

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

No. 16

18th November, 2016

to the Gazette of the United Republic of Tanzania No. 48 Vol 97 dated 18nd November, 2016

Printed by the Government Printer, Dar es Salaam by Order of Government

THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO .3)
ACT, 2016

ARRANGEMENT OF SECTIONS

Section Title

PART I
PRELIMINARY PROVISIONS

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

PART II
AMENDMENT OF THE CIVIL AVIATION ACT,
(CAP. 80)

3. Construction.
4. Addition of a new section 10A.
5. Addition of new sections 11A and 11B.
6. Addition of new sections 19A and 19B.
7. Amendment of section 26.

PART III
AMENDMENT OF THE ENVIRONMENTAL MANAGEMENT ACT,
(CAP.191)

8. Construction.

9. Amendment of section 16.
10. Amendment of section 42.
11. Amendment of section 57.
12. Amendment of section 184.
13. Amendment of section 187.
14. Amendment of section 191.
15. Amendment of the Fourth Schedule.

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

16. Construction.
17. Amendment of section 5.
18. Repeal of section 19.
19. Repeal of sections 20 and 21.
20. Amendment of the Schedule.

PART V
AMENDMENT OF THE PUBLIC SERVICE ACT,
(CAP. 298)

21. Construction.
22. Amendment of section 3.
23. Amendment of section 8.
24. Addition of sections 9A.
25. Amendment of section 20.
26. Addition of new section 32A.
27. Repeal of section 34.
28. Amendment of section 35.

PART VI
AMENDMENT OF THE PUBLIC SERVICE (NEGOTIATING MACHINERY)
ACT,
(CAP. 105)

29. Construction.

- 30. Amendment of section 4.
- 31. Repeal of section 11.

PART VII
AMENDMENT OF THE SURFACE AND MARINE TRANSPORT
REGULATORY AUTHORITY ACT,
(CAP.413)

- 32. Construction.
- 33. Addition of new section 40A.

PART VIII
AMENDMENT OF THE TRANSPORT LICENSING ACT,
(CAP. 317)

- 34. Construction.
- 35. Amendment of section 11.

- 36. Amendment of section 35.
- 37. Amendment of section 41.
- 38. Amendment of section 47A.

PART IX
AMENDMENT OF THE TREASURY REGISTRAR (POWERS
AND FUNCTIONS) ACT,
(CAP. 370)

- 39. Construction.
- 40. Amendment of section 3.

PART X
AMENDMENT OF THE WEIGHTS AND MEASURES ACT,
(CAP. 340)

- 41. Construction.
- 42. General amendments.

- 43. Amendment of section 2.
- 44. Amendment of section 19.
- 45. Amendment of section 26.
- 46. Amendment of section 30.
- 47. Repeal of section 46.
- 48. Amendment of section 46.
- 49. Addition of section 53A.
- 50. Addition of section 54A.

THE UNITED REPUBLIC OF TANZANIA



No. 13 OF 2016

I ASSENT,

JOHN POMBE JOSEPH MAGUFULI,
President[16th November, 2016]

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Written Laws (Miscellaneous Amendments) (No. 3) Act, 2016.

Amendment of
certain written
laws

2. The Written Laws specified in various Parts of this Act are amended in the manner specified in their respective Parts.

PART II
AMENDMENT OF THE CIVIL AVIATION ACT,
(CAP. 80)Construction
Cap. 80

3. This Part shall be read as one with the Civil Aviation Act, hereinafter referred to as the "principal Act".

Addition of a
new section 10A

4. The principal Act is amended by adding immediately after section 10 the following new section:

“Power to
detain and
search
aircraft

10A. Where the Director-General has reasonable grounds to suspect that an aircraft is used in contravention of this Act or that it contains any matter which may be used as evidence in respect of an offence under this Act, the Director General may detain, inspect, board on or recall that aircraft in flight.”

Addition of new
sections 11A and
11B

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

“Transfer of
responsibility
-ties to
another state

11A. Notwithstanding any provision of this Act, the Authority may, by agreement made with the appropriate foreign civil aviation authority under the Chicago Convention:

- (a) transfer to the concerned civil aviation authority of another state, all or part of the Authority’s responsibilities for a Tanzania registered aircraft operated by a foreign operator; or
- (b) vest in the Authority all or part of the responsibilities of the civil aviation authority of another state for an aircraft

registered by that state and operated by a Tanzania operator.

Aircraft in distress

11B. Where an aircraft is in distress within the territory of the Authority, the Authority shall-

- (a) permit, subject to control by its own authorities, the owners of the aircraft or authorities of the state in which the aircraft is registered to provide such measures of assistance as may be necessitated by the circumstances rendering the distress;
- (b) in the case where the aircraft is missing, search the missing aircraft in line with the coordinated measures prescribed by the Authority; or
- (c) provide any other necessary assistance.”

Addition of new sections 19A and 19B

6. The principal Act is amended by adding immediately after section 19 the following new section:

“Revocation and suspension of certificates

19A. Where the Director-General has reasonable grounds to believe that any person has violated this Act, he may make an

order to prohibit, suspend, revoke or vary the privileges of a licence, certificate or any other authorization issued by the Authority to that person.

Inspection

19B. For the purpose of ensuring aviation safety, security, consumer protection and for any other reasons for which the Authority is established, the Authority shall have unrestricted access to inspect-

- (a) any aircraft in Tanzanian territory regardless of its state of registry;
- (b) Tanzania registered aircraft wherever it may be;
- (c) flight compartment;
- (d) aerodrome used for civil aviation operations;
- (e) facilities and aircraft accident sites;
- (f) premises of any regulated agent or premises of the holder of an air service licence, certificate, authorization; or
- (g) other approval document issued by the Authority or any records, information

and explanation.”

Amendment of
section 26

7. The principal Act is amended in section 26, by adding a new subsection (7) immediately after subsection (6) as follows:

“(7) In providing air navigation services, the Authority shall ensure that a clear distinction and separation between its regulatory and operational functions is maintained.”

PART III
AMENDMENT OF THE ENVIRONMENTAL MANAGEMENT ACT,
(CAP.191)

Construction
Cap. 191

8. This Part shall be read as one with the Environmental Management Act, hereinafter referred to as the “principal Act”.

Amendment of
section 16

9. The principal Act is amended in section 16, by adding immediately after subsection (2) the following new subsections:

“(3) Notwithstanding the provisions of this section, the Attorney General shall have the right to intervene in any suit or matter instituted by, or against the Council.

Cap. 5
“(4) Where the Attorney General intervenes in any matter pursuant to subsection (3), the provisions of the Government Proceedings Act shall apply in relation to the proceedings of that suit or matter as if it had been instituted by, or against the Government.

“(5) For the purposes of subsections (3) and (4), the Council shall have a duty to notify the Attorney General of any pending suit or intention to institute a suit or matter by, or against the Council.”

Amendment of
section 42

10. The principal Act is amended in section 42,
by adding immediately after subsection (2) the following:
“(3) Local government authorities shall
submit to the Minister environmental action
plans prepared in respect of their areas of
jurisdiction.”

Amendment of
section 57

11. The principal Act is amended in section 57,
by-

(a) adding immediately after subsection (1) the
following new subsections:
“(2) For the purposes of subsection (1),
the computation of sixty meters shall be
reckoned:
(a) in the case of ocean or a natural lake,
from the highest water mark; and
(b) in the case of rivers, water dams or
reservoirs, from the banks.
(3) In this section, “highest water mark”
means the level reached by sea or lake water at
high tide.
(b) renumbering subsection (2) as subsection (4).”

Amendment of
section 184

12. The principal Act is amended in section 184
by -

(a) designating its contents as subsection (1);
(b) deleting paragraph (a) appearing in
subsection (1) as designated and substituting
for it the following -
“(a) fails or refuses to conduct an
Environmental Impact Assessment
study in respect of a project for which
the assessment is mandatory,
commits an offence;”

- (c) adding immediately after subsection (1) as designated the following-

(2) Where the offence committed is that of failing or refusing to conduct an Environmental Impact Assessment study, the offender shall, upon conviction, be liable to a fine of not less than five million shillings but not exceeding one billion shillings or to imprisonment for a term of not less than two years but not exceeding seven years or to both.”

Amendment of section 187

13. The principal Act is amended in section 187(1), by deleting the words “not less than three million shillings but not exceeding fifty million shillings” and substituting for them the words “not less than five million shillings but not exceeding ten billion shillings”

Amendment of section 191

14. The principal Act is amended in section 191, by deleting the words “fifty million” and substituting for them the words “one billion”.

Amendment of Fourth Schedule

15. The principal Act is amended in paragraph 1 of the Fourth Schedule, by adding the following subparagraph:

“(3) The Board of Trustees may invite any person who is not a member to participate in the deliberations of any meeting of the Board of Trustees, but any person so invited shall not be entitled to vote.”

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

Construction
Cap. 178

16. 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 5

17. The principal Act is amended in section 5,
by-

(a) deleting subsections (1) and (2) and substituting for them the following:

“(1) The Board shall consist of a Chairman who shall be appointed by the President and eight other members to be appointed by the Minister as follows:

- (a) one member representing the Ministry responsible for higher education;
- (b) a member from the Treasury;
- (c) a Law Officer representing the Attorney General;
- (d) a member representing the Ministry responsible for finance in the Revolutionary Government of Zanzibar;
- (e) one member representing the National Council for Technical Education;
- (f) one member representing the Ministry responsible for higher education in the Revolutionary Government of Zanzibar;

- (g) one representative from umbrella students' association of higher learning institutions; and
- (h) one member representing the Tanzania Commission for Universities."

(2) The Minister shall, in appointing members of the Board, have regard to gender balance."

"Amendment of section 19

18. The principal Act is amended in section 19, by deleting subsections (3),(4),(5),(6) and (7) and substituting for them the following:

"(3) Repayment of loan shall become due after completion of studies in respect of which the loan was granted or where studies are terminated for any reason:

Provided that, the beneficiary shall be obliged to commence repayment of loan after the period of two years upon completion or termination of his studies.

(4) Without prejudice to subsection (3), the beneficiary may commence repayment of loan at any time immediately after completion or termination of his studies.

(5) The Minister may make regulations prescribing the period and the manner of repayment of loans under this section.

(6) A beneficiary who secures employment shall:

- (a) have the duty to notify the employer that he is a loan beneficiary;
- (b) ensure that arrangement is made with the employer for deduction of monthly

installment that shall include the principal, any fees, charges or penalties from the salary of the beneficiary;

- (c) ensure that payments of monthly deduction by the employer are remitted to the Board from the date such remittance is due and that the loan deduction schedule bear the name of the beneficiary, loan number, employment number or cheque number or any other identity of the beneficiary as may be required;
- (d) inform the Board in writing of:
 - (i) employer's name, address, telephone number and other necessary details;
 - (ii) any change of names;
 - (iii) the current address of the beneficiary and any subsequent changes of address; and
 - (iv) anything that may be prescribed by the Board in accordance with this Act.

(7) A beneficiary who engages in self-employment, any trade, occupation or a profession shall:

- (a) arrange with the Board about the amount or installments and period during which the beneficiary shall make remittance to the Board;
- (b) ensure that the remittance of monthly installment is made to the Board bearing the correct name, address and the loan number;
- (c) inform the Board of the:

- (i) current postal and physical address;
 - (ii) occupational and residential addresses;
 - (iii) telephone numbers; and
 - (iv) any subsequent changes of such particulars;
- (d) comply with any other requirement as may be prescribed by the Board under this Act.

(8) For the purpose of subsection (5)(a), the amount payable by a self-employed beneficiary on monthly basis shall not be less than one hundred thousand shillings or ten percent of the taxable income, whichever amount is greater.

(9) Subsection (4) shall apply *mutatis mutandis* to any beneficiary who is under employment of a foreign government, an international organisation, a company, an agency or an association of any description.

(10) For the purposes of subsection (7), the expression:

- (a) "foreign government" includes an Embassy, a High Commission, or a resident representative of a foreign government;
- (b) "foreign company, agency or association" includes any company, agency or association not incorporated and or registered in Tanzania law; and
- (c) "international organisation" includes organisations within the United Nations Organisation."

Repeal of
sections 20 and
21

19. The principal Act is amended by repealing sections 20 and 21 and replacing them with the following:

“Obligation
of employer

20.-(1) For the purpose of identifying beneficiaries under this Act, every employer shall-

- (a) notify the Board on employment of any person who is a holder of degree or diploma, within twenty eight days from the date on which such person is employed;
- (b) upon confirmation from the Board that the person named in the notification is a loan beneficiary, deduct monthly installments of not less than fifteen percent of basic salary, wages or remuneration of the beneficiary, as the case may be;
- (c) treat deduction as statutory and make such deductions as first charge over non statutory deductions; and
- (d) inform the Board in writing of the status and rank of employment and any subsequent changes in the name, address, occupation and salary of the person who is a beneficiary.

(2) The employer shall remit every deduction from the beneficiary's salary, wages or remuneration to the Board within fifteen days after the end of each

month.

(3) The Board or its agent shall, after notifying the employer, have power to inspect any relevant record of the employer for searching the beneficiaries' information.

(4) Where an employer fails without reasonable excuse to notify the Board that he has, in his employment a beneficiary within a specified period, that employer commits an offence and shall, on conviction be liable to a fine of not less than one million shillings.”

Failure of
employer to
make
deductions or
remittance

21.-(1) Where the employer fails to deduct or after making deduction from a beneficiary fails to remit such deductions to the Board within the prescribed period, the Board shall charge a sum of equal to ten percent of the total amount of the loan amount which is due for repayment for each month during which the repayment remains unremitted.

(2) Where the employer fails to remit monthly installments after deducting and is otherwise unable to pay the charge imposed under subsection (1), commits an offence and is liable on conviction to a fine of not less than the amount unremitted or to imprisonment for a term of not less

than thirty six months.

(3) Notwithstanding any other law to the contrary, where an employer is a body corporate, the chief executive officer or any other accountable officer of such body shall be personally liable for the penalty.

(4) Any person who obstructs an employee of the Board or its appointed agent from doing any act authorized by this Act, commits an offence and is liable on conviction, to a fine of not less than seven million shillings or to imprisonment for a term of not less than twelve months or both.”

Amendment of
the Schedule

20. The principal Act is amended in paragraph 4 of the Schedule by inserting immediately after subparagraph (6) the following:

“(7) The Board may co-opt any person to assist the Board on deliberation of any issue or matter that requires the person’s skills, expertise or advice, but the co-opted person shall have no right to vote in any meeting of the Board.”

PART V
AMENDMENT OF THE PUBLIC SERVICE ACT,
(CAP. 298)

Construction
Cap. 298

21. This Part shall be read as one with the Public Service Act, hereinafter referred to as the “principal Act”.

Amendment of
section 3

22. The principal Act is amended in section 3, by inserting in the appropriate alphabetical order the following new definition:

“Recruitment Secretariat” means the Public Service Recruitment Secretariat established under section 29;”

Amendment of
section 8

23. The principal Act is amended in section 8(3), by-

(a) inserting immediately after paragraph (c) the following-

“(d) rationalize and harmonize salaries, allowances and fringe benefits in the Service;”

(b) renaming paragraphs (e) to (h) as paragraphs (f) to (i) respectively.

Addition of
sections 9A

24. The principal Act is amended by adding immediately after section 9, the following new sections-

“Approval of
Salary and
incentives

9A.-(1) Notwithstanding the provisions of any other written laws to the contrary, salaries, allowances, incentives and fringe benefits in the Government and public institutions shall be approved by the Permanent Secretary, President’s Office (Establishment).

(2) Subsection (1) shall not apply to:

- (a) the National Assembly;
- (b) the Judiciary;
- (c) the Tanzania People’s Defence Force;

- (d) the Police Force, Tanzania Immigration Service Department and Prisons Service;
- (e) the National Service;
- (f) the Fire and Rescue Service; and
- (g) the Tanzania Intelligence and Security Service.”

Amendment of section 20

25. The principal Act is amended in section 20(1), by:

- (a) deleting paragraph (c); and
- (b) renaming paragraphs (d) and (e) as paragraphs (c) and (d) respectively.

Addition of new section 32A

26. The principal Act is amended by adding immediately after section 32, the following new section:

“Remedies under labour laws

32A. A Public servant shall, prior to seeking remedies provided for in labour laws, exhaust all remedies as provided for under this Act.”

Repeal of section 34

27. The principal Act is amended by repealing section 34, and substituting for it the following:

“Compensation for occupational disease and death
Cap. 263

34.-(1) A public servant who suffers occupational disease or dies in the course of employment, shall be compensated in accordance with the Workers Compensation Act.

(2) For the purpose of this section “occupational disease” shall have a meaning to it under the Workers Compensation Act.”

Amendment of
section 35

- by:
- 28.** The principal Act is amended in section 35(2)
- (a) deleting “semi colon” appearing at the end of paragraph (d) and substituting for it a “full stop”; and
 - (b) deleting paragraph (e).

PART VI
AMENDMENT OF THE PUBLIC SERVICE (NEGOTIATING
MACHINERY) ACT,
(CAP. 105)

Construction
Cap. 105

29. This Part shall be read as one with the Public Service (Negotiating Machinery) Act, hereinafter referred to as the “principal Act”.

Amendment of
section 4

- 30.** The principal Act is amended:
- (a) in section 4(3), by deleting the words “and the secretary” appearing in paragraph (b); and
 - (b) by inserting immediately after subsection (4) the following new subsection:
“(5) The Minister shall appoint a secretary of the Joint Staff Council from the respective service scheme.”

Repeal of section
11

31. The principal Act is amended by repealing section 11.

PART VII
AMENDMENT OF THE SURFACE AND MARINE TRANSPORT
REGULATORY AUTHORITY ACT,
(CAP.413)

Construction
Cap. 413

32. This Part shall be read as one with the Surface and Marine Transport Regulatory Authority Act, hereinafter referred to as the “principal Act”.

Addition of new
section 40A

33. The principal Act is amended by adding immediately after section 40 the following new section:

“Compo-
unding of
offences

40A.-(1) Notwithstanding the provisions of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act, the Authority may, at any time prior to the commencement of the hearing by a court of competent jurisdiction, compound such offence and order such person to pay sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where an offence is compounded in accordance with subsection (1) and proceeding are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under sub-section (1).

(3) Where any person is aggrieved by any order under subsection (1), he may within the prescribed period, appeal against such order to the High Court and the provisions of the Criminal Procedure Act shall apply to every such appeal as if it were an appeal against sentence passed by a district court in the exercise of its original jurisdiction.

(4) Where the person fails to comply with the order issued under this section within the prescribed period, the Authority:

- (a) shall, in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations; and
- (b) may enforce the order in the same manner as a decree of a court for the payment of the amount stated in the order.

(5) The Minister shall make Regulations prescribing offences to be compounded and procedure for compounding of offences under this Act.”

PART VIII
AMENDMENT OF THE TRANSPORT LICENSING ACT,
(CAP. 317)

Construction
Cap. 317

34. This Part shall be read as one with the Transport Licensing Act, hereinafter referred to as “principal Act”.

Amendment
of section 11

35. The principal Act is amended in section 11(6) by deleting the phrase “in the case of first offence, to a fine not exceeding fifty thousand shillings, and in the case of second or subsequent offence to a fine not exceeding one hundred thousand shillings” and substituting for it the phrase “in the case of first offence, to a fine of two hundred thousand shillings and in the case of second or subsequent offence to a fine of not less than two hundred and fifty thousand shillings but not exceeding five hundred thousand shillings.”

Amendment
of section 35

36. The principal Act is amended in section 35(1), by-

- (a) deleting the words “ not exceeding ten” appearing between the words “fine” and “thousand” and substituting for them the words “of not less than two hundred”; and
- (b) deleting the words “exceeding twenty” appearing between the words “not” and “thousand” and substituting for them the words “five hundred”.

Amendment
of section 41

37. The principal Act is amended in section 41, by-

- (a) deleting the words “exceeding fifty” and “exceeding five” wherever they appear in subsection (1) and substituting for them the words “less than five hundred” and “less than two” respectively; and
- (b) deleting the words “exceeding twenty” and “exceeding two” wherever they appear in subsection (2) and substituting for them the words “less than two hundred” and “less than two” respectively.

Amendment
of section 47A

38. The principal Act is amended by adding immediately after section 47, a new section 47A as follows:

“Compounding
of offences

47A.-(1)

Notwithstanding the provision of this Act relating to penalties, where a person admits in writing that he has committed an offence under this Act, the Authority may, at any time prior to the commencement of the hearing by a court of competent jurisdiction, compound such offence and order such person to pay sum of money, not exceeding one half of the amount of the fine to which such person would otherwise have been liable to pay if he had been convicted of such offence.

(2) Where an offence is compounded in accordance with subsection (1) and proceeding are brought against the offender for the same offence, it shall be a good defence for the offender to prove to the satisfaction of the court that the offence with which the offender is charged has been compounded under sub-section (1).

(3) Where any person is aggrieved by any order under sub-section (1), he may within the prescribed period, appeal against such order to the High Court and the provisions of the Criminal Procedure Act shall apply to every such appeal as if it were an appeal against sentence passed by a district court in the exercise of its original jurisdiction.

(4) Where the person fails to comply with the order issued under this section within the prescribed period, the Authority:

- (a) shall, in addition to the sum ordered, require the person to pay an interest at the rate prescribed in the regulations; and
- (b) may enforced the order in the same manner as a decree of a court for the payment of the amount stated in the order.

(5) The Minister shall make regulations prescribing offences to be compounded and procedure for compounding of offences under this Act.”

PART IX
AMENDMENT OF THE TREASURY REGISTRAR (POWERS AND
FUNCTIONS) ACT,
(CAP. 370)

Construction
Cap. 370

39. This Part shall be read as one with the Treasury Registrar (Powers and Functions) Act, hereinafter referred to as the “principal Act”.

Amendment of
section 3

40. The principal Act is amended in section 3 by adding immediately after subsection (2) the following new subsections:

“(3) Notwithstanding the provisions of this section, the Attorney-General shall have the right to intervene in any suit or matter instituted by, or against the Treasury Registrar.

Cap. 6 (4) Where the Attorney General intervenes in any matter in pursuance of subsection (2), the provisions of the Government Proceedings Act shall apply in relation to the proceedings of that suit or matter as if it had been instituted by, or against the Government.

(5) For the purposes of subsections (3) and (4), the Treasury Registrar shall have a duty to notify the Attorney General of any impending suit or intention to institute a suit or matter by, or against the Treasury Registrar.”

PART XI
AMENDMENT OF THE WEIGHTS AND MEASURES ACT,
(CAP. 340)

Construction
Cap. 340

41. This Part shall be read as one with the Weights and Measures Act, hereinafter referred to as the “principal Act”.

General
amendments

- 42.** The principal Act is amended generally by-
- (a) deleting the words “weighing and measuring instrument” wherever they appear in the Act and substituting for them the words “measuring instrument or measuring system”.
 - (b) deleting the words “assizer” wherever they appear in the Act and substituting for them the words “inspector”.
 - (c) Inserting in its appropriate alphabetical order the following new definition:

“container” means any form of packaging of goods for sale as a single item, whether by enclosing the goods wholly or partly.

Amendment of section 2

43. The principal Act is amended in section 2, by deleting the definition of the word “trade” and substituting for it the following:

““trade” includes-

- (a) the making, effecting or concluding of any contract bargain, sale, purchase or transaction, or any payment in connection therewith;
- (b) any services rendered in which a measuring instrument is used;
- (c) any other measurement within which a measuring instrument or system is used.”

Amendment of section 19

44. The principal Act is amended in section 19, by-

- (a) deleting the words “Not more than” at the beginning of sub section (1) and substituting for it the words “At least once”;
- (b) adding immediately after subsection (1) the following new subsection:

“(2) Notwithstanding subsection (1), a person who possesses any weight, measure, weighing or measuring instrument which is used or intended to be used in trade, shall produce such weight, measure, weighing or measuring instrument to an inspector even if the

notice in subsection (1) was not issued.”

- (a) renumbering subsections (2) to (6) as subsections (3) to (7) respectively.
- (b) inserting immediately after (4) as renumbered the following new subsection:

“(5) Any immovable weight, measure, weighing or measuring instrument, shall be examined and verified in *situ* in addition to any preliminary test.”

Amendment of
section 26

45. The principal Act is amended in section 26 by deleting subsection (2) and substituting for it the following:

“(2) Any person who owns or hired to carry or transport by any means prepacked goods shall comply with manner of packaging specified in 10th, 11th and 12th Schedules to this Act.

(3) Any person who contravenes or fails to comply with subsections (1) and (2) commits an offence.”

Amendment of
section 30

46. The principal Act is amended in section 30(2) by deleting the phrase “not exceeding two thousand shillings” appearing in subsection (2) and substituting for it the words “not less than three hundred thousand shillings and not exceeding fifty million shillings”.

Repeal of section
45

47. The principal Act is amended by repealing section 45 and replacing it with the following:

“General
penalty

45. Any person who contravenes the provisions of this Act or Regulations made under this Act and which no specific penalty is provided commits an

offence and on conviction, in the case of first offence to a fine of not less than three hundred thousand shillings and not exceeding fifty million shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment; and in the case of a second or subsequent offence, to a fine of not less than five hundred thousand shillings and not exceeding one hundred million shillings or to imprisonment for a term not exceeding five years or to both.”

(2) On the conviction of any person for an offence under this Act, the court may, in addition to any other penalty which may be imposed, order the confiscation of all or any part of goods in respect of which the offence was committed, and all goods or instruments so confiscated shall be disposed of in a manner which the court directs.”

Amendment of
section 46

by-

48. The principal Act is amended in section 46,

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

“(1) Where the Commissioner is satisfied that any person has committed an offence under this Act, he may by order, compound such offence by requiring such person to make payment

of a sum of money, except that-

- (a) such sum of money shall not be less than one hundred thousand shillings and not exceeding twenty million;
- (b) the power or conferred under this section shall be exercised when a person admits that he has committed an offence under this Act;
- (c) the Commissioner shall give to the person from whom he receives such sum of money, a receipt;
- (d) subject to the provision of subsection (1), where proceedings are brought against a person for an offence under this Act, it shall be a good defence if that person proves that the offence with which he is charged has been earlier compounded;
- (e) any sum of money received under this section shall be dealt with as if the sum of money were a fine imposed by the court of law for the offence;
- (f) the order shall not be made under this section unless the person concerned shall first had an opportunity of showing cause against the making of the order.

(2) In addition to the fine, the Commissioner may ask the court to forfeit any weight or measure or weighing or measuring instrument or

other item for which the offence was committed as directed by or under this Act or any regulations made under this Act.

- (b) renumbering subsections (2) to (4) as subsections (3) to (5) respectively.”

Addition of section 53A

49. The principal Act is amended by adding immediately after section 53, the following new section:

“Compliance with prescribed measurement standards **53A.** Any person who prescribes measurements applicable in his respective jurisdiction shall have regard to the prescribed standards of measurements under this Act.”

Addition of section 54A

50. The principal Act is amended by adding after section 54, the following new section:

“Power to amend Schedule **54A.** The Minister may, by order published in the *Gazette*, amend the Schedules to this Act.”

Passed by the National Assembly on the 8th November, 2016.

THOMAS DIDIMU KASHILILAH,
Clerk of the National Assembly