

THE UNITED REPUBLIC OF TANZANIA

ACT SUPPLEMENT

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THE MEDIA SERVICES ACT, 2016

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THE UNITED REPUBLIC OF TANZANIA



NO. 12 OF 2016

I ASSENT,

JOHN POMBE JOSEPH MAGUFULI,
President[16th November, 2016]

An Act to make provisions for promotion of professionalism in the media industry, for establishment of the Journalists Accreditation Board, Independent Media Council and framework for regulation of media services and for other related matters.

ENACTED by Parliament of the United Republic of Tanzania

PART I
PRELIMINARY PROVISIONS

Short title and
commencement

1. This Act may be cited as the Media Services Act, 2016, and shall come into operation on such date as the Minister may, by Notice published in the *Gazette*, appoint.

Application

2. This Act shall apply in Mainland Tanzania.

Interpretation

3. In this Act, unless the context otherwise requires:

“Board” means the Journalists Accreditation Board established under section 11 of this Act;

“content” includes information in print media or electronic media images, drawings, cartoons, and any other characters, whether moving or still;

“Complaints Committee” means a committee established under section 27 of this Act;

“Council” means the Independent Media Council established under section 24 of this Act;

“editor” means a journalist who is in charge of production of content for radio, television, newspaper, journals and magazine, and includes online platforms for radio, television and newspaper;

“electronic media” means a mode of communication of content to the public by television, radio, video, cinema, e-newspaper or by any other electronic means and devices including social media, applications and any other related means;

“foreign citizen” means a person who is not a citizen of the United Republic;

“foreign company” means a company incorporated outside the United Republic or where majority shareholders are foreigners;

“freelancer” means a journalist working independently for media houses;

“Fund” means the Media Training Fund established under section 22;

“journalist” means a person accredited as journalist under this Act, who gathers, collects, edits, prepares or presents news, stories, materials and information for a mass media service, whether an employee of media house or as a freelancer;

“mass media” includes any service, medium or media consisting in the transmission of voice, visual data or textual messages to the general public;

“media” means the industry, trade or business of collecting, processing and dissemination of content through radio, television or newspapers, and includes online platforms;

“media association” means organisation registered or recognized by law engaged in media related activities;

“media house” means a person licensed to provide media services;

“media services” means services provided through media;

“Minister” means the Minister responsible for content;

“news agency” means an organization that collects and distributes news items and photographs for media houses and public consumption;

“newspaper” means a printed or published materials in the form of tabloid, broadsheet, magazine, newsletter and other periodicals or electronic form, which contains-

- (a) news;
- (b) articles;
- (c) advertisements;
- (d) photos and cartoons;
- (e) reports of occurrences; or
- (f) comments or observations which are published for distribution to the public either daily or periodically;

“press card” means a press card issued under this Act identifying a person holding it as an accredited journalist;

“print” means produce or reproduce content in the form of text, picture, drawings, cartoons for the mass media;

“print media” means newspapers, journals, magazines, newsletters and any other related print intended for mass media;

“private media house” means a non Government owned media house;

“public media house” means a media house owned by the Government on behalf of the public;

“publish” means to disseminate content to one person or to the general public;

“publication” means any communication of content through media;

“publisher” means a person who publishes content;

“roll” means the roll of accredited journalist in accordance with section 21; and

“social media” means online interactions among people in which they create, share, and exchange information and ideas in virtual communities, networks and their associated platform of new technology.

PART II INFORMATION SERVICES

(a) Information Services

Director of
Information
Services
Department

4.-(1) There shall be a Director of Information Services Department who shall be appointed by the President from amongst persons of high integrity with proven academic and professional knowledge in media services, legal or public administration.

(2) The Director of Information Services Department shall-

- (a) be the Chief Spokesman of the Government on all matters relating to its policies and programmes; and
- (b) be the principal advisor to the government in all matters related to strategic communication, publication of news and the functioning of the media industry.

Functions of
Director of
Information
Services

5. The functions of the Director of Information Services Department shall include to-

Department

- (a) coordinate all Government communications units in the Ministries, Local Government Authorities, Independent Departments and Agencies.
- (b) advice the Government on all matters relating to strategic communications;
- (c) develop and review information and government communication policies, regulations, standards and guidelines;
- (d) monitor and evaluate the implementation of information and government communication policies, regulations, standards and guidelines;
- (e) license print media;
- (f) coordinate press conferences for government officials;
- (g) develop and coordinate capacity building of government communication officers in collaboration with immediate employers;
- (h) coordinate press coverage of national festivals and visiting Heads of State and Dignitaries and other issues of national importance;
- (i) coordinate Government video photographic activities;
- (j) prepare official portrait of the President, Vice President and the Prime Minister;
- (k) manage the national portal in collaboration with relevant government agencies, website and other Government communication platforms;
- (l) coordinate Government advertisements;
- (m) undertake the collection, processing, packaging and distribution of information, news and news materials to newspapers, broadcasting services, news agencies, members of the public and other persons

whether in their individual capacity or in a representative capacity; and

- (n) carry out such other activities associated with strategic communication, collection, processing, packaging of information and distribution of news or news materials as the Government may from time to time direct.

(b) Ownership, Rights and Obligations of Media Houses

Ownership of
media houses
Cap. 306

6.-(1) For purposes of licensing under this Act and licensing of electronic media under the Electronic and Postal Communications Act, there shall be two categories of media houses ownership, namely:

- (a) public owned media houses; and
- (b) private owned media houses.

(2) Conditions for ownership of media houses shall be as prescribed in the regulations.

Rights and
obligations of
media houses

7.-(1) Every media house and journalist shall enjoy the following rights-

- (a) freedom to collect or gather information from different sources;
- (b) freedom to process and edit information in accordance with professional ethics governing journalists; and
- (c) freedom to publish or broadcast news.

(2) A media house registered under this Act or licensed under any other written law shall comply with the following obligations:

- (a) in the case of a Public Media House-
 - (i) to observe universal service obligation;
 - (ii) to provide media services to the public and Government;
 - (iii) to uphold professional code of ethics;
 - (iv) to enhance communication within the Government and between the

- Government and public;
 - (v) to provide public awareness on development matters from Government and public sector; and
 - (vi) maintain accountability and transparency in funding.
- (b) in the case of a private media house-
 - (i) to provide media services to public in accordance with licensed service area;
 - (ii) to uphold professional code of ethics;
 - (iii) to promote public awareness in various issues of national interest through information dissemination;
 - (iv) to broadcast or publish news or issues of national importance as the Government may direct; and
 - (v) maintain accountability and transparency in funding.
- (3) A media house shall, in the execution of its obligations, ensure that information issued does not-
 - (a) undermine-
 - (i) the national security of United Republic; or
 - (ii) lawful investigations being conducted by a law enforcement agent;
 - (b) impede due process of law or endanger safety of life of any person;
 - (c) does not constitute hate speech;
 - (d) disclose the proceedings of the Cabinet;
 - (e) facilitate or encourage the commission of an offence;
 - (f) involve unwarranted invasion of the privacy of an individual;
 - (g) infringe lawful commercial interests, including intellectual property rights of that information holder or a third party from

- whom information was obtained;
- (h) hinder or cause substantial harm to the Government to manage the economy;
 - (i) significantly undermines the information holder's ability to give adequate and judicious consideration to a matter of which no final decision has been taken and which remains the subject of active consideration; or
 - (j) damage the information holder's position in any actual or contemplated legal proceedings, or infringe professional privilege.

(4) For the avoidance of doubt, where there is an inconsistency between the provisions under this Sub-heading and the provisions of any other written law, the provisions under this Sub-heading shall prevail.

(c) Licensing of Print Media

Print media
licensing

8. A person shall not publish, sell, offer for sale, import, distribute or produce print media in any manner unless such person is licensed in accordance with this Act.

Powers to reject
applications and
cancellation of
licence

9. The Director of Information Services Department or such other person acting on his behalf shall have powers to-

- (a) reject an application which does not comply with the prescribed requirements for licensing; and
- (b) suspend or cancel the licence in the event of failure of a licensee to comply with the prescribed conditions of a licence.

Appeals against
decision of the
Director of
Information
Services
Department

10.-(1) Any person aggrieved by the decision of the Director of Information Services Department under section 9 may, within thirty days from the date of such decision, appeal to the Minister.

(2) Subject to the provisions of subsection (1), the appeal under this section shall be on the grounds that-

- (a) the decision made was not based on evidence produced;
- (b) there was an error in law; or
- (c) the procedures and other statutory requirements applicable to the suspension or cancellation of a licence were not complied with and the non-compliance materially affected the determination.

(3) A person aggrieved by the decision of the Minister under this section may seek redress from the High Court.

PART III ESTABLISHMENT OF THE BOARD OF ACCREDITATION

(a) Journalists Accreditation Board

Journalists
Accreditation
Board

11.-(1) There is established a Board to be known as the Journalists Accreditation Board.

(2) The Board shall be a body corporate and shall-

- (a) have perpetual succession and an official seal;
- (b) in its own name, be capable of being sued and suing;
- (c) be capable of acquiring any movable or immovable property; and
- (d) doing all or such other acts and things which a body corporate may lawfully perform, do or suffer to be done.

(3) Notwithstanding the provisions of subsection (2), the Attorney General shall have the right to intervene in any suit or matter instituted by, or against the Board.

Cap. 5 (4) Where the Attorney General intervenes in any suit or matter the provisions of the Government Proceedings Act shall apply in relation to the proceedings of that suit or matter as if the suit or matter had been instituted by or against the Government.

(5) For purposes of subsection (3), the Board shall have the duty to notify the Attorney General on any impending suit or matter by or against the Board.

Composition of the Board

12.-(1) The Board shall consist of seven members appointed by the Minister as follows:

- (a) a senior accredited journalist who shall be a Chairman;
- (b) the Director of Information Services Department;
- (c) Secretary of the Council;
- (d) a law officer nominated by the Attorney General;
- (e) one member representing Higher Learning Institutions offering a course in journalism, mass communication or media related courses;
- (f) one member representing public owned media houses; and
- (g) one member representing the umbrella organisation of private owned media houses.

(2) The Minister shall, in appointing members of the Board, have regards to gender balance.

(3) The Board may, co-opt any person with special knowledge and skills to provide expertise on a particular issue but the co-opted member shall have no right to vote.

(4) The provisions of the Schedule shall have effect as to the tenure of office of members, the proceedings of the Board and any other matters relating to the Board.

(5) The Minister may, by order published in the *Gazette*, amend the Schedule to this Act.

Functions of the Board

13. The functions of the Board shall be-

- (a) to accredit and issue press cards to journalist in accordance with this Act;
- (b) to enforce the adopted code of ethics for journalist professionals ;
- (c) to uphold standards of professional conduct and promote good ethical standards and discipline among journalists;
- (d) to advise the Government on matters pertaining to the education and training of journalists;
- (e) in consultation with the relevant institutions, set standards for professional education and training of journalists;
- (f) to establish links with similar organizations within and outside the United Republic;
- (g) in consultation with the Council, to prepare training for journalists;
- (h) to maintain a roll of accredited journalists;
- (i) to administer the accounts, assets and liabilities of the Board; and
- (j) to carry out such other functions as the Minister may direct.

Powers of the Board

14. In the performance of its functions, the Board shall have powers to-

- (a) establish such number of committees as may be necessary for the better carrying out of its functions;
- (b) suspend or expunge journalists from the roll of accredited journalists;
- (c) impose fines for non compliance as may be prescribed in the Regulations; and
- (d) set fees and charges for accreditation.

(b) Director General and Other Staff of the Board

Appointment and
qualification of
Director General

15.-(1) The Board shall, upon approval of the Minister, appoint a Director General who shall be the Chief Executive Officer.

(2) A person shall not be eligible for appointment to the position of Director General unless such person-

- (a) is a citizen of Tanzania; and
- (b) is a holder of at least a Masters degree from a recognized institution of higher learning and possess, by virtue of his learning and experience, expertise in the media services, law, public administration or such other related field; and
- (c) has satisfied the Board that he is unlikely to have a conflict of interest.

Responsibilities of
Director General

16.-(1) The Director General employed in terms of this Act shall be responsible for the day to day functions of the Board and in particular shall-

- (a) perform the functions and exercise the powers of the Board provided for under this Act, and such functions as may be delegated to him by the Board;
- (b) manage the budget, personnel and properties of the Board;
- (c) keep all records of the affairs and meetings of the Board;
- (d) keep and maintain roll of accredited Journalists; and
- (e) ensure the implementation of decisions and directives of the Board.

(2) The Director General may delegate his powers to officers and employees of the Board:

Provided that, the Director General shall not delegate the powers delegated to him by the Board.

(3) The Director General shall hold office for a term of five years and shall subject to his satisfactory performance, be eligible for re-appointment for one further term.

Employees of the Board

17.-(1) The Board shall employ such number of senior officers to the management of the Board as may be required.

(2) The Director General shall with the approval of the Board employ such other employees as may be necessary for efficient performance of the functions of the Board on such terms and conditions to be stipulated in their employment contracts.

(3) Employees of the Board under this section shall, in the performance of their functions, be answerable to the Director General.

Disciplinary authority

18.-(1) The Board shall be the disciplinary authority, and the Minister shall be the final appellate authority in relation to the Director General and other Directors.

(2) The Director General shall be the disciplinary authority and the Board shall be the final appellate authority in relation to the staff of the Board.

(c) Accreditation of Journalists

Accreditation of journalists

19.-(1) A person shall not practice as a journalist unless that person is accredited in accordance with the provisions of this Act.

(2) A person who intends to practice as a journalist shall apply for accreditation to the Board in the form and manner prescribed in the regulations.

(3) A journalist who is not a citizen of the United Republic or is not regarded as a permanent resident by virtue of immigration laws may be accredited for a specified purpose for a period not exceeding ninety days.

(4) Where a period of accreditation granted under subsection (3) expires, and the purpose for accreditation is not completed, the journalist who pursues that purpose may apply to the Board for extension of time for a further period not exceeding twenty one days.

(5) The Board may cancel the accreditation of a journalist if its satisfied that:

- (a) the journalist has committed gross professional misconduct as prescribed in the code of ethics for journalist profession; and
- (b) in case of a foreign journalist, such journalist does not pursue the purpose for which accreditation was granted.

Press card

20.-(1) A journalist accredited in terms of this Act shall be issued with a press card by the Board.

(2) A press card shall be evidence that the holder is an accredited journalist and shall be valid for a period prescribed in the Regulations.

(3) The holder of a press card may, upon the expiry of the press card and payment of prescribed fees, make application to the Board for renewal.

Roll of journalists

21.-(1) The Board shall maintain a roll of journalists containing all names and particulars of existing accredited journalists.

(2) A person who ceased to be an accredited journalist as a result of his name being expunged from the roll of Journalists or is suspended from practicing as an accredited journalist shall not practice, whether directly or indirectly, as a journalist.

(3) An accredited journalist whose name is expunged from the roll of Journalists or is suspended shall not practice as journalist for a period of not less than three months.

(4) Notwithstanding the provisions of subsections (2) and (3), where the name of any journalist

has been expunged from the roll or the effect of the accreditation of any journalist has been suspended in terms of this section, the Board may, either of its own motion or on application in the prescribed manner by the journalist concerned, and in either case after holding such inquiry as the Board may deem fit, direct that-

- (a) the deletion from the roll be confirmed;
- (b) the name of that journalist be restored to the Roll; or
- (c) the suspension of the accredited journalist be lifted.

(5) A person aggrieved by the decision under this section may appeal to the Minister.

(6) A person aggrieved by the decision of the Minister may seek redress from the High Court.

(7) The Board shall cause the roll of Journalists to be published in the gazette or newspaper of wide circulation or website of the Board.

(d) Media Training Fund

Establishment of Fund

22.-(1) There is established a fund known as the Media Training Fund which shall be administered by the Board.

(2) The objectives of the Fund shall be to-

- (a) facilitate training for media services professionals;
- (b) promote local content development programs; and
- (c) promote and contribute towards research and development in the field of journalism and mass communication.

Sources of funds

23. The sources of funds of the Fund shall consist of-

- (a) grants, gifts and donations;

- (b) contributions by media houses; or
- (c) money that may, in any manner, become payable to or vest in the Fund in pursuance of the provisions of this Act or in relation or incidental to the carrying out of functions under this Act.

PART IV INDEPENDENT MEDIA COUNCIL

Establishment of
the Council

24. There is established a Council to be known as the Independent Media Council.

Membership and
management of the
Council

25.-(1) Every accredited journalist shall be a member of the Council

(2) The Minister shall, by notice published in the *Gazette*, convene the first meeting of the Council for the purposes of elections of members to the leadership of the Council.

(3) The leadership of the Council referred to under subsection (2) shall comprise of-

- (a) the Chairman;
- (b) Vice Chairman; and
- (c) two other accredited journalists nominated by media associations.

(4) The Council shall, in electing its leaders, have regards to gender balance.

Functions of the
Council

26.-(1) The functions of the Council shall be-

- (a) in consultation with the Board:
 - (i) to set a code of ethics for journalists professionals;
 - (ii) to set and promote ethical and professional standards amongst journalists and media enterprises;
- (b) to conduct reviews on the performance of media sector;

- (c) to determine print media content complaints;
- (d) to collaborate with stakeholders in promoting media accountability; and
- (e) to perform such other related promotional functions as the Council may by resolution determine

(2) The Council shall, in the execution of its functions, adhere to national unity, national security, sovereignty, integrity, and public morals.

Committees of the Council

27.-(1) The Council shall, for the purposes of facilitation of performance of its functions under this Act, establish such number of committees to perform specific functions as may be determined by the Council.

(2) The committees to be established by the Council shall include a complaints committee to deal with print media content complaints.

Handling of complaints

28.-(1) A person aggrieved by content of a print media may, within three months from the date of publication of the content, make a written complaint to the complaints committee established pursuant to section 27(2) of this Act.

(2) The Council shall, for the purpose of this section, make rules prescribing-

- (a) the conduct and procedure for determination of print media content complaints; and
- (b) matters to be awarded by the complaints committee.

Appeals

29.-(1) Save as provided for in section 41, a person who is not satisfied with an award by the Council, may appeal to the High Court.

(2) The complaint shall contain a copy of the print media content complained of.

(3) The High Court shall, upon receipt of the complaint, hear the appeal, and where appropriate, summon the parties to substantiate their case or defence.

Procedures and meetings of the Council

30.-(1) Subject to the provisions of this Act, the Council shall-

- (a) determine the number of meetings to be convened periodically; and
- (b) have power to regulate its own procedures in respect of the meetings and the proper conduct of its business.

(2) The Council shall, from time to time, agree on-

- (a) time and place for holding an annual stakeholders meetings, and similar matters of mutual interest;
- (b) make mechanisms for the management and funding of the function of the Council;
- (c) organisational structure for the management of its affairs; and
- (d) procedure or mechanism for the identification and invitation of media associations or institutions engaged in media service.

Appointment of Secretary to the Council

31.-(1) There shall be a Secretary to the Council who shall be appointed by the Council through competitive recruitment.

(2) The Secretary shall hold office for a term of five years and may be eligible for re-appointment for another term.

Duties of Secretary to the Council

32. The Secretary to the Council appointed under this Act shall be the Chief Executive Officer of the Council and shall be responsible for-

- (a) the day to day management of the affairs of the Council;

- (b) ensure that funds of the Council are properly expended, accounted for and be used for intended purposes;
- (c) maintain records of the Council operations; and
- (d) the performance of such other duties as the Council may assign.

Removal of
Secretary

33. The Secretary may, subject to the terms and conditions of service, be removed from office by the Council in the event of -

- (a) inability to perform the functions of the office of secretary arising out of physical or mental incapacity;
- (b) misconduct or misbehavior;
- (c) incompetency or neglect of duty;
- (d) violation of regulations; or
- (e) any other ground that may justify removal from the office under the terms and conditions of service.

Secretariat

34.-(1) The Council shall establish a secretariat, and may on such terms and conditions as it may determine, appoint such number of officers to serve as the secretariat as it may consider appropriate for the performance of duties under section 32.

(2) The officers appointed under subsection (1) shall be under the direct management of the Secretary to the Council.

PART V DEFAMATION

Defamation

35.-(1) Any matter which, if published, is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or likely to damage any

person in his profession or trade by an injury to his reputation, is a defamatory matter.

(2) The matter referred to under subsection (1) shall qualify to be a defamatory matter even when it is published against a deceased person.

(3) The prosecution for the publication of defamatory matter concerning a person who is dead shall not be instituted without the written consent of the Director of Public Prosecutions.

Defamation in
print media

36.-(1) A person shall be deemed to make publication of a libel if that person causes the print, writing, painting, effigy or other means by which the defamatory matter is conveyed, to be dealt with, either by exhibition, reading, recitation, description, delivery or otherwise, in a way that the defamatory meaning thereof becomes known or is likely to be known to either the person defamed or any other person.

(2) It shall not be necessary for defamation that the defamatory meaning is directly or completely expressed.

(3) For the purpose of subsection (2), it shall be sufficient that such meaning and its application to the person alleged to be defamed may be collected either from the alleged libel itself or from any extrinsic circumstances or partly from the one and partly from the other means.

Definition of
unlawful
publication

37. Publication of defamatory matter concerning a person shall be unlawful within the meaning of this Part, unless-

- (a) the matter is true and it was for the public benefit that it is published; or
- (b) it is privileged as one of the grounds for the reasons provided under this Act.

Cases in which publication is absolutely privileged

38.-(1) The publication of defamatory matter is absolutely privileged, and a person shall not be liable to punishment in that respect where-

- (a) the matter is published by the President, the Government or the National Assembly in any official document or legal proceedings;
- (b) the matter is published in the National Assembly, by the President, the Government or by any member of the National Assembly or the Speaker;
- (c) the matter is published by order of the President or the Government;
- (d) the matter is published concerning a person who is the subject to military or naval discipline for the time being, and relates to his conduct as a person who is the subject of such discipline and is published by the person having authority over him in respect of such conduct;
- (e) the matter is published in the course of any judicial proceedings by a person taking part in court proceedings as a judge or magistrate or commissioners or advocate or assessor or witness or party thereto;
- (f) the matter published is in fact a fair report of anything said, done or published in the National Assembly; or
- (g) the person publishing the matter is legally bound to publish it.

(2) Where a publication is absolutely privileged, it is immaterial for the purposes of this Part whether the matter is true or false, and whether it is known or be not known or believed to be false, and whether or not it is published in good faith.

(3) Nothing in this section shall exempt any person from any liability of a civil or criminal nature under any

other Part of this Act or under any other written law if the publication of a matter alleged to be absolutely privileged is prohibited or the relief to a person injured is available under the Constitution of the United Republic.

Cases in which publication is conditionally privileged

39. A publication of defamatory matter is privileged on condition that it was published in good faith, if the relation between the parties by or to whom the publication is made is such that the person publishing the matter is under some legal, moral or social duty to publish it to the person to whom the publication is made or has a legitimate personal interest in publishing it and the publication does not exceed either in extent or matter what is reasonably sufficient for the occasion, and in any of the following cases, namely-

- (a) the matter published, is in fact, a fair report of anything said, done or shown in a civil or criminal inquiry or proceedings before any court, if however the court prohibited the publication of anything said or shown before it, on the ground that it is seditious, immoral or blasphemous, the publication shall not be privileged;
- (b) the matter published, is a copy or reproduction, or is in fact, a fair abstract of any matter which was previously published, and the previous publication of which was or would have been privileged under this Part;
- (c) the matter is an expression of opinion in good faith as to the conduct of any person in a judicial, official or other public capacity, or as to his personal character so far as it appears in such conduct;
- (d) the matter is an expression of opinion in good faith as to the conduct of a person in relation to a public question or matter, or as to his personal character, so far as it appears in such

- conduct;
- (e) the matter is an expression of opinion in good faith as to the conduct of any person disclosed by evidence given in a public legal proceedings, whether civil or criminal, as to the conduct of any person as a party, witness or otherwise in any such proceedings, or as to the character of any person so far as it appears in any such conduct as in this paragraph;
 - (f) the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech or other work, performance or act published or publicly done or made or submitted by a person to the judgment of the public, or as to the character of the person so far as it appears;
 - (g) the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he has authority, by contract or otherwise, over the person, or on the character of the other person, so far as it appears in such conduct;
 - (h) the matter is a complaint or accusation made by a person in good faith against another person in respect of his conduct in any matter, or in respect of his character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that other person in respect of such conduct or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter; or
 - (i) the matter is published in good faith for the protection of the rights or interests of the person who publishes or of the person to whom it is published.

Offer of amends

40.-(1) A person who publishes words alleged to be defamatory of another person may, if he claims that the words were published by him innocently in relation to that other person, make an offer of amends and in that case where-

- (a) the offer is accepted by the party aggrieved and is duly performed, no proceedings for libel or slander shall be taken or continued by that party against the person making the offer in respect of the publication in question, but without prejudice to any cause of action against any other person jointly responsible for that publication;
- (b) the offer of amends is not accepted by the party aggrieved, then, except as otherwise provided for by this section, it shall be a defence for the person making the offer, in any proceedings by the party aggrieved for libel, slander against the person making the offer in respect of the publication in question, to prove that:
 - (i) the words complained of were published by the defendant innocently in relation to the plaintiff; and
 - (ii) the offer was made as soon as practicable after the defendant received notice that they were or might be defamatory of the plaintiff, and has not been withdrawn.

(2) An offer of amends made pursuant to this section, shall be accompanied by an affidavit specifying the facts relied upon by the person making it to show that the words in question were published innocently in relation to the party aggrieved.

(3) For the purpose of a defence under paragraph (b) of subsection (1), no evidence, other than evidence of facts specified in the affidavit, shall be admissible on

behalf of the person making the offer of amends to prove that the words were so published.

(4) An offer of amends referred shall be construed and understood to mean an offer-

(a) in any case, to publish or join in the publication of a suitable correction of the words complained of, and a sufficient apology to the party aggrieved in respect of those words; and

(b) where copies of a document or record containing the written words have been distributed by or with the knowledge of the person making the offer, to take such steps as are reasonably practicable on for notifying persons to whom copies have been so distributed that the words are alleged to be defamatory of the party aggrieved.

(5) Where an offer of amends is accepted by the party aggrieved:

(a) any question as to the step to be taken in fulfillment of the offer as so accepted shall, in default of agreement between the parties, be referred to and determined by the court; and

(b) power of the court to make orders as to costs in proceedings by the party aggrieved against the person making the offer in respect of the publication in question or in proceedings in respect of the offer referred to under paragraph (a) shall include power to order the payment by the person making the offer to the party aggrieved of the costs of an indemnity basis, and expenses reasonably incurred or to be incurred by that party in consequence of the publication in question.

(6) Where no proceedings have been commenced in pursuance to subsection (1), the court may, upon application made by the party aggrieved, make an order for

the payment of the costs and expenses as court finds just and appropriate.

(7) For the purpose of this section, words shall be treated as published by one person, in this subsection referred to as the publisher, innocently in relation to another person if the following conditions are satisfied:

- (a) the publisher did not intend to publish the words and concerning that other person and did not know of circumstances by virtue of which they might be understood to refer to that other person; or
- (b) the words were not defamatory on the face of it and the publisher did not know circumstances by virtue of which they might be understood to be defamatory of that other person, and in either case, that the publisher exercised all reasonable care in relation to the publication.

(8) Any reference in subsection (7) to the publisher shall be construed as including a reference to a servant or agent of the publisher in relation to the contents of the publication in question.

(9) The provisions of subsection (1)(b) shall not apply in relation to the publication of words by a person who is not the author unless he proves that the words were written by the author without malice.

Redress for
defamation

41.-(1) Where a person alleges that a print or electronic media content is defamatory within the meaning of this Act, that person may file a case in the court for redress.

(2) The case shall contain a copy of a print or electronic media content complained about or, if the print or electronic media content cannot be extracted without unduly difficulty, statement to the effect that retrieval of the print or electronic media content has not been possible.

(3) The court shall, as soon as practicable and in accordance with the procedural laws, hear and determine the case.

(4) The Chief Justice may, by Order published in the *Gazette*, make rules for the purpose of timely and expeditious determination of cases under this Part.

PART VI FINANCIAL PROVISIONS

- Sources of funds of the Board
- 42.** The sources of the funds of the Board, shall consist of-
- (a) money appropriated by the Parliament;
 - (b) grants, gifts and donations;
 - (c) fees paid for services rendered by the Board; and
 - (d) money that may, in any manner become payable to or vest in the Board in pursuance of the provisions of this Act or in relation or incidental to the carrying out of its functions.
- Power of Board to charge fees
- 43.** The Board may, for the proper performance of the functions of the Board, charge fees for any services or category of services rendered by the Board, subject to any directives which the Minister may, in consultation with the Minister responsible for finance, provide in that behalf.
- Investment
- 44.** The Board may, with the prior approval of the Minister and after consultation with the Minister responsible for finance, invest any part of the moneys available in any fund of the Board as may be authorized in relation to investment of funds by trustees under the Trustees Investments Act.
- Cap. 53
- Power to borrow
- 45.** Subject to the prior approval of the Minister and the Minister responsible for finance, the Board may

borrow money for the purposes of the Board by way of loan or overdraft and upon such security and such terms and conditions relating to repayment of the principal and payment of interest, subject to any direction given by the Minister.

Annual and
supplementary
budget

46.-(1) The first financial year of the Board shall commence on the date when the Act comes into operation and may be of a period longer or shorter than twelve months.

(2) The Board shall, convene a meeting to pass a detailed budget of the amounts-

- (a) expected to be received; or
- (b) expected to be disbursed, by the Board during that financial year, and whenever circumstances so require, the Board may pass a supplementary budget in any financial year.

(3) The annual budget and every supplementary budget shall be in such form as the Minister may approve.

(4) Upon passing of any budget or any supplementary budget, the Board shall submit to the Minister for approval the annual budget or the supplementary budget, as the case may be.

(5) The Minister shall, upon receipt of the annual budget or any supplementary budget, approve or disapprove it, or may approve it subject to any amendments which he may deem fit.

(6) Where the Minister approves any annual or supplementary budget, with or without amendment, the Board shall confine disbursements by the Board within the items and amounts contained in the applicable estimates as approved by the Minister.

(7) The Board may-

- (a) with the written sanction of the Minister, make a disbursement notwithstanding that, the disbursement is not provided for in any budget; and

- (b) adjust expenditure limits to take account of circumstances not reasonably foreseeable at the time the budget was prepared, subject to submitting a supplementary budget to the Minister within two months of the alteration of expenditure limits becoming necessary.

Accounts and audit

47.-(1) The Board shall cause to be kept proper books of accounts and records in respect to-

- (a) receipt and expenditure of money and other financial transactions of the Board; and

- (b) assets and liabilities of the Board,

and shall cause to be made out for every financial year financial statements showing the details of the income and expenditure of the Board.

(2) Accounts including the financial statements of the Board in respect of that financial year shall be audited within three months of every financial year in accordance with the Public Audit Act.

(3) Every audited account shall be placed before a meeting of the Board which, if adopted, be endorsed that it has been so adopted.

(4) As soon as the accounts of the Board have been audited, and in any case not later than three months after the close of the financial year, the Board shall submit to the Minister a copy of the audited statement of accounts, together with a copy of the report made by the auditors on the statement of accounts.

Cap 418

Annual report

48. The Board shall, within three months after the close of the financial year, cause to be prepared and submitted to the Minister a general report of the activities and operations of the Board during that financial year and accompanied by-

- (a) a copy of the audited accounts of the Board in accordance with the Public Audit Act;

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- (b) a copy of the auditor's report on the accounts; and
- (c) such other information as the Minister may direct.

Laying of accounts
before National
Assembly

49. The Minister shall, as soon as practicable after receiving the report submitted to him by the Board, lay before the National Assembly the audited accounts of the Board, together with the auditor's report on the accounts and the annual report of the Board.

PART VII OFFENCES AND PENALTIES

Offences relating
to media services

50.-(1) Any person who makes use by any means, of a media service for the purposes of publishing-

- (a) information which is intentionally or recklessly falsified in a manner which:
 - (i) threatens the interests of defense, public safety, public order, the economic interests of the United Republic, public morality or public health; or
 - (ii) is injurious to the reputation, rights and freedom of other persons;
- (b) information which is maliciously or fraudulently fabricated;
- (c) any statement the content of which is-
 - (i) threatening the interests of defence, public safety, public order, the economic interests of the United Republic, public morality or public health; or
 - (ii) injurious to the reputation, rights and freedom of other persons;
- (d) statement knowingly to be false or without reasonable grounds for believing it to be true;
- (e) a statement with maliciously or fraudulent intent representing the statement as a true

statement; or

(f) prohibited information, commits an offence and upon conviction, shall be liable to a fine of not less than five million shillings but not exceeding twenty million shillings or to imprisonment for a period not less than three years but not exceeding five years or to both.

(2) Any person who-

- (a) operates media outlet without licence;
- (b) practices journalism without accreditation; or
- (c) disseminates false information without justification,

commits an offence and upon conviction, shall be liable to a fine of not less than five million shillings and not exceeding twenty million shillings or to imprisonment for a period not less than three years but not exceeding five years or to both.

Offences in
relation to
publication

51.-(1) Any person who imports, publishes, sells, offers for sale, distributes or produces any publication or any extract of it, the importation of which is prohibited, commits an offence and shall be liable upon conviction for the first offence to a fine of not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than three years but not exceeding five years or to both, and for a subsequent offence, to a fine of not less than eight million shillings but not exceeding twenty million shillings or to imprisonment for a term not less than five years and not exceeding ten years.

(2) The court may order forfeiture of a publication or extract in respect of which an offence was committed.

Seditious intention

52.-(1) A "seditious intention" is an intention to-

- (a) bring into hatred or contempt or to excite disaffection against the lawful authority of the Government of the United Republic;

- (b) excite any of the inhabitants of the United Republic to attempt to procure the alteration, otherwise than by lawful means, of any other matter in the United Republic as by law established;
- (c) bring into hatred, contempt or to excite disaffection against the administration of justice in the United Republic;
- (d) raise discontent or disaffection amongst people or section of people of the United Republic; or
- (e) promote feelings of ill-will and hostility between different categories of the population of the United Republic.

(2) An act, speech or publication shall not be deemed as seditious by reason only that it intends to-

- (a) show that the Government has been misled or mistaken in any of its measures; or
- (b) point out errors or defects in the Government of the United Republic or Constitution of the United Republic or in legislation or in the administration of justice with a view to remedying such errors or defects.

(3) In determining whether the intention for which an act was done, any word spoken or any document published, was or was not seditious, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and in the circumstances in which he conduct himself.

Cap 2

Seditious offences

53.-(1) Any person who-

- (a) does or attempts to do or makes any preparation to do, or conspires with any person to do, any act or omission with a seditious intention;
- (b) utters any words with a seditious intention;

- (c) publishes, sells, offers for sale, distributes or reproduces any seditious publication; or
- (d) imports any seditious publication,

unless that person has no reason to believe that it is seditious, commits an offence and shall be liable upon conviction, in the case of the first offender to a fine not less than five million shillings and not exceeding ten million shillings or to imprisonment for a term of not less than three years but not exceeding five years or to both, and for a subsequent offence, to a fine of not less than seven million shillings and not exceeding twenty million shillings or to imprisonment for a term of not less than five years but not exceeding ten years or to both.

(2) Any person who without lawful excuse, has in his possession any seditious publication commits an offence and shall be liable upon conviction, in the case of first offender to a fine of not less than two million shillings and not exceeding five million shillings or to imprisonment for a term of not less than two years but not exceeding five years or to both, and for a subsequent offence to a fine of not less than three million but not exceeding ten million shillings or to imprisonment for a term of not less than three years but not exceeding ten years or to both.

(3) It shall be a defence to a charge under subsection (2), if the person charged did not know that the publication was seditious when it came into his possession and that as soon as the nature of the publication became known to him, he delivered the publication to the nearest administrative officer or to the officer in charge of the nearest police station.

(4) When any person is convicted of printing or reproducing a seditious publication, the court may, in addition to any other penalty which the court may impose, order that the printing machine on which the publication was printed or reproduced be, either confiscated for a period of not less than twelve months, but not exceeding

three years or forfeited to the Government of the United Republic, and may make such order whether or not the person convicted is, or was at the time when the publication was printed or reproduced, the owner of the printing machine.

(5) A printing machine forfeited to the Government of the United Republic shall be sold, and the proceeds shall be paid into the Fund.

(6) When the proprietor, publisher, printer or editor of a newspaper is convicted of printing or publishing a seditious publication in a newspaper, the court may, in addition to any other penalty it may impose, and whether or not it has made any order under subsection (4), make an order prohibiting any further publication of the newspaper for a period of not less than twelve months and not exceeding three years.

(7) A court shall, before ordering the forfeiture or confiscation of a printing machine, satisfy itself that the printing machine was the printing machine upon which the seditious publication was printed or reproduced.

(8) Any person who prints or publishes a newspaper in contravention of an order made under subsection (6) commits an offence, and shall be liable upon conviction, to a fine of not less than five million shillings but not exceeding ten million shillings or to imprisonment for a term of not less than three years and not exceeding five years or to both.

Publication likely to cause fear and alarm

54.-(1) Any person who publishes any false statement, rumor or report which is likely to cause fear and alarm to the public or to disturb the public peace commits an offence and shall be liable upon conviction to a fine of not less than ten million shillings but not exceeding twenty million shillings or to imprisonment for a term of not less than four years and not exceeding six years or both.

(2) It shall be a defense to a charge commenced under subsection (1), if the accused proves that, prior to

publication, he took such measures to verify the accuracy of such a statement, rumor or report and that such verification lead him to reasonably believe that the publication was true.

Offences by corporation, societies, etc

55.-(1) Where any offence under this Act or any subsidiary legislation made hereunder is committed by a company or other body corporate, or by a society, association or body of persons then, every person who, at the time of the commission of the offence, was concerned, as a director or an officer with the management of the affairs or activities of such company or other body corporate, or society, association or body of persons, shall be deemed to have committed the offence and be liable to be proceeded against and punished accordingly, unless he proves to the satisfaction of the court that he had no knowledge, and could not by the exercise of reasonable diligence have had knowledge of the commission of the offence.

(2) Notwithstanding any other provision under this Act, in the event the offence is determined to be an offence by a company or other body corporate, or by a society, association or body of persons, such company, other body corporate, society, association or body of persons shall, on conviction, be liable to a fine of not less than fifteen million shillings but not exceeding twenty five million shillings.

Liability of employer or principal

56. Where an offence under this Act or under any subsidiary legislation made hereunder is committed by a person as an agent or employee, then, as well as the agent or employee, the principal or employer under whom the offence was committed shall be deemed to have committed the offence and be proceeded against and punished accordingly, except that, the principal or employer shall not be liable where he proves to the satisfaction of the court that he had no knowledge, and could not by the

exercise of reasonable diligence have had knowledge of the commission of the offence.

Consent of the
Director of Public
Prosecutions

57. A person shall not be prosecuted for any seditious offence under this Act, unless with a written consent of the Director of Public Prosecutions.

PART VIII GENERAL PROVISIONS

Powers to prohibit
importation of
publication

58. Where the Minister is of the opinion that the importation of any publication would be contrary to the public interest, he may, in his absolute discretion and by order published in the *Gazette*, prohibit the importation of such publication.

Powers of the
Minister

59. The Minister shall have powers to prohibit or otherwise sanction the publication of any content that jeopardizes national security or public safety.

Power of search
and seizure

60.-(1) A police officer may, if he has reasonable grounds to believe that a media house has been established, installed, maintained, operated or provided in contravention of this Act, search and seize any equipment found therein which appears to be used or had been used for such purpose:

Save that, equipment used for printing, production or publication, shall not be seized or restricted from operation unless the police officer is of the opinion that the continuation of operation of the equipment will impede or otherwise obstruct the process of investigation.

(2) The search and seizure under this section shall be conducted in accordance with the Criminal Procedure Act and such other relevant laws regulating the conduct of search and seizure.

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Service of process
and notices

61.-(1) Where any order or directives made or given by the Board or Information Services Department under this Act is not required to be published in the *Gazette*, the order or directive shall be brought to the notice of persons affected or likely to be affected by it in any manner.

(2) If the order or directive in question is published in *Gazette*, all persons shall be deemed to have notice of it.

Risk insurance and
social security

62.-(1) Every employer shall be required to provide insurance and social security cover to every person employed in the respective media house.

(2) Every freelancer or correspondent shall be required to have personal risk insurance cover.

Obstructing of a
member of the
Board

63.-(1) A person who -

- (a) without lawful justification, fails or refuses to comply with a lawful direction of the Board;
- (b) obstructs or hinders a member or the Board in the exercise of powers under this Act;
- (c) furnishes information or makes a statement to the Board which he knows to be false or misleading in any material particular; or
- (d) when appearing before the Board for examination, makes a statement which he knows to be false or misleading in any material particular,

commits an offence, and on conviction shall be liable to a fine of five million shillings or imprisonment for a term of one year, or to both.

(2) A person convicted of any subsequent offence under this section shall be liable to a fine of ten million shillings or imprisonment for a term of seven years.

Exemption on
liability to printers

64.-(1) A printer shall, when providing printing services for print media, not be held liable for a seditious or defamatory content, unless it is proved that he acted

with knowledge of the existence of such seditious or defamatory content.

(2) A printer having sufficient prior knowledge or upon being notified that the content to be published contains seditious or defamatory content and who proceeds to print or fails to take necessary steps to prevent the printing of such content, commits an offence and is liable on conviction-

- (a) in the case of seditious content, to a fine of not less than ten million shillings but not exceeding twenty million shillings or imprisonment for a term of not less than three years or to both;
- (b) in the case of defamatory content, to a fine of not less than fifteen million shillings but not exceeding twenty five million shillings or imprisonment for a term of not less than three years or to both.

Regulations

65.—(1) The Minister may make regulations for the better carrying out the provisions of this Act.

(2) Without prejudice to subsection (1), the Minister may make regulations for-

- (a) terms and conditions for operation of licensed media house;
- (b) licensing of print media;
- (c) procedure for appeal against the decision of the Board;
- (d) prescription of the shareholding requirement by foreign media owners;
- (e) prescription of fines;
- (f) requirement and procedure for accreditation of journalists and issuance of press cards; and
- (g) reporting the source of funding by media houses and media association.

Repeals
Cap. 229 and 149

66. The Newspapers Act and the Tanzania News Agency (Repealing) Act are hereby repealed.

Transitional
provisions
Caps. 229 and 149

67. Notwithstanding the repeal of the Newspaper Act and Tanzania News Agency (Repealing) Act -

- (a) any press card or certificate granted under the repealed Act, prior to the commencement of this Act in relation to the production, distribution or supply of media services shall remain in operation until it is revoked, annulled or otherwise replaced.
- (b) all persons practicing journalism without qualifications stipulated under this Act shall, within five years of the coming into operation of this Act meet the qualification provided for under this Act; and
- (c) all orders, rules, guidelines and regulations made under the repealed Act shall continue to have effect until revoked by subsidiary legislation made pursuant to this Act.

SCHEDULE

(Made under section 12(4))

TENURE, PROCEEDINGS AND ANY OTHER MATTER RELATED TO THE BOARD

Vice Chairman	<p>1. Members of the Board shall elect one of their members to be the Vice Chairman who shall, subject to his continuing to be a member, hold office for a term of one year from the date of his election and may be eligible for re-election.</p>
Tenure for appointment	<p>2.-(1) A member of the Board shall hold office for a term not exceeding three years from the date of his appointment and may be eligible for re-appointment.</p> <p>(2) In the case of a member who is a member by the virtue of his office, he shall cease to be a member upon his ceasing to hold that office.</p> <p>(3) A member appointed may at anytime resign his office by notice in writing to the appointing authority.</p> <p>(4) Notwithstanding the foregoing provisions, the appointing authority may at any time revoke an appointment of a member.</p> <p>(5) If a member of the Board who is a member by the virtue of his office is unable for any reason to attend any meeting of the Board, he may nominate in writing another person from his institution to attend the meeting on his behalf.</p> <p>(6) Where any vacancy occurs in the membership of the Board by any reason of any member thereof or otherwise, the appointing authority may appoint another person to fill that vacancy and the person so appointed shall hold office for the unexpired period of office of the member in whose place he is appointed.</p>
Meetings of Board	<p>3.-(1) The Board shall ordinarily meet for the transaction of its business at the times and places determined by it, but it shall meet at least once in every three months.</p> <p>(2) The Chairman or in his absence the Vice Chairman, shall preside at every meeting of the Board and in the absence of both of them, the members present shall appoint one of their number to preside over the meeting.</p> <p>(3) A member who fails to attend three consecutive meetings of the Board without leave of the Chairman shall cease to become a member of the Board.</p>
Notice of meeting	<p>4. The Secretary to the Board shall give each member adequate notice of the time and place of every meeting and shall keep record of the proceedings of every meeting of the Board.</p>
Quorum	<p>5. The quorum at any meeting of the Board shall be two third of the total number of members.</p>
Decision of Board	<p>6.-(1) Any matter proposed at the meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his normal or</p>

deliberative vote.

(2) Notwithstanding sub-paragraph (1), a decision may be made by the Board without a meeting by way of circulation of the relevant papers among the members, and the expression in writing of the views of the majority of members.

The Board
to confirm
minutes of
its meetings

7.-(1) 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 and confirmed at the next meeting and signed by the person presiding at the meeting.

(2) Any minutes signed or purporting to have been signed by the person presiding at the meeting of the Board shall, in absence of proof of error, be deemed to be a correct record of the meeting whose minutes they purport to be.

Vacancies
etc. not to
invalidate
proceedings

8. No act or proceedings of the Board shall be invalid by reason only of any vacancy among its members or defeat in the appointment of any of them.

Orders,
directions
etc.

9. All orders, direction, notices or other documents made or issued on behalf of the Board shall be signed by-

- (a) the Chairman; and
- (b) a corporate secretary employed in terms of section 17 of this Act.

Proceedings
of the Board

10. Subject to the provisions of this Schedule, the Board shall regulate its own proceedings.

Passed by the National Assembly on the 5th November, 2016.

THOMAS DIDIMU KASHILILAH,
Clerk of the National Assembly