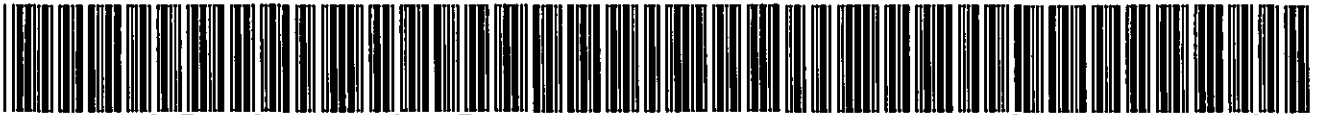


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ZANZIBAR

Bill Supplement to the Revolutionary Government of Zanzibar Gazette
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6 CONTINUATION 6

A BILL
for
AN ACT TO AMEND THE ELECTIONS ACT, 1984.

ENACTED by the House of Representatives of Zanzibar.

1. This Act may be cited as the Elections (Amendment) Act, 1992 and shall be read as one with the Elections Act, 1984, hereinafter referred to as the "Principal Act" and shall be deemed to have come into operation on the First day of July, 1992. Short title and commencement.

2. Section 2 is amended in subsection (1) – Amendment of section 2.

(i) by deleting the definition of "candidate" and substituting for it the following new definition: –

“ “candidate” means a person who submits himself for election to the House of Representatives or for election to a local authority;”

(ii) by repealing the definition "Electoral conference";

(iii) by deleting the definition of "nomination" and substituting for it the following new definition: –

“ “nomination” means nomination as candidate for election to the House of Representatives;”

(iv) by deleting the definition of "nomination day" and substituting for it the following new definition: –

“ “nomination day” means a day appointed for the nomination of candidates;”

(v) by deleting the definition "party" and substituting for it the following new definition: –

“ “political party” means a political party registered as such under the Political Parties Act, 1992”.

3. Section 4 of the Principal Act is hereby repealed. Repeal of section 4.

4. Section 6 of the Principal Act is repealed and replaced by the following new section: – Repeal and replacement of section 6.

6.-(1) There shall be a Director of Elections who shall be appointed by the President from amongst the names of senior civil servants of Zanzibar recommended by the Commission. Director of Elections.

(2) the Director shall exercise and perform all such functions and duties as are conferred upon him by this Act or on the direction of the Commission.

(3) Every Registration Officer, Returning Officer or other person concerned with the conduct of elections under this Act shall carry out fully all directions and instructions of the Director issued by him in pursuance of the provisions of this section."

5. Section 11 of the Principal Act is hereby repealed.

6. Section 30 of the Principal Act is hereby amended by:—

(a) deleting subsection (1) and replacing it with the following new subsection:—

"(1) Every appeal under section 23 or 29 shall state shortly the grounds of appeal, and shall be accompanied by such sum as the Commission may, by notice in the Gazette, prescribe as a deposit.";

(b) deleting subsection (1A);

(c) repealing the word "Commission" and substituting for it the words "High Court" wherever it appears in the section.

7. Section 38 of the Principal Act is hereby repealed.

8. Section 39 of the Principal Act is hereby repealed.

9. Section 40 of the Principal Act is hereby repealed and replaced by the following new section:—

40.—(1) Where only one candidate is nominated for an election in a constituency, such candidate shall be deemed to be elected and the Commission shall, by notice in the Gazette, declare him to have been elected.

(2) Where a candidate withdraws after nomination, the provision of section 85(A) shall apply and no party shall nominate a substitute candidate."

10. Section 41 of the Principal Act is hereby repealed.

11. Section 42 of the Principal Act is hereby repealed and replaced by the following new section:—

42. Where candidates are nominated for election in a constituency, the Commission shall, by notice published in the Gazette, appoint a day not less than sixty days and not more than ninety days after the day on which they have been deemed to have been nominated to stand as candidates for election day in the constituency; save that—

(a) where there are two or more contested elections during the

House of Representatives general election the Commission may appoint different election days for different constituencies;

(b) the Commission may revoke the appointment of an election day and appoint some other day within such period as aforesaid to be election day."

12. Section 44 of the Principal Act is hereby repealed and replaced by the following new section:—

44.—(1) Where there is a contested election in a constituency the election campaigns shall be organised by the candidate, the candidate's political party or his agent.

(2) The polling agent or the candidate's party, as the case may be, shall furnish the District Commissioner with a schedule indicating the proposed programme for his campaign public meeting specifying times and places of those meetings.

(3) any polling agent or a political party acting with the approval or consent of the candidate or of his political party may convene or address any public meeting held in the constituency other than one held pursuant to subsection (2), for the purpose of furthering the candidate's election in the programme of his political party".

13. Section 45 of the Principal Act is hereby repealed.

14. Section 46 of the Principal Act is hereby repealed and replaced by the following new section:—

46.—(1) For the purpose of assisting voters to identify a candidate, every candidate shall be identified by a photograph of the candidate which has been approved by the Returning Officer.

(2) The display of the photograph of a candidate during the election campaign shall be subject to the control of the Returning Officer."

15. Section 47 of the Principal Act is hereby repealed.

16. Section 48 of the Principal Act is hereby repealed and replaced by the following section:—

48. A candidate may withdraw his candidature by notice in writing signed and delivered by him to the Returning Officer not later than six o'clock in the evening of the day preceding nomination day and if that day is not a working day, a day preceding that other day."

17. Section 49 of the Principal Act is hereby amended by deleting the word "primary" wherever it appears in the section.

Repeal and replacement of section 44.

"Election campaigns.

Repeal of section 45.

Repeal and replacement of section 46.

"Candidate to be identified by photograph.

Repeal of section 47.

Repeal and replacement of section 48.

"Withdrawal of candidature.

Amendment of section 49.

Amendment
Section 50. 18. Section 50 of the Principal Act is hereby amended by deleting the word "primary" wherever it appears in the section.

Amendment
Section 53. 19. Section 53 of the Principal Act is hereby amended—

(i) in subsection (1) by deleting that subsection and substituting for it the following:—

"53(1) Each candidate may appoint one person to be known as polling agent to attend at each polling station within the constituency for which he is a candidate for the purposes of—

- (a) detecting personation;
 - (b) representing and safeguarding the interests of a candidate at the polling station; and
 - (c) co-operate with the presiding officers and polling assistants to secure the smooth compliance with the law and procedure pertaining to the conduct of the voting and the elections at the polling station."
- (ii) in subsection (3) by deleting the phrase "District Executive committee" and substituting for it the word "candidate".

Amendment
Section 55. 20. Section 55 of the Principal Act is hereby amended in paragraph (a) by deleting the words "where applicable" which appear in the fourth line.

Amendment
Section 57. 21. Section 57 of the Principal Act is hereby amended in subsection (1) by adding the following proviso:—

"Provided that absence of the polling agent shall not invalidate the votes;".

Amendment
Section 58. 22. Section 58 of the Principal Act is hereby amended by—

- (i) deleting the phrase "supervisory delegate" wherever it appears in the section and substituting for it the phrase "polling agent";
- (ii) deleting the marginal notes and substituting for them the following marginal notes:—
"Voting by polling agents".

Amendment
Section 60. 23. Section 60 of the Principal Act is hereby amended by deleting subsection (1) and substituting for it the following:—

"60—(1) Where the Presiding Officer at any polling station has reason to believe, or where a candidate or polling agent present at any polling station alleges that any person wishing to vote at that polling station is not a voter entitled to vote at that polling station, the Presiding Officer shall warn

such person that he may commit an offence under this Act by so voting."

24. Section 64 of the Principal Act is hereby amended in the last line by deleting word "upon" and substituting for it the word "open". Amendment
of section 64.

25. Section 70 of the Principal Act is hereby amended by re-writing the contents of paragraph (d) and the concluding phrase as follows:—

"(d) which is unmarked or void for uncertainty: shall not be counted: Provided that special ballot issued under the provisions of section 58 shall be counted if it complies with the provisions of that section and any directions given by the commission under that section."

26. Section 82 of the Principal Act is hereby amended by— Amendment
of
section 82.

- (i) inserting the word "and" in the second line between the words "Election" and "a contested Parliamentary Election";
- (ii) deleting the word "three" which appears in the second line of paragraph (e) and substituting for it the word "two".

27. Section 84 of the Principal Act is hereby repealed and replaced by the following:— Repeal and
replacement
of section 84.

84—(1) No person shall be qualified to be elected as a constituency member of the House of Representatives unless he is qualified to be elected by and in accordance with the provisions of the Constitution.

(2) A person shall be elected as a member of a Local Authority or stand as a candidate at an election for Local Authorities if he is qualified for Election.

(3) A person shall be qualified for election if he satisfies the following conditions that is to say—

- (i) he has attained the age of twenty one years;
- (ii) he is registered as a voter and is not disqualified from voting under the provisions of this Act or any other law;
- (iii) he is the ordinary resident within the area of jurisdiction of the Local Authority;
- (iv) he has a literacy qualification that is he must be able to read and understand documents normally considered by the Commission;
- (v) he is sponsored by a political party registered as such by the Political Parties Act, 1992; and
- (vi) he is engaged in a lawful business.

28. Section 85 of the Principal Act is hereby amended— Amendment
of section 85.

- (i) by deleting the word "primary" wherever it appears in the section;

- (ii) by deleting the words "fifteen voters" which appear in the third line of that section and substituting for them the words "twenty five voters";
- (iii) by deleting the marginal notes and substituting for it the following marginal notes:—
"Nomination of candidates".

Amendment section No. 4/90
29. Section 85A of the Principal Act is hereby repealed and replaced by the following new section:—

85A.—(1) A candidate or one of the persons nominating him shall, at the time of delivering nomination paper pursuant to the provision of section 85, deposit with a Returning Officer such sum of money as may be prescribed.

(2) The deposit of an opposed candidate shall be forfeited to the Government if he withdraws his candidature after nomination day or if the number of votes counted in his favor at the election is less than one-tenth of the total number of votes counted for the seat which he was a candidate, save that such deposit shall not be forfeited if the candidate dies.

(3) where a deposit of a candidate is not forfeited under the provision of subsection (2) of this section, it shall, as soon as is reasonably practicable after the declaration of the results of the election, be returned to him or paid to his personal legal representative as the case may be, by the Returning Officer".

Amendment No. 86
30. Section 86 of the Principal Act is hereby amended by adding the following paragraph:—

"(d) the proposed symbol of the political party of which he is a candidate".

Amendment section No. 4/980
31. Section 88 of the Principal Act is hereby repealed and replaced by the following section:—

88.—(1) Objections may be made to a nomination paper on all or any of the following grounds, but on no other ground, namely—

- (a) that the particulars given in respect of the candidate are insufficient to identify him;
- (b) that the nomination paper does not comply with or was not delivered in accordance with the provision of this Part;
- (c) that it is apparent from the contents of the nomination paper that the candidate is not qualified to stand for election;

(d) that the requirements of subsection (3) of section 86 have not been complied with.

(2) No objection to a nomination paper shall be allowed unless it is made to the Returning Officer before four o'clock in the afternoon of the day following nomination day.

(3) The objection may be made by another candidate in the constituency, or by the Director of Elections or the Returning Officer of his own motion and shall be in writing, signed by the objector, and shall specify the grounds of objection.

(4) The Returning Officer shall, with the least possible delay, decide on the validity of every objection and inform the candidate concerned of his decision, and, if the objection is allowed, of the ground of his decision.

(5) Any candidate who is dissatisfied by the decision of the Returning Officer on the validity of an objection may, in such manner and within such period as the Commission may prescribe, appeal to the Commission and the decision of the Commission shall be final and conclusive and shall not be challenged in any court, save by way of an election petition presented pursuant to the provisions of Chapter VII on one or other of the ground specified in that Chapter".

32. Section 89 of the Principal Act is hereby repealed and replaced by the following section:—

Repeal and replacement of section 89.

89.—(1) A Returning Officer shall, after he has determined the validity of the nomination papers lodged with him, inform the Commission of the names of the candidates validly nominated and of the particulars stated in respect of each such candidate.

"Procedure after determination of validity of nominations.

(2) Where only one candidate is nominated for an election in a constituency, the Returning Officer shall declare the candidate to have been elected and shall so inform the Commission where the Constituency is situated.

(3) Where a Returning Officer determines that no candidate has been validly nominated for election in that constituency, the Returning Officer shall so inform the Commission where it is situated.

(4) Where the Commission has been advised under subsection (3) that no candidate has been validly nominated for election in that Constituency, the Commission shall exercise its powers under the Act to appoint another day for receiving the nomination of candidates for election and for taking a poll therein, in the case of an ordinary election."

33. Section 90 of the Principal Act is hereby amended by deleting the proviso appearing in that section.

Amendment of section 90.

ent 34. Section 92 of the Principal Act is hereby amended—

- (i) in subsection (1) in the last paragraph by deleting the word "five" and substituting for it the word "twenty";
- (ii) in subsection (2) by deleting the word "five" and substituting for it the word "ten";
- (iii) in the last sentence of subsection (2) by deleting the full stop and adding the following:—
...."or to imprisonment for a term not exceeding twelve months or to both such fine and imprisonment".

nt 35. Section 93 of the Principal Act is hereby amended in subsection
93. (2) by deleting the word "two" which appears in the sixth line and substituting for it the word "ten".
90.

nt 36. Section 94 of the Principal Act is hereby amended by repealing
94. subsection (3).
90.

nt 37. Section 107 of the Principal Act is hereby amended by deleting
ion the words "one" and "six" which appear in the seventh and eighth lines and substituting for them the words "five," and "eight" respectively.

nt 38. Section 108 of the Principal Act is hereby amended in subsection
108 (2) by deleting the words "two hundred" and substituting for them the words "five thousand".

nt 39. Section 110 of the Principal Act is hereby amended in subsection
tion (1)(c) in subparagraphs (i)(ii) by deleting the passage "National Executive Committee of the Party or the Central Committee of the Party" and substituting for them the words "Political Party" and the words "District Executive Committee of the Party" and substituting for them the word "Commission" and the "Returning Officer" respectively.

and 40. Section 111A is hereby repealed and replaced by the following
t of new section:—
/90

lec- 111A. The Zanzibar Electoral Commission shall, subject to the Con-
om stitution and the Act of the House of Representatives, exercise and perform all such functions and duties as are conferred upon it by this Act, the Regulations or directions of the Minister".

nt 41. Section 112 of the Principal Act is hereby amended—
tion

- (a) by deleting all references to "the Electoral Commission" and substituting for them with references to "the High Court"; and

- (b) by repealing the marginal note and substituting it for the following:—
"Petition triable by the High Court";
- (c) by repealing subsections (4) and (5).

42. Section 115 of the Principal Act is hereby repealed and replaced by the following:—

115.(1) Where the High Court determines that a person is guilty of any illegal practice, it shall certify the same to the Director and if the person concerned is registered as a voter—

- (a) the Director shall delete his name from the register of voters in which he is registered;
- (b) the Director shall inform in writing the Registration Officer for the polling district concerned of such deleting;
- (c) forthwith upon being so informed, the Registration Officer shall take all such steps as, in the case of deletion of a name from the register under section 28 or section 30, he is required by section 29(2) to take.

(2) At the conclusion of the trial of an election petition, the High Court shall also certify to the Director—

- (a) whether any illegal practice has not been proved to have been committed by or with the knowledge and consent or approval of any candidate at the election, and the nature of such practice, if any; and
- (b) the names and descriptions of all persons, if any, who have been proved to the satisfaction of the High Court to have been guilty of any illegal practice.

(3) Before any person, who is neither a party to an election petition, nor a candidate on behalf of whom the seat is claimed by an election petition, is certified by the High Court under this section, the court shall give such person an opportunity of being heard and of giving and calling evidence to show cause why he should not be so certified.

(4) Where the High Court certifies that an illegal practice has been committed by any person, that person shall be subject to the same disqualifications as if at the date of the said certificate he had been convicted of that practice of offence.

(5) When the High Court certifies that an illegal practice has been committed by any person with the knowledge and consent or approval of a candidate, then in addition to any other consequences, the candidate

Repeal and replacement of section 115. Act No.4/90 s.17. "Reports to the Director at end of hearing of election petition."

shall be subject to the same disqualifications as if at the date of the said certificate he had been convicted of that practice.

(6) The Director shall forthwith—

- (a) cause a copy of such certificate to be published in the Gazette;
- (b) delete from the register the name of any person registered in it who appears from the record to be disqualified from voting at an election;
- (c) inform in writing the Registration Officer for the relevant polling district of every such deletion of the name of the person who is registered as a voter in that polling district.

(7) Forthwith upon being so informed, the Registration Officer shall take all steps as may be necessary for ensuring that the person concerned returns the certificate of registration and any other relevant document for cancellation.

al and cement section No. 4/90
e for intation determination of ion peti-
43. Section 116 of the Principal Act is amended by repealing that section and replacing it with the following new section:—

116.(1) Every election petition shall be presented within fourteen days from the date of the declaration of the results of the election by the Returning Officer.

(2) The High Court shall hear and determine each election petition within two years from the date of presentation of the election petition before it.

ndment section No. 4/90
44. Section 117 of the Principal Act is hereby amended by deleting the words "Electoral Commission" and substituting for them the word "High court".

deal and cement section No. 4/90
45. Section 118 is repealed and replaced by the following new section:—

118.(1) The Chief Justice may make rules of court regulating the procedure and practice to be followed and prescribing the fees to be paid on and in relation to petitions and applications under this part.

(2) Rules made under this part shall be published in the Gazette".

deal of section 119. No. 4/90
46. Section 119 of the Principal Act is hereby repealed.

47. Section 120 of the Principal Act is hereby repealed and replaced by the following new section:—

120.(1) The election of a candidate as a member shall not be questioned save on an election petition.

(2) The election of a candidate as a member shall be declared void on any of the following grounds which are proved to the satisfaction of the High Court namely—

- (a) that, during the election campaign, statements were made by the candidate, or on his behalf and with his knowledge and consent or approval with intent to exploit tribal, racial or religious issues or differences pertinent to the election or relating to any of the candidates or where the candidates are not of the same sex, with intent to exploit such difference;
- (b) non-compliance with the provisions of this Act relating to election if it appears that the election was not conducted in accordance with the principles laid down in such provisions and that such non-compliance affected the result of the election;
- (c) that the candidate was at the time of his election a person not qualified for election as a member.

(3) Notwithstanding the provisions of subsection (2); whereupon trial of an election petition respecting an election under this Act the High Court finds that an illegal practice in connection with the election has been committed by or with the knowledge and consent or approval of any of the candidate's agents and the court further finds, after giving the Attorney-General or his representative an opportunity of being heard, that the candidate has proved to the court—

- (a) that no illegal practice was committed by candidate by himself or with he knowledge and consent or approval of such candidate or his agent;
- (b) that the candidate took all reasonable means for preventing the commission of any illegal practices at such an election;
- (c) that in all other respects the election was free from illegal practice on the part of the candidate and his agents;

Then, if the court so recommends, the election of such candidate shall not by reason of any such practice be void."

48. Section 121 of the Principal Act is hereby amended by repealing the words "Electoral Commission" and substituting for it the words "High Court".

Repeal ar replacement of section 120. Act No. 4/9 s.22.

"Avoidance of electio and petition.

Amendment of section 121.

49. Section 124 of the Principal Act is amended by deleting the words "supervisory delegate" which appears in the first line.

50. The Principal Act is amended in section 126 by deleting that section and substituting for it with the following:—

126. A notice under this Act shall be deemed to have been served on or given to any person—

- (a) if served on him personally;
- (b) if left for him at his last known address; or
- (c) if sent by registered post addressed to him at his last known address"

51. Section 127 of the Principal Act is hereby amended in subsection (1) by —

- (i) deleting the word "of the purpose" which appears in the first line of paragraph (a);
- (ii) deleting paragraphs (c) and (d) thereof.

52. Section 132 of the Principal Act is amended by repealing paragraph (c).

53.(1) Notwithstanding the amendment of the Election Act, 1984 and section 118 of the Constitution all rules, regulations and directions made by the Electoral Commission before the commencement of this Act, shall continue in force and effect until amended, replaced or altered in any other manner by the Commission or the Chief Justice.

(2) The Minister responsible for the Government business in the House of Representatives may make Regulations for giving better effect to the provisions of this Act.

OBJECTS AND REASONS.

This Bill is intended to amend the Elections Act, 1984 in respect of the election of members of the House of Representatives and Local Governments. Provisions in relation to election of the President have not been dealt with in this Bill.

Following the decision that the United Republic of Tanzania should become a multi-party state, it has been necessary that the Elections Act, 1984 as amended by Elections (Amendment) Act, 1990 be recasted with a view to provide for a system in which two or more candidates from different political parties in an electoral constituency could contest for a seat

to the House of Representatives and Local Governments. The proposed system therefore, departs substantially from the system of fielding two candidates sponsored by one party, namely, Chama cha Mapinduzi. In this regard, certain provisions of the present law have either been amended or repealed as the purpose for which they were devised have been extinguished.

Another important matter is the role and functions of the Electoral Commission. The role of the Commission would be to supervise all matters pertaining to elections for the members of the House of Representatives, Local Government and for the Presidency. Unlike in the present Law, the Commission shall not have the powers to hear and determine election petitions. That function is to be undertaken by the High Court. There shall also be the Director of Elections who by virtue of such appointment shall assume secretariat role in the Commission. The Director who shall man and run the day to day functions of the Commission, shall not be a member of it.

Consequent upon these amendments, various terms introduced have necessitated amendment on the definition of such terms in order to care for present changes in the political system in the Land.

The terms "candidate", the "party" and the word "nomination" have been accorded new definitions. In the same spirit, sections 40 and 42 provide for nomination of candidates by their respective parties, declaration of an elected candidate, while section 48 provides for a procedure for withdrawal of candidature. Sections 44 and 46 set out the procedure for conducting election campaigns. Counting agents who shall be paid by the candidate who appoints him at such rate as would be prescribed by the Commission. There shall also be polling agents who among other functions shall visit polling stations for purposes of determining personation.

Section 92 up to section 108 have been amended with a view to enhance the magnitude of punishment.

For the purposes of bringing home the spirit of multipartism section 110 has been amended so as to effect the decision of relieving the National Executive Committee of the Party and the Central Committee of the Party from the function which shall now be performed by the election petition to the High Court is to be fourteen days.

Zanzibar.
20 August, 1992.

RAMADHAN ABDALLA SHAABAN
Minister of State.
Office of the Chief Minister.
Zanzibar.

A BILL

for

**AN ACT TO MAKE PROVISIONS FOR THE ESTABLISHMENT OF
THE ZANZIBAR ELECTORAL COMMISSION AND OTHER
MATTERS CONNECTED THEREWITH.**

ENACTED by the House of Representatives of Zanzibar.

1. This Act may be cited as the Zanzibar Electoral Commission Act, 1992 and shall come into operation immediately after being assented to by the President.

2. In this Act unless the context otherwise requires:—

“Candidate” means a person who submits himself for election to the House of Representatives or Local Governments;

“The Commission” means the Zanzibar Electoral Commission established by the Constitution and this Act;

“The Constitution” means the Constitution of Zanzibar, 1984;

“Constituency” means in an election other than of a President a constituency for the purposes of elections to the House of Representatives or to a Local Authority and in the case of an election of President means the whole of Zanzibar;

“Director of Elections” means a person appointed to be the Director of Elections in accordance with the provision of section 6 of this Act and includes a person for the time being performing any of the functions of that office;

“Election” means —

- (a) in the case of an election of the President the Presidential election;
- (b) in the case of an election to the House of Representatives a Parliamentary election, and includes by-election;
- (c) in the case of an election of Local Authority means a Local Authority election and includes by-election;

“Presidential election” means the election of the President of Zanzibar and Chairman of the Revolutionary Council;

“Political party” means a political party fully registered under the Political Parties Act, 1992.

3.—(1) There shall be established a Commission known as the Zanzibar Electoral Commission.

(2) The Commission shall be an independent and extra ministerial department.

4.—(1) The Commission shall, subject to the Constitution and to this Act, consist of the following members who shall be appointed by the President:

- (a) a Chairman who shall be a person qualified to be appointed as such as the President considers necessary;
- (b) six other members who are persons possessing either adequate experience in the conduct or supervision of House of Representatives or Parliamentary election or such other qualifications as the President considers necessary for or pre-requisite to the effective discharge of the role of the commission;

Provided that one of the members shall be a lawyer

(2) Subject to the provisions of this Act, the Chairman shall preside at all meetings of the Commission and in his absence, the Vice Chairman shall preside, or if he too is absent, the commissioners present may appoint one of their number to act in the place of the Chairman.

(3) The Vice-Chairman shall be elected by the members from among themselves.

(4) The Director of Elections shall be the Secretary to the Commission and he shall be the Chief Executive of the Commission.

5.—(1) The Commission shall be responsible for the overall supervision of the general conduct of all Presidential, House of Representatives and Local Authorities elections in Zanzibar.

(2) The Commission shall, subject to the Constitution and this Act, exercise and perform all such functions and duties conferred upon it by the provisions of the Election Act.

(3) The Commission shall, subject to the Constitution divide Zanzibar into such number of constituencies having such boundaries and names as may be prescribed by an order made by the Commission; save that such divisions shall be approved by the President.

(4) The Commission shall supervise all registration of voters in the election of the Presidency the members of the House of Representatives and members of the Local Authorities

(5) In exercise of its functions under this Act the Commission shall not be subject to the orders or directions of any person, department or Government or view of a political party.

(6) No court shall have jurisdiction to inquire into the question whether the Commission has validly performed any function vested in it by this Act.

(7). In exercise of its functions under the provisions of the Constitution and this Act, the Commission shall, from time to time, consult with the National Electoral Commission of the Union.

6.—(1) There shall be a Director of Elections who shall be appointed by the President from among the names of senior civil servants of Zanzibar recommended by the Commission.

(2). The Director shall exercise and perform all such functions and duties as are conferred upon him by this Act or on the directions of the Commission.

(3). Every Registration officer, Returning officer or other person concerned with the conduct of elections under this Act shall carry out fully all directions and instructions of the Director issued by him in pursuance of the provisions of this section.

7.—(1) Every District Administrative Officer shall be the Returning Officer for the constituency or constituencies in the district in relation to which he is the District Administrative Officer.

(2). Notwithstanding subsection (1), the Director may in any case, by notice published in the Gazette, appoint a person by name or, by office to be the Returning officer for any constituency instead of the one referred to in subsection (1) and where such a person is so appointed, the District Administrative Officer shall cease to be the Returning officer for that constituency.

(3). Each Returning officer shall appoint by office such number of Assistant Returning officer as he may think fit.

(4). Subject to such directions as the Returning officer may from time to time issue, an Assistant Returning officer may exercise and perform all the powers and duties conferred or imposed on a Returning officer other than those conferred by the foregoing provisions of this section and any reference in this Act to the Returning officer shall, save as aforesaid, be deemed to include a reference to an Assistant Returning officer.

(5) Every Returning officer may, subject to the directions of the Director, employ such staff as they may be required to carry out their functions under this Act.

(6). Every Returning Officer and Assistant Returning Officer shall, before first embarking upon the functions of his office during any election, take and subscribe an oath of secrecy before a magistrate in the prescribed form.

(7) The Returning officer shall be responsible, for all matters relating to the registration of voters in his area of jurisdiction.

8. Every Municipal or Town Director shall, by virtue of such office and without further or other appointment under this Act, be an Assistant Returning Officer.

9.—(1) Subject to the provisions of this section, a member of the Commission shall cease to hold office —

(a) upon the expiration of five years from the date of his appointment; or

(b) if any circumstances arise which, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

(2). The President may remove a member of the commission from office only for inability to discharge the functions of office (whether arising from infirmity of body or mind or from any other cause) or for misbehaviour.

(3). The Commission may act notwithstanding any vacancy amongst its members or the absence of any member, but any decision of the Commission shall require the concurrence of a majority of all members present.

10.—(1) The Commission may, subject to this Act, regulate its own procedure, including the determination of places and times of its sittings.

11. The Minister responsible for the Government business in the House of Representatives may make Regulations for giving better effect to the provisions of this Act.

(2). Rules made under this section shall be published in the Gazette.

OBJECTS AND REASONS

The Bill is intended to establish an independent Electoral Commission of Zanzibar which shall deal with all matters pertaining to the election of the President, members of the House of Representatives and members of the Local Authorities.

The Commission shall consist of Chairman and six other members whose appointment shall be as provided for under 4 of this Act. There shall also be the Director of Elections who by virtue of such appointment shall assume secretariat role in the commission. The Director who shall man and run the day to day functions of the commission, shall not be a member of it. The Commission shall not have powers to hear and determine elections petitions. That function is to be undertaken by the High Court.

RAMADHAN ABDALLA SHAABAN

Zanzibar
20 August, 1992.

Minister of State
Chief Minister's Office

**A BILL
for
AN ACT TO AMEND THE ENTERTAINMENTS TAX DECREE,
NO. 16 OF 1962**

ENACTED by the House of Representatives of Zanzibar.

1. This Act may be cited as the **Entertainments Tax (Amendment) Act, 1992** and shall be read as one with the **Entertainments Tax Decree of 1962**, in this Act referred to as the **Principal Act**, and shall be deemed to have come into operation on the **First day of July, 1992**.

2. Section 3 of the **Principal Act** is hereby repealed and replaced by the following section:—

3. There shall be charged, levied and paid on all payments for admission to an entertainment tax at 12% on the amount of payment **excluding Tax on calculation of the entertainments Tax.**

4. Section 4 of the **Principal Act** is hereby amended by deleting the phrase "**Financial Secretary**" wherever it appears in that section and substituting for it the phrase "**Minister for Finance**".

5. Section 5 of the **Principal Act** is hereby amended by deleting the words "**one thousand**" which appear in the fourth line and substituting for them the words "**ten thousand**".

6. Section 7 of the **Principal Act** is hereby amended by deleting the phrase "**Financial Secretary**" wherever it appears in that section and substituting for it the phrase "**Minister for Finance**".

7. Section 7A of the **Principal Act** is hereby amended

(i) in subsection (1) by deleting the phrase "**Fifty per centum**" which appears in the third and fourth lines and substituting for it the phrase "**Twenty five per centum**";

(ii) by deleting subsection (2) and substituting for it the following:

"(2) The amount payable under this section shall be paid to the **Accountant General** not later than three months after expiry of the financial year concerned."

(iii) by deleting subsection (3) thereof.—

7. Section 8 of the **Principal Act** is hereby amended.

(a) in subsection (1)

(i) by deleting the phrase "**Resident in Council**" which appears in the first line and substituting for it the phrase "**Minister for Finance**";

(ii) by deleting the phrase "**one thousand shillings**" which appears in the last line and substituting for it the phrase "**ten thousand shillings**";

(b) in subsection (2) by deleting the phrase "**Resident in Council**" which appears in the second and third lines and substituting for it the phrase "**Minister for Finance**";

(c) in subsection (3) by deleting the phrase "**four hundred shillings**" which appears in the last line and substituting for it the phrase "**four thousand shillings**".

OBJECTS AND REASONS.

This Bill is intended to amend the **Entertainments Tax Decree, No. 16 of 1962** after being discovered that the business of cinemas has fallen sharply due to the availability of video in the houses. For that reason this Bill proposes these amendments which shall give some relief to the owners of the cinemas.

AMINA SALIM ALI

Zanzibar
August, 1992.

*Minister for Finance
Zanzibar.*

**A BILL
for
AN ACT TO AMEND THE LOCAL GOVERNMENT ACT, 1986**

ENACTED by the House of Representatives of Zanzibar.

**PART I
PRELIMINARY**

1.—(1) This Act may be cited as the **Local Government (District and Urban Authority) (Amendment) Act, 1992** and shall come into operation on such date as the Minister may by notice in the Gazette appoint.

(2) This Act shall be read as one with the **Local Government Act, 1986**, in this Act referred to as "**the Principal Act**".

2. Section 2 of the **Principal Act** is hereby amended as follows:—

(a) by deleting the definition "**the Party**" and substituting for it the following definition:—

"**Political Party**" means a political party registered as such under the **Political Parties Act, 1992**.

(b) by adding immediately after the definition "**award**" the following definitions:—

"Sheha" means an officer appointed as such under the provisions of this Act;

"Shehia" means all that area of jurisdiction formerly known as Chama cha Mapinduzi Branch.

PART II

CONSTITUENT GOVERNMENT

3. Section 4 of the principal Act is hereby repealed and replaced by the following new section:—

4.—(1) A person shall be elected as a member of a Constituent Government or stand as a candidate at an election for Constituent Government if he is qualified for election.

(2) A person shall be qualified for election if he satisfies the following conditions that is to say:—

- (i) he is a Zanzibari who has attained the age of twenty one year or above;
- (ii) he is an ordinary resident within the area of jurisdiction of the Local Authority;
- (iii) he can read and write in Kiswahili or English;
- (iv) he is a member of and sponsored by a political Party registered as such under the Political Parties Act, 1992 by an Act of Parliament;
- (v) he has experience in the service of the Government; and
- (vi) he has a lawful means of livelihood."

Section 8 of the principal Act is hereby amended in subsection (3) deleting that subsection and substituting for it the following:—

"(3) The Constituent Government shall also be responsible for the implementation of the Government directives which may from time to time be given by the Regional or District Commissioner."

PART III

THE TOWNSHIP AUTHORITY

The Principal Act is hereby amended by adding immediately after section 27 the following new section:—

27A.—(1) Every area of jurisdiction formerly known as Chama cha Mapinduzi Branch is hereby established a Shehia.

(2) Every Shehia shall consist of:—

- (a) a Sheha who shall be the Chief Government Executive of that area and shall be appointed by the Regional Commissioner in consultation with the District Commissioner of that area;
- (b) ten other elder persons who shall be appointed by the District Commissioner in consultation with the Sheha and who shall be advisers to the Sheha.

(3) Every Sheha and his advisers shall hold the office at the pleasure of the Regional Commissioner.

(4) Every Sheha shall not enter upon the duties of his office, unless he has taken and subscribed an Oath of Allegiance before the Regional Commissioner.

6. The Principal Act is hereby amended by adding immediately after section 27A the following new section:—

27B. Every Sheha shall be qualified to that post if he satisfies the following conditions:—

- (i) he is an adult, who has attained the age of 40 years;
- (ii) he is originated in that Shehia and is accepted by his residents;
- (iii) he can read and write (even in arabic) and he has an experience in the leadership;
- (iv) he is faithful and he was not previously convicted of any offence;
- (v) he has residence within the area of jurisdiction of that Shehia;
- (vi) he holds no other office in the Government, and he has no other business which caused him to travel for so long or frequently;
- (vii) he is not a leader of a political party but he can be a member of a political party."

7. The Principal Act is hereby amended by adding immediately after section 27B the following new section:—

27C.—(1) Every Sheha shall be responsible for:—

- (a) implementing all the Government laws, orders Policies and directives;
- (b) Settlement of all social and family disputes arising in that area in accordance with the customary laws of that area;
- (c) keeping records of all documents relating to the registration of marriage, divorce, births and deaths certificates, ngoma permits, transportation of crops, livestock, slaughtering animals, charcoal permits and so forth as directed from time to time by the institutions concerned;

Addition.
of new
section 27B.
Qualifications
of Sheha.

Addition of
new section
on 27C.
"Functions
of the Sheha.

OBJECTS AND REASONS

This Bill is designed to amend various provisions in the Local Government Act, 1986 in order to give effect to the decision of the Party to establish a multi-party system. The amendments being proposed are intended to change the structure and composition of Local Governments beginning from the village level in order to replace the vote of the Party. It proposes to separate the administration of the party and the Government in the village area formerly known as Chama cha Mapinduzi Branch. That area is now known as Shehia which shall be governed by the Sheha who shall be the chief executive of that area.

These only small and immediate changes which are necessary and the Government is still considering various recommendations presented to it by various Commissions which shall result the major changes of the entire Act No. 3 of 1986.

BRIG. ADAM C. MWAKANJUKI
Minister of State (President's Office)
Local Government Administration and Special
Department of SMZ.

ZANZIBAR.
20 AUGUST, 1992.

- (d) the control of immigration in his Shehia and keeping records thereof;
- (e) for convening all public meetings in his area regardless of the political view of any individual in the development of social affairs and implementation of Government policies.
- (f) to do all other things which he has been assigned by the District Commissioner;

(2) In the exercise of his functions under this Act, the Sheha shall be subject to the orders or directions of his advisers.

PART IV

URBAN AUTHORITIES

Section 43 of the principal Act is hereby amended as follows:—

- (i) by deleting the phrase "and Party policies" which appears in the last line of that section;
- (ii) by putting the full stop immediately after the word "Government";
- (iii) by deleting the phrase "and party guidelines" which appears in the marginal notes and substituting for it the word "Government".

PART VI

THE DISTRICT AND REGIONAL GOVERNMENTS.

Section 66 of the Principal Act is hereby amended in subsection (3) deleting paragraph (h) and substituting it for the following:—

"(h) Subject to laws in force, national policies and programmes of the Government, to do all such acts and things as may be done by the People's Government at the districts level."

Section 69 of the principal Act is hereby amended in subsection is follows:—

- (i) by deleting paragraphs (b), (c), (d), (g) and (h) of that subsection;
- (ii) by renumbering paragraphs (e), (f), (i) and (j) as (b), (c), (d) and (e) respectively.

PART VII

GENERAL PROVISIONS.

Section 78 of the Principal Act is hereby amended in subsection by deleting the words "Party and the" which appear in the second line paragraph (c).

30. Civil Service Officers
31. Office Supervisors
32. All Civil Servants working with the House of Representatives
33. All Civil Servants Working with the Civil Service Commission.
34. Personal Secretaries of Leaders of Political posts, Principal secretaries, Commissioners and Directors.

OBJECTS AND REASONS

This Bill is intended to provide for the terms and conditions for civil servants working with the Revolutionary Government of Zanzibar under multiparty system.

The terms and conditions contained herein known as "the Civil Servant Code of Conduct" deal with various categories of civil servants in relation to their participation in political activities during their course of employment.

This Bill contains seventeen clauses in all dealing with various issues. Clause 1 deals with the short title and commencement whereas clause 2 deals with the interpretations of different terms used herein.

Clauses 3 and 4 allow any civil servant to be a member of whatever political party except that he is not allowed to participate in any political activities during office hours. Again clause 12 does not allow any member of a defence force to participate the same in politics.

The important clause in this Bill is clause 9 which strictly prohibits any civil servant to insult, instigate or support any political party. Clause 10 provides for procedures for any civil servant who intends to return to the civil service office after serving in his party.

Clause 15 provides various penalties for all offences under this Act while clause 16 deals with the petitions which shall be submitted to the head of civil service.

And lastly clause 17 gives powers to the Minister to make regulations and procedures whatever he deems fit so to do.

(TAIMOUR SALEH)
*Minister of State,
 President's Office,
 Special Duties.*

ZANZIBAR.
 14th November, 1992.

A BILL for

AN ACT TO AMEND THE PROVISIONS OF THE CONSTITUTION RELATING TO THE ELECTION OF THE PRESIDENT OF ZANZIBAR AND MATTERS CONNECTED THEREWITH

ENACTED by the House of Representatives of Zanzibar.

1.(1) This Act may be cited as the Sixth Constitutional Amendment Act, 1992, and shall be read as one with the Constitution of Zanzibar, 1984.

(2) This Act shall come into operation on the 1st day of January, 1993.

2. In this Act unless the context otherwise requires-

"the Constitution" means the Constitution of Zanzibar, 1984;

"Citizen by descent" means a Tanzanian citizen who was born and or lived abroad but both or one of his parents is a Zanzibari by birth;

"Minister" means the Minister for the time being responsible for legal affair;

"Commission" means the Zanzibar Electoral Commission.

3. Section 26 of the Constitution is hereby amended as follows:-

(a) in subsection (1) by deleting paragraph (a) and substituting therefor the following paragraph:-

"(a) is a Zanzibari who is a citizen by birth or is a citizen by descent who has resided in Zanzibar for a period of not less than fifteen consecutive years immediately before the presidential election,"

(b) by adding paragraph (d) as follows:-

"(d) is a member of and sponsored by a political party registered as such under the Political Parties Act, 1992."

4. Section 34 of the Constitution is amended by deleting subsection (2) there of and substituting therefor the following new provisions:-

"(2) When an occasion arises for election of the President of Zanzibar, as provided for in the Constitution, every political party may, subject to the provisions of any relevant law, submit to the Commission the name of its Presidential candidate.

(3) The names of the Presidential candidates shall be submitted to the Commission on the day and time and in the manner provided for in the law enacted by the House of Representatives in that behalf, and no person shall be duly nominated as Presidential candidate unless his nomination is supported by such number of eligible registered voters and in such a manner as may be provided for under the law enacted by the House of Representatives.

(4) Where, upon expiry of the time specified for submission of the names of Presidential candidates, only one candidate is duly nominated, the Commission shall submit the said name to the electorates, who shall vote for or against the candidate, in accordance with this provision.