THE UNITED REPUBLIC OF TANZANIA

SPECIAL BILL SUPPLEMENT

No. 7 19th October, 2017

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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (N0.5)
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 BANKRUPTCY ACT, (CAP.25)

3. Construction.
4. Amendment of section 2.
PART III
AMENDMENT OF THE BUDGET ACT,
(CAP.439)

5. Construction.
6. Amendment of section 21.

PART IV
AMENDMENTS OF THE LAND ACT,
(CAP. 113)

7. Construction.
8. Amendment of Section 45.
9. Addition of new section 120A.
10. Amendment of section 120A.

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

11. Construction.
12. Amendment of Part V.
NOTICE

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

Dar es Salaam, 17th October, 2017

JOHN W. H. KIJAZI
Secretary to the Cabinet

A BILL
for

An Act to amend certain written laws.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

1. This Act may be cited as the Written Laws (Miscellaneous Amendments) (No.5) Act, 2017.

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 BANKRUPTCY ACT,
(CAP.25)
3. This Part shall be read as one with the Bankruptcy Act, hereinafter referred to as the “principal Act”.

4. The principal Act is amended in section 2, by inserting in its appropriate alphabetical order the following new definition:

“Official Receiver” means the Administrator-General appointed pursuant to the provisions of the
Administrator-General (Powers and Functions) Act;”

PART III
AMENDMENT OF THE BUDGET ACT,
(CAP.439)

5. This Part shall be read as one with the Budget Act, hereinafter referred to as the “principal Act”.

6. The principal Act is amended in section 21, by deleting the word “February” wherever it appears in subsection (2) and substituting for it the words “October or November”.

PART IV
AMENDMENT OF THE LAND ACT,
(CAP. 113)

7. This Part shall be read as one with Land Act, hereinafter referred to as the “principal Act”.

8. The principal Act is amended in section 45(2), by-
(a) deleting the “fullstop” appearing at the end of paragraph (f) and substituting for it a “semicolon”;
(b) inserting immediately after paragraph (f) the following new paragraphs:
“(g) where there is contravention of section 120A or 120B.”
9. The Principal Act is amended by adding immediately after section 120 the following new sections:

**Mortgage of Land**

(1) Subject to the provisions of this Act, a person may mortgage any land for the purpose of obtaining money from the local bank or financial institution for developing his land or for any other investment.

(2) Where a land mortgaged under subsection (1) is undeveloped or underdeveloped, the money obtained from the local bank or financial institution shall be utilized to develop part or whole of such mortgaged land.

(3) A Mortgagor shall within six months submit to the Commissioner information as to the manner in which the money obtained from the mortgage is invested to develop the mortgaged land.

**Money to be invested in Tanzania**

(1) Money obtained from a mortgage from a local bank or financial institution referred to under section 120A shall be invested in Tanzania.

(2) Where the Mortgagor is a bank or a financial institution, the Mortgagor shall submit to the Commissioner a declaration that the money obtained from the mortgage is invested in Tanzania.

**Non compliance under mortgage of land**

Failure to comply with the requirements under sections 120A and 120B shall constitute a breach of conditions of right of occupancy provided for under section 45(2).
120D. The procedure for administration and enforcement of section 120A and 120B shall be prescribed in the Regulations.

10. The Principal Act is amended by redesignating the contents of section 120A as contents of section 120D.

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

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

12. The principal Act is amended in Part V by inserting immediately after the heading the following:

Age of retirement of public servant

25A.-(1) A public servant may retire from the Service-

(a) in case of voluntary retirement after attaining the age of fifty five years; and

(b) in case of compulsory retirement after attaining the age of sixty years.

(2) Notwithstanding subsection (1), a professor or a senior lecturer of a public university or a medical specialist of a public hospital may retire from the Service -

(a) in the case of voluntarily retirement, after attaining the age of sixty years; and

(b) the term in the case of compulsory retirement, after attaining the age of sixty five years.
(3) For the purposes of this section, the term:

(a) “professor” includes an associate professor; and

(b) “medical specialist” includes any specialist above the medical specialist.

25B. The Minister may, in consultation with the President and by order published in the Gazette, alter the age of retirement of a public servant in such a manner as he may deem necessary, and every such alteration shall take effect as if it were provided for in this Act.”

OBJECTS AND REASONS

This Bill proposes to amend four laws namely, the Bankruptcy Act, Cap. 25, the Budget Act, Cap.439, the Land Act, Cap 113 and the Public Service Act, Cap.298.

The proposed amendments to the respective laws are intended to cure the shortfalls occasioned during the implementation of the respective laws.

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

Part II proposes to amend section 2 of the Bankruptcy Act, Cap. 25 by inserting in its alphabetical order the definition of the term Official Receiver to mean the Administrator General. This is due to the fact that all the functions of the Official Receiver are performed by the Administrator General.
Part III proposes amendment to the Budget Act, Cap.439 whereby section 21(2) is amended by changing the time frame within which the Plan and Budget Gridlines shall be laid before the National Assembly, which shall be October or November of each year. The objective of the amendment is to harmonise the time frame as that preferred under the Standing Orders of National Assembly, 2016 edition.

Part IV of the Bill proposes to amend the Land Act Cap, 113, whereas section 45 is amended by adding provisions regarding default against mortgage of land to considered as a ground for revocation of the right of occupancy.

Sections 120A, 120B and 120C are being added with the aim to allow any loan obtained through mortgaging a piece of land in Tanzania to be used for the development of the same parcel of land which has been used as a security. This condition is only for undeveloped and underdeveloped land. This amendment is intended to bind the occupier of the right of occupancy to be responsible and give feedback on how he has procured the loan obtained through mortgage. Further, this amendment also aims at making sure that moneys obtained from mortgaging piece of land in Tanzania is strictly used to develop the same mortgaged piece of land.

Through these amendments both local and foreign banks or financial institutions are required to disclose information to the Commissioner for Lands to ensure that the money borrowed through mortgage is actually invested on or develop a particular mortgaged land within Tanzania. As a sanction, through these amendments any loan obtained through mortgage and used for investment outside Tanzania shall be invalid. Further, this amendment allows legislations to be executed properly and to legitimize mortgages of rights of occupancy that have been effected before introducing of these amendments.

Part V of the Bill proposes amendment to the Public Service Act, Cap. 298, whereas a new section 25A is introduced with a view to provide for age of retirement for public servants. The amendment further propound on a new Scheme of retirement age for Public Universities professors, senior lecturer and medical specialist in the public hospitals. This new scheme intends to extend the voluntary retirement from the service of the above named categories to be sixty years while the compulsory age is extended to sixty five years. The amendment aims at
implementing a recent decision of the government that changed retirement age of professors, senior lecturers and medical specialist in public university and public hospitals. The extension of retirements to these categories will address the shortage of professor and senior lecturers in public universities and medical specialist in public hospitals. The extension will reduce the costs incurred by the government for re-engaging retired professors, senior lecturers and medical specialist under contract. The extension of retirement age will further afford more time for professors and senior lecturer in public hospitals to serve the nation and mentor young academician and medical officers.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kufanya Marekebisho katika Sheria Mbalimbali Tano na ambazo ni Sheria ya Ufilisi, Sura ya 25 Sheria ya Bajeti Sura 439, Sheria ya Ardhi, Sura ya 113, NA Sheria ya Utumishi wa Umma, Sura ya 238.

Mapendekezo ya marekebisho haya yalitokana na mapungufu mbalimbali ya utekelezaji wa sheria hizoo.

Muswada huu umegawanyiwa katika Sehemu Nne Sehemu ya Kwanza inahusu masharti ya Utangulizi ambayo yanajumuisha, jina la Muswada na namna ambavyo Sheria zinazopendekezwa kurekebishwa zitakavyorekebishwa ndani ya Muswada huu.

Sehemu ya Kwanza inapendekeza kufanya marekebisho katika kifungu cha 2 cha Sheria ya Ufilisi, Sura ya 25 kwa kupangilia mtiririko wa maneno ya kialphabeti katika kifungu cha 2 na kutoa tafsiri ya neno Mpokezi MKuu kuwa na maana ya neno Kabidhi Wasii Mkuu. Hii ni kutokana na ukweli kuwa shughuli zote za “Mpokezi Mkuu” zinafanywa na “Kabidhi Wasii Mkuu” ambaye anapendekezwa ateuiliwa na Rais ili aweze kutekeleza majukumu mbalimbali ikiwa ni pamoja na hili.

Sehemu ya Pili inapendekeza kufanya marekebisho katika kifungu cha 21(2) cha Sheria ya Bajeti, Sura ya 439 kwa kuandika upya muda wa kuwasilisha
Bungeni muongozo wa kuanda mpango wa bajeti lendo la marekebisho hayo ni kuondoa mkinzano na kuonishana na muda uliorejewa katika kanuni za Bunge, Kanuni ya 94(1) na (2) ya Kanuni hizo, toleo la 2016.

Sehemu ya Tatu inapendekeza kufanya marekebisho ya Sheria ya Ardhi, Sura 113 ambapo kifungu cha 45 kimerekibishwa kwa kuongeza masharti ya adhabu inayotokana na ukiukwaji wa masharti kwa mtu anayeweka dhamana ya milki ya ardhi.

Vifungu vya 120A, 120B na 120C navyo vimeongezwa ili kuwezesha fedha zinazopatikana kutokana na mkopo uliyotolewa kwa dhamana ya milki ya ardhi ya Tanzania zitumike kufanya Marekebisho ya Sheria ya Utumishi wa Umma, Sura ya 298 ambapo kifungu cha 25A kinapendekeza kuongeza kwa lengo la kuweka kwenye Sheria masharti ya umri wa kustaaifu kwa watumishi wa Umma, Masharti haya hayapo ndani ya Sheria kwa sasa. Aidha, mapendekezo ya kuongeza kifungu kipya yanalenga kuweka fedha kwa mpya wa umri wa kustaaifu kwa maprofesa na wahadhiri waandamizi wa vyuo. Vifungu vya 120A, 120B na 120C navyo vimeongezwa ili kuwezesha fedha zinazopatikana kutokana na mkopo uliyotolewa kwa dhamana ya milki ya ardhi ya Tanzania zitumike kufanya Marekebisho ya Sheria ya Utumishi wa Umma, Sura ya 298 ambapo kifungu cha 25A kinapendekeza kuongeza kwa lengo la kuweka kwenye Sheria masharti ya umri wa kustaaifu kwa watumishi wa Umma, Masharti haya hayapo ndani ya Sheria kwa sasa. Aidha, mapendekezo ya kuongeza kifungu kipya yanalenga kuweka fedha kwa mpya wa umri wa kustaaifu kwa maprofesa na wahadhiri waandamizi wa vyuo. Vifungu vya 120A, 120B na 120C navyo vimeongezwa ili kuwezesha fedha zinazopatikana kutokana na mkopo uliyotolewa kwa dhamana ya milki ya ardhi ya Tanzania zitumike kufanya Marekebisho ya Sheria ya Utumishi wa Umma, Sura ya 298 ambapo kifungu cha 25A kinapendekeza kuongeza kwa lengo la kuweka kwenye Sheria masharti ya umri wa kustaaifu kwa watumishi wa Umma, Masharti haya hayapo ndani ya Sheria kwa sasa. Aidha, mapendekezo ya kuongeza kifungu kipya yanalenga kuweka fedha kwa mpya wa umri wa kustaaifu kwa maprofesa na wahadhiri waandamizi wa vyuo. Vifungu vya 120A, 120B na 120C navyo vimeongezwa ili kuwezesha fedha zinazopatikana kutokana na mkopo uliyotolewa kwa dhamana ya milki ya ardhi ya Tanzania zitumike kufanya Marekebisho ya Sheria ya Utumishi wa Umma, Sura ya 298 ambapo kifungu cha 25A kinapendekeza kuongeza kwa lengo la kuweka kwenye Sheria masharti ya umri wa kustaaifu kwa watumishi wa Umma, Masharti haya hayapo ndani ya Sheria kwa sasa. Aidha, mapendekezo ya kuongeza kifungu kipya yanalenga kuweka fedha kwa mpya wa umri wa kustaaifu kwa maprofesa na wahadhiri waandamizi wa vyuo. Vifungu vya 120A, 120B na 120C navyo vimeongezwa ili kuwezesha fedha zinazopatikana kutokana na mkopo uliyotolewa kwa dhamana ya milki ya ardhi ya Tanzania zitumike kufanya Marekebisho ya Sheria ya Utumishi wa Umma, Sura ya 298 ambapo kifungu cha 25A kinapendekeza kuongeza kwa lengo la kuweka kwenye Sheria masharti ya umri wa kustaaifu kwa watumishi wa Umma, Masharti haya hayapo ndani ya Sheria kwa sasa. Aidha, mapendekezo ya kuongeza kifungu kipya yanalenga kuweka fedha kwa mpya wa umri wa kustaaifu kwa maprofesa na wahadhiri waandamizi wa vyuo. Vifungu vya 120A, 120B na 120C navyo vimeongezwa ili kuwezesha fedha zinazopatikana kutokana na mkopo uliyotolewa kwa dhamana ya milki ya ardhi ya Tanzania zitumike kufanya Marekebisho ya Sheria ya Utumishi wa Umma, Sura ya 298 ambapo kifungu cha 25A kinapendekeza kuongeza kwa lengo la kuweka kwenye Sheria masharti ya umri wa kustaaifu kwa watumishi wa Umma, Masharti haya hayapo ndani ya Sheria kwa sasa. Aidha, mapendekezo ya kuongeza kifungu kipya yanalenga kuweka fedha kwa mpya wa umri wa kustaaifu kwa maprofesa na wahadhiri waandamizi wa vyuo. Vifungu vya 120A, 120B na 120C navyo vimeongezwa ili kuwezesha fedha zinazopatikana kutokana na mkopo uliyotolewa kwa dhamana ya milki ya ardhi ya Tanzania zitumike kufanya Marekebisho ya Sheria ya Utumishi wa Umma, Sura ya 298 ambapo kifungu cha 25A kinapendekeza kuongeza kwa lengo la kuweka kwenye Sheria masharti ya umri wa kustaaifu kwa watumishi wa Umma, Masharti haya hayapo ndani ya Sheria kwa sasa. Aidha, mapendekezo ya kuongeza kifungu kipya yanalenga kuweka fedha kwa mpya wa umri wa kustaaifu kwa maprofesa na wahadhiri waandamizi wa vyuo vikuw vya umma na madaktari bingwa wa magonjwa ya binadamu wa hospitali za
Mfumo huu mpya unalenga kuongeza umri wa kustaa fu Utumishi wa umma kwa ridhaa kwa mapro fesa na wahadhiri waandamizi wa vyu o viku u vya umma na madaktari bingwa wa magonjwa ya binadamu wa hospitali za umma ili umri huo uweze kuwa ni miaka sitini kwa wale ambao wanastaafu kwa hiari na kwa wale ambao wanastaa fu kwa lazima iwe ni miaka sitini na tano. Marekebisho haya yan alen ga kuteke le za maamuzi ya Serikali yanayolenga kuongeza umri wa kustaa fu kwa mapro fesa, wahadhiri waandamizi wa madaktari bingwa wa binadamu kutoka vyu o viku u vya umma na hospitali za umma. Kuongeza umri kwa kada hizi kutapung uza ghar ama kwa Serikali ya kuingia mikataba na wataalamu hawa mara tu wanaposta afu, na pia kutongeza muda kwa wataalamu, wengine kuweza kutilumikia Taifa kwa muda mrefu zaidi na pia kusaidia kufundisha na kukuza wataalam wachanga walioko nchini.

Dodoma,  
16 Oktoba, 2017

GEORGE M. MASAJU  
Mwanasheria Mkuu wa Serikali