

THE INTERPRETATION OF LAWS ACT, 1996

ARRANGEMENT OF SECTIONS

<i>Section</i>	<i>Title</i>
PART I	
PRELIMINARY	
1.	Short title and commencement.
2.	Application.
3.	Act to bind Republic.
PART 11	
GENERAL PROVISIONS OF INTERPRETATION	
4.	Definitions applicable to written laws.
5.	Application of definitions.
6.	Law always speaking.
7.	Parts of speech and grammatical forms.
8.	Gender and number.
9.	References in written law to Minister.
10.	References by number to be inclusive.
11.	Construction of internal references to section, etc.
12.	Reference to written law as amended.
13.	Disjunctive construction of "or"
PART III	
COMMENCEMENT AND CITATION OF LAWS	
14.	Date of commencement of Acts.
15.	Time of commencement of written laws.
16.	Effective date of commencement provision where notice of commencement required.
17.	Construction of power to fix date of commencement.
18.	Evidence of date of assent.
19.	Exercise of powers before commencement.
20.	Citation of written laws.
21.	References in written law to day of commencement.
PART IV	
PROVISIONS AS TO ENACTMENT AND OPERATION OF WRITTEN LAW	
22.	Acts to be public Acts.
23.	Sections to be substantive enactments.
24.	Act may be altered or repealed in same session.
25.	Preambles and Schedules.
26.	Headings, marginal notes and footnotes.

Section

Title

PART V

AMENDMENTS AND REPEAL OF WRITTEN LAW

- 27. Construction of amending Act with amended Act.
- 28. Repeal of written law as amended.
- 29. Repeal of repeal.
- 30. Repeal and substitution.
- 31. Effect of substituting provisions.
- 32. General savings on repeal.
- 33. Effect of repeal of Act on subsidiary legislation.
- 34. Effect of expiry of written law.

PART VI

PROVISIONS RELATING TO SUBSIDIARY LEGISLATION

- 35. President may make subsidiary legislation.
- 36. General provisions regarding power to make subsidiary legislation.
- 37. Publication and commencement of subsidiary legislation.
- 38. Laying regulations before Parliament and disallowance.
- 39. Construction of subsidiary legislation.
- 40. Citation of subsidiary legislation.
- 41. Reference to written law to include subsidiary legislation.
- 42. Acts under subsidiary legislation deemed done under Act.
- 43. Fees and charges.

PART VII

STATUTORY POWERS AND DUTIES

- 44. Time for exercise of power or performance of duty.
- 45. Reference to holder of office includes successors.
- 46. Construction of enabling words.
- 47. Power to issue licences, etc., discretionary,
- 48. Power to appoint includes power to suspend, dismiss, etc.
and to re-appoint, etc.
- 49. Appointment by name or office, etc, and appointment of chairman, etc. of board etc.
- 50. Power of majority, quorum, etc.
- 51. Exercise of power may be corrected.
- 52. Effect of appointment when retiring officer on leave.
- 53. "May" imports a discretion, "shall" is imperative.
- 54. Power of board etc. not affected by vacancy or certain defects.
- 55. Exercise of certain powers by delegate.

THE UNITED REPUBLIC OF TANZANIA



No. 4 OF 1996

I ASSENT,

Ben Winkapa

President

17th June, 1996

An Act to amend, update and consolidate the law relating to the construction, application, interpretation and operation of written law and to provide for connected purposes.

.....

ENACTED by the Parliament of the United Republic of Tanzania.

PART I PRELIMINARY

1.—(1) This Act may be cited as the Interpretation of Laws Act, 1996.

Short title
and com-
mence-
ment

(2) This Act shall come into operation on the date of commencement of the Revised Edition 1995.

(3) In this section, “the Revised Edition 1995” means the Laws of Tanzania as revised and published.

2.—(1) This Act shall apply to Mainland Tanzania as well as to Tanzania Zanzibar in relation to all laws which apply throughout the United Republic.

Application

(2) The provisions of this Act shall apply to, and in relation to, every written law, and every public document whether the law or public document was enacted, passed, made or issued before or after the commencement of this Act, unless in relation to a particular written law or document—

- (a) express provision to the contrary is made in an Act;
- (b) in the case of an Act, the intent and object of the Act or something in the subject or context of the Act is inconsistent with such application; or
- (c) in the case of subsidiary legislation, the intent and object of the Act under which that subsidiary legislation is made is inconsistent with such application.

<i>Section</i>	<i>Title</i>
56.	Reference to an -area by designation.
57.	Construction of power to delegate.
58.	Who shall affix the common seal of a body corporate.
59.	Rights of the Government.

PART VIII

PROVISIONS REGARDING TIME AND DISTANCE

- 60. Computation of time.
- 61. Reckoning of months.
- 62. Provisions where no time fixed.
- 63. Construction of power to extend time.
- 64. Deviations from forms.
- 65. Measurement of distance.

PART IX

PROCEDURES AND PENALTIES

- 66. Ex-officio proceedings not to abate on death.
- 67. Rules of court.
- 68. Imposition of penalty not a bar to civil action.
- 69. Recovery of fines and penalties.
- 70. Double jeopardy.
- 71. Application of penal laws to bodies corporate.
- 72. Provisions as to offences under two or more Acts.
- 73. Amendment of penalties
- 74. Prescription of maximum, minimum, daily and cumulative penalties.
- 75. Provisions as to attempts.
- 76. Disposal of forfeits.
- 77. Liability of employer or principal.
- 78. Evidence of fiat, sanction or consent of public officer.
- 79. Exercise of the powers of Director of Public Prosecutions in his absence, etc.
- 80. Statement of penalty at end of provision.
- 81. Continuing offences.

PART X

MISCELLANEOUS PROVISIONS

- 82. Service of documents by post.
- 83. Service of documents generally.
- 84. Language of laws of Tanzania.
- 85. Repeal of Act No. 30 of 1972.

(3) The provisions of this Act shall apply to this Act as they apply to an Act passed after this Act commences.

(4) In sections 13, 15, 19, 20, 22, 23, 24, 33, 36(6), 43, 46, or 62, a reference to any Act, written law, enactment or subsidiary legislation passed or made after the commencement of this Act shall be construed so as not to include any enactment which continues or directly amends, but does not repeal entirely, the text of an existing written law.

Act to
bind the
Republic

3. This Act binds the United Republic.

PART II

GENERAL PROVISIONS OF INTERPRETATION

Defini-
tions
applicable
to written
laws Cap.
16

4. In this Act and every other written law-

"abet" with its grammatical variations and cognate expressions, has the same meaning as in the Penal Code;

"act" when used with reference to an offence or civil wrong, includes an omission and extends to a series of acts or omissions or a series of acts and omissions;

"Act" when used with reference to legislation means any Act, Decree or Ordinance passed by the Parliament of the United Republic or, as the case may be, the House of Representatives of Zanzibar, or by any Council previously having authority or power to pass laws in Tanzania or, as the case may be Zanzibar, such Act, Decree or Ordinance having been assented to by on behalf of the President or other proper legislative authority but does not include an Act of the Community;

"administrative officer" means an administrative officer of any grade whatsoever;

"advocate" means a person entitled to practice as an advocate in the High Court or courts subordinate thereto under the provisions of the law for the time being applicable to advocates;

"affidavit" in the case of persons allowed by law to affirm or to declare instead of swearing, includes affirmation and declaration;

"amend" means replace, substitute, in whole or in part, add to or vary, and the doing of any two or more of such things simultaneously or by the same written law;

"applied law" means any Indian Act or an Act of the United Kingdom including an Order-in-Council which for the time being extends and applies to Tanzania.

"by-law" means a by-law made under the Act in which the term is used;

"calendar month" means the period beginning on the first day of a month and expiring on the last day of that month;

"calendar year" means the period commencing on 1st day of January in a year and expiring on the 31st day of December in that year;

"chapter" "part", "section" and "schedule" denote respectively a chap-

ter, part, and section of, and schedule to the Act in which the word occurs, and "subsection" denotes a subsection of the section in which the word occurs;

"Chief Secretary" means the person who is appointed a Principal Secretary in the Office of the President;

"Civil magistrate" means a resident magistrate, and includes any other person appointed a civil magistrate under the Magistrates' Courts Act;

"coin" means any coin of any metal, whether precious, semi-precious or non-precious, which is for the time being legal currency in the United Republic;

"commencement" when used with reference to an enactment, means the time at which the enactment comes or came into operation;

"common law" means the common law of England;

"the Commonwealth" means collectively the members of the Commonwealth and any dependency of a member of the Commonwealth; and "member of the Commonwealth" or "Commonwealth country" means the United Republic and any country specified in the Schedule to this Act;

"the Community" means the East African Community established by the Treaty;

"the Consolidated Fund" means the Consolidated Fund of the United Republic;

"the Constitution" means the Constitution of the United Republic of Tanzania, 1977, (entitled in Kiswahili "Katiba ya Jamhuri ya Muungano wa Tanzania ya mwaka, 1977") enacted by the Constituent Assembly of the United Republic;

"contravene" in relation to any requirement or condition prescribed in a written law or in any grant, permit, lease, licence, or other authority under a written law, includes a failure to comply with that requirement or condition;

"court" means any court in the United Republic, of competent jurisdiction;

"Court of Appeal" means the court to which appeals lie under Part 11 of the Appellate Jurisdiction Act, as amended from time to time;

"Crown Agents" means the persons for the time being acting as Crown Agents for Overseas Governments and Administrations or any of them;

"Customary law" means any rule or body of rules whereby rights and duties are acquired or imposed, established by usage in any African Community in Tanzania and accepted by such community in general as having the force of law, including any declaration or modification of customary law made or deemed to have been made under section 9A of the Judicature and Application of Laws Ordinance, and references to "native law" or to "native law and custom" shall be similarly construed;

"definition" means the interpretation given by any written law to a word or expression;

- "Deputy Minister" means a Deputy Minister appointed under section 55 of the Constitution;
- "District" means any part of the United Republic proclaimed or deemed to be or to have been proclaimed under section 2(2) of the Constitution to be a district;
- "District Magistrate" includes a resident magistrate;
- "document" includes any publication and any matter written, expressed, or described upon any substance by means of letters, figures, or marks, or by more than one of those means, which is intended to be used or may be used for the purpose of recording that matter;
- "East African Authority" means the East African Authority established by the Treaty;
- "enactment" means a written law or any portion of a written law;
- "estate in relation to land, includes any legal or equitable estate or interest, easement, right, title, claim, demand, charge, lien, or encumbrance in, over, to, or in respect of the land;
- "financial year" means the period of 12 months ending on 30 June;
- "Foreign Service Officer" means an officer holding or acting in an appointment in the Foreign Service of the United Republic;
- "function" includes powers, duties, responsibilities, authorities, and jurisdictions;
- "*Gazette*" or "*Government Gazette*" means the *Gazette* printed and published by the Government Printer by order of the Government of the United Republic and includes supplements thereto and any Extraordinary *Gazette* so published;
- "General Notice" means any announcement not of a legislative character made in the *Gazette* by or with the authority of the President or a Minister;
- "Government" means the Government of the United Republic;
- "Government analyst" includes any assistant or other analyst employed by the Government;
- "Government Notice," means any subsidiary legislation, made by the President, a Minister or other public officer or authority pursuant to a power conferred by any Act;
- "Government Printer" means the Government Printer of the United Republic and any other printer purporting to be the printer authorized to print Acts and other documents of the Government;
- "the High Commission" means the High Commission established by the East African (High Commission) Orders-in-Council, 1947 to 1961 and reference in any written law to the High Commission shall be construed-
- (a) for the period during which the East African Common Services Organization Agreement (Implementation) Ordinance was in force, as references to the Common Services Organization;
 - (b) for the period after the repeal of that Ordinance, as references to the Community;

- "the High Court" means the High Court of the United Republic or the High Court of Zanzibar;
- "Imperial Act" means an Act passed by the Parliament of the United Kingdom;
- "individual" means a material person;
- "Judge" means a Judge of the High Court, and includes an acting Judge;
- "justice of Appeal" means a Judge of the Court of Appeal and includes an Acting Justice of Appeal;
- "Justice" means a Justice of the Peace;
- "land" includes buildings and other structures, and covered with water, and any estate, interest, easement servitude or right in or over land;
- "Law Officer" means the Attorney-General and every legally qualified member of the Attorney-General's Chambers of the rank of or above Senior State Attorney or Senior Assistant Parliament Draftsman.
- (a) a village council, a township, a kitongoji, a district council or any other local government authority established under the Local Government (District Authorities) Act, or
- (b) an urban ward, a mtaa, a town council, a municipal council or city council established under the Local Government (Urban Authorities) Act;
- "magistrate" means a resident magistrate, a district magistrate, a primary court magistrate and any other description of magistrate provided for by or under the magistrates Courts Act;
- "marriage" means a marriage contracted in accordance with, or recognized as valid by the Law of Marriage Act, 1971, and the terms "husband", "wife" and "married person" shall be construed accordingly;
- "Minister" has the meaning given in section 9 and in addition, include the Vice President, the Prime Minister; and
- "the Minister" means the Minister responsible for the matter in question and includes the Deputy Minister for the time being performing the functions of that Minister or, if there is no Minister responsible for the matter in question, means the President;
- "minor" means a person who has not attained the apparent age of eighteen years and the terms "infant" and "infant child" shall be construed accordingly;
- "month" means a calendar month unless words be added showing a lunar month is intended; where a month is expressed as beginning, or is required to be reckoned as beginning, on a date other than the first day of any month, the month shall be deemed to expire immediately before the commencement of the corresponding date in the next following month, whether the period so encompassed is of a longer or shorter period than thirty days;
- "native" means any member of an African race;
- "oath" and "affidavit". in the case of persons for the time being required or allowed to affirm or declare instead of swearing, include affirmation and declaration, and "swear", in the like case, includes "affirm" and "declare";

"Ordinance" includes any Ordinance or any laws, proclamations or other legislative acts issued, made or done before the date of the Tanganyika Order in Council, 1920, and validated by the said Order in Council, and any subsidiary legislation made and in force under an Ordinance, and (save in the definitions "Act" and "Parliament" in this subsection) includes an Act of Parliament and subsidiary legislation made under such Act;

"Parliament"-

(a) in an Ordinance, or a public document made or issued before the ninth day of December, 1961, means the Parliament of the United Kingdom and "Imperial Parliament" has the same meaning;

(b) in an Act of the Parliament of Tanganyika or of the United Republic, or a public document made or issued after the eighth day of December, 1961, or in an Act of the Constituent Assembly of Tanganyika, means the Parliament of the United Republic (and when used in the expression "Act of Parliament" includes a reference to the Constituent Assembly of Tanganyika);

"perform" in relation to functions, includes the exercise of a power, responsibility, authority, or jurisdiction;

"Person" or any word or expression descriptive of a person includes a public body, company, or association or body of persons, corporate or unincorporated;

"police officer" means any member of the Police Force of and above the rank of constable as defined in the Police Force Ordinance;

"power" includes any privilege, authority, or discretion;

"prescribed" means-

(a) prescribed by or under the written law in which the word occurs; and

(b) in a case where reference is made to anything prescribed by a written law other than the law in which the word occurs, includes anything prescribed by subsidiary legislation made under that other written law;

"President" means the President of the United Republic, and includes any person performing the functions of the President under section 137 of the Constitution;

"Principal Secretary" means a person appointed by the President to be a principal secretary, and reference in any Act to Permanent Secretary shall be construed as reference to Principal Secretary, and includes a Deputy Attorney-General;

"proclamation" means proclamation made by the President and published in the *Gazette*;

"publication" means-

(a) all written and printed matter;

(b) any record, tape, wire, perforated roll, cinematography film or image or other contrivance by means of which any words or ideas may be mechanically, electronically, or electrically produce, reproduces, represented, or conveyed;

- (c) anything whether of a similar nature to that described in paragraph (b) of this definition or not, containing any visible representation, or by its form, shape, or in any manner, capable of producing, reproducing, representing, or conveying words or ideas; and
- (d) every copy and reproduction of a publication as defined in paragraphs (a), (b), or (c) of third definition- 9
- "public corporation" means a body corporate established by or under any written law, other than the Companies Ordinance, and includes a corporation sole so established;
- "Public holiday" means day which is declared to be or proclaimed as a public holiday under the Public Holiday Act;
- "Public officer" or "public department" extends to and includes every officer or department invested with or performing duties of a public nature, whether under the immediate control of the President or not, and includes an officer or department under the control of a local authority, the Community, or a public corporation;
- "public place" includes-
 - (a) any public street or way or pier, or any public garden;
 - (b) any building, place or conveyance to which, for the time being, the public are entitled or permitted to have access, either unconditionally or upon condition or making payment; and
 - (c) any building, place or conveyance which is for the time being used for any public or religious meeting or assembly or as an open court;
- "public seal" means the public Seal of the United Republic;
- "Region" means any part of the United Republic proclaimed or deemed to be proclaimed by the President under section 2(2) of the Constitution to be a region;
- "Regional Commissioner" means a person appointed by the President to be a regional commissioner, and "the Regional Commissioner" means the regional commissioner of the region concerned;
- "regulation" means a regulation made under the Act in which the term is used;
- "repeal" includes rescind, revoke, cancel or delete;
- "the Republic" means the Republic of Tanganyika and includes the United Republic;
- "resident magistrate" means a resident magistrate of any grade appointed as such under the Magistrates Courts Act;
- "revenue officer" means an officer appointed by the Principal Secretary to the Treasury to perform duties in connection with the collection of revenue of the United Republic;
- "rule" means a rule made under the Act in which the term is used;
- "rules of court" when used in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court;
- "sell" includes barter, exchange, offer to sell and expose for sale;

Act No. 2
of 1984

"service" where an act authorizes or requires say document to be served on any person, whether the expression "serve", or the expression "give" or "send", or any other expression is used, then, unless a contrary intention appears, the service shall be effected by properly addressing and posting, after payment of appropriate charges, a letter containing the document, and, unless the contrary is proved, service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course of post;

"signature" with its grammatical variations and cognate expressions, includes with reference to a person who is unable to write his name, "mark", with its grammatical variations and cognate expressions;

"sitting days" in relation to, means days on the National Assembly which the Assembly actually sits-

"statutory declaration" if made-

- (a) in Tanzania, means a declaration made under the Oaths (Judicial Proceedings and Statutory Declarations) Act.;
- (b) in any other Commonwealth country, means a declaration on oath made before a justice of peace, notary public, or other person having authority therein under any law for the time being in force to take or receive a declaration;
- (c) in any other country, means a declaration on oath made before a Foreign Service Officer having authority under any written law to administer oaths or before any other person who may, for the time being be specified by the Minister responsible for legal affairs by an Order in the *Gazette*;

"subsidiary legislation" means any order, proclamation, rule, rule of court, regulation, order notice, by-law or instrument made under any Act or other lawful authority;

"summary conviction" means a conviction by a court of summary jurisdiction;

"swear" in the case of persons allowed by law to affirm or declare instead of to swear, includes to affirm and to declare;

"territorial waters" means any territorial or inland waters of the United Republic;

"the Territory" means Tanganyika;

"the Treaty" means the Treaty of East African Co-operation set out in the Schedule to the Treaty of the East African Co-operation (Implementation) Act, 1967 and as amended from time to time;

"the Union Day" means the 26th day of April, 1964;

"under" in relation to a written law or a provision of a written law, includes "by" "in accordance with", "pursuant to" and "by virtue of";

"the United Kingdom" means Great Britain and Northern Ireland;

"the United Republic" means-

- (a) for the period subsequent to 11th December, 1964, the United Republic of Tanzania;

- (b) for the period commencing on Union Day and expiring on 11 th December, 1964, the United Republic of Tanganyika and Zanzibar;
- "Vice-President" means a Vice-President of the United Republic;
- "will" includes codicil;
- "words" includes figures and symbols;
- "writing", and any expression referring to writing include printing, lithography, typewriting, photography and other modes of representing or reproducing words in visible form;
- "written law" means all Acts for the time being in force and all subsidiary legislation for the time being in force, and includes the Acts of the Community and all applied laws;
- "year" means a period of twelve months.

5. Definitions or rules of interpretation contained in a written law apply to the construction of the provisions of the written law that contain those definitions or rules of interpretation as well as to other provisions of that written law.

Applica-
tion of de-
finitions

6. A written law shall be considered as always speaking and whenever a matter or thing is expressed in the present tense, it shall be applied to the circumstances as they arise, so that effect may be given to every part of the law according to its true spirit, intent and meaning.

Law al-
ways
speaking

7. Where a word or phrase is defined in a written law, other parts of speech and grammatical forms of that word or phrase have corresponding meanings.

Parts of
speech
and gram-
matical
form

8. In any written law-

- (a) words importing the masculine gender include the feminine;
- (b) words importing the feminine gender include the masculine;
- (c) words in the singular number include the plural and words in the plural number include the singular.

Gender
and
number

9. A reference in a written law to the Minister shall be construed-

- (a) in the case of a reference in an Act, as a reference to the Minister to whom the administration of the Act, or the provisions of the Act, in which or in respect of which the term is used, is for the time being committed by the President;
- (b) in the case of a reference in subsidiary legislation, as a reference to the Minister to whom the administration of the Act, or provision of the Act, under which the subsidiary legislation is made, is for the time being committed by the President; and

Reference
in written
law to
Minister

(c) so as to include a Minister for the time being acting for or on behalf of the Minister referred to in paragraph (a) or (b), as the case may require.

Refer-
ences by
number to
be inclu-
sive

10. A reference in a written law by number or letter or by number and letter to two or more portions of a written law shall be construed as including the portion described by the reference first mentioned and the portion described by the reference last mentioned.

Construc-
tion of in-
ternal re-
ferences
to section
etc.

11.--(I) Where in an Act reference is made to a Chapter, Part, section, schedule, appendix or form without anything in the context to indicate that a reference to Chapter, Part, section, schedule, appendix, or form of or to some other Act is intended, the reference shall be construed as a reference to a Part, Chapter, section, schedule, appendix, or form of or to the Act in which the reference is made.

(2) Where in a provision of an Act reference is made to a subsection, paragraph, subparagraph, or other division without anything in the context to indicate that a reference to a subsection, paragraph, subparagraph, or other division of some other provision is intended, the reference shall be construed as a reference to a subsection, paragraph, subparagraph, or other division of the provision in which the reference is made.

(3) Where in a schedule to an Act reference is made to a clause, subclause, paragraph, or other division without anything in the context to indicate that a reference to a clause, subclause, paragraph, or other division of some other provision is intended, the reference shall be construed as a reference to a clause, subclause, paragraph, or other division of the schedule or provision of the schedule in which the reference is made.

(4) The provisions of subsection (1), (2), and (3) shall apply, subject to the necessary modifications, to the construction of subsidiary legislation.

Reference
to written
law as
amended

12.--(1) A reference in a written law to a written law shall be deemed to include a reference to such written law as it may from time to time be amended.

(2) A reference in a written law to a provision of a written law shall be construed as a reference to such provision as it may from time to time be amended.

(3) A reference in a written law to an Imperial Act, or to a provision of an Imperial Act, shall be construed so as to include a reference to such Act or provision as it may from time to time be amended.

Disjunc-
tive con-
struction
of "or"

13. In relation to a written law passed or made after the commencement of this Act, but subject to section 2 (4), or "other; and "other wise" shall be construed disjunctively and not as implying similarity unless the word "similar" or some other word of like meaning is added.

PART III

COMMENCEMENT AND CITATION OF LAWS

14. Every Act shall come into operation on the date of its publication in the *Gazette* or, if it is provided either in that Act or in any other written law, that it shall come into operation on some other date, on that date.

Date of
com-
mence-
ment of
Acts

15. Where any written law, or portion of a written law, comes into operation on a particular day, it shall come into operation at the beginning of that day.

Time of
com-
mence-
ment of
written
laws

16. Notwithstanding section 14, where an Act provides that the Act, or portion of the Act, is to come into operation on a day to be fixed by notice, that provision and the provision providing for the short title of the Act, unless it is otherwise expressly provided, shall come into operation on the day on which the Act receives the Presidential Assent.

Effective
date of
com-
mence-
ment pro-
vision
where
notice of
com-
mence-
ment re-
quired

17. A power to fix a day on which an Act shall come into operation does not include power to fix-

- (a) a day prior to the day on which the proclamation fixing the day is published in the *Gazette*; or
- (b) different days for different provisions of that Act, unless express provision is made in that behalf.

Construe-
tion of
power to
fix date of
com-
mence-
ment

18. Where a date appearing on a copy of an Act printed, or purporting to be printed, by the Government Printer, purports to be the date on which the President assented to such Act or to a portion of it, that date as so appearing shall be evidence that such date was the date on which the President so assented, and shall be judicially noticed accordingly.

Evidence
of date of
assent

19.-(1) Where a provision of an Act does not commence on the passing of the Act and that provision would, if it had commenced, confer power to-

- (a) make an instrument of a legislative or administrative character;
- (b) give or serve a notice or other document;
- (c) appoint a person to a specified office;

Exercise
of powers
before
com-
mence-
ment

(d) establish .1 specified body of' persons, whether incorporated or not; or

(e) do any other thing for the purposes of the Act, then the power may, notwithstanding that provision has not commenced, but subject to subsections (3) and (4), be exercised at any time after the passing of the Act to the extent that it is necessary or expedient for the purpose of bringing the Act, or provisions of the Act, into operation, or giving full effect to the Act, or provisions of the Act, when or after that provision commences.

(2) Where-

(a) a provision of an Act does not commence on the passing of the Act and the provision would, if it had commenced, amend another Act; and

(b) a provision of that other Act would, if the first-mentioned provision had commenced, confer power to-

(i) make an instrument of a legislative or administrative character;

(ii) give or serve a notice or other document;

(iii) appoint a person to a specified office;

(iv) establish a specified 'body of persons whether incorporated or not; or

(v) do any other thing for the purposes of that other Act. then the power may, notwithstanding that the first-mentioned provisions has not commenced, but subject to subsections (3) and (4), be exercised at any time after the passing of the Act in which the first-mentioned provision is contained to the extent that it is necessary or expedient for the purpose of giving full effect to that other Act, or provisions Of that other Act, when or after the first-mentioned provision commences.

(3) Where a Power to make an instrument of a legislative or administrative character, or to give or serve a notice or other document, is exercised as provided in subsection (1) or in subsection (2) , tha instrument, notice, or document shall take effect-

(a) on the, day on which the provision referred to in subsection (1) or, as the case may be, the provision first mentioned in subsection (2) commences; or

(b) on the day on which it would have taken effect, if at the time when the instrument was made or the notice or document was given or served the provision so mentioned or first mentioned had commenced, whichever is the later.

(4) Where a power to appoint a person to a specified office, or to establish a specified body of persons, is exercised as provided in subsection (1) or subsection (2), the person so appointed may act in that office, or, as the case may be, the body so established may meet and perform and exercise its functions, duties, and powers, but only for purpose

referred to in subsection (1) or subsection (2) (whichever of those subsection is applicable); and for the purposes of any provision as to the duration of the term is deemed not to begin until the relevant provision referred to in subsection (1) or (2), as the case may be, commences.

(5) Subject to subsection (4) of section 2, this section applies to Acts passed after the commencement of this Act.

20---(1) Where a written law is referred to, it shall be sufficient for all purposes to cite or refer to that written law by- (a) the short title or the citation (if any) by which it was made citable (b) in the case of an Act, the chapter year in which it was passed and its number among the Acts of that years; or -

Citation
of written
law to day
laws

(c) in the case of an Act, the Chapter number given to the Act in any revised edition of the laws.

(2) A provision of a written law may be cited by reference to the Part, section, regulation, rule, clause, or other division of the written law in which the provision is contained

(3) The citation of or reference to any written law shall in all cases be made according to the copy of such written law printed, or purporting to be printed, by the Government Printer.

21. A reference in a written law to the day of coming into operation or to the commencement of a written law shall, where different provisions of the written law come or came into operation on different days, be construed as a reference to the day of coming into operation of the appropriate provisions of that written law.

Refer-
ences in
written
law to day
of com-
mence-
ment

PART IV

PROVISIONS AS TO ENACTMENT AND OPERATION OF WRITTEN LAW

22. Every Act shall be deemed to be a public Act unless the contrary is expressly provided in the Act and shall be judicially noticed as such.

Acts to be
public
Acts

23. Every section of an Act takes effect as a substantive enactment without introductory words.

Sections
to be sub-
stantive
enact-
ments

24. An Act may be amended or repealed in the same session of Parliament as that in which it was passed.

Act may
be altered
or re-
pealed

25. --(1) The preamble to a written law forms part of the written law and shall be construed as a part thereof intended to assist in explaining its purport and object.

Pream-
bles and
Schedules

(2) An appendix or schedule to or a table in a written law, together with any notes thereto, forms part of the written law.

Headings,
marginal
notes and
footnotes

26.--(1) The headings of the parts, divisions and subdivisions into which a written law is divided form part of the written law.

(2) A marginal note or footnote to a written law and, notwithstanding subsection (1), a heading to a section, regulation, rule, by-law, or clause of a written law shall be taken not to be part of the written law.

PART V

AMENDMENT AND REPEAL OF WRITTEN LAW

Construc.
tion of
amending
Act with
amended
Act

27. Where one Act amends another Act, the amending Act shall, so far as it is consistent with the tenor thereof, and unless the contrary intention appears, be construed as one with the amended Act,

Repeal of
written
law as
amended

28- Where a written law which has been amended by any other written law is repealed, such repeal shall include the repeal of all those provisions of such other written law by which the first-mentioned written law was amended.

Repeal of
repeal

29. Where a written law repeals a repealing enactment, the repeal does not revive any enactment Previously repealed unless words are added reviving it.

Repeal
and sub-
stitution

30- Where a written law repeals an enactment and substitutes provisions for the repealed enactment the repealed enactment remains in operation until the substituted Provisions come into operation.

Effect of
substitut-
ions provi-
sions

31. Where a written law repeals and re-enacts, with or without modification, any enactment-

- (a) all districts or other local divisions or areas;
 - (b) all councils, corporations, boards, tribunals, commissions, trusts, or other bodies constituted, and all elections and appointments of members thereof made; and
 - (c) all offices constituted and appointments of officers made;
 - (d) all subsidiary legislation, warrants, certificates, and documents made; and
 - (e) all other acts, matters, and things whatsoever,
- which, at the commencement of the repealing law, are respectively in existence, or in force or operation, under or for the purposes of such provision, shall, in so far as is consistent with the repealing law, subsist and ensure for the purposes of such law and shall continue as if the

repealing law had been in operation when they respectively originated or were constituted, made or done and they had originated or been constituted, made or done under that law.

32.-41) Where a written law repeals an enactment, the repeal does not, unless the contrary intention appears-

General
saving on
repeal

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the enactment repealed or anything duly done or suffered under that enactment;
- (c) affect any right, interest, title, power or privilege created, acquired, accrued, established or exercisable or any status or capacity existing prior to the repeal;
- (d) affect any duty, obligation, liability, or burden of proof imposed, created, or incurred prior to the repeal;
- (e) affect any penalty or forfeiture incurred or liable to be incurred in respect of an offence committed against that enactment;
- (f) affect any investigation, legal proceeding or remedy in respect of any such right, interest, title, power, privilege, status, capacity, duty, obligation, liability, burden of proof, penalty or forfeiture, and any such investigation, legal proceeding or remedy may be instituted, continued, or enforced, and any such penalty or forfeiture may be imposed and enforced as if the repealing written law had not been passed or made.

(2) The inclusion in the repealing provisions of an enactment of any express saving with respect to the repeals effected thereby shall not be taken to prejudice the operation of this section with respect to the effect of those repeals.

33-(1) Where an Act-

Effect of
repeal of
Act on
subsidiary
legislation

- (a) repeals an Act and substitutes other provisions there for; or
- (b) repeals and re-enacts an Act, with or without modification, any subsidiary legislation made under the repealed Act and in operation immediately before the commencement of the repealing Act shall, so far as it is consistent with the repealing Act, continue in operation and have effect for. all purposes as if made under the repealing Act.

(2) Subsidiary legislation which continues in operation under subsection (1), may be amended or repealed as if it has been made under the repealing Act.

34. Upon the expiry or lapse of any enactment, the provisions of section 33 shall apply as if that enactment had been repealed.

Effect of
expiry of
written
law

PART VI

PROVISION RELATING TO SUBSIDIARY LEGISLATION

President
may make
subsidiary
legislation

A If a written law provides that subsidiary legislation may or shall be made and does not provide by whom, such subsidiary legislation made under such a provision shall be made by the President.

General
provisions
regarding
power to
make sub
sidiary
legislation

36-(1) Subsidiary legislation shall not be inconsistent with the provisions of the written law under which it is made, or of any Act, and subsidiary legislation shall be void to the extent of any such inconsistency.

(2) Where any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made in exercise of all powers under which it may be made.

(3) It shall be presumed, in the absence of evidence to the contrary, that all conditions and preliminary steps precedent to the making of subsidiary legislation have been complied with and performed.

(4) Where a written law confers a power to make subsidiary legislation, it shall be deemed also to include a power, exercisable in the like manner and subject to the like conditions (if any) to amend or repeal any such subsidiary legislation; and if the person on whom such power is conferred has been replaced wholly or in part by another person, the power conferred by this subsection upon the original person may be exercised by the replacing person concerning all matters or things within his jurisdiction as if he were the original person.

(5) Where a written law confers power on a person to make subsidiary legislation for any general purpose and also for any special purposes incidental thereto, the enumeration of the special purposes shall not derogate from the generality of the powers conferred with reference to the general purpose.

(6) Subject to subsection (4) of section 2, subsidiary legislation may provide that contravention of a provision thereof constitutes an offence and may provide for a penalty in respect of such a contravention not exceeding a fine of six hundred thousand shillings.

(7) A power to make subsidiary legislation may be exercised-

(a) either in relation to all cases to which the power extends, or in relation to all those cases subject to specified exceptions, or in relation to any specified case or category of cases; and

(b) so as to make, as respects the cases in relation to which it is exercised-

(i) the same provision for all cases in relation to which the power is exercised, or different provision for different case or class or case, or different provisions for the same case or category of cases for different purposes of the legislation; or

- (ii) any such provision either unconditionally or subject to any specified condition.

(8) Subsidiary legislation may be made-

(a) so as to apply--

- (i) at all times or at a specified time;
- (ii) throughout or in a specified part of;

(b) so as to require a matter affected by the legislation to be -

- (i) in accordance with a specified standard or specified requirement;
- (ii) approved by or to the satisfaction of a specified person or body or -a specified class of person or body;

(c) so as to confer a discretionary authority on a specified person or body or a specified class of person or body; and

(d) so as to provide, in a specified case or class of case for the exemption of persons or things or a class of persons or things from the provisions of the subsidiary legislation, whether unconditionally or on specified conditions and either wholly or to such an extent as is specified.

(9) In subsections (7) and (8) "specified" means specified in the subsidiary legislation.

37.-41) Where a written law confers power to make subsidiary legislation, all subsidiary legislation made under that power shall, unless the contrary intention appears-

(a) be published in the *Gazette*;

(b) subject to subsection (2) and to section 39, come into operation on the day of publication, or where another day is specified or provided for in the subsidiary legislation, on that day.

(2) Subsidiary legislation shall not be expressed to come into operation on a day before the day of publication in any case where, if the subsidiary legislation so came into operation-

(a) the rights of a person (other than the Government or an institution of the Government) existing immediately before the day of publication would be affected in a manner prejudicial to that person; or

(b) liabilities would be imposed on any person (other than the Government or an institution of the Government) in respect of anything done or omitted to be done before the day of publication, and if any provision is made in contravention of this subsection, that provision shall be void.

(3) A power to fix a day on which subsidiary legislation shall come into operation does not include power to fix different days for different provisions of that legislation unless express provision is made in that behalf.

Publica-
tion and
Com-
mence-
ment of
subsidiary
legislation

Laying
regula-
tions be-
fore Na-
tional As-
sembly
and dis-al-
lowance

38.-41) All regulations shall be laid before National Assembly within 6 sitting days of the National Assembly next following publication of the regulations in the Gazette.

(2) Notwithstanding any provision in any Act to the contrary, if the National Assembly passes a resolution disallowing any regulations of which resolution notice has been given within 14 sitting days of the National Assembly after such regulations have been laid before it or if any regulations are not laid before the National Assembly in accordance with subsection (1), such regulations shall thereupon cease to have effect, but without affecting the validity or curing the invalidity of anything done or of the omission of anything in the meantime.

(3) Subsection (2) applies notwithstanding that the period of 14 days referred to in that subsection, or part of that period, does not occur in or during the same session of the National Assembly, that in which the regulation is laid before the National Assembly concerned.

(4) Notwithstanding any provision in any Act to the contrary, if the National Assembly at any time passes a resolution amending any such regulation or substituting another regulation or part of a regulation for that which has been disallowed by the National Assembly under subsection (2), then on the passing of any such resolution-

(a) amending a regulation or part of a regulation the regulation or part of a regulation so amended shall, after the expiration of 7 days from the publication in the Gazette of the notice provided for in subsection (5), take effect as so amended;

(b) substituting a regulation or part of a regulation in place of a regulation so substituted shall, after the expiration of 7 days from the publication in the Gazette of the notice provided for in subsection (5), take effect in place of that for which it is so substituted.

(5) When a resolution has been passed under subsection (2) or (4), notice of such resolution shall be published in the Gazette within 21 days of the passing of the resolution.

(6) Notwithstanding subsection (1) of section 34, where-

(a) regulations are disallowed under this section; and

(b) those regulations amended or repealed regulations that were in operation immediately before the first-mentioned regulations commenced,

the disallowance revives the previous regulations on and after the day of the disallowance.

(7) If a written law which empowers or directs the making of regulations by a person other than the President and requires that the regulations be confirmed or approved by the President or by any other person or institution before having the force of law, subsection (1) does not apply to such regulations unless they are confirmed or approved as so required.

(8) In this section "regulations" include rules and by-laws.

- 39.--(1) Words and expressions used in subsidiary legislation shall have the same respective meaning as in the written law under which the subsidiary legislation is made.
- (2) A reference in subsidiary legislation to "the Act" shall be construed as a reference to the Act under which the subsidiary legislation is made.
40. Subsidiary legislation may be cited by reference to the short title if any, thereto or by reference to the number of the notices under which it appeared in the *Gazette*.
- 41.--(I) A reference in a written law to a written law shall be construed so as to include a reference to any subsidiary legislation made under that written law.
- (2) A reference in a written law to an Applied Act shall be construed so as to include a reference to any subsidiary legislation made under that Act.
42. Any act done under subsidiary legislation shall be deemed to be Acts done under the written law under which the subsidiary legislation was made.
- 43.--(1) Subsidiary legislation may provide for the imposition of fees and charges in respect of any matter with regard to which provision is made in such subsidiary legislation or in the written law under which such subsidiary legislation is made.
- (2) Where provision is made by subsidiary legislation in respect of fees or charges, the subsidiary legislation may provide for all or any of the following matters-
- (a) specific fees or charges;
 - (b) maximum or minimum fees or charges;
 - (c) maximum and minimum fees or charges;
 - (d) ad valorem fees or charges;
 - (e) the payment of fees and charges either generally or under specified conditions or in specified circumstances; and
 - (f) the reduction, waiver or refund, in whole or in part, of such fees or charges.
- (3) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for by subsidiary legislation, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specifically-
- (a) in respect of certain matters or transactions or classes of matter or transaction;
 - (b) in respect of certain documents or classes of document;

Construct-
tion of
subsidiary
legislation

Citation
of sub-
sidiary
legislation

Reference
to written
law to in-
clude sub-
sidiary
legislation

Acts
under
subsidiary
deemed
done
under Act

Fees and
charges

- (c) when any event happens or ceases to happen;
 - (d) in respect of certain persons or classes of persons; or
 - (e) in respect of any combination of such matters, transactions, documents, events, or persons, and may be expressed to apply or to be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified in the subsidiary legislation.
- (4) Subject to subsection (4) of section 2 this section applies to subsidiary legislation made under a power conferred by an enactment passed after the commencement of this Act.

PART VII

STATUTORY POWERS AND DUTIES

Time for
exercise
of power
or perfor-
mance of
duty

44. Where a written law confers A power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

Reference
to holder
of office
includes
successors

45. Where a written law confers a power or imposes a duty on the holder of a public office as such, the power may be exercised and the duty shall be performed by the person for the time being lawfully holding, acting in, or performing the functions of the office.

Construc-
tion of
enabling
words

46.--(I) Where a written law confers upon a person power to do or enforce the doing of any act or thing, all such powers shall also be deemed to be conferred on the persons as are reasonably necessary to enable him to do or to enforce the doing of the act or thing.

(2) Without prejudice to the generality of subsection (1), where a written law confers power-

- (a) to for, prohibit, control or regulate any matter, such power includes power to provide for the same by the licensing or registration thereof or the granting of permits and power to prohibit acts whereby the prohibition, control, or regulation of such matter might be evaded;
- (b) to grant a licence, registration, lease, right, permit, authority, approval, or exemption, such power includes power to impose reasonable conditions subject to which such licence, registration, lease, right, permit, authority, approval or exemption may be granted;
- (c) to approve any person, matter, or thing, such power includes power to withdraw approval thereof;
- (d) to give directions, such power includes power to express the same in the form of prohibitions.

(3) Subject to subsection (4) of section 2, this section applies to written laws- passed or made after the commencement of this Act -

47.--(1) Where a written law confers power upon a person to issue, grant, give or renew any licence, registration, lease, right, authority, approval, permit, or exemption, the person so empowered shall have a discretion either to issue, grant, give or renew, or to refuse to issue, grant, give or renew such licence, registration, lease, right, authority, approval, permit, or exemption.

Power to
issue li-
cence etc.
discretionary

(2) Nothing in this section shall affect any right which may be conferred by any written law upon a person to appeal against a refusal to issue, grant, give or renew any licence, registration, lease, right, authority approval, permit, or exemption.

48.--(1) Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position, including an acting appointment, the person having such power or duty shall also have the power-

Power to
appoint
includes
power to
suspend
dismiss etc,

(a) to remove or suspend a person so appointed to an office or etc. position, and to re-appoint or reinstate, any person appointed in exercise of such power or duty;

(b) where a person so appointed to an office or position is suspended or unable, or expected to become unable, for, any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or inability, but a person shall not be appointed to so act temporarily unless he is eligible and qualified to be appointed to the office or position; and

(c) to specify the period for which any person appointed in exercise of such a power or duty shall hold his appointment.

(2) For the purposes of paragraph (b) of subsection (1), "cause" includes-

(a) illness;

(b) temporary absence from the United Republic; and

(c) conflict of interest.

(3) The validity of anything done by a person purporting to act under an appointment made under paragraph (c) of subsection (1) shall not be called in question on the ground that the occasion for his appointment had not arisen or had ceased.

(4) Where a written law confers a power or imposes a duty upon a person to make an appointment to an office or position and that power or duty is exercisable only upon the nomination or recommendation, or is subject to the approval, concurrence, or consent of some other person, then the powers conferred by paragraphs (a) to (c) of subsection (1) shall only be exercisable upon such nomination or recommendation or subject to such approval, concurrence, or consent.

(5) Nothing in this section affects the tenure of office or position of any person under the express provisions of any written law.

Appoint-
ments by
name or
office, etc.

49.--(I) Where a written law confers a power or imposes a duty upon a person to appoint or designate a person to-

- (a) perform any function;
- (b) be a member of any board, tribunal, commission, committee, council, or other similar body, whether corporate or unincorporated; or
- (c) be or do any other thing,

that person may make the appointment or designation either by appointing or designating a person by name or by appointing or designating the holder of an office by the term designating his office; and any such appointment or designation of the holder of an office shall be construed as the appointment or designation of the person from time to time holding, acting in, or lawfully performing the functions of the office.

(2) Where by or under any Act power is conferred on any person or authority to appoint any board, commission, Committee or similar body, such person or as the case may be contrary intention appears, appoint or provide, by regulations, for the appointment of Chairman or deputy chairman and a secretary of the board, commission, committee or similar body.

Power of
majority,
quorum,
etc.

50.--(I) Where a written law confers or imposes a function upon a body or number of persons consisting of not less than three persons, the function may be performed by a majority of those persons.

(2) Where a written law establishes a board, commission, committee, council or other similar body consisting of 3 or more members (in this section called an "association"),-

- (a) at a meeting of the association, a number of members of the association equal to-
 - (i) at least one-half of the number of members provided for by the written law, if that number is a fixed number; and
 - (ii) if the number of members provided for by the written law is not a fixed number but is within a range having a maximum or minimum, at least one-half of the number of members in office if that number is within the range, constitutes a quorum, and
- (b) an act or thing done by a majority of the members of the association present at a meeting, if the members present constitute a quorum, shall be deemed to have been done by the association.

51. Where a written law confers a power or imposes a duty upon a person to do any act or thing of an administrative or executive character or to make any appointment, the power or duty may be exercised or performed as often as is necessary to correct any error or omission in any previous purported exercise or performance of the power or duty, notwithstanding that the power or duty is not in general capable of being exercised or performed from time to time.

Exercise of power may be corrected

52. When a substantive holder of any office created under any Act is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively to the same office.

Effect of appointment when retiring officer on leave

53.--(1) Where in a written law the a word "may is " used in conferring a power, such word shall be interpreted to imply that the power so conferred may be exercised or not, at discretion.

"May" imports discretion, shall- is imperative

(2) Where in a written law the word "shall" is used in conferring a function, such word shall be interpreted to mean that the function so conferred must be performed.

54. Where a board, tribunal, commission, committee, council or other similar body, whether corporate or unincorporated, is established under a written law, the powers of such a body shall not be affected by-

Power of board, etc. not affected by vacancy or certain defects

- (a) any vacancy in the membership of the body;
- (b) any defect afterwards discovered in the appointment or qualification of a person purporting to be a member of the body or the deputy of member;
- (c) a minor irregularity in the convening or conduct of a meeting of the body; or
- (d) the presence or participation at a meeting of a person not entitled to be present or participate.

55. Where under a written law the performance of a function by a person is dependent upon the opinion, belief, or state of mind of that person in relation to a matter and that function has been delegated under a written law, the function may be performed by the delegate upon the opinion, belief, or state of mind of the delegate in relation to that matter.

Exercise of certain powers by delegate

56.--(I) Where an Act applies or refers to any area of United Republic by a particular designation it shall apply or refer, as the case may be, to the area so designated as from time to time defined, delimited or described unless otherwise provided.

Reference to an area by designation

(2) Where the designation by reference of any such area is changed, all reference in any written law to such area by its previous designation shall be construed as reference to the area so redesignated.

Construc-
tion of
power to
delegate

57.-(I) Where a written law confers power upon a person to delegate the exercise of any power or the performance of any duty conferred or imposed, upon him under a written law-

- (a) such a delegation shall not preclude a person so delegating from exercising or performing at any time a power or duty so delegated;
- (b) such a delegation may be made subject to such conditions, qualifications, limitations or exceptions as the person so delegating may specify;
- (c) if the delegation may be made only with the approval of some person, such delegation, and any amendment of the delegation, may be made subject to such conditions, qualifications, limitations or exceptions as the person whose approval is required may specify;
- (d) such a delegation may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices;
- (e) such a delegation may be amended or revoked by instrument in writing signed by the person so delegating;
- (f) in the case of a power conferred upon a person by reference to the term designating an office, such a delegation shall not cease to have effect by reason only of a change in the person lawfully holding, acting in or performing the functions of that office.

(2) The delegation of a power shall be deemed to include the delegation of any duty incidental thereto or connected therewith and the delegation of a duty shall be deemed to include the delegation of any power incidental thereto or connected therewith.

(3) Where under a written law an act or thing may, or is required to be done to, by reference to or in relation to, a person and that person has been under a written law delegated a relevant function conferred or imposed on him with respect to or in consequence of the doing of that act or thing, the act or thing shall be regarded as effectually done if done to, by reference to or in relation to the person to whom the said function has been delegated.

Who shall
affix the
common
seal of a
body cor-
porate

58. Where in a written law a board or committee is authorized or required to do any act, matter, or thing; it shall be taken to mean that such act, matter, or thing may or shall be done by the board or committee as the case may be.

Rights of
the Gov-
ernment

59. No Act shall in any manner bind or otherwise affect the right of the United Republic unless it is therein expressly provided, or unless it appears by necessary implication that the United Republic is bound thereby.

PART VIII

PROVISIONS REGARDING TIME AND DISTANCE

- 60-(1) In computing time for the purposes of a written law-
- (a) where a period of time is expressed to being at, on, or with a specified day, that day shall be included in the period;
 - (b) where a period of time is expressed to be reckoned from, or after, a specified day, that day shall not be included in the period;
 - (c) where anything is to be done within a time before a specified day, the time shall not include that day;
 - (d) where a period of time is expressed to end at, on, or with a specified day or to continue to or until a specified day, that day shall be included in the period;
 - (e) where the time limited for the doing of a thing expires or falls upon an excluded day, the thing may be done on the next day that is not an excluded day;
- M where there is a reference to a number of clear days or "at least" or "not less than" a number of days between two events, in calculating the number of days there shall be excluded the days on which the events happen;
- (g) where there is a reference to a number of days not expressed to be clear days or "at least" or "not less than" a number of days between two events, in calculating the number of days there shall be excluded the day on which the first event happens and there shall be included the day on which the second event happens;
 - (h) where an act or proceeding is directed or allowed to be done or taken on a certain day, or on or before a certain day, then, if that day is an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day that is not an excluded day.
- (2) For the purposes of this section, "excluded day" means Saturday, Sunday or public holiday throughout or in that part of which is relevant to the event, act, thing or proceeding concerned.

Computa-
tion of
time

61. -(I) In a written law, "Month" means a calendar month, that is to say, a month reckoned according to the calendar.

Reckon-
ing of
months

(2) If a period of one month indicated in a written law begins on any date other than the first day of any of the 12 months of the calendar, it shall be reckoned from the date on which it is to begin to the date in the next month numerically corresponding, less one, or, if there is no

corresponding date, to the last day of that month.

For example a month beginning on 15 January, ends on 14 February and-a month beginning on 30, 31 January ends on 28 February (or 29 February in a leap year).

(3) If a period indicated in a written law is of 2, 3 or more months, it shall be reckoned from the date on which it is to begin to the numerically corresponding, less one, in the second, third or other successive month thereafter or, if there is no such corresponding date, to the last day of the latter month.

For example: a period of 6 months beginning on 15 August ends on 14 February and a period of 6 months beginning on 30 or 31 August ends on 28 February (or 29 February in a leap year).

Provision
where no
time fixed

62. Where no time is fixed or allowed within which an act or thing shall be done, such act or thing shall be done with all convenient speed and as often as due occasion arises.

Construc-
tion of
power to
extend
time

63. Where in a written law a time is fixed or allowed for doing any act or thing or taking any proceeding and power is given to a court or other authority to extend that time, such power may be exercised by the court or other authority although the application for an extension is not made until after the expiration of the time fixed or allowed.

(2) Subject to subsection (3) this section applies to written laws passed or made after the commencement of this Act.

Devia-
tions from
forms

64. Except as is otherwise provide wherever forms are prescribed, deviations therefrom not affecting substance and not calculated to mislead, shall not vitiate them.

Measure-
ment of
distance

65. In the measurement of any distance for the purposes of a written law, the distance shall be measured in a straight line on a horizontal plane -

PART IX

PROCEDURES AND PENALTIES

Ex-officio
proceed-
ing not to
abate on
death

66. Any civil or criminal proceedings taken by or against any person by virtue of his office shall not be discontinued or abate by his death, resignation or absence or removal from office, but may be carried on by or against, as the case may be, the person for the time being holding that office.

Rules of
court

67.-(1) In a written law, --rules of court" in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court -

(2) The power of an authority referred to in subsection (1) includes a power to make rules of court for the purpose of any written law which directs or authorizes anything to be done by or in accordance with rules of court.

68. The imposition of a penalty or fine by or under the authority of any Act shall not, in the absence of express provisions to the contrary, relieve any person from liability to answer for damages to any person injured.

Imposition of penalty not a bar to civil action

69. Where a fine or other penalty is recoverable under a written law and no means if provided in that law for the recovery of the fine or penalty shall be deemed to provide that such fine or penalty may be recovered summarily under the provisions of the Criminal Procedure Act, or any written law for the time being in force relating to summary proceedings.

Recovery of fines and penalties

70. Where an act constitutes two or more offences, whether under the same written law or otherwise, the offender is liable to be prosecuted and punished for any or all such offence but is not liable to be punished twice for the same offence.

Double jeopardy

71.--(1) Every enactment relating to an offence punishable on conviction or on summary conviction shall be taken to refer to bodies corporate as well as to individuals.

Application of penal laws to bodies corporate

(2) Where under a written law, a forfeiture or penalty is payable to a party aggrieved, it shall be payable to a body corporate in every case where that body is the party aggrieved.

(3) Except where otherwise expressly provided, where the penalty prescribed in a written law in respect of an offence does not consist of or include a fine, the court before which the offence is tried may, in the case of a body corporate, impose a fine--

- (a) where a term of imprisonment not exceeding six months is prescribed, a fine of two million shillings;
- (b) where a term of imprisonment exceeding six months but not exceeding one year is prescribed, a fine of three million shillings;
- (c) where a term of imprisonment exceeding one year but not exceeding two years is prescribed, a fine of five million shillings;
- (d) where a term of imprisonment exceeding three years is prescribed, a fine of ten million shillings.

72. Where any act constitutes an offence under two or more Acts, the offender shall unless the contrary intention appears, be liable to be prosecuted and punished under either or any of such Acts, but shall not be liable to be punished more than once for the same offence.

Provisions as to offences under two or more Acts

73. Where an act constitutes an offence, and the penalty for such offence is amended between the time of the commission of such offence and the conviction therefor, the offender shall, unless the contrary intention appears, be liable to the penalty prescribed at the time of the commission of such offence.

Amendment of penalty

Prescription of maximum minimum, daily and Cumulative penalties

74.--(I) Where in a written law a penalty is specified in respect of an offence, that penalty is the maximum penalty that may be imposed for that offence.

(2) Where in a written law more than one penalty is specified in respect of an offence, the use of the word "and" between the respective penalties means that the penalties may be imposed alternatively or cumulatively.

(3) Where in a written law a maximum penalty and a minimum penalty are specified in respect of an offence, the offence is punishable by a penalty not less than that minimum nor greater than that maximum.

(4) Where in any written law a minimum penalty is specified in respect of an offence, the offence is punishable by a penalty not less than the minimum. ;

(5) Where in a written law a penalty specified in respect of an offence is referred to as being a daily penalty, that reference indicates that a penalty not exceeding that daily penalty may, in addition to any other penalty that may be imposed in respect of the offence, be imposed for each day or part of a day during which the offence continues.

Provision as to attempts

75. A provision in any Act which constitutes an offence shall, unless a contrary intention appears, be deemed to provide also that an attempt to commit such offence shall be an offence under such provision, punishable as if the offence itself had been committed.

Disposal of forfeits

76.--(I) Where by or under any act any animal or any thing is adjudged by any court or other authority to be forfeited, it shall, unless the contrary is otherwise provided or unless it is expressed by law to be forfeited to any person, be forfeited to the Government of the United Republic, and the net proceeds thereof, if it is ordered by a competent authority to be sold, shall be paid into and shall form part of the public revenue unless other provision is made.

(2) Nothing in this section shall affect any provision in any written law whereby any portion of any fine or forfeit, or of the proceeds of any forfeit, is expressed to be recoverable by any person or may be granted by any authority to any person.

Liability of employer or principal

77. Where any offence under any Act is committed by a person as an agent or employee then, unless a contrary intention appears, as well as the agent or employee, the principal or employer shall be guilty of the offence and shall be liable to be proceeded against and punished accordingly unless he proves to the satisfaction of the court that he had no knowledge, and could not, by the exercise of reasonable diligence, have had knowledge, of the commission of the offence.

Evidence of fiat, sanction or consent of public officer

78. Wherever the fiat, sanction or consent of any public officer is necessary before any prosecution or action is commenced, any document purporting to bear such fiat, sanction or consent shall be received as *prima facie* evidence in any proceeding without proof being given that the signature thereon is that of the public officer.

79. The functions of the Director of Public Prosecutions may, in his absence from Dar es Salaam or incapacity to act 'through illness or otherwise be exercised by such Law Officer as the Attorney-General may nominate in that behalf.

Exercise of D.P.'s functions in his absence

50.--(1) Where in an Act a penalty-

- (a) is specified without qualification at the foot of a section of the Act;
- (b) is specified at the foot of a subsection of a section of the Act, but not at the foot of the section; or
- (c) is specified at the foot of a section of the Act and expressed to apply to a specified subsections or specified subsections of the section,

Statement of penalty at end of provision

then, unless the contrary is expressly provided, that specification indicates that a contravention of the section or subsection, or as the case may be, any of the subsections, is an offence and that the offence is punishable on conviction by a penalty not exceeding that so specified.

81.--(I) Where-

- (a) by or under a written law an act or thing is required or directed to be done within a particular period or before a particular time; and
- (b) failure to do that act or thing within the period or before the time referred to in paragraph (a) constitutes an offence; and
- (c) that act or thing is not done within the period or before the time referred to in paragraph (a), the following provisions have effect-
 - (i) the obligation to do that act or thing continues, notwithstanding that period had expired or that time has passed, until that act or thing is done;
 - (H) where a person is convicted of an offence that, by virtue of paragraph (i), is constituted by failure to do that act or thing after the expiration of that period or after that time, as the case may be, "that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues; and
 - (iii) unless otherwise provided, the penalty applicable to each separate and further offence is the sum equivalent to thirty thousand shillings;

Continuing offences

(2) Where-

- (a) by or under a written law an act or thing is required or directed to be done but no period within which or time by which that act or thing is to be done is specified; and
- (b) failure to do that act or thing constitutes an offence; and
- (c) a person is convicted of an offence in respect of a failure to do that act or thing,

that person is guilty of a separate and further offence in respect of each day after the day of the conviction during which the failure to do that act or thing continues and, unless otherwise provided, the penalty applicable to each such separate and further offence is the sum of thirty thousand shillings.

(3) Charges against the same person for any number of offences under paragraph (ii) of subsection (1) or under subsection (2) may be joined in the same information or complaint if those offences relate to a failure to do the same act or thing.

(4) If a person is convicted of more than one offence under paragraph (ii) of subsection (1) or more than the offence under subsection (2), the court may impose one penalty in respect of all the offences of which the person is so convicted under the relevant subsection, but that penalty shall not exceed the sum of the maximum penalties that could be imposed if a penalty were imposed separately in respect of each offence.

PART X

MISCELLANEOUS PROVISIONS

Service of
docu-
ments by
post

R---(1) Where a written law authorizes or requires a document to be served by post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, service shall be deemed to be effected by properly addressing and posting (by prepaid post) the document as a letter to the last-known address the contrary is proved, to have been effected at the time when the letter would have been delivered in the ordinary course of post.

(2) Where a written law authorized or requires a document to be served by registered post, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, then, if similar word or expression is used, then, if the document is eligible and acceptable for transmission as certified mail, the service of the document may be effected either by registered post or by certified either by registered post or by certified mail.

(3) Subsection (1) and (2) apply unless the contrary intention appears and subsection (2) does not apply where a written law requires the production of an acknowledgement signed by a person to whom a document was addressed to the effect that the document was delivered to that person.

Service of
docu-
ments
generally

83. Where a written law authorizes or requires a document to be served, whether the word "serve" or any of the words "give", "deliver", or "send" or any other similar word or expression is used, without directing it to be served in a particular manner, service of that document may be effected on the person to be served-

- (a) by delivering the document to him personally; or
- (b) by post in accordance with subsection (1) of section 82; or
- (c) by leaving it for him at his usual or last known place of abode, or if he is a principal of a business, at his usual or last known place of business; or

- (d) in the case of a corporation or of an association of persons (whether incorporated or not), by delivering or leaving the document or posting it as a letter, addressed in each case to the corporation or association, at its principal place of business or principal office in the United Republic.

84.-(1) The language of the laws of Tanzania shall be English or Kiswahili or both.

Language
of Laws of
Tanzania

(2) Where any written law is translated from one language into another and published in both languages, then in the case of conflict or doubt as to the meaning of any word or expression, the version of the language in which the law was enacted shall take precedence."

(3) Where any written law is enacted in both languages and there occurs a conflict or doubt as to the meaning of any Word or expression, the English version shall take precedence.

85. The Interpretation of Laws and General Clauses Act, 1972 is repealed.

Repeal
Act No.
30 of 1972

SCHEDULE

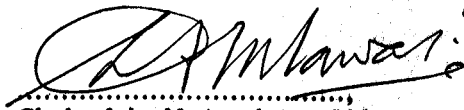
(Section 4)

Commonwealth Countries

Antigua and Barbuda	India
Australia	Jamaica
The Bahamas	Kenya
Bangladesh	Kiribati
Barbados	Lesotho
Belize	Malawi
Botswana	Malaysia
	Maldives
Brunei	Dar es Salaam
Canada	Malta
	Mauritius
Cyprus	Mozambique
Dominica	Namibia
The Gambia	Nauru
Ghana	New Zealand
Grenada	Nigeria
	Pakistan
Guyana	Papua New Guinea
Sierra Leone	Seychelles
Solomon Islands	Singapore
	St Kitts and Nevis
	St Lucia
	St Vincent and the Grenading
South Africa	Sir Lanka
Swaziland	Tanzania
Tonga	Trinidad and Tobago
	Tuvalu

Uganda United Kingdom
Vanuatu
Western Samoa Zambia
..... Zimbabwe

Passed in the National Assembly on 17th April, 1996.


Clerk of the National Assembly