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SPECIAL BILL SUPPLEMENT

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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO. 3)
ACT, 2021

ARRANGEMENT OF SECTIONS

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NOTICE
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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,
2nd June, 2021

HUSSEIN A. KATTANGA
Secretary to the Cabinet

A Bill

for

An Act to amend certain written laws in order to facilitate the implementation of provisions of agreements that involve the Government and provide for special arrangement.

ENACTED by the 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, 2021.

Amend
ment 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 ELECTRONIC AND POSTAL
COMMUNICATIONS ACT,
(CAP. 306)**

Construction
Cap. 306

3. This Part shall be read as one with the Electronic and Postal Communications Act, hereinafter referred to as the “principal Act”.

Amendment of
section 6

4. The principal Act is amended in section 6 by adding immediately after subsection (6) the following:

“(7) Where an agreement provides for special arrangement relating to the implementation of this section, and the said arrangement has been approved by the Cabinet, the application of the provisions of this section shall not prejudice the implementation of such agreement.”.

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

Construction
Cap. 191

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

Amendment of
section 57

6. The principal Act is amended in section 57, by adding a proviso under subsection (1) as follows:

“Provided that where an agreement provides for special arrangement relating to the implementation of this provision, and the said arrangement has been approved by the Cabinet, the application of the provisions of this section shall not prejudice the implementation of such agreement.”; and

PART IV
AMENDMENT OF THE FAIR COMPETITION ACT,
(CAP. 285)

Construction
Cap. 285

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

Amendment of
section 12

8. The principal Act is amended in section 12, by-
(a) deleting a full stop appearing at the end of subsection (3) and substituting for it a semi colon; and

(b) adding the following proviso immediately after subsection (3):

“Provided that in the case of an agreement that provides for special arrangement relating to the grant of exemption for an agreement and such arrangement has been approved by the Cabinet, the Commission may, upon application, grant a period of more than five years.”.

Amendment of section 14

9. The principal Act is amended in section 14, by adding immediately after subsection (5) the following:

“(6) Where an agreement provides for special arrangement relating to the implementation of sections 10 and 11, and the said arrangement has been approved by the Cabinet, the application of the provisions of this section shall not prejudice the implementation of such agreement.”.

PART V
AMENDMENT OF THE GOVERNMENT PROCEEDINGS ACT,
(CAP. 5)

Construction Cap. 5

10. This Part shall be read as one with the Government Proceedings Act, hereinafter referred to as the “principal Act”.

Amendment of section 16

11. The principal Act is amended in section 16 by adding immediately after subsection (3) the following:

“(4) Notwithstanding subsection (3), where there is an agreement that provides for special arrangement relating to the execution, attachment or similar process and such arrangement has been approved by the Cabinet, the Court may, in the enforcement of financial obligation arising out of such agreement, issue an order for execution, attachment or similar process:

Provided that, the execution, attachment, or similar process is issued against the property which is connected with such agreement.”.

PART VI
AMENDMENT OF THE INSURANCE ACT,
(CAP. 394)

Construction
Cap. 394

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

Amendment of
section 133

13. The principal Act is amended in section 133 by-

(a) adding immediately after subsection (3) the following:

“(4) Where there is an agreement that provides for special arrangement relating to the implementation of this provision, and the said arrangement has been approved by the Cabinet, the application of the provisions of subsection (3) shall not prejudice the implementation of such agreement.”.

(b) renumbering subsection (4) as subsection (5).

PART VII
AMENDMENT OF THE LOCAL GOVERNMENT (DISTRICT
AUTHORITIES) ACT,
(CAP. 287)

Construction
Cap. 287

14. This Part shall be read as one with the Local Government (District Authorities) Act, hereinafter referred to as the “principal Act”.

Amendment of
section 122

15. The principal Act is amended in section 122 by adding immediately after subsection (2) the following:

“(3) Where an agreement provides for special arrangement relating to the implementation of this provision, and the

said arrangement has been approved by the Cabinet, the application of the provisions of paragraphs (w) and (z) of subsection (2) shall not prejudice the implementation of such agreement.”.

PART VIII
AMENDMENT OF THE LOCAL GOVERNMENT FINANCES ACT,
(CAP. 290)

Construction
Cap. 290

16. This Part shall be read as one with the Local Government Finances Act, hereinafter referred to as the “principal Act”.

Amendment of
section 11

17. The principal Act is amended in section 11 by adding immediately after subsection (2) the following:

“(3) Where an agreement provides for special arrangement relating to the implementation of this provision, and the said arrangement has been approved by the Cabinet, the application of the provisions of this section shall not prejudice the implementation of such agreement.”.

PART IX
AMENDMENT OF THE LOCAL GOVERNMENT (URBAN
AUTHORITIES) ACT,
(CAP. 288)

Construction
Cap. 288

18. This Part shall be read as one with the Local Government (Urban Authorities) Act, hereinafter referred to as the “principal Act”.

Amendment of
section 62

19. The principal Act is amended in section 62, by-

(a) adding immediately after subsection (1) the following:

“(2) Where an agreement provides for special arrangement relating to the implementation of this provision, and the said arrangement has been approved by the

Cabinet, the application of the provisions of subsection (1)(m) shall not prejudice the implementation of such agreement.”; and
(b) renumbering subsection (2) as subsection (3).

PART X
THE NATURAL WEALTH AND RESOURCES
(PERMANENT SOVEREIGNTY) ACT,
(CAP. 449)

Construction
Cap. 449

20. This Part shall be read as one with the Natural Wealth and Resources (Permanent Sovereignty) Act, hereinafter referred to as the “principal Act”.

Amendment of
section 2

21. The principal Act is amended in section 2, by-
(a) designating the content of section 2 as subsection (1); and
(b) adding immediately after subsection (1) as designated the following:

“(2) Without prejudice to subsection (1), this Act shall not apply to an agreement that provides for special arrangement relating to transportation of natural resources that are not exploited in the United Republic and such arrangement has been approved by the Cabinet.

PART XI
THE NATURAL WEALTH AND RESOURCES CONTRACTS
(REVIEW AND RE-NEGOTIATION OF UNCONSCIONABLE
TERMS) ACT,
(CAP. 450)

Construction
Cap. 450

22. This Part shall be read as one with the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act, hereinafter referred to as the “principal Act”.

Amendment of
section 2

23. The principal Act is amended in section 2, by-
(a) designating the content of section 2 as subsection (1); and

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

“(2) Without prejudice to subsection (1), this Act shall not apply to an agreement that provides for special arrangement relating to transportation of natural resources that are not exploited in the United Republic and such arrangement has been approved by the Cabinet.

PART XII
AMENDMENT OF THE PETROLEUM ACT,
(CAP. 392)

Construc
tion
Cap. 392

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

Amendm
ent of
section
140

25. The principal Act is amended in section 140,
by-

- (a) deleting a full stop appearing at the end of subsection (1) and substituting for it a colon; and
(b) adding a proviso immediately after subsection (1) as follows:

“Provided that, the powers exercised by EWURA under this subsection shall not affect the terms and conditions of any agreement that provides for special arrangement relating to transportation of natural resources and such arrangement has been approved by the Cabinet.”.

Amendm
ent of
section
141

26. The principal Act is amended in section 141,
by-

- (a) adding immediately after subsection (2) the following:

“(3) Where an application for renewal of licence has been duly made and the licence expires before EWURA grants or refuses

to renew the licence, the licence shall be deemed to continue in force until the grant or refusal of the application.”; and
(b) renumbering subsection (3) as subsection (4).

Addition of section 257A

27. The principal Act is amended by adding immediately after section 257 the following:

“Applicati
on in
relation to
agreement
s involving
Governme
nt

257A. Where an agreement provides for special arrangement relating to the implementation of this provision, and that arrangement has been approved by the Cabinet, application of the provisions of sections 29, 130(1) and (2), 131, 143, 149(1) and (2), 166, 167, 170, 181, 182, 194, 223, 251 and 253 shall not prejudice the implementation such agreement.”.

PART XIII
AMENDMENT OF THE RAILWAYS ACT,
(CAP. 170)

Construction
Cap. 170

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

Amendment of
section 24

29. The principal Act is amended in section 24 by adding immediately after subsection (3) the following:

“(4) Where an agreement provides for special arrangement relating to the implementation of this provision, and the said arrangement has been approved by the Cabinet, the application of the provisions of this section shall not prejudice the implementation of such agreement.”.

PART XIV
AMENDMENT OF THE ROADS ACT,
(CAP. 167)

Construction
Cap. 167

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

Amendment of
section 29

31. The principal Act is amended in section 29 by adding immediately after subsection (5) the following:

“(6) Where an agreement provides for special arrangement relating to the implementation of this provision, and the said arrangement has been approved by the Cabinet, the application of the provisions of this section shall not prejudice the implementation of such agreement.”.

PART XV
AMENDMENT OF THE PUBLIC PRIVATE PARTNERSHIP ACT,
(CAP. 103)

Construction
Cap. 103

32. This Part shall be read as one with the Public Private Partnership Act, hereinafter referred to as the “principal Act”.

Amendment of
section 2

33. The principal Act is amended in section 2, by-
(a) designating the content of section 2 as subsection (1); and
(b) adding immediately after subsection (1) as designated the following:

“(2) Without prejudice to subsection (1), this Act shall not apply to an agreement that provides for special arrangement relating to transportation of natural resources that are not exploited in the United Republic and such arrangement has been approved by the Cabinet.

OBJECTS AND REASONS

This Bill proposes amendments to fourteen written laws, namely, the Electronic and Postal Communication Act, (Cap. 306), the Environmental Management Act, (Cap. 191), the Fair Competition Act, (Cap. 285), the Government Proceedings Act (Cap. 5), the Insurance Act, (Cap. 394), the Local Government (District Authorities) Act, (Cap. 287), the Local Government Finances Act, (Cap. 290), the Local Government (Urban Authorities) Act, (Cap. 288), the Natural Wealth and Resources (Permanent Sovereignty) Act, (Cap. 449), the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act, (Cap. 450), the Petroleum Act, (Cap. 392), the Railways Act, (Cap. 167), the Roads Act, (Cap. 167) and Public Private Partnership Act, (Cap. 103).

This Bill is divided into fifteen Parts.

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, III, VI, VII, VIII, IX, X, XI, XII, XIII, XIV and XV proposes to amend the Electronic and Postal Communication Act, Cap. 306 the Environmental Management Act, (Cap. 191), the Insurance Act, (Cap. 394), the Local Government (District Authorities) Act, (Cap. 287), the Local Government Finances Act, (Cap. 290), the Local Government (Urban Authorities) Act, (Cap. 288), the Natural Wealth and Resources (Permanent Sovereignty) Act, (Cap. 449), the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act, (Cap. 450), the Petroleum Act, (Cap. 392), the Railways Act, (Cap. 167), the Roads Act, (Cap. 167) and Public Private Partnership Act, (Cap. 103) respectively. The proposed amendments intend to provide for smooth and expeditious implementation of agreements entered by the Government that provides for the execution of special arrangements, and to create favourable conditions for performance of Government projects.

Part IV of the Bill proposes to amend the Fair Competition Act, Cap. 285, by adding section 11A in order to prevent the application of provisions of sections 10 and 11 which provides for misuse of market power and procedure for merger and acquisition in order to facilitate smooth operation of the EACOP Project and other projects of the Government. Further, a proviso is added to section 12 by empowering the Commission to grant exemption to contracts for a period longer than five years in order to facilitate and create favourable conditions for performance of Government projects that provides for special arrangements.

Part V of the Bill proposes to amend section 16 of the Government Proceedings Act, Cap. 5, in order to secure investors or parties to the agreements by allowing execution, attachment or similar process against the property which is connected with financial obligation arising out of, or in connection with an agreement involving the government.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kufanya marekebisho katika Sheria Kumi na Nne ambazo ni Sheria ya Mawasiliano ya Kielekroniki na Posta, Sura ya 306, Sheria ya Usimamizi wa Mazingira, Sura ya 191, Sheria ya Ushindani, Sura ya 285, Sheria ya Mashauri ya Serikali, Sura ya 5, Sheria ya Bima, Sura ya 394, Sheria ya Serikali za Mitaa Mamlaka za Wilaya, Sura ya 287, Sheria ya Fedha za Serikali za Mitaa, Sura ya 290, Sheria ya Serikali za Mitaa Mamlaka za Miji, Sura ya 288, Sheria ya Mamlaka ya Nchi kuhusiana na Umiliki wa Maliasili za Nchi, Sura ya 449, Sheria ya Mapitio na Majadiliano Kuhusu Masharti Hasi Katika Mikataba Inayohusu Maliasili za Nchi, Sura ya. 450, Sheria ya Petroli, Sura ya 392, Sheria ya Reli, Sura ya 170, Sheria ya Barabara, Sura ya 167 na Sheria ya Ubia kati ya Sekta Binafsi na Umma, Sura ya 103.

Muswada huu umegawayika katika Sehemu Kumi na Tano.

Sehemu ya Kwanza ya Muswada inahusu masharti ya utangulizi na yanajumuisha jina la Muswada na namna ambavyo sheria zinazopendekezwa kufanyiwa marekebisho zilivyoainishwa katika Sehemu husika ya Muswada.

Sehemu ya Pili, Tatu, Sita, Saba, Nane, Tisa, Kumi, Kumi na Moja, Kumi na Mbili, Kumi na Tatu, Kumi na Nne na Kumi na Tano za Muswada zinapendekeza marekebisho kwenye Sheria ya Mawasiliano ya Kielekroniki na Posta, Sura ya 306, Sheria ya Usimamizi wa Mazingira, Sura ya 191, Sheria ya Bima, Sura ya 394, Sheria ya Serikali za Mitaa Mamlaka za Wilaya, Sura ya 287, Sheria ya Fedha za Serikali za Mitaa, Sura ya 290, Sheria ya Serikali za Mitaa Mamlaka za Miji, Sura ya 288, Mamlaka ya Nchi kuhusiana na Umiliki wa Maliasili za Nchi, Sura ya 449, Sheria ya Mapitio na Majadilioano Kuhusu Masharti Hasi Katika Mikataba Inayohusu Maliasili za Nchi, Sura ya 450, Sheria ya Petroli, Sura ya 392, Sheria ya Reli, Sura ya 170, Sheria ya Barabara, Sura ya 167 na Sheria ya Ubia Kati ya Sekta Binafsi na Umma, Sura ya 103. Mapendekezo ya marekebisho katika Sheria hizi yanakusudia kuwezesha utekelezaji bora na wa ufanisi wa miradi mbalimbali ambayo Serikali imeingia na ambayo yana masharti maalum.

Sehemu ya Nne ya Muswada inapendekeza marekebisho katika Sheria ya Ushindani, Sura ya 285 kwa kuongeza kifungu kipya cha 11A. Lengo la marekebisho haya ni kuwezesha mamlaka ya Tume katika vifungu vya 10 na 11 yanayohusu matumizi mabaya ya nguvu ya soko na uunganishwaji na utwaaji wa makampuni yatekelezwe bila kukwamisha utekelezaji wa mkataba wa mradi wa Bomba la Mafuta wa Afrika Mashariki pamoja na mikataba mingine ya aina hiyo. Vilevile kifungu cha 12 kinapendekezwa kurekebishwa ili kuipa Tume ya Ushindani mamlaka ya kuongeza muda wa msamaha kwa zaidi ya miaka mitano kwa lengo la kurahisisha utekelezaji wa mikataba yenye masharti maalum iliyoingiwa na Serikali.

Sehemu ya Tano inapendekeza kurekebisha kifungu cha 16 cha Sheria ya Mashauri ya Serikali, Sura ya 5, kwa lengo la kuruhusu utekelezaji wa hukumu za mahakama kwa kukamata mali zinazohusiana na miradi ambayo kampuni imewekeza kwa mujibu wa mikataba yenye masharti maalum iliyoingiwa na Serikali.

Dodoma,
01 Juni, 2021

ADELARDUS L. KILANGI
Mwanasheria Mkuu wa Serikali