

THE UNITED REPUBLIC OF TANZANIA



No. 31 OF 1997

I ASSENT,
Benjamin W. Mkandawire
President
11 December, 1997.

An Act to amend certain various Written Laws.

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Written Laws (Miscellaneous Amendments) Act, 1997. Short title

2. The various Laws set forth in the first and second column of the Schedule to this Act are hereby amended in the manner specified in the third column. Amend-ment of certain Written Laws

SCHEDULE

FIRST COLUMN	SECOND COLUMN	THIRD COLUMN
Act No. 9 of 1995	The Drugs and Prevention of Illicit Traffic in Drugs Act.	The Act is amended— (a) in section 2— (i) in the definition “court”, by adding between the words “section 12” and “the” the words “and 12(d)”; (ii) by adding the following definition in its appropriate alphabetical position: “chemical precursors” means a substance frequently used in the illicit manufacture of narcotic drugs or psychotropic substances as defined in Article 12 of the UN Convention Against Illicit Drugs and Psychotropic substances mentioned in Table I and Table II as provided in the Second Schedule to this Act.

SECOND SCHEDULE

TABLE I

Ephedrine
 Ergometrine
 Ergotamine
 Lysergic acid
 1-phenyl-2 propanone
 Pseudoephedrine
 The salts of the substances listed in this Table
 whenever the existence of such salts is possible.

TABLE II

Acetic anhydride
 Acetone
 Anthranilic acid
 Ethyl ether
 Phenylacetic acid
 Piperidine
 The salts of the substances listed in this Table
 whenever the existence of such salts is possible.

(b) Section 12 is amended by adding immediately after paragraph (c) the following new paragraph;

“(d) produces, possesses, transports, imports into the United Republic sells, purchases, uses or does any act or omits to do anything in respect of poppy straw, cocapants, coca leaves, prepared opium, opium poppy, cannabis, manufactured drug or any preparation containing any manufactured drug, psychotropic substance, narcotic drug, such act or omission amounting to contravention of the provisions of this Act or rule or order made under this Act”.

FIRST COLUMN

SECOND COLUMN

THIRD COLUMN

Act No. 1
of 1992

Foreign Exchange
Act, 1992

(c) Section 26 is hereby repealed and replaced by the following—

26.—(1) Notwithstanding anything contained in this section, no person shall be admitted to bail pending trial if he is accused of an offence involving heroin, cocaine, prepared opium, opium poppy, (*papaver setigerum*) poppy straw, coca-plant, coca leaves and imported cannabis or cannabis resin (indian hemp) which has a market value exceeding one million shillings.;

(d) Section 65 of the Drugs and Prevention of Illicit Traffic in Drugs Act, is hereby repealed.

(e) The Schedule to this Act, is amended by numbering it as the First Schedule.

The Act is amended—

(a) in section 4—

(i) in the definition “the Bank” by deleting the expression “Bank of Tanzania Act, 1965” whenever it appear and substituting for it with the expression “Bank of Tanzania, Act, 1995”.

(ii) in the definition of “the Governor” by deleting the number “7(2)” and substituting for it with “9(2)”

(iii) by deleting the words “specified foreign currency” and “designated foreign currency” which appear in the definition section and whenever they appear in this Act and substituting for them the words “foreign currency”.

(b) section 8(2) is amended by deleting the words “not exceeding one hundred thousand shillings” and substituting for them the words “not exceeding five million shillings”.

(c) section 10 is hereby repealed and replaced by the following—

10. Except with the permission of the Governor no person shall export from or cause to be exported from the United Republic any gold.

(d) section 12 is amended by deleting paragraph (c) of subsection (2).

(e) section 18 is amended in paragraph (a) by adding the words “permit, authority, permission, notice and instrument” between the words “directions” and “or”.

FIRST COLUMN.	SECOND COLUMN	THIRD COLUMN
Act No. 16 of 1971	The Prevention of Corruption Act	The Act is amended in section 2A by adding immediately after paragraph "(c)" the following subsections. (4) In the performance of their functions the members of the Bureau shall each have all the powers of a police officer of or above the rank of Assistant Superintendent of Police and the provisions of the Police Force Ordinance conferring upon police officers powers necessary or expedient for the prevention, investigation and prosecution of offences, whether such powers are conferred generally or to officers of certain rank only shall apply in relation to the members of the Bureau as if references in those provisions to police officer or to police officers of specified rank included references to the members of the Bureau and for the avoidance of doubts it is hereby declared that a member of the Bureau shall have the power to arrest, enter premises, detain suspects and seize property where that member reasonably suspects that any offence involving corruption has been or is about to be committed by the suspect in the premises or, as the case may be, in relation to the property, and the powers may be exercised to the same extent and subject to the same limitations as a police officer of or above the rank of Assistant Superintendent of Police may exercise them in relation to the offences". (5) Where any property is seized in pursuance of the powers conferred under the subsection (4), the officer seizing the property shall issue a receipt acknowledging the seizure of that property, bearing the signature of the owner or occupier of the premises or his near relative or other person for the time being in possession or control of the premises, and the signature of witnesses to the search, if any. (6) Any person, being empowered by law to order, authorize or conduct the search of any person, place, building, vessel, carriage or receptacle, vexatiously and without reasonable ground for so doing, orders, authorizes or conducts such search commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or imprisonment for a term not exceeding two years or to both. (7) Any member of the Bureau who seizes any property in pursuance of the powers conferred under subsection (4) shall institute criminal proceedings against the owner of that property within six months from the date of seizure. (8) The member of the Bureau who fails to institute criminal proceedings as provided under subsection (7) and continues to detain the property and if he thinks that there is a reasonable cause for him to continue with the detention of that property he shall apply to the Attorney General for an extension of time stating reasons for an extension, which time shall not exceed six months from expiry of the period of six months referred to, in subsection (7).

FIRST COLUMN	SECOND COLUMN	THIRD COLUMN
Cap. 16	Penal Code	(9) Any person who having intentionally failed to institute proceedings against the owner of the property as provided under subsections (7) or (8), maliciously refuses to restore that property to the owner, commits an offence and upon conviction is liable to a fine not exceeding five hundred thousand shillings or to imprisonment not exceeding two years or to both. (10) Without prejudice to the right of private prosecution under section 99 of the Criminal Procedure Act, 1985, no prosecution against any person for an offence under this section shall be instituted except with the consent in writing of the Director of Public Prosecutions. (11) The provisions of the Specified Officers (Recovery of Debts) Act, 1970 shall apply to any officer who occasions the Government to incur loss, costs or damages as a result of his failure to discharge his duties in a reasonable manner. (a) Section 13 of the Penal Code is hereby repealed and replaced as follows— 13.—(1) A person shall not be criminally responsible for an act or omission if at the time of doing the act or making the omission he is through any disease affecting his mind— (a) incapable of understanding what he is doing; (b) incapable of appreciating that he ought not to do the act or omission; or (c) does not have control of the act or omission. (2) A person may be criminally responsible for an act or omission although his mind is affected by disease, if such disease does not in fact produce upon his mind one or other of the effects referred to in subsection (1) to that act or omission” (b) Section 26 of the Penal Code is hereby amended by deleting subsection (2) and substituting for it the following— “(2) The sentence of death shall not be pronounced on or recorded against any person who, at the time of the commission of the offence, was under eighteen years of age, but in lieu of the sentence of death, the court shall sentence that person to be detained during the President’s pleasure, and if so sentenced he shall be liable to be detained in such place and under such conditions as the Minister for the time being responsible for legal affairs may direct, and whilst so detained shall be deemed to be in legal custody”.

FIRST COLUMN

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Cap. 341

The Advocates Ordinance.

The Ordinance is amended—

(a) in section 8 by adding immediately after subsection (3) the following new subsection—

“(3A) There shall be endorsed on each certificate of admission issued by the Chief Justice words to the effect that the certificate in itself is not a licence to practice as an advocate.”

(b) Section 35 is hereby amended in paragraph (b), by deleting the semi-colon and the word “and” at the end of the paragraph and adding after the word “fee” the words “for the practising certificate and”

(c) by deleting subsection (3) of section 35 and substituting for it the following—

“(3) Subject to the provisions of section 36, the Registrar, if satisfied that—

- (a) the name of the applicant is on the Roll and he is entitled to practise in Mainland Tanzania;
- (b) he has paid his annual subscription for the current year into the funds of the Law Society;
- (c) he has paid the prescribed fees for the practising certificate;
- (d) he has paid for the business licence; and
- (e) if he is employed or otherwise committed otherwise than as an advocate, he has obtained approval from his employer or such other principal to practice as an advocate,

shall, after the expiration of six days from the delivery to him of the declaration, deliver to the applicant or his agent upon demand a practising certificate in such form as may be prescribed.”

FIRST COLUMN

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(d) by adding immediately after subsection (4) of section 35, the following new subsection—

“(5) Notwithstanding the provisions of the **Business Licensing Act, 1972** every business licence granted to an advocate under that Act shall expire on the thirty first day of December next following the date of issue.”

(e) Subsection (1) of section 39 is hereby deleted and replaced with the following—

“(1) Subject to the provisions of section 3, no person shall be qualified to act as an advocate unless—

(a) his name is on the Roll;

(b) he has in force a practising certificate; and

(c) he has a valid business licence;

and a person who is not so qualified is in this Part referred to as an “unqualified person”.

(f) Section 42 is hereby repealed and replaced with the following—

“42. Any unqualified person who wilfully pretends to be, or takes or uses any name, title, addition or description, or uses any title which corresponds to the title of a legal practitioner in any Commonwealth country, implying that he is qualified to act as an advocate, shall be liable on conviction to a fine not exceeding one million shillings or twelve months imprisonment or both”.

(g) Section 43 is amended—

(i) by deleting the words “by a District Court” appearing immediately after the word “conviction”;

(ii) by deleting the words “four thousand shillings” appearing immediately after the word “exceeding” and substituting for it the words “one million shillings or twelve months imprisonment or both”.

Act No. 13
of 1984 Economic and Organised
 Crime Control Act

The First Schedule to the Economic and Organised Crime Control Act, 1984 is hereby amended by deleting “paragraph 19” and substituting for it the following—

“19. A person is guilty of an offence under this paragraph who is found in unauthorized possession of arms or ammunition contrary to the provisions of the Arms and Ammunition Ordinance”.

Act No. 16
of 1989 The Civil Service Act

Section 2 is hereby amended—

(a) by deleting the designation “Principal Secretary” and substituting for it the designation “Permanent Secretary”.

FIRST COLUMN	SECOND COLUMN	THIRD COLUMN
Act No. 30 of 1972	The Interpretation of Laws and General Clauses Act	(b) by deleting the designation "Principal Secretary" wherever it appears in this Act and substituting for it the designation "Permanent Secretary". Section 3 is hereby amended— (a) by deleting the designation "Principal Secretary" and substituting for it the designation the "Permanent Secretary". (b) by deleting the designation "Principal Secretary" wherever it occurs in this Act, and substituting for it the designation "Permanent Secretary".
Cap. 334	In all other written laws where- ver the designation "Principal Secretary" occurs. Land Registration Ordinance	Deleting the designation "Principal Secretary" and substituting for it the designation "Permanent Secretary". The Ordinance is amended in section 41(1) by deleting the whole of paragraph (a) and substituting the following— "(a) No disposition shall be registered unless there is furnished to the Registrar a certificate in writing by the Commissioner for Lands signifying his approval to the disposition".
Act No. 1 of 1985	The Elections Act	The Act is amended in section 115 by adding immediately after subsection (2) the following subsection— "(3) Where the election petition case is unlikely to be determined within the period of two years, the Minister responsible for legal affairs may, after consultation with the Chief Justice and by notice published in the Gazette extend the prescribed time for further period not exceeding six months as he shall determine."

Passed in the National Assembly on the 3rd November, 1997


Clerk of the National Assembly