

THE LAWS OF THE COMMUNITY (INTERPRETATION) ACT, 2004

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THE EAST AFRICAN COMMUNITY

No. 6 OF 2004.

*Date of assent 9th October, 2003**Date of commencement 31st January, 2004*

An Act of the Community to make provision in regard to the construction and interpretation of any enactment of the Community, and to make certain general provisions with regard to such law and for other like purposes.

ENACTED by the East African Community and assented to by the President of the United Republic of Tanzania, the President of the Republic of Kenya and the President of the Republic of Uganda.

PART I
PRELIMINARY.

1. This Act may be cited as the Laws of the Community (Interpretation) Act, 2004. Short Title.

PART II
GENERAL PROVISIONS OF INTERPRITATION.

2. (1) In this and in every other Act of the Community, and in all subsidiary legislation made under them, enacted or made before or after the commencement of this Act, the following words and expressions shall have the meanings assigned to them respectively, except where there is something in the subject or context inconsistent with such construction or interpretation, and except where it is expressly otherwise provided— General Interpretation.

“Act”, used with reference to legislation, means—

- (a) in this Act, an Act of the Community and
- (b) in any other enactment, an Act of the Community and any subsidiary legislation made under it;

“Act”, where used in reference to an offence or civil wrong, includes an omission, or a series of acts and omissions;

“Act of the Community” means an Act of the Community enacted in accordance with the Treaty;

“Act of a Partner State” means an Act of Parliament of the Partner States or of any other legislature for the time being in force in the Partner States and any subsidiary legislation having legislative effect in that Partner State;

“administrative officer” in relation to a Partner State, has the meaning assigned to that expression in any Act of that Partner State relating to the interpretation of Acts of that Partner State;

“advocate”, in relation to a Partner State, means a person entitled to practice law in the Partner States under the law for the time being in force;

“aircraft” includes every description of craft used in aerial navigation;

“amend” includes repeal, revoke, rescind, cancel, replace, add to or vary, and the doing of any two or more of such things simultaneously or in the same instrument;

“the Assembly” means the East African Legislative Assembly established by article 9 of the Treaty;

“Audit Commission” means the Audit Commission established by article 134 of the Treaty;

“building” includes any construction on land, whether wholly or in part above or below the surface of the grounds;

“calendar year” means a period of twelve months ending on the 31st December;

“Chapter” “Part”, “Section”, “regulation” “rule” and “Schedule” denote respectively a Chapter, Part, section, regulation and rule of, and a Schedule to, the enactment in which the word occurs; and “subsection” and

“paragraph” denote respectively a subsection of the section, and a paragraph of the section or subsection, regulation and rule, in which the word occurs; and “subparagraph” denotes a subparagraph of a paragraph;

“*Clerk*” means the Clerk of the East African Legislative Assembly appointed under article 48 of the Treaty;

“*cognizable to the police*” and “*cognizable*”, where used in reference to an offence, means that any police officer may arrest without warrant any person whom he or she suspects upon reasonable grounds of having committed that offence;

“*coin*” means any coin that is a legal tender in the Partner States;

“*commencement*” used with reference to any enactment means the date upon which the enactment comes or came into operation;

“*common law*” in relation to a Partner State, means so much of the common law (including the doctrines of equity) of England as has effect for the time being in that Partner State;

“*the Community*” means the East African Community established by Article 2 of the Treaty;

“*the Community Printer*” means any printer authorized by the Secretary General to print any enactment or any instrument or document of the Community or of any of its institution and any printer authorized by the Secretary General to print the Laws of the Community or any supplement to it;

“*Constitution*” means the Constitution of any of the Partner States;

“*contravene*” in relation to any requirement or condition prescribed in any enactment or in any grant, permit, lease, licence or authority granted by or under any such law, includes a failure to comply with that requirement or condition;

“*Council*” means the Council of Ministers of the Community established by Article 9 of the Treaty;

“*Counsel to the Community*” means the Counsel to the Community provided for by article 69 of the Treaty;

“*Court*” in relation to a Partner State, means any Court of competent jurisdiction in that State;

“*Court of Justice*” means the East African Court of Justice established by Article 9 of the Treaty;

“*definition*” means the meaning or interpretation given to a word or expression by or under any enactment;

“*document*” includes—

- (a) a publication; or
- (b) any matter written, expressed or inscribed on any substance by means of letters, figures or mark (or more than one of those means) which is intended to be used or may be used for the purpose of recording any matter;

“*East Africa*” means Kenya, Tanzania and Uganda;

“*the East African Legislative Assembly*” means the East African Legislative Assembly established by Article 9 of the Treaty;

“*enact*” in relation to an enactment includes pass, make or issue the law;

“*enactment*” means an Act or a Statutory Instrument, or a provisions or a portion of an Act or a Statutory Instrument;

“*financial year*” has the meaning assigned to it by Article 132 of the Treaty;

“*Gazette*” means the Official *Gazette* of the East African Community and any supplement to the Official *Gazette* or any *Gazette* Extraordinary; and “*gazetted*” means published in the *Gazette*;

“*Government*” means the Government of any of the Partner States;

“*Head of State*” means a person designated such by a partner states Constitution;

“*High Court*” In relation to a Partner State, means the High Court of that Partner State;

“*house*” includes part of a house and any building, or part of a building, whether wholly or in part above or below the surface of the ground, inhabited or occupied either by day or by night, whether beneficially or otherwise or intended to be so inhabited or occupied;

“immovable property” includes land, benefits to arise out of land, and things attached to the earth or permanently fastened to anything attached to the earth;

“Judge” means a Judge of the Court of Justice of East Africa or of the Supreme Court or the Court of Appeal or a Puisne Judge or a Judge of the High Court as the case may be, of any of the Partner States;

“institution of the community” means any institution of the Community established by Article 9 of the Treaty;

“land” includes buildings and other structures and land covered with water and any estate, interest, current servitude or right in or over land;

“Magistrate” in relation to a Partner State, means a Magistrate constituted by or appointed under any Act of that Partner State;

“medical practitioner” means a medical practitioner duly registered or licensed as such under any Act of a Partner State applicable to medical practitioners;

“Minister” in relation to a Partner State, means a person appointed as a Minister of the Government of that Partner State and any other person however entitled who, in accordance with any Act of that Partner State, acts as or performs the functions of a Minister in that State;

“the Minister”, in relation to a Partner State, means the Minister for the time being responsible in that Partner State for the matter in question;

“month” means a calendar month;

“movable property” means property of every description except immovable property;

“National Assembly” in relation to a Partner State, means the National Assembly of that Partner State;

“oath” and **“affidavit”** in the case of persons for the time being allowed by law to affirm or declare instead of swearing, include affirmation and declaration, and **“swear”** in the like case, includes **“affirm”** and **“declare”**;

“office of the Community” means an office of the Community provided in the Treaty or determined by the Council under article 136 of the Treaty or provided under an Act;

“the Official Seal” in relation to the Community means the official seal of the Community as declared under the Community Emblems Act;

“the Partner States” means the Republic of Kenya, the Republic of Uganda and the United Republic of Tanzania and any other country granted membership to the Community under Article 3 of the Treaty;

“penalty” means a fine, imprisonment or other form of imprisonment;

“perform” in relation to functions, includes exercising a power, responsibility, authority or jurisdiction;

“person” includes a company, corporation and association or body of persons corporate or unincorporated;

“Police officer” in relation to any Partner State, means a member of the police force of that Partner State;

“power” includes any privilege, authority, or discretion;

“prescribed” means—

- (a) prescribed by or under the enactment in which the word occurs;
- (b) in case where reference is made to anything prescribed by an enactment, other law in which the word occurs, includes anything prescribed by subsidiary legislation made under that other enactment;

“publication” means—

- (a) written or printed matter; or
- (b) record tape, disk or wire, or cinematographic, television or video film; or
- (c) other medium by means of which information may be produced, reproduced, represented or conveyed mechanically, electrically, electronically or optically and includes a copy or reproduction of a publication as defined in paragraph (a), (b) or (c).

“public holiday” in relation to any Partner State, means any day declared to be a public holiday in that Partner State by or under any Act of that Partner State.

“public office” includes any office of the Community or in the service of any organ or institution of the Community, or any office in the service of the Government of any of the Partner States or employment in or under any authority, board, commission or other body, whether paid or unpaid, which is vested with, whether permanently or temporary functions of a public nature by or under any enactment or an Act of a Partner State;

“public officer” means any person holding a public office;

“registered” where used in reference to a document, means registered under the provisions of the law for the time being applicable to the registration of such documents

“regulation” means regulation under the Act in which the term is used;

“repeal” in relation to an enactment includes rescind, revoke, cancel, replace or delete the enactment by a written law;

“rule” means a rule made under the Act in which the rule is used;

“rules of court” in relation to a court, means rules made by the authority having for the time being power to make rules regulating the practice and procedure of that court;

“Secretary General” means the Secretary General of the Community provided for by article 67 of the Treaty;

“section” means a section of the Act in which the word occurs;

“sell” includes barter, exchange, offer to sell and expose for sale;

“service by post” means service in accordance with section 78;

“ship” means a vessel used in or capable of being used for transport by water;

“sign” with reference to a person who is unable to write his or her name, includes mark;

“sitting” in relation to Assembly means a period during which the Assembly is sitting continuously without adjournment and includes a period during which the Assembly is in Committee;

“*sitting days*” in relation to the Assembly means the days on which the Assembly is sitting;

“*Speaker*” means the Speaker of the Assembly provided for under articles 53 and 56 of the Treaty and any Speaker of a National Assembly of a Partner State;

“*statutory declaration*” means—

- (a) in a Partner State, means a declaration made in accordance with any Act of that Partner State relating to statutory declarations; and
- (b) a statutory declaration made outside the Partner States but effective in the Partner States under any law;

“*subordinate court*” in relation to a Partner State, means a court subordinate to the High Court of that Partner State;

“*subsection*” means a subsection of a section in which the word occurs;

“*subsidiary legislation*” means any proclamation, rule, regulation, order, notice, bye-law, decree, or other instrument made under any Act or other lawful authority and having legislative effect;

“*summit*” means the Summit established by Article 9 of the Treaty;

“*territorial waters*” in relation to any Partner State, includes the inland waters of that State;

“*the Treaty*” means the Treaty establishing the East African Community and any annexes and protocols to it;

“*under*” in relation to a written law or a provision of a written law, includes “*by*” “*in accordance with*” “*pursuant to*” and “*by virtue of*”;

“*United Kingdom*” means the United Kingdom of Great Britain and Northern Ireland;

“*vessel*” means a ship, boat, lighter or other floating craft used or capable of being used for navigation or transport by water;

“*will*” includes codicil and every writing making a voluntary posthumous disposition of property;

“*word*” includes a figure or symbol;

“*writing*” and expressions referring to writing, include printing, photography, lithography, filming, typewriting, electronic processing and any other modes of representing or reproducing words in visible form;

“*written law*” means any Act of the Community and any subsidiary legislation made under it;

“*year*” means a period of twelve months.

PART II

CONSTRUCTION OF ENACTMENT.

3. (1) Definition of the rules of interpretation in an enactment applies to the construction of the provisions of the enactment that contain those definitions or rules; as well as to other provisions of the enactment.

Application of definitions.

(2) An interpretation section or provision in an enactment is to be read and construed as applying only if a contrary intention does not appear in the enactment.

4. (1) An enactment shall be considered as always speaking.

Law always speaking.

(2) Where in an enactment anything is expressed in the present tense, it shall be applied to the circumstances as they occur, so that effect may be given to every provision according to the true spirit, intent and meaning.

5. Where a word or expression is defined in an enactment, other parts of speech and grammatical forms of that word or expression and cognate expression have corresponding meaning in that enactment.

Parts of speech and grammatical forms.

6. (1) In an enactment—

(a) words and expressions importing the masculine gender include the feminine gender; and

(b) words and expressions importing the feminine gender include the masculine gender

Rules as to gender and number.

(2) Where an enactment employs the term “person” or “party” the use of personal pronoun importing the masculine or feminine gender shall not of itself be construed as limiting the term to a natural person.

(3) In an enactment—

- (a) words and expression in the singular include the plural; and
- (b) words and expression in the plural include the singular.

Disjunctive construction of “or”.

7. In relation to an enactment the words “or” “other” and “otherwise” shall be construed disjunctively and not as implying similarity unless the word similar or some other word of like meaning is added

PART IV PROVISION REGARDING ACTS.

Assent to Bills.

8. A Bill for an Act shall become an Act on receipt of the assent to it by the Heads of State in accordance with Article 63 of the Treaty.

Numbering of Acts.

9. Acts passed in any calendar year shall be numbered consecutively in the order in which they become Acts.

Words of Enactment.

10. (1) Every Act shall be prefaced by the words of enactment specified in Article 62 of the Treaty.

(2) The words of enactment shall be taken to extend to all sections of and to any schedules and other provisions contained in the Act.

Acts to be divided into sections.

11. Where an Act contains more than one enactment it shall be divided into sections and each section containing more than one enactment shall be divided into subsections.

Acts to be published, to be public Acts and to be judicially noticed.

12. Every Act published in the *Gazette* and upon such publication, shall be a public Act and shall be judicially noticed.

Date of commencement to be published.

13. Every Act published in the *Gazette* shall contain immediately before the word of enactment, a reference to the date upon which it came or comes into force.

Commencement of Acts.

14. An Act shall come into force on the date of its publication in the *Gazette* or, if it is provided in that Act that some or all of its provisions shall come into force on some other date whether before or after the date of publication, those provisions shall come into force on that other date.

15. (1) Where an Act is to come into force immediately on its publication and confers power to make any subsidiary legislation, or to make any appointment, or to do any other thing, for the purpose of the Act, that power may, unless the contrary intention appears, be exercised at any time after the publication of the Act, so far as may be necessary or expedient for the purpose of bringing the Act into force on the date of the commencement.

Exercise of powers between publication of Act and commencement.

(2) No subsidiary legislation made under that power shall, unless the contrary intention appears in the Act or the contrary is necessary for bringing the Act into operation, have any effect until the Act comes into force.

16. Where by or under any Act any powers are conferred or any duties are imposed upon a public officer, the Council, in the case of an officer in the service of the Community, or the Head of State or any Minister of the Partner State concerned, in any other case, may direct, if during any period owing to absence or inability to act from illness or any other cause such public officer is unable to exercise the powers or perform the duties of his or her office, that such powers shall be had and may be exercised and such duties shall be performed by a person named or by the public officer holding any office designated by the Summit or the Council or Minister of the Partner State concerned, as the case may be, and thereupon such person or public officer during any such period shall have and may exercise such powers and shall perform such duties subject to such conditions, exceptions and qualifications as the Summit or the Council or Minister as the case may be, may direct.

Power to provide for execution of duties of public office during temporary absence.

17. (1) Where by or under any Act the exercise of any power or the performance of any duty is conferred upon the Summit or the Council or the Community or any Minister of a Partner State or an officer in the service of the Community, the Summit or the Council or the Community or Minister of the Partner State concerned or the officer, as the case may be, may unless by law expressly prohibited from so doing, delegate by notice in the *Gazette* to any person by name, or to the public officer from the time being holding any designated office, the exercise of such power or the performance of such duty subject to such conditions, exceptions or qualification as the Council or the Community, or the Minister of the Partner State concerned or the officer in the service of the Community, as the case may be, may direct; and thereupon such person or public officer shall have and may exercise such power and perform such duty subject as aforesaid.

Delegation of powers.

(2) No delegation of his or her powers may be made under this section by an officer in the service of the Community unless such delegation has been approved by the Council either generally or in any particular case.

(3) Nothing in this section shall authorize any officer in the service of the Community to delegate any power to make subsidiary legislation

(4) Any delegation made under this section may be varied or cancelled by the person by whom the same was made by notice in the Gazette.

(5) No delegation under this section of any power or duty shall exclude the exercise of such power or the performance of such duty by the person by whom the delegation was made.

PART V

PROCEDURE FOLLOWING PASSING OF BILLS.

Preparation
of Assent
copies.

18. (1) As soon as possible after a Bill has been passed by the Assembly, the Clerk shall cause the text of the Bill as passed to be sent to the Community Printer who shall print ten copies of the Bill on vellum or on paper of enduring quality and send the copies as printed to the Clerk.

(2) On receiving the copies, the Clerk shall—

- (a) cause to be made in the copies such corrections as related to misprints, typographical errors and wrong references, if any, as are necessary;
- (b) carefully compare the copies with the text of the Bill as passed.
- (c) if the copies are found to be correct sign on each copy a statement in the form provided for under the Acts of East African Community Act, 2004.

Submission
of copies of
Assent.

19. The Speaker shall then submit copies of the Bill to the Heads of State for assent.

Assent by
the Heads
of State.

20. (1) The Heads of State shall, subject to Article 63 of the Treaty assent to the Bill presented to them under section 19 by signing on each copy of the Bill a statement in the form set out under the Acts of East African Community Act, 2004.

(2) A bill shall become an Act of the East African Community on the signatures by the Heads of State of the first of the copies referred to in subsection (1).

21. Where the Bill has been returned to the Assembly under article 63 of the Treaty and the Assembly has reconsidered the Bill and passed it again, the Speaker shall present the Bill for the second time to the Heads of State for assent.

Presentation of the Bill for assent under Articles 63 of the Treaty.

22. (1) Acts shall be numbered consecutively in the order in which they become Acts and the numbering shall begin a fresh at the commencement of a calendar year.

Numbering.

(2) As soon as the Heads of State have signed a copy of an Act under section 20 or section 21, the Clerk shall cause the number of the Act to be entered on a copy of the Act.

23. (1) Where the procedure prescribed in section 18, 19, 20 and 21 purports to have been followed in relation to copies of an Act, the copies shall be deemed to be original copies of the Act and shall be conclusive evidence of the terms of the Act, its number and date of assent.

Original copies of Act assented by the Heads of State.

(2) Two of the original copies of each Act under this section shall be retained by the Heads of State and one each of the other three shall be deposited with the Speaker, the President of the East African Court of Justice and the Secretary General.

24. (1) The Secretary General shall cause every Act to be published by the Community Printer as soon as possible after the Heads of States assent has been signified and shall be published.

Publication.

- (a) with the omission of the statements contained in the original copies by virtue of sections 18, 20 and 21 of this Act;
- (b) with the insertion of a statement of the date on which the Heads of State's assent was signified.

(2) A copy of any Act other than an original copy purported to have been printed or published by the Community Printer shall be *prima facie* evidence of the terms of the Act, its number and the date of assent.

PART VI

PROVISIONS REGARDING SUBSIDIARY LEGISLATION.

- Publication of subsidiary legislation. **25.** All subsidiary legislation shall, unless it is otherwise expressly provided in any Act, be published in the Gazette and shall be judicially noticed.
- Commencement of subsidiary legislation. **26.** Any subsidiary legislation published in the Gazette shall come into force on the date of such publication or, if it is provided either in the subsidiary legislation or in an Act that such subsidiary legislation or any provisions of it shall come into force on some other date, such subsidiary legislation or those provisions of it shall, subject to section 25, come into force on that date.
- Retrospective operation of subsidiary legislation. **27.** Any subsidiary legislation may be made to operate retrospectively to any date, not being a date earlier than the commencement of the Act under which it is made but so, however, that no person shall be made or become liable to any penalty whatsoever in respect of any act committed or of the failure to do anything before the date on which such subsidiary legislation is published in the Gazette.
- Construction of subsidiary legislation. **28.** Where any Act confers powers to make any subsidiary legislation, words and expressions used in the subsidiary legislation shall, except where a contrary intention appears, have the same meaning as in the conferring the power, and any reference in such subsidiary legislation to “the Act” shall be construed as a reference to the Act under which the legislation is made.
- Acts done under subsidiary legislation deemed done under enabling Act. **29.** An Act done under subsidiary legislation shall be deemed to be done under the Act under which the subsidiary legislation was made.
- Citation of subsidiary legislation. **30.** Any subsidiary legislation may be cited by reference to the short title, if any, or by reference to the number of the notice under which it appeared in the Gazette.
- Revocation, and amendment of subsidiary legislation. **31.** Sections 41, 42, 43, 44, 45 and 46 shall apply to any subsidiary legislation which is revoked or amended by other subsidiary legislation as they apply to the repeal or amendment of enactment by Acts.
- Provisions with respect to powers to make subsidiary legislation. **32.** Where any Act confers powers on any authority to make subsidiary legislation, the following provisions shall, unless a contrary intention appears, have effect with reference to the making of such subsidiary legislation—

- (a) when any subsidiary legislation purports to be made in exercise of a particular power or powers, it shall be deemed also to be made or issued in exercise of all other powers enabling it to be made;
- (b) any provision of any subsidiary legislation which is inconsistent with any provision of any Act shall be void to the extent of the inconsistency;
- (c) subsidiary legislation may at any time be amended by the same authority and in the same manner by and in which it is made except where such authority has been replaced wholly or in part by another authority, the power conferred upon the original authority may be exercised by the replacing authority concerning all matters or things within its jurisdiction as if it were the original authority;
- (d) where any Act confers powers on any authority to make subsidiary legislation for any general purpose, and also for any special purposes incidental to it, the enumeration of the special purposes shall not be deemed to derogate from the generality of the powers conferred with reference to the general purpose;
- (e)
 - (i) there may be annexed to the breach of any subsidiary legislation such penalty, not exceeding United States dollars one thousand or such term of imprisonment not exceeding two years, or both as the authority making the subsidiary legislation may think fit;
 - (ii) for higher penalties in respect of repeated contravention; or
 - (iii) the forfeiture by order of the court of any property used in connection with the offence.

33. (1) Where any Act confers power on any person to make subsidiary legislation, and provisions may be made by such subsidiary legislation in respect of fees or other charges, such subsidiary legislation may provide for all or any of the following matters—

- (a) specific fees or charges;
- (b) maximum or minimum fees or charges;
- (c) maximum and minimum fees or charges;
- (d) *ad valorem* fees or charges;

- (e) the payment of fees or charges either generally or under specified circumstances; and
- (f) the reduction, waiver or refund, in whole or in part, of any such fees or charges, either upon the happening of a certain event or in the discretion of a specified person.

(2) Where any reduction, waiver or refund, in whole or in part, of any fee or charge is provided for, such reduction waiver or refund may be expressed to apply or be applicable either generally or specifically—

- (a) in respect of certain matters of transactions or classes of matters or transactions;
- (b) in respect of certain documents or class of documents;
- (c) when any event happens or ceases to happen;
- (d) in respect of certain persons or classes of persons; or
- (e) in respect of any combination of such matters, transactions, documents, events or persons, and may be expressed to apply or be applicable subject to such conditions as may be specified in the subsidiary legislation or in the discretion of any person specified in it.

Relationship with parent legislation.

34. (1) A reference in an enactment to a written law is to be construed so as to include a reference to any subsidiary legislation made under that written law.

(2) An act done under a subsidiary legislation is to be treated as done under the written law under which the subsidiary legislation was made.

PART VII

PROVISIONS AS TO ENACTMENT AND OPERATION OF ENACTMENT.

Acts to be public Acts.

35. Every Act shall be deemed to be a public Act unless the contrary is expressly provided in the Act and shall be judicially noticed as such.

Sections to be substantive enactment.

36. Every section of an Act take effect as a substantive enactment without introductory words.

Act may be altered or repealed.

37. An Act may be amended or repealed in the same session of the Assembly as that in which it was passed.

38. (1) The long title and the preamble to an enactment law forms part of the enactment and shall be construed as intended to assist in explaining its purport and object.

Preambles
and
Schedules.

(2) An Appendix or schedule or a table in enactment together with any notes to it, forms part of that enactment.

39. (1) The headings to the Parts, divisions and subdivisions into which an enactment is divided form part of that enactment.

Headings,
marginal
notes and
footnotes.

(2) A marginal note or shoulder notes or footnotes to any provision of an enactment shall be taken not to be part of that enactment.

40. Punctuation forms part of an enactment and regard may be had to it in construing that enactment.

Punctuation.

PART VIII

AMENDMENT AND REPEAL OF WRITTEN LAW.

41. Where one Act amends another Act, the amending Act shall, so far as it is consistent with the amended Act and unless the contrary intention appears, be construed as one with the amended Act.

Construction
of amending
Act with
amended
Act.

42. Where an enactment which has been amended by any other enactment is repealed, such repeal shall include the repeal of all those provisions of such other enactment by which the first-mentioned enactment was amended.

Repeal of
enactment
as amended.

43. Where an enactment repeals an enactment that repeal does not revive any enactment, or rule of unwritten law previously repealed unless words are added reviving it.

Repeal of
repeal.

44. Where an enactment repeals an enactment and substitutes provisions for the repealed enactment, the repealed enactment remains in force until the substituted provisions come into force.

Repeal and
substitution.

45. Where an enactment repeals and re-enacts another enactment, with or without modification—

Effect of re-
enacted
provisions.

- (a) a reference in other enactment to the repealed enactment is to be construed as a reference to the enactment as re-enacted;

- (b) every bond and security given by a person appointed under the repealed or revoked enactment shall remain in force and all books, papers and things used under it shall continue to be used so far as they are consistent with the substituted enactment;
- (c) all offices constituted, and appointments of officers made under the repealed enactment, and in existence at the commencement of the re-enactment, continue as if constituted or made under the re-enacted enactment;
- (d) all councils, corporations, boards, tribunals, commissions or other bodies constituted, and all elections and appointments of their members made, under the repealed enactment, and in existence at the commencement of the re-enacted enactment, continue as if constituted or made under the re-enacted enactment;
- (e) all proceedings taken under the repealed enactment shall be continued under and in conformity with the re-enacted enactment, so far as it is consistent with that enactment.

Effect of
repealing
provisions.

46. (1) Where an enactment repeals an enactment, that repeal does not, unless the contrary intention appears—

- (a) revive anything not in force or existing at the time at which the repeal takes effect;
- (b) affect the previous operation of the repealed enactment or anything duly done or suffered under that enactment;
- (c) affect any right, title, interest, status, privilege, obligation or liability acquired, accrued or incurred under the repealed enactment prior to the repeal;
- (d) affect any penalty, forfeiture or punishment incurred or liable to be incurred in respect of an offence committed against that enactment;
- (e) affect any investigation, legal proceeding or remedy in respect of any such right, title, interest, status, privilege, obligation or liability, or penalty, forfeiture or punishment.

(2) An investigation, legal proceeding or remedy mentioned in subsection (1) (e) may be instituted continued or enforced, and such a penalty forfeiture or punishment may be imposed as if the enactment had not been repealed.

(3) Nothing in this section authorizes the continuance in force after the repeal of an enactment of any subsidiary legislation made under that enactment unless expressly continued in force by the repealing enactment.

(4) The inclusion in the repealing provisions of an enactment of an express saving with respect to the repeals effected by it, does not prejudice the operation of this section with respect to the effect of those repeals.

(5) This section applies with respect to an enactment that expires or ceases to have effect as if that enactment has been repealed.

PART IX

STATUTORY POWERS AND DUTIES.

47. Where an enactment confers a power or imposes a duty, the power may be exercised and the duty shall be performed from time to time as occasion requires.

Exercise of power and duties.

48. Where an enactment confers a power or imposes a duty on the holder of a public office as such, the power may be exercised and the duty shall be performed by the person for the time being lawfully holding, acting in, or performing the function of that office.

Reference of holder of office includes successors.

49. Where an enactment confers upon a person power to do or enforce the doing of any act or thing, all such powers shall also be deemed to be conferred on the persons as are reasonably necessary to enable him or her to do or to enforce the doing of the act or thing.

Construction of enabling words.

50. (1) Where an enactment confers power upon a person to issue, grant, give or renew any licence, registration, lease, right, authority, approval, permit, or exemption, the person so empowered shall have a discretion either to issue, grant, give or renew or to refuse to issue, grant, give or renew such licence, registration, lease, right, authority, approval permit, or exemption.

Power to issue licence, discretionary.

(2) Nothing in this section shall affect any right which may be conferred by any enactment upon a person to appeal against a refusal to issue, grant, give or renew any licence registration, lease, right authority approval, permit or exemption.

Power to appoint includes power to suspend, dismiss.

51. (1) Where an enactment confers a power or imposes a duty upon a person to make an appointment to an office or position, including an acting appointment, the person having such power or duty shall also have the power—

- (a) to remove or suspend a person so appointed to an office or position, and to re-appoint or reinstate, any person appointed in exercise of such power or duty;
- (b) where a person so appointed to an office or position is suspended or unable, or expected to become unable, for any other cause to perform the functions of such office or position, to appoint a person to act temporarily in place of the person so appointed during the period of suspension or inability, but a person shall not be appointed to so act temporarily unless he or she is eligible and qualified to be appointed to the office or position; and
- (c) to specify the period for which any person appointed in exercise of such a power or duty shall hold his or her appointment.

(2) For the purposes of paragraph (b) of subsection (1) “cause” includes—

- (a) illness;
- (b) temporary absence;
- (c) conflict of interest.

(3) The validity of anything done by a person purporting to act under an appointment made under paragraph (c) of subsection (1) shall not be called in question on the ground that occasion for his or her appointment had not arisen or had ceased.

(4) Where an enactment confers a power or imposes a duty upon a person to make an appointment to an office or position and that power or duty is exercisable only upon the nomination or recommendation, or is subject to the approval, concurrence, or consent of some other person, then the powers conferred by paragraphs (a) to (c) of subsection (1) shall only be exercisable upon such nomination or recommendation or subject to such approval, concurrence, or consent.

(5) Nothing in this section affects the tenure of office or position of any person under the express provisions of any written law.

Appointments by name or office.

52. (1) Where an enactment confers a power or imposes a duty upon a person to appoint or designate a person to—

- (a) perform any function;

- (b) be a member of any board, tribunal, commission, committee, council, or other similar body, whether corporate or unincorporate;
- (c) be or do any other thing,

that person may make the appointment or designation either by appointing or designating a person by name or by appointing or designating the holder of an office by the term designating his or her office; and any such appointment or designating of the holder of an office shall be construed as the appointment or designation of the person from time to time holding, acting in, or lawfully performing the functions of the office.

(2) Where by or under any Act power is conferred on any person or authority to appoint any board, commission, committee or similar body, such person or as the case may be contrary intention appears, appoint or provide, by regulations, for the appointment of Chairperson or deputy Chairperson and a secretary of the board, commission, committee or similar body.

53. (1) Where an enactment confers or imposes a function upon a body or number of persons consisting of not less than three persons, the function may be performed by a majority of those persons.

Power of majority, quorum.

(2) Where an enactment establishes a board, commission, committee, council or other similar body consisting of 3 or more members—

- (a) a quorum is constituted at a meeting of the board, commission, committee, council or other similar body by number of members of the body equal to—
 - (i) at least one-half of the number of members provided for in the enactment if that number is a fixed number; and
 - (ii) if the number of members provided for by the enactment is not a fixed number but is within a range having a maximum or minimum, at least one-half of the number of members in office;
- (b) an act or thing done by majority of the members of those present at a meeting, if the members present constitute a quorum, shall be deemed to have been done by the body.

Exercise of power may be corrected.

54. Where an enactment confers a power or imposes a duty upon a person to do any act or thing of an administrative or executive character or to make any appointment, the power or duty may be exercised or performed as often as is necessary to correct any error or omission in any previous purported exercise or performance of the power or duty, notwithstanding that the power or duty is not in general capable of being exercised or performed from time to time.

Effect of appointment when retiring officer on leave.

55. When a substantive holder of any office created under any Act is on leave of absence pending relinquishment of his or her office, it shall be lawful for another person to be appointed substantively to that office.

“May” imports discretion, “shall” is imperative.

56. (1) Where in any enactment the word “may” is used in conferring a power, such word shall be interpreted to imply that the powers so conferred may be exercised or not, at discretion.

(2) Where in any enactment the word “shall” is used in conferring a function, such word shall be interpreted to mean that the function so conferred must be performed.

(3) Where in any enactment the word “must” is used in conferring a function such word shall be construed as intended to impose an obligation the breach of which does not result in penal consequence.

Power of board, etc., not affected by vacancy or certain defects.

57. Where a board, tribunal, commission, committee, council or other similar body whether corporate or unincorporate, is established by an enactment, the powers of such a body shall not be affected by—

- (a) any vacancy in the membership of the body;
- (b) any defect afterwards discovered in the appointment or qualification of a person purporting to be a member of the body;
- (c) a minor irregularity in the convening or conduct of a meeting of the body; or
- (d) the presence or participation at a meeting of a person not entitled to be present or participate.

Exercise of certain powers by delegate.

58. Where under any enactment the performance of a function by a person is dependent upon the opinion, belief, or state of mind of that person in relation to a matter and that function has been delegated under an enactment, the function may be performed by the delegate upon the opinion, belief, or state of mind of the delegate in relation to that matter.

PART X

GENERAL PROVISIONS REGARDING TIME AND DISTANCE.

59. (1) Where any expression of time occurs in any enactment, the time referred to shall, unless the contrary is expressly provided, be held to signify, in relation to any Partner State, the standard time adopted for that Partner State.

Reference to time.

(2) In an enactment, the expression “standard time” means exactly 3 hours later than Greenwich Mean Time.

60. Where any thing required to be done by or under any enactment and no time is specified within which such thing shall be done, such thing shall be done without unreasonable delay, and as often as due occasion arises.

Provision where no time is specified for doing act.

61. (1) Where an enactment confers power upon a person to delegate the exercise of any power or the performance of any duty conferred or imposed upon him or her under a written law—

Construction of power to delegate.

- (a) such a delegation shall not preclude a person so delegating from exercising or performing at any time a power or duty so delegated;
- (b) such a delegation may be made subject to such conditions, qualifications, limitations or exceptions as the person so delegating may specify;
- (c) if the delegation may be made only with the approval of some person, such delegation and any amendment of the delegation, may be made subject to such conditions, qualification, limitations or exceptions as the person whose approval is required may specify;
- (d) such a delegation may be made to a specified person or to persons of a specified class, or may be made to the holder or holders for the time being of a specified office or class of offices;
- (e) such a delegation may be amended or revoked by instrument in writing signed by the person so delegating;
- (f) in the case of a power conferred upon a person by reference to the term designating an office, such a delegation shall not cease to have effect by reason only of a change in the person lawfully holding, acting in or performing the functions of that office.

(2) The delegation of a power shall be deemed to include the delegation of any duty incidental to it or connected with it and the delegation of a duty shall be deemed to include the delegation of any power incidental to it or connected with it.

(3) Where under a written law an act or thing may, or is required to be done to, by reference to or in relation to, a person and that person has been under a written law delegated a relevant function conferred or imposed on him or her with respect to or in consequence of the doing of that act or thing, the act or thing shall be regarded as effectually done if done to, by reference to or in relation to the person to whom the said function has been delegated.

Computation
of time.

62. (1) The following provision has effect for the purpose of computing time under any enactment—

- (a) a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day in which the event happens or the act or thing is done;
- (b) where a period of time is expressed to begin on a particular day, that day is to be included in the period;
- (c) where period of time is expressed to be reckoned from, or after, a particular day, that day is not to be included in the period;
- (d) where a period of time is expressed to end on, or to continue to or to, be reckoned to, a particular day, that day it to be included in the period;
- (e) where—
 - (i) the time for doing anything is limited, or a particular day is specified, by an enactment; and
 - (ii) that time expires on, or that time or day falls on, a Saturday or a Sunday or a public holiday, the thing may be done on the next day that is not a Saturday or a Sunday or a public holiday;
- (f) where a period of time set for the doing of anything does not exceed six days Sundays; and public holidays are not to be included in the computation of the period;
- (g) where a period of time is expressed as a number of “clear days”, or as a number of days qualified by the expression “at least” or “not more than”, both the first day and the last day expressed are to be excluded in the computation of the period.

(2) Where time is prescribed in any enactment for doing any act or taking any proceeding and power is given to a court or other authority to extend that time, that power may be exercised by the court or other authority although the application for the exercise of that power is not made until after the expiration of the time.

63. (1) A reference in an enactment to a year is to be construed as a reference to a period of twelve months.

Reckoning
years and
months.

(2) Subject to the Treaty, a reference in an enactment to a financial year is to be construed as a reference to a period of twelve months ending on thirtieth June in any year.

(3) A reference in an enactment to a month is to be construed as a reference to a month as directed by the Gregorian calendar.

(4) If a period indicated in an enactment begins on any date other than the day of any of the twelve months of the calendar year it is to be reckoned from the date on which it is to begin to the date in the next month numerically corresponding, less one, or if there is no corresponding date, to the last day of that month.

For example, a month beginning on 15th January ends on 14th February; a month beginning on 31st January ends on 28th February (or 29 (February in a leap year).

(5) If the indicated period is one of two, three or more months, it is to be reckoned from the date on which it is to begin to the date numerically corresponding, less one, in the second, third or other successive month after that or, if there is no such corresponding date, to the last day of that month.

For example, a period of six months beginning on 15th August ends on 14th February; a period of six months beginning on 30th or 31st August ends on 28th February (or 29th February in a leap year).

64. For purposes of any enactment a person shall be regarded as having attained a given age at the beginning of the day on which the anniversary of his or her birth occurs and not on the previous day.

Age.

65. In measuring any distance for the purposes of any enactment, the distance is to be measured in a straight line on a horizontal plane.

Distance.

PART XI

GENERAL PROVISIONS REGARDING LEGAL PROCEEDINGS AND PENALTIES.

Ex-officio proceedings not to abate on death.

66. Any civil or criminal proceedings taken by or against any person by virtue of his or her office shall not be discontinued or abated by his or her death, resignation or absence of removal from office, but may be carried on by or against, as the case may be, the person for the time being holding that office.

Imposition of penalty not a bar to civil action.

67. The imposition of a penalty or fine by or under the authority of any enactment shall not, in the absence of express provision to the contrary, relieve any person from liability to answer for damages to any person injured.

Provisions as to offences under two or more laws.

68. Where any act constitutes an offence under two or more enactments the offender shall, unless the contrary intention appears, be liable to be prosecuted and punished under either or any of such laws, but shall not be liable to be punished twice for the same offence.

Amendment of penalty.

69. Where an act constitutes an offence, and the penalty for such offence is amended between the time of the commission of such offence and conviction, the offender shall in the absence of express provision to the contrary, be liable to the penalty prescribed at the time of the commission of such offence.

Penalties prescribed to be maximum penalties, but may be cumulative.

70. (1) Where in any enactment a penalty is prescribed for an offence under that enactment, such provision shall, unless a contrary intention appears, mean that the offence shall be punishable by a penalty not exceeding the penalty prescribed.

(2) Where in any enactment more than one penalty is prescribed for an offence, the use of the word "and" shall, unless a contrary intention appears, mean that the penalties may be inflicted alternatively or cumulatively.

Provisions as to attempts.

71. A provision in any enactment which constitutes an offence shall, unless a contrary intention appears, be deemed to provide also that an attempt to commit such offence shall be an offence under such provision, punishable as if the offence itself has been committed.

Jurisdiction of courts in respect of offences.

72. Subject to the express provisions of any Act, any act which constitutes an offence under any enactment shall be triable in the Partner State in which the offence is alleged to have been committed and the jurisdiction of the appropriate court in that Partner State in relation to the trial and punishment of the person alleged to have committed the offence shall be determined by the Penal Code, the Criminal Procedure Code and any other Act of that Partner State.

73. (1) Where by or under any enactment any animal or any thing is adjudged by any court or other authority to be forfeited, it shall, unless the contrary is otherwise provided or unless it is expressed by law to be forfeited to any person, be forfeited to the Government of the Partner State in which the order for forfeiture was made, and the net proceeds out of it, if it is ordered by a competent authority to be sold, shall be paid into and shall form part of the public revenue of that Partner State unless other provision is made.

Disposal of forfeits.

(2) Nothing in this section shall affect any provision in any enactment where any portion of any fine or forfeit or of the proceeds of any forfeit is expressed to be recoverable by any person or may be granted by any authority to any person.

74. Subject to the express provisions of any enactment, where any fine or pecuniary penalty is imposed by or under any enactment such fine or penalty shall be payable into and shall form part of the public revenue of the Partner State in which the fine or penalty was imposed.

Fines payable to public revenue of Partner State.

PART XII

MISCELLANEOUS PROVISIONS.

75. The production of a copy of the *Gazette* containing any enactment, Community Notice purporting to be printed by authority of the East African Community, shall be *prima facie* evidence in all courts and for all purposes whatsoever, of the *prima facie* evidence in all courts and for all purposes whatsoever, of the due making and tenor of such enactment or Community Notice.

Gazette to be *prima facie* evidence.

76. Where any enactment confers a power to issue any licence, permit or authorization, then, unless a contrary intention appears, such licence, permit or authorization may be issued subject to such conditions, not inconsistent with that law, as the authority issuing it deems expedient.

Powers to issue licences, etc subject to conditions.

77. (1) Where any person is required to do anything for which a fee is to be paid or a charge made under any enactment, such person may decline to do that thing until the fee is paid or until payment of the charge is made, or, where the precise amount of the payment to be made cannot be ascertained until the thing has been done, until there is paid such an amount as may be estimated to be the correct amount by the person required to do the thing.

Act for which payment required need to be performed until payment is made.

(2) Where a thing has been done for which an estimated amount has been paid, such amount shall be adjusted to the correct amount either by means of a further payment or by a refund of the amount over paid.

Service of
documents.

78. (1) Where any enactment authorizes or requires any document or notice to be served on, delivered, sent or given to a person without directing the manner in which that is to be done, the service, or delivery, sending or serving, is to be treated as having been completed—

- (a) in the case of an individual;
 - (i) by handing to the individual in person; or
 - (ii) by addressing to the individual and handing to an adult person at, or posting to the person's usual or last known residential address, or at the principal place of a business or to the usual or last known address of that business.
- (b) in the case of a corporate body or of an association of persons whether incorporated or not by addressing to the body or association and handing to the Secretary or another officer at or posting to its principal place of business or principal office in the Partner State.
- (c) in either case, if there is no person at the address to whom a document or notice can be handed, by affixing it, or a copy of it, to some conspicuous place at that address.

(2) Where an enactment authorizes or requires a document or notice to be served on, delivered, sent or given to, a person, by post, the service or delivery, sending or giving, is to be treated as having been completed—

- (a) by properly addressing and posting by pre-paid post as letter to the last-known address of the person; and
- (b) at the time when the letter would have been delivered in the ordinary course of post, unless the contrary is proved.

Deviation
from forms.

79. Where a form is prescribed or specified under any enactment, any deviations from it that do not materially affect the substance nor are likely to mislead do not invalidate the form used.