allow to remedy the default specified or, where such default is not capable of being remedied.”;

(4) A person who is aggrieved by the decision of the Commissioner under this section may within thirty days from the date of the decision, lodge an appeal in writing to the Minister.

(n) in the heading of Part V-

(i) by deleting the phrase “RAWGOLD, GEMSTONES AND OTHER MINERALS” and substituting for it the phrase ‘MINERAL OR MINERALS”;

(ii) by deleting the words “raw gold” and “gemstones” wherever the words appear in this Part and substituting for them the words “Mineral” or “Minerals” as may be appropriate.

(o) in section 73-

(i) in subsection (1), by deleting the word “Minister” appearing in the second line and substituting for it the phrase:

“Commissioner through the relevant zonal or Resident Mines Officer.”;

(ii) by deleting the whole of subsection (2) and substituting for it the following:

“(2) The applicant under subsection (1) shall state the type of mineral for which the licence is sought.”;

(iii) by adding immediately after subsection (2) the following new subsection-

“(3) The application for dealer’s licence in respect of gemstones shall be accompanied by commitment statement indicating the capacity to undertake lapidary.”;

(iv) by renumbering subsection (3) as subsection (4);

(p) in section 75-

(i) in subsection (1), by deleting the word “fifteen” and substituting for it the word “twelve”;

(ii) in subsection (3), by deleting the word “twelve” and substituting for it the word “ten”;

(iii) in subsection (4), by deleting the word “fifteen” and substituting for it the word “twelve”;

(q) in section 76-

(i) by deleting the whole of subsection (2);

(ii) by deleting figure “(1)” appearing immediately after figure “76”;

(r) in section 78, by deleting the phrase “three successive years” appearing in the first and second line of subsection (2) and substituting for it the phrase “two successive years of his licence”;

(s) in subsection (1) of section 86-

(i) by adding immediately after paragraph (a) the following new paragraphs:

(b) in the case of gemstone, of five percentum;

(c) in the case of gems, of zero percentum; and”

(ii) by naming paragraph (b) as paragraph (d);

(t) in paragraph 1 of Schedule 1 by adding immediately after subparagraph (1) the following new subparagraph -

“(1A) the Minister shall in appointing two alternate members under subparagraph (1), ensure that one of the members is the mining expert.”

(u) in Schedule 3-

(aa) in subparagraph (1), of paragraph 1 by deleting the whole of item (b) and substituting for it the following:

“(b) submit within the first month of every calender quarter to the Commissioner copies of records of his prospecting operations together with any records prepared as a result of those records;”

(bb) in subparagraph (2) of paragraph 2

(i) by deleting the phrase “dispense with or” appearing in the second line;

(ii) by deleting the whole of item (b) and substituting for it the following-

“(c) submit within the first month of every calender quarter to the Minister such reports, records and other information concerning the conduct of operations.”

(cc) by deleting the whole of paragraph 3 and substituting for it the following:

“3. The holder of a mining licence or a primary mining licence shall keep the address referred to in section 99(2) such of the records, and shall furnish to the licensing authority, within the first month of every calender quarter such of the reports specified in paragraph 2 of this schedule”.

The Act is hereby repealed.

Act No. 20 of 1981 The National Productivity Council Act, 1981

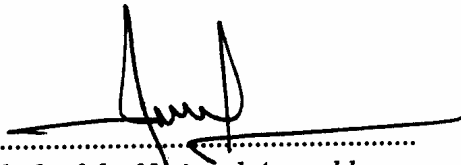
The Act is hereby repealed.

Act No. 8 of 1981 The Tanzania School of Journalism Act, 1981

The Act is hereby repealed.

Act No. 1 of 1968 The Tanzania Audit Corporation Act, 1968

Passed in the National Assembly on the 12th February, 2004



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Clerk of the National Assembly