

## *Tourism Act*

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(c) any tourism operator,

where he has reasonable cause to believe that such premises are kept in contravention of this Act and may make such examination and inquiry as it may be necessary.

(2) In entering or inspecting the premises of a facility, activity or a tourism operator, the Director or an authorized officer may:

- (a) examine and take copies of any books, accounts and documents found in the premises relating or appearing to relate to the business of a facility, activity or tourism operator;
- (b) seize any books, documents or accounts found in the premises which he has reasonable cause to believe that they contain evidence of an offence committed against this Act;
- (c) question any person who appears to him to be engaged in, or carrying on, or employed in the business of a tourism facility, activity or tourism operator on the premises on any matter concerning the application of this Act;
- (d) require, by notice in writing, any person who appears to be engaged in, or carrying out the business of a tourism operator, to produce to him at such time and place as he may specify in such notice, any of the books, accounts or documents relating to the business of a tourism operator; or
- (e) stop and seize or search any vehicle on which he has reasonable grounds for suspecting that it is used or contains any matter which may be used as evidence in respect of an offence committed under this Act.

(3) The Director or an authorized officer shall, if so required, produce evidence of his authority to examine or make any inquiry or enter the premises of any facility in respect of which an application for registration has been made or of any registered tourism facility or activity.

(4) Notwithstanding the provisions of subsections (1), (2), and (3), no premises shall be entered into except after the Director or authorized officer has informed the person who is for the time being in charge or control of such

premises of the purpose of his visit.

(5) Any person seizing anything under the provisions of paragraph (e) of subsection (2) shall, at the time when such thing is seized, give a written receipt thereof.

(6) Where any person who conducts, operates or intends to operate a tourism facility or activity, without just cause:

- (a) refuses to permit the Director or an authorized officer to enter any premises under subsection (1) or to conduct any examination or inquiry of that facility or activity;
- (b) otherwise hinders or obstructs the Director or an authorized officer in the exercise of his powers under subsection(1);or
- (c) conceal any relevant information,

such refusal, hindrance, obstruction or concealment of information, as the case may be, shall afford a ground for refusing to register the facility or activity or cancelling its registration, or refusing to issue a licence to that person or cancelling the licence, as the case may be.

Statistics and information

54. The Director may require a tourism operator, whether or not the facility or activity is registered or the person is licensed, to furnish such information and statistics in regard to customers and the operation of the facility or activity as he considers necessary.

Division to monitor curricula of hotel and tourism training institutes

55.-(1) The Director shall monitor curricula of hotel and tourism training provided by public and private institutions to ensure that:

- (a) the institutes are kept at desirable standards;
- (b) the institutes are accredited under relevant laws; and
- (c) the institutes abides by any other relevant laws.

(2) The Minister may make regulations prescribing:

- (a) the desirable facilities of the hotel and tourism training institutes; and
- (b) any thing which can be prescribed under this section for purposes of promotion and development of hotel and tourism trainings.

Regulations

56.-(1) Subject to subsection (2), the Minister may make regulations for better carrying out of the provisions and purposes of this Act.

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

- (a) the registration of any tourism facility or activity;
- (b) the requirements to be complied with before any facility or activity may be registered;
- (c) the grades of tourism facilities and the requirements to be complied with, before a facility or activity can qualify for any particular grade;
- (d) the licensing of any person who owns, conducts or operates a tourism facility or activity, or provides or assists in providing any service which is a facility or an activity;
- (e) the requirements to be complied with or the qualifications to be held by a person before he may be issued with a licence referred in paragraph (b) or his facility or activity be classified;
- (f) the issuance or replacement of licences and certificate of registration;
- (g) insignia or logos for various groups and grades of tourism facilities or activities and licensed persons, the circumstances and manners in which they shall be used and displayed;
- (h) the publication and display of particulars relating to the nature, grade, name or style of tourism facilities, activities and licensed persons;
- (i) duties of licensed persons and operators of tourism facilities or activities in relation to the provision of services;
- (j) records and accounts to be kept by licensed persons and operators of tourism facilities or activities;
- (k) insurance to be taken out by licensed persons and operators of tourism facilities and activities in respect of any death, injury of, or

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- (l) loss sustained by clients and other persons; fees and charges payable for registration, certificates, licences and other documents issued, inspections carried out and other things done under this Act;
- (m) the provision of bonds or other security by licensed persons in respect of their operations or business;
- (n) the undertaking of training or instruction by, or certification of persons employed in the tourism industry;
- (o) the declaration of tourism development zones for the orderly development of the industry in such zones and, for that purpose, providing for the rights, privileges and obligations of person who establish, operate, propose to establish or operate facilities in such zones;
- (p) submission by licensed tourism operators of returns and information relating to their business;
- (q) the activities of tourism operators with respect to the issuing of travel tickets and making of reservation for accommodation of facility;
- (r) the activities undertaken in facilities and activities by tourism operators in order to maintain a high standard of services in tourism industry;
- (s) conditions or requirements for application of licence of a tourism facility;
- (t) penalties for contravention of any regulations or any other subsidiary legislation made thereunder;
- (u) formation of any committee or sub-committee under this Act;
- (v) prohibition of use of certain words or phrases under this Act;
- (w) manners under which the tourism operators may contribute on cost relating to grading;
- (x) manners under which tour or photographic safaris may be conducted;
- (y) qualification of, and manners under which tour guides may operate; and

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- (z) anything with promotion, development and regulation of a tourism industry in the country.

Matters relating to employment Act No.6 of 2004

**57.-(1)** The rights, privileges, benefits and any other matters relating to employees and employers, as the case may be under this Act, shall be as provided under the Employment and Labour Relations Act, 2004 and any other relevant law.

(2) All matters relating to employment of foreigners under this Act shall be as provided under the relevant law.

(3) Without prejudice to any other written law, for the purposes of enforcement of subsection (2), the Director may, in consultation with the relevant authority, appoint in writing such number of authorized officers for purposes of inspection and compliance.

Arrangements for residents and local communities

**58.-(1)** The Minister may specify facilities and activities which can only be operated by Tanzanian citizens, and put in place mechanism on how tourism facilities and activities can benefit local communities surrounding the same.

(2) Without prejudice to subsection (1), no person who is not a Tanzanian citizen shall engage himself in a business of:

- (a) travel agency;
- (b) mountain climbing or trekking;
- (c) tour guide; or
- (d) any other activity the Minister may, by order published in the *Gazette*, specify.

(3) The Minister may exempt any person or group of persons from any of the provisions of subsection (2).

Protection of tradition and culture

**59.** Every tourism operator shall ensure that any person who takes photographs takes into consideration -

- (a) laws, practices and customs of Tanzania;
- (b) attributes and tradition of local communities;
- (c) the survival and flourishing of traditional cultural products, crafts and folklore;
- (d) protection of social and cultural identities; and
- (e) that, no person takes a photograph of another

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person with the intention of, or for the purposes of dehumanizing, making fun of or otherwise using such photograph in a manner that lowers the esteem of that person or class or group of person where he belongs.

Minister may  
amend  
Schedules

60. The Minister may, by order published in the *Gazette*, amend any Schedule to this Act.

Repeals  
Caps 105  
and 65

61. The Hotels Act and the Tourist Agents (Licensing) Act are hereby repealed.

Transitional  
provisions

62. Notwithstanding the repeal of the Acts referred to in section 61:

- (a) all hotels, restaurants and other tourism facilities and activities which fall under the category of tourism facility or activity as provided for under this Act shall, immediately after the commencement of this Act, be deemed to be tourism facilities and activities required to be registered;
- (b) any person who was required to be licensed under the repealed Acts shall be required to be licensed under this Act;
- (c) any register kept pursuant to the repealed Act, on or after the commencement date, shall continue to be kept under this Act;
- (d) any requirements or qualification for registration or the issuance of a licence which were applicable under the repealed Acts shall be deemed to have been provided for under this Act;
- (e) any registration, classification, grading, certificate or licence effected or issued pursuant to the repealed Acts and in force, shall continue to be in force as if it had been effected, made or issued under this Act; and
- (f) any application or decision made or any other thing whatsoever made, done or commenced under the repealed Acts which had acquired or was capable of acquiring force or effect,

shall continue to have or to be capable of acquiring such force or effect, as the case may be, as if it has been made, done or commenced under this Act.

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**FIRST SCHEDULE**

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Made under section 4 (3)

**COMPOSITION, TENURE OF OFFICE, MEETINGS  
AND PROCEDURAL MATTERS OF THE TECHNICAL  
ADVISORY COMMITTEE**

1. The Technical Advisory Committee shall be composed of:

- (a) a Chairman;
- (b) a representative of the Attorney General;
- (c) a member from the ministry responsible for public safety and security;
- (d) the Director of Wildlife Division;
- (e) the Conservator of the Ngorongoro Conservation Area Authority;
- (f) the Executive Secretary of the Hotel Association of Tanzania;
- (g) the Managing Director of Tanzania Tourism Board (TTB);
- (h) the Executive Secretary of Tourism Confederation of Tourism;
- (i) the Executive Secretary of Tanzania Association of Tour Operators;
- (j) one member from the National Environment Management Council;
- (k) the Manager of the Marine Parks and Reserves; and
- (l) the Director of Tanzania National Parks.

2. The Committee may co-opt any person to attend on its meeting without a voting right.

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3. The Chairman of the Committee shall be appointed by the Minister.
4. The members shall select amongst their numbers a Vice-Chairman.
- 5.-(1) The Committee shall meet four times a year, however, it may convene an extraordinary meeting where circumstances allow.  
(2) All meetings of the Committee shall be convened by the Chairman, on his absence, the Vice-Chairman.  
(3) The quorum at any meeting of the Committee shall be two third of all members in office.
- 6.-(1) The tenure of office of the members of the Committee other than ex-officio members shall be three years subject to their further appointment.  
(2) Where any member ceases to be a member for any reason before expiration of his term of office, the appointing authority may appoint another person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.
7. All matters proposed at any meeting of the Committee shall be decided by a majority of votes of the members present and voting; in the event of equality of votes, the Chairman or the Vice-Chairman, as the case may be, shall have a second vote or casting vote in addition to his original or deliberative vote.
8. The Committee shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Committee shall be read and confirmed or amended at the next meeting of the Committee and signed by the person presiding at the meeting.
9. The availability of any act or proceedings of a properly constituted Committee meeting shall not be affected by the absence of any member or by the defect subsequently raised by the absent member.
10. The Committee may make its own procedures.



**SECOND SCHEDULE**

**FORMS**

Made under section 28(1)

THE TOURISM ACT, 2007

NOTE: THE APPLICATION WILL NOT BE PROCESSED IF IN THE OPINION OF THE AUTHORITY THERE IS MISREPRESENTATION OR NON-DISCLOSURE OF ANY MATERIAL FACT

**APPLICATION FOR A TOURISM OPERATOR'S CERTIFICATE OF REGISTRATION**

1. BUSINESS OR TRADING NAME: .....

Location of Premises for which Certificate of Registration is being sought:

.....  
.....

2. DETAILS OF APPLICANTS:

*If applicant is an individual or sole trader: name of individual.  
If applicant is an organization, names of two directors and organization secretary.  
If applicant is a partnership, names of ALL partners.*

NAME IN BLOCK CAPITAL LETTERS ONLY

Name of applicant A: .....

TIN number: .....

Name of Applicant B: .....

TIN number: .....

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Name of Applicant C: .....  
TIN number: .....

**3. DETAILS OF ORGANISATION:**  
*(Where the Applicant is a Company or Corporate identity)*

Company Registration No:  
.....

Registered Office address:  
.....

Contact details: Telephone Number .....

Fax Number: .....

E-mail address: ..... Web site address: ...

Name of person who can be contacted about this application: .....  
.....

Telephone number of contact person: .....

**4. State Type of Certificate of Registration being applied for: .....**  
.....

**5. State principal activities of the company (e.g. travel agent; outbound travel; group handler; guiding services or specialist operator)**  
Activities: .....  
.....  
.....

**6. Level of Operations and Turnover:**  
(i) total licensable turnover last year;  
(ii) projected licensable turnover for coming year.

**7. Provide capitalisation details:**  
Specify:  
(i) Authorised share capital.  
(ii) Issued, fully paid up capital .....  
(a) for cash .....  
(b) otherwise than for cash.....  
(iii) If any share capital not fully paid up, give details ....

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- (iv) Full names, addresses and nationality of each shareholder and full details of shares held by each  
.....

**8.** Provide details of borrowing or other credit arrangements:  
Specify:

- (i) Authorised share capital.....
- (ii) Issued, fully paid up capital .....

  - (a) for cash .....
  - (b) otherwise than for cash.....

- (iii) If any share capital not fully paid up, give details ....
- (iv) Full names, addresses and nationality of each shareholder and full details of shares held by each  
.....

**9.** Provide details of Assets:  
Specify:

- (i) Details of premises and whether the premises are owned, leased, rented or mortgaged
- (ii) A List of all other assets of the Applicant.

**10.** Other particulars:

- (i) State whether applicant, the director or Manager or any officer of the applicant company has been convicted of any offence involving fraud or dishonesty in the last five years, or if there is any such case pending.
- (ii) State whether the applicant or any officer of the applicant company is a charged bankrupt.
- (iii) State whether the company or business is in liquidation or if any order has been made by any court in Tanzania or elsewhere against the company.

If the answer to items above is yes, please provide details:  
Details:

.....  
.....

**11.** Submission of Documents

In the case that the application for the Certificate of Registration is being made by an individual or partnership, he/she/they shall submit the following documents with the application form:

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- (a) The application fee as prescribed by the Tourism Division.
- (b) Evidence that the business is licensed by BRELA.
- (c) Evidence that the business is registered with the appropriate local authority and that the premises complies with the appropriate local government planning and development Acts.
- (d) The site plan and floor area of premises intended to be used for the conducting of a tourism enterprise.
- (e) Details of managerial staff and their TIN numbers.
- (f) Details of any foreign employees, their residency and employment status.
- (g) Fire Department clearance certificate.
- (h) A Business plan relating to the proposed enterprise.
- (i) Financial information including opening balance sheet, projected cash flows, trading, profit and loss accounts for first years trading and projected balance sheet for end of first year trading.
- (j) The curriculum vitae of the owner or, in the case of partnerships, the owners or managing representative of the owner.
- (k) A statement detailing the scale of charges which the applicant proposes for services provided during the period while such registration will remain in force.

In the case that the application for the Certificate of Registration being made by a body corporate shall be accompanied by:

- (a) The Certificate of Incorporation or similar deed.
- (b) The Memorandum and Articles of Association or similar constitutive document.
- (c) The list of Directors, their titles, their TIN numbers and their qualifications.

*I/we the undersigned, hereby apply for Certificate of Registration to carry on the business of a Tour Agent/Tour Operator/Services provider and declare that to the best of our abilities and belief, the particulars given herein are true and complete.*

Signature of Applicant A: .....

Signature of Applicant B: .....

Signature of Applicant C: .....

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*If applicant is an individual or sole trader: signature of individual.*

*If applicant is an organization, signature of two directors and organization secretary.*

*If applicant is a partnership, signature of ALL partners.*

Date of Application .....

<b>DO NOT WRITE IN THIS SPACE – FOR OFFICIAL USE ONLY</b>
Renewal of Certificate of Registration granted/rejected ..... issued on .....
Certificate of Registration type: ..... Number .....
Comment:
Fee paid: ..... Receipt No. ....
Signature: .....

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**THIRD SCHEDULE**

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Made under section 19(2)

**TENURE OF OFFICE, MEETINGS AND  
PROCEDURAL MATTERS OF THE BOARD**

1. The Board may co-opt any person to attend on its meeting without a voting right.
2. The Chairman of the Board shall be appointed by the Minister.
3. The members shall select amongst their numbers a Vice-Chairman.

4.-(1) The Board shall meet four times a year, however, it may convene an extraordinary meeting where circumstances allow.

(2) All meetings of the Board shall be convened by the Chairman, on his absence, the Vice- Chairman.

(3) The quorum at any meeting of the Board shall be two third of all members in office.

5.-(1) The tenure of office of the members of the Board other than ex-officio members shall be three years subject to their further appointment.

(2) Where any member ceases to be a member for any reason before expiration of his term of office, the appointing authority may appoint another person in his place and the person so appointed shall hold office for the remainder of the term of office of his predecessor.

6. All matters proposed at any meeting of the Board shall be decided by a majority of votes of the members present and voting; in the event of equality of votes, the Chairman or the Vice- Chairman, as the case may be, shall have a second vote or casting vote in addition to his original or deliberative vote.

7. The Board shall cause to be recorded and kept minutes of all business conducted or transacted at its meetings, and the minutes of each meeting of the Board shall be read and confirmed or amended at the next meeting of the Board and signed by the person presiding at the meeting.

8. The availability of any act or proceedings of a properly constituted Board meeting shall not be affected by the absence of any member or by the defect subsequently raised by the absent member.

9. The Board may make its own procedures.

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#### OBJECTS AND REASONS

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The Bill is intended to repeal the Hotels Act, Cap.105 and the Tourist Agents (Licensing) Act, Cap.65 so as to make better provisions for the regulation and promotion of tourism facilities and activities in Mainland

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Tanzania. The Bill will strengthen and improve the regulation of tourism facilities and activities for both domestic and international tourists.

The Bill is divided into eight major parts.

Part I of the Bill deals with Preliminary Matters which include short title and commencement of the Act. It also provide for the interpretation of certain important terms and words used in the Act, promotion of National Tourism Policy and Global Code of Ethics for Tourism by various persons exercising powers or dealing with tourism activities under the Act.

Part II provides for the establishment of the Technical Advisory Committee, its functions and composition. It also makes provisions for the appointment of the Tourism Director, functions of the Division and the tourism officers. The Part also provides for other administrative arrangements.

Matters relating to designation, registration and grading of various tourism facilities and activities are provided for under Part III of the Bill.

Part IV of the Bill deals with licensing of tourism facilities and activities. This Part establish a Board and an Appeal Authority which will deal with issuance of licences and appeals lodged thereto, respectively; and it lays out the process of application, granting and cancellation of tourism licences. It also provides for the right and obligation of tourism facilities and activities' owners and tourists.

Part V makes provisions for tourism business and tour operators. It provides for their licensing, rights and conditions of their operations. Establishment of register and publication of a list of tourism operators are also specified therein.

Provisions relating to registration and other conditions relating to tour guides are provided under Part VI.

Part VII makes proposals for various offences and penalties to be provided in the Act.

Part VIII of the Bill contains miscellaneous provisions pertaining to appeals on matters relating to registration, regulations, training and information, arrangement for residents and local communities surrounding tourism attractions and protection of traditions and cultures during

photographic safaris. It also repeals the Hotels Act, Cap.105 and the Tourism Agents (Licensing) Act, Cap.65.

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MADHUMUNI NA SABABU

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Muswada huu unakusudia kufuta Sheria ya Hoteli Sura ya 105 na Sheria ya Mawakala wa Hoteli (Leseni) Sura ya 65 kwa dhamira ya kuweka utaratibu mzuri zaidi katika kusimamia na kukuza biashara ya utalii Tanzania Bara.

Muswada huu pia unakusudia kuimarisha na kuboresha usimamizi wa shughuli hizo nchini kwa watalii wa ndani na nje ya nchi.

Muswada huu umegawanyika katika Sehemu kuu nane.

Sehemu ya Kwanza inahusu masuala ya utangulizi ambayo yanajumuisha jina la Sheria na kuanza kutumika kwa Sheria. Pia inatoa tafsiri kwa baadhi ya misemo na maneno muhimu yaliyotumika kwenye Sheria na uzingatiaji wa Sera ya Taifa ya Utalii na Kanuni za Maadili ya Utalii Duniani kwa watu mbalimbali wanaotekeleza majukumu au kushiriki katika shughuli za utalii kama ilivyoainishwa chini ya Sheria inayopendekezwa.

Sehemu ya Pili inaweka masharti yanayohusu uanzishaji wa Kamati ya Ushauri ya Wataalamu, kazi zake na Wajumbe wa Kamati hiyo. Pia inatoa masharti ya uteuzi wa Mkurugenzi wa Utalii, kazi za Idara na maofisa utalii. Sehemu hii pia inaweka taratibu nyingine zinazohusu utawala.

Masuala yanayohusu uteuzi (designation of tourism facilities and activities), uwekaji madaraja ya hoteli na shughuli za kiutalii yanaainishwa katika Sehemu ya Tatu ya Muswada huu.

Sehemu ya Nne ya Muswada inahusu utoaji wa leseni za utalii (tourism facilities and activities). Sehemu hii inaunda Bodi ya leseni na Mamlaka ya Rufaa katika masuala yanayohusu leseni na pia inaweka mchakato wa utaratibu wa uombaji, utoaji na ufutaji wa leseni za utalii. Sehemu hii pia inaweka masharti yanayohusu haki na wajibu wa wamiliki wa shughuli za utalii na za watalii.



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Sehemu ya Tano ya Muswada inahusu watu wanaoendesha shughuli za utalii (tourism facilities and activities operators). Sehemu hii inaweka utaratibu wa utoaji wa leseni zao, haki na wajibu wao chini ya Sheria inayopendekezwa pamoja na utangazaji wa orodha yao katika Gazeti la Serikali.

Masuala ya utaratibu wa usimamizi, usajili na masharti ya shughuli za waongoza watalii (tour guides) yanaainishwa katika Sehemu ya Sita.

Sehemu ya Saba inaaanisha makosa na adhabu mbalimbali ambazo zinaweza kutolewa chini ya Sheria hii pindi ukiukaji wa Sheria inayopendekezwa utakapotokea.

Sehemu ya Nane inahusu masuala ya jumla yanayohusu rufaa katika utaratibu wa usajili, utayarishaji wa kanuni, mafunzo, takwimu na habari, utaratibu wa kuwapa kipaumbele wananchi katika baadhi ya shughuli za kitalii na kuweka utaratibu wa jinsi wenyeji wanaoishi katika maeneo yenye vituo vya utalii wanavyoweza kunufaika na rasilimali hizo, na utunzaji na uimarishaji wa mila na tamaduni wakati wa upigaji wa picha za kitalii. Sehemu hii pia inafuta Sheria ya Hoteli Sura ya 105 na Sheria ya Wakala wa Utalii (Utoaji wa Leseni) Sura ya 65.

Dar es Salaam  
30 Aprili, 2007

**JUMANNE ABDALLAH MAGHEMBE**  
*Waziri wa Maliasili na Utalii*

*Public Service (Amendment) Act*

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THE PUBLIC SERVICE (AMENDMENT) ACT, 2007  
ARRANGEMENT OF SECTIONS

*Section*      *Title*

PART I  
PRELIMINARY PROVISIONS

1. Short title and construction.

PART II  
AMENDMENT OF THE PUBLIC SERVICE ACT

2. Amendment of section 5.
3. Amendment of section 6.
4. Amendment of section 7.
5. Amendment of section 8.
6. Amendment of section 9.
7. Amendment of section 10.
8. Amendment of section 12.
9. Amendment of section 15.
10. Amendment of section 25.
11. Addition of section 29.
12. Amendment of section 30.
13. Amendment of section 35.
14. Addition of section 35A.

*Public Service (Amendment) Act*

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**NOTICE**

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The following 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.

Dar es Salaam,  
31<sup>st</sup> May, 2007

**PHILLEMONT L. LUHANJO**  
*Chief Secretary*

**PART I  
PRELIMINARY PROVISIONS**

Short title and  
construction

Cap.298

1.-(1) This Act may be cited as the Public Service (Amendment) Act, 2007 and shall be read as one with the Public Service Act hereinafter referred to as the "principal Act."

(2) The Minister may appoint different dates for the commencement of different Parts or provisions of this Act.

**PART II  
AMENDMENT OF THE PUBLIC SERVICE ACT**

Amendment of  
section 5

2. The principal Act is amended in section 5 by -  
(a) deleting paragraph (b);  
(b) renaming the existing paragraphs (c) and (d), as (b) and (c).

Amendment  
of section 6

3. The principal Act is amended in section 6-  
(a) in subsection (1), by deleting paragraph (a) of subsection (1) and substituting for it the following-  
    "(a) pursue-  
        (i) results oriented management; and  
        (ii) Open Performance Appraisal System;  
(b) by repealing subsection (3) and replacing it with

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the following provision:

"(3) Every head of department or division shall be the disciplinary authority in respect of employees in the operational service under his department or division."

- (c) by renaming subsection "(4)", "(5)" and (6) as (3), (4) and (5); and
- (d) by adding a new section 6A as follows -

"Promotion  
and filling of  
vacant posts

6A.-(1) Where a vacant post occurs in the Service, such post shall be filled by a suitable employee in the public service and in the absence of such employee, consideration shall be given to a suitable person outside the Service.

(2) Without prejudice to subsection (1), for purposes of filling any vacant post in respect of entry point of any scheme of service the post shall be advertised and interview be conducted to suitable candidate, unless the Chief Secretary directs otherwise.

(3) Every promotion in the Service shall be made by considering -

- (a) performance and efficiency to perform and execute the duties by an employee;
- (b) career

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development  
and succession  
plan;

- (c) seniority amongst the employees; and
- (e) the scheme of service."

Amendment of  
section 7

4. The principal Act is amended in subsection (3) of section 7 by deleting item (vi).

Amendment of  
section 8

5. The principal Act is amended in section 8 -

- (a) in subsection (3), deleting paragraph (f) and substitute for it the following:

"(f) facilitate labour mobility of employees among employers through transfers where-

- (i) a need arise for; or
- (ii) it is for public interest so to do,

and that consultations with the relevant employers are made;

- (g) issue various circulars in respect of any matter under this Act."

- (b) adding the following provisions:

"(4) Consultation referred to in paragraph (f) of subsection (3) shall not be construed to as entitling an employer to refuse the transfer.

(5) Notwithstanding any provision of this section, every public servant shall be required to accept and assume duties at any place where he has been posted by the employer."

Amendment of  
Section 9

6. The principal Act is amended in subsection (3) of section 9 by -

- (a) deleting item (v); and

*Public Service (Amendment) Act*

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- (b) renumbering items “(vi)” and “(vii)”, as (v) and (vi).

Amendment  
of section 10

7. The principal Act is amended in subsection (1) of section 10-

- (a) by deleting paragraphs “(c)” and “(d)” and substituting for them the following:

“(c) issue guidelines and monitor compliance in the Service”;

- (b) by renaming paragraphs “(e)”, “(f)”, “(g)”, “(h)”, “(i)”, “(j)” and “(k)” as paragraphs (c), (d), (e), (f), (g), (h) and (i)”, respectively.

Amendment  
of section 12

8. The principal Act is amended by repealing section 12 and replacing with the following:

“Remuneration  
of members

12. The members shall be paid such allowances and other benefits out of funds appropriated by Parliament in that behalf as may be determined by the Chief Secretary”.

Amendment of  
section 15

9. The principal Act is amended in subsection (1) of section 15 by -

- (a) deleting paragraph (d); and
- (b) renaming paragraph “(e)” as (d)

Amendment of  
section 25

10. The principal Act is amended in section 25 by deleting paragraph “(c)”, and renaming paragraphs “(d)” and “(e)” as (c) and (d) respectively.

Addition of  
section 29

11. The principal Act is amended by-

- (a) inserting a new section 29 immediately after the heading “SPECIAL PROVISIONS” as follows-

“Establish-  
ments and  
functions of  
the Secretariat

29.-(1) There shall be established by the Minister a Secretariat to be known as the Public Service Recruitment Secretariat which shall be composed of-

- (a) a Chairman who shall be appointed by the President;
- (b) such number of persons not less than five and not more than seven who shall be amongst public servants appointed by the Minister.

(2) The members shall elect a Vice-Chairman from amongst their number.

(3) There shall be a Secretary of the Secretariat to be appointed by the Minister.

(4) The Secretariat shall be responsible for facilitating recruitment of employees to the Service.

(5) For purposes of subsection (4), the Secretariat shall have representatives in every regional headquarter.

(6) In relation to subsection (4), the functions of the Secretariat shall be to-

- (a) search for various professionals with special skills and prepare a database of such professionals for ease of recruitment;
- (b) register graduates and professionals for purposes of

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- ease of reference and filling vacant posts;
- (c) advertise vacant posts occurring in the Service;
- (d) engage appropriate experts for purposes of conducting interviews;
- (e) advise employers on various matters relating to recruitment; and
- (f) do any other act or thing which may be or directed by the Minister.

(7) The Secretariat shall make procedures for conduct of its business”.

- (b) designating the existing sections “29” to “36” as sections 30 to 37, respectively.

Amendment of section 30

12. The principal Act is amended in section 30 as designated -

- (a) by designating the contents of section 30 as section “30(1)”;
- (b) by adding immediately after subsection (1) the following:

“(2) Without prejudice to subsection (1), public servants referred to under this section shall also be governed by the provisions of this Act.”

Amendment of section 35

13. The principal Act is amended in subsection (2) of section 35 as designated by inserting paragraph “(f)”



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immediately after paragraph (e) as follows:

“(f) prescribe manners and conditions of labour mobility within the Service.”

Addition of  
section 35A

14. The principal Act is amended by adding immediately after section 35 as designated the following provisions:

“Minister  
may issue  
guidelines,  
codes of  
good  
practice, etc.

35A.-(1) The Minister may, for purposes of providing guidance to public servants, issue guidelines and codes of good practice.

(2) Guidelines and codes of good practice made under subsection (1) shall be published in the *Gazette*.

(3) Any person interpreting or applying this Act shall be required to observe and take into account guidelines and codes of good practice and, a public servant departing away from the guidelines or codes of good practice shall be required to provide the grounds as to why the departure was necessary”.

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### OBJECTS AND REASONS

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This Bill is intended to make proposals for amendment of the Public Service Act, Cap.298 with a view to cater for various changes and development occurred in the Public Service. It is also intended to remove from the Public Service Act all references relating to the Immigration and Fire and Rescue Services, to pave way for re-introduction of the former legal framework of the Forces.

The Bill is divided into two parts.

Part I of the Bill deals with preliminary matters which includes short title and relation with the principal Act.

Part II makes proposals for –

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- (a) removal of all references relating to the immigration, fire and rescues services from the Act;
- (b) introduction of Open Appraisal System in the Act;
- (c) facilitation of labour mobility of employees within the Service where necessary.
- (d) removal of certain provisions relating to "facilitation of appointment in the Public Service so as to empower the Public Service Commission be a regulatory board;
- (e) establishment of the Public Service Recruitment Secretariat so as to remove the responsibility from the employers under the Act; hence, give more time to deal with core functions of the institutions;
- (f) empowering the Minister to make guidelines and codes of good practices.

### MADHUMUNI NA SABABU

Muswada huu unakusudia kufanya marekebisho kwenye Sheria ya Utumishi wa Umma, Sura ya 298 kwa dhamira ya kukidhi mabadiliko yaliyotokea katika Utumishi wa Umma. Muswada pia unakusudia kuondoa vifungu vyote vinavyohusu usimamizi wa shughuli za Idara ya Uhamiaji, Zimamoto na Uokoaji katika Sheria ya Utumishi wa Umma, ili kuruhusu kutungwa kwa Sheria mpya itakayosimamia shughuli, muundo, kazi na mamlaka ya kisheria katika Vikosi hivyo.

Muswada huu umegawanyika katika sehemu mbili.

Sehemu ya Kwanza inahusu masuala ya utangulizi, ambayo yanajumuisha jina la Sheria na mahusiano yake na Sheria mama.

Sehemu ya Pili inaweka masharti ya mapendekezo ya –

- (a) kuondoa vifungu vyote vinavyohusu zimamoto na uokoaji;
- (b) kuwepo kwa masharti ya OPRAS ndani ya Sheria;
- (c) kuruhusu uhamishaji wa wafanyakazi wa Umma pale itakapobidi au kama ni kwa manufaa ya umma;
- (d) kuifanya Tume ya Utumishi wa Umma kuwa Tume Rekebu (Regulatory Board) na si Tume Tendaji (Executive Board);

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- (e) kuruhusu kuundwa kwa Sekretariat ya Ajira katika Utumishi wa Umma ili kuvipa muda wa kutosha vyombo vya umma kushughulikia kazi na majukumu yao ya msingi;
- (f) kumruhusu Waziri kutengeneza Miongozo na Kanuni za Utendaji Bora wa kazi.

Dar es Salaam,  
30 Aprili, 2007

**HAWA A. GHASIA**  
*Waziri wa Nchi, Ofisi ya Rais –  
Menejimenti ya Utumishi wa Umma*