

THE UNITED REPUBLIC OF TANZANIA

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ACT SUPPLEMENT

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THE TANZANIA INTELLIGENCE AND SECURITY SERVICE
(AMENDMENT) ACT, 2023

ARRANGEMENT OF SECTIONS

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THE UNITED REPUBLIC OF TANZANIA



NO. 2 OF 2023

I ASSENT
SAMIA SULUHU HASSAN
President

[5th July, 2023]

An Act to amend the Tanzania Intelligence and Security Service Act.

ENACTED by the Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title

1. This Act may be cited as the Tanzania Intelligence and Security Service (Amendment) Act, 2023, and shall be read as one with the Tanzania Intelligence and Security Service Act, hereinafter referred to as the “principal Act”.

Cap. 406

PART II
AMENDMENT OF VARIOUS PROVISIONS

General amendment

2. The principal Act is amended generally, by-
- (a) deleting the word “Minister” when used in relation to the Minister having portfolio of this Act wherever it appears in the Act and substituting for it the word “President”; and
 - (b) deleting the word “Tanzania” when used in relation to the country wherever it appears in the Act and substituting for it the words “United Republic”.

Amendment of section 3

3. The principal Act is amended in section 3-
- (a) in the definition of the term “security”, by

- deleting the words “acts of” and substituting for them the words “any acts including acts of terrorism,”;
- (b) by deleting the definition of the terms “Minister” and “terrorism” and substituting for them the following:
- ““Minister” means the Minister responsible for Tanzania Intelligence and Security Service in terms of section 5A;
- Cap. 19 “terrorism” has the meaning ascribed to it under the Prevention of Terrorism Act;”; and
- (c) by adding in the appropriate alphabetical order the following new definitions:
- ““classified information” means information of particular security classification or of a sensitive nature and value that its unauthorised publication or disclosure thereof would lead to a security risk being posed to the State and would prejudice national security;
- “counter-intelligence” means information gathered and activities conducted to impede or neutralise the intentions and activities of foreign powers, counter subversion, sabotage, espionage or any hostile activity aimed at or against the people, institutions, installations, processes or resources of the United Republic;
- “Deputy Director General” means an officer of the Service appointed as the Deputy Director General of the Service under section 6A;
- “desert” means willful and unjustified abandonment of the officer’s duties and obligations without permission of the Service with intention of not returning to the Service either permanently or temporarily;
- “immediate family” means the spouse and children of the VVIPs described under section 5(1)(e);

“intelligence” means information which has been collated, evaluated and analysed and which is relevant to a government’s formulation or implementation of policy in relation to any internal or external threat or potential threat to national security as well as opportunities relevant to the protection and promotion of national security and national interests;

“necessary service” includes:

- (a) any service relating to installation, transmission, supply or distribution of electricity or telecommunication;
- (b) any fire service;
- (c) any sewerage, rubbish disposal or other sanitation service;
- (d) any health, hospital or ambulance service;
- (e) any service relating to the supply or distribution of water, gas or petroleum; or
- (f) any road, railway, bridge, underground tunnel, car park, ferry, pontoon, pipeline for the supply of water or fuel, airfield, harbour or dock;

“officer of the Service” means a person employed by the Service whether on temporary or permanent terms and includes the Directors;

“premises” means any place or location, and includes land, building, building works, instrument, equipment or means of transport;

“security clearance” means an authorisation entitling a person to have access to classified information of a determined sensitivity or classification;

“security intelligence” means information other than counter intelligence which relates to or may be relevant to the assessment of any internal or external threat or potential threat to national security and includes measures and strategies aimed at impeding or neutralising such threat or potential threat;

“security vetting” means a systematic procedure used to examine and appraise a person to determine his or her suitability, loyalty and

eligibility based on security competencies and considerations, including the continued monitoring of that person;

“sensitive information” includes any information-

- (a) which is likely to disclose the identification of, or provide details of, sources of information, other assistance or operational methods available to the Service;
- (b) which relates to particular operations which have been, are being or are proposed to be undertaken by the Service in pursuance of any of its functions; or
- (c) which has been provided by the Service of a foreign government where that Service or government does not consent to the disclosure of the information;

“the Service” means the Tanzania Intelligence and Security Service established under section 4 of the Act;

“vettable post” means a post in any Government ministry, department, agency, a state office or public office or position in either level of the Government requiring the holder of position to have, in the performance of his or her official duties, access to sensitive or classified information or any other position as may be required under any other written law;

“vital installation” means establishment or necessary service, which if damaged or sabotaged, affects the economy, safety and security of the United Republic;

“VVIP” means a very, very important person with very high position in the Government as prescribed under section 5(1)(e);”.

Amendment
of section 4

4. The principal Act is amended in section 4-

(a) by adding immediately after subsection (2) the following:

“(3) The Service shall operate as one of the defence and security organs under the general superintendence of the President.”;

- (b) by renumbering subsection (3) as subsection (4); and
- (c) in subsection (4) as renumbered, by deleting the words “regional and district offices” and substituting for them the words “directorates, regional and district offices or any other office for efficient carrying out of the functions”.

Amendment
of section 5

5. The principal Act is amended in section 5-

(a) in subsection (1) by-

(i) deleting paragraph (a) and substituting for it the following:

“(a) gather, obtain, correlate and evaluate intelligence relevant to security and advise on any such intelligence to the President, Council, Ministers or persons whom, and in the manner which, the Director General considers it to be in the interests of the security;”;

(ii) adding immediately after paragraph (d) the following:

“(e) provide personal protection to-

- (i) the President of the United Republic and the immediate family;
- (ii) the Vice President of the United Republic and the immediate family;
- (iii) the President of the Revolutionary Government of Zanzibar and immediate family;
- (iv) the Prime Minister of the United Republic and immediate family;
- (v) the First and Second Vice President of the Revolutionary Government of Zanzibar and their immediate families;
- (vi) Speaker of National Assembly;
- (vii) Chief Justice of the United Republic;
- (viii) Speaker of House of

- Representatives;
- (ix) Chief Justice of the High Court of Zanzibar;
 - (x) Deputy Speaker of the National Assembly;
 - (xi) Deputy Speaker of the House of Representatives;
 - (xii) Chief Secretary of the Government of the United Republic;
 - (xiii) Chief Secretary of the Revolutionary Government of Zanzibar and Secretary of Revolutionary Council;
 - (xiv) Attorney General of the Government of the United Republic;
 - (xv) Attorney General of the Revolutionary Government of Zanzibar;
 - (xvi) visiting dignitaries;
 - (xvii) former Presidents and their spouses, Vice Presidents, Prime Ministers, First and Second Vice Presidents of the Revolutionary Government of Zanzibar, Speakers of the National Assembly, Chief Justices of the United Republic, Speakers of the House of Representative and Chief Justices of the High Court of Zanzibar;
 - (xviii) all presidential candidates during the general election; and
 - (xix) any other person as the Director General may, upon consultation with the President, determine;
- (f) provide protection of vital installations as designated by the Director General;
 - (g) carry out security vetting, investigation or security clearance-
 - (i) for persons holding or eligible

to hold vettable posts in a public office;

(ii) for persons having access to sensitive or classified information;

(iii) for persons seeking to be registered as citizens of the United Republic; or

(iv) for any other person for whom the Director General considers to require security vetting prior to execution of responsibilities by that person;

(h) advise the President and Government on any security threat or potential threat to the security of United Republic;

(i) perform such other functions as may be directed by the President or as may be prescribed under any other written law.”; and

(b) by adding at the beginning of the opening phrase of subsection (2), the phrase “Save as otherwise provided in any other written law,”.

Addition of section 5A

6. The principal Act is amended by adding immediately after section 5 the following:

“Role of Minister

5A. The Minister shall be responsible for budgetary and such other policy related affairs of the Service.”.

Amendment of section 6

7. The principal Act is amended in section 6-

(a) by adding immediately after subsection (1) the following:

“(2) A person shall be eligible for appointment as a Director General if that person-

(a) is a citizen of Tanzania by birth;

(b) is an employee of the Service; and

(c) has such other qualifications as

may be pertinent to the Service.;"

- (b) by renumbering subsections (2), (3), (4) and (5) as subsections (3), (4), (5) and (6), respectively;
- (c) in subsection (4) as renumbered, by deleting the reference to subsection (4) and substituting for it the reference to subsection (5);
- (d) in subsection (6) as renumbered by deleting the words "and responsible to the Minister for the efficient and proper working of the Service".

Addition of sections 6A and 6B

8. The principal Act is amended by adding immediately after section 6 the following:

"Deputy
Directors
General

6A.-(1) There shall be two Deputy Directors General appointed by the President, one of whom shall be for Mainland Tanzania and the other for Tanzania Zanzibar.

(2) The Deputy Directors General shall hold office and serve on such terms as may be specified in the contract of service.

(3) A person shall be eligible for appointment as a Deputy Director General if that person-

- (a) is a citizen of Tanzania by birth;
- (b) is an employee of the Service;
- (c) in the case of Deputy Director General for Tanzania Mainland, is a Tanzanian hailing from Mainland Tanzania;
- (d) in the case of Deputy Director General for Tanzania Zanzibar, is a Zanzibari recognised under the Zanzibari Act of 1985; and
- (e) has such other qualifications as may be pertinent to the

Service.

Director 6B.-(1) There shall be Directors of the Service in respect of each directorate established pursuant to this Act who shall be appointed by the President.

(2) A person shall be eligible for appointment as a Director if that person-

- (a) is a citizen of Tanzania by birth;
- (b) is an employee of the Service; and
- (c) has such other qualifications as may be pertinent to the Service”.

Amendment
of section 7

9. The principal Act is amended in section 7-

(a) in subsection (1), by deleting the words “and members” appearing in paragraph (a);

(b) in subsection (2), by-

(i) deleting the words “or of the Revolutionary Government of Zanzibar” appearing in the opening phrase; and

(ii) deleting paragraph (a) and substituting for it the following:

“(a) employ under written agreement and on permanent or temporary basis such officers as he thinks necessary;”;

(c) by adding immediately after subsection (2) the following:

“(3) A person shall not be employed to the Service unless he meets the qualifications and conditions set out in the regulations.”;

(d) by renumbering subsections (3) and (4) as subsections (4) and (5) respectively; and

(e) by adding immediately after subsection (5) as renumbered the following:

“(6) An officer of the Service shall,

for purposes of this Act, be considered to be always on duty when required to act as such, and shall perform the functions and exercise powers granted to him under this Act or any other written law at any place where he may be deployed.

(7) An officer of the Service may, where necessary in the performance of his functions under this Act and with the approval of the Director General, carry and use an official firearm.”.

Amendment of section 9

10. The principal Act is amended in section 9, by-
- (a) adding the words “Unless the context requires otherwise,” at the beginning of subsection (1); and
 - (b) deleting subsections (5) and (6).

Amendment of section 10

11. The principal Act is amended in section 10-
- (a) in subsection (1) by deleting the words “and the directions of the Minister”;
 - (b) by adding immediately after subsection (1) the following:

“(2) The Director General shall be the Chief advisor to the President and the Government with regards to national security on security intelligence and counter-intelligence.”;

- (c) by renumbering subsection (2) as subsection (3);
- (d) in subsection (3) as renumbered, by deleting the words “and unless the Minister directs otherwise in writing”; and
- (e) by adding immediately after subsection (3) as amended the following:

“(4) Subject to section 12, the Director General shall be the disciplinary authority for officers of the Service employed under this Act”.

Addition of section 10A

12. The principal Act is amended by adding immediately after section 10 the following:

“Role of
Chief
Secretary

10A. The Chief Secretary shall be responsible for the coordination of the affairs of the President and public service in relation to the Service.”.

Amendment
of section 11

13. The principal Act is amended in section 11-

(a) in subsection (1) by deleting the words “and a copy of any such direction shall, as soon as it is issued, be furnished to the Chief Secretary”;

and

(b) by deleting subsection (3).

Repeal and
replacement
of section 13

14. The principal Act is amended by repealing section 13 and replacing it with the following:

“Oaths

13.-(1) The Director General and every officer or employee of the Service shall, before assuming office, make or subscribe to an oath as prescribed in the Schedule to this Act as follows:

(a) in the case of Director General, an oath of office and oath of allegiance before the President;

(b) in the case of Deputy Director General and Directors, an oath of office and oath of allegiance before the Director General; and

(c) in the case of officers or other employees of the Service, an oath of allegiance and oath of secrecy in the manner prescribed in the regulations.

(2) An oath taken or subscribed under subsection (1) shall be binding during the course of service and upon retirement or termination of employment or engagement with the

Service.”.

Amendment
of section 14

15. The principal Act is amended in section 14 by adding immediately after subsection (4) the following:

“(5) Notwithstanding the generality of subsection (1), the Service may collect information with regards to protective security to vital installations and personal protection under section 5(1)(e) and advise the Government or other relevant authorities.”.

Amendment
of section 15

16. The principal Act is amended in section 15-

(a) in subsection (3) by deleting paragraph (c) and substituting for it the following:

“(c) any security organ or law enforcement agency,”; and

(b) by deleting subsection (4) and substituting for it the following:

“(4) The Service may, with the approval of the President, enter into an arrangement with other security service organ of a foreign state or its institution or an international organisation or its institution authorising the Service to cooperate with the organ, institution or organisation in the provision of security assessment or intelligence information.”.

Amendment
of section 16

17. The principal Act is amended in section 16-

(a) by deleting subsection (1) and substituting for it the following:

“(1) Subject to this section, a person shall not, unless with the written consent of the Director General, publish or cause to be published in a newspaper or other documents, or broadcast or cause to be broadcasted by a radio, television, social media or otherwise, information that any person, other than the Director General-

(a) is an officer of the Service; or

(b) is connected in any way with an officer of the Service.”;

- (b) by deleting the word “Minister” in subsection (2) and substituting for it the words “Director General”; and
- (c) in subsection (3) by deleting the words “not exceeding five hundred thousand shillings” and substituting for it the words “of not less than twenty million shillings or to imprisonment for a term of not less than fifteen years or to both”.

Amendment
of section 17

18. The principal Act is amended in section 17 by adding immediately after subsection (2) the following:

“(3) Any person who contravenes the provisions of this section commits an offence and on conviction, in addition to any disciplinary action, shall be liable to imprisonment for a term of not less than twenty years.”

Amendment
of section 18

19. The principal Act is amended in section 18-

- (a) by designating the content of subsection (1) as section 18;
- (b) as designated, by deleting paragraph (b) and substituting for it the following:

“(b) enter into an arrangement or otherwise co-operate with a security service organ of a foreign state or its institution or an international organisation or its institution.”; and

- (c) by deleting subsection (2).

Amendment
of section 19

20. The principal Act is amended in section 19-

- (a) by deleting subsection (1) and substituting for it the following:

“(1) No action or other proceedings shall lie or be instituted against the Director General or officer of the Service for or in respect of any act or thing done or omitted to be done in good faith in exercise or purported exercise of his function under this Act.”; and

- (b) by deleting the word “shall” appearing in subsection (3) and substituting for it the word

“may”;

Amendment
of section 20

21. The principal Act is amended in section 20(2) by deleting the words “five hundred thousand shillings or to imprisonment for a term not exceeding two years” and substituting for them the words “fifteen million shillings or to imprisonment for a term of not less than fifteen years”.

Amendment
of section 22

22. The principal Act is amended in section 22-

(a) in subsection (1) by-

(i) deleting the opening phrase and substituting for it the following:

“(1) The President may, upon recommendation of the Director General, make regulations providing for-”;

(ii) adding immediately after paragraph (a) the following:

“(b) the code of conduct for all officers and employees of the Service in relation to the conduct, discipline, presentation, considerations, ethical standards and general directions to be adhered to in the carrying out of the functions and exercise of the power conferred on the Service;”;

(iii) renaming paragraphs (b), (c), (d) and (e) as paragraphs (c), (d), (e) and (f), respectively; and

(b) in subsection (2) by deleting the word “members” and substituting for it the word “officers”.

Amendment
of section 23

23. The principal Act is amended in section 23-

(a) in subsection (1) by deleting the words “not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding twelve months” and substituting for them the words “of not less than ten million shillings

but not exceeding one hundred million shillings or to imprisonment for a term of not less than ten years but not exceeding fifteen years or to both”;

(b) in subsection (2) by-

(i) deleting paragraph (b) and substituting for it the following:

“(b) willfully disobeys a lawful order of a superior officer,”;
and

(ii) deleting the words “a fine not exceeding five hundred shillings or imprisonment for a term not exceeding thirty six months without remission or to both the fine and imprisonment” appearing in the closing words and substituting for them the words “imprisonment for a term of not less than fifteen years but not exceeding twenty years”; and

(c) in subsection (3) by deleting the words “a fine not exceeding three hundred thousand shillings or to imprisonment for a term not exceeding six months or to both the fine and imprisonment” and substituting for them the words “imprisonment for a term of not less than fifteen years but not exceeding twenty years”.

Addition of sections 24, 25, 26 and 27

24. The principal Act is amended by adding immediately after section 23 the following:

“Non-disclosure by persons no longer in Service

24.-(1) A person who was an officer of the Service shall not, without the authority of the Director General, disclose or communicate any information or information the disclosure of which is detrimental to national security.

(2) A person who contravenes subsection (1) commits an offence and on conviction, shall be liable to imprisonment for a term of not less

than fifteen years.

Restricted
access

25. Notwithstanding the provisions of any written law, no person other than an officer of the Service shall, unless with the authority of the Director General, enter any premises of the Service or have access to books, records or other documents of the Service.

Commission
of offences
outside
United
Republic

26. An act, omission or conduct constituting an offence under this Act shall be considered to be an offence even if such act, omission or conduct took place outside the United Republic.

General
penalty

27. A person who contravenes any provision of this Act for which no penalty is expressly provided commits an offence and on conviction, shall be liable to a fine of not less than five million shillings or to imprisonment for a term of not less than five years or to both.”

Amendment
of Schedule

25. The principal Act is amended by deleting the Schedule and substituting for it the following:

“ _____
SCHEDULE

(Made under section 13)

OATH OF ALLEGIANCE

I, do hereby take Oath/Affirm that I will be faithful and bear true allegiance to the United Republic of Tanzania and that I will preserve, protect and defend the Constitution of the United Republic of Tanzania as by law. So Help Me God.

KIAPO CHA UTII

Mimi,, Naapa/Nathibitisha kwamba nitakuwa mwaminifu kwa Jamhuri ya Muungano wa Tanzania na kuitumikia kwa moyo wangu wote na kwamba nitaihifadhi, nitailinda na kuitetea Katiba ya Jamhuri ya Muungano wa Tanzania iliyowekwa kwa mujibu wa Sheria. Ewe Mwenyezi Mungu Nisaidie.

OATH OF SECRECY

I, do hereby take Oath/Affirm that I will not, without due authority, disclose or make known to any person any information acquired by me by reason of the duties performed by me on behalf of, or under the direction of the Tanzania Intelligence and Security Service or by reason of any Office or Employment held by me pursuant to the Tanzania Intelligence and Security Service Act. So Help Me God.

KIAPO CHA KUHIFADHI SIRI

Mimi,, Naapa/Nathibitisha kwamba sitoa kwa mtu yeyote bila idhini, taarifa yoyote ya siri nitakayoipata kutokana na utekelezaji wa majukumu nitakayotekeleza kwa niaba ya, au kwa maelekezo ya Idara ya Usalama wa Taifa au kutokana na nafasi yangu ya kazi au ajira nitakayopewa kwa mujibu wa Sheria ya Idara ya Usalama wa Taifa. Ewe Mwenyezi Mungu, Nisaidie.

OATH OF OFFICE

I, do hereby take Oath/Affirm that I will faithfully serve the United Republic of Tanzania and the President in the performance of my duty as So Help Me God.

KIAPO CHA UTUMISHI

Mimi,, Naapa/Nathibitisha kwamba nitaitumikia kwa uaminifu Jamhuri ya Muungano wa Tanzania na Rais wake katika kazi ya Ewe Mwenyezi Mungu, Nisaidie.”

Passed by the National Assembly on the 8th June, 2023

NENELWA J. MWIHAMBI
Clerk of the National Assembly