

## THE UNITED REPUBLIC OF TANZANIA

No. 12

2<sup>nd</sup> December, 2022

## ACT SUPPLEMENT

To The Gazette of the United Republic of Tanzania No. 45 Vol. 103 Dated 2<sup>th</sup> December, 2022  
 Printed by The Government Printer, Dodoma by Order of Government

THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS) (NO. 3)  
 ACT, 2022

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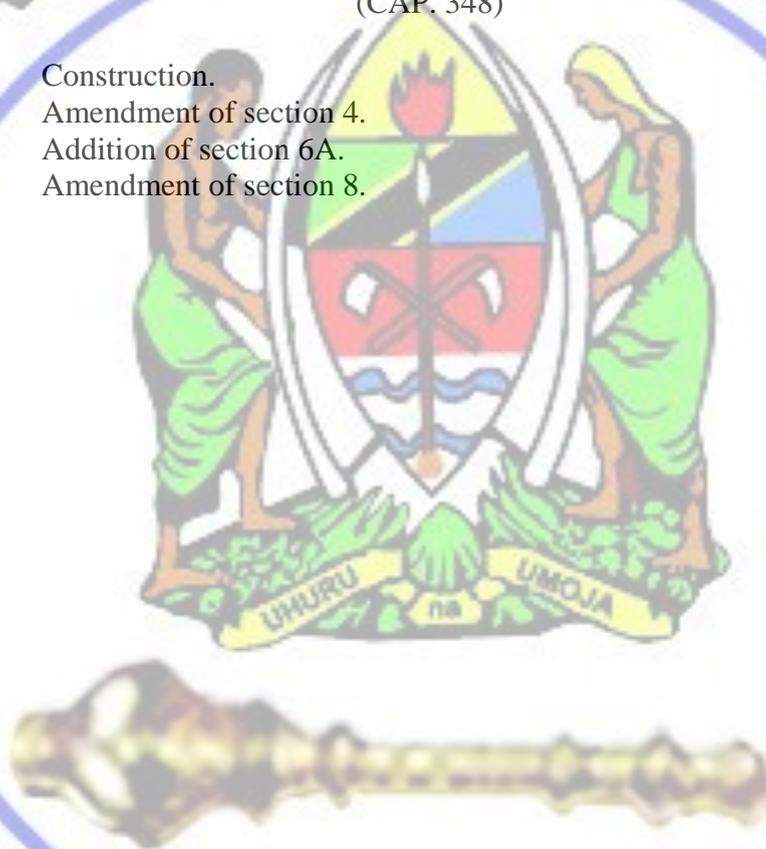
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THE UNITED REPUBLIC OF TANZANIA



NO.12 OF 2022

I ASSENT

SAMIA SULUHU HASSAN

.....  
*President*

27<sup>TH</sup> NOVEMBER 2022  
.....

**An Act to amend certain written laws.**

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, 2022.

Amendment of certain written laws

**2.** The written laws specified in various Parts of this Act are amended in the manner specified in their respective Parts.

**PART II  
AMENDMENT OF THE ANTIQUITIES ACT,  
(CAP. 333)**

Construction

**3.** This Part shall be read as one with the Antiquities Act hereinafter referred to as the “principal Act”.

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General amendment

**4.** The principal Act is amended generally by deleting the word “Council” wherever it appears and substituting for it the word “Committee”.

Amendment of section 2

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

(a) deleting the word “Tanzania” wherever it appears in the definition of the term “monument” and substituting for it the word “Tanganyika”; and

(b) adding in the appropriate alphabetical order the following definition:

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““Board of the National Museum” means the Board of the National Museum of Tanzania established under the National Museum of Tanzania Act;”.

Amendment of section 4

**6.** The principal Act is amended in section 4 by deleting subsection (1) and substituting for it the following:

“(1) The Director or any other person authorised by him may, at all reasonable times, enter and inspect any monument.”.

Amendment of section 5

**7.** The principal Act is amended in section 5(2) by adding the words “or Director General of the National Museum of Tanzania” immediately after the word “Director” appearing in paragraphs (a) and (b).

Amendment of section 8

**8.** The principal Act is amended in section 8(2) by deleting the words “Trustees of the Museum” and substituting for them the words “Board of the National Museum”.

Amendment of section 10

**9.** The principal Act is amended in section 10, by-

(a) adding the words “or Director General of the National Museum of Tanzania” immediately after the word “Director” appearing in subsection (2); and

(b) deleting the words “Trustees of the Museum” appearing in subsection (3) and substituting for

them the words “Board of the National Museum”.

Amendment  
of section 11

- 10.** The principal Act is amended in section 11(1), by-
- (a) deleting the words “or a person acting on his behalf” appearing in the opening phrase and substituting for them the words “, Director General of the National Museum of Tanzania or persons acting on their behalf;” and
  - (b) deleting the word “Director” appearing in paragraph (c) and substituting for it the words “Director General of the National Museum of Tanzania”.

Amendment  
of section 12

- 11.** The principal Act is amended in section 12 by deleting the word “Director” wherever it appears in that section and substituting for it the words “Director General of the National Museum of Tanzania”.

Amendment  
of section 13

- 12.** The principal Act is amended in section 13 by deleting the word “Director” wherever it appears in that section and substituting for it the words “Director General of National Museum of Tanzania”.

Amendment  
of section 17

- 13.** The principal Act is amended in section 17, by-
- (a) deleting the word “Director” wherever it appears in subsections (4) and (5) and substituting for it the words “Director General of the National Museum of Tanzania”; and
  - (b) deleting the words “Trustees of the Museum” appearing in subsection (6) and substituting for them the words “Board of the National Museum”.

Addition of  
section 17A

- 14.** The principal Act is amended by adding immediately after section 17 the following:

“Operation of  
private museum

17A.-(1) A person who intends to operate, control or manage a museum under this Act shall apply for registration to the Director in a

prescribed form.

(2) The procedures and requirements for registration of a museum shall be prescribed in the rules made under this Act.

(3) A person who operates or undertakes any activity relating to operation, control and management of a museum without registration commits an offence and shall, upon conviction, be liable –

(a) in the case of an individual, to a fine of not less than one million shillings but not exceeding five million shillings or to imprisonment for a term of not less than three months but not exceeding one year or to both; and

(b) in the case of a body corporate, to a fine of not less than twenty million shillings but not exceeding forty million shillings.”.

Amendment  
of section 18

**15.** The principal Act is amended in section 18 by deleting the word “Conservator” appearing in paragraph (b) and substituting for it the word “Director”.

Amendment  
of section 20

**16.** The principal Act is amended in section 20 by deleting subsection (1) and substituting for it the following:  
“(1) There is hereby established a Committee to be known as the National Antiquities Advisory Committee.”

Amendment  
of section 23

**17.** The principal Act is amended in section 23 by deleting the word “Director” appearing in subsections (1) and (2) and substituting for it the words “Director General of the National Museum of Tanzania”.

Repeal and  
replacement  
of section 27

**18.** The principal Act is amended by repealing section 27 and replacing for it the following:

“Penalty

27. A person who commits an offence under this Act shall, upon conviction, be liable-

- (a) in case of an offence under section 4(2), 11(2), 14(2), 15(4), 17(3) or 23(2), to a fine of not less than five million shillings but not exceeding twenty million shillings or to imprisonment for a term of not less than one year but not exceeding five years or to both; and
- (b) in case of an offence under section 10(5), to a fine of not less than one million shillings but not exceeding three million shillings or to imprisonment for a term of not less than six months but not exceeding one year or to both.”

Amendment of  
Schedule

**19.** The principal Act is amended in the Schedule by deleting paragraph 1 and substituting for it the following:

“Composition  
of Committee

**1.-(1)** The Committee shall consist of-

- (a) a Chairman who shall be appointed by the Minister;
- (b) the Director of Antiquities;
- (c) the Director of the National Museum of Tanzania;
- (d) the head of department of archaeology and heritage studies appointed by the Minister from a recognized university in Tanzania;
- (e) the Director General of the Tanzania Commission for Science and Technology;

- (f) a stakeholder representing Non-Governmental Organisations dealing in heritage matters who shall be appointed by the Minister; and
- (g) a person with knowledge in heritage matters who shall be appointed by the Minister.

(2) The Permanent Secretary of the Ministry shall appoint an officer within the Ministry to be the secretary of the Committee;

PART III  
AMENDMENT OF THE BANKING AND FINANCIAL  
INSTITUTIONS ACT,  
(CAP. 342)

Constructions  
Cap. 342

**20.** This Part shall be read as one with the Banking and Financial Institutions Act, hereinafter referred to as the “principal Act”.

Amendment  
of section 3

**21.** The principal Act is amended in section 3 by deleting the definition of the terms “core capital” or “Tier 1 capital”, “supplementary capital” or “Tier 2 capital” and “total capital”.

Amendment  
of section 17

**22.** The principal Act is amended in section 17, by-

(a) deleting subsection (1) and substituting for it the following:

“(1) Every bank or financial institution shall commence operations with and maintain at all times a minimum capital as the Bank may prescribe.

(2) Every bank or financial institution shall at all times maintain capital as a percentage of risk weighted assets and off-balance sheet exposures at levels and in the manner as the Bank may prescribe.

(3) Without prejudice to subsection (2), the Bank may prescribe additional capital buffers.

(4) Every bank or financial institution shall maintain a leverage ratio as the Bank may prescribe.”; and

(b) renumbering subsections (2) and (3) as subsections (5) and (6), respectively.

Repeal and replacement of section 21

**23.** The principal Act is amended by repealing section 21 and replacing it with the following:

“Liquidity ratios

21.-(1) Every bank or financial institution shall maintain minimum liquidity ratios at levels prescribed by the Bank.

(2) The Bank may impose on any bank or financial institution which fails to maintain the minimum liquidity ratio prescribed pursuant to this section, a penalty charge of not less than two percentage points at an annual rate above the interest rate prevailing in the most recent ninety-one day Treasury Bill auction on the amount of the deficiency, and the penalty charge may be recovered by deduction from any balance of, or moneys owing to the bank or financial institution concerned, or by way of summary suit under Order XXXV of the Civil Procedure Code.”

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Amendment of section 25

**24.** The principal Act is amended in section 25 by deleting the words “twenty five percent of the core capital of the bank or financial institution, or three percent of core capital for a financial institution that is a micro-finance company” appearing in subsection (1) and substituting for them the words “a percentage of the capital of the bank or financial institution at the level prescribed by the Bank”.

Amendment of section 28

**25.** The principal Act is amended in section 28 by deleting subsection (2) and substituting for it the following:

“(2) The limitation under subsection (1) may

include-

- (a) limiting an investment in an entity to a specified percentage of that entity's share capital;
- (b) limiting an investment in an entity to a percentage of the capital of the bank or financial institution making the investment at the level prescribed by the Bank; and
- (c) limiting the aggregate amount of such investments that a bank or financial institution may hold.”.

PART IV  
AMENDMENT OF THE CAPITAL MARKETS AND SECURITIES  
ACT,  
(CAP. 79)

Construction  
Cap. 79

26. This Part shall be read as one with the Capital Markets and Securities Act, hereinafter referred to as the “principal Act”.

Addition of  
section 134A

**27.** The principal Act is amended by adding immediately after section 134 the following:

“Responsibilities  
of issuer of  
securities

134A.-(1) An issuer of securities shall-

- (a) submit for the Authority’s approval any announcement concerning meetings of shareholders, any announcement on corporate actions or timetable for corporate actions affecting the rights of existing shareholders or price of share of the issuer;
- (b) when conducting statutory meetings as required under the Companies Act, invite the Authority to attend the meeting as an observer to enable it to monitor the participation of shareholders in the decision making process;
- (c) ensure minority shareholders are represented in the Board of Directors of the issuer; and
- (d) comply with corporate governance principles as may be prescribed by the Authority.

“(2) An issuer of securities who fails to comply with the requirements of subsection (1) shall be subject to any directive or condition as the Authority may

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issue in terms of section 10.”.

**PART V  
AMENDMENT OF THE MINING ACT,  
(CAP. 123)**

Construction  
Cap. 123

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

Amendment  
of section 7

**29.** The principal Act is amended in section 7(1),  
by-

(a) adding immediately after the opening phrase of paragraph (d) the following:

“(i) a primary processing licence;”;

(b) renaming subparagraphs (i) to (iii) as subparagraphs (ii) to (iv) respectively.

Amendment  
of section 15

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

(3) Without prejudice to subsection (1), the Minister may, within four months from the date of cessation of a mineral right and subject to the prescribed regulations, cause any vacant area other than a reserved area to be reverted to the Government.

(4) An area reverted to the Government pursuant to subsection (3) shall be held by the holder of shares of the Government issued in accordance with section 10 who shall be issued with a certificate of revisionary mineral rights.

(5) The procedure and other matters relating to issuance of the certificate of revisionary mineral rights shall be prescribed in the regulations by the Minister.

(6) For the purpose of this section, “revisionary mineral rights” means mineral rights which revert to the Government upon cessation by operation of law, and includes

Amendment  
of section  
27A

by-

prospecting licence, retention licence,  
mining licence or special mining licence.

**31.** The principal Act is amended in section 27A,

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

“(3) Notwithstanding subsection (2), the Geological Survey of Tanzania may, for the purpose of obtaining mineral resources estimation on areas to be reverted to the Government pursuant to section 15(3), conduct strategic prospecting and exploration.”; and

(b) renumbering subsections (3) and (4) as subsections (4) and (5) respectively.

Amendment  
of section 32

by-

**32.** The principal Act is amended in section 32(1),

(a) adding immediately after paragraph (b) the following:

“(c) where an application for renewal has been made by the holder in the prescribed form, for the second period of renewal for which the applicant has applied, a period not exceeding two years;”;

(b) deleting paragraph (d) and substituting for it the following:

“(d) where a prospecting licence is no longer renewable, the prospecting area shall revert to the Government and be dealt with in accordance with section 15”;

(c) renaming paragraphs (c) to (e) as paragraphs (d) to (f) respectively.

Amendment  
of section 55

**33.** The principal Act is amended in section 55 by adding immediately after subsection (4) the following:

“(5) A holder of a primary mining licence shall commence mining operations within a period of six months or such other

period as the licensing authority may permit from the date of the grant of the licence.”.

Addition of section 60A

**34.** The principal Act is amended by adding immediately after section 60 the following:

“Application for primary processing licence

60A.-(1) A person who intends to conduct ball mill operations or sluicing shall apply to the Commission for a primary processing licence.

(2) A licence issued under this section shall be valid for a period of one year and may be renewable.

(3) Conditions and procedures for grant of primary processing licence shall be as prescribed in the regulations.”.

Amendment of section 129

**35.** The principal Act is amended in section 129, by-

(a) in subsection (2), by-

(i) adding immediately after paragraph (v) the following:

“(w) procedure for determination of equivalent sum as provided under subsection (6);”;

(ii) renaming paragraphs (w) and (x) as paragraphs (x) and (y) respectively; and

(b) deleting subsection (6) and substituting for it the following:

“(6) Any regulations made under this Act may prescribe -

(a) in the case of breach of matters relating to local content, a fine not exceeding ten billion shillings or a sum equivalent to the amount of gain or profit made as a result of the breach, whichever is greater, or imprisonment for a term not exceeding three years or to both; and

(b) in any other case where no specific penalty is prescribed, a fine not exceeding one hundred and fifty million shillings or imprisonment for a term not exceeding two years or to both.”.

**PART VI**  
**AMENDMENT OF THE NATIONAL MUSEUM OF TANZANIA**  
**ACT,**  
**(CAP. 281)**

Construction  
Cap. 281

**36.** This Part shall be read as one with the National Museum of Tanzania Act, hereinafter referred to as the “principal Act”.

General  
amendment

**37.** The principal Act is amended generally by deleting the word “Director” wherever it appears and substituting for it the words “Director General”.

Amendment  
of section 2

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

- (a) deleting the words “National Culture” appearing in the definition of the term “Minister” and substituting for them the word “museum”;
- (b) deleting the definition of the term “National Museum of Tanzania” and substituting for it the following:

““National Museum of Tanzania” means the National Museum of Tanzania established under section 3;”;

- (c) inserting in the appropriate alphabetical order the following new definitions:

““monument” includes-

- (a) any building, fortification, interment, midden, dam or any structure erected, built or formed by human agency in Tanganyika before the year 1863;
- (b) any rock painting or any immovable object painted, sculptured, carved, incised or modified by human agency in Tanganyika before the year 1863;
- (c) any earthwork, trench, admit, well, cave, tunnel or other

modification of the soil or rock dug, excavated or otherwise engineered by human agency in Tanganyika before the year 1863, whether or not the monuments have been modified, added to or restored at a later date and whether or not it is included in a list published by the Director of Antiquities;

- (d) any site or immovable structure declared to be a monument under section 3; and
- (e) such adjoining land as may be required for the purposes of fencing, covering or otherwise preserving the monument;

“National Museum” means the museum declared by the Minister under section 4A;”.

Addition of section 3A

**39.** The principal Act is amended by adding immediately after section 3 the following:

“Functions of National Museum of Tanzania

**3A.** The functions of the National Museum of Tanzania shall be to-

- (a) identify, protect, preserve and transmit cultural and natural heritage of Tanzania;
- (b) conduct research and disseminate knowledge in the fields of scientific, cultural, technological and human evolution;
- (c) promote Tanzania cultural heritage resources in academic, social and economic development;

- (d) engage formal and informal education and lifelong learning, through development and transmission of knowledge, programmes and exhibitions;
- (e) interpret and disseminate knowledge on collections, monuments, conservation areas and sites within its specific areas of expertise and to organise exhibition as appropriate; and
- (f) perform any other functions necessary for the promotion, control and management of museums.”.

Amendment of section 4

**40.** The principal Act is amended in section 4, by-  
(a) deleting subsection (4); and  
(b) renumbering subsection (5) as subsection (4).

Addition of section 4A

**41.** The principal Act is amended by adding immediately after section 4 the following:

“Declaration of national museum

4A.-(1) The Minister may, upon recommendation of the Board and by notice published in the *Gazette*, declared any museum to be a national museum.

(2) The procedure for declaration of a national museum under this section shall be prescribed in the regulations.

(3) A museum declared under subsection (1) shall be under the National Museum of Tanzania.”.

Amendment of  
section 6

- 42.** The principal Act is amended in section 6, by-
- (a) designating the contents of section 6 as subsection (1); and
  - (b) adding immediately after subsection (1) as designated the following:

“(2) The Board may, with prior approval of the Minister and for effective implementation of the functions of the National Museum, invest any part of money available in the funds of the National Museum of Tanzania in such manner as the Board may deem fit.”.

Addition of  
section 11A

- 43.** The principal Act is amended by adding immediately after section 11 the following:

“Management  
and operations  
of monuments,  
conservation  
areas and sites

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11A.-(1) For the purposes of better preservation, protection and promotion of monuments, conservation areas or sites, the National Museum of Tanzania shall undertake the day to day management and operations of monuments vested to it in terms of the Antiquities Act.

(2) In implementing the responsibilities under subsection (1), the Director General may-

- (a) enter and inspect any monument, conservation area or site;
- (b) fence, repair, protect or preserve any monument, conservation area or site;
- (c) search and excavate for relics in any monument, conservation area or site and remove any relics undiscovered; or
- (d) implement anything or undertake any other responsibility as provided under the Antiquities Act.

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(3) Where a monument is a place of ordinary habitation or occupation, the Director General shall give the occupier not less than forty-eight hours' notice in writing of his intention to search and excavate for relics.

(4) Nothing in this section shall be construed to authorise-

(a) the exclusion of the owner or any person beneficially interested in a monument, conservation area or site or any person authorised by him, from any part of the monument, conservation area or site;

(b) the excavation of any monument or any search for relics in a monument, conservation area or site which is a place of ordinary habitation or occupation without the consent of the owner.

(5) Any person who willfully obstructs the Director General or any other person authorised by him in that behalf in the exercise of his powers under subsection (2) commits an offence.”.

Amendment  
of First  
Schedule

**44.** The principal Act is amended in the First Schedule, by-

(a) deleting paragraph 1 and substituting for it the following:

“Composition of Board

1. The Board shall consist of-
- (a) the Chairperson who shall be appointed by the President;
- (b) the Director of Antiquities;
- (c) five other members appointed by the Minister as follows:

- (i) a representative of higher learning institutions;
- (ii) a representative from the Tanzania Commission for Science and Technology;
- (iii) three other members appointed by the Minister.

(2) In appointing members under subparagraph 1(c), the Minister shall have regard to-

- (a) persons who have experience and proven knowledge in sciences or cultural heritage, tourism marketing, economics, financial matters, administration or education; and
- (b) gender.”.

(3) The Director General shall be the Secretary to the Board.”.

PART VII  
AMENDMENT OF THE PUBLIC FINANCE ACT,  
(CAP. 348)

Construction  
Cap. 348

**45.** This Part shall be read as one with the Public Finance Act, hereinafter referred to as the “principal Act”.

“Amendment  
of section 4

**46.** The principal Act is amended in section 4 by adding in the appropriate alphabetical order the following:

““public property” means an asset owned by a public sector entity other than moneys; and

“public sector entities” means Government ministries, departments, regional secretariat, local government authorities, regulatory authorities, public corporations, executive agencies, commercial entities owned by the Government and other public institutions;”.

Addition of  
section 6A

**47.** The principal Act is amended by adding immediately after section 6 the following:

“Oversight of  
public property

6A-(1) The Paymaster General shall be responsible for the oversight of public property in public sector entities.

(2) In overseeing public property, the Paymaster General shall-

(a) develop, monitor, evaluate and review implementation of guidelines relating to acquisition, maintenance, utilisation and disposal of public property;

(b) establish and maintain systems for oversight of public property;

- (c) analyse reports on accidents and losses of public property and process compensation claims;
- (d) manage public property disposal;
- (e) conduct verification and inspection of public property; and
- (f) be responsible for management of confiscated or forfeited property.”.

Amendment  
of section 8

48. The principal Act is amended in section 8 by deleting subsection (2) and substituting for it the following:

“(2) The Accountant-General shall be responsible to the Permanent Secretary for the compilation and management of the accounts and the custody and safety of the public moneys and for that purpose the Accountant-General may, in the manner prescribed by the Minister, and with prior consent of the Permanent Secretary, give such instructions of a general or specific character to accounting officers as may be necessary for the effective implementation of the purposes and provisions of this Act.”.

Passed by the National Assembly on the 2<sup>nd</sup> November, 2022.

NENELWA J. MWIHAMBI  
*Clerk of the National Assembly*