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THE MEDIA SERVICES ACT, 2015

ARRANGEMENT OF SECTIONS

Section Title

PART I
PRELIMINARY PROVISIONS

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

PART II
MEDIA SERVICES BOARD

4. Establishment of the Council.
5. Functions of the Council.
6. Powers of the Council.
7. Tenure, proceedings and remuneration of Members.
8. Director of Media Service.
9. Licensing.
10. Rejection of incomplete application.
11. Cancellation of licence.
12. Complaint procedure.

PART III
MEDIA HOUSES AND INSTITUTIONS

13. Types of media house and ownership.
14. Obligations of media houses.

PART IV
ACCREDITATION OF JOURNALISTS

15. Journalists accreditation Board.
16. Composition of the Board.
17. Functions of the Board.
18. Powers of the Board.
19. The Chief Executive Officer.
20. Sources of the funds of the Board.
21. Accreditation of journalists.
22. Press card.
23. Roll of Journalist.

PART V
TANZANIA INFORMATION SERVICES

24. Tanzania Information Services.
25. Functions of Tanzania Information Services.

PART VI
MEDIA SERVICES FUND

26. Media Services Fund.
27. Sources of Funds.
28. Accounts and audit.

PART VII
DEFAMATION

29. Defamation.
30. Libel.

31. Definition of unlawful publication.
32. Cases in which publication is absolutely privileged.
33. Cases in which publication is conditionally privileged.
34. Offer of amends.
35. Redress for defamation.

PART VIII
OFFENCES

36. Offences relating to media services.
37. Offences in relation to publication.
38. Seditious intention.
39. Seditious offences.
40. Publication likely to cause fear and alarm.
41. Offences by corporations or societies.
42. Liability of employer or principal.

PART IX
GENERAL PROVISIONS

43. Power to prohibit importation of publication.
44. Powers of seizure.
45. Service of process and notices.
46. Risk insurance.
47. Accessibility of media service by persons with impaired sight or hearing.
48. Obstructing of member of the Council.
49. Regulations.
50. Repeals.
51. Transitional provisions.

SCHEDULES

NOTICE

This Bill to be submitted to the National Assembly is published for general information to the public together with a statement of its objects and reasons.

Dar es Salaam,
3rd February, 2015

OMBENI Y. SEFUE
Secretary to the Cabinet

A BILL
for

An Act to make provisions for promotion of professionalism in the media industry, providing institutional framework for regulation of media services, establishing the Media Service Fund and to provide for related matters.

ENACTED by Parliament of the United Republic of Tanzania.

PART I
PRELIMINARY PROVISIONS

Short title and
commencement

1. This Act may be cited as the Media Services Act, 2015, and shall come into operation on such a date the Minister may, by order published in the *Gazette*, appoint.

Application

2. This Act shall apply in Mainland Tanzania.

Interpretation

3. In this Act, unless the context otherwise requires:
“Authority” means the Tanzania Communication Regulatory Authority;

- “Board” means journalists accreditation the Board established under Section 15;
- “broadcasting station” means all premises used for the purpose of carrying on a broadcasting service with or without transmitters, apparatus and equipment required in connection with them;
- “broadcaster” means a person who is licensed under this Act to carry on a broadcasting services;
- “broadcasting service” means a radio communication service in which the transmissions are intended for reception by members of the general public;
- “certificate” means a certificate granted under this Act;
- “content” means information in the form of speech or other sound, data, text or images whether still or moving;
- “Director of Media Services” means a person appointed as such under section 8;
- “editor” means a person who is in charge of programme production at a radio or television station, newspaper production or online platform for the purposes of public consumption;
- “electronic media” means communication of any content to the public by television, radio, video, cinema or by any other electronic means;
- “foreign citizen” means a person who is not a citizen of the United Republic of Tanzania;
- “foreign company” means a company incorporated outside the United Republic of Tanzania or where majority shareholders are foreigner;
- “freelancer” means a journalist enrolled under this Act working independently for media houses;
- “information” means facts or knowledge provided or learned;
- “information officer” means a person in an organization responsible for acquiring, maintaining, realising and disposing of information to the public or media;
- “journalist” means a person enrolled as journalist under this Act, who gathers, collects, edits, prepares or present news, stories, materials and information for a mass media service, whether an

- employee of media house or as a freelancer.
- “mass media” includes any service, medium or media consisting in the transmission of voice, visual data or textual messages to an unlimited number of persons, and includes an advertising agency, publisher or, except as otherwise excluded or specially provided for in this Act;
- “media” means communication channels through which news, entertainment, education, data, or promotional messages are disseminated through radio, television, newspapers, internet and any other related technology;
- “media houses” means a legal person dealing in media services;
- “media practitioners” means person involved as a journalist or in similar capacity in the practice of collecting and disseminating information through the media;
- “media services” means but not limited to radio and television broadcasting, newspaper publishing, internet service, and any other related technology;
- “Minister” means the Minister responsible for information;
- “News Agency” means an organization that collects and distributes news items and photographs for media house consumption;
- “newspaper” means a printed or published materials in the form of tabloid, broadsheet or the electronic form, which contains any of the following:
- (a) news;
 - (b) articles;
 - (c) entertainments;
 - (d) advertisements;
 - (e) reports of occurrences; or
 - (f) comments or observations which are published for distribution to the public either daily or periodically;
- “press card” means a press card granted under this Act;
- “print” means produce or reproduce words or pictures in visible form by printing, writing, typewriting, duplicating, photocopying, cyclostyling, lithography;
- “print media” means newspapers, journals, magazines, newsletters;

- “private media house” means a media house owned and financed privately;
- “public interest” in relation to national security, means any matter or act that shall or is likely to endanger the security and defence of the nation;
- “public media house” means a media house owned by the Government;
- “publish” means to disseminate content to one or more persons;
- “publication” means any communication of a content through audio, video, print or electronically as an e-book or on the web;
- “publisher” means a person who publishes content;
- “social media” means online interactions among people in which they create, share, and exchange information and ideas in virtual communities, networks and their associated platform.

PART II
MEDIA SERVICES COUNCIL

Establishment of
the Council

- 4.-(1)** There is established a Council within the Authority to be known as the Media Services Council.
- (2) The Council shall consist of a Chairman appointed by the President and other six members appointed by the Minister as follows:
- (a) a member of the Board of the Authority who shall be the Vice-Chairman;
 - (b) one person representing higher learning institutions offering training on media profession;
 - (c) one accredited journalist who is not a media owner representing printing media;
 - (d) one person representing broadcasting industry;
 - (e) the Director of Information Services; and
 - (f) a law officer representing the Office of the Attorney General.
- (3) A person who has been appointed as member of the Council shall, before assuming the office, take an oath or affirm before a Judge of the High Court, that he is committed to-
- (a) fairness, freedom of expression, openness and

- accountability; and
- (b) upholding and protecting the constitution and other laws.
- (4) A person shall qualify for appointment as Chairman or a member of the Council if that person-
 - (a) is a citizen of Tanzania;
 - (b) holds a degree from a University recognized in Tanzania;
 - (c) has knowledge and experience of at least ten years, in the case of the Chairman, or seven years, in the case of a member, in matters relating to any of the following fields-
 - (i) law;
 - (ii) journalism;
 - (iii) gender and human rights;
 - (iv) public relations;
 - (v) information technology;
 - (vi) humanities and social sciences;
 - (vii) communication;
 - (viii) religious studies;
 - (ix) advertising; and
 - (x) performing arts.

Functions of the Council

- 5.** The functions of the Council shall be to:
 - (a) monitor radio and television broadcast content;
 - (b) monitor social media content;
 - (c) monitor print media content compliance to licence, conditions and professional ethics;
 - (d) analyse print and electronic media content;
 - (e) licence newspapers;
 - (f) licence broadcasting content providers;
 - (g) regulate the activities of media houses;
 - (h) licence social media and news agencies;
 - (i) keep register of newspapers and content service providers;
 - (j) render advice or assist in the formation, organization' and operation of media houses;
 - (k) monitor content;
 - (l) issue directives to media houses where necessary;
 - (m) inspect media houses;

- (n) enforce media houses code of ethics as stipulated in regulations; and
- (o) perform any other function as may be directed by the Minister.

Powers of the Council

6.-(1) The Council shall, in performing its functions, have powers to:

- (a) order inquiries on any dispute raised;
- (b) warn, suspend or deregister content providers in the event that there is violation of laws;
- (c) issue licence;
- (d) reject applications for licence;
- (e) cancel or suspend licence; and
- (f) impose fines.

(2) The Council shall seek no objection from the Minister in the exercise of powers on matters stipulated under subsection (1)(c) and (e).

(3) The Council shall recommend to the Minister such charges which may be imposed under this Act and the Minister shall publish such charges in the *Gazette*.

Tenure, proceedings and remuneration of members

7. The proceedings, tenure, remuneration, and procedure for removal of a member of the Council shall be as provided in the First Schedule.

Director of Media Services

8.-(1) There shall be a Director of Media Service who shall be appointed by the Minister from amongst senior public servants.

(2) The Director of media service shall be the Secretary to the Council and responsible for day to day activities of the Council.

Licensing

9.-(1) A person shall not offer any media service unless that person is licensed in accordance with this Act.

(2) The Minister shall, by regulations, prescribe the requirement and procedures for licensing a person who intends to offer media services.

Rejection of incomplete application

10.-(1) The Council may reject any application which does not comply with the prescribed requirements for licensing.

(2) Where the Council has rejected an application under subsection (1), it shall within fourteen days, notify the applicant of the reasons for rejection.

Cancellation of licence

11. Where a licensed content provider fails to comply with licence conditions, the Council may suspend or cancel his licence.

Complaint procedure

12.-(1) A person who is not satisfied with the conduct or services of a content provider may lodge a complaint to the Council.

(2) The Council shall, in considering and delivering its decision on any complaint, adhere to the principles of natural justice and procedure prescribed in the regulations.

(3) A person who is aggrieved by any decision of the Council may, within fourteen days appeal to the Fair Competition Tribunal.

**PART III
MEDIA HOUSES AND INSTITUTIONS**

Types of media houses and ownership

13.-(1) There shall be two types of media houses, namely:

(a) Public Media Houses; and

(b) Private Media Houses.

(2) A person shall not own private media house and outlets in an unfair share of the national market bases.

(3) Conditions for ownership of media houses shall be as prescribe in the regulations.

(4) The right to own media house is reserved to Tanzanian citizens.

(5) A foreign company may own a media house on condition that a shareholding structure shall not exceed forty nine percent.

Obligations of media houses

14. A media house shall have the following obligations:

(a) in case of a Public Media House:

(i) universal media service;

(ii) provide media services to the public and

- Government;
- (iii) maintain professional code of ethics;
- (iv) enhance communication within Government and between Government and the Public;
- (v) provide public awareness on development matters from Government and public sector;
- (b) in case of a Private Media House:
 - (i) provide media services to public in accordance with the geographical area provided under this Act;
 - (ii) maintain professional code of ethics;
 - (iii) promote public awareness in various issues of national interest through information dissemination;
 - (iv) hook with public broadcaster for news at twenty hours everyday to enable the public to follow issues of national interest.

PART IV ACCREDITATION OF JOURNALISTS

Journalist
accreditation
Board

15. There is established a Board to be known as the journalist accreditation Board.

- (2) The Board shall be a body corporate and shall-
 - (a) have perpetual succession and on official seal;
 - (b) in its own name, be capable of being sued and sue; and
 - (c) be capable of acquiring any movable or immovable property.

Composition of
the Board

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

- (a) chairman;
- (b) one member representing higher learning institutions offering a course in journalism, mass communication or media related courses;
- (c) Director of Tanzania Information Services;
- (d) two senior accredited journalist;
- (e) a State Attorney representing the office of the Attorney

General; and

(f) the Director of Media Services.

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

(3) The provision of the Second Schedule shall have effect to the tenure of office of members, the proceedings of the board and any other matters relating to the Board.

Functions of the Board

17. The functions of the Board shall be to-

- (a) uphold standards of professional conduct and promote good ethical standards and discipline among journalists;
- (b) enforce journalists code of ethics;
- (c) advise on matters pertaining to the education and training of journalists;
- (d) issue accredited journalist with press card; and
- (e) establish links with similar organizations within and outside the United Republic.

Powers of the Board

18. In performing its function, the board shall have powers to:

- (a) impose fines;
- (b) deregister journalist from the role;
- (c) fix rates and charge;
- (d) approve contents of training curriculum and other standards pertaining to journalism profession.

The Chief Executive Officer

19.-(1) There shall be a Chief Executive Officer of the Board who shall be appointed by the Minister.

(2) The Chief Executive Officer shall be responsible for the day to day activities of the Board and the Secretary to the Board.

(3) Without prejudice to the provisions of subsection (1), a person shall not be eligible for appointment to the position of Chief Executive Officer unless such person-

- (a) is a citizen of Tanzania; and
- (b) is a holder of a degree from a recognized institution of learning and possess, by virtue of his learning and

experience, expertise in the areas of media policy and law, entertainment, education, advertising practice or related social issues.

Sources of funds
of the Board

- 20.** The sources of the funds of the Board shall consist of-
- (a) money appropriated by the parliament;
 - (b) grants, gifts and donations;
 - (c) fees paid for services rendered by the Council; and
 - (d) money that may, in any manner become payable to or vest in the Board in pursuance of the provisions of this Act or in relation or incidental to the carrying out of its functions.

Accreditation of
journalists

21.-(1) Any person shall not practice journalism unless that person is accredited under this Act.

(2) A person who intends to practice journalism shall apply for accreditation to the Board in the form and manner prescribed in the regulation.

(3) A person shall qualify for accreditation as a journalist if that person -

- (a) possess a degree in journalism or mass communication or any other media related field from the recognized institution of higher learning;
- (b) possess at least a diploma in journalism and a degree in any of the following fields:
 - (i) sociology;
 - (ii) law;
 - (iii) education;
 - (iv) languages;
 - (v) economics; and
 - (vi) any other social science related subject;
- (c) has complied with the requirement for accreditation.

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

(5) Where a period of accreditation granted under subsection

(4) expires and the purposes for accreditation is not completed, the journalist who pursue that purpose may apply to the Board for extension of time of his accreditation.

(6) The accreditation of a journalist may be cancelled if the Board has discovered that:

- (a) in case of a foreign journalist, the journalist does not pursue the purpose for which accreditation was granted; and
- (b) in case of a local journalist, the journalist conducted gross professional misconduct.

Press card

22.-(1) Any person who practices journalism shall be issued with press card by the Board.

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

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

Roll of journalists

23.-(1) The Council shall maintain a roll of journalists and shall issue to every person whose name is entered in the roll a certificate of accreditation.

(2) A person who ceased to be an accredited journalist as a result of the deletion of his name from the roll of journalists or is suspended from practising as accredited journalist shall not continue to practice directly or indirectly as a journalist.

(3) An accredited journalist whose name is deleted from the roll of journalists or is suspended shall not be employed in any capacity in the business or career connected to journalistic profession unless that journalist has a written consent of the Board.

(4) The Board shall annually, publish the roll of journalists.

PART V

TANZANIA INFORMATION SERVICES

Tanzania
Information
Services

24.-(1) There shall be, within the Ministry responsible for information, a department to be known as the Tanzania Information

Services.

(2) The Tanzania Information Services Department shall be under the Director of Information Services.

Functions of
Tanzania
information
services

25.-(1) The Tanzania Information Services Department shall perform the functions of a spokesman to the Government on matters relating to public policies and dissemination of news to the public.

(2) For the purposes of subsection (1), the Tanzania Information Services shall-

- (a) provide, develop and promote the establishment and operation of facilities for the collection, processing, packaging and distribution of information, news and news materials;
- (b) undertake the collection, processing, packaging and distribution of information, news and news materials to public information services, news papers, broadcasting services, news agencies, members of the public and other persons whether in their individual capacity or in a representative capacity;
- (c) promote the establishment, development and management of facilities for the efficient dissemination of information, news and news materials;
- (d) advise the Government on matters relating to information, publication of news and the functioning of news agencies;
- (e) coordinate all Government Communications in the Ministries, Local Government Authorities, Independent Departments and Agencies; and
- (f) carry out such other activities associated with the collection, processing, packaging of information and distribution of news or news materials as the Minister may from time to time direct.

PART VI
MEDIA SERVICES FUND

Media Services

26.-(1) There shall be a Media Services Fund.

- Fund
- (2) The Media Services Fund shall be administered by the Board.
- (3) The objective of the Media Services Fund shall be to-
- (a) promote local content development;
 - (b) encourage professionalism in the media industry; and
 - (c) promote and contribute towards research and development in the field of information and mass media.

- Sources of funds
- 27.** The sources of funds of the Media Services Fund shall consist of:
- (a) money appropriated by the parliament;
 - (b) grants, gifts and donations;
 - (c) fees paid for services rendered by the Council; and
 - (d) money that may, in any manner become payable to or vest in the Board in pursuance of the provisions of this Act or in relation or incidental to the carrying out of its functions.

- Accounts and audit
- 28.**(1) The Authority shall open and maintain account of the Media Services Fund into which shall be kept monies appropriated, received or otherwise accrued to the Media Service Fund.
- (2) The Authority shall keep proper books of accounts and other records relating to the accounts of the fund.
- (3) The Authority shall, within six months after the expiry of financial year, submit to the minister a financial report of the fund including the audit report.

PART VII DEFAMATION

- Defamation
- 29.**(1) Any matter which, if published, is likely to injure the reputation of any person by exposing him to hatred, contempt or ridicule, or likely to damage any person in his profession or trade by an injury to his reputation, is a defamatory matter.
- (2) The matter referred to under subsection (1) shall qualify to be a defamatory matter even when it is published against a deceased person.

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

(4) 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, commits an offence of libel.

Libel

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

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

(3) For the purpose of subsection (2), it shall be sufficient that such meaning and its application to the person alleged to be defamed 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.

Definition of unlawful publication

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

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

Cases in which publication is absolutely privileged

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

- (a) the matter is published by the President, the Government or the National Assembly in any official document or legal

proceedings;

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

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

(3) Nothing in this section shall exempt any person from any liability of a civil or criminal nature under any other Part of this Act or under any other written law if the publication of a matter alleged to be absolutely privileged is prohibited or the relief to a person injured is available under the Constitution of the United Republic.

Cases in which publication is conditionally privileged

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

the occasion, and in any of the following cases, namely:

- (a) the matter published, is in fact, a fair report of anything said, done or shown in a civil or criminal inquiry or proceedings before any court, if however the court prohibited the publication of anything said or shown before it, on the ground that it is seditious, immoral or blasphemous, the publication shall not be privileged;
- (b) the matter published, is a copy or, reproduction, or is in fact, a fair abstract of any matter which was previously published, and the previous publication of which was or would have been privileged under this Part;
- (c) the matter is an expression of opinion in good faith as to the conduct of any person in a judicial, official or other public capacity, or as to his personal character so far as it appears in such conduct;
- (d) the matter is an expression of opinion in good faith as to the conduct of a person in relation to a public question or matter, or as to his personal character, so far as it appears in such conduct;
- (e) the matter is an expression of opinion in good faith as to the conduct of any person disclosed by evidence given in a public legal proceedings, whether civil or criminal, as to the conduct of any person as a party, witness or otherwise in any such proceedings, or as to the character of any person so far as it appears in any such conduct as in this paragraph;
- (f) the matter is an expression of opinion in good faith as to the merits of any book, writing, painting, speech or other work, performance or act published or publicly done or made or submitted by a person to the judgment of the public, or as to the character of the person so far as it appears;
- (g) the matter is a censure passed by a person in good faith on the conduct of another person in any matter in respect of which he has authority, by contract or otherwise, over the person, or on the character of the other person, so far as it

appears in such conduct;

- (h) the matter is a complaint or accusation made by a person in good faith against another person in respect of his conduct in any matter, or in respect of his character so far as it appears in such conduct, to any person having authority, by contract or otherwise, over that other person in respect of such conduct or matter, or having authority by law to inquire into or receive complaints respecting such conduct or matter; or
- (i) the matter is published in good faith for the protection of the rights or interests of the person who publishes or of the person to whom it is published.

Offer of amends

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

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

(2) An offer of amends made pursuant to this section, shall be

accompanied by an affidavit specifying the facts relied upon by the person making it to show that the words in question were published innocently in relation to the party aggrieved.

(3) For the purpose of a defense under paragraph (b) of subsection (1), no evidence, other than evidence of facts specified in the affidavit, shall be admissible on behalf of the person making the offer of amends to prove that the words were so published.

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

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

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

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

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

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

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

aggrieved, make an order for the payment of the costs and expenses as court finds just and appropriate.

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

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

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

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

Redress for
defamation

35.-(1) Where a person alleges that a print or electronic media content is defamatory within the meaning of this Act, that person may make complaint to the Board for redress.

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

(3) On receipt of the complaint the Board shall hear the complaint and where appropriate, summon the parties to substantiate their case or defence.

(4) The Board shall determine the complaint as soon as practical following which it shall prepare and submit a report to the

Board.

(5) A person who is aggrieved by the determination of the Board may appeal to the court.

PART VIII
OFFENCES

Offences relating
to media services

36. Any person who makes use by any means, of a media service for the purposes of publishing-

- (a) information which is intentionally or recklessly falsified in a manner which:
 - (i) threatens the interests of defence, public safety, public order, the economic interests of the United Republic, public morality or public health; or
 - (ii) is injurious to the reputation, rights and freedoms of other persons;
- (b) information which is maliciously or fraudulently fabricated; or
- (c) any statement the contents of which is-
 - (i) threatening the interests of defence, public safety, public order, the economic interests of the State, public morality or public health; or
 - (ii) injurious to the reputation, rights and freedoms of other persons;
- (d) knowingly that the statement to be false or without reasonable grounds for believing it to be true;
- (e) recklessly, or with malicious or fraudulent intent, representing the statement as a true statement;
- (f) operates media outlet without registration;
- (g) practices journalism without accreditation;
- (h) disseminates false information without justification;
- (i) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;
- (j) prohibited information,

commits an offence and upon conviction, shall be liable to a fine of not less than twenty million or to imprisonment for a period not less than

five years or to both.

Offences in
relation to
publication

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

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

Seditious
intention

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

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

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

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

(3) In determining whether the intention for which an act was done, any word spoken or any document published, was or was not

Cap 2

sedition, every person shall be deemed to intend the consequences which would naturally follow from his conduct at the time and in the circumstances in which he conduct himself.

Seditious offences

39.-(1) Any person who:

- (a) does or attempts to do or makes any preparation to do, or conspires with any person to do, any act or omission with a seditious intention;
- (b) utters any words with a seditious intention;
- (c) prints, publishes, sells, offers for sale, distributes or reproduces any seditious publication;
- (d) imports any seditious publication,

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

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

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

(4) 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

seeditious publication.

(5) When any person is convicted of printing or reproducing a seeditious publication, the court may, in addition to any other penalty which the court may impose, order that the printing machine on which the publication was printed or reproduced be, either confiscated for a period of not less than twelve months, or forfeited to the Government of the United Republic, and may make such order whether or not the person convicted is, or was at the time when the publication was printed or reproduced, the owner of the printing machine.

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

(7) When the proprietor, publisher, printer or editor of a newspaper is convicted of printing or publishing a seeditious 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 (5), make an order prohibiting any further publication of the newspaper for a period of not less than twelve months.

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

(9) In any case in which a printing machine is secured or confiscated, 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.

(10) The Inspector-General of Police shall not, while exercising powers conferred by this section, be liable for any damage caused to a printing machine not being damage willfully caused.

(11) Any person who uses or attempts to use a printing machine secured or confiscated pursuant to subsection (4) commits of an offence, and shall be liable upon conviction, to a fine of not less than fifteen million shillings or to imprisonment for a term of not less than three years or to both.

(12) Any person who prints or publishes a newspaper in

contravention of an order made under subsection (6) commits an offence, and shall be liable upon conviction, to a fine of not less than five million or to imprisonment for a term of not less than three years or to both.

Publication likely to cause fear and alarm

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

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

Offences by corporations or societies

41.-(1) Where an offence under this Act is committed by a company or a body corporate, a society, an association or a body of persons, every person who, at the time of the commission of the offence, was concerned as a director or an officer with the management of the affairs or activities of such company or a body corporate, a society, an association or a body of persons, commits an offence and shall be liable upon conviction to a fine of not less than fifteen million shillings.

(2) It shall be a defence for such person, director or any officer to prove to the satisfaction of the court that he had no knowledge and could not, by the exercise of reasonable diligence, have had knowledge of the commission of the offence.

Liability of employer or principal

42. Where an offence under this Act is committed by a person as an agent or employee then, as well as the agent or employee, the principal or employer commits an offence and shall be liable on conviction to a fine of not less than fifteen million shillings unless he proves to the satisfaction of the court that he had no knowledge, and could not by the exercise of reasonable diligence have had knowledge of the commission of the offence.

PART IX
GENERAL PROVISIONS

Powers to prohibit importation of publication

43. Where the Board is of the opinion that the importation of any publication would be contrary to the public interest, it may, in its absolute discretion and by order published in the *Gazette*, prohibit the importation of such publication.

Power of seizure

44. The Director of Media Services, police officer or any authorized officer may, if he has reasonable grounds to believe that a media house has been established, installed, maintained, operated or provided in contravention of this Act, may seize any equipment found therein which appears to be used or had been used for such purpose.

Service of process and notices

45.-(1) Where any order or direction is made or given by the Board under this Act is not required to be published in the *Gazette*, the order or direction shall be brought to the notice of persons affected or likely to be affected by it in any manner determined by the Minister or the Board as the case may be.

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

Risk insurance

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

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

Accessibility of media service by persons with impaired sight or hearing

47.-(1) Any media service providers who transmit audiovisual content shall ensure that his services are accessible by persons with impaired sight and hearing and those who have developmental imbalances.

(2) In ensuring accessibility to his services, the content provider shall make available sign language, subtitling and verbal descriptions.

Obstructing of

48.-(1) A person who-

member of the Council

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

(2) A person convicted of an offence under this section shall be liable to a fine of three million shillings or to imprisonment for a term of one year, or both.

(3) A person convicted of an offence under this section shall be liable, for any subsequent offence, to a fine of five million shillings or to imprisonment for a term of three years.

Regulations

49. The Minister may make regulations for the better carrying out of the purposes of the provisions of this Act.

Repeals
Caps.229
and 149

50. The Newspapers Act and the Tanzania News Agency Act are hereby repealed.

Transitional provisions

51.-(1) Notwithstanding the operation of this Act in relation to the relevant sectors, any press card or certificate granted prior to the commencement of this Act in relation to the production, distribution or supply of media services shall remain in operation until it is revoked, annulled or otherwise replaced.

Caps 229 and 149

(2) Notwithstanding the repeal of the Newspapers Act and the Tanzania News Agency Act all persons practising journalism without qualifications stipulated under this Act shall, within five years of the coming into operation of this Act meet the qualification provided for under this Act.

FIRST SCHEDULE

(Made under section 7)

TENURE, PROCEEDINGS AND REMUNERATION
OF MEMBERS OF THE COUNCIL

Tenure of appointment	<p>1.-(1) The Chairman and members of the Council shall be appointed for a period of three years and shall be eligible for re-appointment only for another term of three years.</p> <p>(2) The service of Chairman and members of Council shall be terminated by reason of:</p> <ul style="list-style-type: none">(a) abuse of office;(b) corruption;(c) incompetence;(d) being of unsound mind; or(e) any physical or mental incapacity that renders a person incapable of performing the duties of that office;(f) conviction of an offence involving moral turpitude; and(g) being adjudged bankrupt by a court of law. <p>(3) Any member of the Board may resign upon giving one month's notice in writing to the Minister.</p> <p>(4) Where any member is absent from three consecutive meetings of the Council without providing reasonable excuse, the Board shall advise the Minister to terminate appointment of that member and appoint another member in his place.</p>
Attendance by non-members	<p>2. The Council may invite any person to attend its meetings for the purpose of assisting the Board on its deliberations, but such person shall have no right to vote.</p>
Meetings	<p>3.-(1) Meetings of the Council shall be convened by the Chairman or, in his absence or inability to act, the Secretary, by a notice specifying the date, time and place of such meeting.</p> <p>(2) The notice will be sent to each member at his usual place of business or residence not less than five working days before the date of such meeting.</p>
Quorum	<p>4.-(1) One half of the members of the Council shall form a quorum for a meeting of the Council.</p> <p>(2) In the absence of the Chairman, the members present at a meeting of the Council shall elect one of the members to act as Chairman for that meeting.</p> <p>(3) At any meeting of the Council, a decision of the majority of the members present and voting shall be recorded as a decision of the Council, save that, a member who dissents shall be entitled to have his decision and the reasons for it to be recorded in the minutes of that meeting.</p>

Media Services Act

- Minutes **5.** Minutes of each meeting of the Council shall be recorded by the Secretary in a proper form and shall be confirmed by the Council and signed by the Chairman and the Secretary at the next following meeting of the Council.
- Notification of decisions **6.** Notification of decisions made by the Council and all other communications sent shall be signed by the Chairman or a Secretary.
- Board to regulate its procedure **7.** Subject to the provisions of this Act and to any directions given by the Minister, the Council may regulate its own procedure.
- Subcommittees **8.** The Council may establish sub-committees and appoint as members of such sub-committees, persons who are or are not members of the Council for the purposes of advising the Council on any specific matter.
- remuneration **9.** The Members of the Council shall be paid remuneration or allowances as the Minister may determine.

SECOND SCHEDULE

(Made under section 16(3))

TENURE, PROCEEDINGS AND ANY OTHER MATTER RELATED TO THE BOARD

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

Decision of Board

6.-(1) Any matter proposed at the meeting of the Board shall be decided by a majority of the votes of the members present and voting and in the event of an equality of votes, the person presiding shall have a casting vote in addition to his normal or deliberative vote.

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

The Board to confirm minutes of its meetings

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

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

Vacancies etc. not to invalidate proceedings

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

Orders, directions etc.

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

- (a) the Chairman;
- (b) the Director of Information Services or other officer of the Board appointed in writing in that behalf.

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

OBJECTS AND REASONS

This Bill proposes to enact the Media Services Act with a view of putting into existence the legal framework for promoting professionalism in media section, providing for coordinated responsibilities among the regulators and any other matters.

The Bill is divided into nine parts. Part one deals with preliminary provision whereby provisions on short title and commencement, application and interpretation are contained.

Part two deals with Media Services Board and it contains the provisions on establishment of the Board, functions of the Board, powers of the Board, tenure, proceedings and remuneration of members, Director of Media Services, the procedures for licensing and complaint procedure.

Part three deals with media houses and institutions whereby the provisions on type of media houses and ownership, obligations of media houses, accreditation of journalists, press card and roll of journalist are contained.

Part four deals with accreditation of journalists and it contained provisions of accreditation of journalists, press and roll of journalists.

Part five deals with Tanzania Information Services and it contains provisions on Tanzania information services and functions of Tanzania information services.

Part six deals with Media Services Fund whereby Media Services Fund and sources of funds are provided.

Part seven deals with defamation and it contains the provisions on defamation, definition of unlawful publication, cases in which publication is

absolutely privileged; cases in which publication is conditionally privileged, offer of amends and redress of defamation.

Part eight deals with offences and it provides for offences relating to media services, offences in relation to publication, seditious intention, seditious offences, publication likely to cause fear and alarm, offences by corporation or societies and liability of employer or principal.

Part nine deals with general provision whereby provisions on powers to prohibit importation of publication, power of seizure, service of process and notice, risk insurance, Regulations, repeals and transitional are contained.

Dar es Salaam,
2nd February, 2015

FENELLA E. MUKANGARA
Minister for Information, Youth, Culture and Sport

SHERIA YA VYOMBO VYA HABARI YA MWAKA, 2015

MPANGILIO WA VIFUNGU

Kifungu

Jina

SEHEMU YA KWANZA
MASHARTI YA AWALI

1. Jina na tarehe ya kuanza kutumika.
2. Matumizi.
3. Tafsiri.

SEHEMU YA PILI
BARAZA LA HUDUMA ZA HABARI

4. Uanzishwaji wa Baraza.
5. Majukumu ya Baraza.
6. Mamlaka ya Baraza.
7. Muda, mwenendo na masilahi ya wajumbe wa Baraza.
8. Mkurugenzi wa Huduma za Habari.
9. Leseni.
10. Kukataa maombi yasiyokidhi vigezo.
11. Ufutaji leseni.
12. Utaratibu wa malalamiko.

SEHEMU YA TATU
VYOMBO VYA HABARI NA TAASISI

13. Aina ya Vyombo vya Habari na Umiliki.
14. Majukumu ya Vyombo vya Habari

SEHEMU YA NNE
ITHIBATI KWA WANAHABARI

15. Bodi ya ithibati kwa Wanahabari.
16. Muundo wa Bodi.
17. Majukumu ya Bodi.
18. Mamlaka ya Bodi.
19. Mtendaji Mkuu wa Bodi.
20. Vyanzo vya Mapato.
21. Ithibati kwa Wanahabari.
22. Kitambulisho.
23. Orodha ya Wanahabari.

SEHEMU YA TANO
IDARA YA HABARI - MAELEZO

24. Idara ya Habari – MAELEZO.
25. Majukumu ya Idara ya Habari - MAELEZO.

SEHEMU YA SITA
MFUKO WA HUDUMA ZA HABARI

26. Mfuko wa Huduma za Habari.
27. Vyanzo vya Fedha za Mfuko.
28. Hesabu na Ukaguzi wa Mfuko.

SEHEMU YA SABA
KASHFA

29. Kashfa kwa maneno.
30. Kashfa kwa maandishi.
31. Ufafanuzi wa utangazaji usio halali.
32. Utangazaji wa mambo yenye kashfa ambayo ni halali.
33. Utangazaji wa mambo yenye kashfa si halali ila kwa Masharti Maalum.
34. Nia ya kufanya marekebisho.

35. Malalamiko dhidi ya kashfa.

SEHEMU YA NNE
MAKOSA MBALIMBALI

36. Makosa yanayohusu vyombo vya habari.
37. Makosa dhidi ya utangazaji.
38. Nia ya kuchochea uasi.
39. Makosa ya uchochezi.
40. Utangazaji wa habari za uongo za kutia hofu na woga kwa jamii.
41. Makosa yanayotendwa na Mashirika ya Vyama.
42. Dhima ya Mwajiri au mtu anayemwakilisha.

SEHEMU YA TISA
MAFUNGU YA JUMLA

43. Uwezo wa kupiga marufumu uingizaji wa machapisho.
44. Mamlaka ya kukamata.
45. Utoaji wa taarifa.
46. Bima.
47. Kanuni.
48. Kufutwa kwa sheria.
49. Masuala ya mpito.

TAARIFA

Muswada huu utakaowasilishwa Bungeni unachapishwa kwa ajili ya kutoa taarifa kwa umma ukiwa pamoja na maelezo yake ya madhumuni na sababu.

Dar es Salaam,
3 Februari, 2015

OMBENI Y. SEFUE
Katibu wa Baraza la Mawaziri

MUSWADA

wa

Sheria kwa ajili ya kuweka masharti ya kukuza na kuimarisha weledi katika tasnia ya habari, kuweka mfumo wa kitaasisi wa kusimamia utoaji na usambazaji wa habari; kuanzisha Mfuko wa Huduma za Habari na mambo mengine yanayohusiana na hayo.

IMETUNGWA na Bunge la Jamhuri ya Muungano wa Tanzania.

**SEHEMU YA KWANZA
MASHARTI YA AWALI**

Jina na tarehe ya
kuanza kutumika

1. Sheria hii itaitwa Sheria ya Huduma za Habari ya mwaka, 2015 na itanza kutumika siku ambayo, waziri kwa tangazo litakalochapishwa kwenye Gazeti, ataiteua.

Matumizi

2. Sheria hii itatumika Tanzania Bara.

Tafsiri

3. Katika sheria hii, isipokuwa pale muktadha utahitaji vinginevyo:
“afisa habari” maana yake ni mtu aliyeko kwenye taasisi mwenye majukumu ya kukusanya, kutunza, kutoa na kusambaza habari

- kwa umma au vyombo vya habari;
- “Bodi” maana yake ni Bodi iliyoanzishwa chini ya kifungu cha 4;
- “chapisho” maana yake ni utoaji wa maneno au picha kwenye mfumo unaonekana;
- “cheti” maana yake ni cheti kilichotolewa chini ya sheria hii;
- “chombo binafsi cha habari” maana yake ni chombo cha habari kinachomilikiwa na kuendeshwa na mtu binafsi;
- “chombo cha habari” maana yake ni mtu yeyote wa kisheria anayejihusisha na huduma ya habari;
- “chombo cha habari za kielektroniki” maana yake ni mawasilisho ya maudhui yoyote kwa umma kwa njia ya televisheni, radio, video, sinema au njia nyingine yoyote ya kielektroniki;
- “chombo cha habari cha umma” maana yake ni chombo cha habari kinachomiikiwa na Serikali;
- “habari” maana yake ni ukweli au elimu inayotolewa au kufunzwa;
- “huduma ya utangazaji” maana yake ni huduma ya mawasiliano ya radio ambapo utumaji wa habari unahitajika kwa ajili ya kupokewa na umma kwa ujumla wake;
- “huduma ya habari” inajumuisha huduma yoyote ya habari inayopitisha taarifa ambayo inajumuisha upitishaji wa sauti, picha au ujumbe wa maandishi kwa kiwango fulani cha watu, na kinajumuisha wakala wa matangazo au wachapishaji;
- “huduma za vyombo vya habari” maana yake ni, ila haikemei kwenye utangazaji wa radio na luninga, uchapishaji wa magazeti, huduma ya intaneti au teknolojia yoyote inayoendana na intaneti;
- “kampuni ya kigeni” maana yake ni kampuni iliyosajiliwa nje ya Jamhuri ya Muungano wa Tanzania au ambayo wanahisa wake wengi ni raia wa kigeni;
- “kitambulisho” maana yake ni kitambulisho kilichotolewa chini ya sheria hii;
- “kituo cha utangazaji” maana yake ni maeneo yanayotumika kwa ajili ya kutoa huduma ya utangazaji kwa kutumia au bila kutumia transmita, vifaa na chombo kinachohitajika kwa ajili ya kuunganishwa navyo;
- “kuchapisha” maana yake ni usambazaji wa maudhui kwa mtu au watu;

- “mamlaka” maana yake ni Mamlaka ya Mawasiliano Tanzania;
- “maslahi ya umma” kuhusiana na usalama wa taifa, maana yake ni jambo lolote au kitendo ambacho kinaweza kuhatarisha usalama na ulinzi wa nchi;
- “machapisho” maana yake ni magazeti, jarida na vipeperushi;
- “maudhui” maana yake ni taarifa zilizopo kwenye hotuba au aina zingine za sauti, data, ujumbe wa maandishi au picha, iwe picha ya mgando na picha ya jongefu;
- “mitandao ya kijamii” maana yake ni mawasiliano miongoni mwa watu kwa njia ya mtandao ambayo yameanzishwa na watu hao kwa ajili ya kubadilisha habari na taarifa katika ulimwengu wao.
- “mtangazaji” maana yake ni mtu ambaye amepewa leseni chini ya sheria hii kwa ajili ya kutoa huduma za utangazaji;
- “mchapishaji” maana yake ni mtu anayechapisha maudhui;
- “mwenyekiti” maana yake ni mwenyekiti wa Bodi ya Huduma za Habari;
- “Mkurugenzi wa Huduma za Habari” maana yake ni mtu yeyote aliyeteuliwa kuwa Mkurugenzi kwa mujibu wa kifungu cha 8;
- “mhariri” maana yake ni mtu ambaye ni msimamizi wa utoaji wa vipindi katika vituo vya radio au televisehni, utoaji wa magazeti au huduma za mtandao kwa ajili ya matumizi ya umma;
- “njia” maana yake ni njia ya mawasiliano ambayo kwayo habari, burudani, elimu, data au ujumbe wa kuhamasisha, unasabazwa kupitia radio, luninga, magazeti, intaneti na teknolojia yoyote inayohusiana na hiyo;
- “raia wa kigeni” maana yake ni mtu yeyote ambaye si raia wa Jamhuri ya Muungano wa Tanzania;
- “mwandishi huru” maana yake ni mwandishi wa habari aliyesajiliwa chini ya sheria afanyaye kazi binafsi kwa ajili ya chombo cha habari;
- “mwanahabari” maana yake ni mtu yeyote wa kisheria anayejihusisha na huduma ya habari;
- “mwandishi wa habari” maana yake ni mtu aliyesajiliwa kama mwandishi wa habari chini ya sheria hii anayekusanya, anayehariri, kuandaa na kutangaza habari, makala awe ameajiriwa na chombo cha habari au mwandishi huru.

- “utangazaji” maana yake ni mawasiliano yoyote yenye maudhui kupitia sauti, picha jongefu, chapisho au kitabu cha kielektroniki;
“Waziri” maana yake ni waziri mwenye dhamana na habari;
“wakala wa habari” maana yake ni chombo kinakusanyana kusambaza habari na picha kwa ajili ya matumizi ya vyombo vya habari;

SEHEMU YA PILI
BARAZA LA HUDUMA ZA HABARI

Uanzishaji wa
Baraza

4.-(1) Linaanzishwa Baraza ndani ya Mamlaka litakalofahamika kama Baraza la Huduma za Habari.

(2) Baraza itaundwa na Mwenyekiti ambaye atateuliwa na Rais pamoja na wajumbe wengine sita watakaoteuliwa na Waziri kama ifuatavyo:

- (a) mjumbe mmoja wa bodi ya Mamlaka ambaye atakuwa makamu mwenyekiti;
- (b) mwakilishi mmoja wa taasisi za elimu ya juu inavyotoa mafunzo ya taaluma ya habari;
- (c) mwandishi wa habari mmoja aliyesajiliwa ambaye si mmiliki wa chombo cha habari atakayewakilisha waandishi wa habari wa magazeti;
- (d) mtu mmoja atakayewakilisha tasnia ya utangazaji;
- (e) Mkurugenzi wa Huduma za Habari; na
- (f) afisa sheria anayewakilisha Ofisi ya Mwanasheria Mkuu wa Serikali.

(3) Mtu yeyote aliyeteuliwa kuwa mjumbe wa Baraza atalazimika, kabla ya kuanza kutumikia nafasi hiyo, kula kiapo mbele ya Jaji wa Mahakama kuu kwamba:

- (a) atatetea uwazi, uhuru wa maoni, usawa na uwajibikaji; na
- (b) atatunza na kutetea Katiba na Sheria nyingine.

(4) Mtu atakuwa na sifa za kuteuliwa kuwa Mwenyekiti au Mjumbe wa Baraza ikiwa mtu huyo-

- (a) ni raia wa Tanzania;
- (b) ana shahada kutoka Chuo Kikuu kinachotambuliwa Tanzania;
- (c) angalau ana weledi miaka kumi kwa upande wa Mwenyekiti

au miaka saba kwa upande wa mjumbe wa Baraza katika masuala yanayohusu taaluma zifuatazo-

- (i) sheria;
- (ii) uandishi wa habari;
- (iii) jinsia na haki za binadamu;
- (iv) mahusiano ya jamii;
- (v) teknolojia ya habari; na
- (vi) sayansi ya jamii.

Majukumu ya Baraza

5. Majukumu ya Baraza yatakuwa:

- (a) kufuatilia maudhui katika radio na televisheni;
- (b) kufuatilia maudhui katika mitandao ya kijamii;
- (c) kufuatilia maudhui katika habari na machapisho ili yaendne na masharti ya leseni na maadili ya taaluma; na
- (d) kuchambua maudhui ya habari za kielektroniki na machapisho;
- (e) kusajili magazeti;
- (f) kusajili vyombo vya Utangazaji vinavyotoa huduma ya maudhui;
- (g) kusimamia kazi za vyombo vya habari;
- (h) kusajili mitandao ya kijamii na Mashirika ya habari;
- (i) kutunza daftari la orodha ya magazeti na watoaji wa huduma za maudhui;
- (j) kutoa ushauri au kusaidia uundwaji, upangaji, kupanda na uendeshaji wa vyombo vya habari;
- (k) kusimamia maudhui;
- (l) kutoa maelekezo kwa vyombo vya habari;
- (m) kukagua vyombo vya habari;
- (n) kutekeleza kanuni za maadili za vyombo vya habari; na
- (o) kufanya kazi au jukumu lolote atakalopangiwa na Waziri.

Mamlaka ya Baraza

6.-(1) Baraza litakapokuwa linatekeleza majukumu yake, itakuwa na mamlaka ya:

- (a) kuamuru uchunguzi kuhusu mgogoro wowote;
- (b) kuonya, kumsimamisha au kumfutia usajili mtoa maudhui kama kuna ukiukaji wa sheria;

- (c) kutoa leseni;
- (d) kukataa maombi ya leseni;
- (e) kufuta au kusitisha leseni; na
- (f) kuweka faini.

(2) Baraza litaomba idhini kwa Waziri katika kutekeleza mamlaka yake yalioainishwa katika kifungu cha (1)(c) na (e).

(3) Baraza atapendekeza kwa Waziri viwango na tozo ambazo zinaweza kutozwa chini ya sheria hii na waziri atatangaza viwango na tozo hizo kwenye *Gazeti*.

Muda,
mwenendo na
maslahi ya
wajumbe

7. Mwenendo, muda, maslahi na taratibu za kuondolewa kwenye ujumbe wa Baraza, utakuwa kama ulivyobainishwa kwenye Jedwali la Sheria hii.

Mkurugenzi wa
Huduma za
Habari

8.-(1) Kutakuwepo na Mkuruenzi wa Huduma za Habari ambaye atateuliwa na Waziri kutoka miongoni mwa watumishi wa Umma waandamizi.

(2) Mkurugenzi wa Huduma za Habari atakuwa katibu wa Baraza na atawajibika katika utendaji wa kila siku wa kazi za Baraza.

Utoaji leseni

9.-(1) Mtu yeyote hatatoa huduma ya habari mpaka awe amepewa leseni kwa mujibu wa sheria hii.

(2) Waziri, kwa kanuni, atabainisha mahitaji na utaratibu wa utoaji leseni kwa mtu mwenye nia ya kutoa huduma za habari.

Kukataa maombi
yasiyokidhi
vigezo

10.-(1) Baraza la Huduma za Habari linaweza kukataa maombi yoyote ambayo hayakidhi vigezo vilivyobainishwa kwa ajili ya uombaji leseni.

(2) Pale ambapo Baraza la Huduma za Habari limekataa maombi chini ya kifungu kidogo cha (1), litalazimika, ndani ya siku kumi na nne, kumtaarifu mleta maombi sababu za kukataa maombi yake.

Ufutaji wa leseni

11. Pale ambapo mtoa huduma ya maudhui mwenye leseni anaposhindwa kuzingatia masharti ya leseni, Baraza inaweza kusimamisha au kufuta leseni yake.

Utaratibu wa malalamiko

12.-(1) Mtu yeyote ambaye hataridhika an mwenendo wa mtoa maudhui kuwasilisha malalamiko kwa Baraza.

(2) Baraza itazingatia kanuni ya haki ya sili na taratibu zilizobainishwa kwenye kanuni wakati wa kuzingatia na kutoa maamuzi kuhusu lalamiko lolote.

(3) Mtu yeyote ambaye hajaridhika na uamuzi wa Baraza anaweza, ndani ya siku kumi na nne, kukata rufaa kwenye Baraza la Ushindani.

SEHEMU YA TATU
VYOMBO VYA HABARI NA TAASISI

Aina ya Vyombo vya Habari na Umiliki

13.-(1) Kutakuwa na aina mbili za Vyombo vya Habari ambavyo ni:-

(a) Vyombo vya Habari vya Umma.

(b) Vyombo vya Habari Binafsi

(2) Hakuna mtu atakayeruhusiwa kumiliki Chombo cha Habari Binafsi kwa namna ambavyo atahodhi sehemu kubwa ya Soko la Taifa.

(3) Masharti ya Umiliki wa Vyombo vya Habari yatakuwa kama itakavyoelezwa katika Kanuni za Sheria hii.

(4) Haki ya kumiliki Chombo cha Habari ni ya Raia wa Tanzania.

(5) Kampuni ya Kigeni inaweza kumiliki Chombo cha Habari kwa Masharti kwamba umiliki wa hisa hautazidi asilimia arobaini na tisa.

Majukumu ya Vyombo vya Habari

14. Chombo cha Habari kitakuwa na majukumu yafuatayo:-

(a) kwa chombo cha Habari cha Umma;

(i) kutoa huduma ya habari kwa wote;

(ii) kutoa huduma za habari kwa Umma na Serikali,

(iii) kuzingatia Maadili na Kanuni za Kitaaluma,

(iv) kuimarisha mawasiliano ya Serikali pamoja na mawasiliano ya Serikali na Umma,

(v) kuujulisha Umma kuhusu masuala ya Maendeleo yanayofanywa na Serikali pamoja na Sekta ya

Umma.

- (b) kwa chombo cha Habari Binafsi;
 - (i) kutoa huduma za habari kwa Umma kwa kuzingatia masharti ya maeneo ya Kijiografia kwa mujibu wa Sheria hii.
 - (ii) kuzingatia Maadili na Kanuni za Kitaaluma;
 - (iii) kukuza uelewa kwa Umma katika masuala yenye manufaa kwa Taifa kupitia usambazaji wa habari;
 - (iv) kujiunga na Chombo cha Habari cha Umma kwa ajili ya taarifa za habari za kila siku saa mbili usiku ili kuuwezesha Umma kufuatilia masuala muhimu ya kitaifa.

SEHEMU YA NNE
ITHIBATI KWA WANAHABARI

Bodi ya Ithibati
ya Wanahabari

15.-(1) Kunaundwa Bodi itakayojulikana kama Bodi ya Ithibati ya Wanahabari.

- (2) Bodi itakuwa ni chombo na -
 - (a) kwa jina lake kwua na uwezo wa kushtaki na kushtakiwa;
 - (b) kuwa na uwezo wa kumiliki mali zinazohamishika na zisizohamishika.

Muundo wa
Bodi

16.-(1) Bodi itakuwa na wajumbe saba watakaoteulwia na Waziri kama ifuatavyo:

- (a) Mwenyekiti;
 - (b) Mjumbe mmoja anayewakilisha vyuo vya elimu ya juu vinavyofundisha uandishi wa habari, Mawasiliano ya Umma au Elimu inayohusiana na masuala ya habari;
 - (c) Mkurugenzi wa Idara ya Habari – MAELEZO;
 - (d) Waandishi wa habari wawili walioboea katika masuala ya habari;
 - (e) Wakili wa Serikali anayewakilisha Ofisi ya Mwanasheria Mkuu wa Serikali; na
 - (f) Mkurugenzi wa Huduma za Habari.
- (2) Bodi inaweza, pale itakapoona inafaa kumwalika mtu yeyote

ambaye ana utaalum na ujuzi mahususi kwa ajili ya jambo mahususi, isipokuwa mwalikwa huyo hatakuwa na haki ya kupiga kura.

(3) Vifungu vya Jedwali la Pili la Sheria hii vitatoa masharti kuhusu muda wa madaraka wa wajumbe wa Bodi mwenendo wa Bodi na masuala mengine yanayohusiana na Bodi.

Majukumu ya Bodi

17. Majukumu ya Bodi yatakuwa-

- (a) Kusimamia viwango na mienendo ya kitaalum na kuendeleza vigezo vizuri vya maadili na nidhamu miongoni mwa Wanahabari;
- (b) Kusimamia Kanuni za Maadili ya Wanahabari;
- (c) Kushauri katika mambo yanayohusiana na elimu na mafunzo ya Wanahabari;
- (d) Kutoa vitambulisho lwa Wanahabari wenye Ithibati.
- (e) Kuanzisha mahusiano na taasisi nyingine nje yam chi zenye malengo yanayoanana na Bodi.

Mamlaka ya Bodi

18. Katika kutekeleza majukumu yake Bodi itakuwa na Mamlaka ya:

- (a) kutoza adhabu;
- (b) kuwaondoa wanahabari katika orodha;
- (c) kuweka viwango vya tozo;
- (d) kuidhinisha maudhui ya Mitaala na viwango kuhusiana na taaluma ya uandishi wa habari.

Mtendaji Mkuu wa Bodi

19.-(1) Kutakuwa na Mtendaji Mkuu wa Bodi atakayeteuliwa na Waziri.

(2) Mtendaji Mkuu wa Bodi atawajibika kutekeleza majukumu ya kila siku ya Bodi na atakuwa Katibu wa Bodi.

(3) Bila kuathiri masharti ya kifungu kidogo cha (1), mtu hatakuwa na sifa za kuteuliwa kuwa Mtendaji Mkuu isipokuwa kama mtu huyo-

- (a) ni raia wa Tanzania;
- (b) atakuwa na shahada kutoka Taasisi ya Elimu ya Juu inayotambulika kutokana na kisomo na uzoefu au utaalumu katika masuala ya sera ya habari na sheria, uburudishaji,

elimu, matangazo au masuala mengine yanayohusu jamii.

Vyanzo vya
Mapato ya Bodi

- 20.** Vyanzo vya Mapato ya Bodi viatakuwa -
- (a) fedha itakayoidhinishwa na Bunge;
 - (b) misaada, zawadi na michango ya wahisani;
 - (c) ada inayolipwa kutokana na huduma zinazotolewa na Baraza; na
 - (d) fedha ambayo kwa namna yoyote italipwa kwa Baraza kwa mujibu wa Sheria hii, au itakayopatikana wakati wa kutekeleza majukumu ya Bodi.

Bodi ya Ithibati
kwa Wanahabari

21.-(1) Mwanahabari yeyote ambaye hana ithibati hataruhusiwa kufanya kazi za wanahabari.

(2) Mtu mwenye nia ya kufanya kazi ya Uandishi wa Habari ni lazima aombe ithibati kwa Bodi kwa namna itakavyoelezwa katika Kanuni.

(3) Mtu atakidhi sifa za kupewa ithibati kuwa Mwanahabari ikiwa:

- (a) atakuwa na Shahada ya Uandishi wa Habari au ya Mawasiliano ya Umma au taaluma inayohusiana na masuala ya habari kutoka Chuo cha Elimu ya Juu kitachotambulika;
- (b) atakuwa na stahada ya uandishi wa habari na shahada katika fani za:
 - (i) sosholojia;
 - (ii) sheria;
 - (iii) elimu;
 - (iv) lugha;
 - (v) uchumi; na
 - (vi) shahada inayohusiana na masuala ya Sayansi ya Jamii.

(c) ametimiza masharti mengine ya ithibati.

(4) Mwanahabari asiye raia wa Jamhuri ya Muungano au asiyetambuliwa kama Mkazi wa Kudumu kwa Mujibu wa Sheria za Uhamiaji anaweza kupewa ithibati kwa sababu maalum kwa muda wa siku tisini (90).

(5) Pale ambapo ithibiti imetolewa kwa mujibu wa kifungu cha

kidogo cha (4) imeisha muda wake na madhumuni ya ithibati husika hayajakamilika, mwanahabari husika anaweza kuomba kwa Bodi kuongeza muda wa ithibati hiyo.

(6) Ithibati ya mwanahabari yeyote inaweza kufutwa endapo Bodi itabaini kwamba-

- (a) kama mwanahabari sio raia wa Tanzania, mwanahabari huyo atatekeleza lengo ambalo sio kwalo ithibati ilitolewa; na
- (b) kama mwanahabari ni raia wa Tanzania, mwanahabari ametenda kosa kubwa la kitaaluma.

Kitambulisho

22.-(1) Mtu yeyote anayefanya kazi kama mwanahabari atapewa kitambulisho na Bodi.

(2) Kitambulisho kitakuwa ni uthibitisho kuwa mmiliki ni mwanahabari mwenye ithibati, na muda wa kitambulisho utakuwa kama itakavyoelezwa katika kanuni.

(3) Mmiliki wa kitambulisho anaweza kuomba upya kitambulisho kwa kulipa ada husika ikiwa kitambulisho hicho kimeisha muda wake.

Orodha ya
Wanahabari

23.-(1) Bodi itahifadhi orodha ya wanahabari na kutoa cheti cha ithibati kwa kila mwanahabari aliyeorodheshwa.

(2) Mtu ambaye amepoteza sifa za kuwa na ithibati ya mwanahabari kwa sababu ya kuondolewa jina lake kwenye orodha au amesimamishwa kufanya kazi za wanahabari hataruhusiwa kufanya kazi ya wanahabari kwa namna yoyote ile

(3) Mwanahabari mwenye ithibati ambaye jina lake limeondolewa kwenye orodha ya Wanahabari au amesimamishwa hataruhusiwa kuajiriwa kwa namna yoyote ile katika kazi inayohusu taaluma ya habari mpaka apate kibali cha maandishi cha Bodi.

SEHEMU YA TANO
IDARA YA HABARI – MAELEZO

Idara ya Habari
MAELEZO

24.-(1) Kutakuwa na Idara, ndani ya Wizara yenye dhamana ya habari itakayoitwa Idara ya Habari - “MAELEZO”.

(2) Idara ya Habari MAELEZO itaongozwa na Mkurugenzi wa Habari.

(3) Kutaajiriwa watumishi kwa ajili ya Idara ya Habari – MAELEZO ambao watatekeleza kwa ufanisi majukumu ya Idara.

Majukumu ya
Idara ya Habari -
MAELEZO

25.-(1) Idara ya Habari - MAELEZO itafanya kazi ya kuwa Msemaji Mkuu wa Serikali katika masuala yanayohusiana na Sera za Serikali na kutoa habari kwa Umma.

(2) Kwa madhumuni ya kifungu kidogo cha (1) Idara ya Habari – MAELEZO itatekeleza majukumu yafuatayo-

(a) kutoa, kuendeleza na kukuza uanzishwaji na uendeshaji wa vifaa vya kukusanyia, kuchakata, kuhifadhi na kuisambaza habari;

(b) kukusanya, kuchakata, kufungasha na kusambaza taarifa, habari na picha kwa vyombo vya habari vya Umma, magazeti, vituo vya televisheni, mashirika ya habari na jamii kwa ujumla;

(c) kuanzisha, kuendeleza na kutunza vifaa vya kusambaza taarifa, habari na picha;

(d) kuishauri Serikali katika masuala yanayohusiana na taarifa, uchapishaji wa habari na utendaji kazi wa mashirika ya habari;

(e) kuratibu majukumu ya vitengo vya mawasiliano serikalini katika wizara, serikali za mitaa, idara zinazojitegemea na wakala za serikali; na

(f) kufanya kazi nyingine zinazohusiana na ukusanyaji, uchakataji, uhifadhi na usambazaji wa habari, na picha kama Waziri atakavyoelekeza.

SEHEMU YA SITA
MFUKO WA HUDUMA ZA HABARI

Mfuko wa
Huduma za
Habari

- 26.**-(1) Kutakuwa na Mfuko wa Huduma za Habari.
(2) Mfuko wa Huduma za Habari utaendeshwa na Bodi.
(3) Malengo ya Mfuko wa Huduma za Habari yatakuwa:-
(a) kukuza maudhui ya ndani ya nchi;
(b) kuhimiza weledi katika Tansia ya Habari; na
(c) kukuza na kuchangia utafiti na maendeleo katika nyanja za habari na Vyombo vya Habari.

Vyanzo vya
Fedha za Mfuko

- 27.** Vyanzo vya Fedha za Mfuko wa Huduma za Habari vitatokana na:
(a) fedha itakayoidhinishwa na Bunge;
(b) misaada, zawadi na michango ya wahisani;
(c) ada inayolipwa kutokana na huduma zinazotolewa na Baraza; na
(d) fedha ambayo kwa namna yoyote italipwa kwa Baraza kwa mujibu wa Sheria hii, au itakayopatikana wakati wa kutekeleza majukumu ya Bodi.

Hesabu na
Ukaguzi wa
Mfuko

- 28.**-(1) Bodi itafungua akaunti kwa ajili ya Mfuko wa Huduma za Habari ambayo itatunza fedha zinazopatikana kwa madhumuni ya Mfuko wa Huduma za Habari.
(2) Bodi itatunza Vitabu vya Hesabu za Mfuko na kumbukumbu nyingine zinazohusiana na hesabu za Mfuko.
(3) Bodi, ndani ya miezi sita baada ya mwaka wa fedha kuisha, itawasilisha kwa Waziri taarifa za fedha zilizokaguliwa.

SEHEMU YA SABA
KASHFA

Kashfa kwa
maneno

- 29.**-(1) Jambo lolote, kama likichapishwa, kutangazwa linaweza kuharibu sifa ya mtu yeyote kwa kumfanya achukiwe, adharauliwe au afanyiwe kejeli au linaloweza kumharibia mtu kazi yake

kwa kuchafua jina lake au kumvunjia heshima yake, jambo hilo litahesabika kuwa ni Kashfa.

(2) Jambo linaloelezwa katika kifungu kidogo cha (1) litakuwa suala la kashfa hata kama limechapishwa au kutangazwa dhidi ya mtu aliyefariki dunia.

(3) Mashtaka ya kashfa yanayomhusu mtu aliyefariki dunia hayawezi kufunguliwa isipokuwa kwa idhini ya Mkurugenzi wa Mashtaka.

(4) Mtu yeyote ambaye kwa kuchapisha, kuandika, kuchora kutumia kinyago au kwa njia nyingine yoyote isipokuwa kwa ishara peke yake, maneno ya mdomo au sauti nyingine kwa makusudi ya kumkashfu mtu huyo, atakuwa ametenda kosa la kashfa.

Kashfa kwa maandishi

30.-(1) Mtu atahesabika kuwa amechapisha suala la kashfa, ikiwa mtu huyo amesababisha kuchapishwa, kuandikwa, kuchorwa, kutengenezwa kinyago au kwa namna nyingine yoyote ambayo suala la kashfa limewasilishwa, limeshughulikiwa kwa maonesho, kusomwa, kunakiliwa, kuelezwa, kupokelewa au vinginevyo, kwa njia ambayo maana ya kashfa itajulikana kwa mtu aliyekashifiwa au mtu mwingine yeyote.

(2) Haitakuwa lazima kwamba uchapishaji au utangazaji wa kashfa umetolewa kwa waziwazi au kikamilifu.

(3) Kwa madhumuni ya kifungu kidogo cha (2), inatosha kama hiyo kashfa inaeleweka kuwa inamhusu huyo mtu aliyekashifiwa kutokana na maelezo ya kashfa yenyewe au kutokana na mambo mengine yasiyofungamana na hayo maelezo ya kashfa au kutokana na baadhi ya maelezo hayo na ya mambo hayo mengine.

Ufanunuzi wa utangazaji usio halali

31. Kwa madhumuni ya sehemu hii ya Sheria hii, utangazaji wa mambo yenye kashfa utahesabika kuwa si halali, isipokuwa kama:-

(a) mambo yenyewe ni ya kweli na yanatangazwa kwa manufaa ya Umma;

(b) utangazaji wa mambo hayo umehalalishwa na mojawapo ya masharti yaliyoelezwa ndani ya Sheria hii.

Utangazaji wa

32.-(1) Utangazaji wa mambo yenye kashfa utahesabika kuwa

mambo yenye
kashfa ambayo
ni halali

ni halali kabisa na hapana mtu yeyote anayeweza kuadhibiwa chini ya Sheria hii, ikiwa:-

- (a) mambo hayo yanatangazwa na Rais, Serikali au Bunge katika hati au shughuli yoyote ya kiserikali;
- (b) mambo hayo yanatangazwa katika Bunge na Rais, Serikali, Mjumbe yeyote wa Bunge au Spika;
- (c) mambo hayo yanatangazwa kwa amri ya Rais au Serikali;
- (d) mambo hayo yanatangazwa kuhusu mtu yeyote ambaye anatakiwa kufuata Sheria na Kanuni za Kikosi cha Wanamaji au kikosi kingine chochote cha Jeshi la Ulinzi la Nchi na mambo hayo yametangazwa kuhusu tabia ya mtu kama huyo na yanatangazwa na mtu yeyote aliye na mamlaka juu ya huyo Mwanajeshi kuhusu tabia hiyo;
- (e) mambo hayo yanatangazwa wakati wa kusikilizwa kwa shauri lolote Mahakamani na yanatangazwa na mtu anayeshiriki katika shauri hilo kama Jaji, Hakim, Kamishna, Wakili, Mzee wa Baraza, Shaidi au Muhusika yeyote.
- (f) Mambo hayo yanayangazwa ni taarifa ya kweli na sahihi ya jambo lolote lililosemwa, lililoundwa au lililotangazwa katika Bunge ;au
- (g) Mtu huyo anayangaza mambo hayo ana jukumu, kwa mujibu wa Sheria, la kutangaza mambo hayo.

(2) Ikiwa utangazaji wa mambo yenye kashfa unahesabika kuwa ni halali, basi kwa madhumuni ya sehemu hii ya Sheria hii, siyo muhimu kama mambo hayo ni ya kweli au ya uongo, na kama inajulikana au haijulikani au haisadikiwi kwa mambo hayo ni ya kweli au ya uongo na kama yametangazwa kwa nia safi au sivyo.

Hakuna jambo lolote katika fungu hili litakalo msalimisha mtu yeyote na jukumu la kuadhibiwa kwa mujibu wa Sheria nyingine yoyote kwa makosa ya madai au ya jinai, ikiwa utangazaji wa jambo husika umezuiliwa au unafuu wa mtu aliyeathirika umetajwa katika Katiba ya Jamhuri ya Muungano.

Utangazaji wa
mambo yenye
Kashfa si halali

33. Utangazaji wa mambo yenye kashfa utahesabika kuwa ni halali kwa masharti maalumu ikiwa mambo hayo yanatangazwa kwa

ila kwa Masharti
Maalum

nia safi na ikiwa uhusiano baina ya mtu anayetangaza na mtu anayetangaziwa mambo hayo unamfanya mtu huyo mtangazaji kuwa na jukumu la kumtangazia huyo mtu mwingine ama kwa mujibu wa Sheria au kufuatana na mila au kanuni za mwenendo bora katika jamii kwa jumla au ikiwa huyo mtangazaji anatekeleza maslahi yake yaliyo halali kwa kutangaza mambo hayo; ila kwa sharti kwamba katika hali kama hiyo huo utangazaji hauzidi mpaka kwa namna yoyote, na pia utangazaji utahesabika kuwa ni halali kwa masharti maalumu kwa mujibu wa masharti yafuatayo, yaani ikiwa;

- (a) mambo yanayotangazwa ni taarifa ya kweli na sahihi ya jambo lolote lililosemwa, lililotendwa au lililoonekana katika shauri lolote la madai au la jinai linalosikilizwa mahakamani; isipokuwa kwamba iwapo mahakama itapiga marufuku utangazaji wa jambo lolote lililosemwa au lililoonekana katika mahakama hiyo kwa sababu kwamba jambo hilo huchochea uasi, ni ovu au ni la kukufuru basi utangazaji wa jambo kama hilo hautahesabika kuwa ni halali;
- (b) mambo yanayotangazwa yametokana na nakala au muhtasari halisi wa mambo yaliyopata kutangazwa wakati uliopita, na ikiwa utangazaji wa mambo hayo wakati uliopita ulikuwa halali, kwa mujibu wa sehemu hii ya sheria hii;
- (c) mambo hayo ni maoni yaliyotolewa kwa nia safi kuhusu vitendo vya kikazi vya mtu yeyote mwenye madaraka katika shughuli za mahakama, kiofisi au majukumu ya umma, au tabia yake binafsi kwa kadri tabia hiyo inavyoonekana katika vitendo vya kikazi;
- (d) mambo hayo ni maoni yaliyotolewa kwa nia safi kuhusu vitendo vya mtu yeyote vinavyohusika na suala la jambo lolote linalohusu umma, au kuhusu tabia yake binafsi kwa kadri tabia hiyo inavyoonekana katika vitendo kama hivyo;
- (e) mambo hayo ni maoni yaliyotolewa kwa nia safi juu ya tabia ya mtu yeyote kama ilivyoonekana kwenye ushahidi uliotolewa katika shauri lolote la kisheria lililosikilizwa hadharani, kama ni shauri la madai au la jinai kuhusu tabia ya mtu yeyote ambaye katika shauri hilo anashiriki kama

- mshtaki au mshtakiwa, mdai au mdaiwa, shahidi au anashiriki kwa namna nyingine yoyote, au kuhusu tabia binafsi kwa kadri tabia hiyo inavyoonekana kwa jinsi ilivyoonekana katika fasili hii;
- (f) mambo hayo ni maoni yaliyotolewa kwa nia safi kuhusu ubora wa kitabu chochote, maandishi, picha au mchoro, hotuba au shughuli nyingineyo yoyote, maonesho au tendo lililotangazwa au kutendwa kwa hadhara au lililotendwa au kutolewa hadharani kwa ajili ya kutaka kupata maoni ya watu, au kuhusu tabia binafsi ya mtu yoyote anayehusika na lolote kati ya mambo hayo yaliyotajwa kwa kadri tabia hiyo inavyoonekana katika mambo hayo;
 - (g) mambo hayo ni lawama iliyotolewa na mtu kwa nia safi kuhusu vitendo vya mtu mwingine katika jambo lolote ambalo huyo aliyetoa lawama ana mamlaka nalo, ama kwa mujibu wa mkataba au vinginevyo na kwa kadri anavyohusika huyo aliyelaumiwa au kuhusu tabia binafsi ya mtu huyo aliyelaumiwa kwa kadri tabia hiyo inavyoonekana katika vitendo hivyo;
 - (h) mambo hayo ni malalamiko au mashtaka yaliyotolewa na mtu kwa nia safi dhidi ya mtu mwingine kuhusu vitendo vya mtu huyo mwingine katika jambo lolote, au kuhusu tabia yake binafsi kwa kadri tabia hiyo inavyoonekana katika vitendo hivyo, na ikiwa malalamiko au mashtaka hayo yametolewa mbele ya mtu ambaye ana mamlaka, ama kwa mujibu wa mkataba au vinginevyo juu ya mtu huyo aliyelaumiwa au kushtakiwa kuhusu vitendo vyake au tabia yake, au malalamiko au mashtaka hayo yametolewa mbele ya mtu ambaye kwa mujibu wa sheria ana mamlaka ya kuchunguza au kupokea malalamiko yanayohusika na vitendo au tabia kama hiyo; au
 - (i) mambo hayo yanatangazwa kwa nia safi kwa ajili ya kulinda haki au maslahi ya mtu huyo anayetangaza mambo hayo, au haki au maslahi ya mtu anayetangaziwa mambo hayo.

Nia ya kufanya
Marekebisho

34.-(1) Mtu atakayetangaza jambo linalodhaniwa ni la kashfa

kwa mtu mwingine anaweza, kama atadai kuwa jambo hili alilitangaza kwa nia safi kuhusu mtu huyo, ataonesha nia ya kufanya marekebisho kuhusu kashfa husika na katika jambo hilo; kama:

- (a) marekebisho yatakubaliwa na mtu aliyeathirika na kurekebishwa kikamilifu hakutakuwa na mashtaka ya kashfa dhidi ya mtu aliyefanya marekebisho juu ya kashfa husika, lakini bila kuathiri hatua yoyote dhidi ya mtu mwingine anayewajibika kwa pamoja na utangazaji huo;
 - (b) marekebisho hayatakubaliwa na aliyeathirika, isipokuwa imeelezwa vinginevyo na kijifungu hiki, itakuwa ni utetezi kwa mtu aliyefanya marekebisho husika katika shauri lolote la upande ulioathirika na kashfa dhidi ya mtu aliyefanya marekebisho kuhusu utangazaji wa kashfa husika kuthibitisha kwamba:
 - (i) jambo linalolalamikiwa lilitangazwa na upande wa utetezi kwa nia safi kuhusiana na mlalamikaji; au
 - (ii) Marekebisho yalifanywa mara tu baada ya upande wa utetezi kupokea taarifa kuwa kunaweza kukawa na kashfa dhidi ya mlalamikaji; na haijaondolewa.
- (2) Marekebisho yaliyofanyika kwa mujibu wa kifungu hiki yataambatanishwa na Hati ya Kiapo ikielezea hoja kwamba jambo linalohesabika kuwa ni kashfa lilitangazwa kwa nia safi kuhusiana na mlalamikaji.
- (3) Kwa madhumuni ya utetezi chini ya aya ya (b) ya kifungu kidogo cha (1), hakuna ushahidi zaidi ya hoja zilizotolewa katika hati ya kiapo, ambao utakubalika kwa niaba ya mtu aliyefanya marekebisho kuthibitisha kuwa jambo hilo lilitangazwa.
- (4) Nia ya kufanya marekebisho inayoelezwa itatafsiriwa na kueleweka kuwa-
- (a) kwa vyovyote vile, kutangaza au kuunganisha utangazaji wa usahihi wa maneno yanayolalamikiwa na kuomba radhi kikamilifu kwa mtu aliyeathirika na maneno husika;
 - (b) ambapo nakala ya nyaraka au kumbukumbu yenye maneno imesambazwa au kwa uelewa wa mtu wa anayefanya marekebisho, kuchukua hatua kwa namna ambayo inafaa kwa kuwajulisha watu ambao wamesambaziwa nakala zenye

maneno yenye kashfa dhidi ya mlalamikaji.

(5) Ambapo nia ya kufanya marekebisho imekubaliwa na mlalamikaji:-

- (a) jambo lolote katika kuchukua hatua zinazotakiwa katika kufanya marekebisho, kama zilivyokubaliwa na pande husika, ikitokea kutokubaliana na pande husika, jambo hili litaamuliwa na Mahakama ambapo uamuzi wake utakuwa wa mwisho;
- (b) mamlaka ya Mahakama kuamuru kuhusu gharama za uendeshaji wa shauri dhidi ya upande wa aliyefanya marekebisho kuhusu utangazaji husika au uendeshaji wa shauri unaohusiana na nia inayoelezwa katika fasili (a) itajumuisha mamlaka ya kumuamuru anayefanya marekebisho kumlipa mlalamikaji fidia na gharama zilizohusika au zilizotumika na mhusika kuhusiana na utangazaji husika.

(6) Ambapo hakuna mashtaka yaliyofunguliwa kwa mujibu wa kifungu kidogo cha (1) Mahakama inaweza, kutokana na maombi ya mlalamikaji kuamuru kulipa gharama kadri Mahakama itakavyoona kuwa ni halali na inafaa.

(7) Kwa madhumuni ya kifungu hiki, maneno yatachukuliwa kuwa yametangazwa na mtu, katika kifungu hiki atajulikana kama mtangazaji, kwa nia safi kuhusiana na mtu mwingine ikiwa masharti yafuatayo yatazingatiwa.

- (a) mtangazaji hakuwa na nia ya kutangaza maneno kuhusiana na mtu mwingine, na hakujua mazingira ya namna ambayo ingeeleweka na mtu mwingine;
- (b) maneno hayakuwa ya kashfa kwa kuyatazama na mtangazaji hakujua mazingira ya namna ambayo ingeeleweka na mtu mwingine kuwa ni kashfa na katika namna yoyote mtangazaji alichukua tahadhari kuhusiana na utangazaji husika;

(8) Marejeo yoyote katika kifungu kidogo cha (7) kwa mtangazaji yatafikiriwa kuhusisha mtumishi au mwakilishi wa mtangazaji aliyehusika na maudhui ya tangazo.

(9) Matakwa ya fasili (b) ya kifungu kidogo cha (1)

hayatamhusu mtangazaji wa maneno ambaye siyo mwandishi mpaka pale atakapothibitisha kuwa maneno yaliyotangazwa yaliandikwa na mwandishi bila nia ovu.

Malalamiko
dhidi ya kashfa

35.-(1) Pale mtu anapodai kuwa maudhui ya chapisho au tangazo ni ya kashfa kwa maana ya sheria hii, mtu huyo aweza kuwasilisha malalamiko yake katika Bodi kwa usuluhishi.

(2) Malalamiko yatakuwa na nakala ya chapisho au tangazo lenye maudhui yanayolalamikiwa au kama maudhui ya chapisho au tangazo hayawezi kupatikana kwa namna yoyote, maelezo ya kutopatikana kwa maudhui husika.

(3) Baada ya kupokea malalamiko, Bodi itasikiliza malalamiko husika na pale itakapona inafaa kuwaita wahusika kwa ajili kuthibitisha au kutokuthibitisha malalamiko hayo.

(4) Bodi itafanya uamuzi kuhusu malalamiko kwa haraka na litaandaa na kuwasilisha taarifa kwa Waziri.

(5) Mtu ambaye hataridhika na uamuzi wa Bodi anaweza kukata rufaa Mahakamani.

SEHEMU YA NANE MAKOSA MBALIMBALI

Makosa
yanayohusu
vyombo vya
habari

36. Mtu yeyote atakayetumia kwa namna yoyote huduma ya habari kwa madhumuni ya kutangaza-

(a) kwa makusudi au kwa uzembe habari za uongo kwa namna ambayo-

(i) zitahatarisha Ulinzi, Usalama wa Umma, Utulivu wa Umma na maslahi ya kiuchumi ya Jamhuri ya Muungano, misingi ya maadili au masuala ya afya kwa umma; au

(ii) zitaharibu sifa, haki na uhuru wa watu wengine.

(b) taarifa yenye nia ovu au ya kutungwa na ya uongo;

(c) Tamko lolote lenye maudhui ambayo:-

(i) yatahatarisha Ulinzi, Usalama wa Umma, Utulivu wa Umma na maslahi ya kiuchumi ya nchi, misingi ya maadili au masuala ya afya kwa umma; au

- (ii) yataharibu sifa, haki na uhuru wa watu wengine.
- (d) kwa kujua kuwa tamko ni la uongo na bila sababu za kuamini kuwa ni kweli;
- (e) kwa uzembe au kwa nia ovu au kwa uongo kuwasilisha tamko kama tamko la kweli;
- (f) kutumia Chombo cha Habari bila kusajili;
- (g) bila kuwa na ithibati;
- (h) kwa kusambaza taarifa za uongo isivyo halali:
 - (i) kwa kuchapisha, kuuza, kuonyesha nia ya kuuza, kusambaza au kudurufu taarifa za uchochezi;
 - (ii) kwa kuwa na habari zilizokatazwa.

atakuwa ametenda kosa na akipatikana na hatia mbele ya Mahakama atapaswa kuadhibiwa kwa kutozwa faini isiyopungua shilingi milioni ishirini au kufungwa gerezani kwa muda sio chini ya miaka mitano au kupewa adhabu zote mbili pamoja.

Makosa dhidi ya utangazaji

37.-(1) Mtu yeyote atakayeingiza nchini, atakayetangaza, atakayeza, atakayegawa au atakayetengeneza tangazo lolote ambalo uingizaji wake umepigwa marufuku atakuwa ametenda kosa na akipatikana na hatia mbele ya Mahakama atapaswa kuadhibiwa, kwa kosa la kwanza faini isiyopungua shilingi milioni tano au kifungo kisichopungua miaka mitatu au vyote kwa pamoja na kwa kosa jingine lolote milioni nane au kufungwa gerezani muda usiopungua miaka mitano.

(2) Mahakama inaweza kuamuru kutaifishwa kwa tangazo au sehemu inayohusika na utendaji wa kosa.

Nia ya kuchochea uasi

- 38.-(1)** Nia ya kuchochea uasi ni nia ya:
- (a) kuchochea chuki au ufidhuli au uasi dhidi ya Jamhuri ya Muungano au Serikali yake;
 - (b) kuchochea wakazi wote wa Jamhuri ya Muungano kujaribu kuleta mapinduzi ya kijambazi ya jambo lolote katika Jamhuri ya Muungano liliowekwa kwa Mujibu wa Sheria;
 - (c) kuchochea chuki au ufidhuli au uasi dhidi ya utekelezaji wa haki katika Jamhuri ya Muungano;
 - (d) kuchochea manung'uniko na chuki au uasi miongoni mwa

- wakazi wa Jamhuri ya Muungano; au
- (e) Kuchochea uhasama baina ya vikundi mbalimbali vya wakazi wa Jamhuri ya Muungano.
- (2) Kitendo, hotuba au tangazo halitahesabika kuwa ni la kuchochea uasi ikiwa lengo lake ni-
- (a) kuonyesha kwamba Serikali imepotoshwa au imekosea katika shughuli yake yoyote; au
- (b) kuonyesha makosa au hitilafu katika Serikali au Katiba ya Jamhuri ya Muungano au katika Sheria za nchi au katika utekelezaji wa haki, kwa madhumuni ya kusahihisha au kurekebisha makosa hayo au hitilafu hizo.
- (3) Katika kufikiria kama jambo lolote lilitendwa, maneno yoyote yalitamkwa au hati yoyote iliyochapishwa na kutangazwa kwa nia ya kuchochea uasi, kila mtu atahesabika kuwa ana jukumu kamili juu ya matokeo yote ya vitendo vyake vyote vya makusudi.

Makosa ya
uchochezi

- 39.-(1) Mtu yeyote ambaye-**
- (a) atatenda au kujaribu kutenda, au atatayarisha kutenda, au atakula njama na mtu yeyote kutenda jambo lolote kwa nia ya kuchochea uasi;
- (b) atatamka maneno yoyote kwa nia ya kuchochea uasi;
- (c) atachapisha, kutoa, kuuza, kuchuuza, kugawa au kutengeneza nakala ya tangazo linalochochea uasi;
- (d) ataingiza nchini tangazo la uchochezi isipokuwa kama hana sababu ya kuamini kwamba tangazo hilo linachochea uasi; atakuwa ametenda kosa na akipatikana na hatia mbele ya Mahakama atapaswa kuadhibiwa kwa kosa la kwanza kutozwa faini sio chini ya shilingi Milioni tano au kufungwa gerezeni kwa muda usiopungua miaka mitatu au kupewa adhabu zote mbili pamoja, na kwa kosa jingine lolote kutozwa faini isiyopungua shilingi Milioni saba au kufungwa gerezeni kwa muda usiopungua miaka mitano au kupewa adhabu zote mbili pamoja.
- (2) Mtu yeyote bila kuwa na sababu inayokubalika kisheria, atakuwa na tangazo linalochochea uasi; atakuwa ametenda kosa na akipatikana na hatia mbele ya Mahakama atapaswa kuadhibiwa kwa

kosa la kwanza kwa kutozwa faini isiyopungua shilingi Milioni mbili au kufungwa gerezani kwa muda wa miaka miwili au kupewa adhabu zote mbili pamoja, na kwa kosa jingine lolote kwa kutozwa faini isiyopungua Shilingi Milioni tatu au kufungwa gerezani miaka mitatu au kupewa adhabu miaka zote mbili pamoja.

(3) Endapo mtu atashitakiwa kwa mujibu wa kifungu kidogo cha (2) basi Mahakama itabidi ikubali kuwa kuna utetezi wa kutosha ikiwa wakati alipopata hilo tangazo huyo Mshtakiwa hakujua kwamba tangazo hilo lilichochea uasi na kwamba mara tu alipogundua yaliyokuwamo katika tangazo hilo alilipeleka kwa ofisa utawala aliyekuwa karibu naye au kwa Mkuu wa Kituo cha Polisi kilicho karibu naye.

(4) Mashine ya kupigia chapa yoyote iliyotumiwa au inayotuhumiwa imetumika kwa ajili ya kupigia chapa au kutengeneza nakala ya tangazo linalochochea uasi yaweza kuchukuliwa au kuzuiliwa na Ofisa wa Polisi wakati wa kungojea kusikilizwa shauri na kutolewa hukumu juu ya mtu yeyote aliyeshitakiwa kwa kosa la kuchapisha au kutengeneza nakala ya tangazo linalochochea uasi.

(5) Iwapo mtu yeyote atapatikana na hatia ya kuchapisha au kutengeneza tangazo linalochochea uasi, Mahakama yaweza, pamoja na adhabu nyingine yoyote inayoweza kumpa mshitakiwa, kuamuru kwamba hiyo mashine iliyotumika kwa ajili ya kupigia chapa au kutengeneza hilo tangazo linalochochea uasi, ama ichukuliwe na Serikali kwa muda usiozidi miezi kumi na mbili au ichukuliwe kabisa na Serikali na Mahakama hiyo yaweza kutoa amri kama hiyo hata kama hiyo mashine iliyotumika haikuwa mali ya huyo mshitakiwa.

(6) Mashine ya kupigia chapa iliyochukuliwa na Serikali kwa mujibu wa kifungu kidogo cha (5) itauzwa na fedha itakayopatikana itapelekwa kwenye Mfuko wa Huduma za Habari.

(7) Endapo mmiliki, mtangazaji, mchapishaji, au mhariri wa gazeti atapatikana na hatia kwa kosa la kuchapisha gazeti au kutoa tangazo linalochochea uasi, hiyo mahakama yaweza pamoja na adhabu nyingine yoyote inayoweza kumpa mshitakiwa, itatoa amri yoyote kwa mujibu wa kifungu kidogo cha (5) au sivyo kutoa amri ya kupiga marufuku uchapishaji wa tangazo hilo kwa muda usiozidi miezi kumi na mbili.

(8) Kabla Mahakama haijatoa amri kwa mashine ya kupigia chapa au kutangazia kuchukuliwa na Serikali kwa mujibu wa fungu hili, itabidi iridhike kwamba mashine hiyo ndiyo iliyotumika kwa ajili ya kupigia chapa gazeti au kutangazia tangazo hilo linalochochea uasi;

(9) Iwapo mashine ya kupigia chapa au kutangazia imechukuliwa na Serikali au na Mkuu wa Jeshi la Polisi kwa nadhari yake aweza:

(a) kuagiza kwamba hiyo mashine yote au sehemu yoyote ya mashine hiyo iondolewe;

(b) kuagiza kwamba sehemu fulani ya mashine hiyo izibwe au ifungwe ili kuzuia isitumike.

(10) Mkuu wa Jeshi la Polisi wakati akitekeleza madaraka yake kwa mujibu wa fungu hili hatakuwa na lawama kwa ajili ya hasara yoyote itakayotokea inayohusika na mashine hiyo, iwe hasara hiyo imesababishwa na uzembe au kwa namna nyingine yoyote.

(11) Mtu yeyote atakayetumia au kujaribu kutumia mashine ya kupigia chapa iliyochukuliwa na Serikali kwa mujibu wa kifungu cha (4) atakuwa ametenda kosa na akipatikana na hatia mbele ya mahakama atapaswa kuadhibiwa kwa kutozwa faini isiyopungua shilingi milioni kumi na tano au kufungwa gerezani kwa muda usiopungua miaka mitatu au kupewa adhabu zote mbili pamoja.

Utangazaji wa habari za uongo za kutia hofu na woga kwa jamii

40.-(1) Mtu yeyote atakayetengeneza au kueneza habari yoyote ya uongo, uzushi au taarifa ambayo yaweza kuwatia watu woga na wasiwasi au kuchafua amani katika nchi atakuwa ametenda kosa na akipatikana na hatia mbele ya mahakama atapaswa kuadhibiwa kwa kutozwa faini isiyopungua shilingi milioni kumi na tano au kufungwa gerezani kwa muda usiopungua miaka mitatu au kupewa adhabu zote mbili pamoja.

(2) Iwapo mtu yeyote atashtakiwa kwa kosa chini ya kifungu kidogo cha (1), Mahakama itabidi ikubali kuwa kuna utetezi wa kutosha ikiwa mshtakiwa atathibitisha kwamba kabla ya kutangaza au kueneza habari au taarifa ya aina iliyoelezwa katika kifungu kidogo cha (1) alichukua hatua madhubuti za kuhakikisha ukweli wa mambo na kwamba matokeo yake yalimfanya asadiki kwamba habari au taarifa hiyo ilikuwa ya kweli.

Makosa yanayotendwa na Mashirika ya Vyama

41.-(1) Iwapo kosa lolote chini ya sheria hii litatendwa na kampuni, au shirika jingine lolote au na chama, umoja au kikundi cha watu basi pamoja na kampuni hiyo au shirika hilo jingine, au chama, umoja au kikundi cha watu kila mtu ambaye wakati wa kosa hilo lilipotendeka alishiriki au kuhusika, kama Mkurugenzi au Ofisa katika uongozi au uendeshaji wa kazi na shughuli za hiyo kampuni au shirika jingine au chama, umoja au kikundi cha watu, atakuwa ametenda kosa na atapaswa, akipatikana na hatia kupewa adhabu ya kulipa faini isiyopungua shilingi milioni kumi na tano.

(2) Iwapo mtu yeyote atashtakiwa, Mahakama itabidi ikubali utetezi wa kutosha ikiwa mshtakiwa atathibitisha kwamba hakujua na wala asingeweza kutumia hekima yoyote kujua kwamba kosa limetendeka.

Dhima ya Mwajiri au mtu anayemwakilisha

42. Iwapo kosa lolote chini ya Sheria hii litatendwa na mtu yeyote ambaye ni mwakilishi au mtumishi wa mtu mwingine, basi pamoja na huyo mwakilishi au mtumishi, huyo mtu aliyewakilisha madaraka yake au huyo mwajiri atakuwa vilevile ametenda kosa hilo na atapaswa, akipatikana na hatia kuadhibiwa kwa kutozwa faini isiyopungua shilingi milioni kumi na tano isipokuwa kama ataithibitishia Mahakama kwamba hakujua wala asingeweza kutumia hekima yoyote kumwezesha kutambua utendaji wa kosa hilo.

SEHEMU YA TISA MASHARTI YA JUMLA

Uwezo wa kupiga marufumu uingizaji wa machapisho

43. Iwapo Bodi itaona kwamba uingizaji nchini wa chapisho lolote ni kinyume cha manufaa ya Umma, inaweza kwa nadhari yake, kutoa amri ya kupiga marufuku uingizaji nchini wa chapisho hilo na kutangaza katika gazeti la Serikali.

Mamlaka ya kukamata

44. Mkurugenzi wa Huduma za Habari, afisa wa polisi au afisa yeyote aliyeidhinishwa anaweza, ikiwa ana sababu za msingi na kuamini kuwa chombo cha habari kimeanzishwa, kimesimikwa, kinaendeshwa kinyume na matakwa ya sheria hii, kukamata kifaa

chochote ambacho kinatumika au kitatumika kwa malengo hayo.

Utoaji wa taarifa

45.-(1) Ikiwa amri au maelekezo yoyote yatatolewa na Bodi kwa mujibu wa sheria hii hayatalazimika kutangazwa katika Gazeti la Serikali; amri au maelekezo hayo yatawasilishwa kwa kuwajulisha wahusika watakaoathirika na amri hiyo au maelekezo hayo kwa namna itakavyoamriwa na Waziri au Bodi.

(2) Kama amri au maelekezo yatatangazwa katika Gazeti la Serikali, watu wote wanaohusika watahesabiwa kuwa wana taarifa husika.

Bima

46.-(1) Kila mwajiri kwa mujibu wa Sheria hii atatakiwa kuweka kinga ya Bima kwa kila mtu aliyeajiriwa katika chombo cha habari husika.

(2) Kila Mwanahabari wa kujitegemea atapaswa kujiwekea kinga ya Bima kwa mujibu wa sheria hii.

Upatikanaji wa huduma za habarai

47.-(1) Mtoa huduma ya habari yeyote atahakikisha huduma yake inafikiwa na watu wenye ulemavu;

(2) katika kuhakikisha kwamba huduma ya habari inafikika, mtoa huduma ya habari atahakikisha uwepo wa lugha za alama na maandishi.

Kuzuia wajumbe wa Baraza kutekeleza majukumu

48.-(1) Mtu ambaye-

(a) bila ya kuwa na sababu atashindwa au kukataa kutii maelekezo halali ya Baraza;

(b) atazuia Baraza kutekeleza majukumu yake chini ya sheria hii;

(c) atatoa taarifa ambazo anajua kuwa sio sahihi au za kupotosha;

(d) akiwa mbele ya Baraza, atatoa maelezo ambayo anajua sio ya kweli,

atakuwa ametenda kosa.

(2) Mtu ambaye atakuwa amehukumiwa kutenda kosa chini ya kifungu hiki atalazimika kulipa fani ya shilingi milioni tatu au kifungo kwa kipindi cha mwaka mmoja au vyote.

(3) Mtu ambaye atakuwa amehukumiwa kutenda kosa chini ya kifungu hiki ikiwa atatenda kosa lingine atalazimika kulipa fani ya shilingi milioni tano au kifungo kwa kipindi cha miaka mitatu.

Kanuni

49. Waziri aweza kutunga kanuni kwa ajili ya utekelezaji bora wa madhumuni ya sheria hii.

Kufutwa kwa sheria
Sura ya 229 ya
149

50. Sheria ya Magazeti na Sheria ya Shirika la Habari Tanzania zinafutwa.

Masharti ya mpito

49.-(1) Bila kujali utekelezaji wa sheria hii kuhusiana na sekta husika, kitambulisho chochote au cheti kilichotolewa, au leseni iliyotolewa kabla ya kuanza kutumika kwa sheria hii kuhusiana na uzalishaji, usambazaji au utoaji wa huduma za habari, zitaendelea kutumika mpaka zitakapofutwa, zitakapobatilishwa au kubadilishwa.

(2) Bila kujali kufutwa kwa Sheria ya Magazeti na Sheria ya Shirika la Habari Tanzania, watu wote wanaofanya kazi za Wanahabari bila sifa zilizoenezwa katika Sheria hii, watatakiwa ndani ya miaka mitano kukidhi masharti yaliyotolewa chini ya Sheria hii.

JEDWALI LA KWANZA

(Limetengenezwa chini ya kifungu cha 7)

MUDA, MWENENDO NA MASLAHI YA WAJUMBE WA BARAZA

- Muda wa uteuzi **1.**-(1) Mwenyekiti na Wajumbe wa Baraza watateuliwa kwa kipindi cha miaka mitatu na wanaweza wakateuliwa kwa kipindi kingine cha miaka mitatu.
(2) Utumishi wa Mwenyekiti na Wajumbe wa Baraza utasitishwa kwa sababu ya-
- (a) matumizi mabaya ya ofisi;
 - (b) rushwa;
 - (c) kushindwa kutekeleza majukumu
 - (d) kutokuwa na akili timamu; au
 - (e) matatizo yoyote ya kimwili au kiakili yatakayomfanya mtu asiweze kutekeleza majukumu ya ofisi husika; au
 - (f) kupatikana na hatia kwa makosa yanayohusu maadili; na
 - (g) kutangazwa kufilisika na Mahakama.
- (3) Mjumbe yeyote wa Baraza aweza kujiuzulu kwa kutoa taarifa ya mwezi mmoja ya maandishi kwa Waziri.
(4) Iwapo mjumbe yeyote hatahudhuria vikao vitatu vya Baraza mfululizo bila kutoa sababu za msingi Baraza itamshauri Waziri kutengua uteuzi wa mjumbe huyo na kuteua mjumbe mwingine kujaza nafasi hiyo.
- Kuhudhuria
kwa wasio
wajumbe **2.** Baraza yaweza kumualika mtu yeyote katika vikao vyake, kwa madhumuni ya kusaidia Baraza katika maamuzi yake, lakini mtu huyo hatakuwa na haki ya kupiga kura.
- Mikutano **3.**-(1) Mikutano ya Baraza itaitishwa na Mwenyekiti au akiwa hayupo au akiwa hajiwezi, Katibu atatoa taarifa ya mkutano ikiainisha tarehe, muda na mahali pa kufanyia mkutano.
(2) Taarifa itapelekwa kwa kila mjumbe katika eneo lake la kufanyia kazi, au makazi, si chini ya siku tano za kazi kabla ya tarehe ya kufanyika mkutano huo.
- Akidi **4.**-(1) Nusu ya Wajumbe wa Baraza itafanya akidi ya mkutano wa Bodi.
(2) Ikiwa Mwenyekiti hatakuwepo, wajumbe waliohudhuria mkutano huo wataamchagua mmoja kati yao kuwa Mwenyekiti wa mkutano huo.
(3) Katika mkutano wowote wa Baraza uamuzi wa wajumbe wengi waliohudhuria na kupiga kura utakubaliwa kuwa ni uamuzi wa Bodi; Hata hivyo mjumbe atakayekuwa tofauti na wajumbe walio wengi atakuwa na haki ya kuwa na uamuzi wake pamoja na sababu ambazo zitawekwa katika kumbukumbu za mkutano

huo.

- Kumbukumbu **5.** Kumbukumbu za kila mkutano wa Baraza zitaandikwa na Katibu kwa namna inavyostahili na zitathibitishwa na Baraza na kusainiwa na Mwenyekiti na Katibu katika mkutano unaofuata wa Baraza.
- Taarifa ya Uamuzi **6.** Taarifa ya uamuzi unaofanywa na Baraza na mawasiliano mengine yote yatasainiwa na Mwenyekiti au Katibu
- Taratibu za Uendeshaji **7.** Kwa mujibu wa Sheria hii na maelekezo mengine yoyote kutoka kwa Waziri, Baraza yaweza kujiwekea taratibu za kujiendesha.
- Kamati ndogo **8.** Bodi yaweza kuunda kamati ndogo mbalimbali na kuteua wajumbe wa kamati hizo, ambao wanaweza kuwa wajumbe wa Baraza au sio kwa madhumuni ya kuishauri Baraza katika jambo mahususi.
- Maslahi na Marupurupu **9.** Wajumbe wa Baraza watalipwa mshahara na marupurupu kama Waziri atakavyoamua.

JEDWALI LA PILI

(Limetengenezwa chini ya kifungu cha 16(3))

Makamu
Mwenyekiti

1. Wajumbe wa Bodi watamchagua mjumbe mmoja miongoni mwao kuwa Makamu Mwenyekiti ambaye, kwa kuzingatia kuendelea kwa kipindi cha ujumbe wake, atakuwa makamu Mwenyekiti kwa kipindi kimoja cha mwaka mmoja na anaweza kushagulwika tena kwa kipindi kimoja.

Muda wa
uteuzi

2.-(1) Mjumbe wa Bodi atakuwa Ofisi kwa kipindi kingine kisichozidi miaka mitatu kuanzia siku aliyoteuliwa na anaweza kuteuliwa kwa kipindi kimoja.

(2) Kwa mjumbe ambaye ni mjumbe wake unatokana na ofisi, mjumbe huyo hatakuwa mjube pale ambapo atakoma kuwa mfanyakazi kwenye ofisi husika.

(3) Mjumbe yeyote anaweza, kujiuzuru wakati wowote kwa kuandikia mamlaka ya uteuzi.

(4) Bila kujali vifungu vya hapo juu, mamlaka ya uteuzi, wakati wowote inaweza kutengua uteuzi wa mjumbe.

(5) Pale ambapo mjumbe wa Bodi ambaye ni mjumbe kutokana na ofisi yake awezi kuudhuria vikao vya Bodi kwa sababu yoyote ili, mjumbe huyo anaweza, kumteua kwa maandishi mtu mwingine kutoka ofisini kwake kuudhuria, vikao vya Bodi kwa niaba yake.

(6) Pale ambapo kuna nafasi wazi ya mjumbe kwa sababu yoyote ili, Mamlaka ya uteuzi inaweza kumteua mtu mwingine kujaza nafasi hiyo na mtu huyo aliyeteuliwa atakaa ofisini kwa kipindi kilichobaki cha mjumbe aliyechukua nafasi yake.

Miutano ya
Bodi

3.-(1) Bodi itakutana kwa ajili ya masuala yake katika muda na sehemu ambayo Bodi itaamua, ila italazimika kukutana walau mara moja kila baada ya miezi mitatu.

(2) Mwenyekiti au asipokuwe, Makamu Mwenyekiti, ataongoza kila kikao cha Bodi na pale ambapo Mwenyekiti na Makamu Mwenyekiti hawapo, wajumbe waliopo watamteua mmoja wao kuongoza kikao.

(3) Mjumbe ambaye atashindwa kuudhuria vikao vitatu vya Bodi bila ruksa ya Mwenyekiti, atakoma kuwa mjumbe.

Taarifa ya
kikao

4. Katibu wa Bodi atatoa taarifa kwa kila mjumbe ya muda na mahali kikao kitafanyiwa na atatunza kumbukumbu za kila kikao cha Bodi.

Akidi

5. Akidi ya kila kikao cha bodi itakuwa nusu ya wajumbe wote.

Maamuzi ya Bodi

6.-(1) Kila jambo lililoadiliwa kwenye Kikao cha Bodi litaamuliwa kwa wingi wa kura za wajubme walioudhuria na kupiga kura na pale ambapo kura zimelingana, mtu anayeongoza kikao atakuwa na kura ya veto tofauti na kura yake ya kawaida.

(2) Bila kujali haya ya (1), uamuzi unaweza kufikiwa na Bodi bila ya Kikao kwa njia ya kuzungusha karatasi husika kwa wajumbe.

Bodi kuidhinisha kumbukumbu za vikao

7.-(1) Bodi itawezesha kuandaliwa na kutunzwa kumbukumbu zote za vikao vyake na kila kumbukumbu vya kikao itasoma na kuidhinishwa kwenye kikao kinachofuata na kusainiwa na mtu aliyeongoza kikao.

Nafasi wazi haiwezi kubatilisha vikao

8. Tendo au kikao chochote cha Bodi hakitabatilishwa kwa sababu tu kulikuwa na nafasi wazi ya mjumbe.

Amri, maelekezo n.k

9. Maelekezo, amri, taarifa na nyaraka zingine zilizoandaliwa au kutolewa kwa niaba ya Bodi zitasainiwa na-

(a) Mwenyekiti;

(b) Mkurugenzi wa habari au afisa yeyote aliyeteuliwa na Bodi kwa ajili hiyo.

Bodi kusimamia vikao vyake

10. Kwa kuzingatia vifungu vya jedwali hili, Bodi itasimamia vikao vyake yenyewe.

MADHUMUNI NA SABABU

Muswada huu unapendekeza kutunga Sheria ya Huduma za Habari kwa madhumuni ya kuweka utaratibu wa kisheria katika tasnia ya habari, kuunda Bodi ya huduma za habari, kuunda mfuko wa huduma za habari, masuala ya kashfa, makosa yanayohusiana na utangazaji na masuala yanayohusiana na hayo.

Muswada huu umegawanyika katika Sehemu Tisa, Sehemu ya Kwanza inahusika na masharti ya awali, ambayo ni jina la sheria, tarehe ya kuanza kutumika, matumizi na ufafanuzi wa maneno yaliyotumika.

Sehemu ya Pili inahusika na uanzishwaji wa Baraza la Huduma za Habari, majukumu ya Baraza, mamlaka ya Baraza, muda, mwenendo na maslahi ya wajumbe wa Baraza, Mkurugenzi wa Huduma za habari, utaratibu wa kutoa leseni na taratibu za kuwasilisha malalamiko.

Sehemu ya Tatu inahusika na vyombo vya habari na taasisi ambapo imeelezwa aina ya vyombo vya habari na umiliki na majukumu ya vyombo vya habari.

Sehemu ya Nne inahusika na uanzishwaji wa Bodi ya ithibati kwa wanahabari, kitambulisho na orodha ya wanahabari.

Sehemu ya Tano inahusika na Idara ya Habari – MAELEZO na majukumu yake.

Sehemu ya Sita inahusika na Mfuko wa Huduma za Habari ambapo vyanzo vya fedha za mfuko, hesabu na ukaguzi wa hesabu za mfuko vimeelezwa.

Sehemu ya Saba inahusika na masuala ya kashfa ambapo kumeelezwa ufafanuzi wa utangazaji usio halali, utangazaji wa mambo yenye kashfa ambao ni halali, utangazaji wa mambo yenye kashfa kwa masharti maalum, nia ya kufanya marekebisho na malalamiko dhidi ya kashfa.

Sehemu ya Nane inahusu makosa mbalimbali ambapo kumeelezwa, makosa yanayohusu vyombo vya habari, makosa dhidi ya utangazaji, nia ya kuchochea uasi, makosa ya uchochezi, utangazaji wa habari za uongo za kutia hofu na woga kwa jamii, makosa yanayotendwa na mashirika au vyama na dhima ya mwajiri au mtu anayewakilisha.

Sehemu ya Tisa inahusika na mafungu ya jumla ambayo yameeleza uwezo wa kupiga marufuku uingizaji wa machapisho, mamlaka ya kukamata, utoaji wa taarifa, Bima, Kanuni, kufutwa kwa sheria na masuala ya mpito.

Dar es Salaam,
2 Februari, 2015

FENELLA E. MUKANGARA
Waziri wa Habari, Vijana, Utamaduni na Michezo