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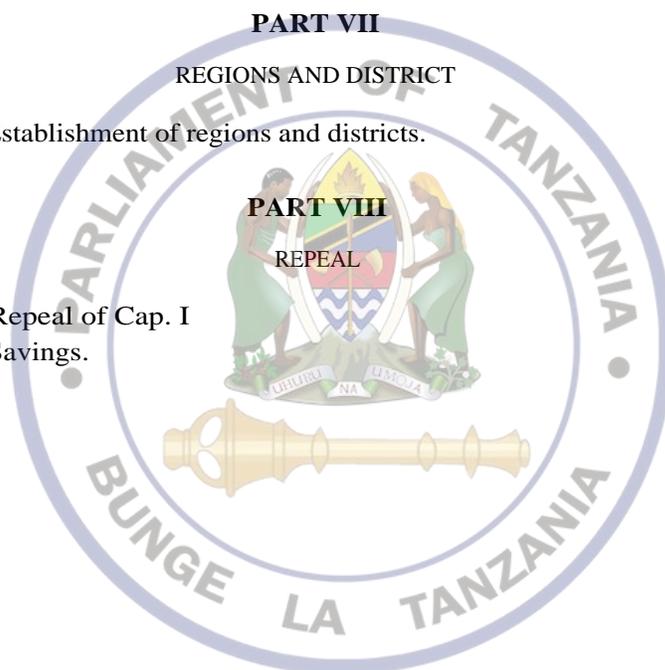
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THE UNITED REPUBLIC OF TANZANIA



No. 30 OF 1972

I ASSENT,

*Tulio K. Nyerere*  
President

23RD NOVEMBER, 1972

An Act to repeal and replace, with certain minor modifications, the Interpretation and General Clauses Ordinance

[24TH NOVEMBER, 1972]

ENACTED by the Parliament of the United Republic of Tanzania

**PART I**

PRELIMINARY

1. This Act may be cited as the Interpretation -of Laws and General Short title Clauses Act, 1972.
2. The provisions of this Act shall apply to, and in relation to, Application every Act, whether enacted before or after the commencement of this Act.

**PART II**

GENERAL PROVISIONS OF INTERPRETATION

3.-(1) In this Act and in every other Act, and in all public docu- Construction of various world and expressions ments enacted, made or issued before or after the commencement of this Act, the following words and expressions shall have the meanings assigned thereto respectively in this section, unless it is therein otherwise expressly or by necessary implication otherwise provided-

"abet" with its grammatical variations and cognate expressions, has the same meaning as in the Penal Code;

Cap. 16

"Act" when used with reference to legislation-

- (a) in an Ordinance, or a public document made or issued before the ninth day of December, 1961, means an Act of the High Commission or of the East African Common Services Organization-,

(b) in an Act of Parliament of Tanganyika or of the United Republic, or a public document made or issued after the eighth day of December, 1961, or in an Act of the Constituent Assembly of Tanganyika, means an Act of that Parliament or as the case may be, an Act of that Assembly, and includes any subsidiary legislation made and in force under such Act, and also means an Ordinance and any subsidiary legislation made and in force under that Ordinance, but does not include an Act of the Community;

"act" when used with reference to an offence or civil wrong, includes a series of acts, and words which refer to acts, done extend to omissions;

"Act of the Community" means an Act of the Community enacted in accordance with Chapter XVI of the Treaty and having the force of law in the United Republic and also means an Act of the East African Common Services Organization and an Act of the High Commission;

"administrative officer" means an administrative officer of any grade whatsoever;

"advocate" means a person entitled to practise as an advocate in the High Court or courts subordinate thereto under the provisions of the law for the time being applicable to advocates;

"amend" in relation to an Act or subsidiary legislation includes repeal, with or without reenactment;

"applied law" means any Indian Act or an Act of the United Kingdom including an Order-in-Council which for the time being extends and applies to Tanganyika;

"Area Commissioner" means a person appointed by the President to be, an area commissioner., and "the Area Commissioner" means the area commissioner of the district concerned;

"calendar month" means the period beginning on the first day of a month and expiring on the last day of that month;

"calendar year" means the period commencing on 1st day of January in a year and; expiring on the 31st day of December in that year;

"chapter", "part", "section", and "schedule" denote respectively a chapter, part, and section of, and. schedule to the Act in which the word occurs., and "subsection" denotes a subsection of the section, in which, the word occurs;

"civil magistrate" means a resident magistrate, and includes any other person appointed a civil magistrate under the, Magistrates, Courts Act, 1963;

"coin" means any coin, of any metal, whether precious, semi-precious or non-precious, which is for the time being legal currency in the United Republic;

"commencement" when used with reference to an Act, means the time at which the Act comes into operation;

- "common law" means the common law of England;
- "Common Services Organization" means the East African Common Services Organization established pursuant to the East African Common Services Organization Agreement (Implementation) Ordinance repealed by the Treaty of East African Co-operation (Implementation) Act, 1967; and all references in any written law to the Common Services Organization or the "Common Services Authority" shall, for the period commencing with 1st December, 1967, be construed as references to the "Community" or, as the case may be, "the East African Authority"; Cap. 448  
Acts, 1967  
No. 42
- "the Commonwealth" means collectively the members of the Commonwealth and any dependency of a member of the Commonwealth; and "member of the Commonwealth" or "Commonwealth country" means the United Republic and any country to which section 7 of the Citizenship Act, 1961 applies; Cap. 513
- "the Community" means the East African Community established by the Treaty;
- "the Consolidated Fund" means the Consolidated Fund of the United Republic;
- "the Constitution" means the Interim Constitution of Tanzania, 1965; Cap. 596
- "Corporation within the Community" means the East African Railways Corporation, the East African Harbours Corporation, the East African Posts and Telecommunications Corporation and the East African Airways Corporation;
- "court" means any court of Tanganyika of competent jurisdiction;
- "Court of Appeal" means the court to which appeals lie under Part 11 of the Appellate Jurisdiction Ordinance, as amended from time to time; Cap. 451
- "Crown Agents" means the persons for the time being acting as Crown Agents for Oversea Governments and Administrations or any of them;
- "customary law" means any rule or body of rules whereby rights and duties are acquired or imposed, established by usage in any Tanganyika African Community and accepted by such community in general as having the force of law, including any declaration or modification of customary law made or deemed to have been made under section 9A Of the Judicature and Application of Laws Ordinance, 1961 and references to "native law" or to "native law and custom" shall be similarly construed; Cap. 453
- "Development Council" means a District Development Council established or deemed to be established under the Decentralization of the Government Administration (Interim Provisions) Act, 1972; Acts 1972  
No. 27
- "District" means an area proclaimed to be a District by the President;
- "District Magistrate" includes a resident magistrate;

"East African Authority" means the East African Authority established by the Treaty;

"Foreign Service Officer" means an officer holding or acting in an appointment in the Foreign Service of the United Republic;

"Gazette" or "Government Gazette" means the *Gazette* published by the order of the Government of the United Republic and includes supplements thereto and any Extraordinary *Gazette* so published;

"General Notice" means any announcement not of a legislative character made in the *Gazette* by or with the authority of the President or a Minister,

"Government" means the Government of the United Republic;

"Government analyst" includes any assistant or other analyst employed by the Government;

"Government Notice" means any subsidiary legislation, made, by the President, a Minister or other public officer or authority pursuant to a power conferred by any Act;

"Government Printer" includes the Government Printer and any printer purporting to be the printer authorized to print Acts and other documents of the Government;

"the High Commission" means the High Commission established by the East African (High Commission) Orders-in-Council, 1947 to 1961 and reference in any written law to the High Commission shall be construed-

- (a) for the period during which the East African Common Services Organization Agreement (Implementation) Ordinance was in force, as references to the Common Services Organization;
- (b) for the period after the repeal of that Ordinance, as references to the Community;

"High Court" means the High Court of the United Republic;

"Judge" means a Judge of the High Court, and includes an acting Judge,

"Junior Minister" means a Junior Minister, however entitled, appointed under section 14 of the Constitution;

"Law Officers" means the Attorney-General and every legally qualified member of the Attorney-General's Chambers above the rank of State Attorney;

"local authority" means-

- (a) where an area of Tanganyika is a city, the City Council established under the Municipalities Ordinance;
- (b) where an area of Tanganyika is a municipality, the Municipal Council established under the Municipalities Ordinance;
- (c) where an area of Tanganyika is a township, the Town Council established under the Local Government Ordinance;

cap. 105

Cap. 333

(d) where an area of Tanganyika is within the jurisdiction of a District Council established under the Local Government Ordinance, such District Council;

(e) where an area of Tanganyika is within the Jurisdiction of a Development Council, such Development Council;

"magistrate" in any written law enacted or made on or, after the day appointed for the commencement of the Magistrates' Courts Act, 1963, means a resident magistrate, a district magistrate and a primary court magistrate;

"marriage" means a marriage contracted in accordance with, or recognized as valid by, the Law of Marriage Act 1971, and the terms "husband", "wife" and "married person" shall be construed accordingly;

Acts 1971  
No.5

"Minister" means a Minister appointed under section 13 of the Constitution and includes the Prime Minister and a Vice-President, but does not include a Junior Minister; and "the Minister" means the Minister responsible for the matter in question or, if there is no Minister responsible for the matter in question, means the President;

"minor" means a person who has not attained the apparent age of eighteen years and the terms "infant" and "infant child" shall be construed accordingly;

"month" means a calendar month unless words be added showing a lunar month is intended; where a month is expressed as beginning, or is required to be reckoned as beginning, on a date other than the first day of any month, the month shall be deemed to expire immediately before the commencement of the corresponding date in the next following month, whether the period so encompassed is of a longer or shorter period than thirty days;

"native" means any member of an African race;

"oath" and "affidavit", in the case of persons for the time being required or allowed to affirm or declare instead of swearing, include affirmation and declaration, and "swear", in the like case, includes "affirm" and "declare";

"Ordinance" includes any Ordinance or any laws, proclamations or other legislative acts issued, made or done before the date of the Tanganyika Order in Council, 1920, and validated by the said Order in Council, and any subsidiary legislation made and in force under an Ordinance, and (save in the definitions "Act" and "Parliament" in this subsection) includes an Act of the Parliament and subsidiary legislation made under such Act;

"Parliament"-

(a) in an Ordinance, or a public document made or issued before the ninth day of December, 1961, means the Parliament of the United Kingdom and "Imperial Parliament" has the same meaning;

(b) in an Act of the Parliament -of Tanganyika or of the United Republic, or a public document made or issued after the eighth day of December, 1961, or in an Act of the Constituent Assembly of Tanganyika, means the Parliament of the United Republic (and when used 'in the the expression "Act of Parliament" includes a reference to the Constituent Assembly of Tanganyika);

"Principal Secretary" means a person appointed by the President to be a Principal secretary. and reference in any Act to Permanent Secretary shall be construed as reference to Principal Secretary, " person" 'includes any body of persons whether corporate or unincorporate;

Cap. 322

"police officer" means any member of the Police Force of and above the rank of constable as defined in the Police Force Ordinance;

"prescribed" means prescribed by the Act in which the word occurs or by any subsidiary legislation made thereunder;

"President" means the President of the United Republic, and includes any person performing the functions of the President under section 9 of the Constitution;

"public holiday" means any day which is declared to be or proclaimed as a public holiday;

" public officer" or "public department" extends to and includes every officer or department invested' with or performing duties of a public nature, whether under the immediate control of the President or not, and includes an officer 'or department under the control of a local authority, the Community, or a public corporation;

Cap. 212

"public corporation" means a body corporate established by or under any written law, other than the Companies Ordinance, and includes a corporation sole so established;

" public seal" means the public Seal of the United Republic;

"Region" means any part of Tanganyika proclaimed or deemed to be proclaimed by the President under section 51 of this Act to be a region;

"Regional Commissioner" means a person appointed by the President to be a regional commissioner, and "the Regional Commissioner" means the regional commissioner of the region concerned;

" repeal" includes revocation;

"The Republic" means the Republic of Tanganyika and includes the United Republic;

"resident magistrate" includes senior resident magistrate;

it revenue officer" means an officer appointed by the Principal Secretary to the Treasury to perform duties in connection with the collection of revenue of the United Republic;

"rules" includes by-laws and regulations,;

" rules of court", when used in relation to any court, means rules made by the authority having for the time being power to make rules or orders regulating the practice and procedure of such court;

"service" where an act authorizes or requires any document to be served on any person, whether the expression "serve", or the expression "give" or "send", or any other expression is used, then, unless a contrary intention appears, the service shall be effected by properly addressing and posting, after payment of appropriate charges, a letter containing the document, and, unless the contrary is proved, service shall be deemed to have been effected at the time at which the letter would be delivered in the ordinary course, -of post;

"sign" with its grammatical variations and cognate expressions, includes, with reference to a person who is unable to write his name, "mark", with its grammatical variations and cognate expressions;

"statutory declaration", if made—

(a) in Tanganyika, means a declaration made under the Oaths (Judicial Proceedings and Statutory Declarations) Act, 1966;

Acts, 1966  
No. 59

(b) in any other Commonwealth country, means a declaration on oath made before a justice of peace, notary public, or other person, having authority therein under any law for the time being in force to take or receive a declaration;

(c) in any other country, means a declaration on oath made before a Foreign Service Officer having authority under any written law to administer oath, or before any other person who may, for the time being, be specified by the Minister responsible for legal affairs by an Order in the *Gazette*;

"subsidiary legislation" means any order, proclamation, rule, rule of court, regulation, order, notice, by-law or instrument made under any Act or other lawful authority;

"territorial waters" means any territorial or inland waters of the United Republic-

"the Territory" means Tanganyika;

"the Treaty" means the Treaty for East African Co-operation set out in the Schedule to the Treaty of the East African Co-operation (Implementation) Act, 1967 and as amended from time to time;

Acts, 1967  
No. 42

"the Union Day" means the 26th day of April, 1964;

"United Kingdom" means Great Britain and Northern Ireland;

"the United Republic" means-

(a) for the period subsequent to 11th December, 1964, the United Republic of Tanzania;

(b) for the period commencing on Union Day and expiring on 11th December, 1964, the United Republic of Tanganyika and Zanzibar;

"Vice-President" means, a Vice-President of the United Republic;

"will" includes codicil-,

"writing", and any expression referring to writing include printing, lithography, typewriting, photography and other modes of representing or reproducing words in visible form;

"written law" means all Acts and Acts of the Community (including subsidiary legislation) and includes all applied laws.

(2) (a) Words connoting the masculine gender include feminine gender.

(b) Words in the singular include the plural, and words in the plural include the singular.

(3) References in any Act to any provision of that Act or any other Act shall be construed as references to the relevant chapter, part, section, subsection, or a portion of a section or subsection of that Act or, as the case may be, the other Act.

(4) In any Act or public document made on or after the Union Day, unless the context otherwise requires-

"Tanganyika" or "the Territory" used in a geographical sense means the territories formerly comprising the Republic of Tanganyika;

"Zanzibar" used in a geographical sense means the territories formerly comprising the Peoples Republic of Zanzibar.

(5) The expression "registrar" wherever it occurs in any Act meaning the Registrar of the High Court shall, unless the context otherwise requires, be deemed with effect from the first day of August, 1951, to have included and to include a District Registrar of the said Court.

(6) The expression "Administrator-General" wheresoever it occurs in any Act includes, unless the context otherwise requires, an Assistant Administrator-General.

(7) Where any word or expression is defined in this or in any other Act, such definition shall, unless the context otherwise requires, extend, *mutatis mutandis*, to the grammatical variations and cognate expressions of such word or expression.

(8) References in any Act or applied law enacted prior to 1950 to "British Dominions" shall include references to the Republic of Ireland and to the Republic of India.

Application  
of Acts to  
Zanzibar

4.-(1) No Act shall extend to Zanzibar as part of the law of Zanzibar unless-

(a) the Act is expressed to "tend to Zanzibar or expressly amends, modifies, revokes or repeals a law of Zanzibar; or

Cap. 557

(b) the Act amends, modifies, revokes or repeals a law of Tanganyika which was extended to Zanzibar by or under Acts of Union of Tanganyika and Zanzibar, 1964, or any other Act which is "pressed to extend to Zanzibar.

(2) This section shall not apply to subsidiary legislation unless such subsidiary legislation is made in exercise of power conferred by an Act-

- (a) the whole of which extends to Zanzibar; or
- (b) which expressly extends to Zanzibar the provisions conferring such power.

### PART III

#### PROVISIONS RELATING TO ACTS

**5.** In sections 6, 7, 8, 9, 10, 15, 16, and 25 "Act" shall not include subsidiary legislation. Construction

**6.** Every Act shall be a public document and shall be judicially noticed as such, unless the contrary is expressly provided by the Act. Acts to be public Acts

**7.**-(1) If a Bill is passed by the National Assembly in the exercise of the power contained in section 51 of the Constitution, the Speaker of the National Assembly, the Deputy Speaker of the National Assembly or the Clerk of the National Assembly shall, before the Bill is presented to the President for his assent, certify that the Bill has been so passed, and such certificate shall be in the following form: - Bills passed under section 51 of constitution

"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.

(Signed) .....

(Designation) ..... 99

(2) A copy of any such certificate printed at the end of any copy of an Act purporting to have been printed or published by the Government Printer, shall be *prima facie* evidence of the facts stated therein.

**8.** Every section of an Act shall take effect as a substantive enactment without introductory words. Sections to be substantive enactments

**9.** When any Act is referred to, it shall be sufficient for all purposes to cite such Act either by the short title, if any, by which it is made citable, or by the year in which it was enacted and its number among the Acts of that year, or in the case of the revised edition of the Acts issued under any Act providing for the issue of a revised edition, by its short title or its number; and the reference may in all cases be made according to the copies of Acts printed by the Government Printer. Mode of citing Acts

**10.**-(1) When any Act or part of an Act is expressed as having come, or as coming into, operation on a particular day, it shall be deemed to have come or shall come into operation immediately on the expiration of the day next preceding such day. Time when Act or instrument comes into operation

(2) Subject to the provisions of subsection (1) every Act shall come into operation on the date of its publication in the *Gazette* or, if it is provided either in such Act or any other written law that it shall come into operation on some other date, on that date.

|   |  |
|---|--|
| Where date of commencement to be appointed by president or Minister | <p><b>11.</b> Where it is provided to any Act that it shall come into operation on such date as the President or a Minister may by notice in the <i>Gazette</i> appoint, and the President or the Minister has by a notice in <i>Gazette</i> appointed such date, it shall be lawful for the President, or as the case may be, the Minister, at any time before the date so appointed, by a subsequent notice, to revoke the previous appointment and appoint another date.</p>  |
| Repeal of a repealing enactment                                     | <p><b>12.</b> Where an Act repeals a repealing enactment, it shall not be construed as reviving any enactment previously repealed, unless words are added reviving that enactment.</p>   |
| Repeal and substitution   | <p><b>13.</b> Where an Act repeals wholly or partly any former enactment and substitutes provisions for the enactment repealed, the repealed enactment shall remain in force until the substituted provisions come into operation.</p>   |
| Effect of repeal  | <p><b>14.</b> Where an Act repeals any provision of another Act, then unless the contrary intention appears, the repeal shall not-</p> <ul style="list-style-type: none"> <li>(a) revive anything not in force or existing at the time at which the repeal takes effect; or</li> <li>(b) affect the previous operation of the provision so repealed or anything duly done or suffered under the provision so repealed; or</li> <li>(c) affect any right, privilege, obligation or liability acquired, accrued, or incurred under the provision so repealed; or</li> <li>(d) affect any penalty, forfeiture, or punishment incurred in respect of any offence committed against the provision so repealed; or</li> <li>(e) affect any investigation, legal proceedings, or remedy in respect of any such right, privilege, obligation, liability, penalty, forfeiture, or punishment as aforesaid; and any such investigation, legal proceedings, or remedy may be instituted, continued or enforced, and any such penalty, forfeiture, or punishment may be imposed as if the repealing Act had not been enacted.</li> </ul> |
| Effect of repeal of Act on Subsidiary legislation                   | <p><b>15.</b> Where any Act or part of an Act is repealed and reenacted by another Act, subsidiary legislation made under the Act or part of the Act so repealed shall, unless a contrary intention appears, remain in force, so far as it is not inconsistent with the provisions of the repealing Act, until such subsidiary legislation is revoked by subsidiary legislation made under the Act or part of the Act so re-enacted, and until such revocation shall be deemed to have been lawfully made under the provisions so re-enacted.</p>  |
| Act may be altered or repealed in same session                      | <p><b>16.</b> An Act may be altered, amended, or repealed in the session of the National Assembly in which it was passed.</p>  |
| Construction of amending Act with amended Act                       | <p><b>17.</b> Where one Act amends another Act the amending Act shall, so far as it is consistent with the tenor thereof, and unless the contrary intention appears, be construed as one with the amended Act.</p>   |

**18.** Where an Act has been amended, it shall be lawful for the Government Printer, with the authority of the Attorney-General, to print copies of the Act with all the necessary additions, omissions, substitutions and amendments effected by the amending Act or Acts and such copies shall be deemed to be authentic copies of the Act so amended.

Reprint of amended Act

**19.** Where in an Act a reference is made to any written law such reference shall, except where the context otherwise requires, be deemed to be a reference to such written law as the same may from time to time be amended.

Reference to amended written laws

**20.** Where any Act contains any reference to any provision of any written law which is duly repealed and re-enacted, or an authentic revised version of which is published, such reference shall be construed as reference to the corresponding provision of the Act so re-enacted or, as the case may be, revised.

Cross-references where written law re-enacted or revised

**21.** Where there is any clerical or printing error in any Bill or Act published in the *Gazette*, the Attorney-General or any member of the Attorney-General's Chambers authorized in writing in that behalf by the Attorney-General, may, by order in the *Gazette*, give directions as to the rectification of such error and every such direction shall be read as one with the Bill or Act to which it relates and such Bill or Act shall, with effect from the date of its first publication, take effect as so rectified.

Rectification of errors

**22.** Every Act of the United Kingdom or of India extended or applied to Tanganyika shall be read with such formal alterations as to names, localities, courts, officers, persons, moneys, penalties and otherwise as may be necessary to make the same applicable to the circumstances for the time being obtaining in Tanganyika.

Applied laws to be read with necessary modifications

**23.**-(1) Where by or under any Act any function is conferred upon a public officer, the Principal Secretary, President's Office, may direct that if, during any period, owing to the absence or inability to act from illness or any other cause, such public officer shall be unable to perform such function, the function may be performed by the person named by, or by the public officer holding the office designated by, the Principal Secretary, President's Office-, and thereupon such person or public officer, during any period as aforesaid, shall perform the function aforesaid, subject to such conditions, exceptions and qualifications as the Principal Secretary, President's Office may direct.

Execution of duties of public officer by another public officer

(2) When under any Act functions are conferred on the Attorney-General, such functions, may, in the absence of express provisions to the contrary and subject to any general or special directions which the Attorney-General may give in that behalf, be performed or exercised by any member of the Attorney-General's Chambers designated by the Attorney-General by notice published in the *Gazette*.

Construction of provisions as to exercise of powers and duties

**24.**-(1) Where an Act confers a power or imposes a duty, then unless the contrary intention appears, the power may be exercised and the duty shall be performed from time to time as, occasion requires.

(2) Where an Act confers a power or imposes a duty on the holder of an office, as such, then, unless the contrary intention appears, the power may be exercised and the duty shall be performed by the holder of the office for the time being or by person duly appointed to act for him.

(3) Where an Act confers a power or imposes a duty on the holder of an office—

- (a) if the designation of that office is subsequently changed, the power or duty shall be deemed to have been conferred on the holder of the office as newly designated;
- (b) if the office is abolished, and the duties previously attaching to that office, or any of them, are vested in the holder of another office, the Principal Secretary, President's Office may by notice in the *Gazette*, confer the power or duty on the holder of such other office, and the notice may be given retrospective, effect from the date on which the first named office was abolished.

Exercise of statutory power between passing and commencement of Act

**25.** Where an Act which is not to come into operation immediately on its enactment, confers power to make any appointment or to make or issue any subsidiary legislation, or to do any other act or thing for the purposes of the Act, such power may, unless the contrary intention appears, be exercised at any time after the enactment of the Act so far as may be necessary or expedient for the purpose of bringing the Act into operation at the date of the commencement thereof, subject to the restriction that any appointment, subsidiary legislation, or other act or thing, made, issued, or done, under such power shall not, unless the contrary intention appears in the Act, or unless such appointment, subsidiary legislation or act of thing is necessary for the bringing of the Act into operation, have any effect until the Act comes into operation.

#### PART IV

##### SPECIAL PROVISIONS RELATING TO SUBSIDIARY LEGISLATION

Publication of subsidiary legislation

**26.** All subsidiary legislation shall, unless it is otherwise expressly provided in the Act, or relates to the appointment of any person to any office or relates to any matter not having legislative effect, be published in the *Gazette* and shall be judicially noticed.

Commencement of subsidiary legislation

**27.** Any subsidiary legislation published in the *Gazette* shall come into force on the date of such publication or, if it is provided either in the subsidiary legislation or in the Act that such subsidiary legislation or any provisions thereof shall come into force on some other date, such subsidiary legislation or, as the case may be, such provisions thereof shall, subject to section 28, come into force on such other date.

**28.** Any subsidiary legislation may be made to operate retrospectively to any date, not being a date earlier than the commencement of the Act under which it is made:

Retrospective operation of subsidiary legislation

Provided that no person shall, unless it is otherwise expressly provided in the Act, be made or become liable to any penalty whatsoever in respect of any act committed or of the failure to do anything before the date on which such subsidiary legislation is published in the *Gazette*.

**29.** Where any Act confers powers to make any subsidiary legislation, expressions used in the subsidiary legislation shall, except where a contrary intention appears, have the same meaning as in the Act conferring the power, and any reference in such subsidiary legislation to "the Act" shall mean the Act conferring the power to make such subsidiary legislation.

Construction of subsidiary legislation

**30.** An act or thing done under or by virtue of, or in pursuance of, any subsidiary legislation shall be deemed to have been done under or by virtue of or in pursuance of the Act conferring power to make the subsidiary legislation.

Acts done under subsidiary legislation deemed done under enabling Act  
Citation of subsidiary legislation

**31.** Subsidiary legislation may be cited by reference to the short title, if any, thereto or by reference to the number of the notice under which it appeared in the *Gazette*.

**32.** Where any Act confers powers on any authority to make subsidiary legislation, the following provisions shall, unless a contrary intention appears, have effect with reference to the making of such subsidiary legislation –

Provisions with respect to power to make subsidiary legislation

- (a) when any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made or issued in exercise of all other powers thereunto enabling;
- (b) any provision of any subsidiary legislation which is inconsistent with any provision of the Act under which it is made shall be void to the extent of the inconsistency;
- (c) subsidiary legislation may at any time be amended, revoked or replaced by the same authority and in the same manner by and in which it is made:

Provided, that where such authority has been replaced wholly or in part by another authority, the power conferred hereby upon the original authority may be exercised by the replacing authority concerning all matters or things within its jurisdiction as if it were the original authority;

- (d) where any Act confers power on any authority to make subsidiary legislation for any general purpose., and also for any special purposes incidental thereto, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;

- (e) there may be annexed to the breach of any subsidiary legislation such penalty, not exceeding seven thousand shillings or such term of imprisonment not exceeding two years, or both such fine and such imprisonment, as the authority making the subsidiary legislation may think fit.

Fees

**33.** (1) Where any Act confers power on any person to make subsidiary legislation and to make provisions therein in respect of fees or other charges, such subsidiary legislation may provide for all or any of the following matters-

- (a) specific fees or charges;
- (b) maximum or minimum fees or charges;
- (c) maximum and minimum fees or charges;
- (d) the payment of fees or charges either generally or under specified conditions or in specified circumstances; and
- (e) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

(2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for, such reduction, waiver or refund may be expressed to apply or be applicable either generally or specifically-

- (a) in respect of certain matters or transactions of classes of matters or transactions,
- (b) in respect of certain documents or class of documents;
- (c) when any event happens or ceases to happen;
- (d) in respect of certain persons or classes of persons; or
- (e) in respect of certain matters or transactions of classes of documents, events or persons,

and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified therein.

## PART V

### GENERAL PROVISIONS

Effect of appointment when retiring officer on leave

**34.** When a substantive holder of any office created under any Act is on leave of absence pending relinquishment of his office, it shall be lawful for another person to be appointed substantively to the same office.

Appointment of officers by name of office

**35.** Where by or under any Act the, President or a Minister, a public officer or other authority is empowered to appoint or name a person to have and exercise any powers or perform any duties, the President or such Minister, public officer or authority may either appoint a person by name or direct the person for the time being

holding the office designated by the President or by such Minister, public officer or authority to have and exercise such powers and perform such duties; and thereupon or from the date specified by the President or such Minister, public officer or authority, as the case may be, the person appointed by name or the person holding the office aforesaid shall have and may exercise such powers and perform such duties accordingly.

36. Where by or under any Act a power or duty is conferred or imposed upon any person to make any appointment or to constitute or establish any board, commission, committee or similar body, then unless a contrary intention appears, the person having such power or duty shall also have the power to remove, suspend, dismiss or revoke the appointment of, and to reappoint or reinstate, any person appointed in the exercise of the power or duty, or to revoke the appointment, constitution or establishment of, or dissolve, any board, commission, committee or similar body appointed, constituted or established, in exercise of such power or duty, and to reappoint, reconstitute or re-establish the same:

Power to appoint to include power to suspend, dismiss, etc and to re-appoint. etc

Provided that where under such Act the power or duty of such person so to act is exercisable only upon the recommendation, or is subject to the approval or consent, of some other person, then the power conferred by this section shall, unless a contrary intention appears, be exercisable only upon such recommendation or subject to such approval or consent or after such consultation.

37. Where by or under any Act power is conferred on any person or authority to appoint any board, commission, committee, or similar body, such person or, as the case may be, authority may, unless the contrary intention appears, appoint or provide, by regulations, for the appointment of, a chairman, a deputy chairman and a secretary of such board, commission, committee, or similar body.

Power to appoint chairman, etc., of boards, etc

38.-(1) Where under any Act a power or duty is conferred or imposed upon any person or authority (hereinafter in this section referred to as "the appointing authority") to appoint a member of, a statutory board, the appointing authority shall, if no provision is made in such Act for the appointment of an alternate member and if no contrary intention appears, have the power to appoint an alternate member in respect of each substantive member appointed by such appointing authority.

Power to appoint alternate members on statutory boards

(2) Every alternate member appointed under this section-

- (a) shall be appointed in the same manner and for the same term of office as the member to whom he is an alternate;
- (b) may participate in the meeting of the statutory board of which he is appointed as an alternate member but shall not be entitled to vote at any such meeting save in the absence from such meeting of the substantive member to whom he is an alternate.

(3) For the purpose of this; section "statutory board" means any body of persons, whether corporate or unincorporate, established by or under any written law, but does not include the National Assembly or a local authority.

Power of boards etc., not affected by vacancy

**39.** Where by or under any Act any board, commission, committee, or similar body, whether corporate, or unincorporate is established, then unless the contrary intention appears, the powers of such board, commission, committee, or similar body, shall not be affected by-

- (a) any vacancy in the membership thereof;
- (b) the fact that it is afterwards discovered that there was some defect in the appointment or qualification of a person purporting to be a member thereof.

Signification of majority to act

**40.** (1) Save as is otherwise expressly provided by any Act, where any act or thing may or is required to be done by more than two persons, a majority of them may do it.

(2) Subject to any provisions relating to quorum, the decision of the majority of the members of any board, commission, committee or other body of persons established by or under any Act shall, unless the contrary intention appears, be deemed to be the decision of such body.

Who shall affix the common seal of a body corporate

**41.** Where by any Act a committee, board or other body of persons is constituted to be a body corporate having perpetual succession and a common seal, then the seal on any document which requires to be sealed with the common seal of such Committee, Board or any other body of persons, such seal shall, except where other legal provisions are made in that behalf, be affixed by the chairman, vice-chairman, General Manager or secretary of the committee, board or other body of persons and authenticated by his signature.

Reference to an area by designation

**42.**-(1) Where an Act applies or refers to any area of the United Republic by a particular designation it shall apply or refer, as the case may be, to the area so designated as from time to time defined, delimited or described unless otherwise provided.

(2) Where the designation of any such area is changed, all reference in any written law to such area by its previous designation shall be construed as references, to the area as so re-designated.

Computation of time

**43.** In computing time for the purposes of any Act, unless the contrary intention appears-

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done, or where such event takes place or such act or thing is done in two or more days, of all such days;
- (b) if the last day of the period is Sunday or a public holiday (which days are in this section referred to as excluded days) the period shall include the next following day, not being an excluded day;

- (c) when any act or proceeding is directed or allowed to be done or taken on a certain day, then if that day happens to be an excluded day, the act or proceeding shall be considered as done or taken in due time if it is done or taken on the next day following, not being an excluded day;
- (d) when an act or proceeding is directed or allowed to be done or taken within any time not exceeding six days, excluded days shall not be reckoned in the computation of tile time.
- 44.** Save as is otherwise expressly provided, whenever forms are prescribed, deviations therefrom not affecting the substance and not calculated to mislead, shall not vitiate them. Deviations from forms
- 45.** No Act shall in any manner whatsoever bind or otherwise affect the rights of the United Republic unless it is therein expressly provided, or unless it appears by necessary implication that the United Republic is bound thereby. Rights of the Government
- PART VI**
- LEGAL PROCEEDINGS AND PENALTIES
- 46.** Any civil or criminal proceedings taken by or against any person by virtue of his office shall not be discontinued or abate by his death, resignation or absence or removal from office, but may be carried on by or against, as the case may be, the person for the time being holding that office. Ex-officio proceedings not to be abate on death
- 47.** The imposition of a penalty or fine by or under the authority of any Act shall not, in the absence of express provisions to the contrary, relieve any person from liability to answer for damages to any person , injured. Imposition of penalty not bar to civil action
- 48.** Where any act constitutes an offence under two or more Acts, the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of such Acts, but shall not be liable to be punished more than once for the same offence. Provisions as to offences under two or more Act
- 49.** Where an act constitutes an offence, and the penalty for such offence is amended between the time of the commission of such of offence and the conviction therefore, the offender shall, unless the contrary intention appears, be liable to the penalty prescribed at the time of the commission of such offence. Amendment of penalty
- 50.**-(1) Where in any Act a penalty is prescribed for an offence under that Act, such provision shall, unless a contrary intention appears, mean that the offence shall be punishable by a penalty not exceeding the penalty prescribed. Penalties prescribed to be maximum penalties, but may be cumulative
- (2) Where in any Act two or more penalties are prescribed for an offence, the use of the word "and" shall, unless a contrary intention appears, mean that the penalties may be inflicted alternatively or cumulatively.
- 51.** A provision in any Act which constitutes an offence shall, unless a contrary intention appears, be deemed to provide also that an attempt to commit such offence shall be an offence under such provision, punishable as if the offence itself had been committed. Provision as to attempts

(3) Every proclamation made under section 45 of the Interpretation and General Clauses Ordinance or deemed by that section to have been made thereunder, and in force immediately before the commencement of this Act shall continue in force until amended, revoked or replaced by a proclamation under this section. Cap. 1

### PART VIII

#### REPEAL

**58.** The Interpretation and General Clauses Ordinance is repealed. Repeal

**59.** Any subsidiary legislation made under the Interpretation and General Clauses Ordinance shall continue in force as subsidiary legislation made under the corresponding provision of this Act. savings

Passed in the National Assembly on the sixteenth day of November, 1972.

