

Media service Act 2016

The Media service Act of 2016 (Act No.12 of 2016) is a Tanzanian law enacted on November 5, 2016, to regulate the media industry, establish a Journalists Accreditation Board, and create an Independent Media Council. It replaced the restrictive 1976 Newspaper Act, intending to professionalize the sector, but has been widely criticized for restricting press freedom and freedom of expression.

This Act was passed by the Parliament of the United Republic of Tanzania on 5th November 2016, and assented by the President on 16th November 2016. The Act promotes professionalism in the media industry establishes Journalists Accreditation Board independent media council and framework for regulation of the media services and for other related matters. The Act is supplemented by its regulations known as the Media Service (regulations).

Who is a journalist?

Section 3 of the Act defines a journalist as any person accredited as professional journalist under the Act, who gather, collects, edits, prepares or present news, stories, materials, and information for mass media services whether as an employee of the media house or as a freelancer. In order to be recognized as a journalist, accredited by the Journalists Accreditation Board. this is provided under section 19 of the media service Act 2016.

The law provides for the qualifications that journalist should have, before being accredited as a professional journalist by the Journalists Accreditation Board. the qualifications are provided under regulation 17 of the Media Service Regulations 2017.

Qualifications for Accreditation as a journalist

In order to be accredited as a journalist, one should meet the following qualifications as provided under regulation 17 of the media service regulations, 2017. These are

- a) A person must be a holder of diploma, degree of higher diploma in journalism or any other related media studies from the recognized institution offering journalism or media studies, or
- b) That person belongs to the cadre such as editor's reporter, freelancer, correspondents, producers, radio or television broadcaster, students in media and mass communication or any other related field, members of public with outstanding services for media profession or a foreign journalist.

Application for Accreditation

Accreditation is not an automatically act. The journalist is required to make an application for accreditation to the board in the manner prescribed by the regulations. This is provided under regulation 20 of the media service regulations ,2017. When applying for accreditation a local journalist is required to submit the following documents:

- a) A letter from employer, Certified copies of academic certificates and three passport-size photographs together with the proof of payment of accreditation fee.
- b) A foreign journalist is required to submit the following documents: filled prescribed form, a letter from the relevant media house and proof of payment of prescribed fee together with the certified copy of his or her passport.

Temporal accreditation and life membership accreditation

Under regulation 18 of the media service regulations 2017, students pursuing related studies are eligible for temporal accreditation for the purpose of apprenticeship to practice as a professional journalist. To be accredited temporarily a student is required to submit a student identity card, letter of introduction from the academic institution or letter of recommendation from relevant media house or any other institution offering space for partnership. The time under which a student is accredited will be shown on the press card.

Accreditation Board is empowered under Regulation 19(2) of the media service regulations, 2017, to award life membership accreditation on its own discretion and from time to time to any of the following persons: A distinguished member in journalism profession or journalist who had served in a top position for a long time or individuals who have significantly contributed to the development of media industry and journalism profession.

A foreign journalist shall be accredited for a specified purpose for a period not exceeding within (90) days. However, if the purpose of accreditation is not completed within 90 days the said journalist may apply to the board for extension of further period not exceeding 21 days. This is provided under section 19(3) and (4) of the media service Act, 2016 respectively.

Cancellation of Accreditation

Accreditation may be canceled by the Board in two circumstances, subject to the satisfactory evidence. These are:

- a) When a journalist commits gross professional misconduct as prescribed in the code of ethics for journalism profession or
- b) When a foreign journalist does not pursue the purpose under which accreditation was granted.

The licensing requirements for provision of media service

For a person to provide media service, he/she must obtain a license. Depending on the type of media service offered, a license can be obtained either from Director of Information Services or Tanzania Communication Regulatory Authority (TCRA). Print media license are issued by the Director of Information Service under Section 8 of the Act. other media licence is issued by the

Tanzania Communication Regulatory Authority (TCRA) under the Electronic and Postal Communication Act, 2010.

Bodies regulating media services

The Act establishes bodies which are responsible to regulate media service in various aspects. These are: The Director of Information Services Department, Journalist Accreditation Board and Independent Media Council.

1. Director of Information Services Department

This is established under section 4(1) of the Act. The director is appointed by the President from amongst a person of high integrity and proven academic and professional knowledge in media service, legal or public administration.

2. Journalist Accreditation Board

The Act establishes a board for accreditation of journalists. This Board is established under section 11 as a Board corporate with perpetual succession and common seal, capable of suing and being sued in its own name. However, the attorney general reserves the right to intervene in any matter instituted by or against the Board. The board is also capable of obtaining/acquiring and disposing of both movable and immovable properties in its own name.

3. Independent Media Council

The Act also establishes the Independent Media Council under section 24 and 25. Every accredited journalist is a member of the Independent Media Council. The leadership of the council comprises a chairman, vice chairman and two accredited journalists nominated by the media association.

Ministers power

This Act also vests anonymous power to the minister. Some of these powers are as follows

- Power to prohibit importation of a publication. This is provided under section 58 of the Act. Under this section the minister has the power to prohibit importation of any publication if in his opinion the importation of the said publication is contrary to public interest.
- Power to sanction or prohibit publication of any content which jeopardizes national security or public safety. This is provided under section 59 of the Act. Generally, the minister can sanction or otherwise prohibit publication of any content which he opines it jeopardizes national security or public safety.

Gaps and weaknesses of Media Service Act 2016

1. The Act prohibits from practicing journalism unless they are accredited.

This limits the right to freedom of expression. The provision of section 19(1) restricts a person from practicing journalism unless he has been accredited by the board. Generally prohibiting individuals from practicing journalism unless they are licensed violates the right to freedom of expression. The right to express oneself through the mass media belongs to everyone not just a selected group who meet certain requirements.

2. The Act establishes media regulatory bodies that lack independence and specific regulatory guideline.

Section 11(1) of the Media service Act establishes the Journalist Accreditation Board. All members of the Board are appointees of the minister as per section 11(1) (a)-(f) of the Act. under the international standards and good practices media regulatory bodies must be independent and adequate safeguards against abuse must be in place.

3. Criminalization of defamation

Section 35 and 36 of the Act provide for defamation. the provision of section 38(3) of the Act shows clearly that defamation may attract both civil and criminal liability. Criminal defamation of laws are especially problematic from the point of view of freedom of expression. they can lead to the imposition of harsh sanction such as prison sentence, suspension of rights to practice journalism or hefty fine. criminal defamation violates the freedom of expression enshrined in article 18 of the constitution of the United Republic of Tanzania, 19 of the ICCPR of the African Charter of Human and Peoples Rights. for instance, the African court on human people's rights has held that defamation should be criminalized only in limited circumstances and that imprisonment for defamation violates the right to free speech granted in article 9 of African charter of human and peoples right and article 19 of ICCPR.

4. Vagueness of the provision of the Act

There are some provisions in the Media Service Act which are vague and ambiguous and they are likely to bring problems in their application. for example, the provisions of section 8 which prohibits a person from publishing, selling, offering for sale, importing, distributing or producing print media without being licensed. it is not clear from the wording of his section what does it actually prohibits?