

THE UNITED REPUBLIC OF TANZANIA



No. 2 OF 2000

I ASSENT,

Benjamin W. Mkapa

President

8th April, 2000.

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) Act, 2000.

Short
title

2. The various laws set forth in the first and second columns of the Schedule to this Act are amended in the manner specified in the third column of that Schedule—

Amend-
ment of
certain
laws

"(4) The Minister may by order published in the *Gazette*, appoint such number of members of the Court as he may deem fit and may, by the same or subsequent order published in the *Gazette*, direct that the jurisdiction of the Court shall, for the purposes of determining such matters or such category of matters as may be specified in the order, be exercised by the Chairman or, as the case may be the Deputy Chairman, sitting with two of such members, to be known as official members in addition, where applicable, to assessors.

(5) Where the Minister makes an order under subsection (4), the Chairman or the Deputy Chairman, as the case may be, shall, in proceedings relating to the matter to which the Order relates, sit with any of two of the official members appointed by the Minister in addition to the assessors, and every such proceedings shall be determined in accordance with the opinion of the majority of all members of the Court including the Chairman or the Deputy Chairman."

Act No. 3 The Tanzania Central Freight Bureau Act, 1981 The Act is amended—

(a) by repealing the whole of section 4 and replacing it with the following—

"Functions of the Bureau

(4) The functions of the Bureau shall be—

- (a) to implement the Government policy and advise the Government on commercial shipping matters;
- (b) to promote, facilitate and regulate shipping services;
- (c) to represent the Government in all commercial shipping matters;
- (d) to monitor the conduct and practices of shipping lines and other sector service providers with a view to -

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SCHEDULE—(contd.)

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SCHEDULE—(contd.)

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- (i) foster economy in water transportation and overland costs;
- (ii) ensure fair competition;
- (iii) ensure quality of shipping services;
- (e) to monitor freight rates and surcharge agreements so as to ensure their correct application during the period of their validity;
- (f) to call for, register and appraise freight rates, currency and bunker adjustment factors and other charges or surcharges in relation to water transportation services;
- (g) to require all ships loading or discharging cargo at Tanzania ports to -
 - (i) submit to the Bureau ship particulars;
 - (ii) file with the Bureau freight rates;
 - (iii) submit copies of cargo freighted manifests and charter parties for both imports and exports;
 - (iv) submit copies of operational or service agreements;
 - (v) submit notification of any imposition of new charges;
 - (vi) submit conditions of service;
 - (vii) submit any other relevant information;
- (h) to register all shippers, shipping agents and clearing and forwarding agents;

- (i) to require every commercial shipping service provider, including terminal operators, carriers, cargo handlers, cargo hauliers and shipping agents to file their tariffs with the Bureau and observe consultation mechanisms before seeking any increase in tariffs or charges;
- (j) to provide up to-date information on cargo projections, sailing schedules and indicative through transportation rates;
- (k) to promote amicable dispute resolution;
- (l) to serve as link between the Government and all commercial shipping service providers and consumers;
- (m) to monitor charges or tariffs for port services, clearing and forwarding companies, shipping agents and other intermediaries linked to the shipping services;
- (n) to assist shippers in securing recovery of funds improperly collected by the industry entities;
- (o) to establish mechanisms for consultation with shipping companies and other providers of shipping services and consumers on issues related to quality and standard of shipping services and costs;
- (p) to undertake research in matters relating to maritime industry with special emphasis on commercial shipping services, freight rates and other conditions of carriage;
- (q) to establish and maintain a system of consultation and co-operation with any person or body of persons established by or under any written law and having functions related or similar to these for purpose of promoting or facilitating—

SCHEDULE-(contd.)

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- (i) investments in commercial shipping;
- (ii) monitoring of price levels at which shipping and related services are provided;
- (iii) regional cooperation in commercial shipping;
- (r) to promote intermodal co-operation with the objective of achieving efficiency and economy of transportation; and
- (s) to provide guidance to shippers on the reasonableness of levels of ocean freight rates and other charges."

(b) by inserting immediately after section 4 the following new section -

"Powers of the Bureau 4A. The Bureau shall, in the exercise of its functions, have the power to-

- (a) negotiate with ship owners and shipping lines individually or collectively on matters relating to freight rates, surcharges, currency and bunker adjustment factors, adequacy, frequency and efficiency of shipping services and other matters connected with shipping services;
- (b) enter into agreements with other institutions, national or international; having functions related or similar to those of the Bureau for the purposes of promoting fair commercial shipping practices;
- (c) appoint agents when necessary or desirable in order to facilitate the better carrying out of the functions of the Bureau;
- (d) formulate codes of conduct for commercial shipping services providers;

SCHEDULE—(contd.)

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- (e) levy charges and commissions for its services;
- (f) require any person or body of persons or institution carrying on the business as shippers, ship owners or shipping agents, to furnish to the Bureau such information as it may specify relating to the shipment of goods to or from Tanzania;
- (g) give directions, instructions or guidelines for the better carrying out of the aims and objectives of the Act.
- (h) investigate, adjudicate and impose fines on parties defaulting or contravening the process:

Provided that it shall be the primary obligation of the Bureau to ensure harmony and amicable settlement of all complaints arising between operators and/or consumers; and

- (i) do any other act or thing which may be necessary, expedient or desirable for the proper exercise and better carrying out of the functions of the Bureau"
- (c) by inserting immediately after the new section 4A the following new section -
- "Objectives 4B. In discharging the functions and powers imposed by sections 4 and 4A, the Bureau shall have regard to—

- (a) efficiency and economy;
- (b) fostering the development and expansion of shipping service;
- (c) enabling persons providing shipping services in Tanzania to complete effectively in the provision of such services."

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(d) by repealing the whole of section 21 and replacing it with the following:—

"offences
and
penalties

21.—(1) Any person who wilfully, by means of false billing, false classification, false weighing, false report of weight, false measurement or by any other unfair device or means obtains or attempts to obtain water transportation services at higher than the market rates or charges, commits an offence, and upon conviction is liable to a fine of not less than five hundred and not more than two thousand United States dollars or its equivalent in Tanzanian shillings.

(2) Any carrier, either alone or in conjunction with any other person operating shipping services in Tanzania who—

- (a) charges, collects, or receives greater or less freight rates or surcharges for transportation of goods or for any service in connection therewith than the open market rates and charges;
- (b) allows any person to obtain transportation services at less than open market rates or charges, or agreed service contract rates or charges by means of false billing, false classification, false weighing, false measurement or by any other unfair device or means;
- (c) operates under any agreement required to be submitted that has not become effective or that has been rejected, disapproved, suspended or cancelled;
- (d) retaliates against any shipper by refusing cargo space when available, or resorts to other unfair discriminatory acts on the ground that the shipper has patronised another carrier, or has filed a complaint;
- (e) engages in any unfair or discriminatory practices in relation to—
 - (i) rates;
 - (ii) cargo space or other facilities;
 - (iii) the loading and unloading of goods; or

SCHEDULE—(contd.)

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(iv) the adjustment and settlement of claims, commits an offence, and upon conviction is liable to a fine of not less than two thousand United States dollars and not more than five thousand United States dollars or its equivalent in Tanzanian shillings.

(3) Any person who engages in conduct or practices which amount to concerting or abuse of a dominant position for purposes of undermining competition, commits an offence and upon conviction is liable to a fine of not less than ten thousand and not more than twenty thousand United States dollars or its equivalent in Tanzanian shillings.

(4) Any employee of the Bureau authorised by name in writing in that behalf by the Director General may compound any offence under this Act or regulations prescribed as being an offence which may be compounded by collecting from the persons reasonably suspected of having committed the offence, an amount not exceeding five hundred United States dollars, or its equivalent in Tanzanian shillings.

(e) by deleting the word "thirty" which appears in section 22 and substituting for it the words "one hundred";

(f) in section 23—

- (i) by deleting subsection (1);
- (ii) by renumbering subsections (2) as (1) and (3) as (2);
- (iii) by deleting paragraph (b) of the renumbered subsection (1);
- (iv) by renaming paragraph (c) as (b);

SCHEDULE—(contd.)

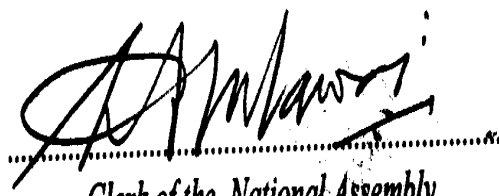
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- (v) by deleting the words "freight operations" appearing in the renamed paragraph (b) and substituting for them the word "services";
- (vi) by deleting the whole of paragraph (d); and
- (vii) by renaming paragraphs (e) as (c) and (f) as (d).

Passed in the National Assembly on the 27th January, 2000.


Clerk of the National Assembly