

THE UNITED REPUBLIC OF TANZANIA



NO. 10 OF 1999

I ASSENT,  
*Benjamin W. Mkapa*  
President  
*2<sup>nd</sup> June, 1999.*

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) Act, 1999.

2. The various laws set out in the first second columns of the Schedule to this Act are amended the manner specified in the third column to that Schedule:-

Short title

Amendment of  
certain laws

## COLUMN

## SECOND COLUMN

## THIRD COLUMN

Act No. 5 of 1998

The Mining Act, 1998

The Mining Act, 1998 is amended-

- (a) in section 9, by deleting subsection (2) and substituting for it the following-

"(2) Subject to subsection (3), no special mining licence and no mining licence, or gemstone mining licence, or any undivided proportionate part thereof may be assigned to another person without the consent, given in writing, of the licensing authority."

- (b) in section 10, by deleting paragraph (a) of subsection (2) and substituting for it the following-

"(a) which guarantee the fiscal stability of a long term mining project, by reference to the law in

---

force at the effective date of the agreement, with respect to the range and applicable rates of royalties, taxes, duties, fees and other fiscal imposts and the manner in which liability in respect thereof is calculated and for that purpose but not otherwise may contain special provisions relating to the payment of any such fiscal impost to take effect in the event of change in the applicable law;"-

- (c) in section 7 1, by deleting paragraph (b) of subsection (1) and by repealing subsection (2) and substituting for them respectively the following-

"(b) if the holder has  
tendered the  
prescribed fee, is  
not in default  
and has provided  
particulars  
which would be  
required in an  
application  
under sections  
47 and 51 as the  
case may be,  
apply to the

Commissioner  
to convert the  
licence or  
licences to a  
mining licence  
or a gemstone  
mining licence.

(2) An application  
made in accordance with  
subsection (1) shall be granted  
by the Commissioner and the  
mining licence or gemstone  
mining licence, as the case may  
be. shall be issued forthwith."

(d) by deleting the phrase "three years"  
which appears in the third line of  
subparagraph (2) of paragraph 11 of

SCHEDULE 4 and substituting for it the phrase "five years" ,

- (e) by deleting paragraphs 13 and 14(1) of SCHEDULE 4 and substituting for them the following-

"Continuance	I-3. Where at
of agree-	any time before
ments	the
under	commencement
the 1979	date the holder
Act	of a mineral
	right under
	Mining Act,
	1979 entered
	into an
	Agreement with
	the Minister, the
	Agreement shall

continue in full  
force and effect  
after the  
commence-  
ment date,  
notwith-  
standing the  
repeal of the  
Mining Act,  
1979, and  
for that purpose,  
shall be read and  
construed with

such  
modifications  
and adaptations  
as may be  
required in order  
to enable the  
substance of the  
agreement to  
take effect.

Provisions  
for new  
agreements

14-(1) At  
any time after  
the  
commencement  
date, the Minister  
may, by Order in  
the *Gazette*,  
publish for the

purpose of this  
Schedule,  
model fiscal  
terms for an  
agreement to be  
made under  
section 10 of  
this Act, and  
where any such  
Agreement has  
been published,  
a holder of a  
provisional  
licence who is a  
party to another  
Agreement with  
the Minister may

elect to become

a party to

another

Agreement with

the Minister

substantially on

the terms and

conditions of his

existing

relating to-

(i) royalties, taxes, duties,  
fees or other fiscal  
imports;

(ii) the acquisition by the  
United Republic without  
cash payment of fully paid  
up shares in the issued

share capital in- any mining  
company set up by the  
licensee pursuant to the  
agreement but Only to the  
extent that such acquisition  
does not exceed ten per  
centum, of the issued  
capital,

there shall be substituted the model  
fiscal terms set out in the Minister's  
order."

Act No. 24 of 1997    The Value Added Tax  
Act, 1997

The Value Added Tax Act 1997 is amended-

- (a) in section 2, by deleting references relating to the  
definition of "Government Agency" and  
substituting for them the following references-  
""Government Agency" means any Ministry  
or any Department of the Union Government,

Tribunal, specially appointed Commission,  
extra-Ministerial organ, any Local

Government Authority, any Organisation  
designated by an establishing statute to be an  
agency of the Government or any organisation  
whose running costs is funded by the Govern\_  
ment".1

(b) in section 17-

(i) by deleting the words "regularly results"  
and substituting for it the words which 'would  
regularly result" which appear in  
subsection (3);

(ii) by repealing subsection (7) and  
substituting for it the following new  
subsection-

"(7) For the Purpose of subsection (3),  
the Phrase "would regularly result in  
excess credits" means that over a six

months period the total input tax credit  
for the prescribed accounting periods  
would exceed the total tax charged and  
paid on supplies."-

- (c) in section 29(j), by inserting the phrase "at the  
time of supply" immediately before the phrase  
"containing such information"
- (d) in section 43, by deleting the phrase "reason to  
believe" which appears in subsection (4) and  
substituting for it the phrase evidence  
sufficient to demonstrate that".

Act No. 15 of 1979      The Appellate  
Jurisdiction Act, 1979

The Appellate Jurisdiction Act, 1979 is amended in section  
5(2)-

(a) by deleting a full-stop which appears at the end  
of paragraph (c) and substituting for it a semi-  
colon;

(b) by adding the following new paragraph  
immediately after paragraph (c)-

"(d) no appeal shall lie against any  
preliminary or interlocutory decision or  
order of the Commercial Division of the  
High Court unless such decision or order  
has the effect of finally determining the  
suit"

Act No. 20 of 1993	The Tanzania Telecommunications Company Incorporation Act, 1993	<p>The Tanzania Telecommunications Company Incorporation Act, 1993 is amended by adding the following new provision immediately after section I-</p> <p>"Application                      1A. Upon attainment of privatisation of the Company and the Government shareholder, whichever is the earliest event the provisions of this Act, other than the provisions of sections 1, I A, 2, 3 and 4 shall cease to apply."</p>
Act No. 4 of 1980	The Serengeti Wildlife Research Institute Act, 1980	The Serengeti Wildlife Research Institute Act, 1980 is amended generally by deleting the phrase "Serengeti Wildlife Research Institute" wherever it appears in the Act, and substituting for it the phrase "Tanzania Wildlife Research Institute."
Cap. 375	The Trustees' Incorporation Ordinance	The Trustees' Incorporation Ordinance is amended generally-

(a) by adding immediately after section 2 the following new provisions:

"com-  
pulsory  
incorpo-  
ration

2A\_ Notwithstanding section 2, a trustee or trustees holding property in trust for any religious, educational, literary, scientific, social or charitable purposes who has - not or have not been incorporated under any law- or whose incorporation is not provided by any law, shall apply for incorporation under this Ordinance.,

Persons  
not  
legible to  
take part  
in mana-  
gement  
or admini-

2 B. -(I) Any person who is a member of a body corporate or organisation concerned with the management or -is otherwise concerned with the administration of such body

station corporate or Organisation shall  
of not be qualified to apply for  
trustee incorporation as a trustee or  
trustees-

(a) if he is convicted of  
a criminal offence or  
any offence involving  
fraud or dishonesty;

(b) if he is adjudged bankrupt  
under any written law or  
enters into any agreement  
or scheme of composition  
with his creditors, or  
takes advantage of any  
law for the benefit of his  
debtors.

(2) No person who has  
been directly or indirectly  
concerned with the  
management or has otherwise  
been directly or indirectly

suspended, shall without the approval of the Registrar General act or continue to act in any capacity in the management or administration of any body corporate or organisation.

(3) Any person who contravenes this section commits an offence and shall be liable on conviction to imprisonment for a term of not less than two years or to a fine of not less than two hundred thousand shillings or to both."

- (b) By adding the following new provisions immediately after section 11-

11 A-(I) Where the Registrar General is of the opinion that a trustee incorporated under this Ordinance uses or misuses any property vested in the trustee, he may investigate or authorize any fit and proper person to investigate on his behalf into the trustee.

(2) If as the result of investigation carried out in pursuance of subsection (1), the Registrar General is of the opinion that the trust property has been used, or misused in circumstances -which are prejudicial to the interests of members of the body corporate or organisation in respect of which the trustee has been incorporated, he may-

- (a) suspend or remove the trustee and any person found in use or misuse of such property;

- (b) appoint a receiver and  
manager or the public  
Trustee to take care of  
such property and run  
the day to day affairs of  
the body corporate or  
organisation for a pe-  
riod pending appoint-  
ment of the new trustee  
or trustees;
- (c) freeze the bank  
account of that  
body corporate or  
organisation;
- (d) stop further action  
by the trustee or  
trustees. in dealing  
with the Property  
of the body  
corporate or  
organisation;

- (e) refer the matter to the police officer of the rank of Inspector or above for further investigations with a view to take further legal action in the court of law;
  - (f) pursue trustee or trustees who have committed breach of trust and to recover trust property or seek damages.
- (c) in section 13(3), by deleting the words "five' years " which appears in the third, line and substituting for them the words twelve months"

(d) by adding the following new provisions  
immediately after section 13

"Monitoring	13 A-(1) No changes
meetings	of the names of a person
of body	who is or who were
corporates,	trustee or trustees of a
and	body corporate or
organisations	organisation
	incorporated under this
	Ordinance shall be
	authorized by the
	Registrar General unless
	he is satisfied that-

(a) there were held a  
lawful meeting of  
the body corpo-  
rate or  
organisation for,

the purposes of  
electing a person  
or persons as  
trustee of such a  
body corporate or  
organisation;

(b) the meeting elect-  
ing new leaders as  
trustees or any  
person to fill any  
vacancy was  
monitored by any  
of Government  
authorities.

(2) In the case of religious bodies corporates  
or organisations, they shall each be  
monitored by their respective relevant  
supreme authority in Tanzania in ac-  
cordance with their statutes, charter or  
instrument of that body corporate or  
organisation.

(e) by adding the following new provisions  
immediately after section 15-

"Registrar General may call for audited accounts 15A-(I) The Registrar General may by notice under his hand order any trustee or trustees incorporated under this Ordinance to furnish to him, within a period prescribed in the order, duly audited accounts of any trustee or trustees incorporated under this Ordinance.

(2) For the purposes of this section "duly audited accounts" means accounts audited by an approved or authorized auditor;

(3) Without prejudice to the provisions of subsections (1) and (2) of this section, the Registrar General may at any time by notice under his hand order any trustee, within a time to be stated in such order, to permit its accounts to be

inspected by himself or by a person authorized by him in writing.

(4) Every office-bearer, and every Person managing or assisting in the management of a trust in respect of which a notice under subsection (3) of this section

has been served shall supply to the Registrar General or the person authorized by him such infor-

mation relating to the accounts of the trust or other matters incidental thereto as the Registrar General or such authorized person may require and, when the inspection is undertaken by a person authorized by the Registrar General, such person shall make a report, of his inspection and shall at the earliest practicable opportunity submit such report to the Registrar General with such recommendations as he may deem fit to include.

(5) Where the accounts of a trustee or trustees are inspected by a person authorized by the Registrar General, there shall be paid to such person (if he is not in the employment of the Government) out of funds allocated for that purpose from the general revenue of Tanzania in respect of the inspection such reasonable fee as the Registrar General may determine.

(6) The trustee or trustees who, on the grounds of failure to comply with an order under this section, shall-

(a) have its incorporation revoked under section 16;

(b) not be entitled to apply for incorporation under this Ordinance until such an order has been complied with.;

Persons  
responsible  
for  
supplying  
information

15 B-(I) Any order made by the Registrar General in relation to any trust incorporated under this Ordinance shall be binding upon every office-bearer and upon every person managing or assisting in the management of any such trust in Tanzania who has been served with the order.

(2) If any trustee fails to comply with the whole or part of any order given under section 15A, each of the persons mentioned in subsection (1) who had been served with the order, shall be

liable on conviction to a fine of not less than five hundred thousand shillings unless he establishes to the satisfaction of the court that he has exercised due diligence and has failed to comply with the order for reasons beyond his control.

(3) If any information supplied to the Registrar General in compliance with an order given under section 15A or any information- supplied to the Registrar General or the person authorized by him in compliance with an order given under section 15A, is incorrect

or incomplete in any material particular, the person who has supplied such information shall be liable on conviction, to a fine of not less than two hundred thousand shillings unless he establishes to the satisfaction of the court that he believed and had good reason to believe that the information was correct and complete.

Discretion  
to publish  
information  
for the  
benefit of  
members

15 C. The Registrar General,  
where it appears to him to  
be in the interest of the  
a body corporate or  
organisation so to do, may,  
with the approval of the

Minister take such steps as may be necessary to publish to such member or the members by advertisement. in the *Gazette*, and in any local news paper or in such other -manner as he may think fit, any information furnished by, or on behalf of such trustee or trust- ees as was, reported to the Regis- trar General in pursuance tion 15A or section 15B. .

- (f) by adding the following new provisions immediately after sectin 16.

"Registrar	16A.-(I) Without prejudice. to
General	section 16, the Registrar General
may	may revoke or suspend at any time
revoke	the incorporation, of any trust if it
suspend	is expendient so to 'do on the
incorpo-	grounds that, the body corporate
ration	or organisation-

- (a) is being used for unlawful purposes or for any purpose Prejudicial to or incompatible with the maintenance of peace, order and good governance; or
- (b) has altered its objects or pursues objects other than its declared objects, or
- (c) has failed to comply with an order issued by the Registrar General in pursuance of sections 15A or 15B within the time stated in the order: or
- (d) has breached in any way the trust.

(2) No revocation or suspension shall be effected under this section unless the Registrar General has notified his intention to do so and the trustee or trustees concerned had an opportunity, within one month to submit to the Registrar General reasons why the revocation or suspension should not be effected."

(g) in section 20, by-

(i) by deleting the words "not exceeding one hundred shillings for every day" in subsection (1) and substituting for them the words "of one thousand shillings for every month";

(ii) in subsection (2) by substituting for "ten thousand shillings" the words "two hundred thousand shillings" and for six months" the words "two years", respectively;

(iii) by adding after subsection (2) the following:

(3) Where the offence concerned relates the late filing of returns contrary to section 4(3) and (4), 13(2) and (3) and 14, the defaulter shall in addition to any other penalty provided pay to the Registrar-General late filing fees of one thousand shillings for every month during which the default continues.

(h) by adding immediately after section 20 the following section:

Power to  
compound  
offences

20A. Where in relation to any offence committed by any trust, organisation or other, body under this Ordinance the offender admits the offence and the penalty impossible for it would be a fine of any amount not exceeding five hundred thousand shillings the Registrar-General may, with the consent, of the offender compound the offence by requiring the offender to pay the fine determined by the Registrar General who shall then provide the offender with a valid receipt for the amount.

20 B. Notwithstanding the preceeding provisions of this Ordinance, the Registrar-General shall not exercise in relation to a religious body corporate or Organisation zany of the powers conferred upon him by section 2B, 11A, 15A, 15B, 15C or 16A except after he has -carried out, consultations with the relevant supreme authority in Tanzania of the body or organisation concerned and in accordance with the statute charter or instrument of that body corporate or organisation.

Act No. 11  
of 1980

The Law Reform  
Commission Act, 1980

The Law Reform Commission Act, 1980 is amended-

- (a) by repealing section 7;
- (b) in section 8(1) by deleting the Phrase  
"Subject to any direction given by the  
Minister;"-
- (c) in section I 1, by repealing subsection (4);
- (d) in section D(2) by deleting the Phrase "the  
Constitution of Chama cha Mapinduzi and"; in
- (e) section 15, by adding the following new  
subsection-  
"(3) The Commission may, after the Minister  
has tabled the report before the National  
Assembly, release the report to the general  
public."
- (f) in section 18. by repealing subsection (3) and  
substituting for it the following-

"(3) The Secretary of the Commission shall, subject to the provisions of this Act, be the executive officer of the Commission and shall in that capacity, subject to the direction of the Chairman, be responsible to the Commission for the day to day operations and the management of the records of the Commission."

- (g) in section 19, by repealing subsections (2). and (4) and substituting for them the following new subsections-

(2) Notwithstanding the provisions of subsection (1), and subject to the relevant Civil Service employment regulations and procedures, the Commission may engage on permanent terms such persons who are

qualified and suitable to work for the Commission.

(3) With prior consultation with the Minister, the Commission may engage on temporary terms such persons who are experts in fields of learning for the time being relevant to the matter which is being examined by the Commission.

(4) Payment of salaries, allowances or other payments and the conditions and terms of service of persons who may be engaged on permanent or temporary terms by the Commission shall be as may be determined by the Permanent Secretary in consultation with the permanent Secretary Central Establishment and as specified in the instrument of appointment of each of such persons."

Act No. 33  
of 1973

The Income Tax Act,  
1973

The Act is amended-

- (a) by deleting section 13C and substituting for it the following provisions:

"Windfall tax 13C.-(I) For the purpose of this section-  
"dealer" means any person or body of persons whose business consists of purchasing petroleum products on the world market and sources other than the world market and selling the same in Tanzania after or without processing; cc windfall profit" in relation to petroleum and petroleum products means profit fixed on a unit litre of petroleum and

petroleum products  
accordance with subsection (2)  
of this section;

(2) There shall be charged,  
levied and collected in respect of  
petroleum and petroleum  
products imported and sold by a  
dealer, a windfall tax at the rate  
specified in Head C of  
the Third Schedule to this Act or  
such other rates which the  
Minister may, by notice  
published in the *Gazette*,  
determine.

(3) The Commissioner  
May, by notice to the dealers  
determine the manner and time  
for the assessment and

collection of the windfall tax

Payable under this section. 11

- (b) by adding immediately after Head B of the  
Third Schedule the following new Head C:

## "HEAD C

## SPECIFIED WINDFALL TAX RATES

Petroleum product	Windfall Tax rate per litre in TShs.
(a) L.P.G	124.18
(b) MSP	86.13
(c) MSR	62.93
(d) JET-A1	102.52
(e) IK	92.76
(f) GO	107.81
(g) IDO	109.69
(h) FO	47.96

Passed in the National Assembly on the 20th April, 1999.

  
Clerk of the National Assembly