

**DRAFT NO. 4**

**THE UNITED REPUBLIC OF TANZANIA**

**DRAFT BILL FOR THE FREEDOM OF INFORMATION  
2006**

**OCTOBER 2006**

## **FREEDOM OF INFORMATION BILL, 2006**

### **PART I**

#### **PRELIMINARY PROVISIONS**

1. Short title and commencement
2. Application
3. Objects
4. Interpretation

### **PART II**

#### **RIGHT OF ACCESS TO INFORMATION**

5. Right of access to information
6. Access to certain documents
7. Duty to publish
8. Appointment of information officer
9. Publication of certain documents to be availability for inspection and purchase
10. Unpublished Documents not to prejudice public
11. Access to documents other than under this Act
12. Request for Access
13. Notice to third parties
14. Form of Request
15. Form of access
16. Granting or refusing access
17. Duty to assist
18. Transfer of request for access
19. Time limit for determining requests
20. Access to document
21. Deletion of exempt document
22. Fees
23. Deferral of access
24. Refusal of access in certain cases
25. Decision to be made by authorized person
26. Reasons for decision to be given

## **PART III**

### **EXEMPT DOCUMENTS**

27. Cabinet documents
28. Formulation of policy
29. Documents Affecting National security, defence and international relations
30. Document affecting enforcement or administration of the law
31. Document to which secrecy provisions apply
  
32. Documents affecting personal privacy
  
33. Documents relating to trade secrets, business affairs
  
34. Public economic interests
  
35. Mandatory protection of research information
  
36. Documents containing material obtained in confidence
  
37. Documents disclosure of which would be contempt of parliament
  
38. Disclosure of exempt document in the public interest
  
39. Internal operations
  
40. A time limit
  
41. Manifestly frivolous or vexatious requests
  
42. Minister may declare document exempt in certain cases

## **PART IV**

### **APPEAL AGAINST DECISIONS**

43. Internal appeal mechanisms
44. Right of appeal to the Media Standards Board
45. Appeal to the High Court

46. Good Faith Disclosures
47. Protection of whistleblowers
48. Offences
49. Protection against actions for defamation or breach of confidence
50. Protection in respect of offences
51. Preservation of records and documents

## **PART V**

### **PROTECTION OF JOURNALISTS' CONFIDENTIAL SOURCES OF INFORMATION**

52. Right to protect sources
53. Order for source disclosure
54. Right of Appeal
55. Protection not waived by publication
56. Existing rights maintained

## **PART VI**

### **ESTABLISHMENT OF THE MEDIA STANDARDS BOARD**

57. Establishment of the Board
58. functions of the Board
59. Composition of the Board
60. Appointment of Board Members
61. Criteria for appointment of Board members
62. Tenure of office
63. Removal of members
64. Rules of procedure
65. Remuneration of Board members
66. Powers to employ
67. Limitation of liabilities of members
68. Executive secretary and secretariat of the Board
69. Powers of the Board
70. Liability of members
- 71.
72. Establishment of the media development fund
73. Investigations and hearing
74. Annual report
75. Eligible complaints to the Board

## **PART VII**

### **PROFESSIONAL STANDARDS**

- 76. Requirement for practice of journalism
- 77. Media personnel to adhere to ethics
- 78. Requirement for accreditation

## **PART VIII**

### **COLLECTION, USE, DISCLOSURE AND RETENTION OF PERSONAL INFORMATION**

- 79. Sources of personal information
- 80. Saving of certain other enactments
- 81. Sources of personal information
- 82. Accuracy of personal information to be checked before use
- 83. Limit on disclosure of personal information
- 84. Condition for use or disclosure of personal information
- 85. Storage and security of personal information
- 86. Retention and disposal of personal information
- 87. Correction of personal information

## **PART IX**

### **PRIVACY COMMISSIONER**

- 88. Office of privacy commissioner
- 89. Disqualification for appointment
- 90. Restriction on employment
- 91. Filling of vacancy
- 92. Functions of Privacy Commissioner
- 93. Staff and funds

## **PART X**

### **PRIVACY COMMISSIONER TO INVESTIGATE COMPLAINTS**

- 94. Receipt and investigation of complaints
- 95. Mode of complaint

96. Notice of investigation
97. Regulation of procedure
98. Investigation in private
99. Powers of privacy Commissioner in carrying out investigations
100. Findings and recommendations of privacy commissioner
101. Review of Compliance with certain provisions
102. Report to parliament
103. Security requirements
104. Confidentiality
105. Protection of commissioner from criminal or civil proceedings
106. Obstruction
107. Delegation by chief executive officer
108. Proceedings where disclosure was in good faith

## **PART XI**

### **PROTECTION OF MINORS AND YOUNG PERSONS**

- 109.
110. Codes of Conduct
111. Publishing of unsuitable materials
112. Sale of unsuitable materials
113. Explanation as to good faith
114. Presumption as to good faith
115. Prohibition on bringing a defamation case
116. Summary dismissal of unfounded claims
117. Protection of source
118. Proof of truth
119. Public officials
120. Reasonable publication
121. Opinions
122. Absolute privilege
123. Qualified privilege
124. Scope of liability
125. Purpose of remedies
126. Obligation to request voluntary remedy
127. Non-pecuniary remedies to be prioritized
128. Pecuniary remedies
129. Injunctions
130. Offer to make amendments
131. Repeals

## **PART XII**

### **BROADCASTING SERVICES**

- 132. Application of this part
- 133. Tanzania Broadcasting Services
- 134. Development of a broadcasting frequency spectrum plan
- 135. Prohibition of unlicensed broadcasting
- 136. An application for license
- 137. Granting of license
- 138. Renewal of license
- 139. Duties of license holder and programme content
- 140. Code of practice for broadcasters
- 141. Where breach of conditions occur
- 142. Rights and obligations of broadcasters
- 143. Power to investigate
- 144. Offences
- 145. Banning of broadcasting
- 146. Transfer of license
- 147. Regulations

## **PART XIII**

### **NEWSPAPER PUBLISHING**

- 148. Appointment of registrar
- 149. Registers
- 150. Application of this part and exclusions
- 151. Affidavit required for proprietor, printer and publisher of a newspaper
- 152. New affidavit when required
- 153. Affidavit by a company
- 154. Copies of newspapers to be delivered to registrar
- 155. Return of newspapers to be made to registrar
- 156. Publication of registration of newspapers
- 157. penalties under this part
- 158. Evidentiary value of copies and extracts, and of certificates
- 159. When proof of purchase of newspaper unnecessary
- 160. Printer to keep copy of newspaper and produce the same on demand
- 161. Cancellation of affidavits registered

- 162. Inspection or registers etc and provision of copies and extracts from registers
- 163. Minister may cause a legal action to be taken against publication of newspaper
- 164. Interpretation for the purpose of this part
- 165. Importation of prohibited publication
- 166. Offences in relation to publications the importation of which is prohibited
- 167. Delivery of prohibited publication to administrative officer or to Police station
- 168. Power to examine packages

#### **PART XIV**

##### **SEDITION INTENTION**

- 169. Seditious intention
- 170. Seditious offences
- 171. Legal proceedings
- 172. Evidence
- 173. Definition of overt act
- 174. Publication of false news likely to cause fear and harm to the Public
- 175. Incitement to violence
- 176.

#### **PART XV**

##### **BOND**

- 177. Minister may require publisher to execute and register cash bond
- 178. New bond in certain cases
- 179. Withdrawal of surety
- 180. Minister may call obligator or surety to satisfy him as to means
- 181. Penalty for publishing newspaper or broadcasts without bond
- 182. Protection against actions for defamation or breach of confidence
- 183. Protection in respect of offences
- 184. Report to Parliament



# FREEDOM OF INFORMATION BILL, 2006

An Act to make provisions for the right of access to information, to provide for the promotion and protection of privacy of individuals, protection of reputation, protection of journalists, confidential sources of information and regulations governing operations of the media, promoting independent, pluralistic broadcasting, protection of minors and to provide for other related matters.

ENACTED by the Parliament of the United Republic of Tanzania.

## PART I

### PRELIMINARY PROVISIONS

Short title

and Commencement: **1.**(1) This Act may be cited as the Freedom of Information Act, 2006 and shall come into operation on the date as the Minister may by notice published in the *Gazette*, appoint.

(2) Notwithstanding the provisions of subsection (1), the Minister may appoint different dates for the commencement of different Parts of this Act.

Application

**2.** (1) This Act shall apply to accredited media practitioners, public authorities, private bodies and individual persons in possession of records and documents in Tanzania Mainland.

(2) This Act does not apply to a commission of inquiry formed by the President;

(3) Nothing in this Act prevents the giving of access to a record or document of a public or private body pursuant to any other legislation, policy or practice.

Objects

**3.**(1) The principal objects of this Act shall be:-

(a) To give access to information held by public authorities or private bodies that is required for the exercise or protection of any right;

(b) To give effect to the right of access to information in documentary form in the possession of public authorities or private bodies limited only by exceptions and exemptions;

- (c) To give effect to the right to amend records containing personal information that is incomplete, incorrect or misleading;
- (d) To regulate the collection, holding, use, retention and disclosure of personal information in a manner that recognizes the right of privacy of individuals with respect to their personal information;
- (e) To set professional standards in journalism and to create a regulatory and enforcement mechanism;
- (f) To establish mandatory mechanisms enabling persons to access records of public authorities and private bodies expeditiously and inexpensively.
- (g) To enforce codes of conduct and of ethical practice for journalists, media owners, advertisers, and any other media practitioners;
- (h) To protect minors and young persons from receiving and accessing unsuitable material in the print and electronic media;
- (i) To protect journalists' confidential sources of information;
- (j) To protect reputations of persons from defamatory statements;
- (k) To make provisions governing media ownership in the country;
- (l) To give effect to the obligations of the State to promote a culture of respect for human rights and social justice,
- (m) To require owners of print and electronic media to execute and register a cash bond with one or more sureties.

Interpretation

**4.** In this Act, unless the context requires otherwise:-

“academic and professional qualifications” means a university degree in journalism or mass communication or a university degree in any other field with a postgraduate diploma in journalism or mass communication or its equivalent.

“administrative purpose”, in relation to the use of personal information about an individual, means the use of that information in a decision making process that directly affects that individual;

“Board” means the Media Standards Board established under section 57 Of this Act

“Committee” means appointment committee established under section 60 of this Act

“Commissioner” means the Privacy commissioner appointed under Part IX;

“correct” in relation to personal information, means to alter that information by way of correction, deletion, or addition, and has a corresponding meaning;

“document or record” means any medium in which information is recorded, whether printed or on tape or film or by electronic means or otherwise and includes any map, diagram, photograph, film, microfilm, video-tape, sound recording, or machine-readable record or any record which is capable of being produced from a machine-readable record by means of equipment or a programme (or a combination of both) which is used for that purpose by the public authority or private body which holds the record;

“enactment” means an Act or an instrument and includes rules, regulations or by-laws made under any written law;

“exempt document” means a document which, by virtue of any provision in this Act, is classified as an exempt document and includes the meaning ascribed to it by Section 30 in this Act;

“exempt information” means information the inclusion of which in a document causes the document to be an exempt document;

“information officer” of, or in relation to, a public body or private body, shall for the purposes of this Act mean a person responsible for facilitating access to information.

“Minister” means the Minister for the time being responsible for information and broadcasting services.

“official” in relation to a public authority or private body, means any person in the employment-permanently or temporarily, full-time or part-time-of that public or private body, and includes the head of the authority or body, or a member of the public or private body.

“official document”, means information about an identifiable individual that is recorded in any form including, without restricting the generality of the following:-

- (a) Information relating to the race, national or ethnic origin, religion, age or marital status of the individual;
- (b) Information relating to the education or medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- (c) Any identifying number, symbol or other particular assigned to the individual;
- (d) The address, fingerprints or blood type of the individual;
- (e) The name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual;
- (f) Correspondence sent to a public authority by the individual that is explicitly or implicitly of a private or confidential nature, and replies to such correspondence that would reveal the contents of the original correspondence; or
- (g) The views or opinions of any other person about the individual.

“prescribed” ,means prescribed by the Minister by regulations made under this Act;

“public authority” includes:-

- (a) the Parliament or a committee of the Parliament
- (b) The Cabinet as constituted under the Constitution;
- (c) A Ministry or a department or division of a Ministry, or the private office of Minister, wherever located;
- (d) A local authority;
- (e) A public statutory corporation or body;
- (f) A body corporate or an incorporated body established for a public purpose, which is owned or controlled by the state;
- (g) Any other body designated by the Minister by regulation made under this Act, to be a public authority for the purposes of this Act;

“private body” means a natural person who carries or has carried on any trade, business or profession but only in such capacity, a partnership, which carries or has carried on any trade, business or profession, or any former or existing juristic person, but excludes a public authority.

“registrar” means the Registrar of Newspapers.

“Executive Secretary” means the Executive Secretary of the Media Standards Board.

“responsible Minister” in relation to a public authority means the Minister of Government to whom responsibility for the public authority is assigned.

“personal information” means:

- (a) information about an identifiable individual that is recorded in any form including, without restricting the generality of the foregoing.
- (b) information relating to the race, national or ethnic origin, religion age or marital status of the individual;
- (c) information relating to the education or the medical, criminal or employment history of the individual or information relating to financial transactions in which the individual has been involved;
- (d) any identifying number, symbol or other particular assigned to the individual; the address, fingerprints or blood type of the individual;
- e) the name of the individual where it appears with other personal information relating to the individual or where the disclosure of the name itself would reveal information about the individual;
- f) correspondence sent to a public authority by the individual that is explicitly or implicitly of a private or confidential nature, and replies to such correspondence that would reveal the contents of the original correspondence; and
- g) the views or opinions of any other person about the individual;

“Commissioner” means the Privacy commissioner appointed under section 88;

“minor” – means any person of the age below 15 years.

“young person” – means any person of the age below 18.

“unsuitable material or programmes” – means all publications, programmes, video and films that display nudity, sex or violence be it visually or text.

“Libel” means any person who, by print, writing, painting, effigy or by any means otherwise than solely by gestures, spoken words or other sounds, unlawfully publishes any defamatory matter concerning another person, with intent to defame that other person;

“matters of public concern” includes all matters of legitimate public interest including, but not limited to, all three branches of government, politics, public health and safety, law enforcement and the administration of justice, consumer and social interests, the environment, economic issues, the exercise of power, art and culture, and matters relating to public figures and public officials;

“opinion” is a statement which either does not contain a factual connotation which could be proved to be false or cannot reasonably be interpreted as stating actual facts given all the circumstances, including the language used, for example because it can be characterised as rhetoric, hyperbole, satire or jest;

“public official” includes anyone who is elected and/or appointed to public office, and anyone who works for any branch of government or any other body which performs public functions, whether as an employee or on some other basis;

“publish” means to disseminate a statement to one or more persons, not including a person about whom the statement is defamatory.

“Defamatory statement” is a statement 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;

“publication” a person publishes a libel if he 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, so that the defamatory meaning thereof becomes known or is likely to become known to either the person defamed or any other person. It is not necessary for libel that the defamatory meaning should be directly or completely expressed; and it suffices if such meaning and its application to the person alleged to be defamed can be collected either from the alleged libel itself or from any extrinsic circumstances or partly from the one and partly from the other means

“slander” means any person by gesture, spoken words or other sounds, unlawfully broadcasting any defamatory matter concerning another person, with intent to defame that other person;

“broadcaster” means A person who is licensed under this Act to carry on a broadcasting service;

“broadcasting apparatus” means an apparatus for the reception of television broadcasts or for the reception of sound broadcasts, and where an apparatus is

designed or constructed for the reception of both television and sound broadcasts, other than those relating to television broadcasts) such apparatus shall be deemed to comprise two sets of apparatus, one for the reception of television broadcasts and one for the reception of sound broadcasts, as the case may be;

“broadcasting services” ,means a radio communication service in which the transmission are intended for direct transmissory reception by members of the general public, and “broadcast” used as a verb shall be construed accordingly;

“broadcasting station” means all premises whatsoever used for the purposes of carrying on a broadcasting service together with the transmitters, apparatus and equipment, including vehicles, required in connection with them;

“Authority” means the Tanzania Communications Regulatory Authority also known by its acronym TCRA established by the Tanzania Communications regulatory authority Act 2003.

“dealer” means a person who-

- (a) carries on a trade, business or industry in which broadcasting apparatus are assembled, manufactured, imported, bought, sold, hired, exchanged, or
- (b) deals in motor vehicles in which broadcasting apparatus are installed;
- (c) auctions broadcasting apparatus;

“inspector” means any person appointed under section 16 to be an inspector for the purposes of this Act;

“licence” means a licence issued under the provisions of this Act;

“licensed premises” means premises in respect of which a broadcaster’s license, dealer’s licence or repairer’s licence is in force;

“Board” means the Media Standards Board established under section 57 of this Act.

“radio communication service” means the transmission of writing, signs, signals, pictures and sounds of all descriptions of any kind, wholly or partly by means of electromagnetic waves of frequencies between ten kilocycles per second and three million megacycles per second;

“repair” means a person who by way of trade, business or industry carries out repairs to or provides maintenance services for broadcasting apparatus.

“newspaper” means any paper containing news, or intelligence, or report of occurrences of interest to the public or any section thereof, or any views, comments or observations thereon, printed for sale or distribution and published in Tanzania periodically or in part or number,

“print” means produce or reproduce words or pictures in visible form by printing writing typewriting, duplicating,, cyclosying, lithography, photography or any

other mode or representing the same in visible form, but does not include the representation of words or pictures by means of cinematography or television;

“Registrar” means the person appointed to be the Registrar of Newspapers under section 148, and includes a person appointed under that section to be a Deputy or Assistant Registrar

## PART II

### RIGHT OF ACCESS TO INFORMATION

Right of access to information 5. Subject to the provisions of this Act, every person shall have the right of access in accordance with this Act.

Access to certain document.

6. Where;

(a) a document is open to public access, as part of a public register or otherwise in accordance with another enactment; or

b a document is available for purchase by the public in accordance with arrangements made by a public authority,  
the access to that document shall be obtained in accordance with this enactment or arrangement, as the case may be.

Duty to Publish

7 (1) Within six months after the commencement of this Act or the coming into existence of a public body, and thereafter annually, each public body must publish in Kiswahili and English, and widely disseminate to the public a manual containing the following information: -

- (a) the address, phone and fax number and, if available, electronic mail address of all Information Officers;
- (b) a description in sufficient detail of how to make a request for access to a record;
- (c) a description of the subjects on which the body holds records and the categories of records held on each subject;
- (d) a list of all records of the body which are available without a person having to request access in terms of this Act;
- (e) a description of remedies available in respect of any act or failure by the body to comply to the provisions of this Act; and
- (f) such other information as may be prescribed as may facilitate access to information held by or in the custody of the body.

(2) Every public body shall, on a periodic basis not less frequently than once each year, publish and disseminate in an accessible form key information in addition to the manual referred to in subsection (1), including but not limited to:

- (a) a description of its structure, functions, duties and finances;

- (b) relevant details concerning any services it provides directly to members of the public;
- (c) any direct request or complaints mechanisms available to members of the public regarding acts or a failure to act by that body, along with a summary of any requests, complaints or other direct actions by members of the public and that body's response;
- (d) a simple guide containing adequate information about its record-keeping systems, the types and forms of information it holds, the categories of information it publishes and the procedure to be followed in making a request for information;
- (e) a description of the powers and duties of its senior officers, and the procedure it follows in making decisions;
- (f) any regulations, policies, rules, guides or manuals regarding the discharge by that body of its functions;
- (g) the content of all decisions and/or policies it has adopted which affect the public, along with the reasons for them, any authoritative interpretations of them, and any important background material; and
- (h) any mechanisms or procedures by which members of the public may make representations or otherwise influence the formulation of policy or the exercise of powers by that body.

Appointment  
of Information  
Officers

8 (1) For the purposes of this Act, each public or private body must designate such number of persons as Information Officers as are necessary to render the public or private body as accessible as reasonably possible for requesters of its records.

(2) The Information Officers shall, in addition to any obligations specifically provided for in this Act, have the following responsibilities: –

- (a) to promote within the body the best possible practices in relation to record maintenance, archiving and disposal; and
- (b) to serve as a central contact within the body for receiving requests for information, for assisting individuals seeking to obtain information and for receiving individual complaints regarding the performance of the body relating to information disclosure.

(3) Each public authority or private body shall ensure that members of the public have easy access to relevant information concerning Information Officers, such as their names, function and contact details, including publishing their addresses, phone and fax numbers and, if available, electronic mail addresses in every telephone directory issued for general use by the public.

Publication of  
Certain  
Documents to be  
Available for  
Inspection and  
purchase

9. (1) This Section applies to documents that are provided by the public authority for the use of, or are used by, the public authority or its officers in making decisions or recommendations, under or for the purposes of any enactment or scheme administered by the public authority, with respect to rights, privileges or benefits, or to obligations, penalties or other detriments, to or for which persons are or may be entitled or subject, being-



- (a) manuals or other documents containing interpretations, rules, guidelines, practices or precedents including, but without limiting the generality of the foregoing, precedents in the nature of letters of advice providing information to bodies or persons outside the public authority;
- (b) documents containing particulars of such a scheme, not being particulars contained in any other enactment; and
- (c) documents containing statements of the manner, or intended manner, of administration or enforcement of such an enactment or scheme,

but not including documents that are available to the public as published otherwise than by the public authority or as published by another public authority.

(2) A public authority shall-

- (a) cause copies of all documents to which this section applies that are in use from time to time to be made available for inspection and for purchase by members of the public;
- (b) not later than twelve months after the date of commencement of this Act, cause to be published in the Gazette, a statement (which may take the form of an index) specifying the documents of which copies are, at the time of preparation of the statement, so available and the place or places where copies may be inspected and may be purchased; and
- (c) within twelve months after the date of first publication of the statement under paragraph (b) and thereafter at intervals of not more than twelve months, cause to be published in the Gazette, statements bringing up to date information contained in the previous statement or statements.

(3) The public authority may not comply fully with paragraph (2) (a) before the expiration of twelve months from the date of commencement of this Act, but shall, before that time, comply with that paragraph as far as is practicable.

(4) This Section does not require a document of the kind referred to in subsection (1) containing exempt information to be made available in accordance with subsection (2), but, if such a document is not so made available, the public authority shall, if practicable, cause to be prepared a corresponding document, altered only to the extent necessary to exclude the exempt information, and cause the document to be prepared to be dealt with in accordance with subsection (2).

(5) Where a public authority comes into existence on or after the date of commencement of this Act, subsections (2) and (3) shall apply in relation to

that public authority as if the references in those subsections to the date commencement of this Act were references to the date the public authority so comes into existence.

Unpublished  
Documents not to  
Prejudice public

10. If a document required to be made available in accordance with section 9, being a document containing a rule, guideline or practice relating to a function of a public authority, was not made available and included in a statement in the Gazette, as referred to in that section, a member of the public who was not aware of that rule, guideline or practice shall not be subjected to any prejudice by reason only of the application of that rule, guideline or practice in relation to the thing done or omitted to be done by him if he could lawfully have avoided that prejudice had he been aware of the rule, guideline or practice.

Access to documents  
other than  
under this Act

11. Nothing in this Act shall prevent a public authority or private body from publishing or giving access to documents (including exempt documents), otherwise than as required by this Act, where it has the discretion to do so or is required by law to do so.

Requests  
for access

12.(1) A person who wishes to obtain access to a document of a public authority or public body shall make a request in writing to the public authority or private body for access to the document.

(2) A request shall identify the document or shall provide such information concerning the document as is reasonable necessary to enable the public authority to identify the document.

(3) A request may specify in which of the forms of access set out in Section 16 the applicant wishes to be given access.

(3) Subject to Section 20, a request may be made for access to all documents of a particular description that contain information of a specified kind or relate to a particular subject matter.

Notice to  
Third Parties

13(1)A public authority or private body considering a request for access must take all reasonable steps to notify any third party to whom or which any record containing the information requested relates.

(2)A public authority or private body acting under subsection (1) must inform the third party as soon as reasonably possible but, in any event, within eight days after the request is received.

(3)The notification under subsection (1) must state that the body is considering a request for access, describe the content of the record, furnish the name of the requester and inform the third party of its obligations to provide access to the record.

(4)A third party may, within eight days after being informed about a request for access, make written or oral representations to the body concerned as to why the request for access should be refused, provided that no complaint as to disclosure shall be entertained from a third party who, after receiving notice under this section, does not make such representation.

Form of Request

14.(1)A request for access must be made in writing to an official of the public or private body concerned at his or her address, fax number or electronic mail address.

(2)The form for a request for access prescribed for the purposes of subsection (1) must at least require the requester concerned to provide sufficient particulars to enable an official of the public or private body concerned to identify the information requested.

(3)The official to whom a request for access is made, or an Information Officer of that body, shall offer such reasonable assistance, free of charge, as is necessary to enable the requester to comply with this section.

(4)An individual who, because of illiteracy or a disability, is unable to make a written request for access may make that request orally and the official to whom the request is made shall reduce it to writing in the prescribed form and provide a copy thereof to the requester.

(5)Every individual who files a request for access shall be given a written receipt for that request.

Forms of access

15. (1) Access to a document may be given to a person in one or more of the following forms;

- (a) a reasonable opportunity to inspect the document;
- (b) provision by the public authority of a copy of the document;
- (c) delivery by the public authority of a copy of the document in electronic form;
- (d) in the case of a document that is an article or thing from which sounds or visual images are capable of being reproduced, the making of arrangements for the person to hear or view those sounds or visual images; or
- (e) in the case of a document by which words are recorded in a manner in which they are capable of being reproduced in the form of sound or in which words are contained in the form of shorthand writing or in codified form, provision by the public authority of a written transcript of the words recorded or contained in the document.

(2) Subject to subsection (3) and to section 16,, where the applicant has requested access in a particular form, access shall be given in that form.

(3) If the form of access requested by the applicant-

- (a) Would contravene the provisions of the national Security Act,

- (b) Would interfere unreasonably with the operations of the public authority; or
- (c) Would be detrimental to the preservation of the document or, having regard to the physical nature of the document, would not be appropriate; or
- (d) Would involve an infringement of copyright (other than copyright owned by the Government) subsisting in the document,

Access in that form may be refused and access given in another form.

Granting or  
Refusing Access

- 16.(1) A request for access must, subject to section 8, as soon as reasonably possible, but in any event within twenty one days after the request is received, either be granted or refused, as the case may be.
- (2) The requester shall be informed immediately in writing of a decision under subsection (1).
- (3) If the request for access is granted, the decision notice shall contain details relating to any fees to be paid by the requester and the form in which access will be given, as well as details about any right of appeal.
- (4) If the request for access is refused, the decision notice shall state adequate reasons for the refusal or deferment, including the provisions of this Act relied upon, as well as details about any right of appeal.
- (5) If a body fails to issue a decision notice within the period contemplated in subsection (1), the body is, for the purposes of this Act, regarded as having refused the request.

Duty to assist

- 17.(1) A public authority or a private body shall take reasonable steps to assist any person who-
- (a) Wishes to make a request under Section 12; or
  - (b) Has made a request which does not comply with the requirements of subsection 12(2),

to make a request in a manner which complies with that section

(2) Where a request in writing is made to a public authority or a private body for access to documents, the public authority shall not refuse to comply with the request on the ground that the request does not comply with subsection 12(2), without first giving the applicant a reasonable opportunity of consultation with the public authority with a view to the making of a request in a form that complies with that section

Transfer of  
Request  
for access

18. (1) Where a request is made to a public authority for access to a document and the request has not been directed to the appropriate public authority, the public authority to which the request is made shall transfer the request to the appropriate public authority and inform the person making the request accordingly

(2) Where a request is transferred to a public authority in accordance with this section, it shall be deemed to be a request made to that public authority and received on the date on which it was originally received

Time-limit for  
Determining  
requests

19. A public authority shall take reasonable steps to enable an applicant to be notified of the decision on a request (including a decision for deferral of access under Section 23) as soon as practicable but in any case not later than thirty days from the date on which the request is duly made

Access to  
documents

20. Where a request for access to a document is duly made and-

- (a) the request is approved by the public authority, and
- (b) subject to section 22, any fee required to be paid before access is granted has been paid, access to the document shall be given forthwith in accordance with this Act..

Deletion of  
Exempt  
information

21. (1) Where-

- (a) a decision is made not to grant a request for access to a document on the ground that it is an exempt document;
  - (b) it is practicable for the public authority to grant access to a copy of the document with such deletions as to make the copy not an exempt document; and
  - (c) it appears from the request, or the applicant subsequently indicates, that the applicant would wish to have access to such a copy,
- the public authority shall give the applicant access to such a copy of the document.

(2) Where access is granted to a copy of a document in accordance with subsection (1), the applicant shall be informed that it is such a copy and also be informed of the provisions of this Act by virtue of which any information deleted is exempt information.

Fees

22. The Minister may, by regulation,

- (a) prescribe the fee to be charged by public authority or private body for the making of a request for access to a document;
- (b) prescribe the fee payable where access to a document is to be given in the form of printed copies or copies in some other form such, as on tape, disk, film or other material;
- (c) prescribe the manner in which any fee payable under this Act is to be calculated and the maximum amount it shall not exceed; and
- (d) exempt any person or category of persons from paying any fees under this Act, where the information contained in the document for which access is requested is in the public interest.

Deferral of access

23. (1) A public authority which receives a request may defer the provision of access to the document concerned until the happening of a particular event (including the taking of some action required by law or some administrative action), or until the expiration of a specified time, where it is reasonable to do so in the public interest or having regard to normal and proper administrative practices.

(2) Where the provision of access to a document is deferred in accordance with subsection (1), the public authority shall, in informing the applicant of the reasons for the decision, indicate, as far as practicable, the period for which the deferment will operate

Refusal of access  
in certain cases

24. A public authority or private body dealing with a request may refuse to grant access to a document in accordance with the request without having causing the processing of the request to have been undertaken, if the public authority is satisfied that the work involved in processing the request would substantially and unreasonably interfere with the normal operations of the public authority or private body, and if before refusing to provide information on this ground, the public authority or private body has taken reasonable steps to assist the applicant to formulate the application so as to avoid causing such interference.

Decisions to be  
Made by  
authorised persons

25. A decision in respect of a request made to a public authority may be made, on behalf of the public authority, by the responsible Minister, or the chief executive officer of the public authority or, subject to the regulations, by an officer of the public authority acting within the scope of authority exercisable by him in accordance with the arrangement approved by the responsible Minister or the chief executive officer of the public authority

Reasons for  
decisions to  
be given

26 (1) Where in relation to a request for access to a document of a public authority, a decision is made under this Part that the applicant is not entitled to access to the document in accordance with the request or that no such document exists, the public authority shall cause the applicant to be given notice in writing of the decision, and the notice shall-

- (a) state the findings on any material question of fact, referring to the material on which those findings were based, and the reasons for the decision;
- (b) where the decision relates to a public authority, state the name and designation of the person giving the decision;
- (c) where the decision does not relate to a request for access to a document which is it existed, would be an exempt document but access is given to a document in accordance with section 23, state that the document is a copy of a document from which exempt information has been deleted;
- (d) where the decision is to the effect that the document does not exist, state that a thorough and diligent search was made to locate the document; and
- (e) inform the applicant of the right to apply to court for a review of the decision

(2) A public authority is not required to include in a notice under subsection (1) any matter that is of such a nature that its inclusion in a document would cause that document to be an exempt document.

## PART III

### EXEMPT DOCUMENTS

Cabinet  
documents

27. (1) A document is an exempt documents if it is

- (a) a document that has been submitted to the Cabinet for its consideration or is proposed by a Minister of government to be so submitted, being a document that was brought into existence for the purpose of submission for consideration by the Cabinet;
- (b) an official record of any deliberation or decision of the Cabinet;
- (c) a document that is a draft of copy of, or of a part of, or contains and extract from, a document referred to in paragraph (a) or (b); or
- (d) a document the disclosure of which would involve the disclosure of any deliberation or decision of the Cabinet, other than a document by which a decision of the Cabinet was officially published.

(2) Subsection (1) does not apply to a document that contains purely statistical, technical or scientific material unless the disclosure of the document would involve the disclosure of any deliberation or decision of Cabinet.

(3). For the purposes of this Act, a certificate signed by the Secretary to the Cabinet or a person performing the duties of the Secretary certifying that a document is one of a kind referred to in a paragraph of subsection (1), establishes conclusively that it is an exempt document of that kind.

(4) Where a document is a document referred to in paragraph (1) © or (d) by reason only of matter contained in a particular part or particular parts of the document, a certificate under subsection (3) in respect of the document shall identify that part or those parts of the document as containing the matter by reason of which the certificate is given.

(5) In this section, any reference to “Cabinet” shall be read as including a reference to a committee of the Cabinet

Formulation  
of policy

28. (1) A document is an exempt document if the disclosure of the document under this Act would prejudice the formulation or development of policy by government, by having an adverse effect on-

- (a) the free and frank provision of advice; or
- (b) the free and frank exchange of views for the purposes of deliberation.

(2) Where a document is a document referred to in subsection (1) by reason only of the matter contained in a particular art or particular parts of the document, a public authority shall identify that part or those parts of the document that are exempt

(3) Subsection (1) does not apply to a document in so far as it contains publicly available factual, statistical, technical or scientific material or the advice of a scientific or technical expert which analyses or gives an expert opinion of such material.

Documents  
Affecting National  
Security, defence,  
and international  
relations

29. (1) A document is an exempt document if disclosure for the document under this Act would be contrary to the public interest for the reason that the disclosure-

- (a) Would prejudice the security, defence or international relations of the United Republic of Tanzania.
- (b) Would divulge any information or matter communicated in confidence by or on behalf of the Government of another country to the Government of the United Republic of Tanzania.

(2) Where the Minister is satisfied that the disclosure under this Act of a document would be contrary to the public interest for a reason referred to in subsection (1), such Minister may sign a certificate to that effect and such a certificate, so long as it remains in force, shall establish conclusively that the document is an exempt document referred to in subsection (1).

(3) Where the Minister is satisfied as mentioned in subsection (2) by reason only of the matter contained in a particular part or particular parts of a document, a certificate under that subsection in respect of the document shall identify that part or those parts of the document as containing the matter by reason of which the certificate is given.

Document  
affecting  
enforcement or  
administration  
of the law

30. (1) A document is an exempt document if it is of such a nature that it would be privileged from production in legal proceedings on the ground of legal professional privilege

(1) A document of the kind referred to in Section 27(1) is not an exempt document by virtue of subsection (1) by reason only of the inclusion in the document of matter that is used or to be used for the purpose of the making of decision or a recommendations referred to in section 27(1).

Document to  
which secrecy  
provisions  
apply

31. A document is an exempt document if it is a document to which a prescribed provision of an enactment, being a provision prohibiting or restricting disclosure of the document or of information or other matter contained in the document, applies.

Documents  
affecting  
personal privacy

32. (1) a document is an exempt document if its disclosure under this Act would involve the unreasonable disclosure of personal information of any individual (including a deceased individual).

(2) Subject to subsection (4), the provisions of subsection (1) do not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of matter relating to that person



(3) Where a request by a person other than a person referred to in subsection (2) is made to a public authority for access to a document containing personal information of any individual (including a deceased individual) and the public authority decides to grant access to the document, the public authority shall, if practicable, notify the individual who is the subject of that information (or in the case of a deceased individual, that individual's next-of-kin) of the decision and of the right to apply to the high court for a review of the decision

(4) Where a request is made to a public authority for access to a document that contains information of a medical or psychiatric nature concerning the person making the request and it appears to the public authority that the disclosure of the information to that person might be prejudicial to the physical or mental health or well-being of that person, the public authority may direct that the document containing that information, that would otherwise be given to that person is not to be given to him or her but is to be given instead to a medical practitioner to be nominated by that person.

Documents  
relating to trade secrets,  
business  
affairs etc.

33 (1) A document is an exempt document if its disclosure under this Act would disclose

- (a) Trade secrets;
- (b) Any other information having a commercial value that would be, or could reasonably be expected to be, destroyed or diminished if the information were disclosed; or
- (c) Information (other than trade secrets or information to which paragraph (b) applies) concerning a person in respect of his or her business or professional affairs or concerning the business, commercial or financial affairs of an undertaking, being information –
  - (i) the disclosure of which would, or could reasonably be expected to, unreasonably affect that person adversely in respect of his or her lawful business or professional affairs or that undertaking in respect of its lawful business, commercial or financial affairs; or
  - (ii) the disclosure of the information under this Act would be contrary to public interest by reason that the disclosure would be reasonably likely to prejudice the ability of the Government or a public authority to obtain similar information in the future for the purpose of administration of a law or the administration of matters administered by the public authority.

(2) the provisions of subsection (1) do not have effect in relation to a request by a person for access to a document by reason only of the inclusion in the document of information concerning –

- (a) the business or professional affairs of that person; or
- (b) the business, commercial or financial affairs of an undertaking of which that person, or a person on whose behalf that person made the request, is the proprietor.

Public Economic  
Interests

34. (1) A public authority or a private body may refuse a request for access if disclosure of the record would, or would be likely to cause serious prejudice or to incapacitate a Government to manage the economy of the United Republic of Tanzania in the best interests of the nation.
- (2) A public authority or a private body may refuse a request for access if disclosure of the record would, or would be likely to cause serious prejudice to the legitimate commercial or financial interests of that authority or body.
- (3) Subsections (1) and (2) do not apply in so far as the request relates to the results of any product or environmental testing and the information concerned reveals a serious public safety or environmental risk.

Mandatory protection  
of research  
information

35. A public authority or private body may refuse a request for access if the record contains information about research being or about to be carried out by or on behalf of a third party, the disclosure of which would, or would be likely to expose the third party or a person carrying out the research on behalf of the third party or the person who is the subject matter of the research to serious disadvantage.

Documents  
containing  
material  
obtained in  
confidence

36. (1) A document is an exempt document if its disclosure under this Act would divulge any information or matter communicated in confidence by or on behalf of a person or a government to a public authority, and
- (a) the information would be exempt information if it were generated by a public authority; or
  - (b) the disclosure of the information under this Act would be contrary to the public interest by reason that the disclosure would be reasonably likely to impair the ability of a public authority to obtain similar information in the future.
- (2) This section does not apply to information-
- (a) Acquired by a public authority from a business, commercial or financial undertaking; and
  - (b) That relates to trade secrets or other matters of a business, commercial or financial nature

Documents  
disclosure of  
which would be  
contempt of court  
or contempt of  
parliament

37. A document is an exempt document if public disclosure of the document would, apart from this Act and any immunity of the state-
- (1) Be in contempt of court;
  - (2) Be contrary to an order made or given by a commission or by a tribunal or other person or body having power to take evidence on oath; or
  - (3) Infringe the privileges of Parliament

Disclosure of  
of exempt  
document in the  
public interest

38. Notwithstanding any law to the contrary, a public authority shall give access to an exempt document where, in all the circumstances of the case, to do so is in the public interest, having regard both to any benefit and to any damage that may arise from doing so in matters such as, but not limited to-

- (a) abuse of authority or neglect in the performance of official duty;
- (b) injustice to an individual;
- (c) danger to the health or safety of an individual or of the public; or
- (d) unauthorised use of public fund

Internal  
Operations

39.(1) A public authority or private body may refuse to indicate whether or not it holds a record, or refuse to communicate information, where to do so would, or would be likely to: –

- (a) cause serious prejudice to the effective formulation or development of government policy or policy of that body;
- (b) seriously frustrate the success of a policy, by premature disclosure of that policy;
- (c) significantly undermine the deliberative process in that body by inhibiting the free and frank provision of advice or exchange of views; or
- (d) significantly undermine the effectiveness of a testing or auditing procedure used by that body.

(2) Subsection (1) does not apply to facts, analyses of facts, technical data or statistical information.

A Time Limits

40.(1) The provisions of sections 22–30 apply only inasmuch as the harm they envisage would, or would be likely to, occur at or after the time at which the request is considered.

(2) Sections 24, 26(1), 26(2) and 27 do not apply to a record held by a public body which is more than thirty years old.

Manifestly frivolous  
or vexatious requests

41. A body may refuse a request for access if the request is manifestly frivolous or vexatious, it has recently complied with a substantially similar request from the same person, or to process the request would substantially and unreasonably divert the resources of the body.

Minister may  
declare document  
exempt in  
certain cases

42. (1) The Minister may, in consultation with a public authority or private body order, declare a document to which section 31 to 43 are not applicable, to be an exempt document for the purposes of this Act if its disclosure would cause exceptional damage to the national or public interest.

(2) In considering whether or not to claim exemption under this Part, the public authority, or the Minister, as the case may be, shall act in good faith and use its or the Minister's best endeavours to achieve the object of

this Act to afford to members of the public maximum access to official documents consistent with national or public interest.

## PART IV

### APPEALS AGAINST DECISIONS

#### Internal appeal mechanisms

**43(1).** Every public authority or private body shall put in place an internal appeals mechanism by appointing a body to determine appeals which have not been involved in the original decision-making process;

(2). A requester may lodge an internal appeal against a decision by a public body to refuse access to all or part of a record, or to levy a given fee for access to information;

(3) A third party may lodge an internal appeal against a decision by a body to disclose information;

(4) An internal appeal must be lodged in writing within thirty days after the decision being appealed against was taken or after the time limit for a decision has expired;

(5).All third parties who were notified of a request for access pursuant to **section 36** shall be notified of any internal appeals in relation to those records and shall have the right to make representations;

(6). The original requester shall be notified of any internal appeal by a third party and shall have the right to make representations;

(7). An internal appeal shall be decided as soon as possible but in any event within ten working days after receipt of the appeal application.

(8). The applicant and any third parties shall be informed in writing of the appeal decision, as well as of their right to appeal against the decision.

#### Right of Appeal to the Standards Board

**44.(1)** A requester whose internal appeal has been refused and whose internal appeal has not been decided within ten working days or who has been refused a request for access by a private body, may, within thirty days lodge an appeal against this decision with the Media Standards Board established under section 57 of this Act

(2) A third party may, within thirty days, lodge an appeal with the Board against an internal appeal decision or a decision by a public authority to disclose information.

(3) Any third parties who were notified of an internal appeal pursuant to subsection 38(5) shall be notified of any further appeal to the Board and shall have the right to make representations.

(4) The original requester shall be notified of any appeal to the Board by a third party and shall have the right to make representations.

(5) An appeal before the Board shall be decided as soon as possible but in any event within ten working days after receipt of the appeal application.

(6) The applicant and any third parties shall be informed in writing of the appeal decision, as well as of his or her right to appeal the decision.

(7) Upon expiry of the thirty-day period for appeals to the court pursuant to section 46 (1), the Board may certify in writing any failure to comply with a decision pursuant to this section, and the court shall consider such failure under the rules relating to contempt of court.

Appeal to  
the High Court

**45.**(1) A requester or a third party may, within thirty days, appeal to the High Court for judicial review of the decision of the Board pursuant to Section 44.

(2) The appeal pursuant to subsection (1) shall be disposed of under summary procedure, but in any event in not more than thirty days from the date of the appeal.

(3) Notwithstanding this Act or any other law, any court hearing an appeal pursuant to subsection (1) may examine any record to which this Act applies and no such record may be withheld from the court on any grounds, provided that the court shall not disclose to any person any record which falls within the scope of an exception to this Act.

Good Faith Disclosures

46. No one shall be subjected to civil or criminal action, or any employment detriment, for anything done in good faith in the exercise, performance or purported performance of any power or duty in terms of this Act, as long as he/she acted reasonably and in good faith.

Protection of  
Whistleblowers

47. No one may be subject to any legal, administrative or employment-related sanction, regardless of any breach of a legal or employment obligation, for releasing information on wrongdoing, or that which would disclose a serious threat to health, safety or the environment, as long as he/she acted in good faith and in the reasonable belief that the information was substantially true and disclosed evidence of wrongdoing or a serious threat to health, safety or the environment.

Offences 48. (1) A person who deliberately and maliciously gives false information commits an offence and shall be liable upon conviction to a fine of two million shillings or to imprisonment for a period of not less than two years.

- (2). A person who with intent to deny a right of access to information in terms of this Act destroys, damages or alters a record without lawful authority or otherwise obstructs access to a record commits an offence and is liable upon conviction to a fine of two million shillings or to imprisonment for a period not less than three years.

Protection against  
actions for defamation  
or breach of confidence

49. (1) Where access has been given to a document and

- (a) the access was required by this Act to be given; or
- (b) the access was authorized by a Minister, or by an officer having authority, in accordance with **section 22**, to make decisions in respect of request, in the *bona fide* belief that the access was required by this Act to be given.

no action for defamation or breach of confidence lies by reason of the authorizing or giving of the access, against the Government or a public authority or against the Minister or officer who authorised the access or any person who gave the access.

(2) The giving of access to a document (including an exempt document) in consequence of a request shall not be taken, for the purposes of the law relating to defamation or breach of confidence, to constitute an authorization or approval of the publication of the document or of its contents by the person to whom the access was given.

Protection in respect  
of offences

50. Where access has been given to a document and-

- (a) the access was required by this Act to be given; or
- (b) the access was authorised by a Minister or by an officer having authority, in accordance with **section 22**, to make decisions in respect of requests, in the *bona fide* belief that the access was required by this Act to be given

neither the person authorizing the access nor any person concerned in the giving of the access is guilty of a criminal offence by reason only of the authorizing or giving of the access.

Preservation  
of records and  
documents

51. (1) A public authority shall maintain and preserve or cause to be maintained and preserved records in relation to its functions and a copy of all official documents which are created by it or which come at any time into its possession, custody or power, for such period of time as may be prescribed.

(2) A person who wilfully destroys or damages a record or document required to be maintained and preserved under subsection (1), commits an offence and is liable on summary conviction to a fine or imprisonment of not less than two years.

(3) A person who knowingly destroys or damages a record or document which is required to be maintained and preserved under subsection (1) while a request for access to the record or document is pending commits an offence and is liable on summary conviction to a fine of two million shillings or imprisonment of not less than two years.

## **PART V PROTECTION OF JOURNALISTS' CONFIDENTIAL SOURCES OF INFORMATION**

Right to Protect Sources

**52.**(1) Except otherwise provided by this part, no person who is or has been directly engaged in the gathering, procuring, compiling, editing, or publishing of information for the purpose of transmission, dissemination or publication to the public shall be required to disclose the person or means from or through which information was obtained, or to disclose any unpublished information which is likely to lead to the identification of the person or means from or through which information was obtained.

(2) subject to provisions of section 53 the privilege provided under subsection (1) shall apply notwithstanding any provision in another law, which purports to require individuals to provide evidence or information, subject only to the provisions of this Act.

Order for Source Disclosure

**53.**(1) An order to lift the privilege provided under Section 52 of this Act may be made by the High Court if it is satisfied after hearing the parties that all of the following conditions have been met:

the information is necessary for the investigation or prosecution of a serious criminal offence, in the defence of a person charged with a criminal offence, or to protect life;

the same information or other information of similar probative or investigative value cannot be obtained from alternative sources; and

the interest in disclosure outweighs the interest in non-disclosure, taking into account whether disclosure would inhibit the flow of information or endanger personal security.

(2) A disclosure order under subsection (1) shall clearly specify reasons why the conditions set out in subsection (1) are deemed to have been met and the use which may be made of the information.

(3) A disclosure order pursuant to subsection (1) shall be limited in scope to the information which is necessary to meet the conditions set out in that subsection.

(4) Information obtained under a disclosure order may be used only for the purposes indicated in that order.

Right of Appeal	54. (1) Where a disclosure order has either been issued or refused pursuant to Section 53, any party which is aggrieved with that order may appeal against it to the Court of Appeal.  (2) Pending an appeal under subsection (1), the disclosure order is stayed.  (3) Either party may request expedited consideration of an appeal under subsection (1).
Protection not waived by Publication	55. The privilege provided for under Section 52 of this Act is not waived simply by virtue of the fact that the information has been published or broadcast.
Existing Rights Maintained	56. This Act shall not limit any privilege or right otherwise provided by any other written law.

## PART VI

### ESTABLISHMENT OF THE MEDIA STANDARDS BOARD

Establishment of the Board	57 (1) There is hereby established a Regulatory Board to be known as the Media Standards Board.  (2) The Board shall – <ul style="list-style-type: none"> <li>(a) be a body corporate with perpetual succession and a common seal;</li> <li>(b) in its corporate name, be capable of suing and being sued;</li> <li>(c) for and in connection with the purposes of this Act, be capable of acquiring, holding and disposing of movable and immovable property in its corporate name.</li> </ul>
Functions of the Board	58. – (1) Subject to this Act and to any regulations made under it, the functions of the Board shall be to –  <ul style="list-style-type: none"> <li>(a) enforce the provisions of this Act.;</li> <li>(b) proactively monitor violations of media ethics and conduct;</li> <li>(c) to receive and initiate investigations on violations of media ethics and conduct;</li> <li>(d) formulate overall policy relating to the profession of journalism;</li> <li>(e) conduct research on media related matters and advise the government and other public organs and private organs on specific issues related to media.</li> <li>(f) promote the ratification, accession and domestication of treaties or conventions related to media issues.</li> <li>(g) promote within the country the protection and preservation of principles of freedom of information, media freedom and opinion.</li> <li>(h) accredit journalists in accordance with this Act.</li> </ul>



- (i) develop and set standards for curricula and examinations for the journalism profession in collaboration with the National Council for Technical Education (NACTE) and training institutions.
- (j) manage the Media Training Fund;
- (k) identify and recommend qualified journalists to pursue further training in media studies.
- (l) Receive, and handle complaints related to media operations and sanction media outlets and media practitioners who contravene the provisions of this Act.
- (m) prepare and enforce codes of media conduct and ethical practice;
- (n) publish information guidelines and best practices regarding the duty of public bodies to publish in accordance with Section 7 of this Act;
- (o) issue and from time to time update a code of practice relating to the keeping, management and disposal of records, as well as the transfer of records to the Public Archives;
- (p) organize training for Information Officers and other officials on procedures, rules and processes involved in the implementation of this Act;
- (q) consult with and receive reports from public and private bodies, the media and the public on the problems encountered in applying or complying with this Act;
- (r) obtain advice from, consult with, or receive and consider proposals or recommendations from, any public or private body, official of such a body or member of the public in connection with the Board's functions in terms of this Act; and
- (s) perform any other function which may be assigned to it by the President in writing under his hand or by or under any other written law;

(2) The Board shall establish and maintain, as far as may be practicable, a system of consultation, coordination and cooperation with the Tanzania Communications Regulatory Authority (TCRA) and with any other body or organisation established by or under any other written law and having functions similar to those specified in sub-section (1)

Composition  
of the Board

59(1) The Board shall consist of nine members, all of whom shall have some expertise, by virtue of their education or experience, in the media sector and other related fields who are known for their high moral standards, integrity, impartiality and competence.

(2) During the meetings of the Board, the Board may co-opt any person with expert knowledge in a particular field to advise the Board.

(3) a person appointed under subsection (2) shall be paid such remuneration as may be determined by the Board.

Appointment of  
Board Members

60. (1) there shall be established an Appointment Committee consisting of:

- a) One representative from the Ministry responsible for information and Broadcasting;

- b) One representative of journalists' associations;
- c) One representative of media owners and or Chief executives
- d) The chairman of the Tanganyika law society;
- e) One representative of Christian and one representative of Muslim communities;
- f) One representative of higher learning institutions; and
- g) One representative of the Commission for Human Rights and Good Governance.
- h) Two representatives of mainstream media.

(2) The Minister shall make regulations providing for the appointment of the Committee and the procedure to be followed by such Committee in making nominations.

- (3) The Appointment Committee shall forward a shortlist of nominations comprising not less than 14 individuals to the Minister who shall appoint nine from among them as members of the Board.
- (4) The appointment process shall be open and transparent by publishing the list of the short listed candidates in the mainstream media for the public to render their views on the suitability, or otherwise, of the nominees.
- (5) The Minister shall strive to ensure that membership of the Board as a whole represents a broad cross-section of Tanzanian society.

Criteria for  
appointment of  
Board members

61 A person shall not be appointed to the Board if he/she:

- a) is not a citizen of Tanzania;
- b) is employed in the civil service or any other branch of government;
- c) holds an official office in, or is an employee of a political party, or holds an elected position in central or local government;
- d) has directly or indirectly, significant financial interest in the media;
- e) is an un-discharged bankrupt;
- f) has been convicted, after due process in accordance with internationally accepted legal principles, of a violent crime, and/or a crime of dishonesty unless five years has passed since the sentence was discharged;
- g) provided that individuals who have been nominated pursuant to sub-section (4) shall be given an adequate opportunity to take any necessary steps to remove a barrier to their appointment under this sub-section.

Tenure of office      62 Members of the Board shall serve for three years and may be re-elected to a second and final term.

Removal of members      63 (1) A member of the Board may be removed from office only after the Minister is satisfied of the following circumstances; if he/she

- (a) resigns from the Board;
- (b) fails, without assigning any valid reasons whatsoever to attend three consecutive meetings of the Board;
- (c) becomes of unsound mind;

commits a serious violation of his or her responsibilities under this Act;  
dies; and  
upon expiry of two terms of five years.

(2). Any member who is removed by the Minister pursuant to sub-section (1) shall be provided with written reasons.

(3). Where the Minister removes a member pursuant to sub-section (2), or a member resigns or dies, that member shall be duly replaced in the same manner as he or she was appointed.

Rules of Procedure 64..(1) The Board chairman shall be appointed by the President from among the members of the Board. The Board shall appoint its Vice-Chairperson, and shall adopt such rules, in relation to meetings and other matters, as it considers necessary and appropriate to enable it to perform its functions.

(2) The Board shall ordinarily meet at least six times a year.

(3) The Chairperson shall convene an *ad hoc* meeting at the request of not less than three members.

(4) The Chairperson, or, in his or her absence, the Vice-Chairperson shall preside at all meetings of the Board.

(5) A decision at a meeting of the Board shall be adopted by a simple majority of the members present and voting, and in case of an equality of votes, the Chairperson shall have a casting vote in addition to his or her deliberative vote.

(6) The Executive Secretary shall, unless in any particular case the Board otherwise directs, attend all meetings of the Board as a non-voting member.

(7) Minutes in proper form of each meeting of the Board shall be kept and shall be confirmed by the Board at the next meeting and signed by the member presiding over the meeting.

(8) The Board may act notwithstanding any vacancy in its membership.

Remuneration of  
Board Members

65.(1) Save for the Chairman, members of the Board shall not receive remuneration for their work.

(2) Members of the Board shall be paid honoraria as shall be determined and approved by the National Assembly and shall be compensated for actual expenses, including travel, accommodation and subsistence incurred as a result of their duties as members of the Board.

Powers to  
Employ

66 (1) The Board shall have powers to employ such members of staff as it may deem fit for the purpose of smooth execution of the Board's functions.

(2) Without prejudice to the generality of the above sub section the Board shall have powers to employ any consultant for any particular purpose on short time or part-term basis.

(3) The Board shall pay such salaries and allowances to its staff as it may determine from time to time.

Limitation  
of liabilities of  
members 67. No member of the Board shall be held personally liable for any act or default of the Board done or omitted bona fide in the course of carrying out the responsibilities and functions of, or exercising the power conferred upon the Board

Executive Secretary and  
Secretariat of  
the Board 68 – (1) There shall be a full-time Secretariat of the Board which shall be under the direction of the Executive Secretary

(2) the Minister shall, after consultation with the Board, appoint a an Executive Secretary who may be a person holding an office of emolument in the public service and who shall hold and vacate office in accordance with the terms of his appointment.

(3) the executive Secretary shall not be a member of the Board

(4) the Board may, from time to time, appoint any person with expert knowledge in a particular field to assist the Board with advice in connection with any matter connected with its functions.

(5) a person appointed under subsection (4) shall be paid such remuneration as may be determined by the Board with the approval of the Minister.

(6) the Board may from time to time and subject to such directions as the Minister may give in that behalf, appoint at such salaries and upon such terms and conditions as it may think fit, such other officers and employees of the secretariat of the Board as it may deem necessary for the proper and efficient conduct of the business and activities of the Board

(7) the Board shall perform any other function which may be assigned to it by the chairperson in writing under his hand or by or under any other written law.

Powers of the board 69. Powers of the board:  
(1) Proactively monitor violations of media ethics and conduct.  
(2) to receive and initiate investigations into violation of media ethics and conduct  
(3) to sanction media that breaches provisions of this Act

Liability of  
Members 70 No member of the Board shall be held personally liable for any act or default of the Board done or omitted bona fide in the course of carrying out the responsibilities and functions of, or exercising the power conferred upon the Board

71  
Establishment of the  
Media Development  
Fund 72 (1) There is hereby established a fund for the advancement of journalism to be known as Media Development Fund which shall be administered by the Board

(2) for purpose of this section the Board shall disburse the fund for training of journalists with the view to enhance their skills

Investigations  
and Hearings

- 73.(1)The Board shall have the power to conduct investigations and hold hearings as necessary to discharge its responsibilities under this Act.  
(2)When holding a hearing, the Board shall have the power to require the production of evidence and to compel witnesses to testify before it.  
(3)Hearings of the Board shall be conducted in accordance with the rules of natural justice.”  
(4) The Board may delegate any of its functions under this Act to any officer or committee of the Board.”  
(5) The Board shall cause to be kept proper accounts and shall, as soon as accounts and audit practicable after the end of each financial year, cause such accounts relating to such financial year together with-
- (a) a statement of income and expenditure during such financial year; and
  - (b) a statement of the assets and liabilities of the Board on the last day of such financial year, to be submitted to and audited by an auditor approved by the Government.
- (6) Copies of the statements referred to in subsection (5) and a copy of the auditors report shall be forwarded to the Minister.

annual report

74. (1)The Board shall, at the end of each financial year, prepare an Annual Report on the activities of the Board during that financial year, and shall submit such report to the Minister.
- (2) The Annual Report shall be published and widely distributed.
  - (3) The Annual Report shall include the following information:
    - (a) a description of the activities of the Board during the previous year;
    - (b) information relating to licensing, complaints and research;
    - (c) a description of any sanctions applied by the Board and the decision relating thereto;
    - (d) information relating to the Broadcasting Frequency Spectrum Plan;
    - (e) an analysis of the extent to which it has met its objectives of the previous year;
    - (f) its objectives for the coming year;
    - (g)any recommendations in the area of broadcasting;
    - (h)its income and expenditure over the previous year;
    - (i)a proposed budget for the coming year; and
    - (j)a summary of the audited accounts.
  - (4) The Board may, in the public interest, make and submit special reports.
  - (5) The funds and resources of the Board shall consist of -
    - (a) such sums as may be provided for the purposes of the Board by parliament, either by way of grant or loans;
    - (b) such sums as the Board may, from time to time, with the consent of the Minister, borrow for the purposes of the Board;

- (c) such sums as the Board may, in any manner, become payable to or vested in the Board either under the provisions of this Act or any other written law, or incidental to the carrying out of its functions.
- (d) The Board may invest its fund in such Investments as are authorized by, and subject to such conditions as are prescribed by the Trustees Investments Act, 1967, in relation to investment of funds by a trustee.

(6). The Minister shall cause to be laid before the National Assembly as soon as may be practicable after he has received them-

- (a) copies of the statements referred to in subsection (1) of section 18 together with a copy of the auditors' report;
- (b) a copy of the Registrar's report

(7) The National Assembly through the Minister, may in writing, give the Board directions of a general or specific nature, and the Board shall comply with every such direction.

Eligible complainants  
to the board

75 – (1) subject to the provisions of this part, eligible complaints which can be brought before the Board include:

- (a) Advocacy and incitement to commit genocide
- (b) Racial hatred
- (c) Religious intolerance
- (d) Hate speeches
- (e) Incitement lawlessness and breach of peace
- (f) Publication of exempt documents according to this Act
- (g) Invasion of privacy
- (h) Child pornography
- (i) Refusal to give access to information
- (j) Publication of false news and seditious material
- (k) Threats to national security, public order, public morals or public health

(2) The complaints under this section may be instituted, *inter alia*, by individual persons who may be citizens or non-citizens, government, private or government institutions and print and electronic media

## PART VII

### PROFESSIONAL STANDARDS

Requirements for  
practice of journalism

76 (1) No person shall practise journalism in Tanzania unless-

- (a) he/she is accredited by the Board,
- (b) in the case of a natural person, he/she is a citizen of Tanzania;

(c) in the case of a natural person who is not a citizen of Tanzania, he is permitted under the law relating to immigration to work as a journalist in Tanzania;

(2) No person shall practise journalism in Tanzania unless he/she holds academic and professional qualifications recognised and accredited by the Board

(3) It is an offence under this Act for any employer to engage a non qualified person to practise journalism.

Media personnel  
to adhere to ethics

77. It shall be the prime duty of every person employed in the media to adhere to media ethics prescribed by the board

Requirement  
for accreditation

78(1) Under this Act, full accreditation shall be compulsory for any person saving as an editor of a newspaper, radio and television station.

(2) Subject to this Act the Board shall grant interim accreditation to non qualified journalists for a grace period of five years.

(3) After the five year grace period full accreditation shall be granted to non-qualified journalists following attainment of requisite qualifications prescribed under **Section 76** of this Act.

## PART VIII

### COLLECTION, USE, DISCLOSURE AND RETENTION OF PERSONAL INFORMATION

Source of personal  
information

79(1) A public authority shall not collect personal information unless-

- (a) the information is collected for a lawful purpose directly related to a function or activity of the authority; and
- (b) the collection of the information is necessary for, or directly related to, that purpose-

(2) A public authority shall not collect personal information-

- (a) by unlawful means, or
- (b) by means that, in the circumstances of the case-

(i) are unfair; or

(ii) intrude to an unreasonable extent upon the personal affairs of their individuals concerned

Saving of

80 This part shall not effect the operation of any enactment that makes

Certain other Enactments	provision with respect to the collection, holding, use, correction or disclosure of personal information and is capable of operating concurrently with this Act.
Source of personal information	<p>81. (1) a public authority shall, subject to subsection (3), collect personal information directly from the individual concerned.</p> <p>(2) At or before the time, or if that is not practicable, as soon as practicable after, a public authority collects personal information under subsection (1), the authority shall take such steps as are, in the circumstances, reasonable to ensure that the individual concerned is aware of-</p> <ul style="list-style-type: none"> <li>(a) the purpose for which the information is being collected;</li> <li>(b) the fact that the collection of the information is authorized or required by or under law, if such collection is so authorized or required; and</li> <li>(c) the intended recipients of the information.</li> </ul> <p>(3) A public authority is not obliged to comply with subsection (1) where-</p> <ul style="list-style-type: none"> <li>(a) the information is publicly available information;</li> <li>(b) the individual concerned authorizes the collection of the information from someone else;</li> <li>(c) non-compliance will not prejudice the interest of the individual concerned;</li> <li>(d) non-compliance is necessary- <ul style="list-style-type: none"> <li>(i) for the prevention, detection, investigation, prosecution or punishment of any offence or breach of law;</li> <li>(ii) for the enforcement of a law imposing a pecuniary penalty;</li> <li>(iii) for the protection of public revenue</li> <li>(iv) for the preparation for, or conduct of, proceedings, before any court or tribunal, or implementation of the orders of a court or tribunal, or</li> <li>(v) in the interests of national security, [national] defence on international relations;</li> </ul> </li> <li>(e) Compliance would prejudice the purpose of the collection; or</li> <li>(f) Compliance is not reasonably practicable in the circumstances of the particular case</li> </ul>
Accuracy etc of personal information to be checked before use	82. Where a public authority holds personal information, having regard to the purpose for which the information is proposed to be used, it shall not use that information without taking such steps as are, in the circumstances, reasonable to ensure that, the information is complete, accurate, up to date, relevant and not misleading
Limit on disclosure of personal	83(1) Subject to section 84, where a public authority holds personal information, it shall not disclose the information to a person, body or



information

agency (other than the individual concerned), unless-

- (a) the individual concerned has expressly or impliedly consented to the disclosure;
- (b) the disclosure of the information is required or authorized by or under law;
- (c) the disclosure of the information is one of the purpose in connection with which the information was collected, or is directly connected to that purpose;
- (d) the individual concerned is reasonably likely to have been aware or made aware under section 8 2© that information of that kind is usually passed on to that person, body or agency;
- (e) the information is to be disclosed-
  - (i) in a form in which the individual concerned is not identified; or
  - (ii) for statistical or research purposes and will not be published in a form that could reasonably be expected to identify the individual concerned; or
- (f) the authority believes on reasonable grounds that disclosure of the information is necessary-
  - (i) to prevent or lessen a serious and imminent threat to the life or health of the individual concerned or other person, or to public health or safety;
  - (ii) the enforcement of a law imposing a pecuniary penalty;
  - (iii) the enforcement of a law imposing a pecuniary penalty;
  - iv) the protection of public revenue;
  - v) the preparation for, or conduct of, proceedings before any court of tribunal; or
  - vi) in the interests of national security, [national] defence or international relations.

- (2) any person, body or agency to whom personal information is disclosed under subsection (1) shall not use or disclose the information for a purpose other than the purpose for which the information was given to that person, body or agency.

Condition for use or disclosure of personal information

84 A public authority shall only use or disclose personal information under section 83, where such use or disclosure would not amount to an unreasonable invasion or privacy of the individual concerned, taking into account the specific nature of the personal information and the specific purpose for which it is to be so used or disclosed.

Storage and Security of Personal Information

85. Where a public authority holds personal information, it shall ensure that-

- (a) the information is protected, by such security safeguards as is reasonable in the circumstances to take, against loss, unauthorized access, use, modification or disclosure, and against other misuse; and

	<p>(b) where it is necessary for the information to be given to a person body or agency in connection with the provision of a service to the authority, everything reasonably within the power of the authority is done to prevent unauthorized use or disclosure of the information.</p>
Retention and disposal of personal information	<p>86 (1) Where a public authority uses personal information for an administrative purpose, it shall retain the information for such period of time after it is so used as may be prescribed by regulation in order to ensure that the individual concerned has a reasonable opportunity to obtain access to the information</p> <p>(2) Subject to subsection (1) and this Act, the Minister shall prescribe by regulation, guidelines for the retention and disposal or personal information held by a public authority.</p>
Correction of Personal information	<p>87 (1) Where a document of a public authority to which access has been given under any enactment, contains personal information of a person and that person claims that the information.</p> <p>(a) is incomplete, incorrect or misleading; or</p> <p>(b) not relevant to the purpose for which the document is held,</p> <p>the public authority may, subject to subsection (2), on the application of that person, amend the information upon being satisfied of the claim.</p> <p>(2) An application under subsection (1) shall-</p> <p>(a) be in writing; and</p> <p>(b) as far as practicable, specify:</p> <p>(i) the document or official document containing the record of personal information that is claimed to require amendment;</p> <p>(ii) the information that is claimed to be incomplete, incorrect or misleading;</p> <p>(iii) whether the information is claimed to be incomplete, incorrect or misleading;</p> <p>(iv) the applicant's reasons for a claiming; and</p> <p>(v) the amendment requested by the applicant.</p> <p>(3) To the extent that it is practicable to do so, the public authority shall, when making any amendment under this section to personal information in a document, ensure that it does not obliterate the text of the document as it existed prior to the amendment.</p> <p>(4) Where a public authority is not satisfied with the reasons for an application under subsection (1), it may refuse to make any amendment to the information and inform the applicant of its refusal together with its reasons for so doing.</p>

## PART IX

### PRIVACY COMMISSIONER

- Office of privacy  
Commission
- 88 (1) For the purposes of this Act, there is hereby established an independent office of Privacy Commissioner.
- (2) The Privacy Commissioner shall be appointed by the President upon the recommendation of a screening committee of the parliament subject to such terms and conditions as may be specified in the instrument of appointment.
- (3) A person appointed as a privacy commissioner shall be a person who qualifies as a high court judge and shall hold office for a period of five years. At expiration of such period he or she shall be eligible for reappointment
- (4) A person appointed as Privacy Commissioner may resign from office by writing under his or her hand addressed to the [President] and shall in any case vacate office on attaining the age of sixty-five years.
- (5) The Privacy Commissioner may be removed from office only for inability to discharge the function of office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.
- Disqualification for  
appointment etc
- 89 (1) No person shall be qualified for appointment to the office of Privacy Commissioner if that person-
- (a) is a member of Parliament;
  - (b) is a member of an local authority;
  - (c) is an undercharged bankrupt; or
  - (d) has at any time been convicted of any offence involving dishonesty or moral turpitude.
- (2) the Privacy Commissioner shall vacate office if any circumstances arise that, if he or she were not Privacy Commissioner, would cause him or her to be disqualified for appointment as such, by virtue for subsection (1) of this section
- Restriction on  
employment
- 90 - A person appointed as Privacy Commissioner shall be full-time office and-
- (a) shall not be employed in any other capacity during any period in which the person holds office as Privacy Commissioner; and
  - (b) shall not, at any time after that person has ceased to hold office as privacy Commissioner, be eligible for appointment in the public service
- Filling of vacancy
- 91 (1) Where-
- (a) a vacancy arises in the office of Privacy Commissioner; or

- (b) by reason of illness, absence from the country or other sufficient cause, a person appointed as Privacy Commissioner is unable to perform his or her functions under this Act,

the [President] may, upon the recommendation of the Minister, appoint a suitable person to act in that office or perform those functions, as the case may be

Functions  
of privacy  
commissioner

92 The functions of the Privacy Commissioner shall be-

- (a) to monitor compliance by public authorities of the provisions of this Act;
- (b) to provide advice to public authorities on their obligations under the provisions, and generally on the operation, of this Act;
- (c) to receive and investigate complaints about alleged violations of the privacy of persons and in respect thereof may make reports to complainants;
- (d) to inquire generally into any matter, including any enactment or law, or any practice, or procedure, whether governmental or non governmental, or any technical development, if it appears to the commissioner that the privacy of the individual is being, or may be, infringed thereby;
- (e) for the purpose of promoting the protection of individual privacy, to undertake educational programmes on the commissioner's own behalf or in co-operation with other persons or authorities acting on behalf of the commissioner;
- (f) to make public statements in relation to any matter affecting the privacy of the individual or of any class of individuals;
- (g) to receive and invite representations from members of the public on any matter affecting the privacy of the individual;
- (h) to consult and co-operate with other persons and bodies concerned with the privacy of the individual;
- (i) to make suggestions to any person in relation to any matter that concerns the need for, or the desirability of, action by that person in the interests of the privacy of the individual;
- (j) to undertake research into, and to monitor developments in, data processing and computer technology to ensure that any adverse effects of such developments on the privacy of individuals are minimized, and to report to the Minister the results of such research and monitoring;
- (k) to examine any proposed legislation (including subsidiary legislation or proposed policy of the Government that the Commissioner considers may affect the privacy of individuals, and to report to the Minister the results of the examination);
- (l) to report (with or without request) to the Minister from time to time on any matter affecting the privacy of the individual, including the need for, or desirability of, taking legislative, administrative, or other action to give protection or better protection to the privacy of the individual

- (m) to report of the Minister from time to time on the desirability of the acceptance, by Tanzania of any international instrument relating to the privacy of the individual;
- (n) to gather such information as in the commissioner's opinion will assist the commissioner in discharging the duties and performing the functions of the commissioner under this Act;
- (o) to do anything incidental or conducive to the performance of any of the preceding functions; and
- (p) to exercise and perform such other functions, powers, and duties as are conferred or imposed on the commissioner by or under this Act or any other enactment.

Staff and funds 93 (1) There shall be appointed such officers and employees as may be necessary to enable the Privacy Commissioner to discharge the duties and perform the functions of such commissioner under this Act.

(2) Parliament shall apportionate annually, for the use of the Privacy Commissioner, such sums of money as may be necessary for the proper exercise performance and discharge, by the Commissioner, of his or her powers, duties and functions under this Act.

## PART X

### PRIVACY COMMISSIONER TO INVESTIGATE COMPLAINTS

Receipt and investigation of complaints 94. (1) Subject to this Act, the Commissioner shall receive and investigate a complaint from any person in respect of any matter relating to-

- (a) the collection, retention or disposal of personal information by a public authority; or
- (b) the use or disclosure of personal information held by a public authority;

(2) Nothing in this Act precludes the Commissioner from receiving and investigating complaints of a nature described in subsection (1) that are submitted by a person authorized by the complainant to act on behalf of the complainant, and a reference to a complainant in any other section includes a reference to a person so authorized.

(3) Where the Commissioner is satisfied that there are reasonable grounds to investigate a matter under this Act, the Commissioner initiate a complaint in respect thereof.

Mode of complaint 95(1) A complaint under this Act shall be made to the Commissioner in writing unless the Commissioner authorizes otherwise.

(2) the Commissioner shall give such reasonable assistance as is necessary in the circumstances to enable any person who wishes to make a complaint to the Commissioner, to put the complaint in writing.

Notice of investigation 96 Before commencing an investigation of a complaint under this Act, the Commissioner shall notify the chief executive officer of the public authority concerned of the intention to carry out the investigation and shall inform the chief executive officer of the substance of the complaint

Regulation of procedure 97 Subject to this Act, the Commissioner may determine the procedure to be followed in the discharge of any duty or the performance of any function of the Commissioner under this Act.

Investigation in private 98 (1) Every investigation of a complaint under this Act by the Commissioner shall be conducted in private.

(2) In the course of an investigation of a complaint under this Act by the Commissioner, the person who made the complaint and the chief executive officer of the public authority concerned shall be given an opportunity to make representations to the Commissioner, but no one is entitled as of right to be present during, to have access to, or to comment on, representations made to the Commissioner by any other person.

Powers of [privacy commissioner] in carrying out investigations

99. (1) The Commissioner has, in relation to carrying out of the investigation of any complaint under this Act, power-

- (a) to summon and enforce the appearance of persons before the Commissioner and compel them to give oral or written evidence on oath and to produce such documents and things as the Commissioner deems requisite to the full investigation and consideration of the complaint, in the same manner and to the same extent as a superior court of record;
- (b) to administer oaths;
- (c) to receive and accept such evidence and other information, whether on oath or by affidavit or otherwise, as the Commissioner sees fit, whether or not the evidence or information is or would be admissible in a court of law;
- (d) to enter any premises occupied by any public authority on satisfying any security requirements of the authority relating to the premises;
- (e) to converse in private with any person in any premises entered pursuant to paragraph (d) and otherwise carry out therein such inquiries within the power of the Commissioner under this Act as the Commissioner see fit; and
- (f) to examine or obtain copies of or extracts from books or other records found in any premises entered pursuant to

paragraph (d) containing any matter relevant to the investigation.

(2) Notwithstanding any other Act of Parliament or any privilege under the law of evidence, the Commissioner may, during the investigation of any complaint under this Act, examine any information recorded in any form held by a public authority and no information that the Commissioner may examine under this subsection may be withheld from the Commissioner on any grounds.

(3) Any document or things produced pursuant to this section by any person or public authority shall be returned by the Commissioner within en days after a request is made to the Commissioner by that person or authority, but nothing in this subsection precludes the Commissioner from again requiring its production in accordance with this section.

Findings and  
recommendations  
of Privacy Commissioner

100. (1) If, on investigating a complaint under this Act in recommendations in respect of personal information, the Commissioner finds that the complaint is well-founded, the Commissioner shall provide the chief executive officer of the public authority that has control of the personal information with a report containing-

- (a) the findings of the investigation and any recommendations that the Commissioner considers appropriate; and
- (b) where appropriate, a request that, within a time specified therein, notice be given to the Commissioner of any action taken or proposed to be taken to implement the recommendations contained in the report or reasons why no such action has been or is proposed to be taken.

(2) The Commissioner shall, after investigating a complaint under this Act, report to the complainant the results of the investigation, but where a notice has been requested under paragraph (1) (b), no report shall be made under this subsection until the expiration of the time within which the notice is to be given to the Commissioner.

(3) Where a notice has been requested under paragraph (1) (b) but not such notice is received by the Commissioner within the time specified therefore or the action described in the notice is, in the opinion of the Commissioner, inadequate or inappropriate or will not be taken in a reasonable time, the Commissioner shall so advise the complainant in his report under subsection (2) and may include in the report such comments on the matter as he thinks fit.

(4) Where, following the investigation of a complaint, the [Commissioner] has made recommendations to a public

authority under subsection (1), and the decision of the public authority is-

- (a) not to implement the recommendations; or
  - (b) to implement the recommendations, but in the opinion of the Commissioner, not within a reasonable time or in a manner that is inadequate or inappropriate,
- the complainant is entitled to seek judicial review of the decision of the public authority.

Review of  
Compliance  
with certain  
Provisions

101. (1) The Commissioner may, from time to time at the discretion of the Commissioner, carry out an investigation in respect of personal information under the control of public authority to ensure compliance with sections 81 to 87 of this Act.

(2) Section **25 to 28** apply, where appropriate and with such modifications and the circumstances require, in respect of investigations carried out under subsection(1).

(3) If, following an investigation under subsection (1), the Commissioner considers that a public authority has not complied with section 81 to 87 of this Act, the Commissioner shall provide that chief executive officer of the authority with a report containing the findings of the investigation and any recommendations that the Commissioner considers appropriate.

(4) Any report made by the Commissioner under subsection (3) may be included in a report made to Parliament pursuant to this Act.

Report to  
Parliament

102. The Commissioner shall, as soon as practicable after the thirty-first of December of each year, prepare a report on the activities of the office during that year and cause a copy of the report to be laid before Parliament.

Security

103. The Commissioner and every person acting on behalf or under the <sup>requirements</sup> direction of the Commissioner who receives or obtains information relating to any investigation under this Act or any other Act of Parliament shall, with respect to the use of that information, satisfy any security requirements applicable to, and take any oath of secrecy required to be taken by, persons who normally have access to and use of that information.

Confidentiality

104. Subject to this Act, the [Commissioner] and every person acting on behalf or under the direction of the Commissioner shall not disclose any information that comes to their knowledge in carrying out duties and performing functions under this Act

Protection of  
commissioner  
etc from criminal  
or civil proceedings

105. (1) Notwithstanding the provisions of section 37, no criminal or civil proceedings lie against the Commissioner, or against any person acting on behalf or under the direction of the [Commissioner], for anything done reported or said in good faith in the course of the exercise or performance or purported exercise, discharge, or performance of any power, duty or function of the Commissioner under this Act.



(2) For the purposes of any law relating to libel or slander;

- (a) anything said, any information supplies or any document or thing produced in good faith in the course of an investigation carried out by or on behalf of the Commissioner under this Act is privileged; and
- (b) any report made in good faith by the Commissioner under this Act is privileged.

Obstruction 106. (1) No person shall obstruct the Commissioner or any person acting on behalf or under the direction of the [Commissioner in the discharge and performance the Commissioner's duties and functions under this Act.

(2) Every person who contravenes this section is guilty of an offence and liable on summary conviction to a fine not exceeding two million shillings

Delegation by chief executive officer of 107. The chief executive officer of a public authority may, by order, designate one or more officers or employees of that authority to exercise, discharge or perform any of the power, duties or functions of chief executive officer under this Act that are specified in the order.

Proceedings where disclosure was in good faith 108 In any civil or criminal proceedings against a public authority for the disclosure of any personal information pursuant to this Act, or for any consequences that flow from the disclosure, it shall be an absolute answer that such disclosure was made in good faith.

## **PART XI**

### **PROTECTION OF MINORS AND YOUNG PERSONS**

Child pornography 109.(1) A person who, intentionally, does any of the following acts:

- (a) Publishes child pornography through a computer system; radio, television, newspaper or magazine or
- (b) Produces child pornography for he purpose of its publication through a computer system, radio, television, newspaper or magazine; or
- (c) Possesses or sells child pornography in a computer system or on any data storage medium;

Commits an offence punishable, on conviction, by imprisonment for a period not less than or not exceeding five years, or a fine not less than but not exceeding one million Tanzanian Shillings, or both.

(2) it is a defence to a charge of an offence under paragraph (1) (a) or (1) (c) if the person establishes that the child pornography was a bona fide scientific, research, medical or law enforcement purpose.

(3) In this section:

“child pornography” includes material that visually depicts:

- (a) a minor engaged in sexually explicit conduct; or
- (b) a person who appears to be a minor engaged in sexually explicit conduct; or
- (c) realistic images representing a minor engaged in sexually explicitly conduct.

(2) notwithstanding subsection (1) of this section whoever publishes or transmits or causes to be published in the electronic form, any material which is lascivious or obscene or appeals to the prurient interest or if its effect is such as to tend to deprave and corrupt persons who are likely, having regard to all relevant circumstance, to read see or hear the mater contained or embodied in it, shall be punished on first conviction with imprisonment of either description for a term not less than five years and with fine which not less than two million Tanzania shillings and in the event of a second or subsequent conviction with imprisonment of either description for a term which may extend to ten years and also with fine which may extend to four million shillings.

“minor” means a person under the age of 18 years.

“publish includes:

- (a) distribute, transmit, disseminate, circulate, deliver, exhibit, lend for gain, exchange, barter, sell or offer for sale, let on hire or offer to let on line, offer in any other way, or make available in any way; or
- (b) have in possession or custody, or under control, for the purpose of doing an act referred to in paragraph (a); or
- (c) print, photograph, copy or make in any other manner (whether of the same or of a different kind or nature) for the purpose of doing an act referred to in paragraph (a)

110 News reporting on minors and young persons shall be done subject to the code of conduct and ethics provided for under this Act.

111(1) A caution shall be made in advance before broadcast of radio and television programmes containing unsuitable material.

(2) The broadcast of the unsuitable material stated in subsection (i) shall be broadcast after midnight.

Sale of unsuitable  
Materials

112 (1) Publications with unsuitable materials shall be sold and circulated only at designated places.

(2) Publications stated in subsection (1) shall not be sold to minor and young persons.

3) for the purpose of this section “publications” include newspapers, magazines, journals, newsletters and news scripts.

## PART XII

### DEFAMATION

Explanation as  
to good faith

113. A publication of defamatory matter shall not be deemed to have been made in good faith by a person, within the meaning of section 1, if it is made to appear Either

- (a) that the matter was untrue, and that he did not believe it to be true; or
- (b) that the matter was untrue, and that he published it without having taken reasonable care to ascertain whether it was true or false; or
- (c) that, in publishing the matter, he acted with intent to injure the person defamed in a substantially greater degree or substantially otherwise than was reasonably necessary for the interest of the public or for the protection of the private right or interest in respect of which he claims to be privileged.

Presumption  
as to good faith

114. If it is proved, on behalf of the accused person, that the defamatory matter was published under such circumstances that the publication would have been justified if made in good faith, the publication shall be presumed to have been made in good faith until the contrary is made to appear, either from the libel, itself, or from the evidence given on the part of the prosecution.

Prohibition on  
Bringing a  
Defamation Case

115 Section -----shall not apply to the following: -

- (a) an entity which does not have the right to sue or be sued;
- (b) a deceased person;
- (c) inanimate objects, including religious symbols, the flag or national insignia;
- (d) the State or nation; and
- (e) all public bodies, including all bodies which form part of the legislative, executive or judicial branches of government or which otherwise perform public functions.

Summary Dismissal of Unfounded Claims	<p>116(1) A defendant shall have the right to apply to the court for summary dismissal of a claim that he or she made a defamatory statement unless the plaintiff can establish some probability of success</p> <p>(2). A plaintiff shall have the right to apply to the court for summary judgment in a defamation case where it is clear that the statements were made by the defendant and are defamatory, and the defendant has no defence with a reasonable prospect of success, unless there is another reason why the matter should be tried.</p>
Protection of Sources	<p>117.(1) No defendant in a defamation action shall be required to reveal a confidential source of information.</p> <p>(2) No adverse inference shall be drawn from the fact that a defendant in a defamation action refuses to reveal a confidential source of information.</p>
Proof of Truth	<p>118.(1) In all actions for defamation, a finding that an impugned statement of fact is true shall absolve the defendant of any liability.</p> <p>(2) In defamation actions involving statements on matters of public concern, any statements or imputations of fact alleged to be defamatory shall be presumed to be true unless and until the plaintiff proves they are false.</p>
Public Officials	<p>119 Common law defamation rules which provide for special protection to public officials, including the manner in which complaints are lodged and processed, the standards which are applied in determining whether a defendant is liable, and the remedies which may be imposed shall not apply.</p>
Reasonable Publication	<p>120 .No one shall be liable in defamation for a statement on a matter of public concern if they establish that it was reasonable in all the circumstances for a person in their position to have disseminated the material in the manner and form he or she did, taking into account the importance of freedom of expression with respect to matters of public concern and the right of the public to receive timely information relating to such matters.</p>
Opinions	<p>121 No one shall be liable in defamation for the expression of an opinion</p>
Absolute Privilege	<p>122. (1) The following statements shall not attract liability under defamation law: -</p> <p>(a) any statement made in the course of proceedings at legislative bodies, including by elected members both in open debate and in committees, and by witnesses called upon to give evidence to legislative committees;</p>

- (b) any statement made in the course of proceedings at local authorities, by members of those authorities;
  - (c) any statement made in the course of any stage of judicial proceedings – including interlocutory and pre-trial processes – by anyone directly involved in that proceeding – including judges, parties, witnesses, counsel and members of the jury – unless it can be shown that the statement in question is totally unrelated to that judicial proceeding;
  - (d) any statement made before a body with a formal mandate to investigate or inquire into human rights abuses;
  - (e) any document ordered to be published by a legislative body;
  - (f) any notice or matter issued for the information of the public by an international organisation or international conference;
  - (g) any notice or matter issued for the information of the public by any authority performing governmental or statutory functions, including the police;
  - (h) a fair and accurate report of any material described in subsections (a) – (g); and
  - (i) a fair and accurate report of any material which is contained in an official document where the status of that document justifies the dissemination of the material, such as official documentation issued by a public inquiry, or a foreign court or legislature.
- (2) Subsection (1) shall in no way limit the categories of absolute privilege which have already been established or recognised.

- Qualified Privilege 123.(1) No one shall be liable in defamation for the following types of statements, unless the statement can be shown to have been made with malice, in the sense of ill-will or spite: -
- (a) a statement made in the performance of a legal, moral or social duty or interest;
  - (b) a fair and accurate report of proceedings at any legal public meeting in Tanzania;
  - (c) a fair and accurate report of official proceedings or documents of a public company; or
  - (d) a fair and accurate of any finding or decision of an association with formal powers of adjudication and/or control with the purpose of promoting art, science, religion, learning, trade, business, industry, any profession, sports, pastimes or charitable objects.
- (2) Subsection (1) shall in no way limit the categories of qualified privilege which have already been established or recognised.

- Scope of Liability 124.(1) No one shall be liable in defamation for a statement of which he or she was not the author, editor or publisher and where he or she did not know, and had no reason to believe, that what he or she did contributed to the dissemination of a defamatory statement.
- (2) Natural or legal persons whose sole function in relation to a particular statement is limited to providing technical access to the Internet, to transporting data across the Internet or to storing all or part of a website shall not be liable in defamation in relation to that statement unless, in the circumstances, they can be said to have adopted the relevant statement.

(3) A person shall not be deemed to have adopted a statement for purposes of subsection (2) simply because someone has alleged that the statement is defamatory.

(4) Subsection (2) shall not apply, in the context of a defamation action, to any court order which covers the person in question and requires it to take action to prevent further publication of a statement.

(5) For publication media which can be said to publish on a continuous basis, such as websites on the Internet, publication at one location, in one form shall be considered to be a single publication.

Purpose of Remedies

125.(1) Any remedy for a defamatory statement should be based on the principle that the purpose of the remedy is to redress the harm done to the reputation of the plaintiff, not to punish the defendant.

(2) To give effect to subsection (1) courts shall, when ordering remedies, take into account, among other things, the application of any other measures – including through voluntary or self-regulatory mechanisms – which have been used to limit the harm the defamatory statement has caused to the plaintiff's reputation.

Obligation to Request

Voluntary Remedy

126.(1) No one shall bring an action for defamation unless they have first requested a retraction, correction, apology or similar remedy from the defendant and a reasonable period of time has elapsed since that request.

(2) Courts shall, when ordering remedies, take into account, among other things, the request pursuant to subsection (1) and any response to that request.

Non-Pecuniary

Remedies to be

Prioritised

127. When ordering remedies for defamation, courts shall prioritise non-pecuniary remedies, such as a requirement to print a correction, retraction or the court's order, whenever such remedies will mitigate the harm to the plaintiff's reputation.

Pecuniary

Remedies

128.(1) Compensation for actual financial loss, or material harm, caused by a defamatory statement shall be awarded only where that loss is specifically established.

(2) Compensation for non-material harm, or harm which cannot be quantified in monetary terms, caused by a defamatory statement shall be subject to a fixed ceiling as established by the Minister responsible for Information and Broadcasting, which ceiling shall be applied only in the most serious cases.

(3) Compensation which goes beyond compensating for harm to reputation for a defamatory statement shall be a highly exceptional measure, which may be applied only where the plaintiff has proved that the defendant acted with knowledge of the falsity of the statement and with the specific intention of causing harm to the plaintiff.

(4) Courts shall, in assessing the quantum of compensation pursuant to subsections (2) and (3), have due regard to any voluntary or non-pecuniary remedies, as well as the potential chilling effect of the award on freedom of expression.

Injunctions

129. (1) Courts shall not order injunctions prohibiting publication prior to the initial publication of an allegedly defamatory statement.
- (2) Courts shall order interim injunctions prohibiting further publication of an allegedly defamatory statement prior to a full hearing of the matter on the merits only in highly exceptional cases where all of the following conditions are met: -
- (a) the plaintiff can show that he or she would suffer irreparable damage, which could not be compensated by subsequent remedies, should further publication take place; and
  - (b) the plaintiff can demonstrate a virtual certainty of success, including proof that the statement was clearly defamatory and that any potential defences are manifestly unfounded.
- (3) Courts shall order permanent injunctions only after a full and fair hearing of the merits of the case and such injunctions shall be limited in application to the specific statements found to be defamatory and to the specific people found to have been responsible for the publication of those statements.

Offer to Make

Amends

- 130.(1) A person who has published an allegedly defamatory statement may offer make amends, including by offering: -
- (a) to make a correction and/or apology;
  - (b) to publish the correction and/or apology; and/or
  - (c) to pay such compensation as may be agreed.
- (2) An offer pursuant to subsection (1) must be in writing and state clearly that it is an offer under this section and the particular defamatory meaning to which it relates.
- (3) If an offer pursuant to subsection (1) is accepted, the party accepting the offer may not bring or continue defamation proceedings in respect of the defamatory meaning covered by the offer, but he or she shall be entitled to enforce the offer and the following provisions shall apply: -
- (a) if the parties do not agree either as to the sufficiency of the correction and/or apology, or the amount of compensation, the disagreement shall be settled by the court; and
  - (b) in case of a failure by one party to fulfil its obligations under the offer, the other party may apply to the court for an order requiring the obligations to be fulfilled.
- (4) If an offer pursuant to subsection (1) is not accepted, this shall be a defence to defamation proceedings in respect of the defamatory meaning to which the offer relates unless the defendant knew or had reason to believe that the statement in question was defamatory of the plaintiff.
- (5) An offer pursuant to subsection (1) may be relied on in mitigation of damages whether or not it was relied on as a defence.

Repeals

- 131.(1) All existing common law rules on defamation applicable in Tanzania shall, to the extent that they are inconsistent with the provisions of this Act, no longer have the force of law.

### **PART XIII BOADCASTING SERVICES**

132 (1) This part shall apply to all persons carrying on business which involves -

- (a) the offering for sale, selling, letting on hire or dealing otherwise in broadcasting apparatus;
- (b) the ownership and operation or a broadcasting service;

(2) The Authority may, by order published in the Gazette, exempt from the provisions of this Act-

- (a) any business or any category of businesses involving broadcasting;
- (b) any person carrying on any business or any category of such persons

(3) No licence under this Act shall be required or be necessary for the carrying on of any part of its business which involves broadcasting -

- (a) to which business the provisions of subsection (1) do not apply;
- (b) which is exempt from the provisions of this Act by an order under subsection (2);
- (c) which is being carried on by any person to whom an order made under subsection (2) applies.

(4) Nothing in this section shall be construed as exempting from the provisions of this Act any business to which subsection (4) does not apply and which is carried on together with any business to which that subsection applies.

Tanzania  
Broadcasting  
Services

133. – (1) the Minister may -

- (a) provide for and carry on broadcasting services in the United Republic to be known as Tanzania Broadcasting Services, for the education, entertainment and information of listeners and viewers in the United Republic;
- (b) provide for and carry on such broadcasting services for reception by listeners and viewers outside the United Republic as he deems desirable;
- (c) carry on or operate such other services including diffusion services any such undertakings in connection with these services as the may deem necessary or expedient;
- (d) establish, maintain, or continue to maintain and operate in any part of the United Republic such number and size of broadcasting stations as he may consider necessary or expedient for the carrying out of the provisions of this section.

(2) For the purposes of this section, the Tanzania Broadcasting services may be constituted in two branches as follows:

- (a) a branch to be known as Radio Tanzania, which shall be responsible for radio broadcasting, and
- (b) a branch to be known as Tanzania Television which shall be responsible for television broadcasting.



Development of a Broadcasting  
Frequency Spectrum Plan

134.(1) The Authority, shall develop and from time-to-time revise a Broadcasting Frequency Spectrum Plan in order to promote the optimal use of these frequencies and the widest possible broadcasting diversity.

(2) The Broadcasting Frequency Spectrum Plan shall ensure that the broadcasting frequency spectrum is shared equitably and in the public interest among the three tiers of broadcasting – public, commercial and community – the two types of broadcasters – radio and television – and broadcasters of different geographic reach –national, regional and local.

(3) The Broadcasting Frequency Spectrum Plan, along with any revisions to it, shall be published and widely disseminated.

(4) The Broadcasting Frequency Spectrum Plan may reserve certain frequencies for future use for specific categories of broadcasters in order to ensure diversity and equitable access to frequencies over time.”

Prohibition of

unlicensed broadcasting

135 – (1) No person shall transmit or receive and transmit, or otherwise Operate a broadcasting service, deal in broadcasting apparatus or do or Permit anything to be done for which a licence is required under this Act, Unless he is in possession of an appropriate licence

An application

for a licence

136 – (1) An application for a licence under this part may be made only by

- (a) a citizen of the United Republic;
- (b) a company at least 51% of whose share-holding is beneficially owned by a citizen or citizens of the United Republic which is not directly or indirectly, controlled by persons who are not citizens of the United Republic and whose principal place of business or registered office is in the United Republic.

(2) Any application for the grant of a licence under this act shall be made to the Authority in such form and manner and shall contain or be accompanied by -

- (a) a prescribed application fee;
- (b) the applicant’s proposals in relation to the policy and nature of the service and a programme schedule in regard to the daily transmission time allocated to different programmes;
- (c) network plan, technical specifications of the equipment and studio and installations programme;
- (d) training programme involving local staff;
- (e) statement of account setting out the financial resources available to the application to conduct a broadcasting service; and
- (f) such other information as the Authority may deem necessary in order to decide on the ability of applicant to provided a technically viable and socially acceptable broadcasting service;

(3) When considering an application for the grant of a broadcasting licence, the Authority shall have regard to -

- (a) the expertise, experience and financial resources available to the applicant;
- (b) the desirability or otherwise of allowing any person or association of persons, to have control of a substantial interest in:
  - (i) more than one broadcasting service
  - (ii) more than one radio station and one television station and one registered newspaper with a common coverage and distribution area or significantly overlapping coverage and distribution areas;
- (c) compliance with the prescribed technical broadcasting standards;
- (d) whether the conditions of a broadcasting licence shall unjustly benefit one holder of a broadcasting licence above another;
- (e) the allocation of spectrum resources in such a manner as to ensure the widest possible diversity of programming and the optimal utilisation of such resources, provided that priority may be given to broadcasters transmitting the maximum number of hours per day;
- (f) the need to promote locally produced programming which serves the needs and interests of Tanzanians;
- (g) the reservation of spectrum resources for future use;
- (h) the desirability of giving priority to community-based or national development broadcasts;
- (i) the extent to which the applicant is determined and has planned to train local staff in matters concerning radio or television broadcasting.

(4) The Authority shall publish in the Gazette and in any newspaper published in the United Republic a notice in respect of every application for the issue of a licence which it has received.

(5) Any person may, within fourteen days of publication of a notice under subsection (4) lodge with the board written representations

If he wants to oppose the grant of a licence to the applicant, and such representations shall be taken into account when the Board considers the application.

(6) Money paid to the Authority along with an application under this section shall not be refundable.

137. - (1) Where the Authority is satisfied that a particular applicant meets the requirements of this Act for a licence holder it shall grant him a licence in the prescribed form and subject to payment of the prescribed fee.

- (2) Upon the grant by the Authority of an application under section 10, it shall cause notice of that decision to be published in the Gazette and in any newspaper published in the United Republic, as well as to be given to the applicant.
- (3) Where the Authority decides to grant an application for a licence, it may attach conditions to the licence in relation to –
- (a) the frequencies that may be used in the operation of a station, the power limitations in respect of a station, the technical servicing and inspection of a station and any other technical specifications;
  - (b) the prevention of electric and other disturbances or radio reception of the transmission over any telegraph line;
  - (c) the broadcasting or non-broadcasting of reports, announcements, news or other information which is required to be broadcast in the public interest; and
  - (d) the location of a transmitter station, when applicable, and the specific geographical area to which broadcasts may be made.
- (4) The Authority may, in respect of any particular broadcasting licence, and after giving the licence holder an opportunity to make written representations to the Authority in that behalf, amend any of the prescribed conditions, including adding further conditions–
- (a) if the Authority is of the opinion that it is in the interest of orderly spectrum management;
  - (b) in order to give effect to any international treaty in relation to broadcasting to which Tanzania is a party; or
  - (c) at the request of the licence holder.
- (5) Any person aggrieved by a decision of the Authority granting or refusing a licence application, or imposing conditions on a licensee, may appeal to the courts for a review of that decision.
- (6) The Minister may, from time to time, upon advice of the Authority, specify other matters or activities connected to broadcasting or apparatus in relation to which a licence shall be required in accordance with this Act.

renewal

of licence 138(1) A broadcasting licence, a dealer's licence, a repairers licence and any other licence other than a broadcasting licence shall be issued for such period as the Authority may determine but which shall not –

- (a) in the case of a radio licence, three years; and
- (b) in the case of a television licence, five years.

- (2) The Authority may upon application by the holder renew a licence upon its expiry for such period not exceeding five years as it may determine.
- (3) An application for the renewal of a licence shall be made within the last three months before the date of expiry of the existing licence.
- (4) the Authority may, when considering an application for the renewal of a licence, require such new or additional information as it may deem necessary to make a finding.

(5) If at the date of expiry of a licence the Authority has not yet reached a decision in respect of an application to renew it, the licence shall continue to be of effect until the application for its renewal is granted or refused by the Authority.

(6) If after a broadcasting licence is granted a prescribed period elapses before any broadcast is made under the licence, that licence shall lapse.

Duties of licence  
holder and programme  
content

- 139.(1) It shall be the duty of every person holding a licence granted under this Act to comply with all conditions subject to which the licence was granted.
- (2) Broadcasters shall keep a master copy of all programmes broadcast for a period of six months, provided that a master copy of any programme which is the subject of a complaint, investigation or other dispute shall be kept until the complaint, investigation or other dispute is settled.
- (3) The name of the producer of every programme shall be displayed at the end of the programme.
- (4) Broadcasters may only broadcast programmes which they produced or for which they hold broadcasting rights.
- (5) Copyright must be clearly indicated as part of the credits displayed with each programme.
- (6) Advertising shall be limited to 30% of total daily programming and to 30% of any given hour and all advertisements shall be clearly identified as such.

Code of practice  
for broadcasters

- 140.(1) The Board shall, in consultation with broadcasters, journalists and other interested parties, draw up, and from time to time review, a Code of Practice for Broadcasters.
- (2) The Code shall be published and every broadcaster operating within Tanzania shall be provided with a copy.
- (3) Subject to this section, it shall be the duty of every person holding a broadcasting licence under this Act -
- (a) to present all news in a factually accurate, impartial and non-partisan manner;
- (b) to present current affairs in a balanced, clear, factual, accurate and impartial manner;
- (c) to encourage the development of Tanzanian and African expression by providing a wide range of programming that reflects Tanzanian and African attitudes, opinions, ideas, values and artistic creativity, by displaying Tanzanian and African cultures and entertainment programmes;
- (d) to protect children against harmful material in accordance with Part XII One;
- (e) to classify programmes, including films, according to the recommended age of viewers;
- (f) to respect privacy; and
- (g) to uphold the Code of Conduct for Broadcasters.
- (h) To serve the needs and interests and reflect the circumstances and aspirations of Tanzania men, women and children in a democratic Tanzania society;

- (i) To produce and maintain programmes of high standards;
- (j) To make maximum use of Tanzanian creative and other resources in the creation and presentation or programming;
- (k) To limit advertisements to a maximum of 30 percent of the total daily broadcasting time;
- (l) To contribute through programming to shared national consciousness, identity and continuity;
- (m) To contribute through programming to shared national consciousness, identity and continuity;
- (n) To provide programming that caters for culture arts, sports and education pertaining to Tanzania and Africa;
- (o) To comply with generally accepted standards of journalistic ethics, in the editing of any programme to be broadcast as formulated in the Code of Conduct for the Media Professions;
- (p) To keep and store sound and video recordings of all programmes broadcast for a minimum period of three months after the date of transmission of the broadcast, or for such further period as the Authority may direct;
- (q) To disclose the name of the producers of every programme at the end of transmission of a programme;
- (r) To respect copyright and neighbouring rights obligations in respect of any broadcast material

Where breach  
conditions occurs

141 – (1) The Authority shall supervise compliance by licence holders where with the conditions and duties pertaining to licences held under this Act

(2) Where the Authority, as a result of inspection or of complaint by any person, is of the opinion that conditions or duties under this Act have been materially breached by a licence holder, it shall request him in writing to make written representations to the Authority regarding the alleged breach.

(3) If after considering the written representations made by a licence holder, the Authority is of the opinion that he has materially contravened a condition or duty, it may issue an order –

- (a) warning the licence holder;
- (b) directing the licence holder to effect a programme change within a period not longer than thirty days from the date of receipt of the directions
- (c) directing the licence holder to disclose, free of charge and in such manner as the Board may direct, the finding of the Authority;
- (d) imposing a fine on the licence holder, not exceeding T.shs. 1,000,000/
- (e) suspending the broadcasting licence for a period determined by the Authority; or
- (f) revoking the broadcasting licence

Rights and  
obligations of  
broadcasters  
person

142(1) A licence holder shall broadcast a counter-version presented by any or body of persons affected by an assertion of fact in any programme transmitted that the assertion of fact is in fact false.

(2) Notwithstanding subsection (1), a licence holder shall not transmit a counter-version if -

- (a) the person or organisation concerned has no direct interest in the transmission of the counter-version; or
- (b) the counter-version is not of reasonable length, and in particular, if it is substantially longer than the part of the broadcast which dealt with the false assertion of fact;

(3) The counter version referred to in subsection (1) shall -

- (a) be limited to a factual account;
- (b) not contain any material which may reasonably be anticipated to expose the licence holder to legal action if such material were to be broadcast;
- (c) be made in writing;
- (d) specify the programme and the assertions to which objection is raised; and
- (e) be signed by the person affected or, in the case of an organisation, by the chief executive officer thereof

(4) The person or body of persons affected shall not be entitled to insist on the transmission of a counter-version as contemplated in subsection (1) if the counter-version is presented to the licence holder after the expiry of a period of thirty days from the date of broadcast of the false assertion of fact.

(5) The licence holder shall subject to subsection (2) and (4) -

- (a) at the first opportunity, but not later than ten days from receipt of a counter-version referred to in subsection (1) broadcast the counter-version within the same programme or programme section as the one in which the false assertion was made and at the same time of day or, should that not be possible, at time equal in value to that of the programme object to;
- (b) broadcast the counter-version without any omissions and interruptions; and
- (c) broadcast the counter-version free of charge

(6) A licence holder shall immediately upon receipt of the counter version referred to in subsection (1) inform the Authority of that fact, and shall keep and store the programme objected to and the counter-version until he receives a notice to the contrary from the Authority.

(7) This section shall not apply to a broadcast of public meeting or of the National Assembly.

Power to

Investigate

143. (1) the Minister may, upon advice by the Authority, by notice published in the Gazette, appoint any person or persons to be an inspector or inspectors for the purpose of this Act.

(2) an inspector or authorized officer of the Authority may carry out an inspection of broadcasting stations and either licences under this Act, plant and apparatus, and premises used by licence holders to transmit or broadcast.

Offences

144. – (1) Any person who -

- (a) carries on the business of a broadcaster, or a dealer in broadcasting apparatus without an appropriate licence;
- (b) contravenes or fails to comply with the conditions of a broadcasting or other licence under this act;
- (c) fails or refuses to furnish a return or to supply information in the manner and in the time prescribed or furnishes a false or in complete return or supplies false or incomplete information; or
- (d) on being required to do so, fails or refuses to produce to an inspector or a police officer a licence or a book, record or document relating to any broadcasting apparatus which is in his possession or under his control; or
- (e) interferes with or obstructs the transmission or reception of any radio communication
- (f) wilfully delays or obstructs an inspector or a police or other authorized officer in the exercise of powers conferred upon him by or under this Act;
- (g) fails or refuses to comply with any order or direction lawfully given to him by the Authority;
- (h) fails or refuses to comply with the terms and conditions of the licence he holds;
- (i) for the purposes of obtaining, whether for himself or another person, the issue of a licence, makes a declaration or statement which he knows to be false in any material particular or does not know or believe to be true, or knowingly makes us of a declaration or statement or document containing the same;

is guilty of an offence and shall be liable on conviction to a fine not exceeding 5,000,000/= or to imprisonment for a term not exceeding twenty four months or to both that fine and that imprisonment

(2) A court convicting a person of an offence under this part may, in addition to any penalty that it may impose, order the forfeiture to the government of any broadcasting apparatus or other material in relation to in connection with or by means of which the offence was committed.

(3) Notwithstanding subsection (2) no order of forfeiture shall be made if it is proved that the broadcasting apparatus in question is not owned by the person so convicted and if the owner proves that he did not have any knowledge of the unlawful use of the apparatus by the person so convicted and could not have reasonably prevented such use

145. (1) The Minister may order, by notice in writing, the Authority to direct any licence holder to broadcast forthwith or within or at any time and in any manner specified, an announcement which as its content any matter which the Minister deems to be in the interest of national security or public order or public health or public morals and the licence holder shall comply with such requirement.

(2) If the Minister is of the opinion that the broadcasting of any matter or matter of any class or character would be contrary to the national security or public order public health

or public morals, he may order the Authority, by notice in writing delivered at the principal office of the licence holder, to prohibit the licence holder from broadcasting such matter or matter of such class or character and the licence holder shall comply with such notice so delivered.

Transfer of  
to licence

146 – (1) A licence issued under this Act to any person shall not be transferred to another person except with the approval of the Authority granted upon an application for such transfer in the prescribed form.

(2) Where a company is the holder of a licence under this Act. No person other than an existing shareholder of that company, shall except with the prior written approval of the Authority acquire shares or any other order, public health or public morals in such company which results in such person directly or indirectly acquiring a controlling interest in the company.

Regulation

147. – (1) The Minister may make regulations prescribing all matters which are by this part required or permitted to be prescribed or which are necessary or convenient to be prescribed for the better carrying out or giving effect to the provisions of this Act.

(2) The Minister may by regulations made under subsection (1) and published in the Gazette provide for –

- (a) the registration of dealers and the information to be supplied in connection with applications for registration;
- (b) the keeping of books records and documents, the furnishing of returns and the supply of information relating to dealings in receivers;
- (c) the prescription of licences to be issued under this Act;
- (d) the collection of licence fees payable under this Act;
- (e) the form and manner in which applications for licences are to be made and the information to be supplied in connection with it;
- (f) the circumstances in which and the terms and conditions subject to which licences shall be issued;
- (g) the form of licences and the terms and conditions to be contained in licences;
- (h) the issue of licences without charge authorising the possession of-
  - (i) broadcasting apparatus; or
  - (ii) apparatus for carrying on broadcasting services;

which are used in such institutions or categories of institution as the Minister may specify;

(i) the circumstances in which and the conditions including the payment of a fee subject to which copies of licences may be obtained; and in so doing may classify broadcaster, operators of diffusion services, dealers and listeners, and otherwise make different provisions for different categories of persons

- (i) the prescription of any other matter which is required to be prescribed under this Act



## PART XIV NEWSPAPER PUBLISHING

Appointment of registrar etc	148 The Minister shall, by notice in the Gazette, appoint a public officer to be the Registrar of Newspapers to perform the duties and exercise the powers imposed and conferred on the Registrar by this Act and any regulations made hereunder, and may appoint from among public officers a Deputy Registrar and many Assistant Registrars of Newspapers as the Minister shall consider necessary, who shall be subject to the directions of the Registrar
Registers	149 The Registrar shall keep registers in the prescribed forms in which he shall register the affidavits delivered to him under section 6, the returns in respect of newspapers made to him under section 10, and the bonds delivered to him under section 13, and 14, and shall enter therein such other particulars and matters as may be prescribed
Application of this part and exclusions	<p>150(1) This part shall apply to every newspaper other than a newspaper to which any notice issued under subsection (2) of this section applies</p> <p>(2) The Minister may, by notice in the Gazette, exclude any newspaper or class of newspapers from the operation of all or any of the provisions of this part either absolutely or subject to such conditions as he may think fit.</p>
Affidavit required from the proprietor printer and publisher of a newspaper	<p>151. No person shall print or publish or cause to be printed and published in Tanganyika any newspaper, unless the proprietor, printer and publisher shall each have previously made, signed and sworn before a magistrate and registered in the office of the Registrar in the prescribed manner and delivered by him to the Registrar an affidavit containing the following information –</p> <ul style="list-style-type: none"><li>(a) the correct title or name of the newspaper</li><li>(b) a true description of the house or building wherein such newspaper is intended to be printed; and</li><li>(c) the real and true names and places of residence of the persons intended to be proprietor, printer and publisher of the newspaper</li></ul>
New affidavit when required	152 Wherever any of the proprietors, printers or publishers named in an affidavit registered under section 6 are changed or change their printing houses place or residence or office and as often as the title or name of the newspaper is changed, then and in every such case the proprietors, printers and publishers shall make, sign, swear and register in the office of the Registrar in the prescribed manner a new affidavit which shall contain all the information required in section 6 to be contained in a affidavit

Affidavit by  
Company

153 When a company is the proprietor, printer or publisher of a newspaper the affidavit required by section 6 shall be made, signed and sworn by the secretary or one of the directors of the company

Copies of newspapers  
to be delivered to  
registrar

154. – (1) The printer and publisher of every newspaper printed in Tanganyika shall upon which the newspaper is published, at his own expense deliver, or sent by registered post to the Registrar two copies every newspaper so published and a copy of every supplement thereto (if any).

(2) The copies referred to in subsection (1) shall be of the paper on which the largest number of copies of the newspaper are printed and published, and shall be in the like condition as the copies prepared for sale or distribution.

(3) The copies delivered to the Registrar under this section shall be kept by the Registrar for the purpose of record in such place or manner, or otherwise dealt with or disposed of in such manner or for such purposes, as the Minister may approve or prescribe.

Return of newspapers t  
o be made to registrar

155 – (1) The publisher for the time being of every newspaper printed in Tanganyika shall, within fourteen days after the date on which it is first published, and in the month of January in every year thereafter make, sign and deliver, or send by registered post, to the Registrar a return in the prescribed form in respect of such newspaper.

(2) If, after any return has been delivered or sent pursuant to the provisions of subsection (1) and before the next succeeding return in respect of the same newspaper is delivered or sent, any change occurs in any of the particulars returned, other than a change in circulation, the publisher for the time being of the newspaper shall within thirty days of the change occurring, make, sign and deliver, or send by registered post, to the Registrar a return in the prescribed form

Publication of registration  
of newspapers  
be

156 (1) The Registrar shall cause to be published in the Gazette, as soon as may be practicable after registration, all the information required by section 6 to be contained in a affidavit

(2) The Registrar shall cause to be published in the Gazette, as soon as conveniently may be after January in each year, a list containing particulars of all registered newspapers remaining on the register at the close of the previous year

Penalties under this part

157 any person who

(a) prints or publishes or causes to be printed and published any newspaper printed in Tanganyika in contravention of any of the provisions of section 6; or

- (b) publishers any newspaper printed in Tanganyika and fails to comply with any of the provisions of section 7, 9 or section 10 or
- (c) makes a return under section 10 which he knows to be false or does not believe to be true in any particular.
- (d) Makes a return under section 10 which he knows to be false or does not believe to be true in any particular.

Shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding four years or to both such fine and imprisonment.

Evidentiary value  
of copies and extracts,  
and of certificates

158 – (1) Every copy of any entry in, and every extract from, a register kept under this Act, certified under the hand of the Registrar to be a true copy or extract, shall in all legal proceeding be conclusive evidence of the contents of the register in so far as the same appear in such copy or extract, and prima facie evidence of the facts appearing therein

(2) A certificate under the hand of the Registrar stating that he has or has not received any notice or return under this Act or any regulations made hereunder, or that he received such a notice or return on, or did not receive such a notice or return by or before, a specified date, shall in all legal proceedings be prima facie evidence of the facts stated therein.

(3) A certificate under subsection (1) or subsection (2), purporting to be signed by the registrar shall be presumed, until the contrary is proved, to have been signed by him.

(4) No process for compelling the production of any newspaper, register or document kept by, or in the possession or custody of, the Registrar shall issue from any court except with the leave of that court, and any such process issued with such leave shall bear a statement that it is so issued.

When proof of  
purchase of newspaper  
unnecessary

159. After production in evidence of any affidavit, or a certified copy thereof, against the person who signed and made such affidavit or the person named in such affidavit, and after the newspaper has been produced in evidence having the same title or name as that contained in the affidavit, or copy thereof, and in which the name of the printer and publisher and the place of printing is the same as the name of the printer and publisher and the place of printing mentioned in the affidavit, or copy thereof, it shall not be necessary for the information or prosecutor to prove that the newspaper to which the trial relates was purchased at any house, shop or office belonging to or occupied by the offender, or by his agent or servant, or where such printer or publisher usually carries on the business of printing and publishing such newspaper, or where the same is usually sold.

Printer to keep copy of newspaper and produce same on demand

160– (1) Every person who prints a newspaper shall for a period of six months after the date of the printing thereof keep one copy of the newspaper on which he shall write or print the name and the business, residential or postal address of the person by whom he was engaged to print it, and shall forthwith produce the same to the Registrar or to any court, judge or magistrate, by notice in writing so to do.

(2) any person who fails to comply with the provisions of subsection (1) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two hundred thousand shilling or to imprisonment for a term not exceeding twelve months or both such fine and imprisonment.

Cancellation of affidavits registered

cancel

161– (1) The Registrar, shall from time to time review a cause or review to be made of all affidavits registered for the purpose of section 6 and if on such review it shall appear to him that any affidavits so registered related to a newspaper which no issue has been published for a period of one year immediately preceding the date of such review the Registrar may cause to be published in two consecutive issues of the Gazette notice of his intention to the registration of such affidavits unless within a time to be stated in the notice the notice the proprietor, printer and publisher of the newspaper notify him in writing of their intention to resume publication of such newspaper

(2) if after the publication in the Gazette of a notice under subsection (1) –

- (a) notification of the nature mentioned in subsection (1) is not received by the registrar within the time stated in such notice; or
- (b) notification of the nature mentioned in subsection (1) is received by the Registrar within the time stated in such notice, but no issue of the Newspaper is in fact published within a period of three months after receipt of such notification,

the Registrar may, by a further notice in the Gazette, declare that the affidavits registered in respect of such newspaper have been cancelled

(4) As from the date of publication of any notice under subsection (2) cancelling any affidavits –

- (a) such affidavits shall be deemed not to have been registered for the purposes of section 6; and
- (b) any bond registered or any guarantee given under this Act or on behalf of the publisher of any newspaper to which affidavits related shall be deemed to be void.

Inspection or registers etc, and provision of copies of and extracts from registers

162 – (1) any person may, during the usual hours of business and on payment of the prescribed fee, inspect a register, or require to be supplied

with a copy of a or an extract from any subsisting entry in a register, certified by the Registrar to be a true copy or extract

(2) any person may, during the usual hours of business and on payment of the prescribed fee, and subject to such conditions as may be prescribed, inspect any newspaper kept by the Registrar under this Act for the purpose of record.

Minister may cause a legal action to be taken against  
publication of newspaper

163 – (1) Where the Minister is of the opinion that it is in the interest of national security or public safety or public order, or public morals so to do, he shall, by writing under his hand direct the Registrar to institute legal action against a newspaper in accordance with this Act and the Registrar shall comply with such order

(2) Every order made under subsection (1) shall specify –

- (a) the title or name of the newspaper in respect of which it is made;
- (b) the names of the proprietor, printer and publisher of such newspaper;

provided that no such order under subsection (1) shall be invalid by reason of non-description or misdescription of the proprietor, printer or publisher or any of them.

(3) –subject to provisions of subsection (1) where the court is satisfied that the national security or public safety or public order , or public morals, peace and good order is breached may issue any order to ban a news paper:

- (a) any person who, on or after the effective date, prints or publishes or causes to be printed or published the newspaper named in the order shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding one million shillings or to imprisonment for a term not exceeding five years or to both such fine and imprisonment;
- (b) any person who, on or after the effective date, sells, offers for sale or exposes for sale, distributes or exhibits, or cause to be exhibited in any public place any copy part of a copy of the newspaper named in the order, whether or not such copy or part was printed or published prior to the effective date, shall be guilty of offence and shall be liable upon conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding two years or both to such fine and imprisonment.

(4) for the purpose of this section “public place” or public premises” includes any public way and any building, place or conveyance to which, for the time being, the public are entitled or permitted to have access either without any condition or upon condition of making any payment, and any building or place which is for the time being used for any public or religious meetings, or assembly or as an open court.

Interpretation  
for the purposes  
of this part

164 for the purposes of this part

“import” includes-

- (a) to bring into Tanganyika; and
- (b) to bring within the inland waters of Tanganyika whether or not the publication is brought ashore, and whether or not there is an intention to bring the same ashore;

“inland waters” includes all written and printed matter, and any gram-phone or other record, perforated role, recording tape or wire, cinematograph film or other contrivance by means of which any words or ideas may be mechanically produced, represented or conveyed, and everything whether of a nature similar to the foregoing or not, containing any visible representation or by its form, shape or other characteristics, or in any manner capable of producing, representing or conveying words or ideas and every copy or reproduction of any publication;

“periodical publication” includes every publication issued periodically or in parts or numbers at intervals whether regular or irregular;

“seditious publication” means a publication having a seditious intention

importation of prohibited  
publication

165 – (1) Where the Minister is of the opinion that the importation of any publication would be contrary to the interest of public or national security or public safety or public order, or public morals peace and good order so to do, he shall, by writing under his hand direct he Registrar to institute legal action against such importation and the Registrar shall comply with such order

(2) if the court finds that the importation of the publications of any specified person would be contrary to the public interest, it may, prohibit, either absolutely, or subject to specified exceptions or conditions, the importation of the future publications of such person.

Offences in relation  
to publications the  
importation of which  
is prohibited

166 – (1) any person who imports, publishes, sells, offers for sale, distributes or produces any publication, the importation of which has been prohibited under section 27 or any extract there from, shall be guilty of any offence and shall be liable up on conviction for the first offence to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment and for a subsequent offence to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years, and such publication or extract there from shall be forfeited to the Republic

delivery of prohibited  
publication to  
administrative officer  
or to police station

167– (1) any person to whom any publication, the importation of which has been prohibited under section 27, or any extract there from, is sent without his knowledge or privity or in response to request made before the prohibition of the importation of such publication came into effect, or who has such a publication or extract there from in his possession at the time when the prohibition of its importation comes into effect, shall forthwith, for as soon as the nature of its contents have become known to him, or in the case of a publication or extract there from coming into the possession of such person before an order prohibiting its importation has been made, forthwith upon the coming into effect of an order prohibiting the importation of such publication, deliver such publication or extract there from to the nearest administrative officer or to the officer in charge of the nearest police station, and in default thereof shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two hundred thousand shillings or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment; and such publication or extract there from shall be forfeited to the Republic.

(2) any person who complies with the provisions of subsection (1) or who is convicted of an offence under that subsection, shall not be liable to be convicted for having imported or having in his possession the same publication or extract there from.

Power to  
examine packages

168– (1) any of the following officers, that is to say-

- (a) any officer of the Tanzania Post Corporation not below the rank of Postmaster;
- (b) any officer of the Customs Department not below the rank of Supervisor;
- (c) any police officer not below the rank of Inspector;
- (d) any other officer authorised in that behalf by the Minister responsible for home affairs,

may open and examine any package or article which he suspects to contain any publication or extract there from which is prohibited under the provisions of section 28 of this Act to import, publish, sell, offer for sale, distribute, reproduce or possess and during such examination, may detain any person importing, distributing or posting such package or article in whose possession such package or article is found.

(2) if any such publication or extract therefrom is found in such package or article, the whole package or article may be impounded and retained by the officer and the person importing, distributing or posing it, or in whose possession it is found, may forthwith be arrested and prosecuted for the commission of an offence under section 28.

## PART XV

### SEDITIONOUS INTENTION

Seditious intention

169 – (1) a “seditious intention” is an intention -

- (a) to bring into hatred or contempt or to excite disaffection against the lawful authority of the United Republic or the Government thereof; or
- (b) to 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; or
- (c) to bring into hatred or contempt or to excite disaffection against the administration of justice in the United Republic; or
- (d) to raise discontent or disaffection amongst any of the inhabitants of the United Republic; or
- (e) to promote feelings of ill-will and hostility between different categories of the population of the United Republic

(2) An act, speech or publication is not seditious by reason only that it intends –

- (a) to show that the Government has been misled or mistaken in any of its measures; or
- (b) to point out errors or defects in the government or constitution of the United Republic as by law established or in legislation or in the administration of justice with a view to the remedying of such errors or defects; or
- (c) to persuade any inhabitants of the United Republic to attempt to procure by lawful means the alteration of any matter in the United Republic as by law established; or
- (d) to point out, with a view to their removal, any matters which are producing or have a tendency to produce feelings or ill-will and enmity between different categories of the population of the United Republic

(3) in determining whether the intention with which any act was done, any words were spoken or any documents was published, was or 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 so conducted himself.

Seditious offences

Act No. 10 of 1994 . 170 –(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 with a seditious intention;
- (b) utters any words with a seditious intention;
- (c) broadcasts, prints, publishes, sells offers for sale, distributes or reproduces any seditious publication;
- (d) imports any seditious publication, unless he has no reason to believe that it is seditious.



shall be guilty of an offence and shall be liable upon conviction for first offence to a fine not exceeding two hundred thousand shillings, or to imprisonment for a term not exceeding twelve months or to both; and for a subsequent offence to a fine not exceeding fifteen hundred thousand shillings or to imprisonment for a term not exceeding three years or to both; and such publication shall be forfeited to the government.

(2) any person who, without lawful excuse, has in his possession any seditious publication shall be guilty of an offence and shall be liable upon conviction for the first offence to a fine not exceeding five thousand shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

(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, he did, as soon as the nature of the publication became known to him, deliver the publication to the nearest administrative officer or to the officer in charge of the nearest police station.

(4) a printing machine which has been, or is reasonably suspected of being, used for or in connection with the printing or reproduction of a seditious publication may be seized or otherwise secured by a police officer pending the trial and conviction or discharge or acquittal of any person accused of printing or reproducing any seditious publication; and when any person is convicted of printing or reproducing a seditious publication, the court may, in addition to any other penalty which it may impose, order that the printing or reproducing a seditious publication, the court may, in addition to any other penalty which it may impose, order that the printing machine on which the publication was printed or reproduced shall be either confiscated for a period not exceeding twelve months, or forfeited to the 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 printing machine.

(5) a printing machine forfeited under subsection (4) shall be sold, and the proceeds less expenses shall be paid into the Treasury.

(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 not exceeding twelve months.

(7) the court may, at any time, on the application of the Attorney General and on taking such security, if any, for good behaviour as the court may see fit to order, revoke any order made by it for forfeiting or confiscating a printing machine or prohibiting further publication of a newspaper.

(8) a court before ordering the forfeiture or confiscation of a printing machine under this section shall be satisfied that the printing machine was the printing machine upon which the seditious publication was printing or reproduced.

(9) in any case in which a printing machine has been secured or confiscated under this section, the Inspector-General of Police may, in his discretion cause –

- (a) the printing machine or any part of it to be removed; or
- (b) any part of the machine to be sealed so as to prevent its use provided that the owner of the printing machine or his agents shall be entitled to reasonable access to it to keep it in working order

(10) the Inspector-General of Police or any police officer acting in pursuance of the powers conferred by this section shall not be liable for any damage caused to a printing machine, whether by neglect or otherwise, not being damage wilfully caused to the machine.

(11) any person who uses or attempts to use a printing machine secured or confiscated under subsection (4) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(12) any person who prints or publishes a newspaper in contravention of an order made under subsection (6) shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five hundred shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(13) in this section the expression “printing machine” includes a printing press, copying press, type-setting machine, photographic, duplicating or engraving apparatus, or other machine or apparatus used for on the connection with printing or reproducing publications, and the type, appurtenances and equipment thereof

Legal proceedings 171 – (1) no prosecution for an offence under section 31 shall be begun except within six months after the offence was committed

Provided that where a person –

- (a) commits such an offence from outside the United Republic; or
- (b) leaves Tanzania within a period of six months after committing such an offence

the prosecution for such an offence shall be begun within six months from the date when such person first arrives in, or returns to, the United Republic after-

- (i) committing such an offence; or
- (ii) leaving Tanzania as the case may be

(2) a person shall not be prosecuted for an offence under section 32 without the written consent of the Director of Public Prosecutions.

Evidence

172. no person shall be convicted of an offence under section 31 on the uncorroborated testimony of one witness

Definition  
of overt act

173. in the case of any of the offences defined in this part, when the manifestation by an overt act of the intention to effect any purpose is an element of the offence, every act of conspiring with any person to effect that purpose, and every act done in furtherance of the purpose by any of the persons conspiring is deemed to be an overt act manifesting the intention.

Publication of false  
news likely to cause  
fear and alarm to the  
public Act No. 10  
of 1994

174 – (1) any person who publishes any false statement, rumour or report which is likely to cause fear and alarm to the public or to disturb the public peace shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding five hundred thousand shillings or to imprisonment for a term not exceeding three years or to both

(2) it shall be a defence to a charge under subsection (1) if the accused proves that, prior to publication, he took such measures to verify the accuracy of such statement, rumour or report as to lead him reasonably to believe that it was true.

Incitement to  
violence Act No. 10  
of 1994 Sch

175 – (1) any person who, without lawful excuse, prints, publishes, or to any assembly makes any statement indicating or implying that it would be incumbent or desirable to do without lawful authority any act calculated to.

- (a) bring death or physical injury to any person or to any category or community of persons; or
- (b) lead to destruction or damage of any property shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding fifteen thousand shillings or to imprisonment for a term not exceeding three years or to both such fine and imprisonment.

(2) for the purposes of this section “an assembly” means a gathering of three or more persons.

(3) a person shall not be prosecuted for an offence under this section without the written consent of the Director of Public Prosecutions

the purposes of the preparation of any report under this section and shall comply with any prescribed requirements concerning the furnishing of that information and the keeping of records for the purposes of this section

## PART XVI BOND

Minister may require  
publisher to execute  
and register bond

**177 – (1)** Any publisher of a newspaper or proprietor of a radio or television broadcasting station shall execute and register a cash bond in the prescribed form in such sum as may be specified in the notice with one or more sureties as may be required and approved by the Minister.  
(2) every bond for newspaper registration under subsection (1) shall be registered in the office of the registrar of newspapers whereas a bond for radio and television stations shall be registered in the office of the Authority

(3) every bond required under subsection (1) shall be conditioned –

- (a) for the payment of any monetary penalty that may at any time be imposed or adjudged against the publisher or any person acting for him in his absence upon his conviction for any offence, under this Act or under any other written law, committed after the execution of the newspaper or of any matter therein and all costs incidental thereto; and
- (b) for the payment of all such damages and costs as may be awarded to the plaintiff in any action or proceeding brought at any time after the execution of the bond in respect of any matter printed or published in the newspaper.

(4) where the person required to execute a bond under this section is a company, the bond shall be executed under its title of incorporation and under the hand of the secretary and any two directors and under the common or corporate seal of such company, and by such amount of money and sureties as the Minister may require and approve.

(5) every bond required by this Act shall be executed in the presence of a magistrate, and of one witness not being a party thereto, each of whom shall subscribe his name, with the addition of his place of residence or business, and his office, profession or occupation.

(6) a bond entered into under this section may be enforced before any magistrate in the same manner as a bond under the Criminal procedure Code.

news bond  
in certain cases

178 whenever –

- (a) a surety –
  - (i) gives notice of his desire to withdraw from a bond under the provisions of section 15; or

- (ii) dies; or
  - (ii) leaves the United Republic without leaving property therein sufficient and available to satisfy the full sum for which he is bound as a surety; or
  - (iv) has been declared bankrupt or has made a composition with his creditors; or
  - (v) pays the whole or any part of the sum for which he is bound as a surety; or
- (b) a bond under this Part is enforced against a printer or publisher liable there under as a principal.

the printer or publisher or the broadcaster, as the case may be, shall within thirty days thereafter, execute and register in the office of the Registrar in the manner provided by section a new bond for the same purpose and in the same sum, and upon the completion of such execution and registration the old bond shall thereby be discharged:

provided that all persons liable, whether as principals or sureties under the old bond shall continue to be liable thereunder in respect of any penalties and costs imposed or adjudged and any damages and costs awarded or arising in respect of any proceedings commenced, before the discharge of the old bond

withdrawal  
of surety

179. If any surety desires to withdraw from a bond given under this Act, and gives to the Minister and to all other persons bound thereby not less than thirty days' notice in writing of such desire, he shall on the expiration of the period of such notice be discharged from his surety ship under the bond

provided that the surety shall continue to be liable under the bond in respect of any penalties and costs imposed or adjudged, and any damages and costs awarded or arising in respect of any proceedings commenced before his discharge from his surety ship under the bond

Minister may call  
on obligor or surety  
to satisfy him as  
to means

180. – (1) the Minister may at any time during the continuance of a bond given under this Act by notice in writing served personally or sent by post to the last known address call upon the obligor, surety or any other person liable under the bond to satisfy the Minister as to his means and for that purpose the Minister may require a statutory declaration giving particulars as to means

(2) upon the failure o such obligor, surety or other person to satisfy the Minister as to means, the bond shall become void and the Minister shall thereupon notify in writing all parties thereto to that effect.

Penalty for publishing etc, newspaper or broadcasts without bond

181 . where any person is required to execute and register a bond under section 13 or section 14, any person who -

- (a) broadcasts, prints or publishes or causes to be printed or published any newspaper without having complied with the provisions of section 13 or, as the case may be section 14;
- (b) broadcasts, sells any newspaper which he knows or has reason to believe has been printed and published in contravention of the provisions of section 13 or, as the case may be section 14,

shall be guilty of an offence and shall be liable upon conviction to a fine not exceeding two million shillings or to imprisonment for a term not exceeding two years or to both such fine and imprisonment.

## **PART XVII MISCELLANEOUS PROVISIONS**

Protection against actions for defamation or breach of confidence

182. (1) Where access has been given to a document and

- (c) the access was required by this Act to be given; or
- (d) the access was authorized by a Minister, or by an officer having authority, in accordance with section 23, to make decisions in respect of request, in the *bona fide* belief that the access was required by this Act to be given.

no action for defamation or breach of confidence lies by reason of the authorizing or giving of the access, against the Government or a public authority or against the Minister or officer who authorised the access or any person who gave the access

(2) The giving of access to a document (including an exempt document) in consequence of a request shall not be taken, for the purposes of the law relating to defamation or breach of confidence, to constitute an authorization or approval of the publication of the document or of its contents by the person to whom the access was given-

Protection in respect of offences

183. Where access has been given to a document and-

- (c) the access was required by this Act to be given; or
- (d) the access was authorised by a Minister or by an officer having authority, in accordance with section 23, to make decisions in respect of requests, in the *bona fide* belief that the access was required by this Act to be given

neither the person authorizing the access nor any person concerned in the giving of the access in guilty of a criminal offence by reason only of the authorizing or giving of the access.

Report to  
parliament

184 (1) The Minister shall, as soon as practicable after the thirty-first of December of each year, prepare a report on the operation of this Act during that year and cause a copy of the report to be laid before Parliament.

(2) Each responsible Minister shall, in relation to the public authorities within his or her portfolio, furnish to the Minister such information as he or she requires for the purposes of the preparation of any report under this section and shall comply with any prescribed requirements concerning the furnishing of that information and the keeping of records for the purposes of this section

Regulations

185. (1) The Minister may make regulations for given effect to the purpose of this Act and for prescribing anything required or authorized by this part to be prescribed

(2) Notwithstanding the generality of subsection (1), regulations made under this section may prescribe-

- (a) guidelines for the disposal of personal information held by a public authority;
- (b) officers who may make decisions on behalf of a public authority.

(3) All regulations made under this Act shall be laid before Parliament as soon as may be after the making thereof.

Repeals 186. the following legislation are hereby repealed:

- (a) the Broadcasting Services Act 1993
- (b) the Newspapers Act 1976

# CONSEQUENTIAL AMENDMENTS

## SCHEDULE 1

### CONSTITUTIONAL AMENDMENT ACT, 2002

#### THE UNITED REPUBLIC OF TANZANIA

##### Act. No. ....of 2002

**I am of the opinion that this should be in Kiswahili because the official version of the constitution is In Kiswahili**

An Act to Amend the Constitution of the United Republic of Tanzania to Provide Enhanced Protection for the Right to Freedom of Expression and Information

ENACTED by the Parliament of the United Republic of Tanzania.

Short Title and  
Commencement

- 1.(1)This Act may be cited as the Constitutional Amendment Act, 2002.
- (2) This Act shall come into operation six months after it has been passed by the National Assembly.

Freedom of  
Expression

2. After article 18(1) of the Constitution, there shall be inserted:  
“(1A) This right shall include: -

- (a) freedom of the press and all other media;
- (b) freedom of artistic creativity; and
- (c) academic freedom and freedom of scientific research.”

Access to Information,  
Protection of Sources  
and Broadcast Regulation

3. After article 18 of the Constitution, there shall be inserted:

Access to Information

- 18A. (1) Everyone has the right of access to: -
  - (a) any information held by the state; and
  - (b) any information that is held by another person and that is required for the protection or exercise of any rights.
- (3) National legislation must be enacted to give effect to this right.

Protection of sources

- 18B. No person may be required to disclose a confidential source of information contained in the publication for which he is responsible or to disclose any other material, which is likely to lead to the identification of a confidential source.



Independent Broadcast Regulation	<p>18C.(1) The frequency spectrum is a national resource and frequencies shall be reserved for radio and television broadcasting in the public interest.</p> <p>(2) An independent body shall be established by law to regulate broadcasting, including through distributing the frequencies under sub-article (1), in the public interest in a manner which ensures fairness and a diversity of views in broadcasting which are broadly representative of Tanzanian society.</p> <p>(3) In the distribution of broadcast frequencies, regard shall be had to the public interest in receiving information from a plurality of sources at the local as well as the national level.”</p>
Enjoyment of Rights	<p>4.(1) For article 29(1) of the Constitution, there shall be substituted:</p> <p>“(1) Everyone has the right to enjoy the rights set out in the Bill of Rights provided in articles 12 to 28 of Part III of Chapter One of the Constitution. These rights are a cornerstone of democracy in the United Republic which affirm the democratic values of human dignity, equality and freedom.”</p> <p>(2) After article 29(1) of the Constitution, there shall be inserted:</p> <p>“(1A) The State must respect, protect and promote the rights in the Bill of Rights.</p> <p>(1B) The rights in the Bill of Rights are subject to the limitations contained in article 30.”</p>
Application and Interpretation	<p>5. After article 29 of the Constitution, there shall be inserted:</p> <p>“Application 29A. (1) The Bill of Rights applies to all law, and binds the legislature, the executive, the judiciary and all organs of State.</p> <p>(2) A provision of the Bill of Rights binds a natural or a juristic person if, and to the extent that, it is applicable.</p> <p>(3) To render a right contained in the Bill of Rights effective a court may, as necessary, develop rules of the common law either to give effect to the right or to limit the right, provided that the limitation is in accordance with article 30.</p> <p>Interpretation 29B. (1) Any body entrusted with interpreting the Bill of Rights, including the courts, must do so in a manner that promotes the values that underlie an open and democratic society based on human dignity, equality and freedom</p> <p>(2) To give effect to sub-article (1), the body shall consider international law and may consider foreign law.</p> <p>(2) Any body entrusted with interpreting any legislation, or developing the common law or customary law, must do so in a manner that promotes the spirit, purposes and objectives of the Bill of Rights.”</p>
Limitations	<p>6. (1) Paragraph (1) of article 30 of the Constitution shall be amended by deleting the words “or of the public interest.”</p> <p>(2) For paragraph (2) of article 20, there shall be substituted:</p>

“(2) The rights in the Bill of Rights may be limited only by laws of general application and to the extent necessary in an open and democratic society for the purposes of ensuring: -

- (a) national security;
- (b) public order and the prevention of crime;
- (c) public safety, health and morals;
- (d) the rights or reputations of others; or
- (e) the authority of the courts.

Emergencies

7. (1) In article 32(2)(b) of the Constitution, after “there is real” there shall be inserted “and imminent”.
- (2) In article 32(2)(d) of the Constitution, after “there is a clear” there shall be inserted “, imminent”.
- (3) Article 32(2)(f) of the Constitution shall be deleted.
- (4) After article 32(6) of the Constitution, there shall be inserted:

“(7) Without prejudice to the procedure provided by article 30 of this Constitution, the High Court shall have original jurisdiction to review the legality and necessity of a proclamation under this article, and any person may bring an application to this effect.”

## SCHEDULE II

### NATIONAL SECURITY AMENDMENT ACT, 2006

#### THE UNITED REPUBLIC OF TANZANIA

#### Act. No. ....of 2002

An Act to amend the National Security Act, 1970.

Enacted by the Parliament of the United Republic of Tanzania.

Short Title and

Commencement

- 1.(1) This Act may be cited as the National Security Amendment Act, 2002.
- (2) This Act shall come into operation on such date as the Minister may, by notice published in the *Gazette*, appoint, provided that in the absence of such notice, this Act shall come into effect six months after it has been passed by the National Assembly.

Definitions

In section 2(1) of the National Security Act, 1970 (referred to herein as “the 1970 Act”), there shall be inserted:

“interception warrant” means a warrant lawfully issued under section 18;”

- Espionage
2. For section 3 of the 1970 Act, there shall be substituted:
- Espionage
3. Any person who, with intent to prejudice the safety or defence of the United Republic: -
- (d) inspects, passes over or enters any protected place;
  - (e) makes any sketch, plan, model, note or any other form or record of or relating to any protected place or classified matter which is intended to be used by a foreign power or disaffected person for purposes prejudicial to the safety or defence of the United Republic; or
  - (f) obtains, collects, records, publishes or communicates to any person any classified matter which is intended to be used by a foreign power or disaffected person for purposes prejudicial to the safety or defence of the United Republic,
- shall, if that act poses a serious risk of harm to the safety or defence of the United Republic, be guilty of an offence and liable on conviction to imprisonment for a maximum penalty of life.”
2. For section 4 of the 1970 Act, there shall be substituted:
- “Communication of Information
4. Any person who has in his possession or control any classified matter as a result of his or her public office or employment and who: -
- (a) uses the classified matter with the intention of prejudicing the safety or defence of the United Republic;
  - (b) communicates the classified matter to any person other than a person to whom he or she is authorised to communicate it; or
  - (c) fails to take proper care of, or endangers the safety of, the classified matter,
- shall, if that act or omission poses a serious risk of harm to the safety or defence of the United Republic, be guilty of an offence and liable on conviction to imprisonment for a term not exceeding twenty years.”
- Whistleblower Protection
2. After section 6 of the 1970 Act, there shall be inserted:
- “6A. (1) In a prosecution for a contravention of sections 3, 4 or 6 of this Act, it shall be a defence for a person that the possession, release, disclosure, communication or dissemination of the information or material was reasonably necessary to disclose a wrongdoing or a serious threat to health, safety or the environment.
- (2) For the purposes of subsection (1), wrongdoing shall include the Board of a criminal offence, failure to comply with a legal obligation, a miscarriage of justice, corruption or dishonesty, or serious maladministration regarding a public body.”
- 3.(1) In section 13(1) of the 1970 Act, after “if necessary by” there shall be inserted “reasonable”.
- (2) For subsection 13(2) of the 1970 Act, there shall be substituted:

“(2) Where it appears to a police officer of or above the rank of inspector that the matter is one of such urgency that in the interests of the security or safety of the United Republic immediate action is necessary, the application and declaration under oath under subsection (1) may be made using telecommunications equipment.”

4. In section 17 of the 1970 Act, the following shall be substituted:  
for “the interests”, “the safety and defence”;  
for “shall”, “may”; and  
for “the whole or any part of the hearing”, “that part of the hearing during which the evidence will be given or the statement made”.

(1) In subsection 18(1) of the 1970 Act, “Where it appears to the Minister that it is expedient in the public interest to do so he may, by warrant under his hand, require” shall be substituted by: “If, upon application by the Minister, the High Court is satisfied that it is necessary for the safety and/or defence of the United Republic to do so it may issue a warrant requiring”

(2) After subsection 18(1) of the 1970 Act, there shall be inserted:

“(1A) An interception warrant shall be issued only if the court is satisfied that the action is proportionate to the aim pursued and information leading to a similar result cannot be obtained by other, less invasive means.

(1B) An interception warrant shall cease to have effect after a period of thirty days, but may be renewed, under the conditions set out in subsections (1) and (1A), at any time before the end of that period, by the High Court on application by the Minister.”

6. The the following provisions are hereby repealed

Section 5., Subsections 6(2)(a) and (b).; Section 12.  
; Subsections 13(3) and (4). and Section 15.

---

### Amendment of TCRA

Functions  
of the  
Authority

5. – (1) Subject to this Act and to any regulations made under it, the functions of the Authority shall be:

- b. to issue broadcasting licences;
- c. to regulate and supervise broadcasting activities, including but not limited to, the relaying of sound, radio and television programmes from places in Tanzania to places outside Tanzania with the intention that such broadcasts are received regularly in the United Republic or any part of it;
- d. to maintain a register of all persons licensed as broadcasters, dealers in broadcasting apparatus or operators of broadcasting stations;
- e. to regulate the activities of broadcasters and their conduct of broadcasting as well as that of dealers in broadcasting apparatus;

f. to be responsible for the standardisation, planning and management of the frequency spectrum available for broadcasting and to allocate such spectrum resources in such manner as to ensure the widest possible diversity of programming and optimal utilization of the spectrum resources, giving priority where possible to the broadcaster transmitting the maximum number of hours per day and to community-based broadcasters.

(2) the Authority shall perform any other function which may be assigned to it by the President in writing under his hand or by or under any other written law.

(3) the Authority shall, in the performance of its functions under this Act, establish and maintain, as far as may be practicable, a system of consultation, coordination and cooperation with the Tanzania Telecommunications Corporation and with any other body or organisation established by or under any other written law and having functions similar to those specified in sub-section (1) or having functions which related to broadcasting or radio communication generally.

Limitation of  
liability of  
members

6. No member of the Authority shall be held personally liable for any act or default of the Authority done or omitted bona fide in the course of carrying out the responsibilities and functions of, or exercising the power conferred upon the authority

7. (1) The Authority, after consultation with the Board and other interested parties, shall set aside a fair portion of the radio frequency spectrum to be used for broadcasting (“the broadcasting frequency spectrum”), taking into account broadcasting needs and the public interest in a diverse broadcasting sector.

(2) The Board shall be informed in advance of any proposed changes to the broadcasting frequency spectrum and shall be given an opportunity to make representations concerning these proposals, regardless of whether the proposal comes from an international body or from a national body