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BILL SUPPLEMENT

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THE LAWS REVISION (MISCELLANEOUS AMENDMENTS) BILL,
2023

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NOTICE

This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dodoma,
10th May, 2023

MOSES M. KUSILUKA,
Secretary to the Cabinet

**A Bill
for**

An Act to amend certain laws with a view to address various shortcomings realised in those laws in the course of laws revision exercise.

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short Title 1. This Act may be cited as the Laws Revision (Miscellaneous Amendments) Act, 2023.

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 CORPORATIONS SOLE (ESTABLISHMENT) ACT,
(CAP. 119)

Construction Cap. 119 3. This Part shall be read as one with the Corporations Sole (Establishment) Act, hereinafter referred to as the “principal Act”.

Amendment of section 5
Cap. 134

4. The principal Act is amended in section 5(2) by deleting the words “the National Bank of Commerce, the Tanzania Investment Bank, Cooperative and Rural Development Bank, save in accordance with the regulations made under this Act” and substituting for them the words “or any financial institution subject to the provisions of the Government Loans, Guarantees and Grants Act,”.

PART III
AMENDMENT OF THE EXCISE (MANAGEMENT AND TARIFF)
ACT,
(CAP. 147)

Construction
Cap. 147

5. This Part shall be read as one with the Excise (Management and Tariff) Act, hereinafter referred to as the “principal Act”.

General amendment

6. The principal Act is amended generally, save for section 1, by deleting the word “Excise” wherever it appears in the Act and substituting for it the word “Authority”.

Amendment of section 2

7. The principal Act is amended in section 2, by-

(a) deleting the definition of the term ““Excise” or “the Excise””; and

(b) adding in the appropriate alphabetical order the following new definition-

““Authority” means the Tanzania Revenue Authority established under the Tanzania Revenue Authority Act;”.

Cap.

Amendment of section 100

8. The principal Act is amended in section 100 by deleting the words “Excise revenue” appearing in paragraph (a) and substituting for them the words “Consolidated Fund”.

Repeal of section 107

9. The principal Act is amended by repealing section 107.

PART IV
AMENDMENT OF THE INCOME TAX ACT,
(CAP. 332)

Construction
Cap. 332 10. This Part shall be read as one with the Income Tax Act, hereinafter referred to as the “principal Act”.

Amendment
of section
65E 11. The principal Act is amended in section 65E(2),
by-
(a) adding immediately after paragraph (a) the following:
Cap. 123 “(b) for royalty incurred by a person under the Mining Act;”; and
(b) renaming paragraphs (b), (c) and (d) as paragraphs (c), (d) and (e), respectively.

PART V
AMENDMENT OF THE INTERPRETATION OF LAWS ACT,
(CAP. 1)

Construction
Cap. 1 12. This Part shall be read as one with the Interpretation of Laws Act, hereinafter referred as the “principal Act”.

Addition of
section 49A 13. The principal Act is amended by adding immediately after section 49 the following:
“Power to amend and alter Schedules 49A. Where a written law confers powers to the Minister to amend, vary or replace provisions of the Schedule concerning the conduct of a governing body, such powers shall, unless the provisions are substantively provided in the Act, not include powers to amend, vary or replace provisions relating to-
(a) appointment and termination of a member of the governing body; or
(b) determination of composition and tenure of office of members of the governing body.”.

PART VI
AMENDMENT OF THE LAWS REVISION ACT,
(CAP. 4)

Construction
Cap. 4

14. This Part shall be read as one with the Laws Revision Act, hereinafter referred to as the “principal Act”.

Amendment
of section 7

15. The principal Act is amended in section 7 by-

- (a) adding immediately after paragraph (j) the following:
“(k) any Schedule, in his opinion the inclusion may distort its intended meaning;” and
- (b) renaming paragraphs (k) and (l) as paragraphs (l) and (m), respectively.

Amendment
of section 8

16. The principal Act is amended in section 8-

- (a) by adding immediately after subsection (3) the following:
“(4) The exercise of powers under this section shall not affect anything, act, legal proceeding or subsidiary legislation, done, instituted, or as the case may be, made before the coming into operation of the Revised Edition.”;
- (b) by renumbering subsections (4) and (5) as subsections (5) and (6), respectively; and
- (c) in subsection (6) as renumbered by deleting reference to “subsection (4)” and substituting for it reference to “subsection (5)”.

PART VII
AMENDMENT OF THE SOCIAL SECURITY ACT,
(CAP. 135)

Construction
Cap. 135

17. This Part shall be read as one with the Social Security Act, hereinafter referred to as the “principal Act”.

Amendment
of section 34

18. The principal Act is amended in section 34 by deleting the word “Division” appearing in subsection (2) and substituting for it the word “Minister”.

OBJECTS AND REASONS

This Bill proposes to amend eight laws namely the Corporations Sole (Establishment) Act, Cap. 119, the Excise (Management and Tariff) Act, Cap. 147, the Income Tax Act, Cap. 332, the Interpretation of Laws Act, Cap. 1, the Laws Revision Act, Chapter 4, the Social Security Act, Cap. 135, the Tanzania Revenue Authority Act, Cap. 399 and the Workers' Compensation Act, Cap. 263.

This Bill is divided into Nine Parts whereby Part I deals with Preliminary Provisions which include the title of the Bill and the manner in which the laws proposed to be amended, are amended in their respective Parts.

Part II of the Bill proposes amendment to section 5(2) of the Corporations Sole (Establishment) Act, Cap. 119. The section requires the corporations established under the Act to borrow from the Government and the banks formerly owned by the Government but currently are not owned by the Government. So, it is proposed to amend the section in order to facilitate the corporations to borrow not only from the Government but also in any other financial institution subject to the provisions of the Government Loans, Guarantee and Grants Act as it is for other public corporations.

Part III of the Bill proposes to amend the Excise (Management and Tariff) Act, Cap. 147, whereas the Act is amended generally and in section 2 in order to remove the use of the word "Excise" and instead use the word "Authority". The aim of this amendment is to update the Act by accommodate the applicable position where currently matters of excise duty are carried out and managed by the Tanzania Revenue Authority. Section 100 is amended in order enable sums recovered by the Authority from proceedings related to excise duty to be included in the Consolodated Fund. Currently, the Act directs the money to be deposited in the Excise revenue that does not exist. The aim of this amendment is to include in this Act a correct and applicable position.

In addition, section 107 of the Act is repealed in order to remove the provisions relating to appointment of officers of the Tanzania Revenue Authority to conduct proceedings related to excise duty under this Act and instead those matters to be governed by the National Prosecutions Service Act, Chapter 430. The aim of this amendment is to harmonise the provisions of this Act with the provisions of the the National Prosecutions Service Act, regarding the appointment of prosecutors as currently the officers of the Authority are appointed to conduct tax proceedings in accordance with the said Act.

Part IV of the Bill proposes to amend the Income Tax Act, Cap. 332, whereby section 65E(2) is amended by including royalty from mining activities in the list of non-allowable deductions. The aim of this amendment is to harmonise the provisions of this section with the provisions of section 65E(1) as amended through Act No. 7 of 2017 where such royalty was removed as allowable deduction.

Part V of the Bill proposes amendment in the Interpretation of Laws Act, Chapter 1, whereby a new section 49A is proposed to be added in order to limit implementation of powers of amendment of Shedule of the Acts especially in the appointments and composition of members. The aim of the amendments is to ensure that matters of composition, appointment and tenure of members of governing body which are substantive matters in the Act are determined by the Parliament and also to avoid misuse of the delegated powers triggered with personal interests.

Part VI of the Bill proposes amendment in the Laws Revision Act, Chapter 4, whereby section 7 is amended by adding revision power of not including a schedule to the Act in the Revised Edition. The aim of this amendment is to empower the Chief Parliamentary Draftsman not to include any schedule to the Act in the Revised Edition where in his opinion its inclusion thereto will distort the intended meaning. Section 8 is amended by adding subsection (4) in order to provide protection to things, acts, legal proceedings or subsidiary legislation made under the Acts before publication of the Revised Edition where there are any changes or alterations such as arrangement of Parts and sections, renumbering, correction of refernces and cross-references, etc.

Part VII of the Bill proposes amendment in the Social Security Act, Chapter 135, whereby section 34 is amended by shifting powers to make rules from the Division of Social Security to the responsible Minister. The

aim of the amendment is to remove the deficiency occurred following the transfer of duties and powers of the former Social Security Regulatory Authority to the Division whereby one of those powers was to make rules, so with the proposed amendment such power will be exercised by the Minister who is higher authority in the Ministry and not the Division as it is in the section.

Part VIII of the Bill proposes amendment in the Tanzania Revenue Authority Act, Chapter 399, whereby subsection (7) of section 5 is proposed to be deleted and substituted with a new subsection in order to remove ambiguity on the interpretation of the said subsection which aimed at providing the manner of implementing the provisions referred in the said subsections and not the commencement of the provisions referred in it as it is now.

Part IX of the Bill proposes amendments in the Workers' Compensation Act, Chapter 263, whereby section 19(5) is amended by deleting the words "serious disablement" interpreted in therein and substituting for them the words "permanent total disablement". The aim of the amendments is to remove the words not used and replacing them with the correct wording used in the said provision and which was intended to be interpreted in the said subsection.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kufanya marekebisho katika sheria Nane ambazo ni Sheria ya Uanzishwaji wa Mashirika Binafsi, Sura ya 119, Sheria ya Usimamizi na Tozo ya Ushuru wa Bidhaa, Sura ya 147, Sheria ya Kodi ya Mapato, Sura ya 332, Sheria ya Tafsiri za Sheria, Sura ya 1, Sheria ya Urekebu, Sura ya 4, Sheria ya Hifadhi ya Jamii, Sura ya 135, Sheria ya Mamlaka ya Mapato Tanzania, Sura ya 399 na Sheria ya Fidia kwa Wafanyakazi, Sura ya 263.

Muswada huu umegawanyika katika Sehemu Tisa ambapo Sehemu ya Kwanza inahusu masharti ya utangulizi yanayojumuisha Jina la Muswada na namna ambavyo Sheria mbalimbali zinapendekezwa kurekebishwa na Muswada huu.

Sehemu ya Pili ya Muswada inapendekeza marekebisho katika kifungu cha 5(2) cha Sheria ya Uanzishwaji wa Mashirika Binafsi, Sura ya 119. Kifungu hiki kinayataka mashirika yote yaliyoanzishwa chini ya Sheria hii kukopa kutoka Serikalini na benki zilizokuwa zikimilikiwa na Serikali ambazo kwa sasa hazimilikiwi na Serikali. Hivyo, inapendekezwa kurekebisha kifungu hiki ili kuyawezesha mashirika hayo kukopa si tuu Serikalini bali hata katika taasisi za fedha nyingine kwa kuzingatia masharti ya Sheria ya Mikopo, Dhamana na Misaada ya Serikali kama ilivyo kwa mashirika mengine ya umma.

Sehemu ya Tatu ya Muswada inapendekeza marekebisho katika Sheria ya Usimamizi na Tozo ya Ushuru wa Bidhaa, Sura ya 147, ambapo Sheria inarekebishwa kwa ujumla na katika kifungu cha 2 ili kuondoa matumizi ya neno “*Excise*” na badala yake kutumika neno “*Authority*”. Lengo la marekebisho haya ni kuhuisha Sheria hii kwa kuweka utaratibu unaotumika sasa ambapo masuala ya utozaji wa ushuru wa bidhaa yanafanywa na kusimamiwa na Mamlaka ya Mapato Tanzania. Kifungu cha 100 kinarekebishwa ili kuwezesha fedha zilizopatikana kutokana na Mamlaka kushinda katika mashauri mbalimbali kuhusiana na ushuru wa bidhaa kujumuishwa katika Mfuko Mkuu wa Serikali. Kwa sasa Sheria inaelekeza fedha hizo ziwekwe kwenye Mfuko wa Ushuru wa Bidhaa

ambao pia kwa sasa haupo. Lengo la marekebisha haya ni kujumuisha katika Sheria hii utaratibu sahihi na ambao unafanyika.

Aidha, kifungu cha 107 kinapendekezwa kufutwa ili kuondoa masharti ya uteuzi wa maafisa wa Mamlaka ya Mapato Tanzania kuendesha mashauri yanayohusiana na ushuru wa bidhaa chini ya Sheria hii na badala yake masuala hayo kusimamiwa na Sheria ya Ofisi ya Taifa ya Mashtaka, Sura ya 430. Lengo la marekebisha haya ni kuwianisha masharti ya Sheria hii na masharti ya Sheria ya Ofisi ya Taifa ya Mashtaka, kuhusu masuala ya uteuzi wa waendesha mashtaka kwani kwa sasa maafisa wa Mamlaka huteuliwa kuendesha mashauri ya kikodi kwa mujibu wa Sheria hiyo.

Sehemu ya Nne ya Muswada inapendekeza marekebisha katika Sheria ya Kodi ya Mapato, Sura ya 332, ambapo kifungu cha 65E(2) kinapendekezwa kurekebisha kwa kujumuisha mrabaha (*royalty*) ya shughuli za madini katika orodha ya makato yasiyoruhusiwa (*non-allowable deductions*). Lengo la marekebisha haya ni kuwianisha masharti ya kifungu hiki na masharti ya kifungu cha 65E(1) kama yalivyorekebisha kupitia Sheria Na. 7 ya 2017 ambapo *royalty* ilifutwa kama *allowable deduction*.

Sehemu ya Tano ya Muswada inapendekeza marekebisha katika Sheria ya Tafsiri za Sheria, Sura ya 1, ambapo kifungu kipya cha 49A kinapendekezwa kuongezwa ili kuweka mipaka ya utekelezaji wa mamlaka ya kurekebisha majedwali ya Sheria hususani katika uteuzi wa wajumbe. Lengo la marekebisha haya ni kuhakikisha kwamba masuala ya muundo, uteuzi na muda wa wajumbe wa chombo cha usimamizi cha taasisi ambayo ni masuala ya msingi katika Sheria yanaamuliwa na Bunge na vilevile kuziba mianya ya matumizi mabaya ya mamlaka katika masuala haya yanayoweza kusababishwa na uwepo wa maslahi binafsi.

Sehemu ya Sita ya Muswada inapendekeza marekebisha katika Sheria ya Urekebu wa Sheria, Sura ya 4, ambapo kifungu cha 7 kinapendekezwa kurekebisha kwa kuongeza mamlaka ya urekebu ya kutojumuisha Jedwali lolote la Sheria katika Toleo la Urekebu. Lengo la marekebisha haya ni kumwezesha Mwandishi Mkuu wa Sheria kutojumuisha jedwali lolote la sheria katika Toleo la Urekebu endapo ataona kuwa kujumuishwa kwa jedwali husika katika Toleo la Urekebu kutaharibu maana iliyokusudiwa. Kifungu cha 8 kinarekebisha kwa

kuongeza kifungu kidogo cha (4) ili kuweka ulinzi kwa suala, kitendo, shauri au sheria ndogo yoyote iliyotengenezwa kabla ya kuchapishwa kwa Toleo la Urekebu pale ambapo kuna mabadiliko yoyote yaliyofanywa kama vile mpangilio wa Sehemu na vifungu, mpangilio wa namba, masahihisho ya rejea ya vifungu, nk.

Sehemu ya Saba ya Muswada inapendekeza marekebisho katika Sheria ya Hifadhi ya Jamii, Sura ya 135, ambapo kifungu cha 34 kinapendekezwa kurekebisha ili kuiondolea Divisheni ya Hifadhi za Jamii mamlaka ya kutengeneza kanuni na badala yake kuiweka kwa Waziri mwenye dhamana. Lengo la marekebisho hayo ni kuondoa upungufu uliojitokeza baada ya majukumu na mamlaka ya iliyokuwa Mamlaka ya Udhhibiti wa Hifadhi za Jamii kuhamishiwa kwa Divisheni hiyo ambapo moja kati ya mamlaka hayo yalikuwa ni kutengeneza kanuni, hivyo kwa marekebisho yanayopendekezwa mamlaka hiyo itatekelezwa na Waziri ambaye ndiye mamlaka ya juu katika Wizara na siyo Divisheni kama ilivyo katika kifungu hicho.

Sehemu ya Nane ya Muswada inapendekeza marekebisho katika Sheria ya Mamlaka ya Mapato Tanzania, Sura ya 399, ambapo kifungu kidogo cha (7) cha kifungu cha 5 kinapendekezwa kufutwa na kuandikwa upya kwa lengo la kuondoa utata wa tafsiri ya kifungu kidogo hicho ambacho kina lengo la kuainisha namna ya utekelezaji wa vifungu vinavyorejewa katika kifungu kidogo hicho na siyo kuanza kutumika kwa masharti yanavyorejewa katika kifungu kidogo hicho kama inavyoonekana sasa.

Sehemu ya Tisa ya Muswada inapendekeza marekebisho katika Sheria ya Fidira kwa Wafanyakazi, Sura ya 263, ambapo kifungu cha 19(5) kinapendekezwa kurekebisha kwa kufuta maneno “*serious disablement*” yanayotafsiriwa katika kifungu kidogo hicho na badala yake kuweka maneno “*permanent total disablement*”. Lengo la marekebisho haya ni kuondoa maneno ambayo hayajatumika na kuweka maneno sahihi yaliyotumika katika kifungu hicho na yaliyokusudiwa kutafsiriwa katika kifungu kidogo hicho.

Dodoma,
8 Mei, 2023

DAMAS D. NDUMBARO,
*Minister for Constitutional and
Legal Affairs*