

THE UNITED REPUBLIC OF TANZANIA



No. 40 OF 1967

I ASSENT,


President

27. NOVEMBER, 1967

An Act to amend the Interim Constitution of Tanzania, 1965

[2ND MARCH, 1968]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Interim Constitution of Tanzania (Amendment) (No. 2) Act, 1967, shall be read as one with the Interim Constitution of Tanzania, 1965 (hereinafter referred to as "the Constitution") and shall come into operation on the 2nd March, 1968.

2. Section 27 of the Constitution is amended-

(a) in subsection (2)-

- (i) by deleting the word "or" at the end of the provision to paragraph (f);
- (ii) by deleting the full stop at the end of paragraph (g), substituting therefor a semi-colon and adding the following new paragraphs immediately below the said paragraph (g):-

"(h) if he or his spouse is the beneficial owner of any share in any company incorporated or established in the United Republic or elsewhere or, of any interest in any such share;

(i) if he or his spouse holds the office of a director in any company incorporated or established in the United Republic or elsewhere otherwise than as a nominee

Short title
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tion amended

of the Government or of any statutory corporation or of any company of which the majority of ordinary shares are held by the Government or by a statutory corporation;

(j) if he or his spouse is the beneficial owner of any house or other building or of any interest in a house or other building which, or any portion of which, is in the exclusive occupation of some other person in consideration of payment of rent, fee or other valuable consideration whatsoever other than lawful deductions from the wages payable to a domestic servant in respect of occupation by him of any portion of such house or of any living quarters attached thereto;

(k) if he or his spouse is in receipt of two or more salaries; or

(l) if he or his spouse, being a person engaged in any trade, business, profession or vocation, employs any workman for the purposes of, or in connection with, such trade, business, profession or vocation"; and

(b) by adding the following new subsections immediately below subsection (8):-

"(9) For the purpose of paragraph (h) of subsection (2) of this section "share" includes stock, debenture and other interest whatsoever.

(10) For the purposes of paragraphs (h) and (j) of subsection (2) of this section-

(a) a person shall not be deemed to be a beneficial owner of a share in a company or of a house or other building or of any interest in a share, house or other building, if such person's interest therein is as a beneficiary under a trust or wakf relating to such share, house or other building or interest in a share, house or other building and if-

(i) he himself is not the settlor of the trust or wakf; and

(ii) he was not, at any time during the five years immediately preceding the settlement of the trust or wakf, the beneficial owner of the share, house or building or of any interest in the share, house or building;

(b) a person shall not be in contravention of the provisions of paragraph (h) or (j) where any share, house or building or any interest in a share, house or building, becomes vested in him by inheritance or by operation of law if-

- (i) where such share, house or building or interest in a share, house or building became so vested in him within the three months immediately preceding the date appointed for the primary nomination, such person lodges with the Electoral Commission an undertaking in the form prescribed by an Act of Parliament to dispose of such share, house or building or interest in a share, house or building within three months of the primary nomination; or
- (ii) where such share, house or building or interest in a share, house or building becomes so vested in him after the date appointed for the primary nomination but before such person or his spouse, as the case may be, takes his seat in the National Assembly, such person lodges with the Electoral Commission an undertaking in the form prescribed by an Act of Parliament that he will dispose of the share, house or building or of the interest in a share, house or building within three months of his or his spouse, as the case may be, taking his seat in the National Assembly.

(11) For the purpose of paragraph (i) of subsection (2) of this section "statutory corporation" means any body corporate established by or under any written law other than the Companies Ordinance.

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(12) For the purposes of paragraph (k) of subsection (2) of this section-

- (a) "salary" means-
 - (i) the salary payable to a member of the National Assembly as such member but does not include any allowances payable to him as such member;
 - (ii) the gains or profits from any trade, business, profession or vocation;
 - (iii) the remuneration payable to a person under any contract of service by way of salary, wages or allowances;
 - (iv) the income accruing to a beneficiary under a trust or wakf from such trust or wakf;
- (b) where a person receives two or more salaries he shall be deemed to be receiving only one salary if the total amount received by him does not exceed the amount of the salary for the time being payable to a member of the National Assembly;
- (c) a person who is in receipt of a salary shall not be disqualified from being elected as a constituency member on the ground only that on being so elected he shall, in addition to his salary, be entitled to the salary payable to him as a member of the National

Assembly; but such person shall, before taking his seat in the National Assembly, lodge with the Speaker an undertaking in the form prescribed by an Act of Parliament-

- (i) to forego his claim to either of the two salaries, or
- (ii) to claim only such portion of the salary payable to him as a member of the National Assembly as, when taken together with the other salary payable to him, would not exceed the amount of the salary for the time being payable to a member of the National Assembly; and

- (d) where a person is a beneficiary under two or more trusts or wakfs, the total income accruing to him as such beneficiary shall be deemed to be one salary.

(13) Notwithstanding the provisions of paragraph (a) of subsection (12) of this section the President may, with the approval to be signified by resolution of the National Assembly and by Order published in the *Gazette*, declare and income, remuneration or emoluments not to be a salary for the purposes of paragraph (k) of subsection (2) of this section.

(14) For the purposes of paragraph (1) of subsection (2) of this section-

- (a) "workman" means a person who has entered into, or works under a contract of service with the person employing him, whether such person works by way of manual labour or otherwise, whether the contract is express or implied, or is oral or in writing, and whether the remuneration is calculated by time or work done, or whether by the day, week or for any longer period but does not include a person-
 - (i) who is employed on a temporary basis by a farmer to do any work of agricultural nature and whose remuneration is calculated by time or work done or on a daily basis;
 - (ii) who is employed in connection with his employer's profession by any person engaged in the medical, legal, architectural, civil engineering or dentistry profession or such other profession as the President may, with the approval to be signified by resolution of the National Assembly and, by order published in the *Gazette*, declare to be an exempt profession for the purposes of this subsection-, or
 - (iii) who participates on a communal basis or under a customary arrangement in doing any work for the benefit of a member of the community

in consideration of remuneration calculated by time or work done; and

(b) "vocation" includes maintaining a hotel, boarding house or like establishment for gain or profit."

3. Section 31 of the Constitution is amended by renumbering the same as subsection (1) of section 31 and adding the following new subsection:-

Section 31 of Constitution amended

"(2) No person who would be disqualified for election as a constituency member of the National Assembly by virtue of the provisions of paragraphs (h), (i), (j), (k) or (1) of subsection (2) of section 27 of this Constitution shall be qualified to be appointed as a member by the President under paragraph (d) of subsection (1) of section 24 of this Constitution."

4. The Constitution is amended by adding the following new sections immediately below section 34: -

New section 34A added

"Declara-
tion by
members

34A.-(1) Every member of the National Assembly to whom this section applies and who is such member on the second day of March, 1968 shall, not later than the fifth day of March, 1968, lodge with the Speaker a declaration in duplicate to the effect that he is not disqualified from being a member of the National Assembly by virtue of any of the provisions of paragraphs (h), (i), (j), (k) or (1) of subsection (2) of section 27 of this Constitution.

(2) Every member of the National Assembly to whom this section applies and who is elected or appointed as such member on or after the third day of March, 1968, shall, within fifteen days of taking his seat in the National Assembly, lodge with the Speaker a declaration in duplicate to the effect that he is not disqualified from being a member of the National Assembly by virtue of any of the provisions of paragraphs (h), (i), (j), (k) or (1) of subsection (2) of section 27 of this Constitution.

(3) The declaration required to be lodged with the Speaker under this section shall be in such form as shall be prescribed by an Act of Parliament.

(4) This section shall apply to every member of the National Assembly other than a regional commissioner who holds his seat in accordance with paragraph (c) of subsection (1) of section 24 of this Constitution.

(5) The Speaker shall forward a copy of every declaration lodged with him in accordance with this section to the Attorney-General.

Members to
lodge
statements
of affairs

34B.-(1) Every member of the National Assembly to whom this section applies shall, at such interval and in such form as shall be prescribed by an Act of Parliament, lodge with the Speaker a statement of affairs in duplicate giving particulars of his income and assets and of the income and assets of his spouse.

(2) This section shall apply to every member of the National Assembly other than a regional commissioner who holds his seat in accordance with paragraph (c) of subsection (1) of section 24 of this Constitution.

(3) The Speaker shall forward a copy of every statement of affairs lodged in accordance with this section to the Attorney-General.

(4) An Act of Parliament may provide that until such time as any statement of affairs lodged under this section is produced as evidence before the High Court in any proceedings under section 36 of this Constitution, no person other than the President, the Speaker, the Attorney-General and persons authorized by such Act shall have access to or be entitled to any information contained in such statement of affairs and may make such provision as may be necessary to ensure that no unauthorized person gains access to any statement of affairs or receives any information contained therein."

Section 35
of Constitu-
tion amended

5. Section 35 of the Constitution is amended-

(a) in subsection (1)-

(i) by deleting the proviso to paragraph (a) and substituting therefor the following proviso:

"Provided that-

(i) where a member of the National Assembly or his spouse becomes a beneficial owner of a share in a company or of a house or building, or of any interest in a share, house or building, by inheritance or by operation of law the member shall not vacate his seat by reason of the provisions of paragraph (h) or (j) of subsection (2) of section 27 of this Constitution if such member or his spouse, as the case may be, shall, within three months of such share, house or building, or such interest in a share, house or building having become vested in him, take such steps as may be necessary to remove the disqualification imposed by the provisions of paragraph (h) or (j), as the case may be, of subsection (2) of section 27 of this Constitution;

(ii) a person appointed a member of the National Assembly in accordance with section 32 of this Constitution shall not vacate his seat in the National Assembly by reason only of the fact that since his appointment he has ceased to be ordinarily resident in Zanzibar; or ,

(ii) by deleting the comma at the end of paragraph (d), substituting therefor the semi-colon and the word "; or" and adding the following new paragraphs: -

- "(e) where a member or his spouse has lodged an undertaking under paragraph (b) of subsection (10) or paragraph (c) of subsection (12) of section 27 of this Constitution, if he or his spouse, as the case may be, fails to comply with such undertaking; or
- (f) in the case of a member who is required to lodge a declaration in accordance with section 34A of this Constitution-
- (i) if he fails to lodge such declaration by the date or within the period specified in that section; or
- (ii) if he is convicted of an offence under section 107 of the Penal Code in respect of such declaration; cap. 16 or
- (g) in the case of a member who is required to lodge a statement of affairs in accordance with section 34B of this Constitution, if he fails to lodge such statement of affairs by such date or within such period as may be prescribed by an Act of Parliament," and
- (b) in subsection (2), by inserting immediately after the words "this Constitution" in the fifth line, the words "or of an offence under section 107 of the Penal Code in respect of a declaration lodged with the Speaker as required by section 34A of this Constitution"

6. Section 37 of the Constitution is hereby amended-

- (a) by adding the following new subsections immediately below subsection (2)-

Section 37
of Constitu-
tion amended

"(2A) The person who holds the office of Speaker on the second day of March, 1968 shall, not later than the fifth day of March, 1968, lodge with the President a declaration in duplicate in the form pre-scribed by an Act of Parliament to the effect that he is not disqualified from being elected as a constituency member by virtue of any of the provisions of paragraphs (h), (i), (j), (k) or (1) of subsection (2) of section 27 of this Constitution.

(2B) Every person who is elected to the office of Speaker on or after the third day of March, 1968 shall, within fifteen days of such election, lodge with the President a declaration in duplicate in the form prescribed by an Act of Parliament to the effect that he is not disqualified from being elected as a constituency member by virtue of any of the provisions of paragraphs (h), (i), (j), (k) or (1) of subsection (2) of section 27 of this Constitution.

(2c) The President shall forward a copy of every declaration lodged with him in accordance with subsection (2B) and subsection (2c) of this section to the Attorney-General.

(2D) The Speaker shall at such interval and in such form as shall be prescribed by an Act of Parliament lodge with the President a statement of affairs in duplicate giving particulars of his income and assets and of the income and assets of his spouse.

(2E) The provisions of subsection (3) and subsection (4) of section 34B shall, insofar as the same may be applicable, apply to any statement of affairs lodged by the Speaker under this section.”; and

(b) in subsection (3) by deleting the full stop at the end of paragraph (d), substituting therefor the semi-colon and the word “; or” and adding the following new paragraphs: —

“(e) if he fails to lodge a declaration with the President as required by subsection (2A) or subsection (2B) of this section; or

(f) if he is convicted of an offence under section 107 of the Penal Code in respect of any declaration lodged in accordance with subsection (2A) or subsection (2B) of this section; or

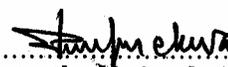
(g) if he fails to lodge a statement of affairs as required by subsection (2D) of this section by such date or within such period as may be prescribed by an Act of Parliament.”

I hereby certify that the Bill for this Act was passed by the National Assembly in accordance with the provisions of section 51 of the Constitution.

Dar es Salaam,
27 November, 1967


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Speaker

Passed in the National Assembly on the twenty-fifth day of October, 1967.


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Clerk to the National Assembly