

THE UNITED REPUBLIC OF TANZANIA



No. 12 OF 1998

I ASSENT,
Benjamin W. Mkapa
President
24.1.1999.

An Act to amend certain Written Laws

[.....]

1. This Act may be cited as the
Written Laws (Miscellaneous
Amendments) Act, 1998.

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 to that Schedule-

Amendment
of certain
laws

SCHEDULE

COLUMN 1	COLUMN 2	COLUMN 3
Act No. 3 of 1970	The National Security Act, 1970	The Act is amended- (a) in the definition "classified matters" by deleting the semi-colon and inserting the phrase "examination papers prepared and administered by the National Examination Council or other institution duly authorized to prepare, distribute and conduct examination;" (b) in the definition "official document" by inserting the phrase examination papers prepared and administered by the National Examination Council or other institution duly authorized to prepare, distribute and conduct examination" between the words "licence" and " or"; "(c) in section 5 by inserting the phrase "or causes the leakage of such classified matter" between the words, "matter" and "to any" which occurs in, the first line of subsection (1)".

Act No I of 1986	The Emergency Power Act 1986	The Act is amended-	(a) by deleting the phrase "any specified authority" which occurs in subsection (1) and substituting for it the phrase "the Vice President or any person exercising the powers of the President." (b) by repealing subsection (2); (c) by renumbering subsection (3) as subsection (2).
Act No. 8 of 1969	The Resettlement of Offenders Act, 1969	The Act is amended-	(a) in section 2 by inserting immediately after the definition of the term "dependant" the following term- "habitual offender" means a person of not less than twenty-five years who, after attaining the age of eighteen, has on three or more occasions been convicted of any crime of moral turpitude for which he was, on each occasions, sentenced to imprisonment for a term of three years or more and

who has now been sentenced to imprisonment for a term of not less than three years upon conviction of another offence of moral turpitude"

(b) in section 4-

(i) by inserting the words "'in writing and signed by him" immediately after the words "settlement order" which appears in subsection (1); and

(ii) by adding the following subsection immediately after subsection (2)-

"(3) It shall not be lawful for any person to Whom a resettlement order has been issued and which has not been renewed to remain in any part specified in the resettlement order after expiry of two years."

(c) by repealing section 16.

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| Cap 38 | The
Deportation
Ordinance | The Ordinance is amended- |
| | | (a) in section 2 by adding the following subsection immediately after subsection (2)-
"(3) Notwithstanding the provisions of this Ordinance or any other law, it shall not be lawful for any person to whom a deportation order has been issued and which have not been renewed to be detained in any part specified in the deportation order after expiry of two years". |
| | | (b) in section 9 by deleting the words "one thousand" and substituting for them the words "fifty thousand". |

Cap. 39	The Expulsion of Undesirables Persons Ordinance	The Ordinance is amended- (a) in section 16 by deleting the words "one thousand" and substituting for them the words "fifty thousand" and by deleting the words "with or without hard labour" which respectively appears in subsection (1) (b) by repealing section 19 and replacing it by the following- " 19. Any person in respect of whom an expulsion order has been issued and in pursuance whereof has been detained pending the decision of the President may seek compensation in the High Court where it is established that his detention was not justified." (c) by repealing section 20.
Cap. 18	The Witchcraft Ordinance	The Ordinance is amended in section 5- (a) by deleting the words "of either description of a period not exceeding seven years or to a fine not exceeding four thousand shillings, or to both such fine and imprisonment" which appear in subsection (1) and substituting for them the words "not less than seven years."

- (b) by deleting the words "not exceeding one thousand shilling s or imprisonment of either description for any period not exceeding one year" in subsection (2) and substituting for them the words "of not less than one hundred thousand shillings or imprisonment of not less than five years
- (c) by inserting the words "or the Zonal State Attorney In-charge" between the words "Attorney General" and "thereto⁹⁸ which appear in the proviso to subsection (2).

Cap. 17

The Corporal
Punishment
Ordinance

The Ordinance is amended-

- (a) by repealing subsection (1) of section 8 and replacing it with the following-
"(1) A corporal punishment shall be ordered and administered irrespective whether a person in respect of which the punishment has been ordered has or has not attained the age of forty-five."

(b) in Part I of the Schedule to the Ordinance, by adding the following paragraphs-

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| "5. Illicit trafficking in drugs but does not include a person convicted for an offence of being in possession of drugs which taking into account the circumstances in which the offence was committed, was not meant for conveyance or commercial purpose. | Drug and Prevention of Illicit Traffic in Drugs Act, 1995
Part IV of the Act. |
| 6. Theft, disruption, damage, hindrance or interference with necessary service | Section 326 (6A) of the Penal Code |
| 7. Witchcraft | Witchcraft Ordinance |

Cap. 16

The Penal
Code
Ordinance

The Ordinance is amended in section 326 by repealing subsection (6) and replacing it with the following-

"(6A). If the property in question is used or is intended to be used for the purpose of providing necessary service, the offender is guilty of an offence and-

- (a) if the offence is likely to result in danger to human life or to disrupt, damage, hinder or interfere with any necessary service or the Carrying on of such service, shall be liable to imprisonment for a term of not less than twenty years but shall not exceed thirty years;
- (b) if the offence is committed in circumstances which does not result in danger to human life, Shall be liable to imprisonment for a term of not less than fifteen years but shall not exceed twenty years."

(6B). In this section, necessary service⁶⁴includes-

- (a) any service relating to installation, transmission, supply or distribution of electricity or telecommunication;
- (b) any fire service;
- (c) any sewerage, rubbish disposal or other sanitation service;
- (d) any health, hospital or ambulance service;
- (e) any service relating to the supply or distribution of water, gas or petroleum;
- (f) any road, railway, bridge, underground tunnel,

car park, ferry, pontoon, pipeline for the supply of water or fuel, airfield harbour or dock,"

Act No..')
of 1976

'The News
paper Act.
1976

The Act is amended by adding immediately after section 8 the following new section-

"8A(1) Where a person, proprietor, printer or publisher of a newspaper has made application as required by section 6, 7 or 8 as the case may be, the Registrar shall make reply to an application for registration within ninety days from the date on which the application for registration was sent to the Registrar.

(2) Where the Registrar has not replied to an application within ninety days, it shall be lawful for the person, proprietor, printer or publisher, as-the case may be, to continue with printing, publication and circulation of such newspaper as if the application has been granted.

(3) An application sent to the Registrar by a registered post shall be a conclusive evidence that the application was forwarded on a date embossed thereon"

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

The Act is amended in section 148-

(a) by deleting paragraph (a) of subsection (5) and substituting for it the following-

-(a) That person is charged with-

(i) murder, treason, armed robbery,
or defilement;

(11) illicit trafficking in drugs against
the Drug and Prevention of Illicit
Traffic in Drug Act, 1995, but
does not include a person charged
for an offence of being in

Possession of drugs which taking into
account all circumstances in which the
offence was committed, was not meant
for conveyance or commercial purpose."

Cap. 422	The Stock Theft Ordinance	The Act is amended in section 12- (a) by inserting the words "sit with two members either from the Village Councillor, the District Council and shall" between the words "shall" which appear in subsection (3). (b) by adding immediately after subsection (3) the following new subsection- (4) The magistrate court which has jurisdiction over the area where the offence was committed shall try the offence under this Ordinance: in this section, the term "magistrate" means a Resident Magistrate, a District Magistrate or a Primary Court Magistrate.
Act No. I of 1972	The Minimum Sentences Act, 1972	The Minimum Sentences Act is amended- (a) in section 4 by adding immediately after paragraph (c) the following paragraph- 64(d) Where the offence is an offence specified in the Fourth Schedule to this Act, thirty years.'

(b) in the First Schedule by-

(i) deleting the whole of paragraph I 1;

(ii) renumbering paragraph " 12" as paragraph " 11;

(c) adding immediately after the Third Schedule the following Schedule-

"FOURTH SCHEDULE

Being in possession of stock suspected of having been stolen contrary to section 3 of the Stock Theft Ordinance (Cap. 422)".

Act No. 12
of 1991

The Banking
and
Financial
Institutions,
1991

The Act is amended-

(a) In section 3 by inserting between the definitions of the titles "Governor" and "Minister" a new definition as follows-

"Microfinance institution" means a bank or financial institution established to undertake banking business mainly with individuals,

groups and micro enterprises in the rural or urban area of Tanzania Mainland and Tanzania Zanzibar"-

- (b) in section 13 by deleting subsections (2) and (3) and substituting for them the following-

"(2) Every financial institution shall-

- (a) commence operations with minimum core capital of not less than 500,000,000 shillings or a higher amount as the Minister may prescribe and shall maintain the minimum amount at all times provided that minimum amount of a core capital may be reduced by the Bank in order to promote the establishment of microfinance institutions, regional based financial institutions and any

other specific financial institutions to be designated by the Bank, and for this purpose, the Bank shall prescribe the minimum amount of the initial core capital of microfinance institutions, regional based financial institutions and any other specific financial institutions to be designated by the Bank, and the terms and conditions for the establishment, ownership and supervision of the said institutions.

(b) maintain at all times a core capital of not less than 8% of its total assets plus off balance sheet risks.

(3) Save for microfinance institutions, regional based financial institutions or any other specific financial institutions designated by the Bank, and notwithstanding subsections (1) and (2), no

individual person shall, whether alone or in association with another person, own directly or indirectly a beneficial interest in more than twenty of the share capital of any bank or financial institution. ,

- (c) by adding immediately after subsection (4) the following subsection-

"(5) For purposes of subsection (3), the term individual'.' means and includes any member of the family and the term person' shall be deemed to include a parent, spouse, brother, sister, child, uncle, aunt,, nephew, niece, stepfather, stepmother, stepchild and adopted child of the individual concerned and in case of any adopted child, his adopter or adopters."

Act No. 30
of 1974 The
Government
Loans
Guarantees
and Grants
Act, 1974

The Act is amended as follows-

- (a) in section (2) which relate to definitions, by inserting in appropriate alphabetical arrangements the following definitions-

"book entry system" means an arrangement under which operations and transactions in Government bills, bonds and stocks are effected by an entry of appropriate records at a central depository;
central depository" means centralised custody arrangement as operated by Bank of Tanzania";

(b) in section 7-

(1) by renumbering that section as subsection (1) of section 7;

(11) by adding the following new subsection immediately after the renumbered section 7(f);

"(2) The issuance of government bills, bonds or stocks under section 7(1) may either be in the form of physical certificate or by an entry of the extent of interest in the bill-s; bonds or stocks in the records held at the central depository in favour of a person so

issued with the bills, bonds or stocks in accordance with any scheme or arrangement approved by the Minister, and the provisions of this Act shall be construed accordingly."

- (c) in section 8, by deleting paragraph (c) and substituting for it the following-

"(c) every bill, bond or stock certificate lawfully issued shall be *prima facie* evidence of the title of the person named in the bill, bond or stock specified;

(d) Notwithstanding the provisions of paragraph (c), where ownership of the bill, bond or stock issued as is recorded under the book entry system, extracts from records of the central depository duly certified by the authorised signatory or signatories of the said depository in respect of ownership of the bills, bonds or stocks recorded in the depository, shall be *prima facie* evidence of the title of the person named in the bill, bond or stock specified.

Act No. 5 of 1983	The Protection from Radiation Act, 1983	The Act is amended in section 4 1 - (a) by adding immediately after subsection (2) the following subsection- "(3) Any person who, unlawfully possesses any radioactive material commits an offence and on conviction is liable to a fine of not less than one hundred thousand shillings or-to imprisonment for a term of not less than three years or to both"; (b) by renumbering subsection (3) as subsection (4).
Cap. 35	The Public Holidays Ordinance	The Ordinance is amended as follows- (a) by repealing section 4; and (b) by renumbering section 5 as section 4.
Cap. 212	The Companies Ordinance	The Ordinance is amended by inserting the following section immediately after section 63-

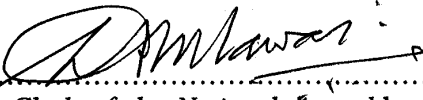
“Establishment
by stock
exchange of
depository or
issued securities

63 A.—(1) An approved stock exchange may establish a depository in which securities may be maintained provided that the Council or order ruling body of such exchange shall prescribe rules relating to safe custody, all transfer and reports to be filed with the Registrar relating to transactions concerning the deposited securities. To be filed with the Registrar relating to transactions concerning the deposited securities.

(2) The rules prescribed under paragraph (1) shall be satisfactory to the Registrar

(3) Transfer of securities deposited in a depository maintained by an approved stock exchange shall be effected in accordance with the transfer procedures prescribed under the rules of such exchange”.

Passed in the National Assembly on the 12th November, 1998


Clerk of the National Assembly