

THE UNITED REPUBLIC OF TANZANIA



No. 25 OF 2002

I ASSENT,

*Benjamin W. Mkapa*

President

*14<sup>th</sup> December, 2002.*

**An Act to amend certain Written Laws.**

[.....]

ENACTED by the Parliament of the United Republic of Tanzania.

1. This Act may be cited as the Written Laws (Miscellaneous Amendments) (No. 3) Act, 2002.

Short title

2. The laws set forth in columns 1 and 2 of the Schedule to this Act are hereby amended in the manner specified in column 3 of that Schedule.

Amendment of certain laws

COLUMN 1	COLUMN 2	COLUMN 3
Act No. 10 of 1998	The Trade Unions Act, 1998	The Trade Unions Act, 1998 is amended in the Schedule by deleting the word "three" which appears at the last line of paragraph 3 and substituting for it the word "five";
Act No. 8 of 1999	The National Health Insurance Fund Act, 1999	<p>The National Health Insurance Fund Act, 1999 is amended —</p> <p>(a) in section 2 by repealing that section and substituting for it the following:</p> <p>“Applica- tion            2.—(1) This Act shall apply to all public servants other than the following categories:</p> <ul style="list-style-type: none"><li>(a) a judge;</li><li>(b) a member of defence forces;</li><li>(c) a member of police force;</li><li>(d) a member of intelligence services;</li><li>(e) a member of a council, board, panel or committee; and</li><li>(f) a person holding office the emolument of which is payable at an hourly rate or daily rate.</li></ul> <p>(2) The Minister may, after consultation with the Board and by notice published in the <i>Gazette</i>, determine any other category of public servant to be a member of the Fund and the types of benefit package which may be granted to the beneficiary of the Fund”</p> <p>(b) in section 3, by deleting the definition of the words “civil servant” and substituting for it the following —</p> <p>“public servant” for purposes of this Act, extends to and includes every person holding a public office invested with or performing duties of public nature, whether under the immediate control of the President or not, and includes an officer under control of a local government authority but does not include a person holding such office only on part time basis”;</p>

(c) by deleting the words "civil servant" wherever they appear in the Act, and substituting for them the words "public servant";

(d) in section 9, by adding immediately after subsection (2) the following subsection—

"(3) Every contribution due under this section shall be paid to the Fund within one month after the last day of contribution period to which it relates."

(e) in section 12, by deleting subsection (3);

(f) in section 14, by adding immediately thereafter the following section —

"Cessation  
of  
member-  
ship

**14A.—(1)** Membership shall cease if the employment of a member is determined by one of the following circumstances —

- (a) death of a member;
- (b) termination from employment;
- (c) retirement from employment;
- (d) dismissal from employment; or
- (e) any other act that may terminate the employment of a member.

(2) Notwithstanding subsection (1), any person who was a beneficiary of the Fund shall be entitled to the benefit package for a period of three months after the occurrence of any circumstances specified under subsection (1), following which the benefit package and membership shall cease.

(3) The period of receiving the benefit package under this subsection may be reviewed by the Board.;"

(g) in section 15, by adding immediately after subsection (2) the following subsections—

“(3) The member shall collect identity cards from his children, who have attained the age of eighteen years, or dependants who cease from being lawful beneficiaries of the Fund and surrender them to the employer.

(4) The employer shall collect all the identity cards from the employees who ceased from being members of the Fund together with those of the children and dependants submitted to him by a member, and submit them to the Director General.

(5) The Fund shall, where a member or employer fails to execute his duties under subsection (3) and (4), recover from such member or employer, as the case may be, all expenses incurred by the Fund as a result of using identity cards after cessation of membership.”;

(h) in section 17—

“(i) by deleting paragraph (c).”

“(ii) by renaming paragraphs (d), (e), (f), (g), (h) and (i) as paragraphs (c), (e), (f), (g) and (h) respectively”;

(iii) by deleting paragraph (f) as renamed and substituting for it the following paragraph:

“(f) compensation for partial and total incapacity which is covered under other schemes”;

“(iv) by adding immediately after paragraph (i) the following paragraphs—

(j) mortuary services and burial expenses;

(k) transport to and from a health facility;

(l) subsistence allowance while treated outside his working station”.;

(i) in section 18, by adding immediately after that section the following proviso—

COLUMN 1	COLUMN 2	COLUMN 3
Act No. 26 of 1973	The National Social Welfare Training Institute Act, 1973	<p data-bbox="795 154 1557 238">“Provided that the Fund shall provide medicine and medical treatment in accordance with the provisions of this Act and the provisions of Regulations made thereunder.”</p> <p data-bbox="701 272 1385 300">The National Social Welfare Training Institute Act, 1973 is amended—</p> <p data-bbox="701 316 1557 1056">           (a) by deleting the words “National Social Welfare Training Institute” which appear in the long title, and substituting for them the words “Institute of Social Work”;            (b) by deleting the words “National Social Welfare Training Institute” appearing in section 1 and substituting for them the words “Institute of Social Work”;            (c) by deleting the words “National Social Welfare Training Institute” wherever they appear in the Act, and substituting for it the words “Institute of Social Work.”;            (d) in section 9—           <ul style="list-style-type: none"> <li data-bbox="761 608 1410 636">(i) by deleting subsection (1) and substituting for it the following—               <p data-bbox="795 652 1557 708">“(1) The Minister shall, on recommendation of the Board, appoint a suitable person to be the Principal of the Institute”.</p> </li> <li data-bbox="761 731 1557 809">(ii) by deleting the words “subject to approval by the Minister” appearing in subsection (3) and substituting for them the words “stated in the instrument of appointment.”;</li> <li data-bbox="753 832 1052 860">(iii) by deleting subsection (4);</li> </ul> </p> <p data-bbox="693 882 1496 910">(e) in section 10, by deleting subsection (1) and substituting for it the following —           <p data-bbox="744 927 1557 983">“(1) The Principal shall be the chief executive officer of the Institute and the Secretary to the Board”.</p> </p> <p data-bbox="693 1005 1557 1056">(f) in section 11, by deleting the whole of that section and substituting for it the following —</p>

COLUMN 1	COLUMN 2	COLUMN 3
	<p data-bbox="683 162 777 218">"Appoint- ments</p> <p data-bbox="811 162 1571 224">11.—(1) The Senior administrative and academic staff of the Institute shall be appointed by the Board.</p> <p data-bbox="811 246 1571 308">(2) The junior members of staff of the Institute shall be appointed by the Principal.”;</p> <p data-bbox="717 336 939 369">(g) in the Schedule—</p> <p data-bbox="768 392 1426 425">(i) by deleting paragraph 2(b) and substituting for it the following:</p> <p data-bbox="811 448 1571 509">“(b) not more than ten and not less than seven members who shall be appointed by the Minister”;</p> <p data-bbox="768 537 1503 571">(ii) by deleting paragraph 4, and substituting for it the following paragraph—</p> <p data-bbox="811 593 1571 655">“4. The tenure of office of Board members shall be three years from the date of appointment and shall be eligible for reappointment</p> <p data-bbox="811 683 1571 744">Provided that, any new Board shall have at least one third of the outgoing members.”</p> <p data-bbox="760 772 1426 806">(iii) by deleting paragraph 11 and substituting for it the following—</p> <p data-bbox="760 828 1571 901">"Decision of the Board 11. All questions at a meeting of the Board shall be decided by the majority of the votes of members present and voting at the meeting"</p> <p data-bbox="760 918 1118 946">(iv) by deleting paragraph 13(2)(b);</p> <p data-bbox="760 957 1289 985">(v) by renumbering paragraph 13(2)(c) as 13(2)(b);</p> <p data-bbox="760 996 1093 1024">(vi) by deleting paragraph 14(b);</p> <p data-bbox="760 1036 1221 1064">(vii) by renumbering paragraph 14(c) as 14(b).</p>	

COLUMN 1	COLUMN 2	COLUMN 3
Act No. 11 of 1995	The Tanzania Revenue Authority Act, 1995	The Tanzania Revenue Authority Act, 1995 is amended by repealing section 19 which relates to "Appeals Board and Appeals Tribunal"
Act No. 1 of 1985	The Elections Act, 1995	<p>The Elections Act, 1985 is amended by repealing section 111 and replacing it by the following:</p> <p>"Petition and procedure for deposit of security Act No. 13 of 1990 s.19 Act No. 6 of 1992 s.51</p> <p><b>111.—(1)</b> An election petition may be presented by one or more of the following persons, namely—</p> <ul style="list-style-type: none"> <li>(a) a person who lawfully voted or had a right to vote at the election to which the petition relates;</li> <li>(b) a person claiming to have had a right to be nominated or elected at such election;</li> <li>(c) a person alleging to have been a candidate at such election;</li> <li>(d) the Attorney General.</li> </ul> <p>(2) The Registrar shall not fix a date of the hearing of a petition unless the petitioner has paid into the court, as security for costs, an amount not exceeding five million shillings in respect of each respondent.</p> <p>(3) The petitioner shall within fourteen days after filing a petition, make an application for determination of the amount payable as security for costs, and the court shall determine such application within the next fourteen days following the date of filing an application for determination of the amount payable as security for costs.</p> <p>(4) Where any person is made a respondent pursuant to an order of the court, the petitioner shall within fourteen days of the date on which the order directing a person to be joined as a respondent was made, pay into the court a further amount not exceeding three million shillings, as shall be directed by the court in respect of such person.</p>

COLUMN 1	COLUMN 2	COLUMN 3
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(5) Where, on application made by the petitioner, the court is satisfied that compliance with the provisions of subsections (2) or (4) will cause considerable hardship to the petitioner, it may direct that—

- (a) the petitioner give such other form of security the value of which does not exceed five million shillings, as the court may consider fit; or
- (b) the petitioner be exempted from payment of any form of security for costs.

(6) No order shall be made under subsections (3), (4) and (5) unless an opportunity has been given to the respondent, or, where there are two or more respondents, to each of the respondents to make representations in that behalf.

(7) In the event of security for costs not being paid into the court within fourteen days from the date of determination by the court of the amount payable as security for costs, no further proceedings shall be had on the petition.

(8) The provisions of subsections (2) and (3) shall not apply to the Attorney General in any case in which the Attorney General is the petitioner or one of the petitioners.

(9) The amount of money deposited as security for costs or the balance of it shall, where the petitioner succeeds in the petition or on appeal and where no order as to costs lies against the petitioner, be immediately refunded to the petitioner”

Act No. 4 of 1979 The Local Authorities (Elections) Act, 1979

The Local Authorities (Elections) Act, 1979 is amended by repealing section 110 and replacing it by the following:-

“Petitions and deposit of security Act No. 4 of 2000

110.—(1) An election petition may be presented by one or more of the following persons, namely—

- (a) a person who lawfully voted or had a right to vote at the election to which the petition relates;



- (b) a person claiming to have had a right to be nominated or elected at such election;
- (c) a person alleging to have been a candidate at such election;
- (d) the Attorney General.

(2) The Registrar shall not fix a date of the hearing of a petition unless the petitioner has paid into the court, as security for costs, an amount not exceeding five hundred thousand shillings in respect of each respondent.

(3) The petitioner shall within fourteen days after filing a petition, make an application for determination of the amount payable as security for costs, and the court shall determine such application within the next fourteen days following the date of filing an application for determination of the amount payable as security for costs.

(4) Where any person is made a respondent pursuant to an order of the court, the petitioner shall within fourteen days of the date on which the order directing a person to be joined as a respondent was made, pay into the court a further amount not exceeding two hundred thousand shillings, as shall be directed by the court in respect of such person.

(5) Where, on application made by the petitioner, the court is satisfied that compliance with the provisions of subsections (2) or (4) will cause considerable hardship to the petitioner, it may direct that—

- (a) the petitioner give such other form of security the value of which does not exceed five hundred thousand shillings, as the court may consider fit; or
- (b) the petitioner be exempted from payment of any form of security for costs.

(6) No order shall be made under subsection (3), (4) and (5) unless an opportunity has been given to the respondent, or, where there are two or more respondents, to each of the respondents to make representations in that behalf.

(7) In the event of security for costs not being paid into the court within fourteen days from the date of the determination by the court of the amount payable as security for costs, no further proceedings shall be had on the petition.

(8) The provisions of subsections (2) and (3) shall not apply to the Attorney General in any case in which the Attorney General is the petitioner or one of the petitioners.

(9) The amount of money deposited as security for costs or the balance of it shall, where the petitioner succeeds in the petition or on appeal and where no order as to costs lies against the petitioner, be immediately refunded to the petitioner”;

Act No. 15 of 1979      The Appellate Jurisdiction 1979

The Appellate Jurisdiction Act, 1979 is amended in subsection (2) of section 5 by deleting paragraph (d) and substituting for it the following—

“(d) no appeal or application for revision shall lie against or be made in respect of any preliminary or interlocutory decision or order of the High Court unless such decision or order has the effect of finally determining the criminal charge or suit”.

Act No. 49 of 1966      The Civil Procedure Code 1966

The Civil Procedure Code 1966 is amended—

(a) is section 74—

(i) by designating section 74 as section 74(1);

(ii) by adding immediately after subsection (1) the following subsection—

“(2) Notwithstanding subsection (1), no appeal shall lie against or be made in respect of any preliminary or interlocutory decision or order of the High Court unless such decision or order has the effect of finally determining the suit.”;

COLUMN 1	COLUMN 2	COLUMN 3
		<p>(b) in section 78—</p> <p>(i) by designating that section as section 78(1);</p> <p>(ii) by adding immediately after subsection (1) the following —</p> <p>“(2) Notwithstanding the provisions of subsection (1), no application for review shall lie against or be made in respect of any preliminary or interlocutory decision or order of the Court unless such decision or order has the effect of finally determining the suit”;</p> <p>(c) in section 79—</p> <p>(i) by designating that section as section 79(1);</p> <p>(ii) by adding immediately after subsection (1) the following subsection —</p> <p>“(2) Notwithstanding the provisions of subsection (1), no application for revision shall lie or be made in respect of any preliminary or interlocutory decision or order of the Court unless such decision or order has the effect of finally determining the suit”;</p>
Act No. 2 of 1984	The Magistrates' Courts Act, 1984	<p>The Magistrates' Courts Act, 1984 is amended—</p> <p>(a) in section 40 by—</p> <p>(i) deleting the words “twelve million” appearing in paragraph (a) of subsection (2), and substituting for them the words “one hundred and fifty million”;</p> <p>(ii) deleting the word “ten million” appearing in paragraph (b) of subsection (2) and substituting for them the words “one hundred million”;</p> <p>(b) in section 43 by—</p> <p>(i) adding immediately after subsection (1) the following subsection—</p> <p>“(2) Subject to the provisions of subsection (3), no appeal or application for revision shall lie against or be made in respect of any preliminary or interlocutory decision or order of the district court or a court of a resident magistrate unless such decision or order has the effect of finally determining the criminal charge or the suit”.</p>

COLUMN 1	COLUMN 2	COLUMN 3
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- (ii) renumbering subsection (2) as subsection (3);
- (c) in the Third Schedule by—
  - (i) deleting the words “ten thousand” appearing in subparagraph (1)(b) of paragraph 2 and substituting for them the words “five hundred thousand”
  - (ii) deleting subparagraph (4)(a) of paragraph 2 and substituting for it the following—

“(a) Amount	Maximum Period
Not exceeding Shs. 5,000/= .....	14 days
Exceeding Shs. 5,000/= but not exceeding Shs. 50,000/= .....	1 month
Exceeding Shs. 50,000/= but not exceeding Shs. 100,000/= .....	3 months
Exceeding Shs. 100,000/= but not exceeding Shs. 500,000/= .....	4 months
Exceeding Shs. 500,000/= .....	5 months”

- (iii) deleting the word “one thousand” appearing in subparagraph (1)(b) of paragraph 5 and substituting for it the words “one hundred thousand”.

Cap. 16                      The Panel Code Cap. 16                      The Panel Code is amended in section 29 by deleting the Schedule appearing under paragraph (iv) and substituting for it the following—

“Not exceeding Shs. 5,000/= .....	14 days
Exceeding Shs. 5,000/= but not exceeding 50,000/= .....	2 months
Exceeding Shs. 50,000/= but not exceeding Shs. 100,000/= .....	6 months
Exceeding Shs. 100,000/= but not exceeding Shs. 500,000/= .....	12 months
Exceeding shs. 500,000/= .....	24 months”

COLUMN 1	COLUMN 2	COLUMN 3
Act No. 9 of 1985	The Criminal Procedure Act, 1985	<p>The Criminal Procedure Act is amended—</p> <p>(a) in section 170, by deleting the words “twenty thousand” appearing in paragraph (b) of subsection (1) and substituting for them the words “twenty million”;</p> <p>(b) in section 359 by adding immediately after subsection (2) the following subsection—</p> <p style="padding-left: 40px;">“(3) Notwithstanding the provisions of subsections (1) and (2), no appeal shall lie against or be made in respect of any preliminary or interlocutory decision or order of a subordinate court unless such decision or order has the effect of finally determining the criminal charge.”;</p> <p>(c) in section 372 —</p> <p style="padding-left: 40px;">(i) designating that section as section 372(1);</p> <p style="padding-left: 40px;">(ii) by adding immediately after subsection (1) the following subsection—</p> <p style="padding-left: 80px;">“(2) Notwithstanding the provisions of subsection (1), no application for revision shall lie or be made in respect of any preliminary or interlocutory decision or order of a subordinate court unless such decision or order has the effect of finally determining the criminal charge.”</p> <p>(d) in section 378, by adding immediately after subsection (2) the following subsection—</p> <p style="padding-left: 40px;">“(3) Notwithstanding the provisions of subsection (1) and (2), no appeal shall lie against or be made in respect of any preliminary or interlocutory decision or order of a subordinate court unless such decision or order has the effect of finally determining the criminal charge.”;</p>
Cap. 35	The Public Holidays Ordinance	<p>The Public Holidays Ordinance is amended in the Schedule, by adding the following item—</p> <p>“The Mwalimu Nyerere Day and the Climax of the Uhuru Torch Race (14<sup>th</sup> October);”</p>

COLUMN 1	COLUMN 2	COLUMN 3
Act No. 8 of 2002	The Public Service Act, 2002	<p>The Public Service Act, 2002 is amended in section 6 by—</p> <p>(a) inserting a “comma” after the word “confirmation” which appears in paragraph (b) of subsection (1) and thereafter inserting the word “promotion”;</p> <p>(b) deleting subsection (6).</p>
Act No. 12 of 1976	Customs Tariff Act, 1976	<p>The Customs Tariff Act, 1976 is amended in the First Schedule—</p> <p>(a) in Part B—</p> <p>(i) by inserting additional National Note to Chapter 73 immediately after Note 2 as follows:</p> <p style="padding-left: 40px;">“National Additional Note</p> <p style="padding-left: 80px;">1. Subheading 7308.90.10 includes roofing tiles with pertinent accessories, clad, plated or coated”;</p> <p>(ii) by inserting additional National Note to Chapter 87 immediately after Note 4 as follows:</p> <p style="padding-left: 40px;">“National Additional Note</p> <p style="padding-left: 80px;">1. Subheading 8702.10.20 excludes three door (hard top) motor vehicles.”;</p> <p>(iii) by adding the following subheadings with their tariff rates phase down as specified in the following Schedule—</p>







"Heading	HS Code	Description	Unit	IMPORT DUTY											
				2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
	8702.10.20	-- Of cubic capacity of 2000 or more and seating capacity not exceeding ten persons	U	25%	25%	25%	25%	25%	25%	25%	25%	15%	0%	0%	0%
		- Other													
	8702.90.20	-- Of cubic capacity of 2000 or more and seating capacity not exceeding ten persons	U	25%	25%	25%	25%	25%	25%	25%	25%	15%	0%	0%	0%

## (b) in Part C—

- (i) by inserting additional National Note to Chapter 73 immediately after Note 2 as follows:

"National Additional Note

1. Subheading 7308.90.10 includes roofing tiles with pertinent accessories, clad, plated or coated";

- (ii) by inserting additional National Note to Chapter 87 immediately after Note 4 as follows:

"National Additional Note

1. Subheading 8702.10.20 excludes three door (hard top) motor vehicles.";

- (iii) by adding the following subheadings with their tariff rates phase down as specified in the following Schedule—

"Heading	HS Code	Description	Unit	IMPORT DUTY											
				2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
73.08		Structures (excluding prefabricated buildings of heading No. 94.06) and parts of structures, (For example, bridges and bridge-sections, lock-gates, tower, lattice masts, roofs, roofing frame-works, doors and windows and their frames and thresholds for doors, shutters, balustrades, pillars and columns) of iron or steel; plates, rods, angles, shapes, sections, tubes and the like, prepared for use in structures of iron or steel													
		-- Other													
	7308.90.10	-- Roofing tiles with accessories	Kg	25%	25%	25%	25%	25%	25%	25%	15%	15%	10%	5%	0%
	7308.90.90	-- Other	Kg	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%	0%



"Heading	HS Code	Description	Unit	IMPORT DUTY											
				2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012
	8702.10.20	-- Of cubic capacity of 2000 or more and seating capacity not exceeding ten persons	U	25%	25%	25%	25%	25%	25%	25%	25%	15%	0%	0%	0%
		- Other													
	8702.90.20	-- Of cubic capacity of 2000 or more and seating capacity not exceeding ten persons	U	25%	25%	25%	25%	25%	25%	25%	25%	15%	0%	0%	0%

COLUMN 1	COLUMN 2	COLUMN 3
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Act No. 10 of 2002  
 (c) these amendments shall be read as one with Part IV of the Financial Laws (Miscellaneous Amendments) Act, 2002 and shall be deemed to have come into operation on the 7<sup>th</sup> June, 2002".

Cap. 212      **The Companies Ordinance**      The Companies Ordinance is amended in section 331 B-

(a) by deleting subsection (3) and substituting for it the following:

"(3) Where a company in which the Government or its agent owns shares undergoes divestiture in accordance with the provisions of any written law relating to privatization, the provisions of this Ordinance, or any other written law, articles, instrument or charter of the company which relates to preemptive rights of shareholders, shall not apply in relation to the shares of that company.

Provided that, where the value of the shares which are the subject of preemptive rights has been derived from an open and transparent valuation process, the Treasury Registrar shall offer a first right of refusal to the other shareholder or shareholders, as the case may be.”

(b) by inserting the following paragraph immediately after the proposed subsection (3);

Act No. 2 of 1998      “The amendment of subsection (3) shall be read as one with the Written Laws (Miscellaneous Amendments) Act, 1998 and shall be deemed to have come into force on the 27<sup>th</sup> March, 1998”.

Act No. 18  
of 2002

The Finance Act,  
2002

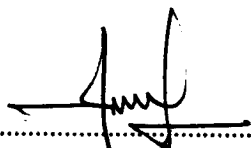
The Finance Act, 2002 is amended—

(a) in section 34 which relates to the amendment of the Income Tax Act, 1973, by deleting paragraph (a) and substituting for it the following—

‘(a) in subsection (2)(w), by deleting paragraph (ii) of the proviso and substituting for it the following proviso:

“(ii) the Provisions of this subsection shall apply to any investment made on or before the 30th June, 2002 by a corporation holding a certificate of incentives granted by the Tanzania Investment Centre pursuant to the provisions of the Tanzania Investment Act, 1997.”

Passed in the National Assembly on the 14<sup>th</sup> November, 2002.

  
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Clerk of the National Assembly