

GOVERNMENT NOTICE No. 671 Published On. 17/9/2021

**LAW REFORM COMMISSION OF TANZANIA ACT,
(CAP. 171)**

REGULATIONS

(Made under Section 25)

THE LAW REFORM (REVIEW OF LAWS) REGULATIONS, 2021

**PART I
PRELIMINARY PROVISIONS**

Citation

1. These Regulations may be cited as the Law Reform (Review of Laws) Regulations, 2021.

Interpretation
Cap. 171

2. In these Regulations, unless the context otherwise requires-

“Act” means the Law Reform Commission of Tanzania Act;

“Chairman” means the Chairman of the Commission appointed under section 5 of the Act;

“Commission” means the Law Reform Commission of Tanzania;

“Committee” means an *ad hoc* committee established by the Commission under regulation 26(1);

“Minister” means Minister responsible for legal affairs;

“review” means any research or study undertaken by the Commission on a law or branch of law with a view of reforming that law or branch of laws in accordance with the prevailing circumstances;

“Secretary” means the Executive Secretary of the Commission; and

“stakeholder” means-

- (a) any person having knowledge or concern who is consulted by the Commission for an opinion on review of laws; or

- (b) any person with knowledge or concern who consults the Commission on an opinion on the review of laws,
- and includes the Minister, the Attorney-General, the Judiciary of Tanzania, Ministry, Department or Agency of the Government, international body, private body or a member of the public.

PART II PROPOSAL FOR LEGAL REFORMS

Origin of
proposals for
legal reform

3. A proposal for legal reform on any law or branch of law by the Commission may originate from:
- (a) the Minister;
 - (b) the Attorney-General;
 - (c) the Judiciary of Tanzania;
 - (d) Ministry, department or agency of the Government;
 - (e) Commission's own initiation or motion;
 - (f) An International body;
 - (g) a private body; or
 - (h) a member of the public.

Reference from
Attorney-
General or
Minister

4. A proposal for legal reform submitted to the Commission by way of reference from the Minister or Attorney-General may:
- (a) specify the law or branch of law which is the subject of reform;
 - (b) explain why the law or branch of law is found to be unsatisfactory and the potential benefits of the reform where necessary;
 - (c) provide terms of reference for the reform including scope and output;
 - (d) provide appropriate issues for review;
 - (e) set time frame for the reform; and
 - (f) provide administrative and other logistical arrangements.
 - (g) specify the law or branch of law which is the subject of reform;

Receipt of
proposal for
legal reform

5.-(1) Any proposal for legal reform from the Judiciary of Tanzania or any Ministry, Department or Agency of the Government to the Commission may-

- (a) specify the law or branch of law which is the subject of reform;
- (b) set out the funding mechanism for the reform and other administrative or logistical arrangements; and
- (c) provide timeframe for the completion of the reform.

(2) Where a proposal for reform does not disclose information about-

- (a) the extent to which the law of the subject matter is found to be unsatisfactory;
- (b) a potential benefit of the reform and the output intended,

the Secretariat shall consult the author of the proposal with a view to drawing a concept paper that would provide-

- (a) appropriate issues for research; and
- (b) terms of reference for the reform

Scope of
reform

6. For any proposal originating from the Commission's own initiation, international body, private body or a member of public, the scope of the proposal shall be decided by the Commission, and the Commission may where necessary, consult relevant ministry, department or agency of the Government, international body, private body or a member of public for appropriate guidance.

Preparation of
legal reform
programmes

7.-(1) The Commission shall, three months before the end of every financial year, table before stakeholders' consultative meeting an annual legal reform programme for validation.

(2) The Commission shall, at the end of every financial year, submit to the Minister and Attorney-General, an annual legal reform programme for legal reforms to be undertaken by the Commission in the following year.

(3) In considering matters to be included in the legal reform programme, the following factors shall be taken into account-

- (a) social, economic or political relevancy of the subject matter of reform;
- (b) potential benefits that would flow from the reform;
- (c) the Commission access to the relevant information and experience; and
- (d) public opinion on the subject matter for reform.

PART III LAW REFORM PROCESSES

Stages of
reform process

8. A reform process may include the following stages:

- (a) preparation of a concept paper;
- (b) preparation of a discussion paper;
- (c) undertaking a pre-field research;
- (d) undertaking a field research;
- (e) preparation of a draft report;
- (f) conducting stakeholders' validation workshop;
- (g) preparation of a report; and
- (h) submission of the report to the Minister.

Concept paper

9.-(1) A reform of a law or branch of a law may be preceded by concept paper.

(2) The concept paper shall provide for-

- (a) a brief contextual analysis that identifies ideas, problems and challenges to be addressed in the reform;
- (b) stakeholders to be consulted;
- (c) appropriate skills and knowledge required to support the reform by internal and external resource persons; and
- (d) timeframe and budget for activities intended to be carried out.

(3) The Commission may, upon deliberation of the concept paper -

- (a) direct for progression of the concept paper into to a discussion paper if satisfied that the concept paper meets the requirements specified under sub regulation (2);
- (b) direct for improvement of the concept paper if it does not meet the requirements specified under sub regulation (1) but the subject matter is viable for reform; or
- (c) reject the concept paper if the subject matter is not viable for reform.

Discussion
paper

10.-(1) A discussion paper shall be developed upon approval of the concept paper.

(2) The discussion paper shall provide for the following matters-

- (a) statement of the problem;
- (b) historical background to the problem;
- (c) scope and objective of the reform;
- (d) reform methodology;
- (e) an in-depth contextual analysis of the policy law and perceived problems on the subject matter of reform;
- (f) an in-depth analysis of regional and international policy and legal framework on the subject matter;
- (g) an in-depth analysis of laws from selected foreign countries on the subject matter;
- (h) legal and policy problems identified during preliminary research; and
- (i) an identified needs assessment for reform and any study tour for consultation with relevant stakeholders.

Pre -field
Research

11.-(1) The Commission may, where it deems fit, undertake pre-field research before undertaking field research.

(2) The pre-field research shall include:

- (a) physical visits to areas which will be the subject for field research;
- (b) undertaking logistical arrangements necessary

- for researchers and respondents during the research;
- (c) liaising with relevant government authorities on the undertaking of field research; and
- (d) identifying and reporting any challenges that may hinder smooth field research.

Field research

12.-(1) Field research shall be undertaken in selected regions or institutions.

(2) In identifying and selecting regions or institutions to be consulted, the Commission shall take into account:

- (a) prevalence of the research problem in the region;
- (b) presence of relevant and key stakeholders in the region;
- (c) zonal representation of regions national wise;
- (d) the relevancy of the review or research to selected regions; and
- (e) any other factor that the Commission may deem just and fit to consider.

(3) Subject to subsection (1) and (2)(a), (b) and (c) of section 10 of the Act, field research shall involve:

- (a) interview with selected stakeholders;
- (b) discussions with selected groups of people;
- (c) physical observations in selected areas or regions; and
- (d) general consultations with relevant stakeholders and members of public.

(4) Where the Commission is of the opinion that the reform requires benchmarking on international experience, it may direct the Secretariat to make administrative and logistical arrangements required for gaining such experience.

(5) The Commission may co-opt any expert or a team of experts to be part of the Commission's research team on a temporary basis for a specific reform project.

Draft report

13.-(1) On completion of field research, a draft report shall be prepared.

(2) The draft report shall, unless the context of the report or prevailing circumstances demand, contain such information and be in such format as prescribed in the Schedule to these Regulations.

(3) Preparation of the draft report shall take into account-

- (a) desk review undertaken and consultations from relevant stakeholders;
- (b) current position of policies and laws, the issues involved and the subject matter for reform;
- (c) policy and legal problems identified during preliminary research;
- (d) analysis on the law relating to the existing policies, the national legal framework, regional and international obligations; and
- (e) elaborate recommendations for new law or amendment of an existing law.

Validation
Workshops

14.-(1) Upon approval of the draft report, a validation workshop shall be convened to validate findings of the draft report.

(2) During validation workshop the discussion shall reflect on:

- (a) comments and recommendations on the draft report to ensure that comments and recommendations made during the field research have been well noted, analyzed and considered by the Commission; and
- (b) additional comments and recommendations that came up after the field research was conducted.

Report

15.-(1) A report shall be prepared by the Commission after conclusion of the validation workshop.

(2) Preparation of the report shall take into account:

- (a) views and recommendations given by stakeholders on the draft report during the validation workshop; and

(b) any other emerging issues that need to be addressed in the draft report.

(3) Upon completion of deliberation of the draft report, the Commission may:

(a) approve the draft report and direct for progression to the next stage if satisfied that the draft report meets the requirements specified under subregulation (2);

(b) direct for improvement of the draft report which does not meet all the requirements specified under subregulation (2); or

(c) reject the draft report where it is of the opinion that the law or branch of law under review has been otherwise improved.

(4) A draft Bill may be prepared by the Commission at this stage, if it is deemed necessary for ease of appreciation, adoption and implementation of recommendations of the Report by the relevant Government institution.

Submission of
Report

16. The Commission shall submit to the Minister the report approved in terms of regulation 13(3)(a).

Adherence to
stages on law
reform
activities

17. The Commission may dispense with any of the stages of the law reform processes stipulated under regulation 8 where it deems necessary to do so.

PART IV MEETINGS OF THE COMMISSION

Type of
meetings

18. There shall be two types of meetings of the Commission, namely:

- (a) professional meeting; and
- (b) Commission meeting.

Professional
meeting

19.-(1) The professional meeting shall be the first meeting to deliberate on matters related to law reform activities.

(2) The professional meeting shall be composed of:

- (a) the Executive Secretary;
- (b) Heads of legal sections; and
- (c) legal officers.

(3) The Executive Secretary shall preside over all professional meetings and, in case of absence, the Deputy Secretary shall preside over the meetings.

(4) Any other person may be invited to the professional meeting if that person's presence is important or necessary for efficient determination of the issue under consideration.

(5) The professional meeting shall deliberate on:

- (a) the concept paper;
- (b) the discussion paper;
- (c) the draft report; and
- (d) any other document or matter which relates to law reform activity.

Commission
Meeting

20.-(1) The Commission meeting shall be the highest approving body in law reform activities.

(2) The Commission meeting shall be composed of:

- (a) the Chairman; and
- (b) two Commissioners.

(3) The Executive Secretary shall be the Secretary to the Commission meeting.

(4) Members of the professional meeting shall attend and form the Secretariat of the Commission meeting;

(5) The Chairman shall preside over Commission meeting or in case of absence, the Commissioners present may elect from amongst themselves a Chairman for the purpose of that meeting.

(6) Any other person may be invited to the Commission meeting if that person's presence is important or necessary for efficient determination of the subject matter under consideration.

(7) The Commission meeting shall deliberate and approve:

- (a) the concept paper;
- (b) the draft report;

- (c) the report; and
- (d) any other document or matter which relates to law reform activity.

Notice of meetings

21.-(1) The Secretary shall issue notice for the professional meeting and the Commission meeting at least five days before the proposed date of the meeting.

(2) A notice of any meeting shall specify the date, time, place and the business of such meeting.

Quorum

22.-(1) A minimum of seven members shall constitute a quorum of the professional meeting.

(2) A minimum of two Commissioners shall constitute a quorum at any of the Commission meeting.

Decision

23.-(1) All acts, matters and issues authorized by the Commission to be done shall be decided by consensus at the professional meeting or the Commission meeting.

(2) In the absence of consensus the issue in question shall be decided by majority votes of members present.

Record keeping

24. The Secretary shall keep details of all business transacted at every professional meeting and Commission meeting in separate files kept and maintained for that purpose.

Minutes of meetings

25.-(1) Minutes of the professional meeting shall be confirmed or amended at the next meeting and shall be signed by the Executive Secretary or the Depute Secretary.

(2) Minutes of each Commission meeting shall be confirmed or amended at the next meeting and shall be signed by the Chairman and the Secretary.

(3) At the end of each financial year, minutes of each professional meeting and Commission meeting may be bound in a book form to be kept as part of records of the Commission.

Ad-hoc

26.-(1) For the purpose of this Part, the

Committee

Commission may establish an *ad hoc* committee for the better performance of its functions.

(2) An *ad hoc* committee shall-

- (a) be headed by a Commissioner or Executive Secretary or Deputy Secretary;
- (b) report its findings to the Commission meeting within a period specified by the Commission; and
- (c) discharge its duty in accordance with the terms of reference or as directed by the professional meeting or Commission meeting in respect of which it was formed.

(3) An *ad hoc* committee shall cease to exist once the task has been finalized.

SCHEDULE

(Made under regulation 13(2))

REPORT FORMAT AND WRITING STYLE

1. Report Format

(a) Title Page

The title page shall bear the following features:

- (i) the name of the Commission;
- (ii) the national emblem;
- (iii) the title of the project; and
- (iv) date of submission.

(b) Transmittal Letter

The Report shall include a submission letter addressed to the Minister responsible for legal affairs. The letter shall include:

- (i) name and address of the Minister;
- (ii) date of submission;
- (iii) brief background to the research or review;
- (iv) statement of submission; and
- (v) signature of the Chairman or Executive Secretary.

(c) Staff of the Commission

This part shall provide for:

- (i) name and photographs of Commissioners;
- (ii) names and titles of the Executive Secretary, Deputy Secretaries and State Attorneys; and
- (iii) names and titles of persons co-opted from outside the Commission.

(d) Acknowledgements

The Report shall acknowledge facilitations, help or assistance from various stakeholders such as government institutions, non-government organizations and experts.

(e) Executive Summary or Abstract

The Report shall provide in brief, the most important points of the Report. These shall include:

- (i) objectives or reasons for the research or review;
- (ii) statement of the problem;
- (iii) summary of the main findings;
- (iv) conclusions; and
- (v) recommendations.

(f) Table of Contents

The Report shall have a table of contents which shall include:

- (i) All the sections and sub-sections of the Report with page references;
- (ii) List of tables, diagrams or illustrations and appendices; and
- (iii) List of legislation and policies.

(g) Chapter One - Introduction

This Chapter shall contain the following features:

- (i) an Introduction to the Commission and its mandate;
- (ii) background to the research or review;
- (iii) terms of reference;
- (iv) background to the research problem;
- (v) objectives or rationale of the research or review;
- (vi) scope and limitations; and
- (vii) methodology.

(h) Chapter Two - Analysis of Policy and Legal Framework

This Chapter shall provide the following:

- (i) Analysis of the policy and legal framework governing the research topic or area;
- (ii) strengths and gaps in the governing policy and legal framework;
- (iii) proposal for measures to address the established gaps as hypothesis in the course of research; and

- (iv) Conclusion on the general observation on the analysis of policy and legal framework.

(i) Chapter Three - Comparative Study and International Instruments

This Chapter shall provide the following:

- (i) Analysis of international and regional instruments relevant to the research topic or area. These are mainly:
 - (a) UN Charter, conventions, protocols and annexes;
 - (b) AU Treaty, conventions, protocols and annexes;
 - (c) SADC Treaty, conventions, protocols and annexes;
 - (d) EAC Treaty, conventions, protocols and annexes; and
 - (e) any other relevant international and regional instruments.
- (ii) analysis of selected legislation from foreign jurisdictions or countries. This shall include the review of:
 - (a) policy instruments;
 - (b) acts of Parliament; and
 - (c) subsidiary legislation;
- (iii) conclusion containing lessons learnt in the course of undertaking comparative study and analyzing international and regional instruments.

(j) Chapter Four - Stakeholders Views and Analysis

This Chapter shall contain analysis and interpretation of findings obtained during the field research. These findings shall be divided into headings and sub-headings based on the subject matter of the research. Each issue shall be divided into:

- (i) stakeholders' views on each issues raised or considered during the field research;
- (ii) stakeholders' recommendations on each of the issues considered;
- (iii) commission observation on stakeholders views and recommendations on each of the issues; and
- (iv) commission recommendation(s) on each of the issues and recommendations.

(k) Chapter Five - Conclusion and Recommendations

This chapter shall contain the following features:

- (i) restatement of the main problem that was the subject of the review;
- (ii) a summary of the main issues related to the problem and findings or conclusion of the review on each issue; and

- (iii) recommendations which shall be provided on each and every issue raised and considered during the research or review. These recommendations may be divided into the following categories:
 - (a) Legal recommendations, and
 - (b) Non-legal recommendations.

(iv) Appendices

The Report shall include appendices containing extra information which is too long to be included in the main text of the Report. These may be tables, figures and questionnaires.

(v) References in the Main Text

Footnotes shall be preferred in the main text.

(vi) Bibliography

The Report shall include bibliography containing books, articles and journals, which were read or used during the research.

(vii) Glossary

The Report includes a glossary containing technical or jargon words which readers might not easily understand.

2. Referencing

(a) Journal article in Print

Adam, P. & Doris, P., "The Influence of Planning on Performance in Task-Based Learning," *Studies in Second Language Acquisition*, Vol. 3, No. 18, 2016, pp. 299-324.

Gardiner, L., "Comparative Law Reform," *American Bar Association Journal*, Vol. 52, No. 11, 1966, pp. 1021-1025.

(b) Article from e-Journal:

Foster, P. & Skehan, P., "The influence of planning on performance in task-based learning" *Studies in Second Language Acquisition*, Vol. 3, No. 18, 1996, pp. 299-324. Retrieved from www.lrct.go.tz on 25th June, 2019.

Gower, L. C. B., "Reflections on Law Reform," *The University of Toronto Law Journal*, Vol. 23, No. 3, 1973, pp. 257-269. Retrieved from <https://www.jstor.org/stable/825060>, on 3rd April 2020.

(c) Book with Author:

Mambi, A.J., (2014), *ICT Law Book: A Sourcebook for Information & Communication Technology and Cyber Law*, 2nd edn, Mkuki na Nyota, Dar es Salaam.

Mkapa, B.W. (2019), *My Life, My Purpose: A Tanzanian President Remembers*, Mkuki na Nyota, Dar es Salaam.

(d) Electronic Book (e-Book)

Nyerere, J.K., (1968), *Ujamaa: Essays on Socialism*, Oxford University Press, Dar es Salaam. Retrieved from <https://b-ok.cc/book/1221258/594f0c> on 4th April 2020.

Ellis, R., (2003), *Task-based Language Learning and Teaching*, 4th edn, Oxford University Press, Oxford. Retrieved from www.lrc.go.tz on 25th June, 2019.

(e) Book with a Corporate Author:

Law Reform Commission, (2019), *Law and Justice*, Dodoma Publishing House, Dodoma.

Afro-Shirazi Party, (1973), *Afro-Shirazi Party: A Liberation Movement*, Vol.2, Printing Press Corporation, Zanzibar.

(f) A Book with Editions

Wheare, K.C., (1966), *Modern Constitutions*, 2nd edn, Oxford University Press, Oxford.

Shillington, K., (1995), *History of Africa*, Rev. edn, St. Martin's Press, New York.

(g) Book with Multiple Volumes

Oppenheim, L., (1905), *International Law: A Treatise*, Vol.1, Longmans, Green & Co., London.

Ackermann, M.E., *et al.*, (2008), *Encyclopedia of World History: The First Global Age*, Vol. III, Facts on File, Inc., New York.

(h) Book with Multiple Volumes and Editions

Darity, W. A. Jr (ed.), (2008), *International Encyclopedia of the Social Sciences: Cohabitation–Ethics in Experimentation*, Vol.2, 2nd edn, Macmillan, Detroit.

Goodin, R.E. *et al.*, (2007), *A Companion to Contemporary Political Philosophy*, Vol.1, 2nd edn, Blackwell Publishing, Oxford.

(i) A Chapter in an Edited Volume:

Long, M., “Focus on form: A Design Feature in Language Teaching Methodology,” in de Bot, *et al.* (eds.), (1991), *Foreign Language Research in Cross-Cultural Perspective*, John Benjamins, Amsterdam, pp. 39-52.

Dourado, W., "The Consolidation of the Union: A Basic Re-Appraisal," in Peter, C.M., and Othman, H. (eds.), (2006), *Zanzibar and the Union Question*, Zanzibar Legal Services Centre, Zanzibar, pp. 73-108.

(j) Conference Proceedings Publications

Cates, K., "Teaching for a Better World: Global Issues and Language Education," in Katchen, J. & Liung, Y. (eds.), (1998), *The Proceedings of the Seventh International Symposium on English Teaching*, Crane, Taiwan, pp. 35-46.

(k) Conference Proceedings- Unpublished:

Hussein, F., *Review of Legal System in Tanzania*, Paper presented to the Stakeholders Validation Workshop, at Dodoma Hotel in Dodoma, 20th June, 2019.

Dourado, W., "A Well-Trained Lawyer Can Operate under any Legal System," A Paper Presented at the University College, Dar es Salaam, 11th October 1977.

(l) Multiple Authors or Editors (more than two)

Allen, P. *et al.*, "Aspects of classroom treatment: Toward a More Comprehensive View of Second Language Education," in Harley, B. *et al.* (eds.), (1990), *The Development of Second Language Proficiency*, Cambridge University Press, Cambridge, pp. 57-81.

Shivji, I. G., *et al.*, (2004), *Constitutional and Legal System of Tanzania: A Civics Book*, Mkuki na Nyota Publishers, Dar es Salaam.

(m) Forthcoming Publications

Ellis, R., *Controversies in Grammar Teaching*, TESOL Quarterly [Forthcoming].

(n) Dissertations and Theses

Mohamed, J., (2019), *Legal Practice in Tanzania*, A Dissertation Submitted to the University of Dar es Salaam, for a degree of Master of Laws (LL.M.).

Abdulkadir, A.H., (2010), *Reforming and Retreating: British Policies on Transforming the Administration of Islamic Law and its Institutions in the Busa'idi Sultanate 1890-1963*, A Thesis Submitted to the University of Western Cape for the degree of Doctor of Laws (LL.D.).

(o) Reports

Colonial Office, (1960), *Tanganyika: Report of the Year 1959*, Her Majesty's Stationery Office, London.

The Report of the Constitutional Commissioner, Zanzibar, 1960 (Government Printer, Zanzibar).

The Report of the Presidential Commission on One Party or Multi-Party System, 1992.

The Report of the Tanganyika Constitutional Conference, 1961.

(p) Newspaper Article in Print:

Committee of Experts, "Progress on the Constitution Review Process at October 2009," in the *Daily Nation*, Monday, 26 October 2009, pp.2-6.

Marwa, M., "Justice in Courts," Daily News, Tuesday, 20th March, 2019, p. 24.

(q) Newspaper Article Without Author Name

Special Reporter, "Zanzibar Talks," in *Reporter: East Africa's Newsmagazine*, 28 April 1962.

Justice in Courts, 20th June, 2019, Nipashe, p. 13

(r) Newspaper, Article available online

Mwita Marwa, "Justice in Courts," Daily News, 20th March, 2019, p. 24. Retrieved from www.dailynews.or.tz on 2nd July, 2019.

(s) Citation if you have Read about a Source in Another one

Zahbi (as cited in Ghaznavi, 2003, p. 5)

(t) Personal Communications

S. Richard (interview, February 20, 2013)

3. Typing

The Report shall be typed in the following format

- (i) Century Gothic Font
- (ii) 12 Font size
- (iii) Double spaced
- (iv) margins of at least one inch on the left - 25mm - and no less than ¾ inch - 20mm elsewhere.

Dodoma,
2nd September, 2021

PALAMAGAMBA J.A.M. KABUDI
*Minister for Constitutional and
Legal Affairs*