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Laws

Act

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2017-03-03

# The Written Laws (Miscellaneous Amendments) Act 2017

Tanzania, United Republic

Ministry of Finance and Planning

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THE UNITED REPUBLIC OF TANZANIA

**ACT SUPPLEMENT**

**No. 2**

**3<sup>rd</sup> March, 2017**

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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS)  
ACT, 2017

ARRANGEMENT OF SECTIONS

*Section Title*

PART I  
PRELIMINARY PROVISIONS

1. Short title.
2. Amendment of certain written laws.

PART II  
AMENDMENT OF THE GOVERNMENT, LOANS, GUARANTEES  
AND GRANTS ACT,  
(CAP.134)

3. Construction.
4. General amendment.
5. Amendment of section 2.
6. Amendment of section 3.
7. Amendment of section 6.
8. Amendment of section 7.
9. Amendment of section 8.
10. Amendment of section 10.
11. Amendment of section 11.
12. Repeal of section 12.
13. Addition of sections 12A and 12B.

14. Amendment of sections 13.
15. Amendment of section 13A.
16. Amendment of section 17.
17. Amendment of section 18.
18. Amendment of section 22.
19. Amendment of section 25.
20. Amendment of section 30.
21. Addition of section 30A.
22. Amendment of section 32.

PART III  
AMENDMENT OF THE HIGHER EDUCATION STUDENTS' LOANS  
BOARD ACT,  
(CAP.178)

23. Construction.
24. Amendment of section 3.

PART IV  
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(CAP.332)

25. Construction.
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27. Construction.
28. Amendment of section 19.

PART VI  
AMENDMENT OF THE SUGAR INDUSTRY ACT,  
(CAP.251)

29. Construction.
30. Amendment of section 3.
31. Amendment of section 4.

- 32. Addition of sections 7A and 7B.
- 33. Addition of section 11A.
- 34. Addition of section 17A.
- 35. Addition of section 34A.

PART VII  
AMENDMENT OF THE WILDLIFE CONSERVATION ACT,  
(CAP. 283)

- 36. Construction.
- 37. Amendment of section 101.





General  
amendment

**4.** The principal Act is amended generally by deleting the words “from outside Tanzania” wherever they appear in the Act and substituting for them the words “from non-resident sources”.

Amendment of  
section 2

**5.** The principal Act is amended in section 2, by:  
(a) adding in its appropriate alphabetical order the following new definitions:

Cap.2

““Consolidated Fund” means the Consolidated Fund of the Government referred to in the Constitution;

“on-lending” means an arrangement whereby the Government borrows from external or domestic sources and thereafter passes on the loan to another entity such as the Revolutionary Government of Zanzibar, parastatal organizations, local Government or any other public body corporate;

“primary loan” means any loan raised by the Government for the purpose of on-lending arrangement under this Act; and

“resident sources” means the sources of loan that is determined at the centre of economic interest where the debtor and creditor are ordinarily located and not their nationality;”; and

(b) deleting the definition of the terms “foreign loan” and “local loan” and substituting for them the following:

““foreign loan” means any loan contracted by the Government from non resident sources;

“local loan” means any loan contracted by the Government from resident sources.”.

Amendment of  
section 3

**6.** The principal Act is amended in section 3, by:  
(a) inserting immediately after the word “may” appearing in the first line, the words “upon the

- advice of the National Committee,”;
- (b) inserting immediately after the word “Minister” appearing in the fourth line, the words “concessional and non-concessional”;
  - (c) designating the contents of section 3 as subsection (1); and
  - (d) adding immediately after subsection (1) as designated a new subsection (2) as follows:

“(2) Foreign loan may be contracted by direct borrowing from non-residents through multilateral and bi-lateral arrangements, issuance of bonds or other methods as the Minister may deem expedient.”.

Amendment of  
section 6

**7.** The principal Act is amended in section 6, by inserting immediately after the word “may” appearing in the first line, the words “on the advice of the National Committee,”;

Amendment of  
section 7

**8.** The principal Act is amended in section 7, by adding immediately after subsection (2) the following:

“(3) The Minister may, by order published in the *Gazette* delegate any of the powers conferred on him under this section to the Governor of the Bank of Tanzania.”.

Amendment of  
section 8

**9.** The principal Act is amended in section 8, by-

- (a) inserting immediately after the word “date” appearing in the first line of paragraph (e), the word “not”; and
- (b) inserting immediately after the word “may” appearing at the end of paragraph (h), the words “upon the advice of the National Committee”.

Amendment of  
section 10

**10.** The principal Act is amended in section 10, by inserting immediately after the word “may” appearing in the first line the words “upon the advice of the National Committee”.

Amendment of  
section 11

**11.** The principal Act is amended in section 11, by deleting the reference to the “The Lotteries Act” appearing in the Marginal note and substituting for it the reference “the Gaming Act”.

Repeal of section  
12

**12.** The principal Act is amended by repealing section 12 and replacing for it the following:

“On-lending to the Revolutionary Government of Zanzibar **12.-(1)** The Revolutionary Government of Zanzibar may, where the arrangement between the Government and the lender requires on-lending arrangement enter into on-lending arrangement with the Government of United Republic of Tanzania for the Loan that has been raised by the Government on her behalf under this Act.”; and

(2) On lending arrangement under subsection (1) shall be effected through on lending agreement which shall, amongst other things, contain the terms and conditions that shall not be lower than the terms and conditions of the primary loan.

“(3) Prior to the borrowing by the Government of United Republic of Tanzania on behalf of the Revolutionary Government of Zanzibar, the Revolutionary Government of Zanzibar shall demonstrate prudent projection of cash flow through her balance sheet to

meet the primary loan obligations.”.

Addition of  
sections 12A and  
12B

**13.** The principal Act is amended by adding immediately after section 12 the following new sections:

“On-lending  
to local  
government  
and other  
bodies

**12A.**-(1) A local government authority or parastatal organisation may borrow money under on-lending arrangement from the loan that has been secured by the Government under this Act.

(2) A local government authority or parastatal organisation that intends to borrow under this section shall ensure that-

- (a) it borrows to the strength of its balance sheet and demonstrate prudent projection of cash flows to meet the original loan obligations; and
- (b) the proceeds of the loan are used for capital investments on the financially viable projects which are beneficial to the economy.

(3) A local government authority or parastatal organisation that intends to borrow under this section shall execute the on-lending

agreement which shall contain, among other things, the terms and conditions that shall not be lower than the terms and conditions of the primary loan.

(4) “The Government shall conduct risk assessment on the local government authority or parastatal organisation in relation to their respective balance sheets and cash flows projection.

Approval by  
the Minister

**12B.**-(1) Notwithstanding any other written law a government institution that intends to borrow in accordance with any other written law shall, prior to borrowing, seek the approval of the Minister in respect of the purpose, amount, terms and conditions of such borrowing.

(2) For the purpose of this section, “government institution” means a ministry, department, authority, agency or a parastatal organisation.”.

Amendment of  
section 13

- 14.** The principal Act is amended in section 13, by:
- (a) deleting the words “interest and other charges” appearing in the third line;
  - (b) designating the contents of section 13 as subsection (1); and
  - (c) adding immediately after subsection (1) as designated the following new subsections:

“(2) The Government shall conduct risk assessment on borrowers

before guarantees are issued.

(3) The Minister shall be responsible for the management of guarantee relating to public private partnership projects.

(4) The Minister may make regulations prescribing guarantee fees that shall be charged as a percentage of the guarantee loan amount to the lender.”.

Amendment of  
section 13A

- 15.** The principal Act is amended in section 13A, by:
- (a) deleting paragraph (a) of subsection (1) and substituting for it the following:
    - “(a) the proceeds of a loan being guaranteed shall be solely for capital investments on the project that generate revenues which shall be sufficient to service the loan;”
  - (b) deleting the proviso to paragraph (b) of subsection (1) and substituting for it the following:
    - “Provided that, in the case of national disaster or hazard the Minister may, upon the recommendations of National Committee, issue a guarantee not exceeding 85% of the amount borrowed.”; and
  - (c) inserting the words “of the National Committee” immediately after the word “advice” appearing in subsection (2).

Amendment of  
section 17

- 16.** The principal Act is amended in section 17, by:
- (a) adding immediately after paragraph (a) the following new paragraphs:
    - “(b) to advise the Minister on the formulation of the Government Medium-Term Debt Strategy on an annual rolling basis and annual borrowing plan;
    - (c) to monitor the implementation of the Medium-Term Debt Strategy and annual borrowing plan approved by the Government for each quarter;” and

- (b) renaming paragraphs (b) to (f) as paragraphs (d) to (h) respectively.
- Amendment of section 18
- 17.** The principal Act is amended in section 18, by:
- (a) inserting immediately after paragraph (h) the following new paragraphs:
- “(i) Secretary-Zanzibar Planning Commission;
- (j) Attorney General- Zanzibar;
- (k) Permanent Secretary - Office of the Second Vice President;”
- (b) renaming paragraphs (i) and (j) as paragraphs (l) and (m), respectively.
- (c) designating the contents of section 18 as subsection (1); and
- (d) adding immediately after subsection (1) as designated the following new subsection:
- “(2) The Committee may co-opt any person with special knowledge and skills to provide expertise on a particular issue as may be required by the Committee but the person so co-opted shall have no right to vote.”.
- Amendment of section 22
- 18.** The principal Act is amended in section 22, by:
- (a) designating the contents of that section as subsection (1); and
- (b) adding immediately after subsection (1) as designated the following new subsections:
- “(2) The quorum of any meeting of the National Committee shall be half of the members.
- (3) Members of the National Committee shall attend meetings in person, and where a member by reason of illness, infirmity or absent from the United Republic, is unable to attend any meeting, he may appoint a principal officer to attend such meeting on his behalf.”.
- Amendment of
- 19.** The principal Act is amended in section 25(1),

section 25

by:

- (a) deleting the word “fiscal” appearing in the second line and substituting for it the word “financial”; and
- (b) deleting the words “on a quarterly basis” appearing in paragraph (b).

Amendment of section 30

- 20.** The principal Act is amended in section 30:
- (a) in paragraph (a), by adding immediately after the word “loan” appearing at the end of that paragraph the words “or grant”; and
  - (b) by deleting paragraph (b) and substituting for it the following:
    - “(b) the authority to execute on behalf of the Government any agreement or other instrument relating to a loan, guarantee or grant raised, given or received under this Act.”.

Addition of section 30A

**21.** The principal Act is amended by adding immediately after section 30 the following new section:

“Offences

**30A.**-(1) A person who executes a loan without the approval of the Minister, commits an offence and shall on conviction be liable to a fine of not less than five million shillings but not more than twenty million shillings or to imprisonment for a term of not less than three years but not exceeding six years or to both.

(2) A head of public institution, parastatal organisation, department, authority or an agency which received government guarantee and fails without lawful excuse to repay the loan shall be subjected to disciplinary

measure in accordance with the Public Service Act.

Cap. 298

(3) Any person who contravenes the provisions of this Act where no specific penalty is provided, commits an offence and shall, on conviction be liable to a fine of not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than one year but not exceeding three years or to both.”.

Amendment of section 32

**22.** The principal Act is amended in section 32 by deleting the words “the National Debt Strategy” and substituting for them the words “the Medium Term Debt Strategy”.

**PART III**  
**AMENDMENT OF THE HIGHER EDUCATION STUDENTS’ LOANS BOARD ACT,**  
**(CAP.178)**

Construction Cap. 178

**23.** This Part shall be read as one with the Higher Education Students’ Loans Board Act, hereinafter referred to as the “principal Act”.

Amendment of section 3

**24.** The principal Act is amended in the definition of the term “accredited institution” by:

- (a) deleting paragraphs (c), (d) and (e); and
- (b) adding immediately after paragraph (b) the following:

“(c) diploma in the field to be determined and published in the *Gazette* by the Minister from time to time, based on the national priorities;”.



“Amendment of section 3

**30.** The principal Act is amended in section 3 by inserting in its appropriate alphabetical order the following new definition:

““blending” means the process of mixing additive with industrial sugar to produce sugar for consumption purposes;”.

Amendment of section 4

**31.** The principal Act is amended in section 4(1), by:  
(a) inserting immediately after paragraph (c) the following new paragraph:

“(d) to monitor and oversee the implementation of development and expansion plan of manufacturers; and

(b) re-naming paragraphs (d) to (s) as paragraphs (e) to (u) respectively.

Addition of sections 7A and 7B

**32.** The principal Act is amended by adding immediately after section 7 the following new sections:

“Sugarcane outgrowers organisations

Cap. 318

**7A.**-(1) The Sugarcane outgrowers shall, for effective management of sugarcane farming husbandry, organise themselves as cooperative societies registered under the Cooperative Societies Act.

(2) The Sugarcane outgrowers shall, within six months from the date of coming into operation of this section, register themselves in a manner provided for under subsection (1).

(3) The Board may extend the period of

registration provided for under subsection (2) for another period of six months.

(4) The Board shall, in consultation with the outgrowers and the manufacturer, prescribe daily ratable deliveries of sugarcane by each cooperative society under this section.

Consultative forum

**7B.**-(1) There shall be a forum to be known as Sugarcane Growers Consultative Forum which shall be responsible for all matters pertaining to sugarcane husbandry.

(2) The Board shall prescribe the composition, qualification, tenure and the manner of operation of the Forum.”.

Addition of section 11A

**33.** The principal Act is amended by adding immediately after section 11 the following new section:

“Indicative price for sugarcane, sugar or sugar by-products

**11A.** The Board shall, in consultation with the stakeholders and the Minister and by order published in the *Gazette*, prescribe the:

- (a) minimum price to be paid by manufacturers for cane produced by growers; and

- (b) maximum price of sugar and sugar by-products produced by manufacturers.”

Addition of section 17A

**34.** The principal Act is amended by adding immediately after section 17 the following new section:

“Duty to submit development and expansion plan

**17A.-(1)** A manufacturer licensed under this Act shall, within the time and on intervals prescribed by the Board, submit to the Board development and expansion plan.

(2)The development and expansion plan submitted under this section shall consist of the following:

- (a) expansion of plantations to increase sugarcane production;
- (b) introduction of new technology for the purpose of increasing yields and new sugarcane varieties;
- (c) investment initiative to expand the

capacity of  
the domestic  
processing  
sector; and

- (d) any other  
information  
that may be  
required by  
the Board.

(3) The Board shall, where the manufacturer fails to comply with the requirement of this section, issue the notice requiring the manufacturer to show cause for non compliance within the period prescribed in the notice.

(4) Upon receipt of the notice under subsection (3), the manufacturer shall make representation in writing to the Board on the matter.

(5) Where the manufacturer fails to comply with the requirement of the notice within the period prescribed or has not made a representation satisfactory to the Board, the Board shall impose a fine of not less than thirty million shillings but not exceeding hundred million shillings.

(6) A person aggrieved by the decision of the Board under subsection (5) may, within forty five days upon receipt of such decision, appeal to the Minister.

(7) A person aggrieved by the decision of the Minister may apply to the High Court for redress.”.

Addition of  
section 34A

**35.** The principal Act is amended by adding immediately after section 34 the following new section:

“Blending process **34A.**-(1) Notwithstanding the provisions of any other written laws, no person shall blend sugar after six months from the date of coming into operation of this section.

(2) A person who contravenes this section commits an offence and shall, on conviction be liable to a fine of not less than one hundred million shillings or to pay the amount equivalent to the value of the blended sugar whichever is greater or to imprisonment for a term of not less than two years but not exceeding five years.

(3) In addition to penalties provided for under this section, the Board may suspend or cancel the licence of the person convicted.”.

PART VII  
AMENDMENT OF THE WILDLIFE CONSERVATION ACT,  
(CAP. 283)

Construction  
Cap. 283

**36.** This Part shall be read as one with the Wildlife Conservation Act, hereinafter referred to as the “principal Act”.

Amendment of  
section 101

**37.** The principal Act is amended in section 101, by:

(a) deleting subsection (1) and substituting for it the following:

“Disposal of trophies during proceedings (1) The Court shall, on its own motion or upon application made by the prosecution in that behalf-

(a) prior to commencement of proceedings, order that –

(i) any animal or trophy which is subject to speedy decay; or

(ii) any weapon, vehicle vessel or other article which is subject of destruction or depreciation, and is intended to be used as evidence, be disposed of by the Director ; or  
(b) at any stage of proceedings, order that –

(i) any animal or trophy which is subject of speedy decay; or

(ii) any weapon, vehicle, vessel or other article which is subject to destruction or depreciation, which has been tendered or put in evidence before it, be disposed of by the Director.

(2) The order of disposal under this section shall be sufficient proof of the matter in dispute before any court during trial.”

(b) Renumbering subsections (2) and (3) as subsections (3) and (4) respectively.

Passed by the National Assembly on 1<sup>st</sup> February, 2017.

THOMAS D. KASHILILAH,  
*Clerk of the National Assembly*