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

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Written Laws (Miscellaneous Amendments) (No. 3) Act, 2021

NOTICE

This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dodoma, 2nd June, 2021

HUSSEIN A. KATTANGA
Secretary to the Cabinet

A Bill

for

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

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

1. This Act may be cited as the Written Laws (Miscellaneous Amendments) (No. 3) Act, 2021.

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

PART II
AMENDMENT OF THE ELECTRONIC AND POSTAL COMMUNICATIONS ACT, (CAP. 306)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

“(3) Where an agreement provides for special arrangement relating to the implementation of this provision, and the
said arrangement has been approved by the Cabinet, the application of the provisions of paragraphs (w) and (z) of subsection (2) shall not prejudice the implementation of such agreement.”.

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

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

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

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

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

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

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

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

“(2) Where an agreement provides for special arrangement relating to the implementation of this provision, and the said arrangement has been approved by the
Cabinet, the application of the provisions of subsection (1)(m) shall not prejudice the implementation of such agreement.”; and (b) renumbering subsection (2) as subsection (3).

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

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

Amendment of section 2

21. The principal Act is amended in section 2, by-
(a) designating the content of section 2 as subsection (1); and
(b) adding immediately after subsection (1) as designated the following:
“(2) Without prejudice to subsection (1), this Act shall not apply to an agreement that provides for special arrangement relating to transportation of natural resources that are not exploited in the United Republic and such arrangement has been approved by the Cabinet.

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

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

Amendment of section 2

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

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

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

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

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

(a) deleting a full stop appearing at the end of subsection (1) and substituting for it a colon; and

(b) adding a proviso immediately after subsection (1) as follows:

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

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

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

“(3) Where an application for renewal of licence has been duly made and the licence expires before EWURA grants or refuses
to renew the licence, the licence shall be deemed to continue in force until the grant or refusal of the application.”; and
(b) renumbering subsection (3) as subsection (4).

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

“Applicati
on in relation to agreement
s involving Governme
nt

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

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

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

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

“(4) Where an agreement provides for special arrangement relating to the implementation of this provision, and the said arrangement has been approved by the Cabinet, the application of the provisions of this section shall not prejudice the implementation of such agreement.”.
PART XIV
AMENDMENT OF THE ROADS ACT, (CAP. 167)

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

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

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

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

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

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

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

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

This Bill is divided into fifteen Parts.

Part I deals with preliminary provisions which include the title of the Bill and the manner in which the laws proposed to be amended, are amended in their respective Parts.

Part II, III, VI, VII, VIII, IX, X, XI, XII, XIII, XIV and XV proposes to amend the Electronic and Postal Communication Act, Cap. 306 the Environmental Management Act, (Cap. 191), the Insurance Act, (Cap. 394), the Local Government (District Authorities) Act, (Cap. 287), the Local Government Finances Act, (Cap. 290), the Local Government (Urban Authorities) Act, (Cap. 288), the Natural Wealth and Resources (Permanent Sovereignty) Act, (Cap. 449), the Natural Wealth and Resources Contracts (Review and Re-Negotiation of Unconscionable Terms) Act, (Cap. 450), the Petroleum Act, (Cap. 392), the Railways Act, (Cap. 167), the Roads Act, (Cap. 167) and Public Private Partnership Act, (Cap. 103) respectively. The proposed amendments intend to provide for smooth and expeditious implementation of agreements entered by the Government that provides for the execution of special arrangements, and to create favourable conditions for performance of Government projects.
Part IV of the Bill proposes to amend the Fair Competition Act, Cap. 285, by adding section 11A in order to prevent the application of provisions of sections 10 and 11 which provides for misuse of market power and procedure for merger and acquisition in order to facilitate smooth operation of the EACOP Project and other projects of the Government. Further, a proviso is added to section 12 by empowering the Commission to grant exemption to contracts for a period longer than five years in order to facilitate and create favourable conditions for performance of Government projects that provides for special arrangements.

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

MADHUMUNI NA SABABU


Muswada huu umegawayika katika Sehemu Kumi na Tano.

Sehemu ya Kwanza ya Muswada inahusu masharti ya utangulizi na yanajumuisha jina la Muswada na namna ambavyo sheria zinazopendekezwa kufanyiwa marekebisho zilivyoinishwa katika Sehemu husika ya Muswada.
Sehemu ya Nne ya Muswada inapendekeza marekebisho katika Sheria ya Ushindani, Sura ya 285 kwa kuongeza kifungu kipya cha 11A. Lengo la marekebisho haya ni kuwezesha mamalaka ya Tume katika vifungu vya 10 na 11 yanayohusu matumizi mabaya ya nguvu ya soko na uunganishwaji na utwaaji wa makampuni yatekelezwe ila kukwamisha uwekesha uwekesha wa mkatawa wa mradhi wa Bomba la Mafuta wa Afrika Mashariki pamoja na mikatawa mingine ya aina hiyo. Vilevile kifungu cha 12 kinapendekeza kurekebisha ishia kuipa Tume ya Ushindani mamalaka ya kuwehesha muda wa msamaha kwa msamaha kwa miaka miwili kwa lengo la kurahisisha uwekesha uwekesha wa mikatawa yenye masharti maalum iliyoingiwa na Serikali.

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

Dodoma, 01 Juni, 2021

ADELARDUS L. KILANGI
Mwanasheria Mkuu wa Serikali