

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

No. 1

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THE WRITTEN LAWS (MISCELLANEOUS AMENDMENTS)
(No. 2) ACT, 2007

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THE UNITED REPUBLIC OF TANZANIA



No. 19 OF 2007

I ASSENT,

JAKAYA M. KIKWETE,
President

31st December, 2007**An Act to amend certain Written Laws.**

ENACTED by Parliament of the United Republic of Tanzania.

PART I

PRELIMINARY PROVISIONS

- | | |
|---|---------------------------|
| 1. This Act may be cited as the Written Laws (Miscellaneous Amendments) (No. 2) Act, 2007. | Short title |
| 2. The laws specified in various Parts of this Act are amended in the manner specified in the respective Parts. | Amendment of Various laws |

PART II

AMENDMENT OF THE MERCHANDISE MARKS ACT

- | | |
|--|---|
| 3. This Part shall be read as one with the Merchandise Marks Act, hereinafter referred to as the "principal Act" | Construction
Cap. 85 |
| 4. The principal Act is amended- | Addition of sections |
| (a) in section 2 by deleting the definition of the word "inspector" and substituting for it the following "Chief Inspector" means a Chief Inspector of merchandise marks appointed by the Minister for the purposes of this Act and includes an inspector" | 2A, 2B,
2C, 2D,
2E, 2F and
18A |

(b) by adding immediately after section 2 the following sections-

"Appoint-
ment of chief
inspector"

2A.-(1) The Minister shall appoint a Chief Inspector and other inspectors necessary for the purposes of the execution of this Act.

(2) Appointment of inspectors shall be published in the *Government Gazette*.

Powers of the
Chief
Inspector

2B.-(1) The Chief Inspector shall, for the purpose of execution of this Act, have powers to do all or any of the following-

- (a) conduct investigation and cause investigation to be conducted on suspected person who breach the provisions of this Act;
- (b) initiate proceedings before the Court in the manner stipulated under this Act;
- (c) examine any person, either alone or in presence of another person as he thinks desirable with respect to matters under this Act; and
- (d) demand from the supplier of goods information relating to particulars of the manufacturer of those goods suspected to violate the provisions of this Act.

(2) Where the supplier has not given information under paragraph (d) of subsection (1) within fourteen days, the supplier of such goods shall be presumed to be the manufacturer of such goods.

Summary
Proceedings

2C.-(1) Notwithstanding the provisions of this Act, the Chief Inspector may entertain complaint in respect of counterfeited goods by the owners who are injured by the counterfeits and may conduct summary trials under the procedures laid down in the regulations made by the Minister.

(2) Any person who is aggrieved by the final decision of the Chief Inspector may appeal to the Fair Competition Tribunal within fourteen days from the date of such decision.

(3) For the purposes of this section "final decision" means a decision which is not an intermediate verdict pending the final ruling.

Delegation
of powers

2D. The powers of the Chief Inspector may be delegated to such persons or public institutions as the Minister may direct on the advise of Chief Inspector.

Immunity

2E. The Chief Inspector, any inspector or person exercising the power of the Chief Inspector under this Act, shall not be liable to criminal or civil liability for the bonafide exercise of such powers subject to the provisions of this Act.

2F.-(1) The Chief Inspector or a member of the inspectorate or public officer having powers under this Act to take action shall abstain from exercising such powers if he has a pecuniary or other interest in the subject matter".

(c) by adding immediately after section 18 the following section;

"Power to
make
regulations

18A.-(1) The Minister may make regulations for the better carrying out of the provisions of this Act.

(2) Without prejudice to the generality of the provisions of subsection (1), the Minister may make regulations-

- (a) prescribing the procedure for summary proceedings conducted by the Chief Inspector on complaint referred to him on alleged counterfeited goods by the owner of the trade mark counterfeited;

- (b) prescribing the manner of conducting summary proceedings other than proceedings arising from a complaint in accordance with this Act;
- (c) laying down procedures for the seizure and detention of goods, safe custody and final disposal of such goods;
- (d) relating to the delegation of powers under the Act to any person or public institutions;
- (e) providing for forms to be used for the purposes of this Act;
- (f) for fixing fees, fines and other penalties which may be imposed by the Chief Inspector upon conduct of summary proceedings and other proceedings under this Act;
- (g) prescribing anything which under the Act may be prescribed."

PART III

AMENDMENT OF THE ARMS AND AMMUNITION ACT

Construc-
tion
Cap. 223

5. This Part shall be read as one with the Arms and Ammunition Act, hereinafter referred to as the "principal Act".

Amend-
ment of
section 34

Cap. 200

6. The principal Act is amended in section 34 by deleting in subsection (2) the phrase "for a term not exceeding fifteen years or to a fine not exceeding shillings three million or to both such fine and imprisonment" and substituting for them the phrase "and any other penal measure provided for under the Economic and Organized Crimes Control Act".

PART IV

AMENDMENT OF THE PENAL CODE

Construc-
tion
Cap. 16

7. This Part shall be read as one with the Penal Code, hereinafter referred to as the "principal Act".

General
amend-
ments

8. The principal Act is amended-

- (a) in section 131 by repealing subsection (3) and substituting for it the following provision:

“(3) Subject to the provisions of subsection (2), a person who commits an offence of rape of a girl under the age of ten years shall on conviction be sentenced to life imprisonment”.

(b) in section 131A by-

(i) inserting at the beginning of subsection (2), the phrase “Subject to the provisions of subsection (3)”;

(ii) inserting immediately after subsection (2) the following provision:

“(3) Where the commission or abetting the commission of a gang rape involves a person of or under the age of eighteen years the court shall, in lieu of sentence of imprisonment, impose a sentence of corporal punishment based on the actual role he played in the rape”.

(iii) adding the following provision immediately after section 160A:

“Punishment
of children

160B. For the promotion and protection of the right of the child, nothing in Chapter XV of this Code shall prevent the court from exercising-

(a) reversionary powers to satisfy that, cruel sentences are not imposed to persons of or below the age of eighteen years; or

(b) discretionary powers in imposing sentences to persons of or below the age of eighteen years”.

Passed in the National Assembly on the 30th October, 2007.

DAMIAN S. L. FOKA,
Clerk of the National Assembly